

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

In Re:

FARMLAND INDUSTRIES, INC.,  
Debtor

Case No. 02-50557-JWV  
Joint Administration

**LIMITED OBJECTION OF LOGAN & COMPANY TO  
DEBTOR'S MOTION FOR AUTHORITY AUTHORIZING  
PROCEDURE FOR DETERMINING EXTENT, VALIDITY AND  
PRIORITY OF MECHANICS' AND ARTISAN'S LIENS**

COMES NOW Logan & Company ("Logan"), by and through its attorneys, Stumbo, Hanson & Hendricks, LLP, and for its Limited Objection to Debtor's Motion for Order Authorizing Procedure for Determining Extent, Validity and Priority of Mechanics' and Artisan's Liens, states and alleges as follows:

1. Logan & Company is a creditor of Farmland Industries, Inc. by virtue of work performed on the property commonly known as the Coffeyville Refinery, located near Coffeyville, Montgomery County, Kansas. For the sake of brevity, the legal description is not listed in this Motion.

2. As of the date of filing, Farmland was indebted to Logan & Company in the sum of \$512,631.38.

3. A preliminary title report obtained from a competing creditor by Logan indicates that there are many liens which exist on the Coffeyville Refinery. Therefore, Logan is generally agreeable that some sort of streamlined process is necessary for determination of validity and priority of mechanics' and artisan's liens. The Debtor is correct that, under Kansas law, each lien claimant is not only entitled, but required, to file a civil case against the Debtor to foreclose its lien. With respect to the Coffeyville Refinery alone, the Debtor would undoubtedly be forced to defend many civil actions in

Montgomery County, Kansas. Competing lien claimants would also be forced to join in these lawsuits, which could greatly beleaguer the process of determining the liens. Therefore, in that regard, Logan agrees with the proposal of the Debtor for a concise method for determination of liens in this Court. However, it does disagree with several of the Debtor's proposals.

4. First of all, these state court proceedings would undoubtedly move through a state court more rapidly than the one to one and one-half years which the Debtor alleges it will take to determine the liens through adversary proceedings filed in this Court. Logan respectfully disagrees with the Debtor regarding its allegations that such a time frame would be quick in comparison to state court proceedings. Logan would respectfully request that the Debtor be given less time, from start to finish, with respect to the adversary proceedings proposed to determine these liens.

5. Second, creditors such as Logan are also forced with the practical problem of still litigating in state court once the liens are determined by the bankruptcy court. It seems that the Debtor wants to determine the priority and validity of these liens so that it can propose to sell the property either through § 363 or some sort of Chapter 11 Plan. However, if there is no buyer for the Coffeyville Refinery, Logan, and other similarly situated creditors, should have some sort of stipulation or order of this Court that the adversary proceeding may be simply recorded in state court so that a sale may ensue in the event buyers are not obtained by the Debtor or the various committees in this case. Logan would propose an order allowing such sale without further litigation in state court.

6. Debtor also proposes that not only would mortgage and lien creditors be noticed of any proceedings, but all creditors be given an opportunity to participate. In a state court proceeding to foreclose, these creditors would not be given any notice and would not be given the opportunity to

participate in these proceedings. It seems that a generally recognized title company searching the records of Montgomery County District Court, coupled with the orders of this Court granting post-petition financiers' liens on property, should be sufficient to determine who should participate in the adversary proceeding process. Logan would object to the inclusion of any creditors other than those who are noted on the title report.

7. Moreover, it is unknown to Logan, other than what it has heard through hearsay and speculation, what the Coffeyville Refinery property might be worth. It appears that the post-petition Financing Order granted liens to the DIP financier. Given the lack of information about the Coffeyville Refinery, Logan may be entitled to adequate protection during the pendency of the lien determination procedure. No offer of adequate protection has been made, and counsel for Logan is generally of the belief that stay relief will not be granted, under the existing circumstances.

8. However, it seems excessive that creditors who have valid liens should have to wait some year and a half before a determination is even made as to the validity of its lien, much less before it receives one dime from the Debtor. Certainly, the Court could make this determination much quicker so that many lenders who are owed millions of dollars are not forced to wait an unreasonable amount of time while the Debtor not only decides what it wants to do with this property, but makes creditors such as Logan wait an unreasonable amount of time while its lien is determined. Upon information and belief, Logan is of the opinion that the property is worth considerably more than the liens against it. Therefore, it can see no reason why the property should not be sold as expeditiously as possible, with a determination to determine validity and priority of liens to be operating on some sort of parallel track.

9. In reviewing the motion of the Debtor filed October 17, 2002, it appears that the hearing on this matter was set on 19 days' notice. In reviewing pleadings filed by other objecting creditors, it appears that they were operating under the supposition that the objection deadline for responding to this motion was 10 days. Counsel for Logan was operating under the supposition that it was 19 days, due to the statements made on page 5 of the Debtor's motion. In response to any potential argument by the Debtor that the instant motion is filed out of time, counsel for Logan would point out to the Court that the motion of the Debtor was misleading in regard to the 19 days, and that it be allowed to file its response out of time.

10. In addition, creditor Dale Feauto, d/b/a Modern Engineering and Piping, has filed a Motion for Extension of Time to file a response to the Debtor's Motion for Order Authorizing Procedure for Determining Extent, Validity and Priority of Mechanics' and Artisan's Liens. Counsel for Logan would join in this motion and ask that this response be considered filed timely by the Court.

11. Finally, Logan further states in response to the Objection to the Defendant's Motion for Order Authorizing Procedure for Determining Extent, Validity and Priority of Mechanics' and Artisan's Liens filed by IAG that it objects to the proposal of IAG that is somehow be allowed to proceed on its own in regard to the liens due to the fact it has chosen to file "artisan's liens" instead of mechanics' liens. As the Court has already noted, removal of even part of the property in which IAG asserts an interest would totally disrupt, if not cripple, the refinery. Certainly, all parties, including IAG, are better off if the refinery can be operated during the pendency of this determination and sold as a going concern.

WHEREFORE, Logan requests that the Court shorten the time frames necessary for the

determination of these mechanics' and artisan's liens as much as possible; that the other arguments made above be considered in formulating the plan for determination of priority and validity of liens, and for such other and further relief as to the Court seems fair, just and equitable.

STUMBO, HANSON & HENDRICKS, LLP

By: \_\_\_\_\_/s/\_\_\_\_\_  
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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 30<sup>th</sup> day of October, 2002, a true and correct copy of the above pleadings was electronically filed with the Clerk of the United States Bankruptcy Court for the Western District of Missouri, and electronic notice of this filing was served upon the parties of interest by the Clerk.

\_\_\_\_\_/s/\_\_\_\_\_  
WESLEY F. SMITH