

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:  
Michael E. Pesola  
Cindy L. Pesola

Debtors

Bky Case No. 04-604495  
Chapter 7 Case

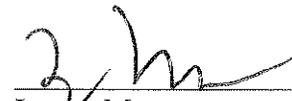
NOTICE OF HEARING AND MOTION TO AVOID LIEN IMPAIRING EXEMPTION

TO: THE CREDITORS AND THE OTHER PARTIES IN INTEREST SPECIFIED IN  
LOCAL RULE 9013-3(a):

1. The debtor herein moves the court for the relief requested below and gives notice of hearing.
2. The court will hold a hearing on this motion at U S Bankruptcy Court, 118 South Mill Street, on October 27, 2004, at 11:00 a.m.
3. Any response to this motion must be delivered and filed not later than October 22, 2004, which is three days before the time set for the hearing (excluding holidays or weekends) or shall be served and filed by mail not later than October 18, 2004, which is seven days before the hearing date (excluding holidays or weekends).
4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is the core proceeding. The petition commencing this chapter 7 case was filed on April 27, 2004. The case is now pending in this court.
5. This motion arises under 11 U.S.C. § 522. This motion is filed under Bankruptcy Rule 9014 and local rules 9013-1 - 9019-1(d). Movant requests relief with respect to the Farmers & Merchants State Bank lien impairing exemption.
6. The Farmers & Merchants State Bank, has a lien on certain property of the debtor, as described in the attached Exhibit A.
7. The lien described above impairs an exemption to which the debtor is entitled pursuant to Section 522(b) and (f) (1) or (2) of the United States Bankruptcy code.
8. Such lien is a non-possessory, nonpurchase money security interest in implements of trade of the debtor for which debtor seeks to avoid the lien in those tools of trade described in the attached Exhibit B.
9. This motion shall be based upon the files, records and proceedings herein and is supported by the attached affidavit.

Wherefore, debtor moves the court for an order that the lien described above be avoided and such other relief as may be just and equitable.

Dated: 10/4/08

  
\_\_\_\_\_  
Logan Moore  
Attorney for Debtor  
1118 Broadway  
Alexandria, MN 56308  
Attorney I.D. #312083

## EXHIBIT A

Machinery list

JD 6030 Diesel Tractor	\$8,000.00
JD 4320 Diesel Tractor	8,000.00
*JD 3020 Diesel Tractor	6,500.00
JD #336 Baler w/thrower	1,500.00
2 H&S 16ft. Bale Throw Racks & Wagons	1,800.00
*JD #800 12ft. Swather	1,000.00
JD #915 Straight Cut 15 ft. Flex Head	6,500.00
JD #3300 Gas Combine w/4 Belt Pickup	1,500.00
JD #3300 Diesel Combine w/343 Corn Head	1,500.00
*JD #65 pto Combine	450.00
**JD #1750 6 row Planter	6,500.00
JD #960 - 24 1/2 ft. Field Cultivator	2,500.00
*JD 13 1/2 ft. Disk	400.00
Morris 21 ft. Chisel Plow	500.00
*IHC #55 - 11 ft. Chisel Plow	400.00
*IHC #70 - 4/16 Plow	250.00
*JD #2600 - 6 Bottom Plow	1,500.00
Sioux 285 bu. Grain Dryer	800.00
Owatona #205 - 36 ft. Elevator	400.00
Versatile 54x8" Auger	350.00
Malco 50ft. Bale Elevator	250.00
*Killbros #390 Gravity Box & 3 Ton Wagon	2,000.00
Minnesota 260 bu. Gravity Box w/Wagon	800.00
*Parker 165 bu. Gravity Box w/Wagon	400.00
Kory 165 bu. Gravity Box w/Wagon	400.00
Cenex 200 bu. Gravity Box w/Wagon	500.00
Minnesota 135 bu. Manure Spreader	300.00
Kelly Ryan 110 bu. Manure Spreader	150.00
New Idea #299 - 9 ft Haybine	1,000.00
*Lorenz Model 100 Grinder Mixer	700.00
Lorenz Power Wagon w/Wagon	350.00
16 ft. Stock Trailer (5ft. Wide)	400.00
Loftness 8 ft. Snowblower	750.00
Westgo 6 row 3 pt. Cultivator	250.00
IHC 1 row Corn Picker	250.00
Gehl 6 ft. Flail Chopper	150.00
JD LL 16 ft. Grain Drill	1,000.00
Cambells 500 gal. Crop Sprayer 42 ft. Booms	400.00
1980 Ford C 600 Grain Truck w/ 16' Box	3,000.00
Honda 4 Wheeler	1,000.00
TOTAL	\$64,400.00

\* Depicts the purchase money security interest of East Otter Tail Credit Union.

\*\* Depicts the purchase money security interest of John Deere.

## EXHIBIT B

### Exempt Machinery

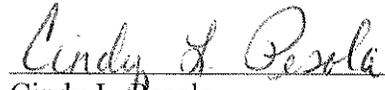
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JD #960 - 24 1/2 ft. Field Cultivator .....	2,500.00
TOTAL .....	\$13,800.00

VERIFICATION

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

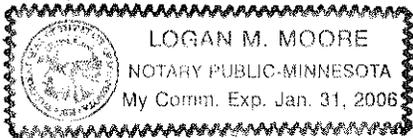
Michael E. Pesola & Cindy L. Pesola, movants named in the foregoing Notice of Hearing and Motion to avoid lien impairing exemption, declares under penalty of perjury that the foregoing is true and correct according to the best of their knowledge, information and belief.

  
\_\_\_\_\_  
Michael E. Pesola

  
\_\_\_\_\_  
Cindy L. Pesola

Subscribed and sworn to before me this 2<sup>nd</sup> day of October, 2004, by Michael E. Pesola & Cindy L. Pesola.

  
\_\_\_\_\_  
Notary Public





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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:  
Micheal E. Pesola &  
Cindy L. Pesola

Debtors

Bky Case No. 04-60495

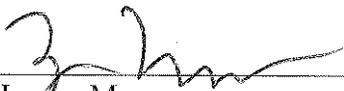
Chapter 7 Case

MEMORANDUM IN SUPPORT OF MOTION

Farmers & Merchants State Bank has a security interest in certain farm implements of the debtors. Said interest is not the result of credits advanced for the purchase of the farm implements, the debtors are in possession of the farm implements and intend to remain in farming for which these farm implements constitute the tools of trade of the debtors.

11 U.S.C. §522(f) allows the debtor to avoid the fixing of a lien on certain implements of the trade of the debtor.

Dated: 10/4/04

  
\_\_\_\_\_  
Logan Moore  
Attorney for the Debtor  
1118 Broadway  
Alexandria, MN 56308  
Attorney I.D. #312083

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:  
Michael E. Pesola &  
Cindy L. Pesola

Debtors

Bky Case No. 04-60495

Chapter 7 Case

ORDER AVOIDING LIEN

It appeared to the court that the lien of Farmers & Merchants State Bank is a nonpossessory, nonpurchase money security interest in tools of trade of the debtor, that the lien of Farmers & Merchants State Bank impairs an exemption to which debtors are entitled under law,

NOW, THEREFORE, upon the motion of debtors for an order avoiding a nonpossessory, nonpurchase money security interest in the debtor's of trade as described on the attached Exhibit B, and after a hearing before the court on said motion,

IT IS ORDERED that the nonpossessory, nonpurchase money security interest of Farmeers & Merchants State Bank.in the debtor's farming implement tools of trade as described in the attached Exhibit B be, and it is hereby avoided.

Dated: \_\_\_\_\_

\_\_\_\_\_  
U.S. Bankruptcy Judge

**EXHIBIT B**

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STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF DOUGLAS )

Colleen M. Ouimet, of the City of Alexandria, County of Douglas, in the State of Minnesota, being duly sworn, says that on the 4th day of October, 2004, she served the attached Notice of Hearing and Motion to Avoid Lien Impairing Exemption, Affidavit and Verification, Memorandum and Proposed Order, by electronically filing with:

US Bankruptcy Court  
204 PO Building  
118 S. Mill Street  
Fergus Falls MN 56537

and mailing to a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at Alexandria, Minnesota, directed to said at:

Mr. Habbo G. Fokkena  
U S Trustee  
1015 U S Courthouse  
300 South 4th Street  
Minneapolis , MN 55415

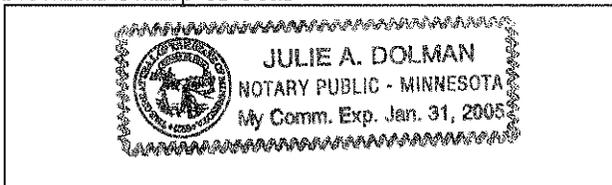
Farmers & Merchants State Bank  
PO Box 278  
New York Mills, MN 56567-0278

Tamara Yon  
Trustee  
PO Box 605  
Crookston, MN 56716

Colleen M. Ouimet  
Colleen M. Ouimet

Subscribed and sworn to before me this 4th day of October, 2004.

Notarial Stamp or Seal



Julie A. Dolman  
Notary Public