

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE  
WESTERN DISTRICT OF WISCONSIN

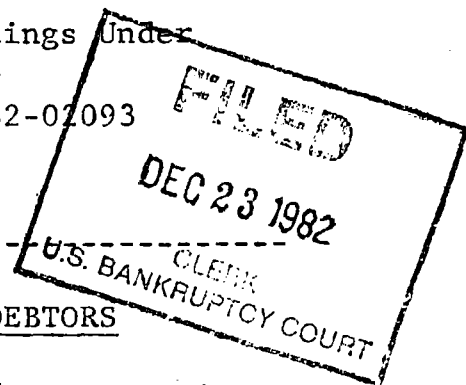
In the Matter of

PATRICK H. NIKOLAY and  
PATRICIA A. NIKOLAY

Debtors.

In Proceedings Under  
Chapter 11

No. WF11-82-01093



ORDER DIRECTING RETURN OF CATTLE TO DEBTORS

A hearing to determine whether an order to terminate stay should be permanent having come on for hearing; and the Citizens National Bank and Trust of Marshfield, Wisconsin, appearing by John H. Stauber, its attorney, and the debtors appearing in person and by William C. Gamoke, their attorney; and the debtors having requested the Court to enter an order for return of the cattle taken by said bank; and the court having considered the testimony, the exhibits submitted, the memorandums and arguments of counsel, and on all of the record and file herein, and being fully advised in the premises, FINDS:

1. That the debtors filed a Chapter 11 proceedings on November 29, 1982, at approximately 3:20 p.m., in the Clerk's office in this district.
2. That on the morning of said date, and prior to the time of said filing, the Citizens National Bank and Trust repossessed over 110 dairy cows from said debtors under a replevin from the Circuit Court of Wood County, Wisconsin.
3. That on December 1, 1982, the said Citizens National Bank and Trust repossessed the remaining dairy livestock on the debtors' farm, pursuant to a temporary order of this Court, and which consisted of 65 additional cows, 49 heifers and 47 calves.
4. That the subsequent repossession and the Court's temporary order was made on the basis of a claim that the same was granted for reasons of preventing irreparable damage to the

bank because of the alleged condition of the animals and the lack of proper care being given them by the debtors.

5. That prior to the filing of said petition the attorney for debtors had advised the bank that he was filing; however, they were delayed in their filing by a return of their papers by the Clerk's office, and when the bank checked they found that papers had not yet been filed, although the bank was informed and knew of the plan of the debtors to file a Chapter 11 proceedings herein.

6. That the evidence does not sustain the grounds of preventing irreparable damage because of the lack of proper care, and the testimony of the veterinarian is alone sufficient to revoke the temporary order.

7. That said debtors are entitled to an opportunity to comply with the Chapter 11 proceedings and to file a plan.

8. That there is possible equity in the personal property of the debtors.

9. That the cows are a necessary part of an effective reorganization.

10. That although the 110 cows were taken just prior to the filing, it is the Court's position that they should be returned as a necessary part of the proposed reorganization.

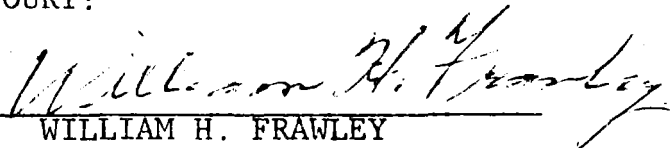
11. As conclusions of law, that an order be entered directing the said bank to forthwith return all of the cattle taken from the debtors and now in the possession of said bank as a custodian. See 11 B.R. 353 and 14 B.R. 316.

O R D E R

NOW, THEREFORE, IT IS ORDERED: That the Citizens National Bank and Trust of Marshfield, Wisconsin, forthwith return to the debtors all of the cattle taken on November 29, 1982, and on December 1, 1982, being 110 head of livestock and the additional 65 cows, 49 heifers and 47 calves.

Dated: December 23, 1982.

BY THE COURT:

  
WILLIAM H. FRAWLEY  
BANKRUPTCY JUDGE