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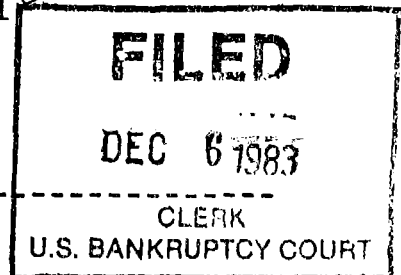

In re: In Bankruptcy:
    PATRICK R. LYONS
    ELAINE C. LYONS   WF7-83-01281

        Debtors.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER DENYING OBJECTION TO DEBTORS'CLAIM OF
EXEMPTION AND DENYING REQUEST FOR REIMBURSEMENT

Stratford State Bank, by its attorney, Daniel D. Daubert

of Trembath, Hess, Miller & Seidl, S.C., having filed, on the basis

of a Farm Security Agreement between it and the debtors, an

objection to the debtors' exemption claim to growing corn; and a

hearing having been held; and the Trustee appearing in person and

on his own behalf; and the debtors appearing by their attorney,

William J. Dehn of Stauber, Dehn, Wynia & Kissinger, Chartered;

and the Court, having heard the arguments of counsel, and con-

sidered the briefs of the respective parties, and all the filings

and proceedings herein, FINDS:

1. That the debtors, Patrick R. Lyons and Elaine C.

Lyons, filed under Chapter 7 of the Bankruptcy Code on the 11th

day of August, 1983.

2. That among the property claimed as exempt by the debtors was approximately 45 acres of corn planted for feed and growing on the debtors' farm at the time the petition was filed (the corn was sold before being harvested and the proceeds deposited with the Interim Trustee).

3. That the debtors executed a security agreement with Stratford State Bank on April 15, 1983, said security agreement having been prepared by Stratford State Bank.

4. That, under "Description of Collateral", the security agreement provides eight preprinted descriptive sentences, each of which is preceded by a box.

5. That the box preceding "All livestock feed now owned or hereafter acquired by Debtor" was checked.

6. That the box preceding "All crops growing or to be grown by Debtor, and the products of such crops, on property described as:" was not checked.

7. That the failure to check a box results in a security agreement not attaching to collateral described in the sentence following that box. In re Wausau House of Wood, Ltd., 83-01276 (Bankr. W.D. Wis. Dec. 5, 1983)(Frawley, J.)(Cases collected).

8. That Wisconsin Statutes Secs. 409.203(1)(a) and 409.110 establish an objective test for the sufficiency of a description in a security agreement. See Squillante, The Security Agreement, 86 Comm. L. J. 235, 237 (1981) ("The parties to the transaction are only required to reasonably describe the collateral so that an independent lender would be able, from their description, to identify the collateral and thereby make a decision as to whether or not to lend any further sums of money upon the same collateral.").

9. That, in addition, a contract should be construed against the party who prepared it. 17 Am.Jur.2d Contracts Sec. 276 (1964).

10. That, standing alone, "livestock feed" does not include growing crops.

11. That, when read in light of the unchecked growing crops sentence, the Farm Security Agreement does not describe the corn growing on the debtors' farm at the time the petition was filed or the proceeds from the sale of such corn.

12. That Stratford State Bank's request for reimbursement of monies advanced to feed debtors' livestock after the petition was filed, raised for the first time in its brief, is irrelevant, untimely and without merit.

CONCLUSIONS OF LAW

1. That the Stratford State Bank Farm Security Agreement does not attach to growing corn and its objection to the debtors' exemption claim to growing corn should be denied.
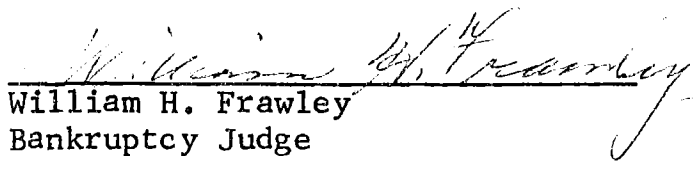
2. That the Stratford State Bank's request for reimbursement should be denied.

NOW, THEREFORE, IT IS ORDERED that the objection of Stratford State Bank to debtors' exemption claim to growing crops should be, and the same hereby is, denied.

IT IS FURTHER ORDERED that the request of Stratford State Bank for reimbursement of monies advanced to feed debtors' livestock after the petition was filed should be, and the same hereby is, denied.

Dated: December 6, 1983.

BY THE COURT:

_____
William H. Frawley
Bankruptcy Judge