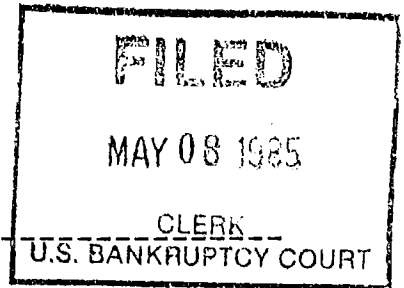


UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WISCONSIN



In re:

Case Number:

WILLIAM J. LAUFENBERG and  
LINDA J. LAUFENBERG,  
a partnership,

EF11-84-01345

Debtors.

FINDINGS OF FACT, CONCLUSION OF LAW  
AND  
ORDER DETERMINING INTEREST IN CURRENT INVENTORY

The Jackson County Bank, by Attorney Robert A. Olsher, having filed a motion for valuation and adequate protection; and a hearing having been held; and the Bank having appeared by counsel; and Debtors William and Linda Laufenberg having appeared in person and by the Law Offices of Jeffrey P. White; and briefs having been filed regarding the extent of the Bank's security interest; the Court, being fully advised in the premises, FINDS THAT:

1. On January 20 1978, Debtors Linda and William Laufenberg granted the Jackson County Bank a security interest in, inter alia, present and after-acquired livestock, farm equipment, growing crops, livestock feed and the proceeds of same. The security agreement provides that the Debtors may, "before default", use livestock feed, crops and products of crops as feed for secured livestock.

2. The Bank perfected its security interest in the Debtors' livestock, equipment and feed, but not crops.

3. On July 12, 1984, the Debtors filed for relief under Chapter 11 of the Bankruptcy Code. The Debtors are dairy farmers.

4. At the time of filing, the Debtors assigned a value of \$15,075 to their feed inventory and \$174,654 to their growing crops.

5. On December 28, 1984, according to an appraisal conducted at the request of the Bank, the Debtors' feed inventory --consisting of crops harvested in 1984<sup>1</sup>--had a value of \$48,325.

6. The Bank has filed a claim for over \$380,000. The parties have stipulated that the Bank has a security interest in property valued at \$195,981.02.

7. In addition, the Bank claims a security interest in the Debtors' current feed inventory.

#### Discussion

8. Under 11 U.S.C. sec. 552, liens which would apply to "property acquired by the estate or by the debtor after the commencement of the bankruptcy case" are terminated except to the extent that the lien is not terminated under other Bankruptcy

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<sup>1</sup> Feed on hand at filing had been consumed by the Debtors' collateralized livestock. See generally 11 U.S.C. sec. 363(c)(1) (use of property of estate in the ordinary course of business). Whether the Bank is entitled to compensation for the consumed feed will be taken up at the hearing on its request for adequate protection.

Code sections and extends to the "proceeds, product, offspring, rents or profits" of pre-petition secured property (the exception applies unless the court orders otherwise). In re Johnson, 47 B.R. 204, 206-207 (Bankr.W.D.Wis. 1985).

9. Does section 552 apply? The Bank argues that section 552 does not apply because the post-petition feed is merely the harvest of crops which were not acquired by the above-captioned estate or by the Debtors after the commencement of the bankruptcy case.

10. While "[t]he starting point in every case involving construction of a statute is the language itself", the "ascertainment of the meaning apparent on the face of a single statute need not end the inquiry." "[S]tatutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning." Watt v. Alaska, 451 U.S. 259, 265-266, 101 S.Ct. 1673, 68 L.Ed.2d 80 (1981).

11. The purpose of section 552 is to terminate liens which extend to "after-acquired collateral", see Wis. Stats. sec. 409.204 (emphasis added),<sup>2</sup> except where the after-acquired collateral is proceeds, products, offspring, rents or profits of pre-petition collateral. Compare H.R.Rep.No. 595, 95th Cong., 1st Sess. 376 (1977), reprinted in 1978 U.S.Code Cong. & Ad. News

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<sup>2</sup> Prior to 1974, Wis. Stats. sec. 409.204 permitted liens on "collateral, whenever required" (emphasis added).

Chapter 409 of the Wisconsin Statutes is Wisconsin's version of Article 9 of the Uniform Commercial Code.

5963, 6332 (section 552 governs the effect of pre-petition U.C.C. article 9 security interest in after-acquired property), S.Rep.No. 989, 95th Cong., 2d Sess. 91 (1978), reprinted in 1978 U.S.Code Cong. & Ad. News 5787, 5877, with 124 Cong.Rec. 11,097 (1978) (statement of Rep. Edwards) ("[p]roceeds coverage, but not after acquired property clauses, are valid under title 11"), id. at S17,414 (statement of Sen. De Concini (same)).

12. Accordingly, section 552 is properly applied to all pre-petition liens which would attach to property of the estate or debtor after the commencement of the bankruptcy case. (This interpretation avoids economically wasteful practices which would result from a literal reading of the statute, e.g., in this case the Debtors could have avoided the fixing of the Bank's lien by selling their crops and using the proceeds to buy feed.)

13. Does the exception to section 552 apply? Because the Bank's interest in the crops was terminated under 11 U.S.C. sec. 544 (avoidance of unperfected security interests), the Bank's claim to a lien on feed as the "proceeds, product, offspring, rents or profits" of secured property must be based upon the use of collateralized farm equipment to convert the crops into feed.

14. However, the Bank did not take a security interest in the product, offspring, rents or profits of the Debtors' farm machinery and neither the crops nor the feed are the proceeds of the Debtors' farm machinery, see Wis. Stats. sec. 409.306(1) ("'[p]roceeds' includes whatever is received upon the . . . disposition of collateral or proceeds").

CONCLUSION OF LAW

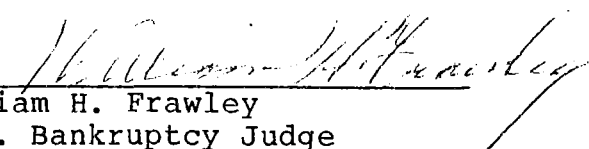
The Bank has no interest in the Debtors' current feed inventory.

ORDER

IT IS ORDERED THAT Jackson County Bank be, and the same hereby is, determined to have no security interest in the current feed inventory of the above captioned estate.

Dated: May 8, 1985.

BY THE COURT:

  
William H. Frawley  
U. S. Bankruptcy Judge

cc: Attorney Robert A. Olsher  
Law Offices of Jeffrey P. White