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FILED

SEP 30 1986

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

CLERK, U.S.
BANKRUPTCY COURT
CASE NO.

In re:

Case Number:

LANNY L. PARKER
LYNETTE PARKER,
a/k/a Grain Storage Construction,

EF7-85-01397

Debtors

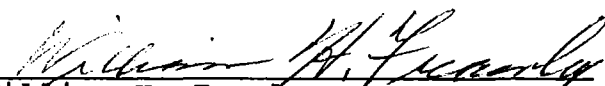
ORDER

The court having this day entered its memorandum opinion, findings of fact, and conclusions of law;

NOW, THEREFORE, IT IS HEREBY ORDERED that the debtors are to turn over to the Neillsville Bank the auction proceeds in sufficient amount as to fully satisfy the obligation owed to the Bank including accrued interest.

Dated: September 30, 1986.

BY THE COURT:


William H. Frawley
U.S. Bankruptcy Judge

cc: Attorney David P. Olson
Attorney Alan D. Moeller

An auction was held in the latter part of 1985 at which the property that Neillsville claims a security interest in was sold. The proceeds from this auction amounted to \$7,500.00. These proceeds were placed in the trust account of the debtors' attorney and \$5,000.00 still remains in this account.

Neillsville argues that it has a security interest in the auction proceeds and that the proceeds, up to the amount of the obligation owed including accrued interest, should be distributed to Neillsville. The debtors argue that Neillsville did not object to the property they claimed as exempt and, therefore, the proceeds should be free and clear of liens. The debtors further argue that they could avoid Neillsville's lien under 11 U.S.C. § 522(f). The debtors, however, have not filed a motion to avoid the lien.

The general rule with respect to liens in bankruptcy is that "... bankruptcy extinguishes personal liability of the [debtors], but not a valid creditor's lien." United States v. Marlow, 48 B.R. 261, (D. Kan. 1984). The lien of Neillsville has not been avoided and is still valid. Neillsville is entitled to the proceeds of the auction up to the amount of the obligation owed including interest.

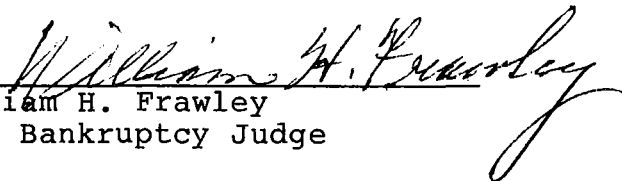
The debtors' attorney turned a portion of the proceeds, \$2,500.00, over to Community State Bank (Community), another creditor of the debtors. Community possesses a security interest in assets of the debtor to secure an obligation owed to it by the debtors. Subsequent to transferring the assets to Community, it

was discovered that Community had allowed its financing statement to lapse prior to the bankruptcy petition. Thus, Community apparently now possesses only an unperfected security interest in the proceeds. The debtors argue that Community should be ordered to turn the \$2,500.00 over to Neillsville in partial satisfaction of the debt owed to Neillsville. The court disagrees. Neillsville is entitled to payment out of the proceeds held by the debtors' attorney.

This opinion shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052.

Dated: September 30, 1986.

BY THE COURT:



William H. Frawley
U.S. Bankruptcy Judge