

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

FILED
JUL 08 1986
CLERK
U.S. BANKRUPTCY COURT

In re:

GGG/C DAIRY FARMS

Debtor.

Case Number:

LF11-85-01949

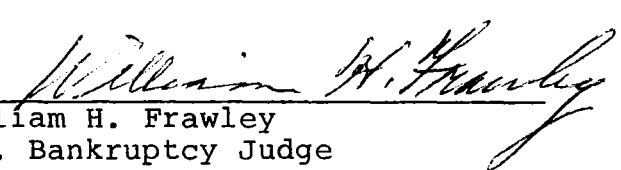
ORDER

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

NOW, THEREFORE, IT IS ORDERED that the motion of the
creditors' committee seeking dismissal of this bankruptcy case is
hereby denied.

Dated: July 8, 1986.

BY THE COURT:


William H. Frawley
U.S. Bankruptcy Judge

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MEMORANDUM OPINION,
FINDINGS OF FACT, AND CONCLUSIONS OF LAW

The creditors committee, by Edward Corcoran, has filed a motion seeking dismissal of this bankruptcy case. The debtor appears by Hollis Thompson and objects to the motion. A hearing was held on this matter on June 24, 1986.

The creditors' committee asserts that this case should be dismissed because the debtor has delayed in filing its plan of reorganization, and because the debtor has no prospects of an effective reorganization.

§ 1112. Conversion or dismissal

...

(b) Except as provided in subsection (c) of this section, on request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including--

(1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;

(2) inability to effectuate a plan;

(3) unreasonable delay by the debtor that is prejudicial to creditors;

(4) failure to propose a plan under section 1121 of this title within any time fixed by the court;

(5) denial of confirmation of every proposed plan and denial of a request made for additional time for filing another plan or a modification of a plan;

(6) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or a modified plan under section 1129 of this title;

(7) inability to effectuate substantial consummation of a confirmed plan;

(8) material default by the debtor with respect to a confirmed plan; or

(9) termination of a plan by reason of the occurrence of a condition specified in the plan.

11 U.S.C. § 1112(b).

The debtor filed for relief under Chapter 11 of the Bankruptcy Code on October 1, 1985. Hence, nine months have elapsed and the debtor has not yet filed a plan of reorganization. The debtor represented at the June 24, 1986, hearing, that it could have a plan of reorganization filed within 60 days. The court has not fixed a time within which the debtor must have a plan of reorganization filed. There is no rule stating that a debtor must file its plan within a certain time. In re Steen, 43 B.R. 543 (Bankr. W.D. Wis. 1984). There is no indication that the time period involved is unreasonable, and there is no indication that the debtor's delay has caused prejudice to the creditors.

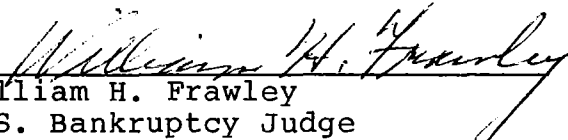
The creditors' committee also argues that the debtors are not capable of effectuating a plan of reorganization. The court is not able to determine this issue at this time. However, the

court notes that a plan may even provide for the sale of all of the assets of the estate and provide for distribution among creditors. 11 U.S.C. § 1123(b)(4). The partners have provided substantial capital to the debtor in the past and apparently intend to continue doing so in the future. It is the conclusion of the court that the motion of the creditors' committee should be denied.

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

Dated: July 8, 1986.

BY THE COURT:



William H. Frawley
U.S. Bankruptcy Judge