

UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of :
ROBERT H. MEYER and : Case No. 88-1699-C H
HELENA A. MEYER, :
Debtors. : Chapter 7
:

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ORDER--OBJECTION TO EXEMPTIONS

On March 9, 1989, a hearing was held on Trustee's objection to schedule B-4 property claimed as exempt. The following attorneys appeared on behalf of their respective clients: Edward F. Noyes for Debtors Robert and Helena Meyer (hereinafter "Debtors"); and David A. Erickson, Chapter 7 Trustee. At the conclusion of said hearing, the Court took the matter under advisement and required Debtors to submit a brief. Said brief was timely filed and the Court considers the matter fully submitted.

This is a core proceeding pursuant to 28 U.S.C. §157(b)(2). The Court, upon review of the pleadings, arguments of counsel, and brief submitted, now enters its findings and conclusions pursuant to F.R. Bankr. P. 7052.

FINDINGS OF FACT

1. On August 9, 1988, Debtors filed a joint chapter 7 petition.
2. On their schedule B-2, Debtors listed the following as "inventory": cosmetics, basic ingredients valued at \$800.00.

3. On their schedule B-4, Debtors claimed said property as exempt under Chapter 627 of the Iowa Code. Debtors described said property as "equipment used in business."

4. On September 6, 1988, Trustee filed an objection to Debtors' claimed exemption in the "inventory: cosmetics, basic ingredients" on the ground inventory cannot be claimed as exempt property under Iowa Code §627.6.

5. Debtors' "inventory" is used in Helena Meyer's home cosmetic business as basic supplies used in creating specific natural cosmetics for individual clients.

6. These basic supplies are food items that, once opened, cannot be resold according to hygienic regulations.

7. Debtors' assigned \$800.00 value for the supplies was for the supplies in a new and unopened condition. At the time of filing, all the containers of basic supplies had been opened and were being used.

DISCUSSION

The issue in this case is whether Debtors can exempt the basic supplies used to create natural cosmetics. Iowa Code §627.6(10) provides that:

If the debtor is engaged in any profession or occupation other than farming, [the debtor may claim as exempt] the proper implements, professional books, or tools of the trade of the debtor or a dependent of the debtor, not to exceed in value ten thousand dollars in the aggregate.

It is well settled that Iowa's exemption statute must be liberally construed. Matter of Knight, 75 B.R. 838, 839 (Bankr. S.D. Iowa 1987). The Court, however, also recognizes it must not "depart substantially from the express language of the exemption statute or extend the legislative grant." Id. (citations omitted).

In the case *sub judice* confusion exists over how to label the cosmetic supplies. Debtors listed said property as "inventory" on their schedule B-2. Trustee correctly argues "inventory" cannot be exempted under the Iowa Code. Debtors, however, on their schedule B-4 did not exempt the property as "inventory." They instead claimed it as exempt under Iowa Code Chapter 627 without any designation to a specific subsection under §627.6. They argue the cosmetic supplies are "tools of the trade." Given their failure to specifically designate on their schedule B-4 which subsection they were proceeding under, and the Court's duty to liberally construe exemption questions in favor of Debtors, the Court will treat Debtors' claimed exemption in the cosmetic supplies as one for "tools of the trade" under §627.6(10).

In support of their position, Debtors cite In re Carpenter's Estate, 5 N.W.2d 172 (Iowa 1942). In Carpenter's Estate, the Iowa Supreme Court held that a stock of drugs in a physician's office at his death was exempt from claims of the physician's creditors as being in the nature of "tools" or "instruments" within the statute exempting from execution the proper tools or instruments of a debtor who was a physician. Id. at 173. The court noted the drugs were not

kept by the physician for sale to the public but instead were dispensed in

connection with his services. Id. The court reasoned that:

[s]trictly speaking, they may not be tools or instruments, as we usually think of such terms, and yet a bandage, splint, an antiseptic something to deaden pain, or to reduce fever, an ointment, or a laxative kept by a doctor in his office are all instrumentalities in the practice of his profession. In Hoyer v. McBride, 202 Iowa 1278, 211 N.W. 847, we held that hair tonic and shampoo in reasonable quantities were exempt to a barber in the practice of his trade, and yet they are not tools or instruments in the sense that his razors and shears are.

Id. (emphasis added).

The Court finds the reasoning in Carpenter's Estate and Hoyer v. McBride both persuasive and analogous. Helena Meyer's cosmetic supplies, like the physician's stock of drugs in Carpenter's Estate and the barber's hair tonic and shampoo in Hoyer v. McBride, are not kept as inventory for resale to the general public but instead are used to create specific natural cosmetics for individual clients. While the supplies are not actual tools or instruments, they are instrumentalities of Helena Meyer's home cosmetic business.

Moreover, they are functionally equivalent to a barber's hair tonic and shampoo which previously were found to be exempt "tools or instruments" in Hoyer v. McBride. Based upon these prior Iowa Supreme Court rulings and a liberal construction of Iowa Code

§627.6(10), the Court concludes Debtors' cosmetic supplies are exempt "tools of the trade."

CONCLUSION AND ORDER

WHEREFORE, based on the foregoing analysis, the Court concludes Debtors' cosmetic supplies are exempt "tools of the trade" under Iowa Code §627.6(10).

IT IS ACCORDINGLY ORDERED Trustee's objection to exemption is overruled.

Dated this 31st day of May, 1989.

RUSSELL J. HILL
U.S. BANKRUPTCY JUDGE