

UNITED STATES BANKRUPTCY COURT  
For the Southern District of Iowa

In the Matter of

WILLIAM R. SHELDON,  
SHARON K. SHELDON,  
Engaged in farming,

Case No. 86-1193-W

Debtor.

ORDER ON APPLICATION

On December 2, 1986, the application to sell property filed by Charles L. Smith, the trustee in this case, on August 4, 1986, and the objection to such application filed by Fremont County Savings Bank (hereinafter referred to as the Bank) on August 20, 1986 came on for hearing before this court in Council Bluffs, Iowa. The trustee appeared on behalf of himself, Frank W. Pechacek, Jr. appeared on behalf of the Bank, and James A. Campbell appeared on behalf of the debtors.

The trustee proposes to sell the following property in which the debtors own an interest:

1979 Buick Park Avenue  
1977 GMC 4 wheel drive pickup  
1966 Chevy 1-1/2 ton truck  
1931 Model A Ford  
1962 Chevy truck  
1975 Ford truck  
1965 Ford pickup  
1959 Safeway trailer

The application contemplates that the eight motor vehicles will be appraised by Jesse McIntyre of Shenandoah, Iowa, that the debtors will pay the trustee 80% of the appraised value and that the debtors will be given a credit of \$2,400.00 for their exemptions with respect to two of the vehicles.

In its objection to the application, the Bank contends that the debtors previously had been allowed a maximum of \$5,000 each for exemptions. The Bank understood that the debtors would make appropriate payment for any vehicles they sought to retain.

The prior order to which the Bank referred was signed by Judge Richard Stageman and filed July 9, 1986. In that order, Judge Stageman ruled that the debtors' claim of exemptions exceeded the allowable amount by \$650.00. Judge Stageman overruled the Bank's objections to exemptions (in addition to value, the bank had challenged Sharon Sheldon's status as a farmer) and granted the debtors' motion for lien relief provided the debtors paid \$650.00 to the trustee or the Bank, depending upon the respective interests of the parties.

This court notes that the debtors' May 27, 1986 motion for lien relief under consideration by Judge Stageman concerned machinery and equipment with an appraised value of \$10,650. Additionally, debtors' Schedule B-4 listed as exempt \$1,200.00 value in both the 1979 Buick and the 1977 GMC in addition to \$5,000 value in farming implements for each of the debtors. The timely June 12, 1986 objection to

exemptions by the Bank pointed out that Section 627.6(10) of the Iowa Code provided that a debtor's exemptions for a vehicle, tools of the trade or farm machinery, accrued wages and federal income tax refunds were limited to a total value of \$5,000.

At the time of the hearing on December 2, 1986, the trustee did not dispute that the exemption law in effect when the case was filed applied to the issue at hand and that technically the debtors should be entitled only to \$10,000 worth of exemptions under Iowa Code Section 627.6(10). The trustee explained that the proposal set forth in his application really was a means of efficiently resolving a possible preference or fraudulent transfer dispute and, in his opinion, was the better route in generating more capital for the unsecured creditors. He added that he believed the Bank was the only unsecured creditor that had filed a claim.

Debtors' counsel likewise portrayed the specifics of the trustee's application as a compromise situation. He added that the exemption law change with respect to vehicles and equipment was considered in reaching the resolution. He noted that although the result of the compromise might be most advantageous to the debtors, such a conclusion of the controversy would be in keeping with the fresh start policy of the Bankruptcy Code.

The Bank's counsel basically contended that the exemption issue had been previously resolved, consistent with

the relevant statutory provisions. In the alternative, the bank attorney indicated that if exemptions were allowed the Bank would argue that the debtors should pay 100% of the fair market value. He subsequently offered 90% as a compromise figure.

Although the bankruptcy court is a court of equity, the clear provisions of the Bankruptcy Code cannot be ignored. See Johnson v. First Nat. Bank of Montevideo, Minn., 719 F.2d 270, 273 (8th Cir. 1983), cert. denied, 465 U.S. 1012, 104 S.Ct. 1015, 79 L.Ed.2d 245 (1984); In re Pirsig Farms, Inc., 46 B.R. 237, 240 (D.C. Minn. 1985).

In the present case, there is no real dispute that Section 627.6(10) of the Iowa Code, prior to the 1986 amendments, applies. Even if there were a dispute, Section 13 of Senate File 2270 reprinted in 1986 Iowa Acts ch. 1216 clearly states that the amendments do not apply to cases filed prior to the effective date of such amendments. The effective date is June 1, 1986; this case was filed April 25, 1986. The amendments do not apply to the present issue.

Section 627.6(10) of the 1985 Iowa Code clearly provides that a debtor is limited to a total of \$5000 worth of exemptions for a specific set of items. In the present case, both debtors have already received the combined total of \$10,000 worth of exemptions in farm machinery pursuant to the order filed July 9, 1986. This court granting an additional exemption of \$2,400 for the purpose of this sale would be contrary to the relevant statutory provisions and

the prior order.

Parenthetically, it is noted that the argument of debtors' counsel that the compromise is consistent with the fresh start policy of the case is not persuasive because "fresh start" is delineated, in part, in Iowa by the state's exemption laws and the Iowa General Assembly did not choose to make the 1986 amendments applicable to cases already in existence as of June 1, 1986. Likewise, the trustee's observation that his application may generate the most dollars for unsecured creditors is not convincing under the circumstances. Indeed, the major unsecured creditor has objected to the application.

WHEREFORE, it is hereby found that the debtors are not entitled to an additional exemption of \$2,400 for vehicles as provided for in the trustee's application.

THEREFORE, the trustee's application to sell property is denied.

Signed and filed this 31st day of December, 1986.

LEE M. JACKWIG

U.S. BANKRUPTCY JUDGE