

UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of

DORAN L. BOLLMAN,
PATRICIA K. BOLLMAN,
Engaged in Farming,

Case No. 87-1297-C

Chapter 7

Debtors.

ORDER ON TRUSTEE'S OBJECTION TO EXEMPTIONS

On July 22, 1987 the trustee's objection to exemptions filed on June 16, 1987 came on for telephonic hearing in Des Moines, Iowa. David A. Erickson, trustee, appeared and James L. Spellman appeared on behalf of the debtors. At the hearing, the court ordered the debtors to submit an affidavit concerning the use of the horses in question. The affidavit has been filed and the matter is fully submitted.

On May 11, 1987 the debtors filed a joint petition for relief. The debtors are farmers. On Schedule B-4 and on amended Schedule B-4, the debtors claim three horses valued at \$400.00, a gas tax refund in the amount of \$301.00 and an income tax refund in the amount of \$799.01 exempt pursuant to the Iowa exemption statute. The trustee maintains these claims are not allowable under Iowa law.

DISCUSSION

Iowa Code section 627.6(11) permits farm debtors to

exempt from execution, any combination of the following not to exceed a value of \$10,000.00:

- a. Implements and equipment reasonably related to a normal farming operation.
- b. Livestock and feed for the livestock reasonably related to a normal farming operation.¹

Iowa Code section 627.6(9)(c) provides that debtors may claim the following exemptions:

In the event of a bankruptcy proceeding, the debtor's interest in accrued wages and in state and federal tax refunds as of the date of filing of the petition in bankruptcy, not to exceed one thousand dollars in the aggregate. This exemption is in addition to the limitations contained in section 642.21 and 537.5105.

Iowa's exemption statute is based upon the premise "that it is better that the ordinary creditor's claims should remain partially unsatisfied than that a resident of the state should be placed in such an impecunious position that he and his family become charges of the state." Note, Personal Property Exemptions in Iowa: An Analysis and Some Suggestions, 36 Iowa L. Rev. 76, 77 (1950). The Iowa Supreme Court has stated that the purpose of the exemption statute "is to secure to the unfortunate debtor the means to support himself and the family; the protection of the family being the main consideration." Shepard_v. Findley, 214 N.W.

¹ Iowa Code section 627.6(11)(b) was added to the Iowa Code in 1986. See 1986 Iowa Acts, ch. 1216, section 12. Prior to the 1986 amendments, the animal exemptions included two cows, two calves, fifty sheep, five hogs and all pigs under six months of age and a team consisting of not

more than two horses or mules or two yokes of cattle. See Iowa Code sections 627.6(5) and (10)(d).

676, 678 (Iowa 1927).

In resolving any exemption dispute, the court is mindful of the well-settled proposition that Iowa's exemption statute must be liberally construed. Frudden Lumber Co. v. Clifton, 183 N.W.2d 201, 203 (Iowa 1971). Yet, this court must be careful not to depart substantially from the express language of the exemption statute or to extend the legislative grant. Matter of Hahn, 5 B.R. 242, 244 (Bankr. S.D. Iowa 1980), citing Wertz v. Hale, 234 N.W. 534 (Iowa 1931) and Iowa Methodist Hospital v. Long, 12 N.W.2d 171 (Iowa 1944).

In determining whether the three horses fall under section 627.6(11)(b), the court must first determine whether horses are included within the term "livestock" and if so, the court then must ascertain whether the horses are reasonably related to a normal farming operation.

One court from another jurisdiction has defined livestock as domestic animals used or raised on a farm. Boland v. Cecil, 150 P.2d 819, 822 (Cal. App. 1944). Another court has construed the term "livestock" to include the ordinary forms of domesticated animals such as cattle, sheep, hogs and horses. Meader v. Unemployment Compensation Division, 136 P.2d 984, 987 (Idaho 1943). These definitions are consistent with the ordinary conception of the term "livestock" as used in the farm community in Iowa.

The debtors' affidavit reveals that the horses were

used for handling, driving and checking on cattle which they once owned. The horses now are used for custom cattle work. In many instances the pickup, motorcycle or three-wheeler has replaced the horse as the preferred method of engaging in these activities. By no means is this the rule in every case. The horse continues to play an important role in many cattle raising enterprises. The debtors' use of the three horses is reasonably related to a normal farming operation.

With respect to the tax refunds, the court notes that section 627.6(9)(c) was added to the Code in 1981. See 1981 Iowa Acts, ch. 182, sec. 3.² To date there are no Iowa Supreme Court cases construing the provision. The court finds nothing in section 627.6(9)(c) that limits the types of tax refunds that can be claimed as exempt. The statute speaks of "state and federal tax refunds". Certainly if the legislature wanted to limit tax refunds to a certain type of tax refund, it could have done so. For example, the legislature could have stated only income tax refunds are exempt. Not imposing any limitation, the court must conclude the legislature intended that all tax refunds, regardless of type, are exempt.

CONCLUSION AND ORDER

WHEREFORE, for the reasons expressed above, it is

² This provision was added to the Code in 1981 as Iowa Code section 627.6(10)(e) (1981). As a result of the 1986 amendments to the exemption statute, this provision was recodified at section 627.6(9)(c). See 1986 Iowa Acts, ch. 1216, sec. 5.

hereby found that the three horses are exempt property pursuant to Iowa Code section 627.6(11)(b) and the gas and income tax refunds are exempt property pursuant to Iowa Code 627.6(9)(c).

THEREFORE, the trustee's objection to exemptions is overruled.

Signed and filed this 14th day of December, 1987.

LEE M. JACKWIG

U.S. BANKRUPTCY JUDGE