UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of

OLIVER D. RINKER, BEVERLY B. RINKER, Engaged in Farming,	Case No. 87-85-C Chapter 12
Debtors.	

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ORDER

On December 8, 1987 a hearing on confirmation of Chapter 12 plan came on for hearing in Des Moines, Iowa. Michael S. Vestle appeared on behalf of the debtors; Thomas D. Hanson and Mark S. Lagomarcino appeared on behalf of Jacqueline M. Souder; Craig R. Hastings appeared on behalf of Jeanette C. Smithson and Janice L. Coy; and Anita L. Shodeen, the standing Chapter 12 trustee, was present. Except for the feasibility challenge of creditor Jacqueline M. Souder, all objections to the plan have been withdrawn or otherwise resolved. The case is fully submitted.

FINDINGS OF FACT

The debtors' 480 acre farm is located near Ogden in Boone County, Iowa. It is devoted primarily to row cropping and cattle and sheep raising.

The past four years have been financially difficult for the debtors. Their 1986 federal income tax return indicates that the debtors have incurred yearly losses of $37,961.00, $73,715.00, $30,399.00 and $49,326.00 for the years 1983 through 1986 respectively. The debtors now have a net operating loss carryover of approximately $236,000.00. Apparently little of the debtors' 1986 income was applied to debt service.

Typically the debtors till 417 acres of land. For the years 1988 through 1990, the debtors propose to plant 182 acres of corn, 200 acres of soybeans and 35 acres of oats. In addition to farming their own land, the debtors rented 240 acres in 1987. The lease to the 240 acres will expire in March of 1988. The debtors plan to custom farm the 240 acres during the term of the plan for $13,000.00 per year. Although the debtors have been negotiating with the farm management company in charge of the 240 acres, no agreement has been finalized.

The ASCS corn yield for the debtors' farm is 121 bushels per acre. The anticipated yields reflected in the debtors' cash flows are 130 bushels per acre for corn, 40 bushels per acre for beans and 80 bushels per acre for oats. Oliver testified that the actual yields for 1987 were 140 bushels per acre for corn and over 45 bushels per acre for beans. He considered the weather in 1987 to be better than average. The debtors project the corn to be sold or sealed at the loan rate of $1.80 per bushel. The target prices used in calculating deficiency payments are $2.97 for 1988, $2.88 for 1989 and $2.75 for 1990. They estimate that beans will command a price of $5.00 per bushel and oats $1.43 per bushel. The debtors plan to devote 35 acres to oats. The debtors also plan to derive a small amount of income from the sale of hay.

Prior to 1987 the debtors conducted a cow-calf operation, which generally entails maintaining a stock herd from which calves are weaned and fed to 400 to 600 pounds and then sold. For 1987 and the term of the plan, the debtors propose to engage in backgrounding, which involves purchasing calves at 400 to 600 pounds and feeding them to 600 to 800 pounds. The cattle then are sold to feeder operators who feed the cattle to slaughter weight which usually is 1100 to 1200 pounds. Mr. Rinker stated that the switch to a backgrounding operation will enhance profitability. He did not explain why backgrounding would be more profitable than the cow-calf enterprise.

The debtors have purchased 75 calves in the 500 pound range at $425.00 per head. The cash flows show yearly purchases of calves at $400.00 per head. The debtors anticipate feeding the calves to 800 pounds and selling approximately 150 cattle yearly at $.70 per pound. The debtors also intend to market 25 to 30 head of sheep per year at $84.00 per head.

In an effort to reduce expenses, the debtors have stopped paying wages to their son Jay for his labor on the farm. Beverly Rinker has secured employment at a state institution for the handicapped. The cash flows show that she expects to receive net income of $15,600.00 per year. The debtors also receive $10,382.00 per year in payments from the sale of a parcel of real estate.

To ensure sufficient capital for debt service and operating expenses, the debtors have pledged the $120,000.00 cash value of their life insurance policy. Except for payment to Beverly at the death of Oliver, the debtors have agreed to limit use of the funds to input expenses and debt service. This pledge is not reflected in the cash flows.

The debtors' cash flows for the term of the plan are summarized as follows:

	’87	’88	’89	‘90
Farm income	$234,347.00	$230,085.00	$209,349.00	$206,985.00
Farm expense (including living expenses)	176,994.00	123,437.00	122,465.00	122,465.00
	$ 57,353.00	$106,648.00	$ 86,884.00	$ 84,520.00
Nonfarm Income	$176,690.00	$ 26,382.00	$ 25,982.00	$ 25,982.00
Nonfarm Expenses	127,330.00	8,500.00	10,000.00	8,000.00
	$ 49,360.00	$ 17,882.00	$ 15,982.00	$ 17,982.00
Cash available at the beginning of the period.	$ 46,044.00	$ 50,138.00	$ 91,285.00	$ 17,982.00
Am’t available for debt service.	$152,757.00	$174,668.00	$194,151.00	$214,058.00
Debt service.	102,619.00	83,383.00	82,595.00	82,595.00
Net cash flow after debt service.	$ 50,138.00	$ 91,295.00	$111,556.00	$131,463.00
Cash flow as A percentage of income.	12%	36%	47%	56%

DISCUSSION

With respect to feasibility determinations, the Eighth

Circuit has declared that the "feasibility test is firmly rooted in predictions based on objective fact." In re Clarkson, 767 F.2d 417, 420 (8th Cir. 1985). A feasibility finding does not hinge upon a showing that a successful farm reorganization is guaranteed. In re Hanson, 77 B.R. 722, 726 (Bankr. D. N.D. 1987). Rather, a plan should be confirmed if "it appears reasonably probable that the farmer can pay the restructured secured debt, over a reasonable period of time, at a reasonable rate of interest, in light of farm prices and farm programs as of the date of confirmation." In re Ahlers, 794 F.2d 388, 392 (8th Cir. 1986). Projecting income and expenses in the farm context is not an exact science. In re Monnier Bros., 755 F.2d 1336, 1341 (8th Cir. 1985). Labile markets, unpredictable weather, and changes in government programs preclude precise forecasting. In re Fursman Ranch, 38 B.R. 907, 912 (Bankr. W.D. Mo. 1984).

In examining the debtors' plan under these standards, the court first notes that the projected income and expenses are reasonable. Although the proposed crop yields are somewhat higher than the ASCS averages, they are realistic given the 1987 actual yields.

Jacqueline Souder claims that the cash flows are deficient because no expense for tax liability is included. Ideally, anticipated tax liabilities should be set out. However, the court finds that this omission is not a material defect under the facts of this case. That is, any tax liability should be offset by the debtors' large operating loss carryover.

Ms. Souder also asserts that $13,000.00 in yearly custom farming income should not be included in the cash flows because no contract has been signed. The court finds that it is more likely than not that a contract will be signed in the near future. The debtors have farmed the 240 acres in question. They have been negotiating with and have close ties to the farm management company in charge of the land. Thus, the projection is reasonable.

Ms. Souder points to the staggering losses the debtors have incurred during the past four years and contends little is being done to correct the infirmities that led to these losses. Part of the losses can be attributed to an onerous debt load. The write-down provisions of the Code are designed to alleviate that burden to an extent. However, debt restructuring is not the only critical element of a successful reorganization. Debtors must be able to identify and to correct the deficiencies that prevent an operation from generating the most income for the least cost.

The most troubling aspect of this case is that little if any debt was being serviced in 1986, yet the operation suffered a loss of nearly $50,000.00. The evidence suggests that the proposed operation during the term of the plan will be similar to the operation in 1986. Although the debtors have ceased an unprofitable cow-calf venture, the court questions whether the backgrounding enterprise is the panacea. That a farmer switches from a cow-calf operation to a backgrounding venture does not necessarily mean profitability will ensue. Oliver failed to adequately explain what aspects of backgrounding make it preferable to raising calves. In fact, his overall difficulty in answering questions concerning his past operations indicates that problem areas remain unidentified. As a result, some of the projections set forth in the cash flow may not be met.

Looking at the totality of the circumstances, the court finds that the debtors should be able to service the restructured debt despite the above difficulties. It appears that the plan is being propelled by non-farm income. Such arrangement is not unusual nor at odds with the Chapter 12 concept and purpose. See In re Hoskins, 74 B.R. 51 (Bankr. C.D. Ill. 1987); In re Mikkelsen Farms, Inc., 74 B.R. 280 (Bankr. D. Or. 1987); In re Indreland, 77 B.R. 268 (Bankr. D. Mont. 1987). The debtors carry into the plan a cash balance of $46,044.00. 'The contract payments and Beverly's wages bring over $25,000.00 per year into the plan. The cash flows show yearly cushions of $50,138.00, $91,285.00, $111,556.00 and $131,463.00. The obvious, ample margin for error is increased by the debtors' pledge of the cash value of their life insurance policy for input expenses and debt repayment.

CONCLUSIONS AND ORDER

WHEREFORE, for the reasons expressed above, the court finds that the debtors' plan is feasible.

THEREFORE, Jacqueline Souder's objection to confirmation of plan is overruled.

IT IS FURTHER ORDERED that use of the cash value of the life insurance policy by the debtors is restricted to debt service and the payment of input expenses except for payments made to Beverly B. Rinker in the event of the death of Oliver D. Rinker and pursuant to the terms of the policy in question.

Dated this 21st day of December, 1987.

LEE M. JACKWIG

U.S. BANKRUPTCY JUDGE