

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF)

WALTER SIEMSEN and)
GERALDINE SIEMSEN,)

CASE NO. BK81-2133

DEBTORS)

A82-91

DUANE SEATON,)

Plaintiff)

vs.)

WALTER SIEMSEN and)
GERALDINE SIEMSEN,)

Defendants)

APPEARANCES: Fredrick L. Swartz
620 North 48th, Suite 3
Lincoln, NE 68504
Attorney for plaintiff

Vince Powers
Suite 1214 - 134 S. 13th Street
Lincoln, NE 68508
Attorney for defendants

MEMORANDUM

Plaintiff seeks a determination that the indebtedness due him from the defendants is nondischargeable pursuant to 11 U.S.C. §523a(2) which excepts from discharge liabilities for obtaining money by

"false pretenses, a false representation,
or actual fraud. . ."

Prepetition, plaintiff loaned defendant Walter Siemsen \$50,000 and took a security interest in certain hogs and hog confinement buildings. The Order on Pretrial Conference contains the undisputed facts which underlie this transaction and I incorporate them here by reference. At the heart of this dispute is whether the defendant Walter Siemsen misrepresented to the plaintiff that he owned a large number of hogs and hog confinement buildings to induce the plaintiff to make the loan and whether the plaintiff relied on those representations.

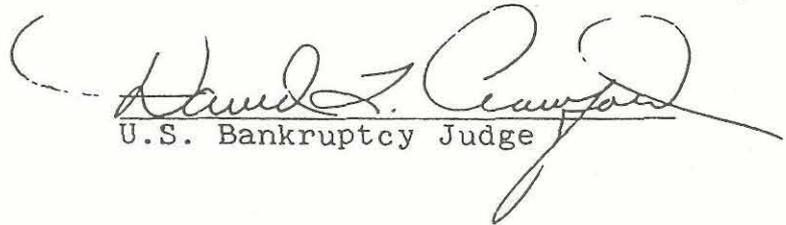
At the conclusion of the plaintiff's evidence I sustained a motion to dismiss as against defendant Geraldine Siemsen. There being no evidence to support a nondischargeable debt against her.

I find as fact that the defendant Walter Siemsen misrepresented to the plaintiff that he owned hogs and hog confinement buildings which would serve as security for the loan by plaintiff to defendant and that the plaintiff relied on those representations in making the loan to the defendant. Accordingly, I find that loan to have been induced by false pretenses or false representations and the indebtedness to be nondischargeable.

A separate judgment is entered in accordance with the foregoing.

DATED: February 15, 1983.

BY THE COURT:


U.S. Bankruptcy Judge

Copies to attorneys.