

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)
) CASE NO. BK09-42505-TJM
)
MARK JENSEN and) CH. 12
RANDI JENSEN,)
)
Debtor(s).)

ORDER

Hearing was held in Lincoln, Nebraska, on September 1, 2010, regarding Filing #123, Motion for Relief from Stay, filed by Security State Bank, and Filing #139, Resistance to Motion for Relief from Stay, filed by the debtors. Trev Peterson appeared for the debtors, James Nisley appeared for Security State Bank and Barry Geweke appeared for Darlene Mach.

Security State Bank filed a motion for relief from the automatic stay, claiming a lien on all of the debtors' livestock, including the 2010 calf crop. The bank alleged that there is no equity in the property which is the collateral of the bank and presented evidence at the hearing on September 1, 2010, that after receipt of certain payments from the earlier sale of collateral, the debt to the bank is now \$918,812.30.

Based upon the evidence presented, I find that the bank's interest in the collateral is not adequately protected and that any attempt by the debtors to confirm a Chapter 12 plan would fail on the basis of feasibility. There simply is not sufficient cash flow to amortize the bank debt, pay administrative expenses and make payments on other claims.

Therefore, the Motion for Relief from the Automatic stay, Filing #123, is granted. This order does not determine the rights in the 2010 calf crop as between the bank and Darlene Mach. Since the cow lease between the debtors and Darlene Mach for up to 85 cows was not assumed by November 30, 2009, it was deemed rejected. At that time, it is the position of Ms. Mach that the debtors had no legal interest in the cows or the calves they were carrying, which eventually became the 2010 calf crop. The bank takes the position that its lien attached to the 2010 calf crop. As mentioned, this order does not resolve that dispute. Such dispute is properly resolved in a state court action rather than the bankruptcy court.

IT IS ORDERED that the Motion for Relief from the Automatic Stay, Filing #123, is granted.

DATED: September 3, 2010

BY THE COURT:

/s/ Timothy J. Mahoney
United States Bankruptcy Judge

Notice given by the Court to:

Trev Peterson *James Nisley
Barry Geweke James A. Overcash
U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.