

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH DAKOTA

IN RE: ) Case No. 386-00045  
FRANCIS GERARD GOC and ) Chapter 12  
KATHIE LYNN GOC, )  
Debtors. )

MEMORANDUM DECISION  
ON FIRST NATIONAL BANK'S  
MOTION FOR A SECTION 506 VALUATION

A hearing was held November 2, 1987 on First National Bank's motion for the Court to value the real and personal property of the debtors in which it holds a security interest. After considering the evidence, argument and briefs of counsel the Court finds that the total value of the Bank's collateral is \$215,650.00. The value of the Bank's personal property collateral is found to be \$48,650.00, and the value of the land held by the Bank as collateral is \$167,000.00.

Personal Property

The Bank hired John Palmer as its personal property appraiser, while the debtors hired Doug and Jeff Mortenson of MC. Associates to appraise both real and personal property collateral. Mr. Palmer works at an agricultural implement dealer in Gettysburg, South Dakota and has worked in arm capacity or another in the farm implement business for nine and one-half years. In the course of this work he has made numerous appraisals of used farm equipment on a practical, neutral, day-to-day basis. He testified his appraisal was based upon personally viewing the equipment, his experience,

and consulting trade journals. The debtors' testimony came from professional appraisers, less experienced than Mr. Palmer. For these reasons the Court found Mr. Palmer to be the more credible witness on this matter.

There were other reasons to adopt the higher value testified to by Mr. Palmer. Both Mr. Palmer and Doug Mortenson, who testified on behalf of the debtor, agreed that the depressed farm economy had placed a premium on used farm machinery. Also, an appraisal was conducted on behalf of debtors in September, 1986 by a Donald Bourk. The values in this appraisal are generally more compatible with Mr. Palmer's as compared to the Mortenson's.

As a final matter regarding the personal property collateral, the Court notes that Mr. Palmer's appraisal contains items not listed on the Mortenson's appraisal. The debtor at no time challenged the existence of these items or the Bank's security interest in them. For this reason the Court finds the Bank holds a security interest in all the property listed on Exhibit 1.

#### Real Estate

Comparison of the real estate appraisals proves more perplexing. This case epitomizes the primary shortcoming of the present method of valuing collateral for the purpose of determining secured status. Although the appraisals reflect a wide divergence in terms of value, no satisfactory basis exists for reconciling the appraisals to reach a valuation. Because the format of the two

appraisals are dissimilar and no common comparable sale was used by the authors the problem is exacerbated. Also, relevant information regarding the soil type and productivity of the comparable sales or subject land is missing from both appraisals.

The Court has examined each appraisal and brief thoroughly, and reexamined the hearing testimony in order to reach a conclusion. From this effort it is determined that an insufficient record was presented to allow the Court to choose one appraisal over another, or to conclude that one is superior, but requires a certain dollar adjustment. In the Court's view neither party presented sufficient evidence to discredit the opposing sides' indicated subject land values as based upon comparable sale information. Therefore every such indicated value will be taken as valid. For this reason the Court values the subject land at the average of these indicated values. The following method is found to be the best on the record, and preferable to "Solomonizing" of the appraisals.

What follows is the Court's calculations necessary to average the parties' comparables.

AVERAGE OF INDICATED VALUES BASED UPON COMPARABLE SALES

**Debtor's Appraisal:**

<u>Comparable Sale</u>	<u>Indicated Value Per Appraisal</u>
2	\$137.00/acre
3	\$136.00
4	\$137.20
5	\$121.11

**Creditor's Appraisal:**

The format of this appraisal requires additional calculation to reach an overall indicated subject land per acre average.

Cropland Comparables in September 25, 1986 Appraisal

<u>Cropland Comparable</u>	<u>Indicated Value Per Appraisal</u>
1	\$278.00/acre
3	\$289.00
4	\$297.00
9	\$301.00
10	\$293.00
13	\$295.00
 <u>Grassland Comparable</u>	
14	\$100.00

From the above figures the creditor's average per acre value for the entirety of the debtor's property must be determined. According to the acreage adjustment made in the creditor's brief, the debtor's property consists of approximately 484 acres of cropland and 623 of grassland. Adjusting his comparables accordingly, the following figures are obtained.

Grassland

<u>Comparable</u>	<u>Cropland Value/Acre</u>	<u>x Cropland Acreage</u>	<u>= Cropland Value</u>	<u>+ Value (100x623)</u>	<u>= Total Value</u>
1&14	278	484	134,552	62,300	196,852
3&14	289	484	139,876	62,300	202,176
4&14	297	484	143,748	62,300	206,048
9&14	301	484	145,684	62,300	207,984
10&14	293	484	141,812	62,300	204,112
13&14	295	484	142,780	62,300	205,080

From the total indicated values based upon each of the creditors' comparable sales, the creditors indicated value per acre may be computed as follows:

<u>Creditor's Total Value</u>	<u>divided by Creditor's Total Acreage</u>	<u>= Creditors Indicated Value/Acre</u>
196,852	1,107	177.82
202,176	1,107	182.63
206,048	1,107	186.13
207,984	1,107	187.88
204,112	1,107	184.38
205,080	1,107	185.26

The above figures were obtained from the creditor's September 25, 1986 appraisal. At the time of the November 2, 1987 hearing the creditor submitted a supplemental appraisal to "review and update values of the original appraisal." This supplemental appraisal reflected a one percent per month decline in market values of the subject land from the time of the original appraisal, resulting in a reduction in value from \$226,900.00 to \$199,200.00. "For purposes of the reorganization plan, the value of the collateral is to be determined at the time for confirmation of that plan." In Re Ahlers, 794 F.2d 388, 398 (8th Cir. 1986). The debtor's plan has been proposed, but as yet is unconfirmed. Accordingly, the updated figures would be relevant as they reflect the most current value.

<u>Original Appraised Value</u>	-	<u>Update Adjustment</u>	=	<u>Updated Value Per Acre</u>
177.82		12%		156.48
182.63		12%		160.71
186.13		12%		163.79
187.88		12%		165.33
184.38		12%		162.25
185.26		12%		163.03

Having determined the indicated values per acre of the debtor's property, the average of the parties indicated subject land values can be determined.

Average of Each Appraisal's Indicated Value Per Acre.

Creditor's values	\$ 156.48
	160.71
	163.79
	165.33
	162.25
	163.03

Debtor's values	\$ 137.00
	136.00
	137.20
	121.11

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\$1,502.90 divided by 10  
 (total number of  
 comparables) = 150.29 per acre

(Having determined the per acre value of the subject property based upon the average of all the parties' comparables, one final calculation is necessary to arrive at the total value of the debtor's property based upon this per acre value.) According to the creditor's appraisal, the debtor's land consists of 1,107 acres.

According to the debtor's appraisal there are 1,113 acres. The average of these two figures is 1,110. Multiplying this average acreage by the average per acre value results in a total land value of \$166,821.90. Accordingly, this Court finds the total value of the debtor's real property for purposes of determining First National Bank's secured status to be \$167,000.00.

Counsel for the Creditor shall prepare Findings of Fact, Conclusions of Law and an Order accordingly.

Dated this 1st day of February, 1988.

BY THE COURT:

Irvin N. Hoyt  
Bankruptcy Judge

ATTEST:

PATRICIA MERRITT, CLERK

By: \_\_\_\_\_  
Deputy

(SEAL)

(SEAL)