

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

In the Matter of) Case No. 182-00124
)
RALPH GERALD PRESZLER and) Chapter 11
ELIZABETH MARCELLA PRESZLER,)
) MOTION FOR TREATMENT
Debtors.) OF CLAIM AS
) ADMINISTRATIVE EXPENSE

South Dakota Wheat Growers Association filed a motion with this Court for a determination to treat a \$10,000.00 debt as an administrative claim pursuant to 11 USC, Section 503. The parties stipulated to the pertinent facts and subsequently submitted briefs in support of their respective positions.

From the stipulation of facts this Court has determined that:

- A. Debtors filed their chapter 11 bankruptcy reorganization proceeding on November 15, 1982; that Debtor's Second Amended Chapter 11 Plan was confirmed by this Court on March 26, 1985; that Debtors have been operating under the terms and provisions of such Second Amended Plan since March 26, 1985;
- B. Claimant is engaged in the business of selling fertilizer, feed, fuel and agricultural chemicals in Aberdeen and Roscoe, South Dakota, and other places in South Dakota;
- C. That during 1986, Debtors purchased merchandise and services from Claimant's Aberdeen, South Dakota, Brown county Cooperative outlet and its Roscoe, South

Dakota station for a fair and reasonable value of approximately \$30,000.00;

- D. That Debtors have paid for said merchandise and services except for the sum of \$10,000.00; that Debtors are therefore indebted to Claimant in the sum of \$10,000.00; that demand has been made upon Debtors for the payment of said sum but Debtors have at all times neglected and refused to pay the same;
- E. This claim is not subject to any set-off or counterclaim, and Claimant holds no security for this debt.

The distinction of great import is that of "post-petition" and "post-confirmation".

If this debt was post-petition, there may be merit to the contention (assuming proper notice, hearing and order) of Wheat Growers that the expenses incurred were necessary and provided a substantial benefit and were necessary for the preservation of the estate. However, in the case at hand by virtue of the confirmation of the Debtor's plan all of the property of the estate vested in the Debtors and releases it from all claims and interest of creditors, equity security holders and general partners. So, as pointed out by counsel for the Debtors, there is no estate to be benefitted or preserved.

The Debtors' post-confirmation have been returned to the real debtor--creditor world. South Dakota Wheat Growers' remedy now lies within the state court's jurisdiction.

Accordingly, South Dakota Wheat Growers motion is denied.
Counsel for the movant may prepare a proper order.

Dated this 22nd day of December, 1987.

BY THE COURT:

Irvin N. Hoyt
Bankruptcy Judge

ATTEST;

PATRICIA MERRITT, CLERK

By: _____
Deputy Clerk

(SEAL)