

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

IN RE: ) CASE NO. 87-10311-INH  
 )  
WILFRED REINBOLD, ) CHAPTER 7  
 )  
 ) MEMORANDUM DECISION RE:  
 ) PROPOSED ACTION TO  
Debtor. ) SELL PERSONAL PROPERTY

The matter before the Court is the Notice of Proposed Action to Sell Personal Property filed by Chapter 7 Trustee Peter J. Buttaro and the Objection thereto filed by Debtor Wilfred Reinbold. This is a core proceeding pursuant to 28 U.S.C. § 157(b) (2). This ruling shall constitute Findings and Conclusions as required by Bankr. R. 7052.

I.

Trustee Peter J. Buttaro (Trustee) filed a Notice of Proposed Action to Sell Personal Property on January 8, 1991. He proposed to sell by private treaty a grain dryer, coal sheds, and two metal grain bins located in Mobridge, South Dakota for \$800.00 to Ida Ray. Debtor Wilfred Reinbold (Debtor) objected on the grounds that at a prior hearing the Court had directed Trustee not to liquidate any estate property,<sup>1</sup> that some of the property to be sold was not estate property, that Trustee had failed to have the property appraised, that the offer of \$800.00 was unrealistic, and that railroad lease payments to Burlington Northern and taxes to Walworth County for two years were due on the property.

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<sup>1</sup> To clarify, the Court has not prohibited Trustee from liquidating estate property. At a prior hearing the Court did, however, direct Trustee not to facilitate the collection efforts of Dewey County Bank because the Bank had obtained relief from the automatic stay.

A hearing on the Notice and Objection was held March 19, 1991. In addition to the Debtor's Objection, the Court also expressed concern about the lack of an appraisal. In response, Trustee presented testimony by Ms. Ray who opined that the total value of the property was \$800 to \$1,000. She offered to pay the higher figure. Trustee also offered into evidence five photographs of the property taken by Ms. Ray. Debtor stood on his objection and requested an opportunity to bid on the property. The Court took the matter under advisement.

## II.

In recognition of 11 U.S.C. § 363, Bankr. Rs. 2002(a)(2) and 6004, and Addendum No. 1 to General Order in Bankruptcy (Bankr. D.S.D. January 28, 1980) and upon full consideration of the evidence presented in support of the Trustee's proposed action, the Court sustains Debtor's objection to the sale.

The major problem with the proposed sale was Trustee's failure to get an unbiased appraisal of the property. Testimony by the potential buyer to establish value simply did not suffice because Ms. Ray was not disinterested and there was little evidence that she had any basis for her opinion. Second, the grain bins and coal sheds are not typical farm property whose value could be easily ascertained by the Trustee. While the value of the grain dryer may have been obtained by pricing other used grain dryers available in the area, the uniqueness of the buildings -- due to their size, location, and ability to be moved -- required a more comprehensive investigation of their value. It was evident to the Court that Trustee was generally unfamiliar with the property in

question. But for the pictures taken by the potential buyer, Trustee had little information about the property. Further, Trustee was unable to answer Debtor's questions about the title for and taxes on the property.

An order will be entered sustaining the Debtor's objection to Trustee's proposed sale.

Dated this 15th day of April, 1991.

BY THE COURT:

\_\_\_\_\_  
Irvin N. Hoyt  
Chief Bankruptcy Judge

ATTEST:

PATRICIA MERRITT, CLERK

By \_\_\_\_\_  
Deputy Clerk

(SEAL)

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

IN RE: ) CASE NO. 87-10311-INH  
 )  
WILFRED REINBOLD, ) CHAPTER 7  
 )  
 ) ORDER SUSTAINING  
 ) OBJECTION TO  
Debtor. ) PROPOSED SALE

In recognition of and compliance with the Memorandum of Decision Re: Proposed Action to Sell Personal Property entered this day,

IT IS HEREBY ORDERED that Debtor Wilfred Reinbold's objection to the Proposed Action to Sell personal Property filed by Chapter 7 Trustee Peter J. Buttaro is SUSTAINED.

So ordered this 15th day of April, 1991.

BY THE COURT:

\_\_\_\_\_  
Irvin N. Hoyt  
Chief Bankruptcy Judge

ATTEST:

PATRICIA MERRITT, CLERK

By \_\_\_\_\_  
Deputy Clerk

(SEAL)