

11-23-2012

# Farmers Nat. Bank v. Green River Dairy, LLC Appellant's Brief Dckt. 40101

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IN THE SUPREME COURT OF THE STATE OF IDAHO

FARMERS NATIONAL BANK,

Plaintiff-Counterdefendant-Appellant,

vs.

GREEN RIVER DAIRY, LLC;  
HERCULANO J. ALVES and FRANCES M.  
ALVES, husband and wife, dba GREEN  
RIVER DAIRY,

Defendants-Cross Defendants-  
Respondents,

and

ERNEST DANIEL CARTER dba CARTER  
HAY AND LIVESTOCK; LEWIS BECKER;  
JACK MC CALL,

Defendants-Counterclaimants-  
Cross Claimants-Respondents,

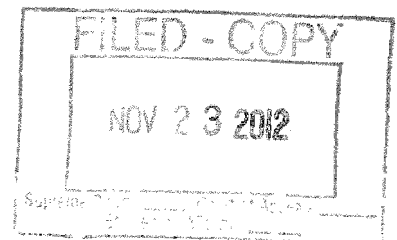
and

HULL FARMS, INC.; TIM THORNTON,

Defendants-Respondents.

**APPELLANT'S BRIEF**

Supreme Court Docket No. 40101-2012  
Twin Falls County Docket No. 2011-5226



Appeal from the District Court of the Fifth Judicial District for Twin Falls County. The Honorable Richard G. Bevan, District Judge, presiding.

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## STATEMENT OF THE CASE

### NATURE OF THE CASE

This is a declaratory judgment action for judicial determination of the respective interests of the parties in the proceeds from the sale of dairy cows. Farmers National Bank asserts that its perfected security interest created pursuant to Idaho Code §28-9-101, et seq., constitutes a first priority lien on dairy cows and the proceeds from the sale of those dairy cows. Hull Farms, Inc.; Ernest Daniel Carter dba Carter Hay and Livestock (“Dan Carter”); Lewis Becker; Jack McCall; and Tim Thornton (the “Agricultural Commodity Dealers”), assert that their agricultural commodity liens on agricultural products created pursuant to Idaho Code §45-1801, et. seq., extend from the products to the dairy cows that consumed the products and the proceeds from the sale of those dairy cows and have priority over Farmers National Bank’s perfected security interest. Farmers National Bank asserts that Idaho Code §45-1801, et seq. does not provide for the extension of agricultural commodity liens on agricultural products to livestock which consume those products or the proceeds from the sale of the livestock.

The dairy cows were owned by Green River Dairy, LLC, and Herculano J. Alves and Frances M. Alves, husband and wife, dba Green River Dairy (“Green River Dairy”). However, the amount claimed by Farmers National Bank and the total amount claimed by the five Agricultural Commodity Dealers exceeds the amount received as proceeds from the sale of the dairy cows, such that the owners of the dairy cows have no claim to the proceeds.

## COURSE OF THE PROCEEDINGS

Farmers National Bank filed a Complaint for Declaratory Judgment (R. Vol. I, pp. 17-34) seeking a judicial determination that its security interest by UCC-1F financing statements filed pursuant to Idaho Code §28-9-101, et. seq., constituted a first priority lien on the dairy cows and the proceeds from the sale of the dairy cows.

Hull Farms, Inc., filed an Answer (R. Vol. I, pp. 35-41) asserting that it had priority to the proceeds pursuant to Idaho Code Section 45-1801, et. seq., and its filing of a Form C-1 Agricultural Products lien.

Tim Thornton filed an Answer (R. Vol. I, pp. 42-46) asserting that he had priority to the proceeds pursuant to Idaho Code Section 45-1801, et. seq., and his filing of a Form C-1 Agricultural Products lien.

Lewis Becker filed an Answer, Counterclaim and Cross-Claim (R. Vol. I, pp. 47-58) asserting that he had priority to the proceeds pursuant to Idaho Code Section 45-1801, et. seq., and his filing of a Form C-1 Agricultural Products lien and seeking a money judgment and lien foreclosure against Green River Dairy.

Green River Dairy filed an Answer (R. Vol. I, pp. 59-61) generally denying that Farmers National Bank was entitled to relief.

Jack McCall filed an Answer, Counterclaim, and Cross-Claims (R. Vol. I, pp. 62-75) asserting that he had priority to the proceeds pursuant to Idaho Code §45-1801, et. seq., and his filing of a Form C-1 Agricultural Products lien and seeking a money judgment and lien foreclosure against Green River Dairy.



Dan Carter filed an Answer, Counterclaim, and Cross-Claims (R. Vol. I, pp. 76-97) asserting that he had priority to the proceeds pursuant to Idaho Code §45-1801, et. seq., and his filing of a Form C-1 Agricultural Products lien and seeking a money judgment and lien foreclosure against Green River Dairy.

Farmers National Bank filed a Reply to Counterclaim of Jack McCall (R. Vol. I, pp. 98-101), a Reply to Counterclaim of Lewis Becker (R. Vol. I, pp. 102-105), and a Reply to Counterclaim of Dan Carter (R. Vol. I, pp. 106-109) denying the entitlement to relief and reasserting its priority claims.

Green River Dairy did not respond to the Cross Claims of Lewis Becker, Jack McCall or Dan Carter.

Farmers National Bank filed a Motion for Summary Judgment (R. Vol. I, pp. 110-113) supported by affidavits and briefing. All other parties with the exception of Green River Dairy filed responsive affidavits and briefing. Lewis Becker filed a Motion for Summary Judgment (R. Vol. III, pp. 426-429) as did Jack McCall and Dan Carter (R. Vol. III, pp. 477-481). Oral argument was held on April 9, 2012. On May 8, 2012, Judge Bevan entered his Memorandum Decision Re: Plaintiff's Motion for Summary Judgment (Augmentation Record pp. 1-13) denying relief to Farmers National Bank and granting summary judgment in favor of Hull Farms, Inc.; Tim Thornton; Lewis Becker; Jack McCall and Dan Carter.

Subsequently, a Judgment (R. Vol. III, pp. 564-569) was entered on May 30, 2012, and an Amended Judgment (R. Vol. III, pp. 580-584) was entered on August 29, 2012.

Farmers National Bank filed an Amended Notice of Appeal (R. Vol. III, pp. 585-589) to that Amended Judgment.

#### STATEMENT OF THE FACTS

Farmers National Bank believes that the following facts set forth in the Affidavit of Scott Tverdy (R. Vol. I, pp. 130-141) and the Affidavit of John S. Ritchie (R. Vol. I, p. 142-Vol. II, p. 386) are undisputed. Beginning April 25, 2008, Farmers National Bank made ten loans to Green River Dairy, LLC, all of which loans were guaranteed by Herculano J. Alves and Frances M. Alves, husband and wife, and The Mary Rose Haagsma Revocable Living Trust, the members of the LLC (R. Vol. I, p. 132). All of the loan and security documents are attached as Exhibits to the Complaint attached as Exhibit “4” to the Affidavit of John S. Ritchie (R. Vol. I, p. 157-Vol. II, p. 386).

That prior to the formation of Green River Dairy, LLC, on April 8, 2008, Farmers National Bank had made numerous loans to Herculano J. Alves and Frances M. Alves, husband and wife, dba Green River Dairy, which loans were secured by security agreements and a UCC-1F filing covering cattle (R. Vol. I, p. 133). That as additional security for the loans made to Green River Dairy, LLC, Herculano J. Alves and Frances M. Alves, personally guaranteed the loans and granted Farmers National Bank a security interest in all cattle owned by them and the UCC-1F previously filed remained of record with the Idaho Secretary of State (R. Vol. I, p. 133).

That the security documents for the ten loans made to Green River Dairy, LLC, included the following:

- a. State of Idaho – Farm Products Financing Statement – Form UCC-1F filed with the Idaho Secretary of State on July 14, 2006, Filing Number F75997, and continued on May 27, 2011, Filing Number F47056:

Debtor(s): Herculano Alves, Frances Alves and Green River Dairy  
Secured Party: Farmers National Bank

Products: Triticale, oats, field corn, hay, ensilage, dairy cattle and milk.

- b. State of Idaho – Farm Products Financing Statement – Form UCC-1F filed with the Idaho Secretary of State on May 12, 2008, Filing Number F78573:

Debtor(s): Green River Dairy LLC

Secured Party: Farmers National Bank

Products: Rye (including triticale), oats, field corn, hay, ensilage, dairy cattle and milk.

(R. Vol. I, p. 133; Vol. I, pp. 32-34).

That subsequent thereto the five Agricultural Commodity Dealers delivered agricultural products to Green River Dairy, all of which agricultural products were fed to cattle owned by Green River Dairy. Those parties filed agricultural commodity dealer liens on the products delivered. The respective liens claimed by each of those parties are itemized in Appendix A of this Brief. The total of all filed C-1 lien claims is \$185,404.71.

Green River Dairy defaulted on its obligations to Farmers National Bank and Farmers National Bank took possession of the dairy cattle that were collateral for the ten loans (R. Vol. I, p. 134). The Complaint recites that Farmers National Bank disposed of some of the cattle at auction sale at Producers Livestock Marketing Association in Jerome, Idaho. The proceeds from the sale totaled \$211,957.58 and Producers Livestock issued two checks made

payable to Green River Dairy c/o Herculano J. Alves and Farmers National Bank and Hull Farms, Inc., and Jack McCall and Dan Carter (R. Vol. I, p. 134).

After the filing of the Complaint, the remainder of the cattle were sold. It was stipulated to by Farmers National Bank at oral argument that the disposition of all of the proceeds received by Farmers National Bank from the sale of cattle with the Green River Dairy brand would be governed by the Court's decision on the motions for summary judgment (Tr. pp. 8-10).

The amount due and owing to Farmers National Bank from Green River Dairy, LLC, which debt was guaranteed by Herculano J. Alves and Frances M. Alves, husband and wife, was \$2,616,008.24 as of February 1, 2012 (R. Vol. I, p. 134).

#### ISSUES PRESENTED ON APPEAL

1. Did Judge Bevan err in interpreting Idaho Code §45-1802 as providing that an agricultural commodity dealer lien on an agricultural product extends to livestock which consume the product and the proceeds of sale of the livestock.

2. Did Judge Bevan err in determining that the five Agricultural Commodity Dealers have liens on the proceeds of sale of livestock, which are prior to the perfected security interest of Farmers National Bank in those proceeds.

## ATTORNEYS FEES ON APPEAL

Farmers National Bank claims attorneys fees on appeal pursuant to Idaho Code §§10-1210 and 45-1809.

## ARGUMENT

### **A.**

#### **Introduction**

The central issue on appeal in this case is one of statutory interpretation. In 1983 the Idaho Legislature enacted a new law which provided for the creation of a lien in favor of producers and dealers in agricultural products. The law was codified as Chapter 18 of Title 45 of the Idaho Code. The liens provided for are designated in the title of Chapter 18 as "Agricultural commodity dealer liens." The kind of lien provided for and the class of persons who may have the lien are generally set forth in Idaho Code §45-1802 which presently and at all times pertinent to this case reads as follows:

**45-1802. Lien created-Who may have.-** An agricultural commodity producer or an agricultural commodity dealer who sells, or delivers under contract or bailment, an agricultural product has a lien on the agricultural product or the proceeds of the sale of the agricultural product as provided in section 45-1804, Idaho Code. The lien created in this chapter may attach regardless of whether the purchaser uses the agricultural product purchased to increase the value of his livestock or whether he uses the agricultural product purchased to maintain the value, health or status of his livestock without actually increasing the value of his agricultural product.

The second sentence of this section was added to the first by an amendment to the statute in 1989. This case concerns how the second sentence of this section of the statute should be interpreted. Specifically, the issue is whether by the addition of the second sentence the Idaho Legislature changed the statute to provide that the lien could attach not only to agricultural products and the proceeds of sale of those products, as stated in the first sentence, but also to livestock which consumed those products. The District Court ruled that the second sentence unambiguously extends the lien to livestock. It is the contention of Farmers National Bank that it is a mistake to interpret the second sentence this way, that the 1989 amendment to the statute did not extend the scope of the lien beyond agricultural products and the proceeds of sale of such products, and, therefore, that the liens of the Agricultural Commodity Dealers did not extend to the livestock or proceeds of sale of the livestock which consumed the agricultural products to which their liens had attached.

## **B. Standard of Review**

The standard of review for appeal from an order of summary judgment has been recently summarized by the Idaho Supreme Court as follows:

This Court reviews appeals from an order of summary judgment *de novo*, and the “standard of review is the same as the standard used by the trial court in ruling on a motion for summary judgment.” *Curlee v. Kootenai County Fire & Rescue*, 148 Idaho 391, 394, 224 P.3d 458, 461 (2008) (citations omitted). Thus summary judgment is appropriate if “the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” I.R.C.P. 56(c). Under this standard, “disputed facts are construed in favor of the non-moving party, and all reasonable inferences that can be drawn from the record are drawn in favor of the non-moving party.” *Curlee*, 148 Idaho at 394,

224 P.3d at 461. Where “the evidence reveals no disputed issues of material fact, then only a question of law remains, over which this Court exercises free review.” *Lockheed Martin Corp. v. Idaho State Tax Comm’n*, 142 Idaho 790, 793, 134 P.3d 641, 644 (2006). This Court exercises “free review over interpreting a statute’s meaning and applying the facts to the law.” *VFP VC v. Dakota Co.*, 141 Idaho 326, 331, 109 P.3d 714, 719 (2005).

*Stonebrook Construction, LLC v. Chase Home Finance, LLC*, 152 Idaho 927, 929, 277 P.3d 374, 376 (2012).

### C.

#### **The District Court Erred in Applying the Applicable Rules of Statutory Interpretation**

Statutory interpretation begins with the wording of the statute and the threshold issue in statutory interpretation is whether the statute under review is ambiguous or unambiguous:

Interpretation of a statute begins with an examination of the statute’s literal words. Where the language of a statute is plain and unambiguous courts give effect to the statute as written, without engaging in statutory construction. Only where the language is ambiguous will this Court look to rules of construction for guidance and consider the reasonableness of proposed interpretations.

*Stonebrook Construction, LLC v. Chase Home Finance, LLC*, 152 Idaho 927, 931, 277 P.3d 374, 378 (2012) (citing *Curlee v. Kootenai County Fire & Rescue*, 148 Idaho 391, 398, 224 P.3d 458, 465 (2008) with internal citations omitted).

In its Memorandum Decision Re: Plaintiff’s Motion for Summary Judgment (Augmentation Record pp. 1-13), the District Court concluded Idaho Code §45-1802 to be unambiguous and that this section unambiguously means that, in addition to agricultural products and proceeds of sale of those products, agricultural commodity liens may attach to animals which consume those products. However, the District Court’s interpretation of the meaning of

the statute rests upon considerations and rules of construction which only should come into play where the statute in question has been first judged to be ambiguous. Therefore, the District Court's analysis in support of its conclusion is fundamentally flawed, leads to an unsupportable interpretation of the statute and should be disregarded.

Relying upon *State v. Yzaguirre*, 144 Idaho 471, 476; 163 P.3d 1183, 1188 (2007), the District Court states " [a statute's] ambiguity is contingent upon whether a number of reasonable interpretations can be made regarding its meaning." (Augmentation Record p. 7). In *Yzaguirre* the Court was confronted with two litigants each of whom asserted that the statute under review was unambiguous, but who each advocated a different interpretation of what the statute meant. The Court concluded that only one of these interpretations was reasonable and that, therefore, the statute was unambiguous. (Augmentation Record p. 7). In this general respect the District Court's analysis in this case mirrors the Supreme Court's analysis in *Yzaguirre*. But a closer reading of *Yzaguirre* reveals a crucial difference.

In *Yzaguirre* the conflicting interpretations had to do with how the grammar of the statute was to be construed. It had nothing to do with which interpretation was "reasonable" from the standpoint of sensible or sound legislation. The parties and the Supreme Court's focus was on determining the plain meaning of the words of the statute. The interpretations of the parties diverged on the question of the import of the placement of a comma in the text of the statute. The Court concluded as a matter of ordinary grammar that only one of the two interpretations advocated was reasonable.



In the case before the Court today, however, the District Court's analysis does not focus on what is reasonable or not so far as discerning the plain meaning of the words of the statute. The District Court looks to which of two proposed interpretations results in a law which, in the Court's view, is reasonable and not absurd in its application. But the reasonableness or absurdity of a law is not a valid consideration when interpreting an unambiguous statute, or deciding whether a statute is ambiguous in the first place. In *Verska v. Saint Alphonsus Regional Medical Center*, 151 Idaho 889, 896, 265 P.3d 502, 509 (2011) the Idaho Supreme Court declined to address the plaintiff's argument that a statute could not be construed as it was plainly written if the statute, so construed, was patently absurd, noting:

Thus, we have never revised or voided an unambiguous statute on the ground that it is patently absurd or would produce absurd results when construed as written, and we do not have the authority to do so.

*Ibid.* at p. 896. Likewise, the fact that the plain meaning of a statute implies harsh results in the statute's application does not allow a court to construe an unambiguous statute to mean something different from what the legislature has said:

However, the "public policy of legislative enactments cannot be questioned by the courts and avoided simply because the courts might not agree with the public policy so announced." *State v. Village of Garden City*, 74 Idaho 513, 525, 265 P. 2d 328, 334 (1953). Therefore, this Court's duty is "to interpret the meaning of legislative enactments without regard to possible results." *Id.*

...Although the result for Stonebrook is harsh, it is the result the Legislature intended. We are not at liberty to disregard this legislative determination as to the most effective means of protecting the public.

*Stonebrook Construction, LLC* at pp. 932-933. Therefore, even if the plain meaning of a statute is perceived to produce absurd or harsh results, that does not allow reaching beyond its plain meaning to construe the statute to mean something different from what the words of the statute plainly say.

**D.**

**The District Court erred in concluding that an amendment to a statute must always change preexisting law**

The District Court first found the interpretation of Idaho Code §45-802 advocated by Farmer's National Bank to be unreasonable on the basis that if the second sentence does not expand the scope of the lien beyond agricultural products to livestock which consume those products, then the second sentence adds nothing to what the first sentence says and is, therefore, superfluous. Citing the rule of construction that "a court should not interpret a statute in a way that would render it superfluous" the Court found Farmers National Bank's interpretation unreasonable. (Augmentation Record p. 8). However, this rule of construction is properly employed only after the meaning of a statute has been determined to be ambiguous. Because the second sentence of Idaho Code §45-1802 was added as an amendment to a preexisting statute, the more applicable rule of construction is the presumption that an amendment to a statute indicates an intent to change the statute's meaning. *Gonzalez. v. Thacker*, 148 Idaho 879, 883, 231 P. 3d 524, 528 (2009). However, "[T]he presumption does not apply where statute's meaning is not in doubt." *Am Jur 2d, Statutes* §63. Moreover, an amendment to a statute may simply clarify or strengthen a statute without altering or changing it. *Pearl v. Board of*

*Professional Discipline of Idaho State Board of Medicine*, 137 Idaho 107, 114, 44 P. 3d 1162, 1169 (2002); *Stonecipher v. Stonecipher*, 131 Idaho 731, 735, 963 P. 2d 1168, 1172 (1998).

In *Stonecipher*, the amendment in question simply added one sentence to Idaho Code §5-245. The Court noted that the added sentence did not change the statute from what it was before the amendment:

No alteration was made to the statute as it previously existed. The amended version simply clarified the language of the original statute by providing a list, though non-exhaustive, of terms to be encompassed by “an action or proceeding to collect child support arrearages.”

*Ibid* at p. 735. Therefore, if the second sentence of Idaho Code §45-1802 is unambiguous as it stands, then there is no basis for applying rules of construction to make the second sentence mean something other than what it plainly says, even though when plainly read the second sentence does not alter or change preexisting law.

#### E.

**The District Court also erred reasoning that unless the second sentence extends the scope of the things to which the lien may attach, it is self-contradictory and meaningless.**

The District Court also concluded that if the second sentence does not extend the scope of the lien to livestock which consume agricultural products, then the second sentence would not only be superfluous, it would also be “self-contradictory and meaningless.” (Augmentation Record p. 9). The District Court reasoned as follows:

However, with such an interpretation, the triggering act of “using the agricultural product to feed livestock simultaneously give the product its clarified classification—agricultural product subject to a lien—and strips it of that lien as it would not extend to the livestock once it is consumed—or “used.” Interpreting language such that it both bestows a category and strips it at the same moment renders the sentence self-contradictory and meaningless.

(Augmentation Record p. 9). In a footnote to this passage, the District Court amplifies its point as follows:

The court notes that Farmers' interpretation would be more reasonable if the statute had indicated that the lien attaches regardless of whether the purchaser *intends* to use or *will* use the product in the ways described in the second sentence. However, the statute does not read that way. [Emphasis added]

(Augmentation Record p. 9). However, because the statute states that the lien attaches to a product regardless of the purpose for which the agricultural product is used, does not imply that the lien does not attach to the product *until* the product is used. The sentence is a statement that certain events do not affect whether a lien attaches; it is not a statement about when a lien attaches. In any case, Idaho Code §45-1803 which immediately follows Idaho Code §45-1802 is captioned and sets forth "When lien attaches," which clearly dispels any reason for reading the second sentence of Section 45-1802 as having anything to do with when the lien attaches. Thus plainly read, the second sentence is not self-contradictory and meaningless.

Even if one reaches the District Court's conclusion that the second sentence implies an absurd result unless it is construed to mean that a lien on an agricultural product attaches to livestock which consume the product, such absurdity does not allow a court to depart from the plain meaning of an unambiguous sentence. As the Idaho Supreme Court has stated in *Verska* , if a court finds that the plain unambiguous meaning of a statute is " patently absurd," it is not the role of the Court to rewrite the statute. But this is just what the District Court did in this case.

The meaning of the second sentence is plain enough: it states that the lien created under “this chapter” (chapter Eighteen of Title 45) may attach “regardless of whether the purchaser uses the agricultural product purchased to increase the value of his livestock or whether he uses the agricultural product purchased to maintain the value, health or status of his livestock without actually increasing the value of his agricultural product.” Predicating the attachment of a lien on goods to the use to which the good are put, is not without precedent. The Uniform Commercial Code, for example, defines consumer goods as “goods that are used or bought for use primarily for personal, family or household purposes.” Idaho Code §28-9-102 (23). But when such goods commence to be used for such purposes is not relevant for determining when a security interest attaches to those goods. Likewise, because the second sentence of Idaho Code §45-1802 states that the lien created attaches regardless of certain subsequent uses of the goods, it does not imply the lien attaches only when the goods are used. It simply states that the lien attaches regardless. Thus interpreted the sentence is neither self-contradictory in its meaning or absurd in its result.

When the second sentence of Idaho Code §45-1802 is read in a plain and straightforward way, free of the demand and constraint that the section must mean something very different with the addition of the second sentence than without it, there is nothing in its plain meaning which says that an agricultural commodity lien attaches to livestock. All the sentence says is that the lien created in “this chapter,” “may attach regardless of whether the purchaser uses the agricultural product purchased to increase the value of his livestock or whether he uses the agricultural product purchased to maintain the value, health or status of his

livestock without actually increasing the value of his agricultural product.” There is nothing in the plain meaning of this sentence to the effect that the lien may also attach to livestock which consume an agricultural product. There is no reasonable interpretation of the plain meaning of the words of the second sentence which leads to the conclusion that the second sentence means that an agricultural commodity lien attaches to livestock which consume the product. To conclude otherwise, moreover, would directly conflict with the plain definition of “agricultural product” in Idaho Code §45-1801(1)-- which does not include livestock-- and the plain meaning of the first sentence of Idaho Code §45-1802 that the lien created attaches only to an agricultural product or the proceeds of sale of an agricultural product.

The District Court reasoned that unless the second sentence adds something to the first sentence of Idaho Code §45-1802, then the second sentence is “superfluous” and “meaningless.” (Augmentation Record pp. 8-9). However, if the meaning of the second sentence standing by itself, is plain and unambiguous, then the court is not at liberty to invoke rules of construction to go beyond or against that plain meaning. If the court had first concluded that the second sentence were ambiguous, then it would have been appropriate for the court to have invoked the rule of construction that an amendment to a statute is presumed to change the import of the statute from what it was prior to the amendment. In this case, however, the District Court declined to adopt a straightforward interpretation of the words of the second sentence only because it reasoned that read in this way, the second sentence would add nothing to the first.

The District Court also concluded that the second sentence was “superfluous” standing by itself. The Court's reasoning in support of this conclusion is not persuasive. The

Court reasons, in effect, that if the second sentence simply clarifies that the lien created by the first sentence attaches to an agricultural product regardless of how the product is used, then this means that the lien does not attach to the product *until* it is used. This is an unwarranted leap of logic. The sentence states that the lien may attach regardless of whether the product is used to maintain or increase the value of livestock. In other words, it states that the lien may attach regardless of what the subsequent use of the product might be. If the second sentence had read that the lien may attach only if and when the purchaser uses the product in a certain way, then the District Court's reasoning would have a point. But this is plainly not what the second sentence says and there is no basis whatsoever for the District Court's conclusion that the second sentence standing by itself is "self-contradictory and meaningless." (Augmentation Record p. 9).

**F.**

**The District Court's conclusion that the Agricultural Commodity Dealer's interpretation is reasonable is wrong.**

Having concluded that Farmers National Bank's interpretation of the second sentence is unreasonable, the District Court proceeds to conclude that the Agricultural Commodity Dealers' (referred to by the Court as "Sellers") interpretation on the other hand is reasonable. (Augmentation Record p. 10). But again the District Court fails to focus on what the words of the second sentence plainly say, and attributes a meaning to the second sentence which goes far beyond the ordinary import of the words of which it is composed. The District Court stated the most convincing factor it found in finding the sellers' interpretation reasonable as follows:

The most convincing factor to this court is how the second sentence implements the word, “uses.” As identified above, “uses” is the triggering verb in the second sentence; however, once the agricultural product is ‘used’ to increase or maintain the value of livestock, the agricultural product is no longer in a state of livestock feed—it has been ingested and is not distinguishable from the livestock that ingested it. The second sentence indicates that the agricultural lien attaches even when this triggering event occurs. To the court, this means that the agricultural lien attaches to the feed, and continues if commingled with livestock through the livestock’s use—or consumption—regardless of whether the agricultural product increased the livestock’s value, or maintained its value.

(Augmentation Record p. 10). The Court states that “‘uses’ is the triggering verb in the second sentence.” A triggering verb may be a novel grammatical concept, but what the District Court seems to mean by this is that “uses” refers to the event which causes the lien to attach to livestock. But even though the second sentence plainly refers to how a *purchaser* uses an agricultural product, the District Court ends up speaking in terms of how *livestock* use an agricultural product. Apart from this confusion, the District Court’s point seems to be that at the moment an agricultural product is ingested by an animal, it is no longer distinguishable from the animal that ingested it. Again, this is simply not the case. Feed remains identifiable for a while in the animal’s digestive tract, and a considerable amount, molecule for molecule, ends up as excrement. Does the lien attach to manure as well? And, what about milk and offspring?

It is apparent from the District Court’s analysis that its interpretation of the second sentence as meaning that a lien on an agricultural product also attaches to an animal which consumes it, is driven by the fundamental consideration that unless the second sentence expands the scope of the lien created by the first sentence, it is superfluous. But thus driven, the Court’s interpretation of the second sentence strays far beyond what can be naturally and easily discerned



from what is otherwise its plain meaning. The confusion about “triggering” verbs and uses is illustrative. But if the second sentence is plain and unambiguous as it stands, the principle of statutory construction that an amendment to a statute must be read as changing or adding something to preexisting law does not apply and there is no reason to strain beyond the plain meaning of the second sentence merely because as plainly interpreted it adds nothing to the sentence which precedes it. The Agricultural Commodity Dealer’s interpretation of the second sentence, which is adopted by the District Court, is not reasonable.

The District Court concludes its analysis of the meaning of the second sentence by noting that not only does its interpretation not render the second sentence superfluous, but it also “benefits the intended protected class of an agricultural lien—the agricultural producers.” (Augmentation Record p. 11). However, if indeed the second sentence is unambiguous as the District concluded, then the extent to which the sentence as interpreted furthers legislative or public policy is irrelevant as this Court has held in *Stonebrook Construction, LLC*. This is but a final instance of the District Court’s inclination to muddle the interpretation of an unambiguous statute with principles of statutory construction.

#### G.

**The second sentence is unambiguous and Farmers National Bank’s interpretation of that sentence is reasonable.**

As reflected by the amicus briefs which have been filed in this case, the issues in this case go beyond the interests of the litigants. As United States Bankruptcy Judge Pappas said at the beginning of his decision in a case in which the central issue was identical to the one in this case—how the second sentence of Idaho Code §45-1802 is to be interpreted— “the potentially

far-reaching implications of the Court's holding will likely impact many participants in the agri-credit markets. As a result, the stakes in this case are substantial." *In Re Goedhart & Goedhart*, 03.3 IBCR 167, 167 (Bankr. D. Idaho 2003). A copy of Judge Pappas' Memorandum of Decision in that case is attached to this Brief as Appendix B. With the awareness of that fact, Judge Pappas held in his thorough and well reasoned decision that, like the first sentence, the second sentence of Idaho Code §45-1802 is unambiguous and that the plain meaning of the second sentence does not expand the scope or kinds of property to which an agricultural commodity lien can attach. It simply clarifies the first sentence:

The second sentence of the statute, added in 1989, is also plain on its face. It clarifies the first sentence. It explains that the statutory agricultural commodity lien created by the first sentence shall attach to the agricultural product, and to the proceeds from the sale of that product, without regard to whether the purchaser uses the commodity for either of two different purposes, namely, to increase the value of livestock or to maintain the value of livestock. Again, while it easily could have done so, the Legislature did not utilize language in the 1989 amendment to Idaho Code §45-1802 that expands the scope or kinds of property to which a commodity lien will attach.

*Ibid.* at page 170. Judge Pappas goes on to note that interpreting the second sentence according to its plain meaning does not render the sentence superfluous:

Construing the statute according to its plain meaning does not render any portion of the commodity lien law superfluous....[*citation omitted*]. Granted, interpreting the second sentence as a clarification that a commodity lien can attach to the agricultural product or the proceeds from its subsequent sale, notwithstanding the purchaser's use of the agricultural product may not effect any extensive change in the reach or impact of the statute. However, such an interpretation is consistent with the import of the language of the statute.

*Ibid.* at pages 171-172.

## H.

**Even if Idaho Code §45-1802 is ambiguous, applying the rules of statutory construction does not change the result.**

In his decision in *In Re: Goedhart & Goedhart*, Judge Pappas reasons that even if the addition of the second sentence to Idaho Code §45-1802 rendered the statute ambiguous, and the court considered “the full panoply of statutory construction tools, the interpretation given the statute by the Court would be no different.” *Ibid* at page 171. Looking at Chapter 18 of Title 45 as a whole, Judge Pappas observes that not only in Idaho Code §45-1802, but also Idaho Code §45-1803 and 1805 “the Idaho Legislature indicated its intent that a commodity lien attach only to the agricultural product sold and to the proceeds from a subsequent sale of the product, but not to any other types of property.” *Ibid* at page 171. In addition, Judge Pappas notes that the definition of “agricultural product” in Idaho Code §45-1801(1), which the Idaho Legislature also amended in 1989, was amended to extend the definition to include agricultural products which had been processed into feed. Had the legislature intended at that time to also extend the lien to livestock which consumed an agricultural product, it could have done so in the amendment to the definition, but it did not. *Ibid* at page 171. Judge Pappas also notes that to read Idaho Code §45-1802 as extending the lien to livestock which consume an agricultural product would, in order to maintain consistency in the statute, require a determination that Idaho Code §§45-1803 and 1805 were amended by implication as well. This he points out would run contrary to the rule that “Statutory amendment by implication is disfavored and will not be inferred absent clear legislative intent.” *Ibid* at page 171. (See *Thomas v. Medical Center Physicians, P.A.*, 138 Idaho 200, 209, 61 P.3d 557, 566 (2002). Finally, Judge Pappas concludes that “The legislative

history from the 1989 session offers no definitive insight into the legislature's intent because the commentators offered inconsistent views on the amendment's goal." *Ibid* at page 171.

### CONCLUSION

The Court should reverse the Amended Judgment entered by the trial court on August 29, 2012, which based upon the Memorandum Decision Re: Plaintiff's Motion for Summary Judgment, granted declaratory judgment including costs and attorney's fees to Hull Farms, Inc.; Tim Thornton; Lewis Becker; Jack McCall; and Dan Carter.

Declaratory Judgment should be entered in favor of Farmers National Bank, including costs and attorneys fees, declaring that Idaho Code §45-1802 does not provide that an agricultural commodity dealer lien on an agricultural commodity extends to the livestock which consume that commodity or to the proceeds of sale of the livestock, and that Farmers National Bank's security interest in the proceeds from the sale of cows belonging to Green River Dairy, is a first priority lien.

DATED this 27<sup>th</sup> day of November, 2012.

COLEMAN, RITCHIE & CLUFF

By 

JOHN S. RITCHIE

Attorney for Plaintiff-Counterdefendant-Appellant  
Farmers National Bank

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have on this 27<sup>th</sup> day of November, 2012, caused a true and correct copy of the attached APPELLANT'S BRIEF postage prepaid, to the following parties:

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*Attorney for Idaho Dairyman's Association*



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JOHN S. RITCHIE

## APPENDIX A

### (Agricultural Commodity Dealer Liens Claimed and Filed by the Agricultural Commodity Dealers)

#### 1. Hull Farms, Inc.:

- a. State of Idaho – Notice of Lien in Agricultural Products – Form C-1  
filed with the Idaho Secretary of State on August 4, 2011, Filing  
Number C1549:

Purchaser: Herculano Joseph Alves  
Claimant: Hull Farms Inc.  
Amount: \$106,344.17  
Delivery Dates: May 26, 2011, to June 26, 2011  
Crop: alfalfa hay

- b. State of Idaho – Notice of Lien in Agricultural Products – Form C-1  
filed with the Idaho Secretary of State on August 4, 2011, Filing  
Number C1550:

Purchaser: Frances Marie Alves  
Claimant: Hull Farms Inc.  
Amount: \$106,344.17  
Delivery Dates: May 26, 2011, to June 26, 2011  
Crop: alfalfa hay

- c. State of Idaho – Notice of Lien in Agricultural Products – Form C-1  
filed with the Idaho Secretary of State on August 4, 2011, Filing  
Number C1551:

Purchaser: Herkie Joseph Alves  
Claimant: Hull Farms Inc.  
Amount: \$106,344.17  
Delivery Dates: May 26, 2011, to June 26, 2011  
Crop: alfalfa hay

- d. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on August 4, 2011, Filing Number C1553:

Purchaser: Green River Dairy  
Claimant: Hull Farms Inc.  
Amount: \$106,344.17  
Delivery Dates: May 26, 2011, to June 26, 2011  
Crop: alfalfa hay

The total amount of those claims is \$106,344.17.

2. Dan Carter:

- a. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on January 5, 2011, Filing Number C1528:

Purchaser: Green River Dairy  
Claimant: Ernest Daniel Carter  
Amount: \$10,606.75  
Delivery Dates: October 24, 2010  
Crop: hay

- b. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on January 5, 2011, Filing Number C1529:

Purchaser: Green River Dairy, LLC  
Claimant: Ernest Daniel Carter  
Amount: \$10,606.75  
Delivery Dates: October 24, 2010  
Crop: hay



- c. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on January 5, 2011, Filing Number C1530:

Purchaser: Herculano Joseph Alves  
Claimant: Ernest Daniel Carter  
Amount: \$10,606.75  
Delivery Dates: October 24, 2010  
Crop: hay

- d. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on January 5, 2011, Filing Number C1531:

Purchaser: Frances Marie Alves  
Claimant: Ernest Daniel Carter  
Amount: \$10,606.75  
Delivery Dates: October 24, 2010  
Crop: hay

- e. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on April 7, 2011, Filing Number C1543:

Purchaser: Green River Dairy  
Claimant: Carter Hay and Livestock  
Amount: \$20,006.00  
Delivery Dates: January 1, 2011, to February 1, 2011  
Crop: hay

- f. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on April 7, 2011, Filing Number C1544:

Purchaser: Herculano Alves  
Claimant: Carter Hay and Livestock  
Amount: \$20,006.00  
Delivery Dates: January 1, 2011, to February 1, 2011  
Crop: hay

The total amount of those claims is \$30,612.75.

3. Lewis Becker:

- a. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on September 23, 2011, Filing Number C1556:

Purchaser: Frances Alves  
Claimant: Lewis Becker  
Amount: \$4,815.00  
Delivery Dates: June 20, 2011, to June 30, 2011  
Crop: wheat

- b. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on September 23, 2011, Filing Number C1557:

Purchaser: Herculano Joseph Alves  
Claimant: Lewis Becker  
Amount: \$4,815.00  
Delivery Dates: June 20, 2011, to June 30, 2011  
Crop: wheat

- c. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on September 23, 2011, Filing Number C1558:

Purchaser: Frances Alves  
Claimant: Lewis Becker  
Amount: \$3,840.00  
Delivery Dates: June 4, 2011, to June 30, 2011  
Crop: hay

- d. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on September 23, 2011, Filing Number C1559:

Purchaser: Herculano Joseph Alves  
Claimant: Lewis Becker  
Amount: \$3,840.00  
Delivery Dates: June 4, 2011, to June 30, 2011  
Crop: hay

The total amount of those claims is \$8,655.00.

4. Jack McCall:

- a. State of Idaho – Notice of Lien in Agricultural Products – Form C-1 filed with the Idaho Secretary of State on October 17, 2011, Filing Number C1560:

Purchaser: Green River Dairy, LLC  
Claimant: Jack McCall  
Amount: \$19,696.25  
Delivery Dates: March 15, 2011, to May 26, 2011  
Crop: hay

- b. State of Idaho – Notice of Lien in Agricultural Products -- Form C-1 filed with the Idaho Secretary of State on October 17, 2011, Filing Number C1561:

Purchaser: Herculano Alves  
Claimant: Jack McCall  
Amount: \$19,696.25  
Delivery Dates: March 15, 2011, to May 26, 2011  
Crop: hay

The total amount of those claims is \$19,696.25.

5. Tim Thornton:

- a. State of Idaho – Notice of Lien in Agricultural Products -- Form C-1 filed with the Idaho Secretary of State on October 18, 2011, Filing Number C1563:

Purchaser: Herculano Joseph Alves  
Claimant: Tim Thornton  
Amount: \$20,096.54  
Delivery Dates: June 2, 2011, to July 21, 2011  
Crop: hay

- b. State of Idaho – Notice of Lien in Agricultural Products -- Form C-1 filed with the Idaho Secretary of State on October 18, 2011, Filing Number C1564:

Purchaser: Green River Dairy  
Claimant: Tim Thornton  
Amount: \$20,096.54  
Delivery Dates: June 2, 2011, to July 21, 2011  
Crop: hay

The total amount of those claims is \$20,096.54.

(R. Vol. II, pp. 387-409).

the approach of the Panel in *Sylvester*. Here, the Court concludes it is appropriate to look beyond the malpractice action in characterizing the nature of Debtors's claim for damages, and consequently, the character of any recovery he may achieve. The malpractice action would not have been filed "but for" the bodily injuries sustained by Debtor, as alleged in the personal injury action. In that sense, Debtor seeks to recover from his former attorneys those damages he would have recovered in the personal injury action had it been properly prosecuted. If Debtor had recovered in the underlying personal injury action, it seems clear at least a portion of those proceeds would have been exempt under Idaho Code § 11-604(1)(c). Thus, any recovery in the malpractice action attributable to Debtor's physical injuries may properly be claimed exempt under Idaho Code § 11-604(1)(c).

Without regard to the statute examined by the Panel in *Sylvester*, the Court has previously ruled that Idaho law limits any exemption claim to a debtor's damages for actual bodily injury. See *In re Lee*, 96.2 I.B.C.R. 84, 86 (Bankr. D. Idaho 1996) (holding that the term "bodily injury" did not encompass purely mental or emotional injury, but is limited to actual physical injury to the body and the consequences thereof). In addition, the funds in question must also be "reasonably necessary" for Debtors' or his dependents' support. *In re Nielsen*, 97.4 I.B.C.R. 107, 108 (Bankr. D. Idaho 1997) (holding that annuity payments paid to debtor for medical expenses, when those payments were not reasonably necessary for her or her dependent's support, were not exempt). Whether Debtors are successful in securing a recovery in the legal malpractice action, and whether that recovery is attributable to a bodily injury and is also reasonably necessary for Debtors' support, remains to be seen. An evidentiary hearing may be required at a later date to determine the answer to these important questions.

#### IV. Conclusion.

As a matter of law, Debtors can not assert an exemption in any recovery from the malpractice action under either Idaho Code § 11-603(2) or § 11-603(5). However, Debtors may properly claim an exemption in the proceeds of the legal malpractice claim under Idaho Code § 11-604(1)(c), but only if Debtors can establish that such recovery represents compensation for a bodily injury and that it is reasonably necessary for the support of Debtors and their dependents. Because at this time there is no settlement or recovery, Debtors obviously can not make such a showing, and the Court cannot make a final disposition of Trustee's objection to Debtors's exemption claim. If Debtors receive a recovery from the action, and if the parties cannot otherwise resolve the respective rights of the bankruptcy estate and Debtors to such recovery, Trustee may renote his objection for an evidentiary hearing. No final order will be entered at this time.

DATED This 6<sup>th</sup> day of August, 2003.

JIM D. PAPPAS

CHIEF U.S. BANKRUPTCY JUDGE

Vol. 03, No. 44  
IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO  
Cite as: 03.3 IBCR 167

In Re:

GOEDHART & GOEDHART, a PARTNERSHIP, d/b/a GOOD HART DAIRY,  
Debtor.

NWT, INC. and EVANS GRAIN, FEED AND SEED COMPANY,  
an Idaho corporation,

Plaintiffs,

vs.

GOEDHART & GOEDHART, a partnership d/b/a GOOD HART DAIRY and WELLS FARGO BANK, National Association,  
Defendants.

Bankruptcy Case No. 02-41638

Adversary Case No. 02-6342

#### MEMORANDUM OF DECISION

#### Appearances:

Richard D. Greenwood, GREENWOOD & BRODY, Twin Falls, Idaho, Attorney for Plaintiff NWT, Inc.

Kimbell D. Gourley, JONES GLEDHILL HESS FUHRMAN BRADBURY & EIDEN, Boise, Idaho, Attorney for Plaintiff Evans Grain, Feed and Seed Company.

Brent T. Robinson, LING & ROBINSON, Rupert, Idaho, Attorney for Defendant Goedhart & Goedhart.

Larry E. Prince, HOLLAND & HART, Boise, Idaho, Attorney for Defendant Wells Fargo Bank, National Association.

#### Introduction

This Memorandum of Decision disposes of cross-motions for summary judgment filed in this consolidated adversary proceeding. At issue is whether Idaho Code § 45-1801 *et seq.*, the Idaho statutes governing agricultural commodity liens, extend the reach of such liens to the dairy cows (and to the milk produced by those cows) that consume agricultural products subject to a commodity lien. While yet another decision from this Court concerning statutory construction may hardly seem cause for excitement, the potentially far-reaching implications of the Court's holding will likely impact many participants in the agri-credit markets. As a result, the stakes in this case are substantial.

To dispose of the issues in this action, the Court must endeavor to assess the meaning of the statutes. This can be a delicate task. Judges called upon to apply a statute possess no inherently superior wisdom to those who write the statute. Too ambitious an approach by a reviewing court in construing a statute endangers the legitimacy and efficacy of the legislative process.<sup>1</sup> The potential for mischief

<sup>1</sup> As one famous jurist described the challenge of construing a statute:

The judge must always remember that he should go no further than he is sure the government would have gone, had it been faced with the case before

is present in this case because the Court is invited to displace the collective judgment of the Idaho Legislature and to intrude upon a process more properly conducted in the Statehouse, not the courthouse. The Court declines that invitation.

### Procedural Background

Goedhart & Goedhart ("Debtor"), a partnership between Henry and Michael Goedhart, operated a dairy farm in Wendell, Idaho, under the trade name "Good Hart Dairy." Debtor filed for relief under Chapter 11 of the Bankruptcy Code on August 23, 2002. At that time, Debtor was indebted to, among others, Wells Fargo Bank, National Association ("Bank"); NWT, Inc. ("NWT"); and Evans Grain, Feed and Seed Company ("Evans Grain").

On December 19, 2002, NWT commenced an adversary proceeding naming the Bank and Debtor as defendants, seeking a determination of the validity, priority and extent of the statutory lien it purportedly held on Debtor's dairy cows and milk, as well as the proceeds from the sale of both, by virtue of Idaho Code § 45-1802. Adv. No. 02-6342, Docket No. 1. In response, the Bank, which holds a perfected U.C.C. Article Nine security interest in the same collateral, filed a motion for summary judgment. Adv. No. 02-6342, Docket No. 10. The Bank contends NWT's statutory lien does not attach to any of the collateral at issue. Not surprisingly, NWT disagrees, and filed a cross-motion for summary judgment. Adv. No. 02-6342, Docket No. 15.

Evans Grain commenced a separate adversary proceeding on January 30, 2003, claiming it too held a statutory lien on Debtor's dairy cows, milk, and cash sale proceeds under Idaho Code § 45-1802. Adv. No. 03-6031, Docket No. 1. Evans Grain also alleges that Debtor improperly converted the collateral in which Evans Grain had a lien. *Id.* Just as NWT had done, Evans Grain named the Bank and Debtor as defendants. The Bank moved for summary judgment arguing that the statute did not grant Evans Grain a valid lien on the cows, milk and proceeds securing the Bank's claim. Adv. No. 03-6031, Docket No. 12.

In furtherance of the parties' stipulation, the Court consolidated the two adversary proceedings on June 19, 2003, under Adversary Case No. 02-6342.<sup>2</sup> Docket No. 30. Prior to entry of the order consolidating the actions, but after execution of the stipulation, Evans Grain filed its own motion for summary judgment.<sup>3</sup> Docket No. 22.

The Court conducted a hearing on the various motions for summary judgment on June 19, at which counsel for all the parties,

including Debtor, appeared and provided argument. The Court took the issues raised by the motions under advisement, and has carefully considered the submissions and arguments of the parties. This Memorandum disposes of the pending motions.

### Undisputed Facts

The following facts appear undisputed in the record.

Debtor borrowed money from the Bank. To secure its promise to repay its loans from the Bank, Debtor granted the Bank a security interest in, among its other assets, all its present and future dairy cows, milk, and any cash proceeds received from the disposition of the cows or milk. Compl., ¶ 15, Docket No. 1, Adv. No. 03-6031. It appears undisputed that the Bank perfected its security interest in Debtor's dairy cows and milk before NWT or Evans Grain sold and delivered any agricultural products to Debtor. At the time of the bankruptcy filing, Debtor owed the Bank approximately \$5.8 million. Def.'s Statement of Undisputed Fact, ¶ 3, Docket No. 11.

NWT buys agricultural commodities from the farmers who raise them, and then sells those commodities to its customers, including dairy farmers. Aff. of Hamby, ¶ 4, Docket No. 20. Therefore, NWT is an "agricultural commodity dealer" as defined by Idaho Code § 45-1801.<sup>4</sup> Beginning in May, 2001, NWT sold and delivered canola pellets, used as cattle feed, to Debtor. *Id.* at ¶ 5. Debtor failed to pay for the deliveries NWT made to Debtor between April 25 and July 9, 2002. As a result, Debtor owed NWT \$20,021.04. *Id.* at ¶ 7; Ex. B. NWT thereafter timely filed written claims of "commodity dealer liens" with the Idaho Secretary of State as provided in Idaho Code § 45-1801 *et. seq.* for the unpaid balance owed by Debtor. Aff. of Greenwood, Docket No. 16. These claims of lien purportedly covered Debtor's dairy cattle, milk, and any canola pellets still on hand at Debtor's farm. *Id.* at Ex. A.

Evans Grain is also an agricultural commodity dealer as defined by Idaho Code § 45-1801(2). Evans Grain sold Debtor whey, cottonseed, and corn distillers, all of which Debtor used as cattle feed. Aff. of Blauer, ¶ 7, Docket No. 24. Prior to the bankruptcy, Evans Grain made deliveries to Debtor valued at \$70,521.00, for which it remains unpaid. On November 15, 2002, Evans Grain also recorded commodity dealer liens with the Secretary of State that purported to attach to Debtor's dairy cattle, milk, and any cottonseed remaining at Debtor's farm. Aff. of Counsel, Ex. A., Docket No. 23.

On May 19, 2003, this Court entered an order granting the Bank relief from the automatic stay with respect to Debtor's dairy herd, milk, and any feed on hand. Case No. 02-41638, Docket No.

him. If he is in doubt, he must stop, for he cannot tell that the conflicting interests in the society for which he speaks would have come to a just result, even though he is sure that he knows what the just result should be. He is not to substitute even his juster will for theirs; otherwise it would not be the common will which prevails, and to that extent the people would not govern.

Learned Hand, *How Far is a Judge Free in Rendering a Decision?*, in *The Spirit of Liberty: Papers and Addresses of Learned Hand* 79, 84 (Irving Dilliard ed., New York: Vintage Books 1960).

<sup>2</sup> All further docket references will be to Adv. No. 02-6342, unless otherwise indicated.

<sup>3</sup> Evans Grain actually filed its motion for summary judgment in the adversary proceeding initiated by NWT before the Court entered the order consolidating the two actions. The Court perceives no harm in treating the motion as properly filed under these circumstances.

<sup>4</sup> For purposes of Idaho Code § 45-1801 *et. seq.*:

'Agricultural commodity dealer' means any person who contracts for or solicits any agricultural product from an agricultural producer or negotiates the consignment or purchase of any agricultural product, or receives for sale, resale or shipment for storage, processing, cleaning or reconditioning, any agricultural product, or who buys during any calendar year, at least ten thousand dollars (\$10,000) worth of agricultural products from the producer or producers of the commodity. Agricultural commodity dealer shall not mean a person who purchases agricultural products for his own use as seed or feed.

135.<sup>5</sup> Shortly thereafter, the U.S. Trustee filed a motion to convert Debtor's Chapter 11 case to one under Chapter 7, or in the alternative, to dismiss the case, because Debtor was no longer operating a dairy farm. Case No. 02-41638. Docket No. 149. That motion remains pending at this time.<sup>6</sup>

On the basis of this record, the Court presumes all of Debtor's cows and milk have been, or shortly will be, sold. So, too, the Court confidently assumes, although the record does not demonstrate it, that the sale proceeds are insufficient to satisfy in full the just debts of the Bank, NWT, and Evans Grain. While none of the parties discuss in the record the status of any remaining feed sold to Debtor by NWT or Evans Grain, and while the Bank apparently does not challenge the priority of the commodity dealers' liens in that feed, the Court also assumes there is an inadequate amount of feed on hand to pay the dealers' accounts. Thus, the dispute in this action concerns which creditors are entitled to the cash proceeds from the sale of Debtor's dairy cows and milk, and which creditors must look elsewhere, if at all, for payment. Seen in this fashion, the action presents a classic bankruptcy confrontation.

#### The Summary Judgment Standard

Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); Fed. R. Bankr. P. 7056 (incorporating Fed. R. Civ. P. 56 for application in adversary proceedings). See also *Elsaesser v. Central Pre-Mix Concrete Co. (In re Pioneer Constr., Inc.)*, 01-2 I.B.C.R. 66, 66 (Bankr. D. Idaho 2001); *Esposito v. Noyes (In re Lake Country Investments, LLC)*, 255 B.R. 588, 596-97 (Bankr. D. Idaho 2000).

The parties agree that all material facts in this matter are undisputed, at least for purposes of disposition of the pending motions. Simply put, the Court must therefore decide which of the parties is entitled to the paramount protection of the law.

#### Disposition of the Issues

##### A. Idaho Code § 45-1802 and the positions of the parties

In 1983, the Idaho Legislature enacted what became Idaho Code § 45-1802, a statute to protect "agricultural commodity producers" and "agricultural commodity dealers" by providing them a statutory lien for the unpaid price of "agricultural products"<sup>7</sup> sold

to others. The statute originally provided:

An agricultural commodity producer or an agricultural commodity dealer who sells an agricultural product has a lien on the agricultural product or the proceeds of the sale of the agricultural product until payment is made in full.

Act of Apr. 12, 1983, ch. 202, § 1, 1983 Idaho Sess. Laws 549 (amended 1989). In 1989, the Idaho Legislature amended the statute by adding a second sentence. The new provision read:

The lien created in this chapter may attach regardless of whether the purchaser uses the agricultural product purchased to increase the value of his livestock or whether he uses the agricultural product purchased to maintain the value, health or status of his livestock without actually increasing the value of his agricultural product.

Act of Apr. 4, 1989, ch. 299, § 1, 1989 Idaho Sess. Laws 746 (codified as amended Idaho Code § 45-1802).<sup>8</sup>

Evans Grain and NWT contend the language of § 45-1802, particularly the second sentence added by the Idaho Legislature in 1989, extends the lien arising on their sale of agricultural products to Debtor beyond the agricultural products themselves, to include Debtor's dairy cows, the milk those cows produce, and any cash proceeds received upon sale of the cows or milk. Conversely, the Bank insists the language of Idaho Code § 45-1802 allows the commodity sellers a lien only on the agricultural products sold, and on any proceeds generated from a subsequent sale of the agricultural products, but not on any other property.

##### B. Principals of statutory construction

A federal court interpreting a state statute must rely upon the enacting state's rules of statutory construction, as articulated by the

tame mustards, rapeseed, flaxseed, leguminous seed or other small seed, or any other agricultural commodity, including any of the foregoing, whether cleaned, processed, treated, reconditioned or whether mixed, rolled or combined in any fashion or by any means to create a product used as animal, poultry or fish feed.

Idaho Code § 45-1801(1). It is undisputed that the products sold by NWT and Evans Grain to Debtor were "agricultural products" covered by the lien statutes.

<sup>8</sup> The statute currently provides:

An agricultural commodity producer or an agricultural commodity dealer who sells, or delivers under contract or bailment, an agricultural product has a lien on the agricultural product or the proceeds of the sale of the agricultural product as provided in section 45-1804, Idaho Code. The lien created in this chapter may attach regardless of whether the purchaser uses the agricultural product purchased to increase the value of his livestock or whether he uses the agricultural product purchased to maintain the value, health or status of his livestock without actually increasing the value of his agricultural product.

Idaho Code § 45-1802. Any further changes to the statute made by the 1989 or other amendments are not at issue in this action.

<sup>5</sup> By stipulation of the parties during the hearing and pursuant to Fed. R. Evid. 201, the Court takes judicial notice of its files and records in Debtor's bankruptcy case. Case No. 02-41638.

<sup>6</sup> The Court previously notified counsel for the parties that it would defer entry of a decision on the summary judgment motions until the U.S. Trustee's motion had been resolved. See Letter to Counsel dated July 7, 2003, Docket No. 31. However, the Court reconsidered its reluctance to act. The issues raised here are important in this case and in others pending before the Court. If the bankruptcy case converts to Chapter 7, the issues will remain. Moreover, given the advanced procedural status of this adversary proceeding, and the efforts expended by the parties and the Court in connection with the summary judgment motions, it would be most economical for this Court to decide the pending motions, even though the bankruptcy case may be dismissed.

<sup>7</sup> For purposes of Idaho Code § 45-1801 *et. seq.*:

'Agricultural product' means wheat, corn, oats, barley, rye, lentils, soybeans, grain sorghum, dry beans and peas, beans, safflower, sunflower seeds,

courts of that state. *See, e.g., In re Lares*, 188 F.3d 1166, 1168 (9<sup>th</sup> Cir. 1999) (relying on Idaho rules of construction in interpreting Idaho's exemption laws). In Idaho, "statutory interpretation begins with the literal words of the statute, and this language should be given its plain, obvious, and rational meaning." *Seward v. Pacific Hide & Fur Depot*, 65 P.3d 531, 533 (Idaho 2003) (internal quotations and citations omitted). If, however, the language of a statute is ambiguous, a court may employ other tools in deciphering the statute's meaning, including reference to other statutes concerning the same subject matter if the statute is but one part of a larger statutory scheme; the context of the statutory language; the public policy advanced by the statute; and any pertinent legislative history. *Idaho v. Paciorek*, 51 P.3d 443, 446 (Idaho Ct. App. 2003); *Idaho v. Cudd*, 51 P.3d 439, 441 (Idaho Ct. App. 2002) ("[W]e also look to other statutes in the same title or act relating to the same subject matter and read them together, in order to discern the legislative intent.").

As for identifying ambiguity:

A statute is ambiguous when the meaning is so doubtful or obscure that "reasonable minds might be uncertain or disagree as to its meaning . . . . However, ambiguity is not established merely because different possible interpretations are presented to a court. If this were the case then all statutes that are the subject of litigation could be considered ambiguous . . . . [A] statute is not ambiguous merely because an astute mind can devise more than one interpretation of it. . . .

*BHA Invs., Inc. v. City of Boise*, 63 P.3d 482, 484 (Idaho 2003) (internal quotations and citations omitted). In construing an ambiguous statute, "constructions that would lead to absurd or unreasonably harsh results are disfavored," *Friends of Farm to Market v. Valley County*, 46 P.3d 9, 14 (Idaho 2002) (quoting *Gavica v. Hanson*, 608 P.2d 861, 863 (Idaho 1980)), as are constructions that render statutory language superfluous or insignificant. *Id.* Regarding amendments to statutes, it must be presumed that the legislature intended to clarify, strengthen or make some change to existing law. *Seward*, 65 P.3d at 534.

Finally, while statutes creating lien rights are to be liberally construed "with a view to effect their objects and promote justice," *Baker v. Boren*, 934 P.2d 951, 961 (Idaho Ct. App. 1997) (interpreting mechanic's lien statute and quoting *Metropolitan Life Ins. Co. v. First Security Bank of Idaho*, 491 P.2d 1261, 1265 (1971)), "this rule . . . does not permit the Court to create a lien where none exists or was intended by the legislature." *L & W Supply Corp. v. Chartrand Family Trust*, 40 P.3d 96, 101 (Idaho 2003) (internal citations omitted).

### C. Interpreting Idaho Code § 45-1802

NWT and Evans Grain must acknowledge that Idaho Code § 45-1802 does not expressly provide that an agricultural commodity lien extends beyond the agricultural products sold, yet alone to cows, milk, or cash proceeds. Instead, they argue that the statute, read as a whole, is ambiguous, and when examined carefully, it becomes apparent that the Legislature *meant* for the lien to extend beyond agricultural products. However, in construing what the statute *means*, the Court's analysis must begin with what the statute *says*.

The first sentence of amended Idaho Code § 45-1802 is clear and unambiguous. It creates a lien in favor of agricultural commodity producers (*i.e.*, the farmers who produce the products) and agricultural commodity dealers (*e.g.*, the cattle feed suppliers in this case). That lien extends to the agricultural products sold and to

the proceeds from a subsequent sale of the agricultural product.

To illustrate the extent of the lien, one need only imagine a farmer who raises and sells corn to a livestock feed dealer on credit. As a result of that transaction, the farmer is granted a statutory lien on the corn while it is in the dealer's possession. When the dealer sells the corn to another (say, to a feed lot), the farmer's lien extends to any cash proceeds the dealer received from the sale. In addition, at this point, a statutory lien arises in favor of the dealer on the corn at the feed lot.

In this context, "agricultural product" is a term of art that is specifically defined in Idaho Code § 45-1801(1) for purposes of identifying the collateral to which the commodity lien created in Idaho Code § 45-1802 may attach. When the Legislature originally drafted this statute, it could have provided within the statutory definition of agricultural product that the lien would attach to livestock that consume the agricultural commodity, or the proceeds or products of that livestock, such as milk produced by dairy cows. So, too, the Legislature could have later added language in Idaho Code § 45-1802 to extend the reach of the lien to animals that consume agricultural products already subject to a lien. The Legislature did neither. This is significant.

As stated above, the first sentence of Idaho Code § 45-1802 is clear and unambiguous. Therefore, it is unnecessary, and it would be inappropriate, for the Court to resort to any of the various tools of statutory construction to divine any meaning beyond giving the language employed by the Legislature its plain and ordinary meaning. The Court must presume the Legislature said what it meant and meant only what it said.

The second sentence of the statute, added in 1989, is also plain on its face. It clarifies the first sentence. It explains that the statutory agricultural commodity lien created by the first sentence shall attach to the agricultural product, and to the proceeds from the sale of that product, without regard to whether the purchaser uses the commodity for either of two different purposes, namely, to increase the value of livestock or to maintain the value of livestock. Again, while it easily could have done so, the Legislature did not utilize language in the 1989 amendment to Idaho Code § 45-1802 that expands the scope or kinds of property to which a commodity lien will attach.

Admittedly, the reference to livestock in the second sentence of Idaho Code § 45-1802, when one considers the absence of any other such references in the lien statutes, is perhaps curious, and the Legislature's goal in making this change has been the subject of debate by the parties in this action. However, while NWT and Evans Grain argue otherwise, the amendment to Idaho Code § 45-1802 did not render the statute ambiguous simply because their creative lawyers are able to develop alternative explanations for the reference to livestock in the second sentence. To be sure, the construction urged by NWT and Evans Grain, that the second sentence was intended to extend the commodity lien to any livestock consuming cattle feed, as well as to the milk produced by those cattle, provides more potent protection for the unpaid commodity dealer. But, under Idaho law, statutes that are not ambiguous need not be construed in the most powerful or far-reaching manner. Moreover, as noted above, while lien statutes should be liberally construed, such a construction can not include creating a lien where none exists. *L & W Supply Corp.*, 40 P.3d at 101. Rather, the second sentence of Idaho Code § 45-1802 must be read so as to give effect to the plain, obvious, and rational meaning of the text. *Seward*, 65 P.3d at 533.

Construing the statute according to its plain meaning does not render any portion of the commodity lien law superfluous. *Friends of Farm to Market*, 46 P.3d at 14. Granted, interpreting the second sentence as a clarification that a commodity lien can attach to the



agricultural product or the proceeds from its subsequent sale notwithstanding the purchaser's use of the agricultural product may not effect any extensive change in the reach or impact of the statute. However, such an interpretation is consistent with the import of the language of the statute.

Evans Grain also argues that deference should be given to the Idaho Secretary of State's interpretation of Idaho Code § 45-1802. The Secretary of State published the form to be used by agricultural commodity dealers and producers to assert and perfect a lien. That form allows the lien claimant to designate both livestock and milk among the kinds of property in which the lien is asserted. Evans Grain urges that the Secretary of State's adoption of such a form is tantamount to a formal opinion that the lien provided by the statute extends to livestock and milk, an opinion which should be given great weight in construing the statute.

The Court has considered this argument, but concludes it is inapplicable in this context. The Idaho Secretary of State is not an agency entrusted with the responsibility of administering the relevant statute. *See Pearl v. Bd. of Prof'l Discipline of the Idaho State Bd. of Medicine*, 44 P.3d 1162, 1168 (Idaho 2002) (discussing the standard for applying agency deference). Therefore, even if the inclusion of livestock and milk on the "official" form for recording a lien does indeed represent the Secretary of State's interpretation of the statute, something the Court doubts, the agency's opinion is not entitled to deference.

NWT and Evans Grain are likely disappointed in the Court's conclusion that the statute is not ambiguous. However, merely assuming the meaning of the statute can not be determined solely by reference to the language in the law does not necessarily mean these lien claimants must prevail. In fact, even if the addition of the second sentence to Idaho Code § 45-1802 in 1989 somehow rendered the statute ambiguous such that the Court should consider the full panoply of statutory construction tools, the interpretation given the statute by the Court would be no different.

First, looking to the other provisions dealing with agricultural commodity liens, the statutory framework as a whole reflects a legislative intent that commodity liens not extend to livestock. Indeed, the very next provision of the Idaho Code explains that:

*The lien created by [§ 45-1802] attaches to the agricultural product and to the proceeds of the subsequent sale of the agricultural product on the date the agricultural product is physically delivered to the purchaser or on the date any final payment is due, and unpaid, to the . . . producer or . . . dealer . . . whichever occurs last.*

Idaho Code § 45-1803 (emphasis added). So, too, in the provision concerning the priority of the lien created by the statutes, the Legislature instructs that:

*The lien created by [§ 45-1802] is preferred to a lien or security interest in favor of a creditor of the purchaser, regardless of whether the creditor's lien or security interest attaches to the agricultural product or proceeds of the sale of the agricultural product before or after the date on which the lien created by [§ 45-1802] attaches.*

Idaho Code § 45-1805 (emphasis added). Thus, in no fewer than three separate instances, the Idaho Legislature indicated its intent that a commodity lien attach only to the agricultural product sold and to the proceeds from a subsequent sale of the product, but not to any other types of property.

The comprehensive use of the term "agricultural product" also evidences an intent that commodity liens not attach to livestock or any products thereof. As mentioned above, "agricultural product" is defined in Idaho Code § 45-1801(1). That definition does not include livestock or milk, or the proceeds from the sale of such. Interestingly, during the same session that the Idaho Legislature amended Idaho Code § 45-1802, it also amended the definition of "agricultural product" by specifying that a commodity lien would continue despite the fact that a raw product was processed in some fashion for use as feed. Act of Apr. 3, 1989, ch. 265, § 1, 1989 Idaho Sess. Laws 644 (codified as amended at Idaho Code § 45-1801(1)). The Legislature was obviously capable of extending the reach of the lien where the agricultural product originally sold was incorporated or "processed in some fashion" into feed. It is therefore fair to infer that had the Legislature also intended the lien to extend to the animals that consume an agricultural product, or to the products of those animals, it could have amended the statutes to provide such.

In Idaho, there is a strong presumption against the amendment of statutes by implication. *Idaho v. Harrington*, 990 P.2d 144, 148 (Idaho Ct. App. 1999) ("Statutory amendment by implication is disfavored and will not be inferred absent clear legislative intent."). The 1989 amendment to Idaho Code § 45-1802 does not alter the scope of the lien as created in the first sentence of that statute, nor is it clear that the 1989 legislature intended the amendment to Idaho Code § 45-1802 to alter Idaho Code §§ 45-1803 and 1805. Were the Court to read Idaho Code § 45-1802 in the manner NWT and Evans Grain suggest, an inconsistency in the statutes would result, and questions would be created under Idaho Code §§ 45-1803 and 1805 regarding when a lien on livestock would attach and as to the priority of such a lien. NWT's and Evans Grain's interpretation would require the Court to not only read into Idaho Code § 45-1802 something that the text does not provide, but also to assume the 1989 amendment modified the other two statutes as well.

Finally, reference to the legislative history of the statute in this instance is frustrating and fruitless. The record presented by the parties to the Court provides but a fleeting glimpse of the purpose for the 1989 amendment. At the outset, the Court is skeptical that the intent of the 1989 legislature in adopting an amendment to a statute enacted years earlier is the only relevant legislative history to be considered here. As one court observed:

Generally, and perhaps without exception, legislative intent in statutory interpretation is helpful only if it is the meaning attributed by the enacting body, not the opinion of an amending body. If defendant's legislative intent argument had merit, then any legislative session could alter the meaning of laws predating their power to act, simply by declaring a legislative intent when enacting laws that alter or change the meaning of existing law. No authority supports such a proposition and to adopt it would be an invitation to all sorts of legislative chicanery.

*Lehmann v. Washington Nat'l Ins. Co.*, 979 F. Supp. 1290, 1292 (D. Mont. 1997).

The legislative history from the 1989 session offers no definitive insight into the legislature's intent because the commentators offered inconsistent views on the amendment's goal.

For instance, Representative Newcomb<sup>9</sup> indicated the amendment was offered to provide that "a lien has validity or may attach even if the feed fed to an animal does not add value to the animal but just maintains it." *Senate Agric. Affairs Comm. Minutes*, 1989 Leg., 1<sup>st</sup> Sess. at 4 (Idaho 1989) (statement of Rep. Newcomb). Representative Newcomb also referenced an unreported, state district court case "that had refuted this concept." *Id.* But, in a different committee hearing, Representative Newcomb indicated he believed "it has been understood in the feed industry that when feed was sold to [a] consumer, that the feed lien would attach to the animal which was being fed . . . ." *House Agric. Affairs Comm. Minutes*, 1989 Leg., 1<sup>st</sup> Sess. at 1 (Idaho 1989) (statement of Rep. Newcomb). However, one legislator's belief as to an entire industry's views offers little guidance into how Idaho Code § 45-1802 should be interpreted, particularly when no state appellate court has construed the statute and the text unambiguously permits a commodity lien to attach to only the agricultural product sold and the proceeds from a subsequent sale of the agricultural product.

In contrast, Senator Smyser<sup>10</sup> "pointed out the difficulty of understanding either the intent or the language contained in the bill . . . ." *Senate Agric. Affairs Comm. Minutes*, 1989 Leg., 1<sup>st</sup> Sess. at 4 (statement of Sen. Smyser). A representative of the Idaho Bankers Association "stated that his organization could neither support nor oppose the legislation since they were unable to understand what the intent of the bill is." *Id.* (statement of Berne Jensen). Finally, an attorney for the same association observed that the court case referenced by Representative Newcomb erroneously assumed a lien on feed continued in cows and the language of the 1989 amendment mistakenly makes the same assumption. *Id.* (statement of Pat Collins).

The only conclusion that can be safely drawn from the scant 1989 legislative history is that the Legislature, or at least those individual lawmakers who participated in the passage of the amendment to the lien statute, were faced with amending language that was confusing and they disagreed over whether Idaho Code § 45-1802, as it existed at that time, allowed a commodity lien to attach to livestock. Like the senator quoted above, from a review of this record of proceedings in the Legislature, the Court is uncertain and perplexed about the intended purpose of the 1989 amendment to § 45-1802. Unless the Court can confidently discern legislative intent from the history of the proceedings, it should hesitate to convert speculation into law.

In short, even were the Court to find Idaho Code § 45-1802 ambiguous, the application of the accepted tools of statutory construction does not compel a reading of the statute extending the commodity lien to dairy cows that consume feed or to the milk such cows produce. The relevant legislative history offers little interpretive guidance, and instead shows there was considerable disagreement and confusion about the import of the 1989 addition to Idaho Code § 45-1802 at the time the second sentence was added. On the other hand, construing the statute as written preserves consistency by preventing the fragmentation of an otherwise comprehensive statutory scheme, and avoids the specter of amendment by implication.

#### Conclusion

<sup>9</sup> Mr. Newcomb was a member of the House Agricultural Affairs Committee and sponsor of the original House bill, which was later amended by the Senate.

<sup>10</sup> Mr. Smyser was a member of the Senate Agricultural Affairs Committee.

The Idaho Legislature presumably desired to provide sellers of agricultural commodities some modicum of protection against the buyer's broken promise to pay for their products. NWT's and Evans Grain's interpretation of the lien statutes would extend that protection to those instances where the buyer's animals consume the products sold. Their view of the statute may or may not represent good policy. Extending the reach of the lien, while it protects commodity dealers, impairs the rights of other creditors who have provided credit to the farmer. It is not the province of the Court, however, to determine which creditors, as a matter of policy, should or should not be paid.

The language of the statute is unambiguous and the Court is duty-bound to apply it as written. There is no support for an ambitious extension of the reach of the lien created in the language of the statute. Because Idaho Code § 45-1802 is clear, and because the plain language of the statute restricts the scope of the lien to the agricultural product sold and to the proceeds from a subsequent sale of that product, the Court declines the temptation to broaden its scope. The statute does not extend an agricultural commodity lien to livestock that consume feed covered by a commodity lien, to the proceeds from the sale of such livestock, or to the milk or other products produced by such livestock. If the Idaho Legislature intends to cast such a wide net, it must clearly and cogently express that intent.<sup>11</sup>

As a matter of law, the Bank is correct that NWT's and Evans Grain's statutory liens did not extend to Debtor's dairy cows, milk or to the cash sale proceeds of those items. The Bank's motions for summary judgment will be granted, and NWT's and Evans Grain's motions for summary judgment will be denied. A separate order will be entered.

DATED This 11<sup>th</sup> day of August, 2003.

JIM D. PAPPAS

CHIEF U.S. BANKRUPTCY JUDGE

<sup>11</sup> Because of its ruling, the Court need not consider the many and complex questions and implications naturally flowing from a broad reading of the statute. For example, in this instance, do the commodity sellers' liens extend solely to those animals that actually consumed the agricultural products sold to Debtor? If so, who bears the burden of proving which animals did, or did not, consume the feed? Do the liens also extend to the calves produced by the cows? Would the liens extend to the compost manufactured from the manure produced by the herd? At what point in time do the liens on the livestock attach and when are they extinguished or terminated? These are just a few of the difficult, but vitally important, policy issues generated by an expansive reading of the statutes. Given the realities of business and the importance of credit to today's farmers, it is doubtful the courts can effectively create such rules of law on a case-by-case basis. As with the Uniform Commercial Code, the legislature is best suited to give comprehensive, balanced consideration to the needs and expectations of all involved in agri-business when designing such laws.