



## Real Estate Committee Webinar Panel

Agriculture Business and Legal Basics

September 28, 2022

### **CLE Materials and Speaker Biographies**

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## **Ag Bankruptcies Know the Basics<sup>1</sup>**

Knowing the farming industry is important as you face a bankruptcy or debt restructuring for either the farmer or the farmer's creditor. It is also important to understand the reality of the troubled farm debtor. This piece will outline the realities of the farm debtor; provide a basic glossary of terms used in farm bankruptcies; outline problems for creditors lending to farmers and provide a snapshot into Chapter 12, the most powerful chapter in the bankruptcy code that is only available to family farmers given its ability to de-prioritize taxes due because of the sale of farm assets used in the farming operation.

### **I. THE REALITY OF THE TROUBLED FARM DEBTOR**

Picture the realities faced by the typical troubled family farmers walking into your bank. The troubled family farmer may be facing any or even all the following personal and financial problems. Thinking about how things appear from the borrower's perspective can assist the work-out officer in successfully negotiating a win-win restructuring with the borrower.

#### **A. Personal Problems**

1. Psychological pressure that is off the chart because of feelings and thoughts like "I'm the SOB that lost the family farm that has been in the family for X generations;"
2. Alcoholism and/or another drug abuse;
3. Domestic violence;
4. Feelings of being trapped and the inability to function, or come up with a plan of action to solve the myriad of problems;
5. Family problems caused by stress and debt;
6. Depression—suicidal thoughts caused by the situation and hopelessness of the financial problems; and,
7. Inability to function enough to assist the banker and/or his lawyer in ascertaining the true extent of the financial and legal problems.

#### **B. Financial Problems**

1. A mountain of debt;
2. Secured creditors having threatened repossession of key farm equipment, trucks, cars;
3. Some equipment having been repossessed;
4. Unsecured creditors suing on open accounts;
5. Unfiled tax returns for multiple years coupled with the fear of the IRS

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<sup>1</sup> By: Joseph A. Peiffer, Ag & Business Legal Strategies, Cedar Rapids, Iowa

- and state Department of Revenue seeking to collect unpaid taxes;
6. The threat of insurmountable income tax bills if farm assets are liquidated;
  7. Inability to cash flow their operation as structured; and,
  8. Inability to earn enough after payment of operating expenses and secured debt to feed the family.

## II. BASIC TERMS

Having briefly examined the reality of the troubled farm debtor, an examination of basic terms that come up frequently in farm bankruptcies is in order.<sup>2</sup>

**Gestation** – The length of time from conception until birth.

**Market Age** – The age when the animal is ready for slaughter.

**Market Weight** – The weight when the animal is slaughtered.

**Life cycle** It is important to know the life cycle of a farmer's livestock. Here is a chart.

Genus	Common Name	Gestation Period	Market Age	Weight	Building turn/yr
Bovine	Cattle	9 months	13 to 14 months	1,300 - 1,500#	<1
Porcine	Swine	114 days	6 months	280 - 320#	2
Ovine	Sheep	151 days	6 to 8 months	140#	2
Capra	Goats	151 days	3 to 5 months	25 to 50#	2.8
Gallus	Chickens	21 days to hatch	42 days	4 – 6 #	8

Animal milk production comes from cows (Bovine) and goats (Capra). The milk producing animals are milked 2 or 3 times per day. Cows generally produce milk for 305 days and stop producing milk for 60 days before the birth of their next calving, the birth of their offspring. Goats generally produce milk for 284 to 305 days and stop producing milk for 60 to 81 days before kidding, the birth of their offspring. The period when the dairy animal is not producing milk is called the dry period. The dry period is very important as it lessens the stress on the animal in the last portion of their gestation.

Dairy cows are milked two to three times per day. Dairy cows that are not milked for two consecutive milkings lose their value as milk producing animals. If a

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<sup>2</sup> The Glossary the author uses in conjunction with his farm clients' bankruptcy preparations is attached as Exhibit A.

valuable dairy herd is not properly milked, the cows will become “*canners and cutters*” and are sold to slaughterhouses to become McDonald’s hamburger. Imagine the position of a banker when the farmer and bankruptcy lawyer come to the office and demand that all bills going forward must be paid by the Bank or the farmers will not milk the cows. I went into a bank in the late 1990s on a Friday afternoon with two brothers who were milking 500 cows and were not able to pay their operating costs and told the banker that he had a tough decision to make: either agree to pay the bills through liquidation or be responsible to milk the cows that Friday night. We made a deal.

**Dairy Herd Improvement Association (DHIA).** Dairy farmers have access to this association that sends a representative to the farm monthly to test the production of the cows or goats being recorded. These records include amount of production, butterfat content, protein, and somatic cell count. Computerizing these records provides the management in the dairy farmer to consider in determining which cows or goats to retain. Higher producing animals are prized as they help increase the bottom line. Cows or goats producing milk with a high somatic cell count are sick and if the cause of their high somatic cell count is not resolved must be culled as they can infect the balance of the herd.

**Unique Characteristic of Livestock Production.** Livestock, unlike other inventory, like equipment, clothes and shoes does not just age. Animals grow, eat and shit<sup>3</sup>. As they grow, they need more space. During the COVID shutdowns of packing plants many farmers were forced to euthanize 350# pigs as they were too large for the slaughter plants. One of my clients narrowly avoided having to euthanize his large pigs by changing the ration fed to the pigs by decreasing the protein content and increasing the size of the food particles to decrease the efficiency of gain.

**Life Cycle of Crops.** When dealing with a crop farmer it is important to know the life cycle of the crops being produced. This will vary with the location of the farm. In Iowa corn is generally planted from mid-April to mid-May. Soybeans are generally planted from early May to mid-June. The planting dates of crops will vary depending on the location of the farm. The planting dates are also dependent on the availability of crop insurance. Crops planted too early are not insurable for replanting. Crops planted after the latest planting date are not fully insurable as the amount of insurance will be decreased by 15% for planting the day after the latest planting date plus an additional 1% for every day after the latest planting date for 25 days so the minimum crop insurance available for late planted crops is 60% of the full insurance available. If planted after the end of the late planting

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<sup>3</sup> The grammar checker said some of the audience might be offended by using this word.

period, they are not insurable.<sup>4</sup> A table for Iowa and Illinois corn and soybeans is provided below.

Crop	Location	Earliest Planting Dates Insurable	Latest Planting Date	End of Planting Period
Corn	Iowa	April 11	May 31	June 25
Corn	Northern IL	April 10	June 5	June 30
Corn	Central IL	April 5	June 5	June 30
Corn	Southern IL	April 1	May 31	June 25
Soybeans	Iowa	April 21	June 15	July 10

Corn is generally harvested in Iowa beginning in late September through early December.

Soybeans are generally harvested beginning in mid-September to early November. Knowing these harvest periods is very important.

**War Story:** In the 1980s farm crisis a bank was not being cooperative with a soybean farmer and was not agreeing that he could have any funds to allow him to harvest his soybean crop. I instructed my client not to combine his soybeans as when a blizzard was predicted, the bank would become more cooperative. Late in December a blizzard was predicted, and the 400 acres of soybeans were in danger of being totally lost as when the snow melts, all the soybeans below the snow will be stripped of the plant. We negotiated on New Year's Eve finishing at 10:00 p.m. The banker arranged to have the crops harvested starting on New Year's Day. He found other customers to custom harvest the crop, paid my client \$15/hour to haul beans to the elevator, took my client's machinery except for the equipment we could avoid the lien on utilizing 11 U.S.C. § 522, and financed the buy-out of the farmer's house and 40 acres from the Farm Credit foreclosure. Both sides won. The Bank had the crop harvested, and the farmer kept his house and exempt equipment, and the farmer did not need to file any bankruptcy.

**Cash Collateral** A secured creditor may have its grain collateral sold and reinvested in the upcoming year's crop. The creditor is generally given a replacement lien in the crop to be planted, an assignment of the crop insurance and an assignment of the government program payments.

**Crop Insurance** is available for over 20 crops. It is heavily subsidized by the federal government. The *exclusive* form to use to secure a pledge of Federal Crop Insurance Benefits to a creditor is NCIS 757—Assignment of Indemnity. *In re Duckworth*, 2012 WL 986766 (Bankr. C.D. Ill. 2012). A secured creditor may have

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<sup>4</sup> A table showing important dates for crop insurance can be found at: <https://centralfarm.com/important-dates/>

its grain collateral sold and reinvested in the upcoming year's crop. The creditor is generally given a replacement lien in the crop to be planted, an assignment of the crop insurance and an assignment of the government program payments.

**Government Support Payments:** Farmers have many government program benefits that are not covered by a Bank's security agreement and UCC:

The proper form to use to pledge Government Program Benefits for the programs listed below is form CCC 36.:

- a. 7 CFR part 701 Emergency Conservation Program.
- b. 7 CFR part 704 Conservation Reserve Program.
- c. 7 CFR part 1413 Commodity Incentive Payment Programs.
- d. 7 CFR part 1430 Milk Income Loss Contract Program.
- e. 7 CFR part 1468 Conservation Farm Option.
- f. 7 CFR part 1472 *Program Name Unknown*; and,
- g. 7 CFR part 1475 *Program Name Unknown*.

Assignment of all other CCC or FSA Program payments and contracts requires use of forms CCC 251 and 252

### III. PROBLEMS FOR CREDITORS LENDING TO FARMERS.

#### A. Post-petition security interest in crops and offspring.

Postpetition effect of security interest. 11 U.S.C. § 552(a) generally cuts off security interests in after acquired property. However, § 552(b)(1) provides that if the security agreement extends to property of the debtor acquired before the commencement of the case and to proceeds, products, offspring, or profits acquired after the commencement of the case.

**Crops** planted after the date of filing a bankruptcy **are not** subject to a bank's security interest. *Drewes vs Security Bank & Trust Company*, 68 B.R. 153, 155 (Bankr. N.D. Iowa 1986).

**Animals** conceived after the date of filing **may not** be subject to the security interest of the creditor. *In re Big Hook Land & Cattle Co.*, 81 B.R. 1001 (Bankr. D. Mont. 1988).

**Milk** produced after filing **is** subject to the security interest of the creditor. *In re Underbakke*, 60 B.R. 705, 708 (Bankr. N.D. Iowa 1986).

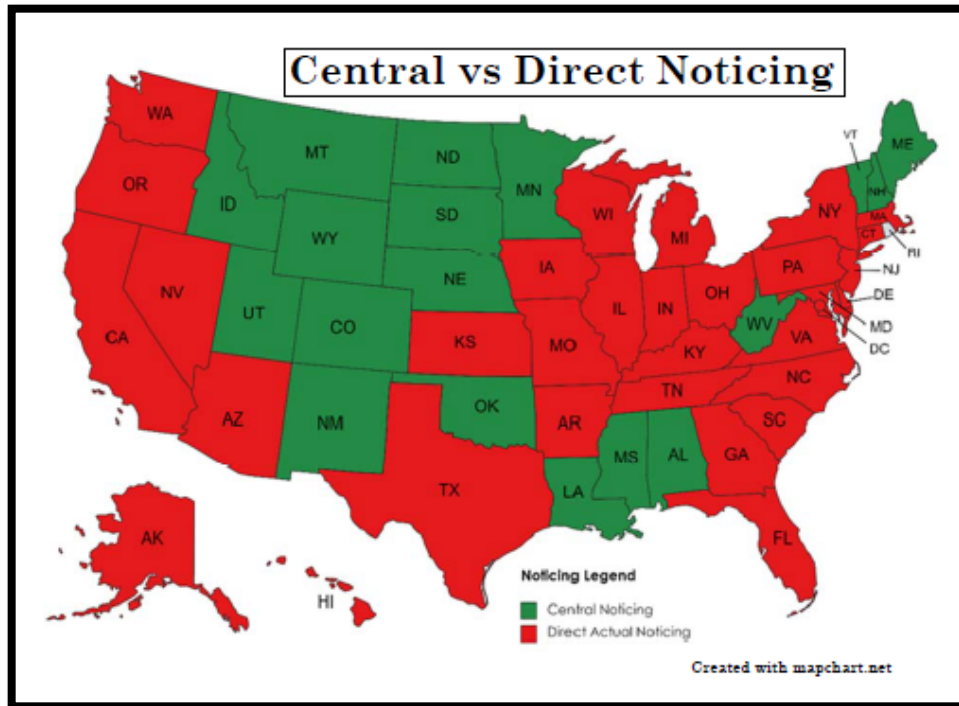
#### B. Perfection of Security Interests in Farm Products Varies Depending if Your State Utilizes Central vs. Direct Noticing

Creditors desiring to have their name on the proceeds for farm products, **celebrity checks**, must provide appropriate notice to the buyers of the farm products. There are two systems utilized for noticing, Central Noticing and Direct Noticing.

**Central Noticing:** States that have adopted central noticing require that liens on farm products will be taken from a single central noticing site like the fashion in which UCC financing statements are filed. In the states that have opted for central filing under the federalized farm products rule, the lender will, in addition to the usual financing statement, prepare and file centrally with the Secretary of State an additional paper document, an effective financing statement (EFS).

<b>States that have Adopted Central Noticing</b>	
Alabama	New Hampshire
Colorado	New Mexico
Idaho	North Dakota
Louisiana	Oklahoma
Maine	South Dakota
Minnesota	Utah
Mississippi	Vermont
Montana	West Virginia
Nebraska	Wyoming

**Direct Actual Notice—No Central Noticing:** In states that have not adopted Central Noticing, individual written noticing of buyers is required. In these states, the lender will obtain a list of potential buyers from the Debtor and will mail separate paper notice at least once a year to all potential buyers, and perhaps other potential buyers not named on the list.



**Dual Noticing Could be Required:** If the farmer is growing crops and livestock in Iowa as well as a state that uses Central Noticing, creditors will need to comply with both Central Noticing in those states as well as direct actual noticing of buyers in Iowa. Iowa's border states of Minnesota, Nebraska and South Dakota utilize Central Noticing. ***Dual noticing** is strongly recommended if the farmer is located close to border states where crops and livestock could be marketed in an adjoining state to ensure that the creditor's name is added to the farmer's grain and livestock checks.*

**Other Liens:** There can be many other liens affecting the farmer's collateral. The Iowa Code provides twenty-three liens in addition to UCC liens that can affect the entitlement to proceeds of agricultural commodities. A listing of these liens and requirements to perfect these liens in Iowa can be found at: <https://nationalaglawcenter.org/wp-content/uploads/assets/agliens/iowa.pdf>. A listing of liens available in other states can be found at: <https://nationalaglawcenter.org/state-compilations/agricultural-liens/>.

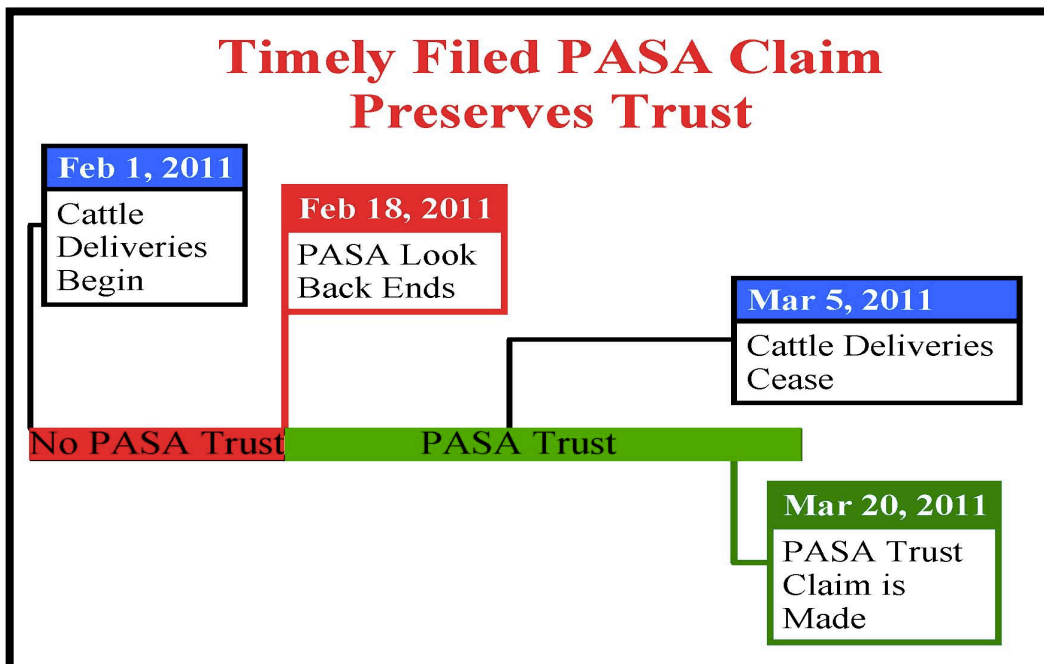
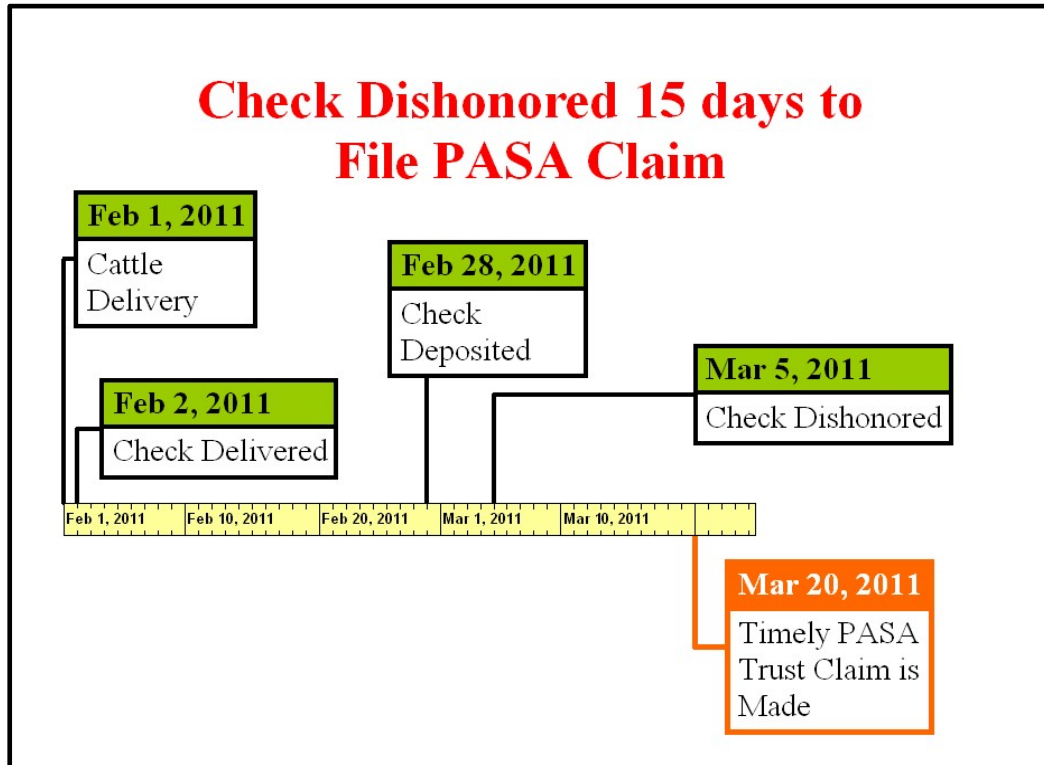
### C. PASA Trust Claims

If the processor of livestock covered by the Packers and Stockyards Act has pledged a security interest in inventory, receivables, proceeds, and products to a Bank the Bank's collateral will not include the inventory, receivables, proceeds and products of the processor if the producers have not been paid and the claims fall under the PASA trust that is not property of



the bankruptcy estate. The producers following PASA guidelines will be first in line to collect from the packer's assets.

If the packer's check is dishonored, the following timeline applies:



**D. Perishable Agricultural Commodities Act.** PACA also comes into play for the producers of the commodities covered by this act. This act generally covers fruits and vegetables. The Bank has the same concerns if its borrower processes the commodities covered by PACA and does not pay the farmers in a timely fashion. Similar timelines exist for the farmers to make their claims under PACA as exist for farmers producing products covered by PASA.

#### **IV. TAX PROBLEMS FOR FARMERS LIQUIDATING COLLATERAL**

##### **A. Gain Is Generally Recognized on Sale of Farm Assets**

Gain is the difference between the net price received by the farmer and the adjusted tax basis of the asset sold. Gain can lead to an income tax liability for the farmer

**Example:** In 1987 David Farmer purchased 160 acres of bare ground for \$1,000.00 per acre. Since then, he tiled the farm in 1990 at a cost of \$50,000.00. The tile has been depreciated on a straight-line basis over 7 years. Therefore, it was fully depreciated when he sold the farm in 2008 for \$5,000.00 per acre. The gain calculation for David Farmer is set forth below:

<b>Cost Basis</b>	160 Acres	x \$1,000	\$160,000
Improvement (tile)		50,000	
<b>Total Basis (Before Adjustments)</b>			<b>\$210,000</b>
Adjustments:			
Depreciation:		50,000	
<b>Adjusted Tax Basis</b>		\$160,000	
Sale Price	160 Acres	x \$10,000	\$1,600,000
(less) Adjusted Tax Basis			(160,000)
<b>Taxable Gain</b>			<b>\$1,440,000</b>
Depreciation Recapture			(50,000)
<b>Long Term Capital Gain</b>			<b>\$1,390,000</b>
Assuming the ordinary income tax rate for David Farmer is 20%, he will be obligated to pay the following federal income taxes:			
Depreciation Recapture	\$50,000	x 20%	\$10,000
Long Term Capital Gain	\$1,390,000	x 15%	\$208,500
<b>Total Federal Income Tax</b>			<b>\$218,500</b>

## B. The Farmer's Dilemma

How to pay the income taxes? Generally, in troubled loan situations, the farmer has liens against his property of sufficient size that the secured creditors receive all or most of the net proceeds from the sale of a farm, leaving the farmer with no farm, perhaps a deficiency to the Bank and a non-dischargeable tax debt to the IRS.

## C. Chapter 12 Potential Solution<sup>5</sup>

If the liquidation of collateral can take place in the tax year before filing a Chapter 12 bankruptcy, the tax on the sale of the farm assets used in the farming operation can be treated as an unsecured claim. A review of relevant portions of Chapter 12 bankruptcy is set forth below:

1. Only available for “family farmers” (husband and wife are treated as one debtor):
  - a. That are engaged in a farming operation;
  - b. Whose aggregate debts on the date the bankruptcy is filed do not exceed \$11,097,350.00, and, not less than 50% of aggregate non-contingent, liquidated debts (excluding debt for homestead unless it arises out of a farming operation) arise out of a debtor's farming operation;
  - c. More than 50% of the debtor's gross income must come from the farming operation for either the tax year immediately preceding year of filing or, both the second and third taxable years prior to filing; and
  - d. Who have regular annual income.
2. If the Debtor is a corporation or partnership, more than 50% of the stock or equity must be held by one family, or by one family and the relatives of the members of such family who conduct the farming operation, and (i) more than 80% of the value of the assets must be related to the farming operation and (ii) whose aggregate debts on the date the bankruptcy is filed do not exceed \$11,097,350.00, and not less than 50% of aggregate non-contingent, liquidated debts (excluding debt for one dwelling which a shareholder or partner maintains as a homestead, unless it arises out of a farming operation) arise out of a debtor's farming operation.
3. **Voluntary:** Debtor cannot be forced into Chapter 12.
4. Contemplates the repayment of some or all of debts from Debtor's future

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<sup>5</sup> The author has outlined the details of how Chapter 12 works to de-prioritize tax claims is set forth in Chapter 10 of Jeffrey D. Goetz and Mark S. Melickian, *Chapter 12 from A to Z* (American Bankruptcy Institute, 2021).

disposable income, without liquidation of the Debtor's assets. Plan is usually for 3 years but can be extended to a maximum of 5 years. Plan must be feasible and give creditors no less than if Debtor was liquidated under Chapter 7.

5. **Extraordinary Tax Relief** is available in Chapter 12:
  - a. Taxes due to the sale of farm assets used in the Debtor's farming operation are treated as unsecured claims. For example, credit cards are discharged when the farmer receives the Chapter 12 discharge.
  - b. From May 14, 2012 through October 26, 2017 the tax relief was only available to transactions in the tax year **prior** to filing the *bankruptcy* petition. *Hall v. U.S.*, 132 S. Ct. 1882 (2012). On October 26, 2017, President Trump signed S.1408, a Congressional revocation of *Hall v. U.S.* Since the revocation of *Hall*, it does not matter whether the farm assets are sold in the tax year prior to filing the bankruptcy petition, or after filing the bankruptcy. See Chapter 1 of *Thirty-three Years of Asking*, which explains the history of this unique bankruptcy code provision.<sup>6</sup>
  - c. May apply to sales of farm assets that would produce ordinary income such as the sale of fat hogs. See *Knudsen v. IRS*, 581 F.3d 696 (8th Cir. 2009).
6. **Opportunity for Creditors:** Realizing that many beleaguered farmers are ready to cease farming operations, the savvy ag banker may encourage the farmer to quit farming and offer him some financial assistance to retain a bankruptcy counsel to assist him in discharging the taxes using a Chapter 12 bankruptcy.

**Conclusion:** Competent representation of farmers and creditors in farm bankruptcies, like representation of debtors and creditors in other reorganizations, requires knowledge of the industry; knowledge of the products being produced; knowledge of insurance programs available to support the production of crops; knowledge of government programs that support the production of products; and knowledge of the basic life cycles of the crops, livestock and other farm products being produced. Failure to have this knowledge can lead to poor results for the represented party.

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<sup>6</sup> Published in Chapter 1 of *Chapter 12 Bankruptcy from A to Z*.

# Exhibit A

## Glossary of Terms

# GLOSSARY

## A

**Absolute priority rule**—A bankruptcy rule which states that no creditor in a lower class of creditors may be paid or retain any of the debtor's property until classes with higher priorities have been paid in full.

**Acceleration clause**—A provision in a credit agreement which allows a creditor the opportunity to immediately demand repayment of an entire amount of debt owed because of a debtor's default.

**Adequate protection**—Typically payments to a secured creditor during a bankruptcy for the privilege of using the collateral. Can also include other assurances of protection of collateral such as payment of real estate taxes and providing insurance.

**Administrative expense**—Expenses which occur during the bankruptcy, such as attorney fees, trustee fees, appraiser fees, accountant fees, United States Trustee fees (Chapter 11 only), and other costs of preserving the bankruptcy estate such as utilities, insurance, and rent.

**Amortization**—The length of time over which a loan is repaid; e.g., five years, seven years, thirty years.

**Answer**—A written statement by a defendant in a lawsuit stating the reasons for their defenses to the statements made by the plaintiff.

**Attachment**—A legal proceeding whereby a creditor seeks to have the court enter an order which will prohibit the debtor from selling or

disposing of the collateral securing the creditor's loan.

**Automatic stay**—A provision of the bankruptcy code which effectively stops all collection activities by creditors once a bankruptcy is filed.

## B

**Balance sheet**—A listing of all assets with values and a listing of all debts of a Debtor; synonymous with Financial Statement.

**Bankruptcy**—A condition where a debtor cannot pay debts now or as they come due and uses the protection of the law to either liquidate property or reorganize his or her financial affairs.

**Bankruptcy Code**—Federal law which governs bankruptcy proceedings.

**Bankruptcy court**—Special courts under federal law which deal exclusively with administering bankruptcy proceedings, presided over by a bankruptcy judge.

**Bankruptcy estate**—The property of a debtor, which comes under the jurisdiction of the bankruptcy court and trustee when a person files for protection under the Bankruptcy Code.

**Bankruptcy trustee**—A person appointed by the bankruptcy court to take charge of the bankruptcy estate and handle any actions on behalf of the estate.

## C

**Capital gain**—The difference between the net sales price and the

adjusted basis of the property sold.

**Cancellation of debt income**—Taxable income realized by a debtor whose debt has been canceled or forgiven. This income is not taxed if the debtor is insolvent before and after the cancellation or if the debt is discharged in bankruptcy.

**Cash collateral**—Money or the equivalent of money including the proceeds from the sale of collateral securing the repayment of indebtedness to a creditor.

**Chattel**—Moveable property; see also personal property.

**Collateral**—Property which a debtor agrees to pledge as security for the repayment of a debt.

**Confirmation**—Approval by the bankruptcy court of a debtor's plan or reorganization under Chapter 11, 12, or 13.

**Continuation statement**—A written statement filed with the Secretary of State or County Recorder which extends the effectiveness of a Financing Statement for 5 years.

**Creditor**—One whom is owed money or other things by obligation or promise.

**Cross-collateralization**—Typical provision of creditor's security documents which pledges collateral for all loan obligations to the creditor. E.g., if cross-collateralized, a security interest in farm equipment would also secure repayment of all other debts owed to the same creditor.

## D

**Debtor**—One who owes a debt. Also,

a debtor in bankruptcy, e.g. Smith in *In re Smith*.

**Deed of trust**—A lien on real property—synonymous with a mortgage in Iowa.

**Default**—A failure to perform an obligation imposed by law or contract.

**Deficiency**—Unpaid balance of a debt secured by property on which there is a security agreement, where the sale of the property has failed to pay the full amount of the debt owed.

**Deficiency judgment**—court order for personal liability of the debtor on an obligation in which the collateral securing the obligation has a value less than the obligation.

**Discharge**—The cancellation of an obligation; in bankruptcy, the cancellation or forgiveness of indebtedness.

**Disclosure statement**—A document filed in a Chapter 11 bankruptcy which basically explains the circumstances leading to the bankruptcy, explains the provisions of the Plan and gives information to the creditors which should be useful to them in making their decisions regarding voting on the Plan of Reorganization.

**District court**—The state (named by county) or federal (named by district and state) courts where most civil actions are brought.

## E

**Eviction**—The action of depriving a person of the possession of land or rental property which the person has held or leased.

**Exclusive period**—In a Chapter 11

bankruptcy, the 120-day period after filing the bankruptcy during which only the debtor can file a plan of reorganization and seek the 180-day acceptance of the plan by creditors.

**Execution**—Legal process of enforcing a judgment. On a money judgment, usually accomplished by seizing and selling the debtor's property.

**Executory contract**—A contract in which performance of obligations under the contract is owed by the parties to each other. Examples of executory contracts in Iowa are real estate purchase contracts and leases.

**Exemption**—Privilege allowed by law to a judgment debtor that they may keep certain property from being seized or sold on execution or by any other court order.

## F

**Financial statement**—A listing of all assets with values and a listing of all debts of a debtor; often used synonymously with balance sheet.

**Financing statement**—A document, signed by the debtor and filed with the Secretary of State or with the County Recorder describing collateral pledged to a creditor, to perfect its security interest on the collateral. It remains effective for 5 years from the date of filing.

**Foreclosure**—Process by which a creditor with a mortgage can force a debtor to give up his or her interest in the property because of default and have the property sold to satisfy the debt. Also, may be referred to as foreclosure by sale or performance foreclosure. See also strict foreclosure.

**Forfeiture**—Process by which a seller of real estate contract can force a debtor to give up his or her interest in the property because of a default in compliance with the terms of the contract.

## G

**Garnishment**—A process under law where a debtor's property, money or credits under another party's control are applied as payment of a debt to a creditor.

**Guaranty/Guarantee**—Legal obligation of one party to be responsible for payment of the debts of another party. Creditor is not required to notify the guarantor of default of the debtor on the underlying debt in order to collect. Also known as Continuing Guarantees.

## H

**Homestead**—In Iowa, a building which can be used for a home and an amount of land not to exceed one-half acre inside city limits and not to exceed 40 acres if outside the city limits.

## I

**Impaired claims**—Claims in a bankruptcy that are not being paid according to the original agreements that existed at the time the bankruptcy was filed. Impairment can result from a change in the length of repayment, a change in the dates of repayment, a change in collateral securing the repayment, or a change in the interest rate charged.

**Interest**—Right or legal share in something.



## J

**Judgment**—Determination of law as the result of an action in court whether a legal duty or liability does or does not exist. This judgment is then filed with the Secretary of State or with the County Recorder.

**Judgment creditor**—A person who has obtained a money judgment in court and can now enforce the judgment by execution.

**Judgment debtor**—A person who has a money judgment taken against him or her which has not been satisfied.

**Judgment lien**—A lien which can be filed by a judgment creditor against real property of a judgment debtor in order to satisfy the judgment.

## L

**Land contract**—Installment agreement for the purchase and sale of land; and a land contract is the same as a real estate contract.

**Lien**—An interest in collateral which provides that the collateral may be taken and sold in order to pay a debt if a debtor defaults. See also security interest.

**Lifting the automatic stay**—Procedure whereby the bankruptcy court gives the creditor permission to begin its collection procedure.

**Liquidation analysis**—Calculation of the payment to various classes of creditors in a reorganizational bankruptcy in the event that the property were to be liquidated under a Chapter 7 bankruptcy.

## M

**Mediation**—The process of negotiation and communication between a farmer and creditors which leads to the mediation agreement or mediation release.

**Mediation agreement**—A written document negotiated in mediation which sets forth the terms of a settlement between a farmer and some or all of the farmer's creditors.

**Mediation release**—In Iowa, the written document necessary for a creditor to begin collection proceedings against a farmer.

**Mortgage**—A common type of lien on real property.

## N

**Net disposable income**—In a Chapter 12 bankruptcy, income remaining after the Debtor has made planned payments and has utilized or retained a reasonable amount for living expenses.

## O

**Petition/Complaint and original notice**—Documents used to commence a civil action in state court/federal court respectively.

## P

**Perfection**—the process which establishes the priority of a creditor's lien interest in property owned by the debtor. In Iowa, perfection is accomplished as is set forth below:

- **Airplanes**—Filing with the F.A.A. in Oklahoma City, Oklahoma.
- **Chattels**—Financing statement filed with the Secretary

of State of the state where the business is incorporated.

- **Fixtures**—Financing statement filed with the County Recorder where the fixtures and real estate are located.
- **Judgments**—Transcription in the county where the real estate is located.
- **Motor vehicles**—Notation of lien on title of vehicle.
- **Real estate**—Filing mortgage, assignment, deed of trust or real estate contract with the County Recorder where the land is located.
- **Stock/Securities**—Possession required.

**Personal property**—Movable property. See also chattel.

**Priority creditor**—Creditors whose claims have a higher priority of payment under the bankruptcy code than claims held by unsecured creditors. Examples include administrative expenses, certain wage claims, and taxes (both income and real estate).

**Promissory note**—In essence, an I.O.U. which states the amount of debt and the terms of repayment.

**Purchase money security interest**—A lien which is created when a debtor uses money loaned by a creditor to make a purchase and gives the creditor a lien on the property purchased with the creditor's money.

## R

**Reaffirmation agreement**—An agreement between a Chapter 7 Debtor and a creditor in which the

Debtor agrees to repay all or part of the debt owed to the creditor.

**Real property**—Land, real estate.

**Redemption**—The right of a debtor to regain title to property under a foreclosure judgment by paying the judgment or fulfilling other conditions. Junior creditors also have redemption rights.

**Replevin**—An action brought by the plaintiff or claimant for the return of personal property which the claimant believes has been wrongfully detained or taken from him or her. This typically occurs when a creditor seeks to have the personal property securing the indebtedness to that creditor ordered to be turned over to the creditor by the court.

## S

**Secured debt**—Debt which has property pledged to ensure repayment of an obligation.

**Secured party**—A creditor, seller or other person who holds a security interest or other secured lien in property of a debtor.

**Security agreement**—A written document, which creates or provides for a security interest.

**Security interest**—An interest in collateral, which provides that the collateral may be taken and sold in order to satisfy a debt if a debtor defaults. See also lien.

**Small claims court**—In Iowa, a special courts which provides quicker, more informal and expensive judgments in actions for evictions, replevin of property valued at \$5,000 or less and money judgments for \$5,000

or less.

**Strict foreclosure**—Process by which the creditor receives title to real property without a period of redemption or sale of the property in exchange for having no right to obtain a deficiency judgment.

**Subordination**—A written agreement between creditors which alters the priority of creditors upon the liquidation of collateral.

## T

**Tax attributes**—colloquially known as tax goodies, which include net operating loss carry forward; investment tax credit; basis in assets.

**Termination statement**—A written document filed with the Secretary of State or County Recorder ending the effectiveness of a Financing Statement.

## U

**Unsecured debt**—Debt not subject to a security interest.

**Unsecured party**—A creditor, seller or other person who is owed a debt without having obtained a security interest through a security agreement on property of the debtor.

**24 Drake J. Agric. L. 271****Drake Journal of Agricultural Law**

Summer, 2019

## Essay

Thomas J. Vilsack<sup>d1</sup>

Former United States Secretary of Agriculture and Governor of Iowa

Dustin J. Miller<sup>dd1</sup>

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## WHAT I LEARNED FROM NEIL HAMILTON ABOUT THE IMPORTANT CONNECTION BETWEEN PRODUCERS, CONSUMERS, AND EVERYONE ALONG THE WAY

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My first impression of Neil Hamilton as a thought leader was formed by reading his opinion pieces on land and water conservation published in the Des Moines Register. At that time I had no idea what an impact Neil Hamilton would have on me. I practiced law in a small town and never thought Neil and I would intersect. Boy, was I ever wrong. Over the past twenty years Neil Hamilton became a friend, a colleague, a mentor, and an invaluable policy advisor on food policy, land and water conservation, and rural development. Over the next few pages I will touch on Neil Hamilton's role as that mentor and policy advisor.

### I. IOWA FOOD POLICY COUNCIL

As a Governor you get a lot of advice about what to do and what not to do. So when Neil Hamilton approached me about establishing a food policy council for the State of Iowa, I initially politely listened. However, by the time he finished making the pitch I was sold.

\*272 Professor Neil Hamilton wrote an article for this journal in 2002 titled *Putting a Face on Our Food: How State and Local Food Policies Can Promote the New Agriculture*.<sup>1</sup> This article examined the value of state and local policy on agriculture including direct marketing, institutional purchase, food insecurity and market differentiation.<sup>2</sup> His article outlined the multiple benefits of being the first food policy council established by a Governor.<sup>3</sup> At Neil's urging, I directed him to work with my staff to draft an executive order. My Executive Order Number 16 was the first to outline a statewide food policy council with representation from departments under my purview, as well as, various other stakeholders interested in food production and systems.<sup>4</sup>

The Executive Order focused on the connection between food outputs compared against what was being consumed while analyzing the barriers to access across multiple levels.<sup>5</sup> The focus on the consumers and customers was unique to the nationwide dialogue that had been fragmented between production and consumption. While inextricably connected, policy debates tended to focus on one or the other. This effort instead looked squarely at their linkage. Upon retrospect it seems ridiculous to not consider food when talking about agricultural production.

The Iowa Food Policy Council was extended throughout my final term as Governor with three other Executive Orders.<sup>6</sup> Over that time period, the work included changing priorities based upon previous work, multiple statewide conferences, and important reports on various issues related to food.<sup>7</sup> This was one of my first interactions with government programs that were so important to feeding those at risk, including the Supplemental Nutrition Authorization Program (formerly known as food stamps) and supplemental nutrition programs for seniors. Vulnerable communities, including people with disabilities, elderly, and children, provided avenues for policy debates that got past the anecdotes of abuse, elevating them to alleviate access barriers denying these vulnerable populations to ample supplies of nutritious foods.

The Iowa Food Policy Council's final few years under my direction focused **\*273** upon the economics of the linkages between food production and consumers.<sup>8</sup> I began to see the linkage between food policy and rural development opportunities. I realized with the right set of policies a new market would be created through local and regional food systems providing farms with a new revenue stream and reversing the economic leakage harming rural areas.

## II. USDA KNOW YOUR FARMER KNOW YOUR FOOD AND LOCAL & REGIONAL FOOD SYSTEMS

When I received word I would be nominated to be the 30th United States Secretary of Agriculture, I contacted Neil Hamilton hoping he would join me in Washington as General Counsel. He declined, but offered to help. And helpful he was for the next eight years with suggestions about policy and personnel.

During President Obama's first term, Dr. Kathleen Merrigan served as the Deputy Secretary of Agriculture. Dr. Merrigan had served in a previous Administration and came back to the United States Department of Agriculture (USDA) with a true passion of developing and expanding local and regional food systems and organic production. She approached me with an idea to concentrate a comprehensive effort to assist local and regional food systems. Her vision, which I embraced because of Neil Hamilton's reference, centered on a system approach spanning from producer to consumer.

We decided to market this effort under the moniker of "Know Your Farmer, Know Your Food," (KF2) which would be the first complete effort at USDA to support local and regional food systems. One of the effort's goals was to open up the door of the USDA a little wider for a new generation of farmers who were interested in a direct connection to the customers. All of which paralleled Neil Hamilton's effort with the Iowa Food Policy Council.

KF2 brought together the various USDA agencies to better "help stakeholders navigate USDA resources and efforts related to local and regional food systems."<sup>9</sup> The goal of any Secretary is to try to break down the walls between their different programs for their ultimate customers, the taxpayers. With programs for agricultural producers, food assistance programs and other various areas, the USDA had a real opportunity to help build the connection between agricultural producers and the people eating their food.<sup>10</sup>

**\*274** Under the rubric of KF2, USDA established a microloan program, expanded farmers markets, started a farm to school program supplying local schools with locally produced products, supported value added processing, created financial food hubs to aggregate locally produced foods, and launched a number of targeted conservation and risk tools as part of a comprehensive commitment.

KF2 helped to spark growth in the area of local and regional foods by helping better coordinate resources within the Department to support its organic growth. A website dedicated to KF2 (KF2Compass) allowed people interested in supporting local and regional food supplies to learn about the various programs that were a part of KF2. The website reported on activities state by state that highlighted the broad impact and effect of KF2.

The release of the KF2 Compass in 2012 reported that farm to school programs grew "from 400 in 2004 to over 2,300 in 2011 and the number of operating farmers markets blossom from 4,685 in 2008 to over 7,100 in 2011."<sup>11</sup> Programs like the Value-Added Producer Grant or the Beginning Farmer and Rancher Development Program were not the reason these rural entrepreneurs took the risk, but hopefully they provided some resources to help them better analyze the risk and market to thrive.

Consumers are interested in understanding more about where their food comes from and then make buying decisions based upon the information they receive.<sup>12</sup> This is shown through nationwide trends like the market growth of organic, grass-fed,

and cage free.<sup>13</sup> The growth in local foods has outstripped any of those with consumers associating local with “fresh”.<sup>14</sup> In a 2015 market report from Packaged Facts they showed a nearly \$7 billion growth in local food from 2008 to \*275 2014<sup>15</sup> and predict another eight billion by 2019.<sup>16</sup> These customers want their food to be grown near them and are willing to pay a bit more for that.<sup>17</sup> Despite an unregulated definition for what “local” means consumers are forcing change for retailers and direct marketing as more consumers look for this distinction.<sup>18</sup>

Support for this growth and the KF2 initiative led the USDA to perform a survey in 2015 with USDA's National Agriculture Statistics Service on local food marketing practices.<sup>19</sup> The survey matched much of what was collected through other marketing data which included a fairly even split between avenues of opportunity for direct sales to consumers at 35%, 27% for sales to retailers and 39% of sales toward institutional purchasing.<sup>20</sup> The gap between raw commodities and value-added commodities was small with \$4.8 billion to \$3.9 billion, respectively.<sup>21</sup> This breakdown demonstrates the exponential growth we were experiencing was not solely roadside stands and farmers markets, but rather the change in overall market opportunities.

Direct to consumer growth has been shown through the meteoric explosion of farmers markets across the country and specifically in Iowa. In the mid-1990s there were just 1,755 farmers markets nationwide and by 2012 that number had grown to 8,144, a 350% increase over roughly 20 years.<sup>22</sup> In that same time period Iowa's number of farmer's markets have nearly doubled from 116 in 1994 to 229 by 2014.<sup>23</sup> The numbers in Iowa puts the state at fourth for number of markets in the United States and second in number per capita.<sup>24</sup> The Iowa Department of Agriculture and Land Stewardship showed a 92% growth in sales over a five year \*276 period with \$38.4 million in sales by 2010.<sup>25</sup> These sales generate nearly eighteen million in payroll and nearly 600 jobs in Iowa.<sup>26</sup>

Nationally, new retail opportunities have shown similar dramatic growth.<sup>27</sup> In 2010, Wal-Mart, committed to doubling its sales of local produce and by 2015 had exceeded the goal with \$825 million in revenue coming from local produce.<sup>28</sup> This success has driven them to commit to doubling that figure again to \$1.65 billion by 2025, along with other related sustainability goals for their suppliers.<sup>29</sup> This is the nation's largest grocer responding to their consumers while their competition like Supervalu, who owns the Jewel-Osco, Albertsons, and Lucky chains, are only purchasing 25%-40% of their produce locally.<sup>30</sup>

These opportunities for farmers and ranchers are not just in California and New York. For Iowa, the 2012 USDA Census on Local Foods put Iowa tenth overall with \$194 million in direct farm sales of food.<sup>31</sup> This number compared against the sales to farmers markets shows the growth in Iowa beyond direct sales and retail opportunities. The state is fortunate to have two successful grocery chains, founded in Iowa, who continue to be committed to the state. Their businesses continue to look for opportunities for local sourcing of their products. Fareway Stores, Inc. (Fareway) operates 122 store locations in five states with over 11,000 employees.<sup>32</sup> While local foods have grown in popularity recently, Fareway has integrated these foods into their core business for many years. Throughout Fareway's history, their trademark meat markets have driven customers to their stores while sourcing approximately 80%- 85% of their product volume within a several hour drive from their distribution center in Boone, Iowa.<sup>33</sup> Similarly, Hy-Vee has more than 245 stores in eight states with over 84,000 employees.<sup>34</sup> Their creation was founded on building a network of local growers in Iowa and Missouri which more recently has turned into the Hy-Vee Homegrown program that works with local producers to \*277 source fresh fruits and vegetables grown within 200 miles of a store.<sup>35</sup>

The work under KF2 profoundly impacted Iowa and underscored the strength of Neil Hamilton's vision with the Iowa Food Policy Council. KF2 supported the concurrent movement of consumers toward buying local and the broader demographic trends across Iowa and the county. This is extremely significant as the data shows the interest and growth in the local food industry is not a fad but represents a growing opportunity.<sup>36</sup>

### III. LAND AND WATER CONSERVATION

In addition to his profound effort on the importance of food, Neil Hamilton never stopped thinking and writing about the importance of land and water conservation. His consistent advocacy made an impression on me as both Governor and Secretary.

With the able leadership of Paul Johnson and Jeff Vonk as Iowa Department of Natural Resources director and Neil Hamilton's inspiration, Iowa led the Nation in buffer strip conservation efforts while I was Governor.

The value of conservation and lessons learned in Iowa carried over during the eight years I served as Secretary. During that time USDA made a historic investment in conservation, supported the development of ecosystem markets help pay farmers for conservation protection, and implemented new efforts to leverage Federal and farmer investments to tackle projects needed in large scale water sheds. One example of this historic effort was the Regional Conservation Partnership Program (RCPP), which reflected Neil Hamilton's belief conservation should be a community supported effort. The Agricultural Act of 2014 (2014 Farm Bill) established RCPP. Under the programs eight critical conservation areas, including the Upper Mississippi River Basin, were established to help fund conservation efforts targeted to treat designated areas. RCPP stimulated competition for a limited pot of resources equal to 7% of funds, 7% of conservation stewardship acres. A key factor in awarding funds and acres involved the number of partners and the amount of resources committed from the partners. The initial effort resulted in a more than 2 to 1 outside match. In the newly passed 2018 Farm Bill, RCPP saw an increased commitment of federal resources.

#### IV. CONCLUSION--A STRATEGY FOR RURAL REVITALIZATION

Neil Hamilton's work helped me to create a strategy for revitalizing rural areas I continue to advocate for across this country. In addition to production agriculture, \*278 exports, and bio-based manufacturing economy, Neil's work added significant contributions to the local and regional food systems, and conservation investments. Neil Hamilton's lifetime devotion to farmers, small towns, rural areas, good food, and well cared for landscapes impacted the work of a Governor's office and the USDA. To me, Neil's greatest lesson was the difference one person, a teacher, can make with their passion and dedication.

#### Footnotes

d1 Thomas J. Vilsack was the 40th Governor of Iowa serving from 1999 to 2007 and the 30<sup>th</sup> United States Secretary of Agriculture serving from 2009 to 2017.

ddl Dustin J. Miller graduated from Drake Law School in 2008 with a Food & Agricultural Law Certificate and served in the Office of the Secretary at the United States Department of Agriculture under Secretary Vilsack.

1 Neil D. Hamilton, *Putting a Face on Our Food: How State and Local Food Policies can Promote the New Agriculture*, 7 DRAKE J. AGRIC. L. 407 (2002).

2 *See id.*

3 *Id.* at 440, 447-49.

4 XXII Iowa Admin. Bull. 1550 (Apr. 19, 2000).

5 *Id.*

6 XXVII Iowa Admin. Bull. 1561 (May 25, 2005); XXVI Iowa Admin. Bull. 977 (Nov. 26, 2003); XXIII Iowa Admin. Bull. 1940 (June 13, 2001).

7 XXVII Iowa Admin. Bull. 1561 (May 25, 2005); XXVI Iowa Admin. Bull. 977 (Nov. 26, 2003); XXIII Iowa Admin. Bull. 1940 (June 13, 2001).

- 8     *See* JOHN COTTON DEAN, THE IOWA FOOD POLICY COUNCIL: A CASE STUDY 32, 52 (2012), <https://perma.cc/LJ78-3LRN>.
- 9     USDA, KNOW YOUR FARMER KNOW YOUR FOOD 6, <https://perma.cc/GQH5-Z2LK> (archived Aug. 16, 2019).
- 10    Interview with Kathleen Merrigan, Former U.S. Deputy Sec'y of Agric. (Dec. 12, 2018).
- 11    Tom Vilsack & Kathleen Merrigan, *The Know Your Farmer, Know Your Food Compass*, USDA (Feb. 29, 2012), <https://perma.cc/N69E-CZ2Q>.
- 12    *See generally* Michael Zacka, *Local Foods: From Fad To Force And What It Means For The Food Industry*, HUFFPOST (June 17, 2014), <https://perma.cc/8F37-5LX6>.
- 13    Nancy Matsumoto, *Why More Farmers Are Making The Switch To Grass-Fed Meat And Dairy*, NPR: THE SALT (Mar. 22, 2017), <https://perma.cc/8RNK-9RC4>; Maggie McNeil, *Maturing U.S. organic sector puts 2017 organic growth rate at 6 times the pace of overall food market*, ORGANIC TRADE ASS'N (May 18, 2018), <https://perma.cc/N7N2-YJYG>; Lydia Mulvany & Deena Shanker, *Cage-free eggs are out, pastured ones in as tastes change, again*, ALBUQUERQUE JOURNAL (Nov. 24, 2018), <https://perma.cc/4X6G-PKTG>.
- 14    Lisa Goller, *Local Foods Drive Massive Growth in Retail*, RANGEME (Jan. 19, 2016), <https://perma.cc/MXN5-GVRS>.
- 15    Oran B. Hesterman & Daniel Horan, *The demand for local' food is growing--here's why investors should pay attention*, BUSINESS INSIDER (Apr. 26, 2017), <https://perma.cc/7PDY-HCP4>.
- 16    Daniel Granderson, *Sales of Local Foods Reaches \$12 Billion*, PACKAGES FACTS (Jan. 28, 2015), <https://perma.cc/RQS8-G3HZ>.
- 17    Goller, *supra* note 14.
- 18    Granderson, *supra* note 16.
- 19    2015 Local Food Marketing Practices Survey, USDA, <https://perma.cc/7FR4-ZHR6> (archived Aug. 16, 2019).
- 20    *Id.*
- 21    NAT'L AGRIC. STATISTICS SERV., EXECUTIVE BRIEFING: 2015 LOCAL FOOD MARKETING PRACTICES SURVEY (2016), <https://perma.cc/9GCL-8AAV>.
- 22    Zacka, *supra* note 12.
- 23    2015 Local Food Marketing Practices Survey, *supra* note 19; DANIEL OTTO & THERESA VARNER, IOWA STATE UNIV., CONSUMERS, VENDORS, AND THE ECONOMIC IMPORTANCE OF IOWA FARMERS' MARKETS 4 (2005).



- 24 Teresa Bjork, *Iowans Love Farmers Markets*, IOWA FARM BUREAU (July 29, 2018), <https://perma.cc/4C66-UZR6>.
- 25 OTTO, *supra* note 23, at 3.
- 26 Bjork, *supra* note 24.
- 27 Zacka, *supra* note 12.
- 28 *Locally grown produce becoming big business for supermarkets*, FRESH PLAZA (May 3, 2017), <https://perma.cc/TF7D-CRCV>.
- 29 *Id.*
- 30 Laurie Tarkan, *The big business behind the local food*, FORTUNE: FOOD INDUSTRY (Aug. 21, 2015), <https://perma.cc/D9MP-BTNP>.
- 31 *2015 Local Food Marketing Practices Survey*, *supra* note 19.
- 32 *About*, FAREWAY MEAT & GROCERY, <https://perma.cc/6VYN-XJPA> (archived Aug. 30, 2019).
- 33 Interview with Garrett Piklapp, Vice President, Sec'y, Gen. Council, Fareway Stores, Inc. (Mar. 14, 2019).
- 34 *The Hy-Vee Story*, HY-VEE, <https://perma.cc/3JKE-8V6Y> (archived Aug. 29, 2019).
- 35 *Homegrown*, HY-VEE, <https://perma.cc/9WGT-R9NN> (archived June 25, 2019).
- 36 Zacka, *supra* note 12.

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# Jeff Hyland

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📄 [vCard \(/files/staff/24/Jeff-Hyland.vcf\)](/files/staff/24/Jeff-Hyland.vcf)

Jeff Hyland is a proactive executive with a proven and strong record of successful sales growth, profitability improvement, and business turnaround. His background includes fulfilling interim CEO roles and management consulting to multi-billion dollar and middle-market companies requiring strategy definition, restructuring, investment banking, and operational enhancements. Jeff is very experienced in all business aspects, including strategy, sales, operations, finance, and mergers and acquisitions.

Prior to joining CR3, Jeff was the President and CEO and Director of a publicly-traded, international commercial films and consumer goods company. He had equity positions in various companies, including owning a farm. He is a Board member of the USO of Illinois. He is a past Board member and current Treasurer of the Chicago/Midwest Chapter of the Turnaround Management Association (TMA), past Board member for the Kellogg Alumni Club of Chicago, public speaker and webinar leader on a variety of turnaround and other business topics, and for several years was a guest lecturer at Loyola University's MBA program. Jeff authored the rewritten Management section of the Certified Turnaround Professional Body of Knowledge.

## Representative Experience

President and CEO for publicly traded B2B manufacturer and distributor of consumer goods in the flexible film products and pouches, gift, small kitchen appliance, and party goods industries with operations in the U.S., Mexico, Germany, and the U.K. Developed global strategic direction, dramatically reduced SG&A and operating costs, increased targeted sales, reduced working capital, divested divisions, and raised capital.

Interim CEO for a diversified private credit investment firm with a unique approach to providing financing solutions to established lower middle-market businesses and emerging brands, their sponsors, and supporters. The firm offers working capital revolvers, asset-backed term loans, stretch facilities, growth capital, and venture debt/SAAS/Recurring revenue loans. Successfully stabilized the operations, increased Assets Under Management by 45% during the six-month Interim CEO role, and divested the company to a strategic buyer.

Financial advisor for Official Committee of Unsecured Creditors for Nortel Networks, a \$10B worldwide telecommunications company. Responsible for all aspects of the international, multi-year role.

Partial owner of a branded cookie company that was acquired as a spinoff, turned around, and sold to a strategic buyer.

Director of Nursing Finance and Planning at the University of Chicago Hospitals, where he significantly reduced nursing costs through service delivery and supply management.



## Kristina M. Stanger

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DES MOINES OFFICE

Kristina Stanger hears a call to serve her clients, her country, and her community. Within every achievement, success, and honor, she sees a challenge. "It's a call to do more," she says.

She answers her call by assisting clients with [bankruptcy](#), [creditors rights](#), and [commercial litigation](#). "Jokingly, I tell my mom I do 'deals that go bad,'" she says. However, she is serious about helping clients with business reformation, loan restructuring, collateral and contract disputes, real estate litigation, workouts, asset protection, and dispute resolution.

"I approach life as a servant leader to achieve two ideals: freedom and justice," Kristina says. "As legal professionals, we are representatives of this branch of government, and this is our charge: to work for the people seeking relief under our laws. Whether it is a simple contract dispute or a large Chapter 11 company reorganization where jobs are on the line, I know this is their day in court. This is their opportunity to access justice—and I am their advocate."

Following those principles, Kristina helps secured and unsecured creditors in a variety of contexts and industries such as energy, retail, grocery, real estate, agriculture, health care, construction, transportation and manufacturing. She is not afraid to work a resolution from a business, litigation, or legislative perspective. "All tools are on the table," she says. Kristina knows she may be in the courtroom one day and the boardroom the next.

The first college graduate from her rural DeWitt, Iowa, family, Kristina knew the law was her objective in the second grade. In the fifth grade, she washed dishes at the local Maid-Rite to earn money to participate in mock trial. Her parents supported her goal—as long as she was serving people and found a way to pay for it. "As a small town, hardworking country girl, I have a passion for serving, but I sought a chance to think strategically and solve problems," she says. "So I became a lawyer."

In college, a fortuitous meeting with a National Guardsman during a choir trip introduced her to the National Guard. She joined the service eight days later. Now she's an Army Lieutenant Colonel with more than 20 years of experience. As the current Commander of the 109th Medical Battalion and former Chief of Plans and Operations, Kristina leads combat medics, doctors and other professionals while planning and executing military operations for the Iowa Army National Guard at home and around the world.

"That acapella trip to Wales was life-changing because it was the catalyst toward what I am now—not only in both careers, but also in how I approach



### PRACTICE AREAS

- Litigation
- Banks & Financial Institution Litigation
- Business & Commercial Litigation
- Construction & Real Estate Litigation
- Creditor Rights & Bankruptcy
- Estate, Trust & Fiduciary Litigation

### EDUCATION

- U.S. Army Command and General Staff College
- Drake University (J.D., with high honors)
- 185th Military Regional Training Institute, Army Officer Candidate School (2LT, Distinguished Honor Graduate)
- Central College (B.A., magna cum laude)

### BAR ADMISSIONS

- Iowa
- Admitted to practice in all state, federal, and bankruptcy courts in Iowa
- Eighth Circuit Court of Appeals

## Kristina M. Stanger

serving clients, serving my community and what's important to our family," Kristina says.

As she has grown in the legal profession, Kristina looked for a comprehensive way to solve problems. She discovered the restructuring profession. "In it, I found the opportunity to use a multidiscipline and creative approach to solving problems with my clients," she says. Finally, this has become the rewarding profession I sought out since the second grade."

## RECOGNITION

### American Bankruptcy Institute

- 40 Under 40 Honoree, 2018
- 2020 Service to Veterans Award

### Iowa State Judicial Nomination Commission

Elected Member, 2019–Present (six-year term)

### Drake University Law School

Alumna of the Year, 2018

### Iowa Organization of Women Attorneys (IOWA) and National Bar Association (Iowa Chapter)

Gertrude Rush Award, 2018

### The Best Lawyers in America®

Bankruptcy and Creditor Debtor Rights/Insolvency Reorganization Law, 2022-2023

### National Conference of Bankruptcy Judges (NCBJ)

NextGen Participant, 2016

### Department of Defense Freedom Award

Nominator of recipient Nyemaster Goode, P.C., 2012

### Des Moines Business Record's Forty Under 40

Honoree, 2012

### Benchmark Litigation

Future Star

### Lawdragon 500 Leading U.S. Bankruptcy & Restructuring Lawyers

Honoree, 2020

### Iowa State Bar Association

## PROFESSIONAL EXPERIENCE

- Intern, Hon. Ronald E. Longstaff, U.S. District Court for the Southern District of Iowa
- Clerk, Iowa Academy of Trial Lawyers

## Joseph A. Peiffer – Shareholder



Joseph A. Peiffer has focused his practice on business bankruptcy for more than 30 years, and established Ag & Business Legal Strategies (formerly Peiffer Law Office, P.C.) in 2016.

As someone who grew up on an Iowa family farm in Delaware County, Iowa, Joe Peiffer has a keen interest in agricultural law. He graduated from Iowa State University as the top graduate in his class studying Dairy Science, as well as Public Service and Administration. Peiffer received his law degree, with Distinction, from the University of Iowa.

During the farm crisis of the 1980s, Joe served as the law clerk for the busiest bankruptcy judge in the country. After that clerkship, he began representing family farmers to assist them with their financial problems. In addition to assisting with financial problems, Joe has: handled negotiations to split up farm businesses; sold farming operations on a going concern basis; represented farmers before the ASCS dealing with issues involving conversion of wetlands; litigated involving the sale of sows infected with pseudorabies; and appealed adverse rulings by ASCS regarding qualification for payment limitations by family farm units.

Since 1994, Joe Peiffer has been certified in Business Bankruptcy by the American Board of Certification. He has been active in legislation, spearheading laws that make it easier and cheaper to place bankruptcy case records in Iowa's county records. In addition, he served as legislative chairperson for the Commercial and Bankruptcy Law Section of the Iowa State Bar Association.

Joe is licensed in both Iowa and Illinois. He welcomes new clients and enjoys helping businesses regain their financial footing.

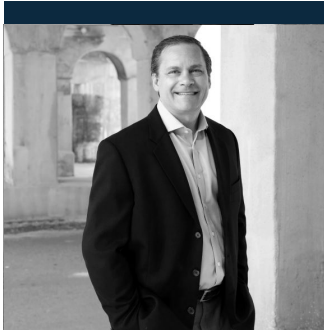
Because of his own history in agriculture, Joseph Peiffer has a thorough understanding of agriculture. He can relate to your complex situations with knowledge and empathy. Once he hears about your unique operation, he'll suggest practical solutions—solutions he'd offer his own family.

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## Peter Richter

Partner

### Biography

Peter has guided numerous organizations through operational and financial restructurings that have resulted in improved profitability through increased revenue and reduced costs. At the same time, he has led successful sales transactions and refinancings in the most challenging of situations.

During the course of his career, Peter has not only served in leadership roles at Deloitte, Conway MacKenzie and CRG Partners, but also held various senior management positions, including CRO, President, and CFO, across a variety of industries.

Peter is a Certified Turnaround Professional (CTP) and is a member of the Turnaround Management Association (TMA), the Association of Corporate Growth (ACG), American Bankruptcy Institute (ABI), the Private Directors Association, and holds FINRA licenses 7 & 63. Peter earned his bachelor's degree in finance from Eastern Illinois University.

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Consumer Products  
Food & Agribusiness  
Manufacturing & Industrials  
Real Estate, Construction &  
Engineering  
Retail & Restaurants  
Technology, Media &  
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### EDUCATION, LICENSES, & CERTIFICATES

- MBA, Miami University
- BS, Business Administration/Marketing, Miami University
- Illinois Real Estate Managing Broker
- Illinois Auctioneer
- Illinois Notary
- Wisconsin Auctioneer
- Texas Auctioneer
- Certificate Commercial Investment Member (CCIM) Designee
- Certified Auctioneers Institute (CAI)
- Accredited Auctioneer of Real Estate (AARE)

### REPRESENTATIVE

#### CLIENTS

##### FINANCIAL & PRIVATE EQUITY

- Bank of America
- Chase Bank
- BB&T Bank
- Hanmi Bank
- National Credit Union Association

##### CLIENTS CATEGORIES

- Bankruptcy and Real Estate Attorneys
- Trustees
- Receivers
- Turnaround Consultants
- US Marshals Service

David is head of the Summit Investment Management and Keen-Summit Capital Partners Chicago office. He responsible for all aspects of business development and execution in connection with the company's distressed debt acquisitions and opportunistic credit transactions, plus real estate brokerage and auction, investment banking, and lease modification and restructuring services. David has more than 13 year's experience in real estate advisory and transaction experience, with particular expertise in workout, bankruptcy, and other special situations.

### PROFESSIONAL AND INDUSTRY EXPERIENCE:

- David has more than 13 year's experience in real estate advisory and transaction experience, with particular expertise in workout, bankruptcy, and other special situations. David began his career in general management and marketing roles for various consumer product companies., and most recently as the Vice President of NRC Realty & Capital Advisors.
- David holds both the Certified Commercial Investment Member (CCIM) and Certified Auctioneers Institute (CAI) designations, making one of fewer than fifty professionals in the United States to hold both. He is a frequent speaker and moderator on real estate restructuring programs, a member of the Turnaround Management Association Chicago/Midwest Board of Directors, and has held various leadership roles on the American Bankruptcy Institute Real Estate Committee.