

**IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA**

**UNITED NEBRASKA BANK,**  
Plaintiff,

vs.

**GIVENS FEEDLOT, INC.; MOR BEEF  
CATTLE CO., a Canadian Company;  
DON HOEKSEMA; JACK GARRELTS;  
WELTER FARMS, INC.; ED NORTH,  
ROBERT KRACL; AGRI-LIVESTOCK,  
CO.; JERRY KIRWAN; ROUSE BROS.;  
and FREDIN BROS., INC.,**  
Defendants.

Case No. CI03-133

**ORDER FOR TEMPORARY  
POSSESSION**

This matter comes before Court upon the positively-verified Amended Complaint for Replevin, for Appointment of a Receiver, and for other relief, and the affidavits in support thereof, filed by United Nebraska Bank (“plaintiff”) and upon good grounds appearing therefore, the Court finds and orders as follows:

1. It has been made to appear that: (a) the defendant Givens Feedlot, Inc. executed and delivered to the plaintiff three (3) promissory notes as set forth in paragraphs 4, 5, and 6 of the Amended Complaint (“notes”); (b) to secure payment of the notes, the defendant, Givens Feedlot, Inc., executed and delivered to the plaintiff a security agreement as set forth in paragraph 7 of the Amended Complaint; (c) the plaintiff perfected a security interest by filing the financing statement with the Secretary of State’s office; (d) pursuant to the terms of the security agreement the plaintiff has a security interest in the collateral; (e) the notes and security agreement are in default; and, (f) the defendant, Givens Feedlot, Inc., has consented to the appointment of a receiver without further notice or hearing.

2. Although the defendant Givens Feedlot, Inc. has consented to the appointment of a receiver, there are other parties defendant who have not so consented and who may have or claim an interest in part of the collateral.

3. The showing in the Amended Complaint and the affidavits demonstrate that the delay occasioned by the giving of the notice required by § 25-1082 is hazardous to the rights of the parties, including the plaintiff, and makes it necessary to enter an order for the temporary appointment of the sheriff of the county to take temporary possession of the property pursuant to § 25-1083 until the matter may be heard upon the application for appointment of receiver after notice to all parties who have not waived notice.

4. There is no sufficient or adequate remedy at law because of the perishable nature of the collateral and the admission of defendant Givens Feedlot, Inc. that it is unable to adequately protect and care for the collateral.

5. Based upon the Court's findings, the Court hereby enters the following orders:

IT IS ORDERED BY THE COURT THAT:

1. The Sheriff of Holt County, Nebraska, is directed to take temporary possession of that portion of the collateral claimed by the plaintiff consisting of:

All livestock, including products and proceeds thereof, inventories of feed and supplies on hand, and accounts receivable relating thereto, which tangible items of personal property are located on the Northeast Quarter of Section 6, Township 29, North, Range 12, West of the 6<sup>th</sup> P.M. in Holt County, Nebraska, and which intangible items of personal property wheresoever they may be found,

until hearing may be had upon notice to all parties defendant who have not waived notice of the plaintiff's application for appointment of receiver.

2. The defendants, their agents and employees are temporarily restrained and enjoined,

from and after service of this order upon them until the hearing required below, from:

- a. interfering with the possession of the property in the hands of the sheriff and the accomplishment of the protection of the property as contemplated by § 25-1083;
- b. Transferring or selling any of the collateral to any third persons;
- c. Removing any of the collateral from its current location without the consent of the sheriff; and,
- d. Taking any action that may cause damage, waste, disposition or depreciation to the collateral.

3. The sheriff is authorized to remove, relocate or otherwise consolidate any or all of the collateral to one or more locations.

4. Notice of the application for appointment of receiver shall be given in the manner required by § 25-1082.

5. Hearing shall be held on the application for appointment of receiver, which hearing shall be upon affidavits only, on **Monday, September 15, 2003, at 10:00 a.m.**, or as soon thereafter as the same may be heard, in the District Courtroom, Holt County Courthouse, O’Neill, Nebraska.

Signed at **O’Neill**, Nebraska, on **September 3, 2003**;  
DEEMED ENTERED upon file stamp date by court clerk.  
If checked, the court clerk shall:

BY THE COURT:

Note the decision on the trial docket as: [date of filing] **Signed “Order for Temporary Possession” signed.**

Done on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

Mail a copy of this order to all counsel of record and any pro se parties.

Done on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
**William B. Cassel**  
District Judge

Mailed to: