

# In the United States Bankruptcy Court

## for the Northern District of Iowa

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RICHARD ALLAN FAGAN BARBARA ELIZABETH FAGAN dba FAGAN BROS.	Bankruptcy No. 95-11002KC
RONALD PATRICK FAGAN MONICA LOU FAGAN, dba FAGAN BROS.	Bankruptcy No. 95-11004KC
TERRANCE JOSEPH ALLEN FAGAN, dba FAGAN BROS.	Bankruptcy No. 95-11005KC
GARY BERNARD FAGAN SUSAN MARIE FAGAN, dba FAGAN BROS.	Bankruptcy No. 95-11006KC
Debtors	Chapter 13

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### ORDER RE MOTION FOR JOINT ADMINISTRATION OF CASES

On August 29, 1995, the above-captioned matter came on for hearing pursuant to assignment on a Motion for Joint Administration of Cases filed by First Iowa Bank. Debtors appeared by Attorney Thomas Fiegen. Movant First Iowa Bank of Monticello appeared by H. Raymond Terpstra II. The USA was represented by Assistant U.S. Attorney Ana Maria Martel. Creditor/Landlord Norma Leinen appeared by Attorney William K. Shafer.

Movant First Iowa Bank of Monticello, Iowa filed the Motion for Joint Administration under Bankruptcy Rule 1015(b) on July 6, 1995. No formal objection has been stated of record. The Motion for Joint Administration asserts that there are four separate numbered Chapter 13 cases involving four brothers who are involved, at least in part, in a farm partnership known as Fagan Brothers. The Motion states that each of the brothers enjoys a 25% interest in the partnership which is involved in the grain and livestock farming business in Eastern Iowa.

The Motion further states that Debtors' farming operations are carried out under the umbrella of Fagan Brothers and that the individual Debtors are jointly and severally liable to this creditor under various secured loans. Finally, the Bank states that the Plans filed by the Debtors are nearly identical and all relate to obligations owing to this creditor and others.

Bankruptcy Rule 1015(b) states in relevant part:

**(b) Cases Involving Two or More Related Debtors.** If a joint petition or two or more petitions are pending in the same court by or against (1) a husband and wife, or (2) a partnership and one or more of its general partners, or (3) two or more general partners, or (4) a Debtor and an affiliate, the court may order a joint administration of the estates.

The Motion filed by the First Iowa Bank of Monticello is premised upon this creditor's desire to save fees and expenses involved in various motions, bar date notices, docket entries and hearings which involve all four of these Chapter 13 filings. As stated in the Motion, joint administration is a creature of procedural convenience. It is justified for the laudable purpose of avoiding the wasting of resources through the duplication of effort in cases involving related debtors. Thus, instead of having multiple filings, there need only be one Trustee, one docket, and individual pleadings instead of multiple pleadings in multiple cases. Even though there is joint administration, the estates remain separate and are separately administered as to the substantive rights of the parties and creditors. See In re Steury, 94 B.R. 553, 553-

554 (Bankr. N.D. Ind. 1988).

While the Court recognizes the worthwhile purpose of saving fees and expenses of multiple filings, the Court is restrained by the present posture of this case. Debtors have filed four individual bankruptcy petitions. These are all filed under Chapter 13 as wage earner plans. However, in the caption and in various points throughout the schedules, reference is made to the existence of a farm partnership known as Fagan Brothers. At several hearings, discussions have been held concerning whether partnership assets and debts may be administered in this format. The Court has expressed severe reservations as to whether any administration of a farm partnership is appropriate under Chapter 13 in light of its stated purpose of being an individual wage earner proceeding. The Court's concern is reinforced by the fact that there are presently on file two Motions to Dismiss filed by the Movant and the USA which are based directly on this issue.

Secondly, consolidation or joint administration under Bankruptcy Rule 1015(b) is limited to those categories set forth in the Rule. The Rule recognizes consolidation or joint administration when two or more petitions are pending involving a partnership and one or more general partners, two or more general partners, or a debtor and an affiliate. The Rule also authorizes joint administration when two or more petitions are filed involving a husband and wife. It is the first three categories which would, under theories of joint administration, have applicability to this case. However, the Court has already expressed doubts whether it is appropriate under a Chapter 13 filing to consider the reorganization efforts relating to this farm partnership. The Court has expressed, on the record, its unwillingness to take any steps or any action which would acknowledge at this point that it is appropriate under Chapter 13 to reorganize this farm partnership. It is the concern of this Court and this Court's ultimate conclusion that to grant the joint administration of these four cases under Rule 1015(b) would be a tacit acknowledgment that this Court is exercising some type of jurisdiction over this partnership.

Finally, if it is inappropriate under Chapter 13 to consider reorganization efforts of this farm partnership, the individual brothers have little commonality of administration. They have off-farm income and some, if not all, of the brothers' spouses are employed. They have individual debts and their reorganization efforts are individual to each brother. As the only common denominator in these filings is the existence of the farm partnership and as significant issues exist whether this can be considered in this context, the Court concludes it is inappropriate to consider joint administration as an appropriate administrative tool.

Until such time as the issues relating to the Motions to Dismiss, and the issues relating to the relationship of Fagan Brothers Farm Partnership to these individual Chapter 13 Debtors are resolved, it is inappropriate to grant the Motion for Joint Administration. It is the conclusion of this Court that by definition, the granting of such Motion would inappropriately recognize the jurisdiction of this Court to administer the Fagan Brothers Farm Partnership in Chapter 13.

**WHEREFORE**, for the reasons set forth herein, the Motion for Joint Administration of Cases pursuant to Bankruptcy Rule 1015(b) is DENIED.

**FURTHER**, if the issues raised in the Motions to Dismiss are subsequently adjudicated and it is the conclusion of this Court that the Court will proceed to administer part or all of the farm partnership under these Chapter 13 wage earner plans, the Court will then reconsider this Movant's Motion for Joint Administration.

**SO ORDERED** this 7th day of September, 1995.

Paul J. Kilburg  
U.S. Bankruptcy Judge