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Implied Farm & Ranch Family Partnership

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Aiken, J. David, "Implied Farm & Ranch Family Partnership" (2015). *Cornhusker Economics*. 712.
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January 28, 2015

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Implied Farm & Ranch Family Partnership

Market Report	Year Ago	4 Wks Ago	1/23/15
Livestock and Products,			
Weekly Average			
Nebraska Slaughter Steers, 35-65% Choice, Live Weight.	122.17	*	160.00
Nebraska Feeder Steers, Med. & Large Frame, 550-600 lb.	172.33	*	287.51
Nebraska Feeder Steers, Med. & Large Frame 750-800 lb.	146.11	*	219.70
Choice Boxed Beef, 600-750 lb. Carcass.	188.96	*	256.85
Western Corn Belt Base Hog Price Carcass, Negotiated.	87.38	*	69.10
Pork Carcass Cutout, 185 lb. Carcass 51-52% Lean.	84.68	*	84.81
Slaughter Lambs, Ch. & Pr., Heavy, Woolled, South Dakota, Direct.	91.00	*	*
National Carcass Lamb Cutout FOB.	291.01		376.51
Crops,			
Daily Spot Prices			
Wheat, No. 1, H.W. Imperial, bu.	7.69	*	5.06
Corn, No. 2, Yellow Nebraska City, bu.	7.31	*	3.61
Soybeans, No. 1, Yellow Nebraska City, bu.	14.46	*	9.28
Grain Sorghum, No.2, Yellow Dorchester, cwt.	12.16	*	7.09
Oats, No. 2, Heavy Minneapolis, Mn, bu.	3.91	*	3.23
Feed			
Alfalfa, Large Square Bales, Good to Premium, RFV 160-185 Northeast Nebraska, ton.	247.50	*	212.50
Alfalfa, Large Rounds, Good Platte Valley, ton.	230.00	*	75.00
Grass Hay, Large Rounds, Good Nebraska, ton.	212.50	*	82.50
Dried Distillers Grains, 10% Moisture Nebraska Average.	287.50	*	175.00
Wet Distillers Grains, 65-70% Moisture Nebraska Average.	107.50	*	56.50
* No Market			

A 2014 Nebraska Court of Appeals decision illustrates that when parents and a son or daughter share ag equipment and labor, they may be considered to be in an *implied farm partnership*. This can lead to legal problems if one of the parties can't pay back their loans.

What was this case about? A Howard County family had separate farming operations for the parents and their son. They were very careful to have separate operating loans, no loan cosigning by the parents, separate banking accounts, separate property insurance policies, and they filed separate tax returns. But they shared equipment and labor.

Is there anything wrong with that? No—actually it looks like this family did just about everything correctly, from a legal standpoint. Unfortunately they still ended up in court. Fortunately they did win their case.

Why did the parents get sued? The son encountered financial difficulties, was unable to pay his bank loans, and declared bankruptcy. When the parents and son sold their cattle, the bank took the parent's share of the cattle proceeds of \$80,000 and applied it to the son's unpaid debts. So the parents sued the bank to get their \$80,000 back.



And the parents won? Yes, they did. The trial judge ruled that the parents and the son had separate business operations even though they shared equipment and labor. The cattle had different colored ear tags to distinguish the parent's cattle from the son's cattle. The judge ruled that there was no implied partnership or joint venture and that the bank should pay the parents their \$80,000.

What is the significance of the partnership issue?

In Nebraska, as in most states, two or more people engaging in a common business for profit may be considered legally to be a partnership even if there is no formal partnership agreement or intent. In the Howard County case, if the parents and son had been considered an implied partnership, the parents would have been liable for the son's share of the partnership debts and the bank would be able to keep the \$80,000. Because the facts indicated that the son's operation was separate from his parent's operation, the parents were not liable for the son's unpaid business debts and were entitled to recover the \$80,000 from the bank.

Did the bank appeal this ruling? Yes, it did. But the Nebraska Court of Appeals ruled that the trial judge's rulings were correct and that the parents were entitled to the \$80,000. *Heritage Bank v. Kasson*, 22 Neb. App. 401 (2014).

What are the takeaway messages here?

First, be aware that in these type of circumstances—where parents and a son or daughter share labor and equipment — there is a significant risk that they may legally be considered to constitute a partnership. This usually occurs when a lender attempts to make the parents liable for the son or daughter's unpaid share of the partnership debts.

Second, if the parents are sharing equipment and labor with a son or daughter, they must go the extra mile to keep everything else as separate as possible — separate checking accounts, separate loans, separate insurance, separate tax returns, and so forth. You might need legal help with this, especially if jointly-owned land is involved. If the Howard County parents hadn't been so very careful, they could have ended up losing the \$80,000 from the cattle sale to the bank.

Third, even if you do everything right (as it appears this family did) — that in and of itself is no guarantee that you might not end up in court anyway if a family member can't pay his/her loan. Unfortunately, that is a risk in these fairly common types of cooperative family business arrangements and is pretty difficult to avoid. So your best bet is to keep the business formalities separate and hope no one goes broke.

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