

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF

AARON FERER & SONS CO.,

DEBTOR

AARON FERER & SONS CO.,  
Debtor and Debtor-in-Possession,  
and THE OFFICIAL CREDITORS  
COMMITTEE,

Plaintiffs

vs.

AMERICAN SMELTING & REFINING  
COMPANY, and WILLIAMS AND GLYN'S  
BANK LIMITED,

Defendants

CASE NO. BK74-0-482

ASARCO

MEMORANDUM OPINION

Before me is the Motion For Protective Order filed by ASARCO, formerly American Smelting and Refining Company. The motion seeks to prohibit plaintiffs from further discovery until resolution of other litigation pending in this court. ASARCO believes the discovery pursued by Aaron Ferer & Sons Co. is unnecessary since resolution of the other litigation will determine whether ASARCO owes money to the plaintiffs or to third parties. ASARCO also believes that the discovery is unduly burdensome.

Ferer asserts that discovery is necessary because the dispute between Ferer and ASARCO goes beyond resolution of Ferer's rights against Williams and Glyn's Bank, Limited, and the London liquidator. I conclude that Ferer's argument is more persuasive.

The passage of time which has occurred and apparently will occur for resolution of matters between Ferer and Williams and Glyn's Bank, Ltd., may well result in the loss of important evidence through destruction of records at ASARCO. While I am convinced that the attorneys for ASARCO will take efforts to prevent that, I am more persuaded that discovery by Ferer will help to insure it.

Having reviewed the discovery in progress, it is my conclusion that it is not unduly burdensome to ASARCO.

A separate order is entered in accordance with the foregoing.

DATED: August 14, 1981.

BY THE COURT

*David L. Crawford*  
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U.S. Bankruptcy