

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
DISTRICT OF NEBRASKA
AT _____ M
DEC 21 1984
William L. Olson, Clerk
By _____ Deputy
CV 84-0-493

IN RE:)
DALE E. KUCERA, et al.,)
Debtors.)
DALE E. KUCERA, et al.,)
Plaintiffs,)
vs.)
THE RAVENNA BANK,)
Defendant.)

BK 84-790

IN RE:)
MICHAEL D. KUCERA, et al.,)
Debtors.)
MICHAEL D. KUCERA, et al.,)
Plaintiffs,)
vs.)
THE RAVENNA BANK,)
Defendant.)

BK 84-791

CV 84-0-494

This matter is before the Court on appeal from an order of the United States Bankruptcy Court for the District of Nebraska sustaining defendant, Ravenna Bank's motion to be appointed to the creditors' committee.

Plaintiffs are debtors in possession in a Chapter 11 proceeding. Pursuant to 11 U.S.C. § 1102 the Bankruptcy Court appointed a creditors' committee. Defendant, which is a secured creditor, filed a motion to be appointed to the committee. In an order filed August 2, 1984, the Bankruptcy Court sustained the motion.

On appeal plaintiffs argue that under 11 U.S.C. § 1102, only unsecured creditors may serve on the creditors' committee. Section 1102(a)(1) provides:

As soon as practicable after the order for relief under this chapter, the Court shall appoint a committee of creditors holding unsecured claims.

At the hearing defendant argued that because it was undersecured, it should be appointed to the committee.

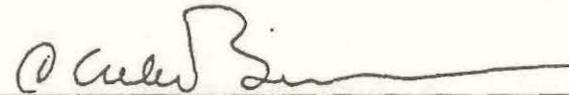
The creditors' committee is designed to protect the interests of unsecured creditors. Creditors who may not be fully secured may still have interests in conflict with wholly unsecured creditors. Therefore, a secured creditor who may not be fully secured should not be appointed to the creditors' committee. See In Re Glendale Woods Apartments, Ltd., 25 B.R. 414 (Bankr. D. Md. 1982).

IT IS THEREFORE ORDERED that the order of the Bankruptcy Court appointing the Ravenna Bank to the creditors' committee is vacated.

IT IS FURTHER ORDERED that plaintiffs' motions for stay (filings 5 and 6 in CV 84-0-493 and filings 4 and 5 in CV 84-0-494) and for additional time to file briefs (filing 7 in CV 84-0-493 and filing 6 in CV 84-0-494) are hereby denied as moot.

DATED this 21st day of December, 1984.

BY THE COURT:



C. ARLEN BEAM
UNITED STATES DISTRICT JUDGE