

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF)
)
GROUP TEN PRESS, INC.,) CASE NO. BK79-1361
)
DEBTOR)

MEMORANDUM AND ORDER

In this Chapter 11 proceeding filed under the Bankruptcy Reform Act of 1978, John P. Emarine filed a request for appointment of a trustee. Hearing has now been held on the request and evidence presented.

11 U.S.C. §1104(a) provides as follows:

"(a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest, and after notice and a hearing, the court shall order the appointment of a trustee--

(1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or

(2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor."

The evidence before me fails to disclose any fraud, dishonesty, incompetence, or gross mismanagement by current management. There is nothing in the evidence which would disclose any other cause for the appointment of a trustee.

At best, the evidence discloses an economically disturbed debtor but also discloses an active creditors' committee which is investigating the business and the alternatives available.

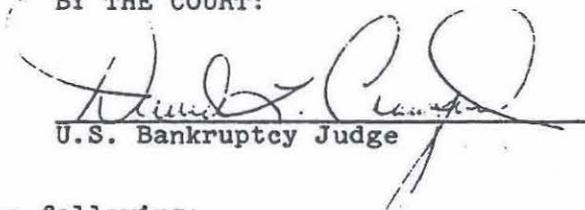
In my view, the creditors' committee will adequately protect the interests of creditors, at least at this point.

The applicant has asked in the alternative that an examiner be appointed pursuant to 11 U.S.C. §1104(b). The evidence does not disclose that the debtor's fixed, liquidated, unsecured debts, other than debts for goods, services or taxes exceed \$5,000,000.00 under sub-paragraph (2). Having failed to find cause for the appointment of a trustee, similarly I cannot justify a finding that the appointment of an examiner is in the best interests of any of the parties under sub-paragraph (1). Accordingly, it is

ORDERED that the request for the appointment of a trustee be, and the same hereby is, denied.

DATED: March 27, 1980.

BY THE COURT:


U.S. Bankruptcy Judge

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