

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF)

DUANE RALPH WALKER and)
CAROL ANN WALKER,)

CASE NO. BK79-1530

Debtors)

A80-164

HENRY E. DART and)
NORMA J. DART,)

Plaintiffs)

vs.)

DUANE RALPH WALKER and)
CAROL ANN WALKER,)

Defendants)

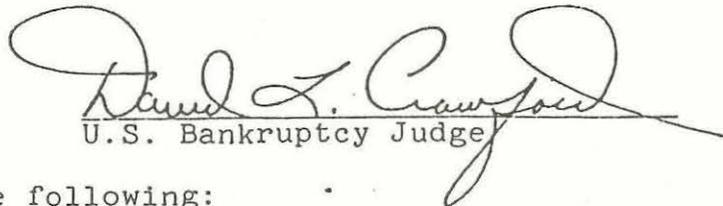
MEMORANDUM AND ORDER

Defendant's motion for attorney's fees is presumably based on §523(d) of the Bankruptcy Code which generally requires the taxing of attorney's fees as costs where a debtor-defendant prevails in an action concerning the dischargeability of certain types of consumer debts. Section 101(7) of the Code defines "consumer debt" as a "debt incurred by an individual primarily for a personal, family, or household purpose." The debt at issue here was incurred while the debtor was engaged in business and is not a consumer debt as to the debtor. Without specific statutory authority, attorney's fees are generally not taxable as costs. See 6 Moore's Federal Practice, para. 54.77(2) at 1703(2d ed. 1976). Accordingly, it is

ORDERED that defendant's motion for the allowance of attorney's fees be, and it hereby is, denied.

DATED: May 12, 1981.

BY THE COURT:


U.S. Bankruptcy Judge

Copies mailed to each of the following:

Richard H. Williams, Attorney, 1300 Sharp Building, Lincoln, Ne. 68508

Douglas W. Marolf, Attorney, 620 N. 48th Street, Suite 209, Lincoln, Ne. 68504