

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF)

JESSE GRAHAM REYNOLDSON,)

BANKRUPT)

CASE NO. BK76-0-988

MEMORANDUM AND ORDER

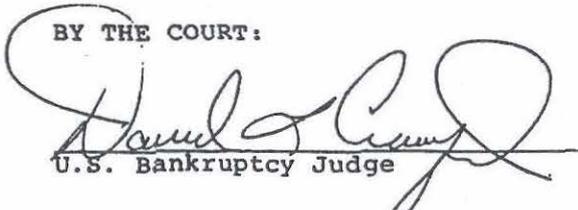
The debtor in this proceeding filed a petition in bankruptcy and was granted a discharge in 1976. Subsequently, the debtor discovered that he had inadvertently failed to schedule a creditor to whom he owed \$1,210.36 in his petition. On February 4, 1980, the debtor moved to reopen his proceeding for the purpose of amending the list of creditors and discharging the debt.

This Court is aware of the holding of In re Benak, 374 F.Supp. 499 (D. Neb. 1974) in which it was held that amending a petition to list an omitted creditor could be allowed in exceptional circumstances. One of the factors to be considered in determining whether to permit the amendment is the "closeness of the running of the six-month period to (the time) when amendment is sought." Id. at 500. In this case, where amendment is sought nearly four years later, permitting the amendment would be akin to granting a second discharge within the six-year period. Accordingly, it is

ORDERED that the debtor be, and hereby is, denied permission to file an amended schedule listing the omitted creditor.

DATED: June 12, 1980.

BY THE COURT:


U.S. Bankruptcy Judge

Copies mailed to each of the following:

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