UNITED STATES BANKRUPTCY COUT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF	)	
	)	
JOHN and CORINNE FREY,	)	CASE NO. BK82-411
	)	
DEBTORS	)	A84-59
	)	
JOHN and CORINNE FREY,	)	
	)	
Plaintiff	)	
	)	
vs.	)	
	)	
THE TILDEN BANK,	)	
	)	
Defendant	)	

SUPPLEMENTAL MEMORANDUM

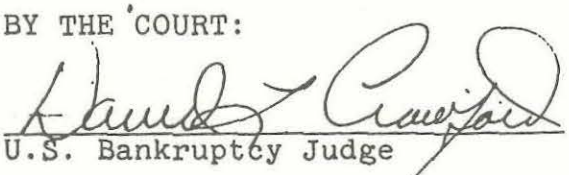
This supplemental memorandum modifies my findings and conclusions made on the record in open court at the conclusion of the evidence of the trial of this matter.

After reflection, I believe that statements made by me with regard to the repayment of $329.00 to the defendant were improper. The evidence is not persuasive with regard to a showing that the $329.00 debt which was repaid post petition was a pre-petition debt. If, in fact, that $329.00 debt was a post-petition extension of credit, its repayment was not improper since a debtor-in-possession in a Chapter 11 proceeding may properly pay persons who extend credit to him post petition. This is true, it seems to me, whether the extension of credit is by way of trade debt or by way of loan from a bank.

Because the evidence does not persuade me that the indebtedness represented by the repayment of $329.00 was incurred pre-petition, I conclude that the plaintiff has failed to meet its burden of proof with regard to the issue. Accordingly, the separate judgment which will be entered will be in the amount of $7,500.00 only and not $7,829.00 as stated in open court.

DATED: June 14, 1984.

BY THE COURT:



U.S. Bankruptcy Judge

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