

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

LEONARD V. KRAUS,

Debtor.

LEONARD V. KRAUS,

Plaintiff,

vs.

CRETE STATE BANK,

Defendant.

RECEIVED

BK 86-2310-822

FEB 25 1987

UNITED STATES BANKRUPTCY CLERK CV  
FOR THE DISTRICT OF NEBRASKA  
OMAHA

86-0- <del>822</del> FILED
DISTRICT OF NEBRASKA
AT _____ M
ORDER FEB 20 1987
William L. Olson, Clerk
By _____ Deputy

This matter is before the Court on debtor's appeal (filing 1) from the decision of the Bankruptcy Court. The Bankruptcy Court dismissed the debtor's case on September 18, 1986, on the basis that filing a Chapter 13 petition while a Chapter 11 case is pending is not permitted.

After reviewing the record, the Court is of the opinion that the Bankruptcy Court should be affirmed. Under 11 U.S.C. § 1112 the Court can convert a case to another chapter only after request by a party. No such request was made in this case.

Additionally, under 11 U.S.C. § 1112(e) a debtor cannot convert to a different chapter unless the debtor meets the unsecured debt requirements. Under 11 U.S.C. § 109(e) in order for a debtor to proceed under Chapter 13, he must have unsecured debts of less than \$100,000.00. Judge Mahoney, In the Matter of Leonard V. Kraus, No. 86-158 (Bankr. D. Neb. March 19, 1986), in the Chapter 11 proceeding, found that the debtor had over \$200,000.00 in unsecured debts. Therefore, the debtor could not convert his Chapter 11 to a Chapter 13.

Accordingly,

IT IS ORDERED that the decision of the Bankruptcy Court should be and hereby is affirmed.

IT IS FURTHER ORDERED that this appeal should be and hereby is dismissed.

DATED this 20<sup>th</sup> day of February, 1987.

BY THE COURT:

  
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C. ARLEN BEAM, CHIEF JUDGE  
UNITED STATES DISTRICT COURT