

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF

MILLARD AVIATION, INC.,
BANKRUPT

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CASE NO. BK78-1234

MEMORANDUM AND ORDER

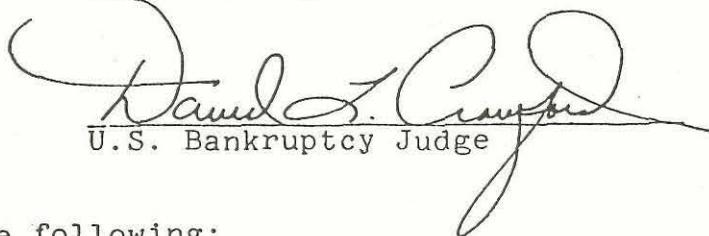
This matter came on for hearing upon the application by the claimant, The Fidelity & Casualty Company of New York, for relief to file a claim out of time. This proceeding arose under the former Bankruptcy Act and is governed by statutes and rules applicable to those proceedings filed before October 1, 1979.

Section 57n of the Act (11 U.S.C. §93n) provided that all claims which were not filed within six months after the first date for the first meeting of creditors are not to be allowed. Bankruptcy Rule 302(e) retained the six-month period with certain exceptions not relevant to the facts of this case. Cases construing that statute and rule have concluded uniformly that the six-month period is an absolute bar date and the Court is without judicial discretion to allow claims filed after that date. Compare the new Bankruptcy Code applicable to cases filed after October 1, 1979, at §726[11 U.S.C. §726(a)(3)] which provides that a claim tardily filed may be allowed but subordinated to claims timely filed. Accordingly, it is

ORDERED that the application to file a claim out of time is hereby denied.

DATED: April 20, 1981.

BY THE COURT:


U.S. Bankruptcy Judge

Copies mailed to each of the following:

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