

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

FILED
DISTRICT OF NEBRASKA
AT _____
MAY 09 1988
William L. Olson, Clerk
By _____ Deputy

IN THE MATTER OF:)
)
RICHARD DOBROVOLNY and)
EMMA DOBROVOLNY,)
)
Debtors.)

EMMA DOBROVOLNY,)
)
Plaintiff,)

v.)

THE BANK OF STEINAUER,)
)
Defendant.)

RICHARD DOBROVOLNY,)
)
Plaintiff,)

v.)

THE BANK OF STEINAUER,)
)
Defendant.)

RICHARD and EMMA DOBROVOLNY,)
)
Plaintiffs,)

v.)

THE BANK OF STEINAUER,)
)
Defendant.)

CV. 87-0-596
BK. 87-445

CV. 87-0-597
BK. 86-3585

CV. 87-L-515
BK. 86-3585

ORDER

This matter is before the Court on three appeals from
decisions of the Bankruptcy Court.

This Court may review the Bankruptcy Court's legal conclusions **de novo** but the Bankruptcy Court's findings of fact may not be set aside unless clearly erroneous. Bankr.R. 8013, **Wegner v. Grunewaldt**, 821 F.2d 1317, 1320 (8th Cir. 1987); **In re Martin**, 761 F.2d 472, 474 (8th Cir. 1985).

In CV. 87-L-515, debtors appeal from the Bankruptcy Court's ruling of August 21, 1987, ordering an accounting within thirty days. The Bank of Steinauer has shown that the order is an interlocutory order and is not appealable and has also shown that the matter is now moot since the accounting has been performed. Accordingly, debtors' appeal will be dismissed.

In CV. 87-0-596, debtor Emma Dobrovolny appeals from the Bankruptcy Court's denial of debtor's motion for imposition of sanctions for contempt on the Bank of Steinauer. Ms. Dobrovolny's bankruptcy action was dismissed for lack of jurisdiction. By order dated July 29, 1987, the Bankruptcy Court ruled that Ms. Dobrovolny is not an eligible debtor under Chapter 12. No appeal was taken from that order. Accordingly, debtor Emma Dobrovolny's appeal is also moot. Even if it were not moot, this is not a proper case for imposition of sanctions. The power of contempt is ordinarily reserved only for those creditors whose actions are contumacious. **In re Charter First Mortgage**, 12 Bankr.Ct.Dec. (CRR) 246 (D.Ore. 1984). Debtor has not shown that the Bank of Steinauer's actions were contumacious so as to render the Bankruptcy Court's decision clearly erroneous.

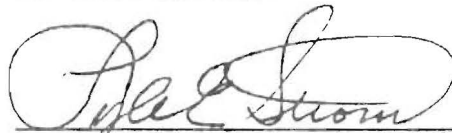
CV. 87-0-597 involves the Chapter 12 bankruptcy proceeding of Richard Dobrovolny. Debtor again appeals the Bankruptcy Court's denial of imposition of contempt sanctions. Again, debtor has not shown that the Bankruptcy Court's decision is clearly erroneous. The record shows that the Bank of Steinauer acted properly in reliance on the Bankruptcy Court's order lifting the automatic stay. Debtor's appeal will be dismissed. Accordingly,

IT IS ORDERED:

- 1) CV. 87-L-515 is dismissed;
- 2) CV. 87-0-596 is dismissed;
- 3) CV. 87-0-597 is dismissed.

DATED this 9th day of May, 1988.

BY THE COURT:



LYLE E. STROM, Chief Judge
United States District Court