UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEBRASKA

| IN | THE MATTER OF |) | | - |
|----|------------------------|---|----------|----------|
| | GROUP TEN PRESS, INC., |) | CASE NO. | BK79-136 |
| | DEBTOR |) | | |

MEMORANDUM AND ORDER

In this Chapter 11 proceeding filed under the Bankruptcy Reform Act of 1978, John P. Emarine filed a request for change in membership in creditors' committee. In that request, Mr. Emarine alleges that he is a disputed creditor of the debtor and requests his appointment as an additional member of the creditors' committee.

I take judicial notice of the fact that there is pending a lawsuit wherein Mr. Emarine is the plaintiff and the debtor is the defendant wherein Mr. Emarine alleges that certain rights to copyright possessed by him have been infringed by the debtor as to a specific drawing. In addition, Mr. Emarine alleges that the debtor improperly obtained a trademark registration in violation of Mr. Emarine's rights. The debtor denies both allegations. That lawsuit has been removed to this Bankruptcy Court for resolution.

The creditors' committee objects to Mr. Emarine being appointed to the committee because his interests are adverse to the rights of other creditors. The creditors' committee alleges that Mr. Emarine's status is more nearly akin to that of a secured creditor since Mr. Emarine claims specific rights to something in the possession of the debtor.

In my view, given the fact that the debtor vigorously disputes Mr. Emarine's claims, his presence on the committee might, in some respects, frustrate the duties of the committee. If this Chapter 11 proceeding continues, one of the matters with which the committee will concern itself is the resolution of Mr. Emarine's claims. If Mr. Emarine is appointed to the committee, the committee will be unable to adequately explore among themselves the various means to resolution of Mr. Emarine's claim. Accordingly, it is

ORDERED that the request that John P. Emarine be added to the creditors' committee be, and the same hereby is, denied.

DATED: March 27, 1980.

BY THE COURT:

U.S. Bankruptey Judge

Copies mailed to each of the following:

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