

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF

HY-GAIN ELECTRONICS CORPORATION,)
HY-GAIN DE PUERTO RICO, INC.,) CASE NO. BK78-0-26
HY-GAIN ELECTRONIC SYSTEMS CORP.,) CASE NO. BK78-0-25
BANKRUPTS) CASE NO. BK78-0-81
)

MEMORANDUM AND ORDER

In this proceeding, the trustee in bankruptcy in each of the above-captioned cases has applied for directions as to whether he should proceed with litigation against former officers and directors of the three corporations. In essence, the trustee seeks guidance as to whether or not he should proceed with litigation of two possible types.

The first potential cause of action which has been suggested to the trustee is the possible misuse of corporate assets. The information furnished to the court at the hearing discloses that any unremedied misuse of corporate assets by former officers or directors may be rather minimal and, accordingly, its pursuit by the trustee nonproductive to the unsecured creditors.

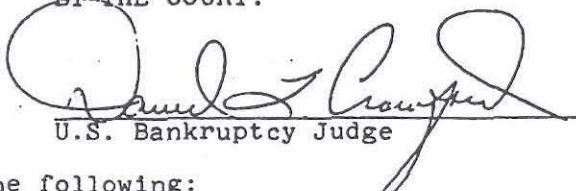
The other cause of action is one which third parties have suggested and involves an allegation that accounts receivable information which went into the secured creditors borrowing base were, in fact, false. In my view, the real party in interest to prosecute this claim would appear to be that party which was injured by the improper action if, in fact, it occurred. This would be the secured creditor. It is difficult based on the information before me to discern how the corporation was directly injured.

Based on the information before me, the court concludes that the trustee in bankruptcy should not pursue either of the foregoing causes of action against officers or directors, at least at this time.

IT IS SO ORDERED.

DATED: June 18, 1980.

BY-THE COURT:


U.S. Bankruptcy Judge

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