

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

IN RE:

JAMES FORAL,

Debtor.

CV. 87-0-39

BK. 85-435

ORDER

NOV 04 1987

William L. Olson, Clerk

Deputy

This matter is before the Court on James R. Foral's (hereinafter debtor's) appeal of the Bankruptcy Court's order of November 17, 1986, confirming a plan of reorganization (Filing No. 1).

The debtor alleges numerous deficiencies of the Bankruptcy Court's handling of the matter, including lack of notice and failure by the bankruptcy trustee to properly discharge his duties. This Court has carefully reviewed the record on appeal, including the transcript of proceedings, and finds no support for debtor's position.

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).

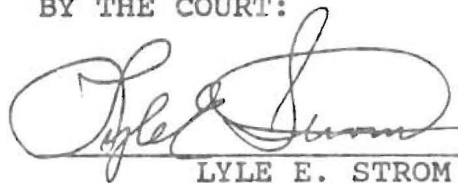
The Bankruptcy Court is required to confirm a plan of reorganization if each of the eleven criteria of 11 U.S.C. § 1129(a) are met. *In re Hoffman*, 52 Bankr. 212, 215 (Bankr.N.D. 1985). There is no dispute that all requirements of § 1129(a) were met with the exception of § 1129(a)(8) which provides that "with respect to each class of claims or interests (A) such class

has accepted the plan or (B) such class is not impaired under the plan." 11 U.S.C. § 1129(a)(8). All creditors accepted the plan except Class D composed of the equity interest of the debtors. "[I]f all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly and is fair and equitable with respect to each class of claims or interests that is impaired under, and has not accepted the plan." 11 U.S.C. § 1129(b)(1). The Bankruptcy Court made the factual finding that "to the extent that Class D is impaired, the requirements of 11 U.S.C. § 1129(b) have been met. . . ." Debtor has presented no evidence to show that the Bankruptcy Court erred in finding that the plan did not discriminate unfairly and is fair and equitable to the dissenting class. Accordingly,

IT IS ORDERED that the decision of the Bankruptcy Court is affirmed.

DATED this 4<sup>th</sup> day of November, 1987.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lyle E. Strom", written over a horizontal line.

LYLE E. STROM  
UNITED STATES DISTRICT JUDGE