IN THE UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF NEBRASKA



IN RE: JOHN ALGER, SR., Debtor.

CIV. 82-0-311
BK. 82-074

MEMORANDUM AND ORDER COPY

This matter is before the Court on appeal from an order by United States Bankruptcy Judge Crawford entered on June 15, 1982. The debtor, John Alger, Sr., requests leave to appeal the bankruptcy court's order denying a motion to dismiss John Alger, Sr., as an individual debtor, from the present Chapter 11 proceeding. Having carefully reviewed the entire record submitted, the Court concludes that the debtor's request to take this interlocutory appeal should be denied.

During the transition to full implementation of the Bankruptcy Reform Act of 1978, federal district courts are obligated to exercise such jurisdiction in respect of bankruptcy appeals as is given them in 28 U.S.C.A. § 1334, as amended, which in pertinent part provides:

> (a) The district courts for districts for which panels have not been ordered appointed under section 160 of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.
>
> (b) The district courts for such districts shall have jurisdiction of appeals from interlocutory orders and decrees of bankruptcy courts, but only by leave of the district court to which the appeal is taken.

The bankruptcy court's order denying the motion of John Alger, Sr., to dismiss himself from the Chapter 11 proceeding which he filed on or about January 8, 1982, is clearly interlocutory in nature, because the order does not end the bankruptcy litigation "and [leave] nothing for the court to do but execute the judgment." *Catlin v. United States*, 324 U.S. 229, 233 (1945). Since the order complained of is interlocutory, the permission of this Court must be sought and granted for John Alger, Sr., to properly take an appeal herein. 28 U.S.C.A. § 1334(b); *see* 1 Collier on Bankruptcy Par. 3.03[7][d] (15th ed. 1982).

It is well settled that there exists a strong and historic federal policy against deciding cases at the appellate level in piecemeal fashion. *Curtiss-Wright Corp. v. General Electric Co.*, 446 U.S. 1, 8 (1980); *Catlin*, *supra*, 324 U.S. at 233-34; *Page v. Preisser*, 585 F.2d 336, 339 (8th Cir. 1978). In the case at bar, the reasons given by John Alger, Sr., in support of his application to appeal are insufficient to override the above policy, and fail to demonstrate that undue hardship or unfair prejudice would result to Alger should he be required to remain a party to the bankruptcy action. Further, there has been no showing that the dismissal of Alger individually would be in the best interest of creditors and the estate. *See* 11 U.S.C.A. § 1112(b).

Accordingly, the debtor's request to appeal the June 15, 1982, order of the bankruptcy court is hereby denied.

IT IS SO ORDERED.

BY THE COURT:

Albert G. Schatz

JUDGE, UNITED STATES DISTRICT COURT