

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF

BRADLEY D. HANDY,

BANKRUPT

LaFRANCE INDUSTRIES DIVISION
of RIEGEL TEXTILE CORPORATION,

Plaintiff

vs.

BRADLEY D. HANDY,

Defendant

CASE NO. BK79-0-615

MEMORANDUM OPINION

In this adversary proceeding, plaintiff seeks a determination that an indebtedness due it from the defendant is nondischargeable pursuant to the false pretenses or false representations exception of §17a(2)[11 U.S.C. §35a(2)].

In essence, the evidence before me discloses that plaintiff shipped to Handy Furniture various items of merchandise on a cash-on-delivery basis. Upon receipt of shipments, checks were apparently received and routed to plaintiff. A number of checks failed to clear and be paid and it is the amount of these checks which the plaintiff alleges is nondischargeable in this bankruptcy proceeding.

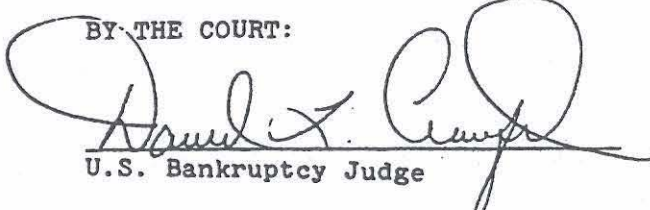
However, the evidence before me is that all checks which failed to clear were signed by Lance Handy and none were signed by the bankrupt, Bradley D. Handy. The evidence is totally lacking in imputing to Bradley D. Handy any knowledge that Lance Handy, his son, was writing these checks. Nor is there any evidence before me to suggest that Bradley D. Handy authorized the execution of these checks. Similarly, there is no evidence before me to suggest that Bradley D. Handy had any active connection with the business operation known as Handy Furniture.

Absent some active guilty knowledge or intent on behalf of Bradley D. Handy, as opposed to some intent presumably imputed by law, nondischargeability does not attach.

A separate order is entered in accordance with the foregoing.

DATED: June 26, 1980.

BY THE COURT:


U.S. Bankruptcy Judge

Copies mailed to each of the following:

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