

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF)

MARCUS LOYD ALEXANDER,)

BANKRUPT.)

CASE NO. BK79-0-487

MEMORANDUM OPINION

Marcus Loyd Alexander filed his voluntary petition with this Court on April 26, 1979. On June 29, 1979, Jack Alexander, as guardian-conservator of Marcus Leon Alexander, moved the Court to dismiss this proceeding. The motion to dismiss has now been heard and evidence taken.

The motion to dismiss is vigorously opposed by Patagonia Leasing Company who alleges an unsecured claim in this proceeding in excess of \$247,000.00. The motion to dismiss is also opposed by the trustee in bankruptcy.

At the first meeting of creditors, the bankrupt appeared and gave testimony regarding his financial affairs. However, following the appointment of the trustee in bankruptcy, C. G. Wallace, III, the trustee undertook an investigation of the assets of this bankruptcy estate. His investigation has disclosed that the bankrupt failed to list on his schedules or disclose at the first meeting of creditors the bankrupt's interest in certain property. Among the items of property which the trustee claims are assets of the estate are interests in parcels of land in Oklahoma which, apparently, were being sold under a land contract to a third party by the bankrupt. The contract for sale of this real estate would indicate that the value of the properties in Oklahoma is significant. In addition, the trustee in bankruptcy discovered over \$2,000.00 in cash which apparently was in the possession of the bankrupt at his place of residence and undisclosed on the bankruptcy schedules. The statement of affairs attached to the bankrupt's petition indicate that the bankrupt either kept no records or that records were lost in a fire. However, the trustee in bankruptcy has discovered what appear to be voluminous and detailed records of financial affairs of the bankrupt in his possession at his place of residence. In addition, the trustee has information which leads him to believe that the bankrupt had some interest in a Cadillac automobile and in corporations or other business entities which may, themselves, have assets which could arguably be said to be that of this bankruptcy estate.


The creditor who appeared in opposition to the motion to dismiss opposes the dismissal on the basis that there is now an opportunity for the financial affairs of the bankrupt to be ascertained and his assets distributed among his creditors. I gather that the creditor has concern that if this proceeding is dismissed, assets which might be available to satisfy in part claims of creditors may be dissipated in one way or another.

Given the posture of this proceeding, and given the opposition of the creditor and the trustee, it would appear to this Court that to dismiss this bankruptcy proceeding would neither be in the interests of creditors nor in the interests of the integrity of this Court. It would make a mockery of the bankruptcy system to permit the bankrupt to conceal assets and, when discovered, permit dismissal to the prejudice of creditors.

A separate order is entered in accordance with the foregoing.

DATED: September 6, 1979.

BY THE COURT:



U.S. Bankruptcy Judge

Copies mailed to each of the following:

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