

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF

ROBERT'S SHEET METAL CO.,
BANKRUPT

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CASE NO. BK79-0-82

MEMORANDUM OPINION

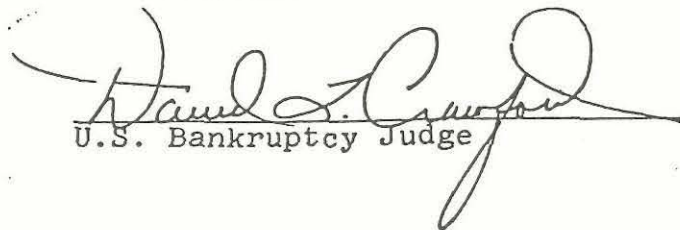
Before me are applications for fees and expenses which came on at the final meeting of creditors. The principal officer of the bankrupt objects primarily to the allowance of the fee application of the attorney for the petitioning creditors in this proceeding. This proceeding began as an involuntary proceeding and, after hearing on the merits, adjudication resulted. The debtor opposed adjudication which led the petitioning creditors' attorney to expend time in pursuing the matter. The ultimate conclusion which this Court reached to justify adjudication was that the debtor had made a fraudulent conveyance of a major portion of its property with actual intent to frustrate and to delay creditors in their collection efforts. The real reason for objecting to the fee for the petitioning creditors is that if it is allowed, the principal officers of the corporation will be liable for the payment of trust fund taxes not paid by bankrupt.

Had the debtor not resisted adjudication, the fee application would not have been as large.

On balance, it does not seem justifiable to permit the bankrupt to resist an involuntary petition and then complain that the efforts expended by the petitioning creditors' attorney was unjustified. Considering the services rendered, the hourly rates requested and the other matters for consideration, the Court's conclusion is that the attorney fee requested by the petitioning creditors is reasonable and should be allowed.

DATED: February 24, 1981.

BY THE COURT:


U.S. Bankruptcy Judge

Copies mailed to each of the following:

Jay L. Welch, Attorney, Suite 1, 212 So. 108 Ave., Omaha, Ne. 68154
William L. Biggs, Jr., Attorney, 1800 First Nat'l. Center, Omaha, Ne. 68102
Monte M. Taylor, Attorney, 9910 North 48th Street, Omaha, Ne. 68152
Merle Nicola, 2962 Harney Street, Omaha, Nebraska