

10/4/79

IN THE UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

In the Matter of

IN BANKRUPTCY

DALE JAMES ACKERMAN

No. 78-00421 Vol.

Bankrupt

WISCONSIN HIGHER EDUCATIONAL
AIDS BOARD

Plaintiff

vs.

DALE JAMES ACKERMAN

Defendant.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND JUDGMENT

At Eau Claire, in said district, this 4th day of
October, 1979.

The above named plaintiff having duly filed its Complaint in the above entitled matter praying that the debt due said plaintiff by the defendant is not dischargeable in these proceedings; and an Answer having been filed by the defendant; and a trial held in said matter; and the defendant having contended that said debt is dischargeable under the existing Bankruptcy Law prior to the 1978 amendments thereto based on the hardship provision thereof; and the witnesses having been sworn; and the Court having considered the arguments of counsel and the briefs filed herein, and being fully advised in the premises, FINDS:

1. That on August 2, 1978, the plaintiff filed its Complaint objecting to the dischargeability of its debt, and on September 1, 1978, defendant filed his Answer thereto which stated undue hardship as a legal and constitutional defense.
2. That the legal and constitutional issues were previously decided by the Court by Memorandum Decision filed by

the Court on February 22, 1979, and thereafter the trial on the issue of undue hardship was duly held before this Court.

3. That the evidence shows defendant has a present budget in which there is approximately three dollars difference in his income over his expenses.

4. That to try to guess what his future earnings will be is entirely unsatisfactory in determining the issues herein.

5. That the defendant has sustained his position that to deny the discharge of said debt would be undue hardship to him in light of the present Bankruptcy Law.

CONCLUSIONS OF LAW

That Judgment should be entered dismissing plaintiff's Complaint and granting a discharge to the defendant herein without costs to either party.

J U D G M E N T

NOW, THEREFORE IT IS ORDERED AND ADJUDGED:

1. That the plaintiff's Complaint be and the same is hereby dismissed upon the merits and without costs to either party.

2. That any indebtedness claimed by said plaintiff be and the same is hereby subject to discharge and release in accordance with the provisions of the Bankruptcy Act.

3. That the aforesaid indebtedness, if any, so claimed of the bankrupt to the plaintiff be and the same is hereby discharged and released.

4. Any judgment heretofore or hereafter obtained in any Court other than this Court in respect of the aforesaid indebtedness is null and void as a determination of the personal liability of the bankrupt in connection with the said indebtedness.

5. Wisconsin Higher Educational Aids Board be, and it hereby is enjoined from instituting or commencing any action or employing any process to collect the aforesaid indebtedness as a personal liability of the above named bankrupt.

BY THE COURT:


Bankruptcy Judge