

6/16/80

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

In the Matter of

IN BANKRUPTCY

ROBERT R. BUTT, d/b/a
Robert Butt, Builder
R-J Enterprises, Inc.
AR-Jay Enterprises, Inc.
R-J Pools
AR-Jay Pools

No. 79-00118 Vol.

Bankrupt

J. F. WARNKE & SONS
BUILDING CENTER, INC.

Plaintiff

-vs-

ROBERT R. BUTT, d/b/a
Robert Butt, Builder
R-J Enterprises, Inc.
AR-Jay Enterprises, Inc.
R-J Pools
AR-Jay Pools

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

At Eau Claire, in said district, this 16th day of June, 1980.

The plaintiff in the above entitled action having duly filed a complaint objecting to the discharge of the above named bankrupt-defendant; and the defendant having filed his answer herein; and the parties having duly stipulated in writing as to the facts and that the Court make a determination of said matter based on the law without further trial; and counsel having presented their arguments, and upon all of the record and proceedings, the stipulation and plaintiff's memorandum brief; and the Court being fully advised in the premises, FINDS:

1. That the above named bankrupt duly filed a petition in bankruptcy on the 2nd day of February, 1979.
2. That for several years prior to the date of the filing of said bankruptcy petition the bankrupt was a general contractor engaged in the construction of homes and other buildings and the

remodeling thereof upon real estate in the area where he lived.

3. That for several years prior to the date of the bankruptcy, defendant purchased from the plaintiff such material and supplies to be used on said properties.

4. That defendant received payment for said material and supplies from the owners of the various properties but failed to pay for such materials and supplies which he purchased from the above named plaintiff.

5. That the sum due said plaintiff is the sum of \$7,201.55 together with interest thereon as claimed in said complaint, less a credit thereon of \$500.00 which was paid prior to the filing of the petition herein.

6. That based upon Wisconsin Statutes 289.02 (5) and various cases decided in the Courts of the State of Wisconsin and the Federal Districts of Wisconsin, said debt is non-dischargeable due to the misappropriation or defalcation of the funds.

See Bastian v. LeRoy, 20 Wis. 2d, 470.

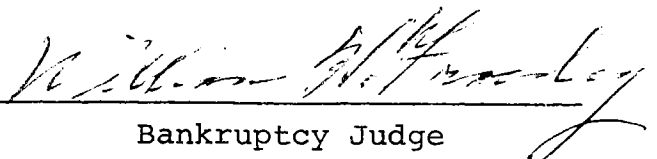
CONCLUSIONS OF LAW

That an order be entered determining the debt due said plaintiff to be non-dischargeable under the Bankruptcy Act.

O R D E R

NOW, THEREFORE, IT IS ORDERED: That the debt owed to the plaintiff by the defendant as set forth in the complaint herein is not dischargeable, and that plaintiff have judgment against the defendant in the sum of \$7,021.55 together with interest thereon as stated in the stipulation on file herein.

BY THE COURT:


Bankruptcy Judge