

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

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MID-WISCONSIN PROCESS POTATO  
GROWERS, INC.,

Debtor

Adversary No. 81-0004

CARY M. BROOKS, DONALD D.  
GAY, OLAF E. LARSON, EARL R.  
LARSON, limited partners in  
Montello Farm Associates

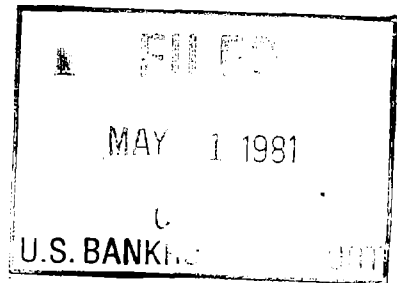
Plaintiffs

vs.

MID-WISCONSIN PROCESS POTATO  
GROWERS, INC.

Defendant.

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ORDER DENYING MOTION TO DISMISS COMPLAINT

At Eau Claire, in said district, this 1st day of May,  
1981.

The above named plaintiffs having duly filed a complaint objecting to the dischargeability of their debt; and a summons and notice of pre-trial conference having been issued by the Court with the pre-trial conference to be set for February 26, 1981; and the debtor having duly filed a motion to dismiss the complaint based on the claim that the complaint was not filed within the proper time in said proceedings; and the parties having duly appeared by their respective counsel on the date scheduled for said pre-trial hearing; and each of the attorneys having made his oral argument; and written briefs having been filed by the respective counsel; and the Court having duly considered all of the record and briefs and arguments of counsel, and being fully informed in the premises, FINDS:

1. That the said debtor was duly adjudicated a debtor in said proceedings on the 19th day of March, 1980.
2. That the Court in said proceedings made no date or written order fixing the time for filing a complaint under section 17c(2) of the Act.

3. That because of the nature of plaintiffs' claim and the trial of the action in the Circuit Court of Marquette County, the plaintiffs could not have filed a complaint as claimed by the debtor.

4. That the correct rule applicable in this particular case is Rule 11-48 which provides in part that "If such an order is not made, a complaint to determine the dischargeability of a debt under clause (2), (4), or (8) of section 17a of the Act may be filed at any time."

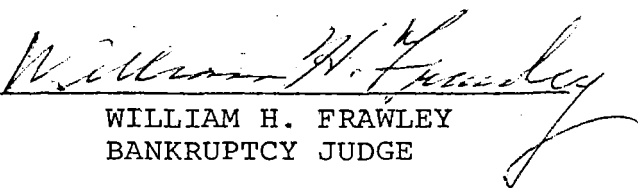
CONCLUSIONS OF LAW

That the Court enter an order dismissing the debtor's motion herein.

O R D E R

NOW, THEREFORE, IT IS ORDERED: That the motion of the debtor to dismiss the plaintiffs' complaint as being barred by the statute of limitations under bankruptcy proceedings be and the same is hereby dismissed, and the debtor is given twenty days in which to answer the plaintiffs' complaint.

BY THE COURT:

  
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WILLIAM H. FRAWLEY  
BANKRUPTCY JUDGE