

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WISCONSIN

DEC 26 1984

U.S. BANKRUPTCY COURT

In re:

Case Number:

JAMES E. LASZEWSKI  
JANITH G. LASZEWSKI

WF11-81-01502

Debtor.

FINDINGS OF FACT, CONCLUSION OF LAW  
AND  
ORDER CONVERTING PROCEEDINGS

Fidelity & Deposit Company of Maryland (Fidelity), by Attorney Rhea A. Myers, having filed a Motion for Conversion to Chapter 7; and hearings having been held; and Fidelity appearing by counsel; and Debtors Janith G. and James E. Laszewski appearing by Attorney Thomas J. Molinaro; and briefs having been filed; the Court, being fully advised in the premises, FINDS THAT:

1. On August 28, 1981, Debtors James E. and Janith G. Laszewski filed for relief under Chapter 11 of the Bankruptcy Code.

2. On May 27, 1982, this Court approved the Debtors' proposed plan of reorganizaion.

3. No payments have been made pursuant to said plan.

4. On July 22, 1983, Fidelity & Deposit Company of Maryland (Fidelity) commenced an action against the Debtors in Portage County, Wisconsin, Circuit Court. The Debtors have counter-claimed in that matter.

5. Under 11 U.S.C. sec. 1112(b)(8), this Court may convert a Chapter 11 proceeding to a Chapter 7 proceeding when there has been a material debtor default with respect to a confirmed plan.

6. This is such a case.

7. Even if, as the Debtors argue, Fidelity is estopped from moving for conversion to Chapter 7, this is an appropriate case for this Court to determine the merits of the motion at bar sua sponte. See In re Telemark Mgmt. Co., Inc., 41 B.R. 501, 506-507 (Bankr.W.D.Wis. 1984).

CONCLUSION OF LAW

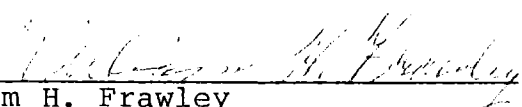
The above captioned proceeding should be converted to a Chapter 7 proceeding.

ORDER

IT IS ORDERED THAT the above captioned Chapter 11 bankruptcy proceeding be, and the same hereby is, CONVERTED to Chapter 7 of the Bankruptcy Code.

Dated: December 20, 1984.

BY THE COURT:

  
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William H. Frawley  
U. S. Bankruptcy Judge

cc: Attorney Rhea A. Myers  
Attorney Thomas J. Molinaro