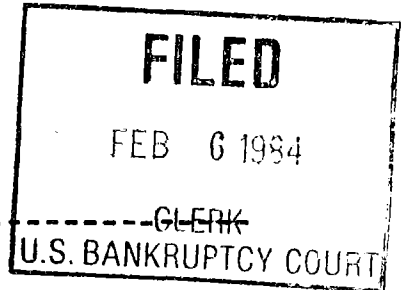


UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WISCONSIN



In re:

Case Number:

EUGENE E. BRUHL, d/b/a  
NORTHWOODS DISPOSAL,

WF11-83-00246

Debtor.

FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND  
ORDERS DENYING OBJECTION AND CONFIRMING PLAN<sup>1</sup>

Debtor-in-possession Eugene E. Bruhl, by his attorney, Daniel B. Scrobell of Scrobell & Associates, Ltd., having filed a modified Plan of Reorganization; and Thorp Finance Corporation, by its attorney, John M. Cirilli of Cirilli Law Office, having filed an Objection to Confirmation of Plan; and a Confirmation Hearing having been held; and the debtor appearing in person and by attorney; and the objector appearing by attorney; and the Court having heard the testimony and the arguments of counsel, and considered the briefs submitted, and all the record and proceedings herein, FINDS:

1. That the debtor-in-possession, Eugene E. Bruhl, filed

<sup>1</sup> This document complies with Bankruptcy Rule 3020(c). Cf. In re Rennels, No. 38301364, \_\_\_\_\_ B.R. \_\_\_\_\_ (Bankr. W.D.Ky. Jan. 20, 1984) (construing "shall" in 11 U.S.C. sec. 524(1982) ).

for relief under Chapter 11 of the Bankruptcy Code on February 11, 1983.

2. That, with the exception of Thorp Finance Corporation (Thorp), no creditor has voted to reject the proposed plan.

3. That Thorp does not dispute, and this Court so finds, that the proposed plan complies with 11 U.S.C. sec. 1129(a)(1), (2), (4)-(7), (9) & (10) (1982).

4. Good Faith. That Thorp argues that the proposed plan has not been proposed in good faith because it does not provide adequately for the personal and family needs of the debtor, cf. finding 10 et seq, and that, accordingly, the proposed plan does not comply with 11 U.S.C. sec. 1129(a)(3)(1982).

5. That good faith, in the context of sec. 1129(a), means without ulterior motive. See 5 Collier on Bankruptcy para. 1129.02[a] (15th ed. 1983).

6. That the proposed plan has been proposed in good faith and not by any means forbidden by law and it complies with sec. 1129(a)(3).

7. Acceptance or Cramdown. That Thorp argues that it has not accepted the plan and that, with respect to Thorp, the plan is not fair and equitable--to wit, Thorp is not adequately protected.

Thus, Thorp argues, the proposed plan does not comply with 11 U.S.C. sec. 1129(a)(8)(1982) or with 11 U.S.C. sec. 1129(b)(1982).

8. That, according to the bankruptcy schedules filed by the debtor, Thorp is a secured lender with two claims: One claim amounting to \$6,822, is secured by collateral with a market value of \$26,150. The other claim, amounting to \$1,918, is secured by collateral with a market value of \$4,000.

9. That Thorp is amply protected and that the proposed plan complies with sec. 1129(b) (which overrides the necessity for compliance with sec. 1129(a)(8) ).

10. Feasibility. That Thorp argues that the possibility of adverse events (bad weather, price wars, interest rate increases and equipment failure), inadequate business income and inadequate personal income indicates that the proposed plan will likely be followed by liquidation or further reorganization and that, accordingly, the proposed plan does not comply with 11 U.S.C. sec. 1129(a)(11)(1982).

11. That, while this Court does not discount the possibility for the recurrence of the adverse events which have plagued the debtor, it is not willing to find that said events are likely.

12. That, even if some of said adverse events reoccur, the proposed plan is not likely to result in liquidation or further reorganization. See findings 13 & 15.

13. That, in calendar year 1983, the debtor showed a before debt service profit of \$12,169. And that some of the adverse events set out at Finding 10 occurred in 1983.

14. That the proposed plan calls for payments to creditors totalling \$11,736 during the first 12 months and lesser amounts in subsequent years.

15. That, even assuming that the debtor's operation is no more profitable than in 1983, business income will be sufficient to prevent liquidation or further reorganization.

16. That the debtor's only non-business source of income in 1983 was approximately \$3,600 he earned as a school bus driver.

17. That the debtor's wife, who gave birth in May of 1983, did not work in 1983 but is willing to seek employment to support the Bruhl family in 1984.

18. That the debtor's school bus income, coupled with potential income from business profits and spousal employment, is sufficient to prevent a finding that liquidation or further reorganization would be the likely result of the proposed plan.

19. That the proposed plan is feasible and complies with sec. 1129(a)(11).

CONCLUSIONS OF LAW

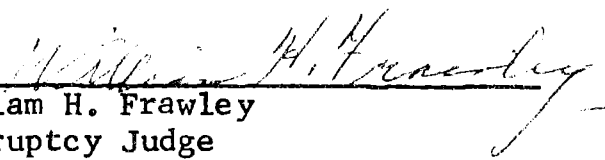
1. That the objection to the proposed plan should be denied.
2. That the proposed plan meets the requirements of 11 U.S.C. sec. 1129(1982) and should be confirmed.

ORDER

IT IS ORDERED THAT:

- (1) The Objection to the debtor's modified Plan of Reorganization, filed by Thorp Finance, is hereby denied.
- (2) The modified Plan of Reorganization filed by the debtor is hereby confirmed.

Dated: February 6, 1984. BY THE COURT:

  
\_\_\_\_\_  
William H. Frawley  
Bankruptcy Judge