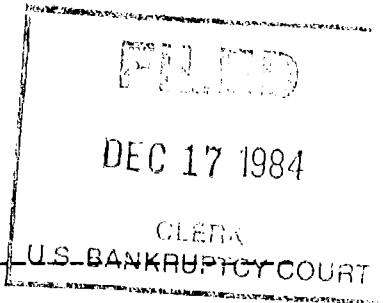


UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN



In re:

Case Number:

HARRY TELFORD
SANDRA TELFORD
d/b/a Telford Interiors of Tomah,

Debtors.

LF11-83-01614

HARRY TELFORD and SANDRA TELFORD
d/b/a Telford Interiors of Tomah,

Plaintiffs,

Adversary Number:

v.

84-0172-11

DOUGLAS F. MANN,

Defendant.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND
ORDER FOR DISCOVERY AND TRIAL

Debtors Harry and Sandra Telford, by Radcliffe & Laabs, having filed a Complaint; and Defendant Douglas F. Mann, by Hale, Skemp, Hanson & Skemp, having filed an Answer; and a pre-trial conference having been held; and the Debtors appearing by Attorney Gene B. Radcliffe; and the Defendant appearing by Attorney David B. Russell; and pre-trial briefs having been filed; the Court, being fully advised in the premises, FINDS THAT:

1. Between June 22 and October 6, 1983, as a result of various supplementary proceedings in Milwaukee County Circuit Court, Court Commissioner Richard A. McDermott appointed Attorney Douglas F. Mann receiver of all "property, equitable interests, claims, rights and things in action . . . except such as are exempt by law from execution" of Debtors Sandra and Harry Telford. The supplementary proceedings, instituted by various unsecured creditors of the Debtors, were based upon various Milwaukee County Judgments against the Debtors.

2. The appointment provided that Mr. Mann "not be required to furnish any bond until assets come into his possession, at which time, he shall report the facts to said Court Commissioner for such further orders as he shall deem necessary and proper."

3. The orders of appointment also require the Debtors to cooperate with Mr. Mann.

4. Mr. Mann took control of the Debtors' business premises and assets, closed the business, sold some of the assets and prepared for an October 11, 1983, public liquidation sale of the remaining assets.

5. On October 6, 1983, the Debtors filed for relief under Chapter 11 of the Bankruptcy Code.

6. The Debtors have commenced this action to recover improper or excessive disbursements by a custodian, 11 U.S.C. sec. 543(c)(3), preferential or fraudulent transfers, 11 U.S.C. secs. 547(b) & 548(a)(2), property held by a custodian, 11 U.S.C.

sec. 543(b)(1), and damages resulting from injury to the Debtors' business, e.g., 45 Am.Jur.2d Interference sec. 58 (1969).¹

7. Mr. Mann has raised the affirmative defense of estoppel and counterclaimed for attorneys fees and costs, 11 U.S.C. sec. 543(c), McCandless v. Great Atlantic & Pac. Tea Co., Inc., 697 F.2d 198, 200-201 (7th Cir. 1983), Fed.R.Bankr.P. 7054(b), Wis. Stats. sec. 814.025.

CONCLUSION OF LAW

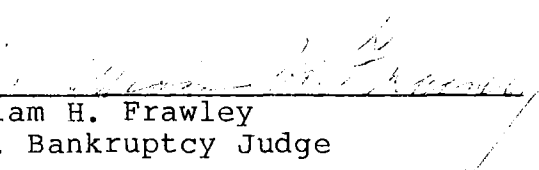
An evidentiary hearing is required to resolve the factual issues which remain.

ORDER

IT IS ORDERED THAT the above captioned matter proceed to discovery and, if necessary, trial.

Dated: December 17, 1984.

BY THE COURT:


William H. Frawley
U. S. Bankruptcy Judge

¹ Mr. Mann has attacked the propriety of the Debtors' Complaint under Fed.R.Bankr.P 7008 (complaint must allege jurisdiction). Three of the Debtors claims rest on the Bankruptcy Code and the fourth falls within this Court's pendent jurisdiction, United Mine Workers of America v. Gibbs, 383 U.S. 715, 725, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966) (constitutional pendent jurisdiction). That the Complaint does not explicitly allege jurisdiction is not fatal. In re Wood, 33 B.R. 320, 321 note 2, 11 B.C.D. 111, 112 note 2 (Bankr.D.Idaho 1983).