

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

FILED

AUG 17 1984

CLERK

U.S. BANKRUPTCY COURT

In re:

Case Number:

PHOENIX PARTNERS,

LF-84-00493

Debtor.

FINDINGS OF FACT, CONCLUSION OF LAW
AND
ORDER DECLARING AUTOMATIC STAY INAPPLICABLE¹

Patricia F. Wernecke, by Attorney John H. Schwab, Jr., having filed certain motions and informal requests; and the Debtor being represented by Attorneys Donald J. Harman and Margaret Dee McGarity; the Court, being fully advised in the premises, FINDS THAT:

1. On May 21, 1984, Patricia F. Wernecke filed a motion with this Court which contained the following prayer for relief (emphasis added):

WHEREFORE, Patricia F. Wernecks, Movant herein, moves this honorable court to enter its Order (a) declaring that the subject property is not part of the estate, (b) directing that the Debtor in possession abandon the subject property, or (c) granting to the Movant relief from the stay so that she may proceed with her state court action and otherwise conclude the perfection of her interests in the subject property.

¹ An identical decision and Order is entered this day in In re Midwest Partners, LF11-84-0492.

2. On July 12, 1984, this Court granted Ms. Wernecke's motion and declared certain property was not part of the above captioned estate.

3. On July 30, 1984, Ms. Wernecke filed a motion with this Court which contained the following prayer for relief:

WHEREFORE, Patricia F. Wernecke, Movant herein, moves this honorable court to enter its Order granting to the Movant relief from the stay so that she may proceed with her state court action and otherwise conclude the perfection of her interests in the subject property.

4. On August 3, 1984, this Court received a letter from Ms. Wernecke requesting that this Court either grant the May 21 relief from stay motion or "clarify" that the July 12 Order permits Ms. Wernecke to conclude a quiet title action.

5. By a letter dated August 10, 1983, Ms. Wernecke was informed that it was the position of this Court that the July 12 Order disposed of the issues raised by Ms. Wernecke's May 21 motion and August 3 letter. However, the Court indicated that it would sign a "comfort" Order to that effect.

6. On August 15, 1984, this Court received a request from Ms. Wernecke that such an Order be signed.

7. All of the foregoing has been served by mail upon the attorneys for the Debtor. This Court has received no correspondence from said attorneys relative to the matters set forth in paragraphs 3-6 above.

CONCLUSION OF LAW

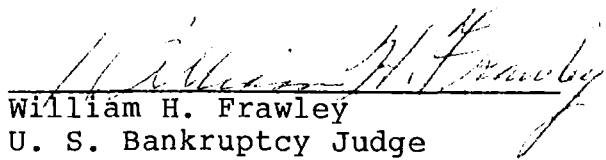
The automatic stay does not apply to any act necessary to quiet title to property declared not to be a part of the above captioned bankruptcy estate. First Fin. Sav. and Loan Ass'n. v. Winkler, 29 B.R. 771, 773-775 (N.D.Ill. 1983) (cited with approval in paragraph 14 of this Court's Order of July 12).

ORDER

IT IS ORDERED THAT the provisions of 11 U.S.C. sec. 362(a) are declared to be, and the same hereby are, inapplicable to acts by Patricia F. Wernecke to quiet title to property previously declared not to be a part of the above captioned bankruptcy estate.

Dated: August 17, 1984.

BY THE COURT:



William H. Frawley
U. S. Bankruptcy Judge