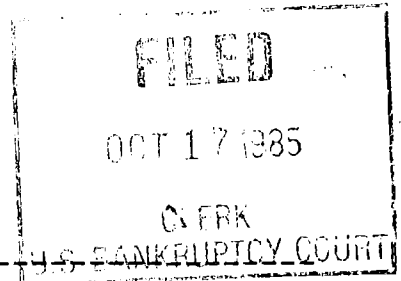


UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN



In re: Case Number:
HOME OIL, INC. EF7-85-01132 INV.
Debtor.

OPINION AND ORDER FOR EVIDENTIARY HEARING

Petitioners Mobil Oil Corporation, Jacobus Quick Flash/Madison, Inc., and McFarland Parts and Service have filed an involuntary case under Chapter 7 of the Bankruptcy Code against debtor Home Oil, Inc. Debtor has moved for abstention pursuant to 11 U.S.C. § 305(a)(1).

A hearing in this matter was held on August 26, 1985. Petitioners appeared by Attorney David R. Carlson and debtor by Attorney Peter F. Herrell. The parties have submitted briefs on debtor's abstention motion.

A bankruptcy court possesses the power to dismiss an involuntary petition when a dismissal will enhance the rights of the creditors. In re Bailey's Beauticians Supply Co., 671 F.2d 1063, 1067 (7th Cir. 1982). The court should consider the interests of the creditors as a whole. Id. at 1066. A decision to dismiss under sec. 305(a)(1) is discretionary and will be reversed only if there is an abuse of discretion.

Both parties have made assertions in support of their respective positions. In order for the court to be able to fully

assess these assertions a further evidentiary hearing will be necessary. Evidence is required for the court to determine whether abstention would be in the best interests of the creditors as a whole.

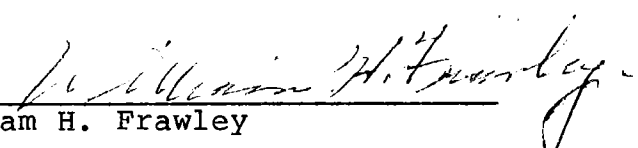
This opinion shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052.

ORDER

IT IS ORDERED THAT this matter shall be scheduled for an evidentiary hearing.

Dated: October 17, 1985.

BY THE COURT:



William H. Frawley

U. S. Bankruptcy Judge

cc: Attorney David R. Carlson
Attorney Peter F. Herrell