

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:)
)
WENDELL C. BRUCE)
)
Debtor.) BK No. 97-41148
)
MICHELLE VIEIRA, TRUSTEE)
In Bankruptcy)
)
Plaintiff,)
)
vs.)
)
WENDELL C. BRUCE and) ADV. No. 98-4033
MIKE VICKERY & DIANA L.)
VICKERY,)
)
Defendants.)

JUDGMENT ORDER

This cause comes on the Complaint of the Plaintiff, Michelle Vieira, Trustee in Bankruptcy of the Debtor, Wendell C. Bruce and the Answer of the Defendants, Michael Vickery and Diana L. Vickery. This Court has received evidence and arguments of counsel at trial. The Court Finds:

1. That the Court has jurisdiction over this proceeding.
2. That the Debtor, Wendell C. Bruce, acquired certain funeral homes over a period of two years from William Edwards. In the last few years said homes had been operated by Mr. Edwards, then leased to Gaskins Funeral Homes, then managed by Mr. Bruce, then purchased by Mr. Bruce.

3. Mr. Bruce does not appear to be a knowledgeable purchaser or businessman. Mr. Bruce's testimony was that he did not bargain over the purchase price of the Funeral Homes but simply gave the amount Mr. Edwards requested and did not know what was actually purchased, in that there was no inventory taken or list of what was being bought, nor did Mr. Bruce look at any financial information or records concerning the business prior to the purchase. While under Mr. Bruce's ownership business dropped to less than One Thousand Dollars (\$1,000.00) per month being earned.

4. Mr. Bruce borrowed Seventy Thousand Dollars (\$70,000.00) from the National Bank of Carmi which was the maximum they would loan for the purchase of the business based upon the cash flows of the business and its value per Mr. Jim Whetstone, President and CEO of the National Bank of Carmi, who also testified that the loan was in trouble from beginning and additional operating funds of \$5,000.00 were required to keep business going.

5. A Mr. Tony Cox, testified that he at one time prior to the sale to Mr. Bruce, had offered to purchase the business from Mr. Edwards, and that Mr. Edwards would let him know, however he never contacted Mr. Edwards again nor did he look at any financial information or take an inventory or appraisal of the business. Mr. Cox is a competitor of Mr. Vickery and stated that

he was interested in buying the business but would need to look at the business again to see what was gone before offering an amount for the home as he thought a computer and hearse were gone from the business.

6. A Mr. Gary Hicks testified about values for the Funeral Homes based on formulas that he has used in the past in buying Funeral Homes for a Kentucky corporation. Mr. Hicks stated he had not examined the financial records of the homes in question and that there were several factors that could effect the formulas used and their results.

7. A Mr. Kevin W Bragee, CPA, testified that he had done a financial analysis of the business in 1994 before the business had gone through a down turn in business and several changes in management and stated the value to be between \$75,000.00 and \$100,000.00.

8. Mr. Mike Vickery testified that he had borrowed \$75,000.00 to purchase the Funeral business and he had borrowed an additional \$10,000.00 to repair and improve the business. These loans were obtained from the National Bank of Carmi which required additional collateral to be furnished for the loan, that being a house owned by Mr. Vickery.

Wherefore, **IT IS THE JUDGMENT OF THIS COURT THAT:**

1. Defendants, Michael Vickery and Diana L. Vickery, paid

a reasonably equivalent value for the real estate and personal property of the Funeral Homes purchased from the Debtor, Wendell C. Bruce.

2. Plaintiff's, Michelle Vieira, Trustee in Bankruptcy of Debtor, Wendell C. Bruce, Complaint to Avoid Fraudulent Transfer of Property is denied.

DATED: APRIL 15, 1999

/s/ LARRY LESSEN
UNITED STATES BANKRUPTCY JUDGE