JDG-ADVH
(4/91 IAN)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

In re:

Walter Ronald Burnette
Catherine L. Burnette
Debtor

CHAPTER 7
Case No.

L88-01044W

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
SEP 08 1995
BARBARA A. EVERLY, CLERK

W-V Enterprises, Inc., and
E. Michael Wayland, assignee
of Federal Savings & Loan Corporation,
as Receiver for North Kansas Savings Assoc.
Plaintiff

v.

Walter Ronald Burnette
Defendant

Adversary Proceeding No.
L88-0246W

JUDGMENT

This proceeding having come on for trial or hearing before the court, the Honorable Paul J. Kilburg, United States Bankruptcy Judge, presiding, and the issues having been duly tried or heard and a decision having been rendered,

IT IS ORDERED AND ADJUDGED: That Plaintiffs have judgment against the Defendant in the sum of $1,000,000.00 plus interest at the rate of 18% from and after June 21, 1980 to and until the date of the judgment entry on this Order.

[Seal of the U.S. Bankruptcy Court]
Date of Issuance: September 8, 1995

BARBARA A. EVERLY
Clerk of Bankruptcy Court
By: Marcia A. Goley
Deputy Clerk

Recorded Vol V
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NORTHERN DISTRICT OF IOWA

SEP 08 1995

BARBARA A. EVERLY, CLERK

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:	)	
	)	
WALTER RONALD BURNETTE and CATHERINE L. BURNETTE,	)	Case No. BKY L-88-01044W
	)	
Debtors,	)	Adv. Case No. 1-88-0246W
	)	
W-V ENTERPRISES, INC. and E. MICHAEL WAYLAND, assignees of FEDERAL SAVINGS & LOAN CORPORATION, as Receiver for NORTH KANSAS SAVINGS ASSOC.,	)	
Plaintiffs,	)	
	)	
vs.	)	
WALTER RONALD BURNETTE,	)	
	)	
Defendant	)	

ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

On August 30, 1995, a hearing was held on the Plaintiff's Motion for Summary Judgment after due and proper notice to all interested parties. Plaintiffs appeared through counsel, Dan Childers. Defendant did not appear, either personally or through counsel.

After reviewing the record and hearing statements of Plaintiffs' counsel, the Court makes the following findings of fact and conclusion of law and order:

FINDINGS OF FACT

1. Plaintiffs' Motion for Summary Judgment, filed on or about May 1, 1995 and Plaintiffs' Supplement to Motion for Summary Judgment have not been resisted by Defendant as of the date and time of this hearing.

2. Plaintiffs have propounded Requests for Admissions to Defendant, which were not timely admitted or denied.

3. Defendant's Responses, which were finally submitted more than thirty (30) days past their due date, consisted substantially of Defendant's invocation of his fifth amendment privilege against self-incrimination, rather than admitting or denying the request as propounded.

4. It would appear from Plaintiff's Supplement to Motion for Summary Judgment that the statute of limitation has expired for any criminal offense for which the self-incrimination immunity is being propounded.

CONCLUSIONS OF LAW

1. Pursuant to Federal Rule of Bankruptcy Procedure (FRBP) 7056 (incorporating into Adversary Proceedings the applicability of Rule 56 of the Federal Rules of Civil Procedure), the Plaintiffs are entitled to Summary Judgment because Defendant has failed to respond to the Motion and it appears from the Motion and other pleadings in the file that Summary Judgment is otherwise appropriate.

2. Based upon the Defendant's failure to timely deny requests for admissions, it would be appropriate for the Court to determine that Defendant has admitted liability and damages and that summary judgment should be entered as a matter of law.

3. Based upon Defendant's invocation of his rights against self-incrimination under the fifth amendment, it is appropriate for the Court to assume that Defendant's Response, if given, would have been supportive of Plaintiff's position. Therefore, it would appear that Summary Judgment is appropriate to Plaintiffs under the circumstances.

IT IS THEREFORE ORDERED that Plaintiffs have judgment against the Defendant in the sum of $1,000,000.00 plus interest at the rate of 18% from and after June 21, 1980 to and until the date of the judgment entry on this Order. A separate judgment shall be entered by the Court.

ORDERED this 2 day of September, 1995.

PAUL J. KILBURG, Judge
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

Order prepared and submitted by:
Dan Childers - I.D. No. 404746700
Childers & Fiegen, P.C.

Copy to: U.S. Trustee;
Dan Childers,
Charles D. McAtee
Mike Wayland
Robert Thompson
(w/judgment)
this September 8, 1995
Deputy Clerk, Bankruptcy Court
PO Box 74890
Cedar Rapids, IA 52407