

United States Bankruptcy Court

For the NORTHERN District of IOWA

IN RE: JEROME S. MUNRO and DIANE MUNRO,
Defendants.

Chapter 7

Case No. X90-00742S

WIL L. FORKER, Trustee, Plaintiff
v.

JEFFREY S. MUNRO and
MATTHEW MUNRO, Defendant s

Adversary Proceeding No. X90-0152S

JUDGMENT

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

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

MAY 22 1991

BARBARA A. EVERLY, CLERK

[OR]

The issues of this proceeding having been duly considered by the Honorable
WILLIAM L. EDMONDS, United States Bankruptcy Judge, and a decision
having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED:

that the disclaimer of bequest of Diane Munro filed March 14, 1990
in the estate of Irwin Reinking, Sioux County Probate No. 1406 is
avoided as a fraudulent conveyance under 11 U.S.C. § 548(a)(2).

IT IS FURTHER ORDERED AND ADJUDGED that any right, title or
interest bequeathed to Diane Munro by Irwin Reinking in the following
described real property passed to the bankruptcy estate by virtue
of 11 U.S.C. § 541 (see attached page).

Vol. III
Page 24



*copies mailed with Clerk
5-22-91, JSM*

BARBARA A. EVERLY
Clerk of Bankruptcy Court

[Seal of the U.S. Bankruptcy Court]

Date of issuance: 5/24/91

By: Lavinia McElroy
Deputy Clerk

1. The Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Twenty-one (21), Township Ninety-four (94) North, Range Forty-five (45) West of the 5th P.M., Sioux County, Iowa.

2. The Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section Twenty-one (21), Township Ninety-four (94) North, Range Forty-five (45) West of the 5th P.M., Sioux County, Iowa.

3. The Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty-one (21), Township Ninety-four (94) North, Range Forty-five (45) West of the 5th P.M., excepting therefrom a tract of land described a commencing 479 Feet East of the Southwest Corner of the Southeast Quarter (SE1/4) of said Section 21, Township 94 North, Range 45 West of the 5th P.M., thence 495 Feet East thence 440 Feet North, thence 495 Feet West, thence 440 Feet South to the point of beginning, containing approximately 5 acres, more or less, all in Sioux County, Iowa.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF I

MAY 22 1991

BARBARA A. EVERLY, CLERK

IN RE:

JEROME S. MUNRO and)	Chapter 7
DIANE MUNRO,)	
)	Bankruptcy No. X90-00742S
Debtors.)	

WIL L. FORKER, Trustee,)	
)	
Plaintiff,)	Adversary No. X90-0152S
)	
vs.)	
)	
JEFFREY S. MUNRO and)	
MATTHEW MUNRO,)	
)	
Defendants.)	

ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

On April 12, 1991, this court entered an order granting plaintiff's motion for summary judgment in part. The motion was granted as to defendant Jeffrey Munro. The motion was denied as to Matthew Munro because of failure to prove service of summons and complaint upon that defendant. The court set further hearing to examine the remedy which should proceed from the granting of the motion against Jeffrey Munro.

Further hearing was held May 22, 1991 in Sioux City, Iowa. Wil L. Forker appeared as plaintiff. Donald Molstad appeared as guardian ad litem for defendants Jeffrey and Matthew Munro. Theodore Karpuk appeared on behalf of debtors Jerome S. Munro and Diane Munro.

At the outset of the hearing, trustee presented the court with a certificate of service showing service of the summons and

complaint upon Matthew Munro. This certificate of service was file-stamped by the clerk of court with the file-stamp dated December 20, 1990. Apparently at the time Forker filed the certificate of service upon Jeffrey Munro, he also filed a certificate on Matthew, but the clerk inadvertently returned the certificate to him believing it was a copy. The certificate of service upon Matthew Munro will be docketed. The court finds that there are no genuine issues of facts in dispute as to the plaintiff's complaint against Matthew Munro and that the plaintiff is entitled to judgment as a matter of law. The court concludes that the plaintiff is entitled to judgment against minor defendant Matthew Munro, that the disclaimer of bequest of Diane Munro filed on the estate of Irwin Reinking, Sioux County Probate No. 1406 was a fraudulent conveyance within the meaning of 11 U.S.C. § 548(a)(2). The court further concludes that such transfer should be avoided.

IT IS ORDERED that judgment should enter that the disclaimer of bequest of Diane Munro filed March 14, 1990 in the estate of Irwin Reinking, Sioux County Probate No. 1406 is avoided as a fraudulent conveyance under 11 U.S.C. § 548(a)(2).

IT IS FURTHER ORDERED AND ADJUDGED that any right, title or interest bequeathed to Diane Munro by Irwin Reinking in the following described real property passes to the bankruptcy estate by virtue of 11 U.S.C. § 541:

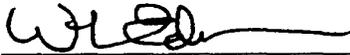
1. The Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Twenty-one (21), Township Ninety-four (94) North, Range Forty-five (45) West of the 5th P.M., Sioux County, Iowa.

2. The Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) of Section Twenty-one (21), Township Ninety-four (94) North, Range Forty-five (45) West of the 5th P.M., Sioux County, Iowa.

3. The Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty-one (21), Township Ninety-four (94) North, Range Forty-five (45) West of the 5th P.M., excepting therefrom a tract of land described a commencing 479 Feet East of the Southwest Corner of the Southeast Quarter (SE1/4) of said Section 21, Township 94 North, Range 45 West of the 5th P.M., thence 495 Feet East thence 440 Feet North, thence 495 Feet West, thence 440 Feet South to the point of beginning, containing approximately 5 acres, more or less, all in Sioux County, Iowa.

Judgment shall enter accordingly.

So ordered May 22, 1991.



William L. Edmonds, Bankruptcy Judge

I certify that on 5/22/91 copies of this order and judgment were served by U. S. mail on:

Jm
Donald H. Molstad
Wil L. Forker
Jerome and Diane Munro
Theodore Karpuk
John L. Rensink
U. S. Trustee