

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

IN RE:)

) Chapter 7

ROBERT W. PEPMEYER,)

)

Debtor.) Bankruptcy No. 00-02486

----- SHERYL YOUNGBLUT, Trustee,)

) Adversary No. 01-9207

Plaintiff,)

)

vs.)

) QUAG'S EQUIPMENT L.L.C.,)

)

Defendant.)

ORDER RE: MOTION FOR SUMMARY JUDGMENT

This matter came on for telephonic hearing on August 23, 2002 on Trustee's Renewed Motion for Summary Judgment. Defendant Quag's Equipment L.L.C. was represented by Attorney John Titler. Trustee/Plaintiff Sheryl Youngblut was represented by Attorney Eric Lam. After oral argument, the Court took the matter under advisement. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(F).

STATEMENT OF THE CASE

On April 25, 2002, the Court granted summary judgment on Trustee's claim under § 548(a)(1)(B). The Court concluded that Trustee established all the elements of a fraudulent transfer. Defendant moved for reconsideration the summary judgment order. On July 3, 2002, the Court granted Defendant's motion and denied Trustee's Motion for Summary Judgment on a theory of fraudulent transfer under § 548(a)(1)(B). Trustee now renews her motion for summary judgment. She asserts that a recent deposition of Debtor Robert Pepmeyer resolves earlier factual disputes.

This Court's previous rulings extensively set out the issues in this case. The Court denied summary judgment under § 547(b) in its April 25, 2002 ruling, concluding issues of fact exist regarding the parties' relationships and whether an antecedent debt existed. Next, the Court denied summary judgment on a theory of fraudulent transfer under § 548(a)(1)(B), concluding the determination of whether the Trustee is entitled to avoid transfers is fact-intensive in the present circumstances. It is complicated by the different roles Debtor occupied in relation to his defunct sole proprietorship, his wife's business which he managed and actions taken in his individual capacity.

Based on a review of the record, including exhibits presented at the hearing, the Court concludes summary judgment remains inappropriate in the circumstances. Defendant continues to deny the existence of certain facts which Trustee is required to prove under the legal theories presented. The Court prefers to decide this case on a full record after trial or on stipulated facts as the parties presently contemplate.

WHEREFORE, Trustee's Renewed Motion for Summary Judgment is DENIED.

SO ORDERED this 5th day of September, 2002.

PAUL J. KILBURG
CHIEF BANKRUPTCY JUDGE

