

done in the administration of the bankrupt estate. *Pepper v. Litton*, 308 U.S. 295. As pointed out by Mr. Justice Douglas in that case—

"Courts of bankruptcy are constituted by sections 1 and 2 of the Bankruptcy Act (30 Stat. 544) and by the latter section are invested "with such jurisdiction at law and in equity as will enable them to exercise original jurisdiction in bankruptcy proceedings." Consequently this Court has held that for many purposes "courts of bankruptcy are essentially courts of equity, and their proceedings inherently proceedings in equity." *Local Loan Co. v. Hunt*, 292 U.S. 234, 240. By virtue of section 2 a bankruptcy court is a court of equity at least in the sense that in the exercise of the jurisdiction conferred upon it by the Act, it applies the principles and rules of equity jurisprudence. *Larson v. First State Bank*, 21 F. 2d 936, 938. Among the granted powers are the allowance and disallowance of claims; the collection and distribution of the estates of bankrupts and the determination of controversies in relation thereto; the rejection in whole or in part "according to the equities of the case" of claims previously allowed; and the entering of such judgments "as may be necessary for the enforcement of the provisions" of the Act. In such respects the jurisdiction of the bankruptcy court is exclusive of all other courts. *United States Fidelity & Guaranty Co. v. Bray*, 225 U.S. 205, 217.

"The bankruptcy courts have exercised these equitable powers in passing on a wide range of problems arising out of the administration of bankrupt estates. They have been invoked to the end that fraud will not prevail, that substance will not give way to form, that technical considerations will not prevent substantial justice from being done. By reason of the express provisions of section 2 these equitable powers are to be exercised on the allowance of claims, a conclusion which is fortified by section 57 (k)."

General Order 55(4) requiring claimants when the claim is based upon the loan of money to establish that the claim is free from usury has already been referred to. Also, Sec. 656(b) of Chapter XIII (11 USC 1056(b)) places the unmistakable duty upon the court to require proof from each creditor filing a claim that such claim is free from usury.

The purpose of Chapter XIII proceedings is to aid those wage earners of limited means who wish to avoid straight bankruptcy and who desire to liquidate their debts out of future earnings through the medium of Federal Courts. If rehabilitation of the wage earner under Chapter XIII is to be effective, he must be relieved of obligations which he has been induced to undertake through fraud or other unlawful means, or which by their terms are illegal. To aid in attaining this objective, Congress has provided that every creditor asserting a claim against a wage earner must prove that his claim is not usurious. Sec. 656(b); General Order 55(4).

CONCLUSIONS

(1) *Burden of Proof.* In a Chapter XIII proceeding, when a claim is based upon the loan of money, the creditor must show to the satisfaction of the court that the claim is free from usury and all illegal charges. Sec. 656(b) Bankruptcy Act (11 U.S.C. 1056(b)); General Order 55(4).

(2) *Interest—"Flipping of Loans."* Merit "flipped" the loans under consideration for the purpose of obtaining an excess over the legal rate of interest. T.C.A. 47-14-104. *Providence A.M.E. Church v. Sauer*, supra; *Weatherhead v. Boyers*, supra.

(3) *Insurance Premiums.*

(a) The debtor did not request life or accident or health insurance. The issuance of such policies by Merit is contrary to the provisions of the statute. T.C.A. 45-2007(k); *Cobb v. Puckett*, supra.

(b) All insurance policies (life and accident and health and property) were issued by Merit's manager acting in a dual role of a conflicting interest. *Hagler v. American Road Insurance Company and Ford Motor Credit Co.*, supra.

(c) The debtor was not given an opportunity to supply Merit with property insurance. Merit can require insurance against the hazards to which its collateral is subject only upon failure of the borrower to supply such insurance. T.C.A. 45-2007(k). The debtor will be given an opportunity to supply such insurance from an insurance carrier of his own selection.

(4) *Investigation Charges.* Merit submitted no proof that it incurred any expense in investigating the moral and financial standing of the applicant, security