

Case No. 7,105.

IN RE ISIDOR ET AL.

{2 Ben. 123;¹ 1 N. B. R. 264 (Quarto, 33).}

District Court, S. D. New York.

Jan., 1868.

EXAMINATION OF BANKRUPTS—LACHES.

Where the bankrupts were examined by the assignees, and creditors filed specifications of opposition, which the court held irregular in form, and allowed them time to file new ones, and in the interim they applied for an order that the bankrupts attend and be examined under section twenty-six of the act [of 1867 (14 Stat. 529)] several months having elapsed since the proofs of the creditors' debt, and no reason for requiring a new examination being shown: *Held*, that the application must be denied.

{Cited in Be Frizelle, Case No. 5,132.}

{In the matter of Siegfried Isidor and Jules Blumenthal, bankrupts.}

BLATCHFORD, District Judge. In this case creditors oppose the discharges of the bankrupts, and filed specifications of opposition before the register, which, with all the papers in the case, have been transmitted to the court by the register. The court has held the specifications to be irregular in form, and has allowed ten days' time to the opposing creditors to file new specifications. The creditors now ask for an order that the bankrupts attend and submit to an examination, under section twenty-six of the act. This application is made on behalf of fourteen creditors, who have filed notices of the entry of appearances in opposition. One of such notices is on behalf of William Brunner & Co., who have not proved their debt. As to the other thirteen, the debts of three of them were proved July 22d, 1867; the debts of

eight of them were proved September 6th, 1867; the debt of one of them was proved September 12th, 1867; and the debt of the remaining one of them was proved November 22d, 1867. The day for showing cause against the discharge of the bankrupts was December 28th, 1867. Abundant opportunity was afforded to these creditors to examine the bankrupts on oath, under section twenty-six, but none of them took any steps for that purpose. The bankrupts were examined at considerable length by one of the assignees, on an order for that purpose obtained by the assignees. Those examinations took place from December 16th to December 27th, 1867, and are on file among the papers. Under these circumstances, I do not think it would be reasonable to require the bankrupts now to submit to a new examination under section twenty-six, especially as no reason for doing so is shown by affidavit

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]