

IN RE ROSENBERG.

{3 N. B. R. 73 (Quarto, 18).}<sup>1</sup>

District Court, S. D. New York. Aug. 4, 1869.

BANKRUPTCY—DISBURSEMENTS BY BANKRUPT'S  
ATTORNEYS—HOW CERTIFIED TO COURT.

Attorneys for bankrupt applied to the register for an order for the payment by the assignee, out of the assets, of a sworn bill of items of disbursements by them, of one hundred and thirty-seven dollars and sixty cents, on account of clerk's, register's, and marshal's fees, for printing in the ease, to which the assignee objected that the bankrupt had paid his said attorneys five hundred dollars for their services in the case, which was intended and fully sufficient to cover all expenses. The register certified the question of payment of the bill to the court. *Held*, that the proper way to 1198 bring the matter before the court was by petition, either by the assignee or bankrupt's attorneys, and reference would be ordered for taking testimony.

[Cited in Re Nounnan, 7 N. B. R. 22.]

{In the matter of Myron Rosenberg, a bankrupt.}

By I. L. WILLIAMS, Register:

I, one of the registers in bankruptcy, do hereby certify to this honorable court that an application was made to me on the part of the attorneys for the bankrupt, to allow an order to be paid out of the funds in the hands of the assignee the sum of one hundred and thirty-seven dollars and sixty cents upon a bill of items, and an affidavit that such items had been disbursed by said attorneys for register's, clerk's, and marshal's fees for printing in these proceedings. The assignee appeared and opposed the allowance of the claim, setting forth and stating that seven days before the filing of the bankrupt's petition said bankrupt had paid to his said solicitors the sum of two hundred and fifty dollars on account of their services in said bankruptcy proceedings, and that on the day the bankrupt filed his said petition he had paid his said

solicitors the further sum of two hundred and fifty dollars on account of the same services, claiming that said sum of five hundred dollars was sufficient compensation for the said services and disbursements. The question as to the right of the said bankrupts so to appropriate their funds, or as to where said bankrupts obtained said funds, or whether such funds were a legitimate part of the estate, that ought of right to come into his hands as assignee, was not reviewed or argued by the parties. The case as it presented itself to me for decision was, whether the sum of five hundred dollars, paid by the bankrupt to his solicitors, was a sum sufficient to cover the disbursements for officers' fees as well as for their own services rendered, and to be rendered, for said bankrupts, in and about their proceedings in bankruptcy. My doubt was whether I was authorized to take testimony as to the value of the said services, or determine the question from my own knowledge of the services of the solicitors in this case as it appears before me, or whether it was a question which the court alone has the power to dispose of. Under the provisions of section 6 of the act [of 1867 (14 Stat. 520)], I beg to submit the matter, and pray instructions from this honorable court.

BLATCHFORD, District Judge. The matter should be brought before the court by petition, either on the part of the attorneys for the bankrupt or of the assignee, and it will then be referred to the register to take testimony thereon.

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