

IN RE SPEYER ET AL.

{6 N. B. R. (1873) 255;¹ 42 How. Pr. 397.}

District Court, S. D. New York.

BANKRUPTCY—POWER OF REGISTER OVER FUNDS OF BANKRUPT—CONTEMPT.

A register may order bankrupts to hand over to his custodian funds in their hands. Disobedience to such an order adjudged a contempt for which an attachment was issued from the court.

[Cited in *Re Allen*, Case No. 208; *Re McKenna*, 9 Fed. 29; *U. S. v. Anonymous*, 21 Fed. 770.]

The above named bankrupts [F. & A. Speyer] filed their petition to be declared bankrupts on the fourth day of January, eighteen hundred and seventy-one. In their schedules they set forth that the sum of one thousand three hundred and ten dollars and five cents in money was in their hands. The register in charge appointed Mr. LeRoy T. Gove custodian of the estate during the interim and until the assignee should be elected. The custodian thereupon demanded the said money of the bankrupts, and was informed by them that one of the bankrupts—having the money in his pocket—had been robbed of the same on the morning after filing the said petition. Where upon the said custodian summoned the bankrupts before the register, and proceeded to examine them concerning the same. Upon this testimony so taken, the register made an order that said bankrupts hand over to the said custodian the said sum of one thousand three hundred and ten dollars and five cents within twenty-four hours after the service of said order on them. This order was duly served on the bankrupts; they failing to comply therewith, the said custodian moved the court before the district judge on notice to the bankrupts for an order that an attachment issue against them as

for a contempt, for a disobedience to the order of the register. Whereupon the court referred the matter back to the register to take such testimony as the said bankrupts might offer by way of purging the alleging contempt. Testimony was then taken on the part of the plaintiffs, whereupon the register certified the case.

By ISAIAH T. WILLIAMS, Register:

I, the undersigned register in bankruptcy. to whom the matter of the alleged contempt in this case was referred by the order of this honorable court, bearing date the fourth day of February, eighteen hundred and seventy-one, and hereto annexed, do hereby certify and report to this honorable court, that I have been attended by the said bankrupt, Abraham Speyer, and his counsel, Dubois Smith, Esq., and that I have taken all the testimony offered by him under said order, to wit: The testimony of the said Abraham Speyer. and Frederick Speyer, together with further testimony, of the said LeRoy T. Gove, Esq., all of which is hereto annexed, and herewith returned to this honorable court. And I further certify that upon a careful examination of said testimony, I am unable to accept the statements of the said bankrupts, as affording the true reason why the said sum of one thousand three hundred and ten dollars and five cents was not paid over to the said custodian on his demand, nor was there anything in the manner of either of the said bankrupts 929 while under examination calculated to inspire confidence in their statements. I cannot entertain the slightest doubt that the loss of said money is a mere pretence on the part of the said Abraham Speyer. I therefore certify to this honorable court, that in my opinion the order of the court should be forthwith entered, committing the said Abraham Speyer to the county jail of the county of New York until he shall have paid over to the said custodian the said sum of one thousand three hundred and ten dollars and five cents, with interest thereon from the

sixth day of January, eighteen hundred and seventy-one, besides the costs of this proceeding, to be adjusted before the register in charge of the said case.

BLATCHFORD, District Judge. Enter an order herein in accordance with the conclusions of the register.

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