

863.

NZLR

NOT
RECOMMENDED

IN THE HIGH COURT OF NEW ZEALAND
ROTORUA REGISTRY
IN BANKRUPTCY

B. 196/98

IN THE MATTER of the Insolvency Act 1967

A N D

IN THE MATTER of D HARRISON
Debtor

EX PARTE CALTEX NEW ZEALAND LIMITED
Creditor

A N D

B. 198/98

IN THE MATTER of the Insolvency Act 1967

A N D

IN THE MATTER of S ASHTON
Debtor

EX PARTE CALTEX NEW ZEALAND LIMITED
Creditor

Hearing: 15 February 1999

Counsel: Ms Gordon for the creditor in each case
The debtor in person in each case

Judgment: 15 February 1999

(ORAL) JUDGMENT OF MASTER KENNEDY-GRANT

Solicitors for the Petitioning Creditor in each case
Olphert Sandford
DXPO Box 99 Rotorua

The Debtor in person in B198/98
Ms S Ashton
3 Puriri Crescent, Hillcrest, Rotorua

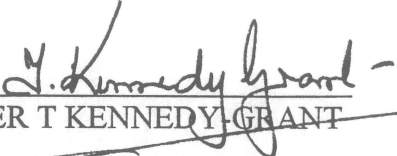
The Debtor in person in B196/98
Mr D Harrison
Puriri Crescent, Hillcrest, Rotorua

- [1] In each of these two cases the creditor seeks an order adjudicating the debtor bankrupt.
- [2] On the basis of the information given to me by Ms Ashton on behalf of the debtors, the debt was incurred because they obtained a petrol card from Caltex in connection with a limousine business which they had entered into. The business failed and the card was used in part at least, because of their lack of other income, to purchase food.
- [3] They are not able to pay this debt in its entirety at this stage. The most they are able to do is to pay \$50.00 per month. Given that the debt is \$10,000, that is clearly not an acceptable offer so far as Caltex is concerned.
- [4] They also have other debts totalling just under \$3,000, which I have been advised by Ms Gordon and this has been confirmed by Ms Ashton, they are simply not in a position to pay at all. All these other debts or a number of them are with Baycorp or similar agencies.
- [5] It is clear from what Ms Ashton has told me that the debtors live in penurious circumstances.
- [6] I raised with counsel the public benefit of bankrupting persons in the position of Ms Ashton and Mr Harrison because of the expense involved in administering the estates with little if any benefit for creditors. However, as I earlier indicated to Ms Ashton, who addressed me on behalf of the two debtors, one of the effects of bankruptcy is to free debtors from their debts provided they have complied with the law and the directions of the Official Assignee during the normal three-year period of bankruptcy.
- [7] While I appreciate that for, persons such as Ms Ashton and Mr Harrison the fact of being bankrupted is likely to be a matter of regret and shame to them, I consider that, in all the circumstances, it is in fact in their own best

interests. That fact and also the fact that part at least of the debt was incurred by misuse of the card make it appropriate to make orders of adjudication.

[8] I therefore make an order against each of Ms Ashton and Mr Harrison adjudicating them bankrupt.

[9] I award costs of \$800 in respect of each petition together with disbursements to be fixed by the Registrar


MASTER T KENNEDY GRANT