

U. S. COURTS

JAN 9 1997

REC'D _____ FILED _____
GAMERON S. BURKE
CLERK IDAHO

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In re:

HIPWELL, TERRY,

Debtor.

Case No. 96-02095

**ORDER RE: OBJECTION TO
CLAIM AND PURSUIT OF
STATE COURT ACTION**

On October 31, 1996, Debtor filed an objection to the secured claim of The Amalgamated Sugar Company (hereinafter "Amalgamated"), and Amalgamated responded with an opposition to the objection on December 9, 1996. Pursuant to notice, the matter was heard before this Court on December 11, 1996, at which time counsel advised the Court that the respective claims and cross-claims of Debtor and Amalgamated are being litigated in a state court action filed in the Third Judicial District Court of the State of Idaho, in and for the County of Canyon, case number CV 96-03391, which was filed by Debtor prior to his petition under Chapter 12. Debtor and Amalgamated have agreed to proceed with the litigation of their claims and cross-claims in the state court action, and the standing Chapter 12 trustee has concurred. Therefore, good cause appearing;

IT IS HEREBY ORDERED that Debtor's objection to the secured claim of Amalgamated is denied; further that the above-referenced state court action between Debtor and Amalgamated shall proceed to resolution and that this order shall constitute a lift of the stay under 11 U.S.C. § 362. Upon completion of the state court litigation, the Debtor, Trustee, and Amalgamated shall be allowed to petition this Court for additional relief, if appropriate.

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DATED this 9th day of January, 1997.


HONORABLE JIM D. PAPPAS
Chief U. S. Bankruptcy Judge

CLERK'S CERTIFICATE OF SERVICE

I, the undersigned, certify that on the 9 day of January, 1997, I caused a true and correct copy of the foregoing to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Rules of Civil Procedure, to the following persons:

Howard R. Foley
Foley & Freeman, Chartered
77 East Idaho Street
P.O. Box 10
Meridian, ID 83680

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

Office of the U.S. Trustee
304 North Eighth Street, Ste. 347
P.O. Box 110
Boise, ID 83701

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

United States Trustee
Ronald D. Schoen
P.O. Box 216
Payette, ID 83661

Hand Delivery _____
U.S. Mail _____
Facsimile _____
Overnight Mail _____

Richard C. Boardman
Penland Munther Boardman, Chartered
P.O. Box 199
Boise, ID 83701-0199

Hand Deliver _____
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Deputy Clerk