

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

U.S. BANKRUPTCY COURT SOUTHERN DISTRICT OF MISSISSIPPI FILED AUG 09 1990 MOLLIE C. JONES, CLERK DEPUTY

IN RE:

LARRY ERWIN BELK

BANKRUPTCY NO. 88-03231-WC

JOHN R. KINGSAFER, TRUSTEE

PLAINTIFF

vs.

ADVERSARY NO. 90-0004WC

LARRY ERWIN BELK AND
MARTHA NELL BELK

DEFENDANTS

JUDGMENT OF CIVIL CONTEMPT

CAME ON for hearing Thursday, July 26, 1990 upon the Motion for Contempt filed herein against Martha Nell Belk, Defendant, by John R. Kingsafer, Trustee and Plaintiff, pursuant to Notice of Hearing given by the Court, there appeared John R. Kingsafer, Trustee and Plaintiff, Jack E. Pool, Attorney for the Trustee, Larry Erwin Belk, Debtor, and L. Jackson Lazarus, Attorney for the Debtor, Martha Nell Belk having failed to appear and no general nor special appearance having been made in her behalf, the Court having jurisdiction of the parties and the subject matter and having reviewed the entire file in this Adversary Proceeding and in the Bankruptcy of the Debtor herein does find, order and adjudge as follows:

1.

The Trustee filed his Complaint against the defendants in this adversary proceeding seeking to recover from both defendants all property, assets and rights formerly constituting the marital estate of the defendants subject to certain claims and

exemptions, and specifically, in regard to this Judgment, to recover the assets or proceeds of the Belk Corporation Integrated Profit Sharing Plan from the defendant Martha Nell Belk.

2.

On March 30, 1990, a Temporary Restraining Order was entered in this case ordering Martha Nell Belk to make no disposition or transfer of funds then in her possession or under her control or subject to her withdrawal being assets or proceeds of the Belk Corporation Integrated Profit Sharing Plan and further to preserve such assets, funds and proceeds subject to further order of this Court. A true and correct copy of said Order is attached hereto for all purposes as EXHIBIT "A".

3.

On April 9, 1990, an Order for Preliminary Injunction was entered herein ordering that Martha Nell Belk be enjoined to retain such assets, funds, and proceeds in the depositories in which they are now deposited and was prohibited from transferring, alienating, or otherwise disposing of such funds, assets and proceeds except under further order of this Court, and, further, to immediately notify the Trustee of the names and addresses of the institutions and depositories in which such funds, assets, and proceeds were then deposited. A true and correct copy of the second Order is attached hereto for all purposes as EXHIBIT "B".

4.

On April 24, 1990, an Order for Turnover of Funds was entered in this proceeding ordering Martha Nell Belk to pay over and deliver to John R. Kingsafer, Trustee on or before May 7, 1990,

all funds, proceeds, and assets of the Belk Construction Integrated Profit Sharing Plan to thereafter be maintained by the Trustee in an account within the State of Mississippi upon the joint signatures of the Trustee and the defendant Martha Nell Belk. A true and correct copy of the third Order is attached hereto as EXHIBIT "C".

5.

The defendant Martha Nell Belk was represented by counsel at the time of the entry of each of the above described Orders and the Court finds that Martha Nell Belk had actual knowledge of all such Orders as of the date of each Order by verbal communication from her attorney.

6.

The Court finds that without the entry of the above described Orders, irreparable injury and harm would have resulted to the estate and to the Trustee for the reason that Martha Nell Belk had evidenced an intention to frustrate any judgment on the merits of the Complaint herein and there was at the time a likelihood of success by the Trustee on the merits.

7.

The Court further finds that each of the above described Orders were lawful and valid Orders of this Court and as such may be enforced by this Court.

8.

The Court finds that at the time of the entry of the first Order herein on March 30, 1990 the defendant Martha Nell Belk had in her possession and under her control on deposit with Ft.

Bend Savings and Loan Association of Rosenberg, Texas at least Thirty-eight Thousand One Hundred Eighteen and 14/100 Dollars (\$38,118.14) as proceeds from the Belk Corporation Integrated Profit Sharing Plan.

9.

That on April 16, 1990, the defendant Martha Nell Belk did transfer, alienate and dispose of all funds then on deposit in the Ft. Bend Savings and Loan Association passbook account representing the proceeds from the Belk Corporation Integrated Profit Sharing Plan by withdrawing the sum of Twenty Thousand Dollars (\$20,000.00) and depositing it to her Sugarcreek National Bank checking account which sum was then paid to the Internal Revenue Service as a deposit for her anticipated 1990 income taxes; by withdrawing the sum of Two Thousand Dollars (\$2,000.00) and depositing it to her Sugarcreek National Bank checking account and thereafter paying the sum of One Thousand Nine Hundred Five Dollars (\$1,905.00) to the Internal Revenue Service of her 1989 income taxes; by withdrawing and cashing a Cashiers Check in the amount of Fourteen Thousand Two Hundred Two and 61/100 Dollars (\$14,202.61); and by withdrawing and cashing a Cashiers Check in the sum of Two Thousand Dollars (\$2,000.00). The total amount of said transfers being Thirty-eight Thousand Two Hundred Two and 61/100 Dollars (\$38,202.61) all of which represents proceeds from the Belk Corporation Integrated Profit Sharing Plan.

10.

The Court finds that Martha Nell Belk had actual knowledge of such specific and precise Orders of the Court and

thereafter willfully failed to disclose the location of the proceeds of the Belk Corporation Integrated Profit Sharing Plan, willfully transferred and disposed thereof in whole or in part, has concealed and continues to conceal the remainder thereof and has continued to violate all and each of said Orders.

11.

That each of these transfers was made by the defendant Martha Nell Belk with actual intent to hinder, delay, or defraud the Trustee, the estate, the creditors of the estate, and the jurisdiction of this Court and as such are fraudulent transfers.

12.

The Court finds that the defendant, Martha Nell Belk, is in civil contempt of each of the above described Orders of this Court and that such civil contempts have caused the Trustee to incur certain costs and expenses including, without limitation attorney's fees, attorney's expenses, and expenses of discovery totalling Twelve Thousand Two Hundred Sixty-three and 18/100 Dollars (\$12,263.18) for which she is liable to the Trustee.

IT IS, THEREFORE, ORDERED AND ADJUDGED:

1. That the defendant Martha Nell Belk pay over to John R. Kingsafer, Trustee the sum of Thirty-eight Thousand Two Hundred Two and 61/100 Dollars (\$38,202.61) to be held by the Trustee in a separate interest bearing account under his sole control and subject to further order of this Court; and

2. That John R. Kingsafer, Trustee be and is hereby awarded a judgment against the defendant Martha Nell Belk in the sum of Twelve Thousand Two Hundred Sixty-three and 18/100 Dollars

(\$12,263.18) for attorney's fees, costs, and expenses incurred as a direct result of the civil contempts of the defendant Martha Nell Belk; and,

3. That upon the failure of the defendant, Martha Nell Belk, to pay over to John R. Kingsafer, Trustee the sum of Thirty-eight Thousand Two Hundred Two and 61/100 Dollars (\$38,202.61) within twenty (20) days from the date hereof, the United States Marshall Service, or any lawful officer thereof, shall take the defendant Martha Nell Belk into its custody until presented to the Honorable Edward Ellington, Chief Bankruptcy Judge, United States Bankruptcy Court for the Southern District of Mississippi, 100 East Capitol Street, Room No. 106, Jackson, Mississippi, and having continued to fail to comply with this Order she shall immediately be incarcerated in an appropriate facility until the earlier of her compliance with the terms of this Order or until further Order of this Court.

4. That the Clerk shall serve forthwith a copy of this judgment of civil contempt, together with all exhibits hereto, on Martha Nell Belk.

SO ORDERED this the 9TH day of August, 1990.



EDWARD ELLINGTON,
CHIEF BANKRUPTCY JUDGE

U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
FILED

MAR 30 1990

MOLLIE C. JONES, CLERK
DEPUTY

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

IN THE MATTER OF:

LARRY ERWIN BELK, DEBTOR

BANKRUPTCY NO. 88-03231-BEW

JOHN R. KINGSAFER, TRUSTEE

PLAINTIFF

VS.

ADVERSARY NO. 00-0004-WC

LARRY ERWIN BELK AND MARTHA NELL BELK

DEFENDANTS

ORDER

CAME ON THIS CAUSE FOR HEARING upon Plaintiff's Motion for Temporary Restraining Order and for Injunctive Relief and the court being advised in the premises and finding that the relief prayed for therein should be granted and further specifically finding that failure to immediately enter a Temporary Restraining Order against the Defendant Martha Nell Belk in the premises will result in immediate and irreparable injury, loss and damage to the estate and to the Trustee in his efforts to recover assets of the estate:

NOW, THEREFORE, be it ordered and adjudged that Martha Nell Belk be and is hereby ordered to make no disposition or transfer of funds presently in her possession or under her control or subject to her withdrawal being assets or proceeds of the Belk Corporation Integrated Profit Sharing Plan and further to preserve such assets, funds and proceeds subject to further order of this court, and

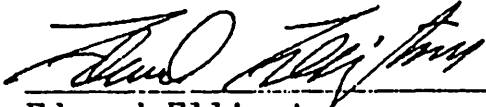
Be it further ordered and adjudged that all issues relating

EXHIBIT "A"

to the continuance of this order and the issuance by this court
of a preliminary ^{L.T.} ~~and permanent~~ injunction will be heard by this
court in its offices at 100 East Capitol Street, Jackson,
Mississippi at 4:00 o'clock P.m. on the 9th day of
April, 1990, and

Be it further ordered and adjudged, that the Defendant
Martha Nell Belk shall immediately disclose to the Plaintiff the
names, addresses and responsible officers of any banking
institutions in which such assets and funds are deposited, and a
copy of this order shall be served upon such institutions.

ORDERED, ADJUDGED AND DECREED this the 30 day of
March, 1990


Edward Ellington,
United States Bankruptcy Judge

Deposited as to [unclear]
by [unclear]

James E. Reed
Attorney Plaintiff

APR 09 1990

MOLLIE C. JONES, CLERK

DEPUTY

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

IN THE MATTER OF:

LARRY ERWIN BELK, DEBTOR

BANKRUPTCY NO. 88-03231-EEW

JOHN R. KINGSAFER, TRUSTEE

PLAINTIFF

VS.

ADVERSARY NO. 00-0004-WC

LARRY ERWIN BELK AND MARTHA NELL BELK

DEFENDANTS

ORDER FOR PRELIMINARY INJUNCTION

CAME ON THIS DAY this cause to be heard upon motion of the Plaintiff herein for a preliminary injunction prohibiting the Defendant, Martha Nell Belk, from transferring, alienating, secreting or disposing of the assets and proceeds of the Belk Corporation Integrated Profit Sharing Plan awarded to her by the Amended Decree of Divorce entered by the Family Court of Fort Bend County, Texas, 328th Judicial District in Cause No. 58,782 of that court and requiring such defendant to disclose to the Plaintiff herein the names and address of all banking institutions and depositories in which such funds, assets and proceeds are now deposited, and upon hearing of such motion, all parties hereto having received notice thereof in the manner and for the time required by law and ordered by this court, the court finding that it has jurisdiction of the parties and of the subject matter and being of the opinion that such injunction is in the best interest of the estate and of all interested parties and is necessary for the preservation and collection of the estate of the debtor herein:

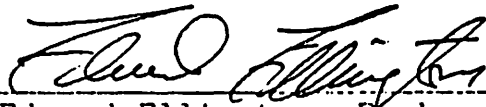
NOW, THEREFORE, BE IT ORDERED AND ADJUDGED that the defendant, Martha Nell Belk, be and is hereby ordered and enjoined to retain such assets, funds and proceeds in the depositories in which they are now deposited and is prohibited from transferring, alienating or otherwise disposing of such funds, assets and proceeds except upon further order of this court in this cause.

BE IT FURTHER ORDERED AND ADJUDGED that the defendant, Martha Nell Belk, will immediately notify the Plaintiff of the names and addresses of the institutions and depositories in which such funds, assets and proceeds are now deposited and the

EXHIBIT "B"

Plaintiff will serve upon such institutions copies of this order.

ORDERED AND ADJUDGED this the 9th day of April, 1990
at 4:25 o'clock, P. m.


Edward Ellington, Bankruptcy Judge

Approved as to form:


Counsel for Plaintiff

Counsel for Defendant,
Martha Nell Belk

U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
FILED

APR 24 1990

MOLLIE C. JONES, CLERK
DEPUTY

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

IN THE MATTER OF:

LARRY ERWIN BELK, DEBTOR

BANKRUPTCY NO. 88-03231-EEW

JOHN R. KINGSAFER, TRUSTEE

PLAINTIFF

vs.

ADVERSARY NO. 90-0004-WC

LARRY ERWIN BELK AND MARTHA NELL BELK

DEFENDANTS

ORDER FOR TURNOVER OF FUNDS

CAME UPON THIS DAY THIS CAUSE to be heard upon the Plaintiff's Motion for a Temporary Restraining Order and for Injunctive Relief and upon amendment thereto, and the court being advised in the premises, having jurisdiction of the parties in the subject matter, upon hearing with notice as required by law and by order of this court to all parties being of the judgment that in the interest of the preservation of the estate and all parties in interest, the following relief should be granted:

NOW, THEREFORE, be it ordered and adjudged that on or before Monday, May 7, 1990, the Defendant, Martha Nell Belk shall pay over and deliver unto John R. Kingsafer, Trustee, 521 Main Street, Suite U-1, P. O. Box 1472, Natchez, Mississippi 39120, all funds, proceeds and assets of the Belk Corporation Integrated Profit Sharing Plan and that the Trustee shall immediately thereafter deposit such funds in a federally insured banking institution located within the State of Mississippi upon

EXHIBIT "C"

terms requiring signature of the Plaintiff and of the Defendant,
Martha Nell Belk, for withdrawal or transfer thereof, and

Be it further ordered and adjudged that the Defendant,
Martha Nell Belk, and any and all banking institutions now holding
the deposit of such funds shall deliver to the Plaintiff a statement
of such banking institutions evidencing the amount of such funds on
deposit at the time of this order.

Be it ordered and adjudged this 24 day of April, 1990,
at 2:10 o'clock P. .m.



Edward Ellington
United States Bankruptcy Judge

Approved as to form:


Counsel for Plaintiff