

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

~~COUNTER COPY - DO NOT REMOVE - ORIGINAL FILED IN CASE 82C-01605~~


In re)	Bankruptcy Case No. 82C-01605
)	
RICHARD Y. BENNION II)	Chapter 13
aka RICK BENNION)	
)	
Debtor.)	O R D E R

On August 16, 1982, Investors I, a creditor herein, filed a motion to dismiss or convert this proceeding. The cause for dismissal or conversion urged by Investors is that the debtor is a stockbroker precluded from filing a Chapter 13 petition.

The legislative history of Subchapter III of Chapter 7 (Stockholder Liquidation) and 11 U.S.C. § 101 (24) and (39) reveals that "stockbrokers" were precluded from filing a Chapter 13 petition to prevent circumvention of the protections afforded to "stockbrokers'" customer-creditors under Subchapter III of Chapter 7.¹ From the definition of "stockholder" and the accompanying legislative history, a sales agent of a brokerage house commonly referred to as a stockbroker (as debtor herein), does not fall within the "statutory" stockbroker definition.¹ Furthermore, a "common" stockbroker does not have customer-creditors, as defined under 11 U.S.C. § 741 (2), which require the protections under Stockholder Liquidation. No showing has been made by movant that the debtor has any "customers" requiring that protection.

IT IS THEREFORE ORDERED that Investors I's motion to convert or dismiss is denied.

DATED this 16 day of September, 1982.


Glen E. Clark
United States Bankruptcy Judge

¹ House Report No. 95-595, 95th Cong. 1st Sess. (1977) 311-12, 314; Senate Report No. 95-989, 95th Cong. 2d Sess. (1978) 24, 27.