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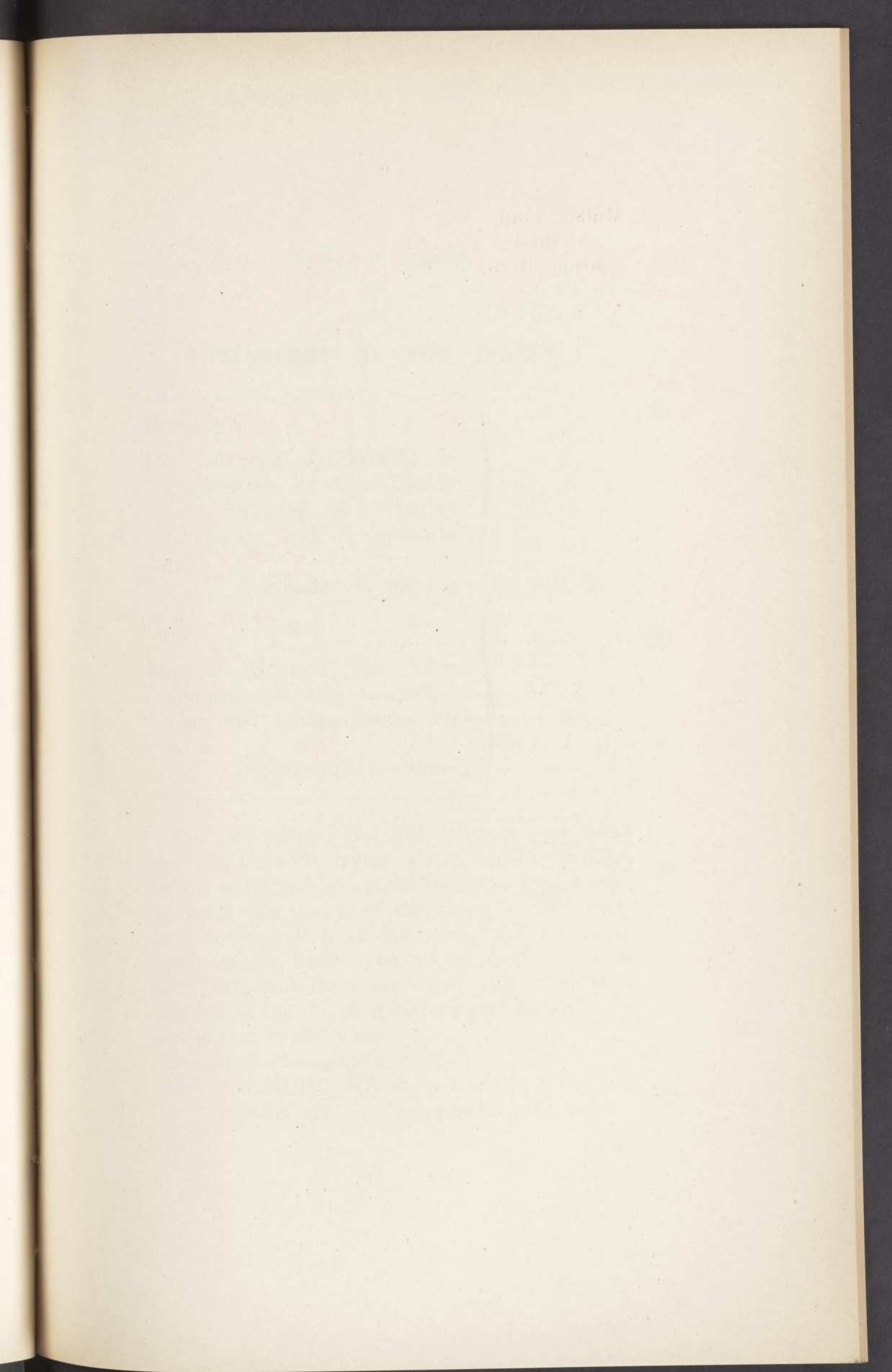
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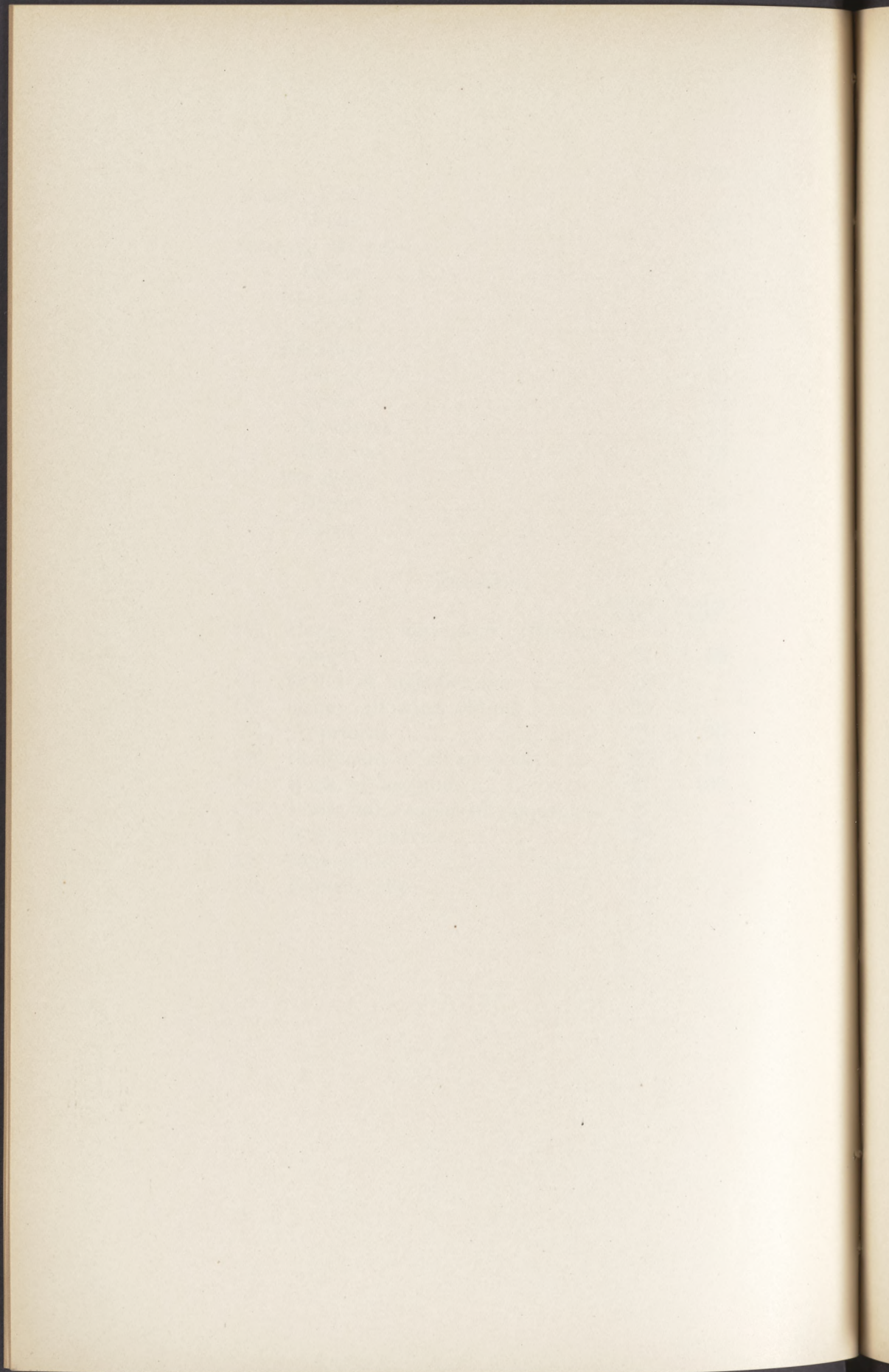
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**Notice of Appeal.**

IN

**CHANCERY OF NEW JERSEY**

Between :

PAUL MULLER, as Trustee in  
Bankruptcy of The Hamil-  
ton Warping & Winding  
Company, Inc., a corpora-  
tion,

Complainant-Appellee,

and

BERNARD SCHRAM and ANNA  
SCHRAM, his wife, IRVING SI-  
ROTA and LOTTIE SIROTA, his  
wife,

Defendants-Appellants.

10

On Bill, &c.

20

The defendants, Bernard Schram, and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, hereby appeal from the final decree made in this court, in the above stated cause, by the Chancellor, on the advice of Vice Chancellor Alonzo Church, on the 9th day of November, 1926, and from the whole and every part thereof, to the Court of Errors and Appeals, the last resort in all causes.

30

Dated, November 9th, 1926.

WEINBERGER & WEINBERGER,  
Solicitors of Defendants-Appellants.

40

*Notice of Appeal*

We conceive there is good cause for appeal in the above stated cause.

WEINBERGER & WEINBERGER,  
Of Counsel with Defendants-Appellants.

10

A true copy.

THOMAS BARBER,  
Clerk.

20

30

40

**Petition of Appeal.**

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

Between:

PAUL MULLER, as Trustee in  
Bankruptcy of The Hamil-  
ton Warping & Winding  
Company, Inc., a corpora-  
tion,

Complainant-Appellee,

and

BERNARD SCHRAM and ANNA  
SCHRAM, his wife, IRVING SI-  
ROTA and LOTTIE SIROTA, his  
wife,

Defendants-Appellants.

10

On Appeal  
from  
Chancery.

20

To the Honorable Court of Errors and Appeals,  
the Last Resort in all Causes:

The petition of Bernard Schram and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, the appellants in the above stated cause, respectfully shows that your petitioners find themselves aggrieved by a decree made in the Court of Chancery, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the 9th day of November, 1926, in which cause the said Paul Muller, as Trust in Bankruptcy of The Hamilton Warping & Winding Company, Inc., a corporation, was complainant, and the said Bernard Schram

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*Petition of Appeal*

and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, were defendants, in these respects, to wit:

10 1. The said decree erroneously adjudges that the defendants, Bernard Schram and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, hold the said land and premises in trust for the complainant, as trustee in bankruptcy of the Hamilton Warping & Winding Company, a bankrupt.

20 2. That the said decree erroneously adjudges and decrees that the said defendants conveyed said land and premises to a Receiver for the purpose of permitting such receiver to collect the rents, issues and profits thereof and to sell the same and pay the complainant out of the proceeds of said sale the sum of Two thousand fifty-seven dollars (\$2,057.00) with interest.

3. The said decree erroneously adjudges and decrees that the complainant, as trustee in bankruptcy of the Hamilton Warping & Winding Company, Inc., is entitled to relief.

30 4. And your petitioners humbly appeal from said portions of said decree and from the whole decree upon the ground the same is erroneous, in that the Chancellor should not have adjudged the defendants to be obliged to pay any sum of money or convey said premises in the manner provided for in said decree, and that the said complainant is not entitled to any relief in the manner and form provided for in said decree.

40 Your petitioners, therefore, pray that the

*Petition of Appeal*

said decree of the said Chancellor may be in the particulars aforesaid reversed, set aside and for nothing holden, and that your petitioners may have such other relief in the premises as to this Honorable Court may seem meet.

WEINBERGER & WEINBERGER,  
Solicitors for Defendants-Appellants. 10  
Weinberger & Weinberger,  
Of Counsel.

20

30

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**Answer to Petition of Appeal.**

12.1826

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

10 Between:

PAUL MULLER, as Trustee in  
Bankruptcy of The Hamilton  
Warping & Winding Com-  
pany, Inc., a corporation,  
Complainant-Appellee,

and

20 BERNARD SCHRAM and ANNA  
SCHRAM, his wife, IRVING SI-  
ROTA and LOTTIE SIROTA, his  
wife,  
Defendants-Appellants.

} On Appeal  
} From the  
} Court of  
} Chancery.

30 The answer of Paul Muller, as Trustee in Bank-  
ruptcy of The Hamilton Warping & Winding  
Company, Inc., a corporation, the above named  
appellee, to the petition of appeal of Bernard  
Schram and Anna Schram, his wife, Irving Si-  
rota and Lottie Sirota, his wife, the above named  
appellants.

This appellee, not admitting the truth of all or  
any of the matters in the said petition of appeal  
contained, for answer thereto nevertheless admits  
that a decree was, on November 9, 1926, made and  
entered in the Court of Chancery of New Jersey,  
in the above entitled cause, for the purposes in

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*Bill of Complaint*

said petition mentioned and as therein set forth; but as to the substance and form of said decree, this appellee begs leave to refer thereto when the same shall be produced.

This appellee is advised and believes that the said decree is agreeable to equity; and he prays that the same may be affirmed with costs to be taxed in favor of this appellee. 10

BILDER & BILDER,  
Solicitors for and of Counsel with  
Appellee.

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**Bill of Complaint.**

IN CHANCERY OF NEW JERSEY. 20

To His Honor, Edwin Robert Walker, Chancellor of the State of New Jersey:

Paul Muller, as receiver in bankruptcy of the Hamilton Warping & Winding Co., Inc., a corporation of the State of New Jersey, respectfully shows:

1. That an involuntary petition in bankruptcy was heretofore filed in the District Court of the United States for the District of New Jersey by Sulzer Rudolph & Co., Inc., and others, and such proceedings were thereafter had that said corporation was duly adjudicated a bankrupt by said Court within the meaning of the Acts of Congress relating to bankruptcy. 30

2. That on the 22nd day of May, 1924, complainant was duly appointed receiver in bank- 40

*Bill of Complaint*

ruptcy of said corporation, and entered upon the discharge of his trust, and is still acting as such receiver.

10 3. That said corporation was at the time of the filing of said petition in bankruptcy and has ever since been indebted to divers creditors in upwards of \$25,000 and that the assets and property which have passed to complainant's possession with which to pay said indebtedness does not exceed the value of \$5,000.

20 4. That the said corporation was incorporated in or about the year 1918, and ever since its incorporation it has been engaged in the business of winding and warping silk and dealing in silk, and its officers and directors and managers ever since its incorporation have been Irving Sirota and Bernard Schram, and that said Irving Sirota and said Bernard Schram have since the incorporation of said company drawn from its funds and treasury and received therefrom divers sums of money aggregating upwards of \$20,000.

30 5. That in the year 1923, the said Irving Sirota and Bernard Schram did take funds and moneys of said corporation aggregating upwards of \$3,000 and did use the same in the purchase of lands and premises in the City of Paterson, hereinafter particularly described, putting the title to said real estate in the name of Anna Schram and Lottie Sirota, the said Anna Schram being the wife of said Bernhard Schram, and the said Lottie Sirota being the  
40 wife of the said Irving Sirota.

*Bill of Complaint*

6. That the lands and premises aforesaid are situate, lying and being in the City of Paterson, County of Passaic and State of New Jersey, more particularly described as follows:

BEGINNING at a point in the northerly line of Godwin Street, distant 175 feet westerly from the westerly line of Auburn Street running thence (1) northerly parallel with Auburn Street 101.14 feet thence (2) westerly parallel with Tyler Street 25 feet thence (3) southerly parallel with the first course 101.19 feet to the northerly line of Godwin Street, thence (4) easterly along the same 25 feet to the place of beginning. 10

Being lot #95 on a map entitled "The Homestead," the property of the heirs of Philemon Dickerson, deceased, in the City of Paterson. 20

Being known as Lot 161 Godwin Street, Paterson, New Jersey.

7. Being the same premises conveyed by Samuel Rosenthal and Tillie Rosenthal, his wife, to said Anna Schram and Lottie Sirota by deed dated November 27th, 1922, and recorded on November 28th, 1922, in the office of the Register of the County of Passaic, in Book D30 of Deeds for said county, on pages 190, etc. 30

8. Complainant alleges that the said Bernhard Schram and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, have ever since been in possession of the said lands and premises, receiving the rents and enjoying the issues and profits thereof, and complainant be- 40

*Bill of Complaint*

lieves and charges that said lands and premises are in equity the property of said bankrupt, and ought to be conveyed to your complainant or the trustee in bankruptcy who shall hereafter be elected, appointed and qualify.

10 9. On information and belief, that said lands and premises were conveyed to said Anna Schram and Lottie Sirota for the purpose of concealing the ownership of said lands and premises from the creditors of said bankrupt, and covering the same up and secreting the same from the creditors and to hinder, delay and defraud the creditors of said bankrupt, and to secrete said moneys and said lands from said  
20 creditors, and that the moneys with which said lands were purchased were by said Bernard Schram and Anna Schram, his wife, and Irving Sirota and Lottie Sirota, his wife, hereinafter called the defendants, received without consideration and that into which the said moneys have been converted are in equity the property of said corporation, and said trustee in bankruptcy, and that said corporation is the true and beneficial owner of said lands and premises.

30 Complainant is without adequate remedy in the courts of law and therefore prays:

(1) That the said Bernard Schram and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, who are defendants to this suit, may answer this Bill of Complaint without oath, oath being hereby waived, and each statement therein made.

40

*Bill of Complaint*

(2) That a decree may be made adjudging and determining that the said defendants hold said real estate in trust for said bankrupt with intent to hinder, delay and defraud the creditors of said bankrupt, this complainant and said bankrupt's creditors, and that the said bankrupt is the beneficial owner of said lands and premises, and that said defendants may be decreed to hold the title to said lands and premises in trust for the complainant, said bankrupt, said trustee, and said creditors, and the said defendants ordered to convey the same to this complainant, or said trustee, or to a receiver who may be appointed in this cause with power to take possession thereof, and to collect the rents, issues and profits thereof, and to sell the same, and that the defendants may be directed to execute a conveyance of said premises to said receiver. 10 20

(3) That the defendants may be directed to account to the complainant and said trustee for the rents, issues and profits of said lands and premises, and for all moneys received by said defendants belonging to said corporation, and that the said defendants may be enjoined and restrained from in any manner disposing of or encumbering said lands and premises and the moneys or the proceeds thereof. 30

(4) That a writ or subpoena may issue demanding the defendants to answer this Bill of Complaint and to abide by such decree as this Court may make in the premises.

BILDER & BILDER, 40  
Solicitors for and of  
Counsel with Complainant.

**Amended Complaint.**

IN CHANCERY OF NEW JERSEY.

Between:

10 PAUL MULLER, as Trustee in  
Bankruptcy of The Hamil-  
ton Warping & Winding  
Co., Inc., a corporation, and  
PAUL MULLER, as trustee in  
bankruptcy of The Hamil-  
ton Warping and Winding  
Co., Inc., a corporation,  
Complainant,  
and

20 BERNARD SCHRAM and ANNA  
SCHRAM, his wife, IRVING SI-  
ROTA and LOTTIE SIROTA, his  
wife,  
Defendants-Appellants.

On Bill, &c.

To his Honor, Edwin Robert Walker, Chancel-  
lor of the State of New Jersey:

30 Paul Muller, as receiver in bankruptcy of  
The Hamilton Warping & Winding Co., Inc., a  
corporation of the State of New Jersey, and  
Paul Muller, as trustee in bankruptcy of The  
Hamilton Warping & Winding Co., Inc., a cor-  
poration of the State of New Jersey, respect-  
fully shows:

40 1. That an involuntary petition in bank-  
ruptcy was heretofore filed in the District  
Court of the United States for the District of

*Amended Complaint*

New Jersey by Sulzer Rudolph & Co., Inc., and others, and such proceedings were thereafter had that said corporation was duly adjudicated a bankrupt by said Court within the meaning of the Act of Congress relating to bankruptcy.

2. That on the 22nd day of May, 1924, complainant was duly appointed receiver in bankruptcy of said corporation, and entered upon the discharge of his trust, and is still acting as such receiver. 10

3. That said corporation was at the time of the filing of said petition in bankruptcy and has ever since been indebted to divers creditors in upwards of \$25,000.00, and that the assets and property which have passed to complainant's possession with which to pay said indebtedness does not exceed the value of \$5,000.00. 20

4. That on the date of the filing of said petition in bankruptcy and on the dates hereinafter mentioned, Irving Sirota and Bernard Schram were respectively President and Treasurer of said corporation, and were solely in charge of the corporation's affairs and property. 30

5. That in October and November, 1922, the said Irving Sirota and Bernard Schram did take funds and moneys of said corporation aggregating upwards of \$2,500.00, and did use the same in the purchase of lands and premises in the City of Paterson, hereinafter particularly described, putting the title to said real estate in the name of Anna Schram and Lottie Sirota, the said Anna Schram being the wife of said Ber- 40

*Amended Complaint*

nard Schram, and the said Lottie Sirota being the wife of the said Irving Sirota.

6. That the lands and premises aforesaid are situate, lying and being in the City of Paterson, County of Passaic and State of New Jersey, more particularly described as follows:

10

BEGINNING at a point in the northerly line of Godwin Street, distant 175 feet westerly from the westerly line of Auburn Street running thence (1) northerly parallel with Auburn Street 101.14 feet thence (2) westerly parallel with Tyler Street 25 feet thence (3) southerly parallel with the first course 101.19 feet to the northerly line of Godwin Street, thence (4) easterly along the same 25 feet to the place of beginning.

20

Being lot #95 on a map entitled "The Homestead," the property of the heirs of Philemon Dickerson, deceased, in the City of Paterson.

Being known as Lot 161 Godwin Street, Paterson, New Jersey.

30

7. Being the same premises conveyed by Samuel Rosenthal and Tillie Rosenthal, his wife, to said Anna Schram and Lottie Sirota by deed dated November 27th, 1922, and recorded on November 28th, 1922, in the office of the Register of the County of Passaic, in Book D30 of Deeds for said county, on pages 190, etc.

40

8. Complainant alleges that the said Bernard Schram and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, have ever since been in possession of the said lands and prem-

*Amended Complaint*

ises, receiving the rents and enjoying the issues and profits thereof, and complainant charges that said lands and premises are in equity the property of said bankrupt, and ought to be conveyed to your complainant.

Complainant is without adequate remedy in the courts of law, and, therefore, prays: 10

1. That the said Bernard Schram and Anna Schram, his wife, Irving Sirota and Lottie Sirota, his wife, who are defendants to this suit, may answer this Bill of Complaint with oath, oath being hereby waived, and each statement therein made.

2. That a decree may be made adjudging and determining that the said defendant hold said real estate in trust for said bankrupt, and that the said bankrupt is the beneficial owner of said lands and premises, and that said defendants may be decreed to hold the title to said lands and premises in trust for the complainant, said bankrupt and said creditors, and the said defendants ordered to convey the same to this complainant or to a receiver who may be appointed in this cause with power to take possession thereof, and to collect the rents, issues and profits thereof, and to sell the same, and that the defendants may be directed to execute a conveyance of said premises to said receiver. 20  
30

3. That the defendants may be directed to account to the complainant for the rents, issues and profits of said lands and premises, and for all moneys received by said defendants belong- 40

*Amended Complaint*

ing to said corporation, and that the said defendants may be enjoined and restrained from in any manner disposing of or encumbering said lands and premises and the moneys or the proceeds thereof.

- 10 4. That a writ or subpoena may issue demanding the defendants to answer this Bill of Complaint and to abide by such decree as this Court may make in the premises.

BILDER & BILDER,  
Solicitors for and of  
Counsel with Complainant.

20

30

40

**Answer.**

## IN CHANCERY OF NEW JERSEY.

Between:

PAUL MULLER, as Trustee in  
Bankruptcy of The Hamil-  
ton Warping & Winding  
Co., Inc., a corporation,  
Complainant,  
and

BERNHARD SCHRAM and ANNA  
SCHRAM, his wife, IRVING SI-  
ROTA and LOTTIE SIROTA, his  
wife,  
Defendants.

On Bill, &amp;c.

10

The defendants, Bernard Schram and Anna Schram, his wife, and Irving Sirota and Lottie Sirota, his wife, jointly and severally, by their solicitors, Weinberger & Weinberger, answering the bill of complaint filed in the above-entitled cause, say:

1. Defendants admit the fact that Paul Muller is receiver in bankruptcy of The Hamilton Warping & Winding Co., Inc., but as to the remaining allegations contained in paragraph one, leave complainant to make proof thereof in accordance with law. 30

2. Defendants have no knowledge or information sufficient to form a belief as to the allegations contained in paragraph two, and leave complainant to make proof thereof in accordance with law.

3. Defendants have no knowledge or information sufficient to form a belief as to the allegations contained in paragraph three, and leave 40

*Answer*

complainant to make proof thereof in accordance with law.

4. Paragraph four is admitted, but in so far as the allegation is concerned with respect to the withdrawal of funds, the defendants deny the same.

10

5. The defendants deny the purchase of property in 1923, as referred to in the bill of complaint, but aver that on the contrary the said land was purchased by Anna Schram and Lottie Sirota, and that the said property was not taken in the name of the said wives for the benefit of the corporation or for the benefit of the said Bernard Schram and Irving Sirota. That the said corporation never had any interest in said property, and at no time acquired an interest in and to the said title.

20

6. Defendants admit that the description contained in paragraph six is correct.

7. Paragraph seven is admitted.

8. The allegations contained in paragraph eight are denied, except that the said defendants, Anna Schram and Lottie Sirota, admit that they are the sole owners of the said premises and have been in possession of the said lands and premises and have received the rents and enjoyed the issues and profits thereof.

30

9. Defendants deny each and every allegation contained in paragraph nine.

Wherefore, defendants respectfully pray that the said bill of complaint be dismissed together with their costs in that behalf most wrongfully sustained.

40

WEINBERGER & WEINBERGER,  
Solicitors of Defendants.

**Testimony.**

IN CHANCERY OF NEW JERSEY,

April 22, 1926.

Between:

PAUL MULLER, as Trustee in  
Bankruptcy of The Hamil-  
ton Warping & Winding  
Company, Inc., a corpora-  
tion,

Complainant,  
and

BERNARD SCHRAM and ANNA  
SCHRAM, his wife, IRVING SI-  
ROTA and LOTTIE SIROTA, his  
wife,

Defendants.

10

20

Transcript of shorthand notes of testimony taken in the above-entitled cause before his Honor, Alonzo Church, Vice Chancellor, at the Chancery Chambers, Newark, New Jersey, in the presence of Messrs. Bilder & Bilder for complainants; Messrs. Weinberger & Weinberger, for defendants. 30

Mr. Bilder: I desire to offer in evidence a certified copy of the order of adjudication of the bankruptcy under the seal of the Court.

The Court: No objection, it will be received.

Paper marked Exhibit C1.

40

*Complainant's Witness, Fred A. Becker, Direct*

Mr. Bilder: I also desire to offer in evidence orders allowing claims in bankruptcy, aggregating \$18,179.08.

The Court: No objection, it will be received.  
Paper marked Exhibit C2.

10 PAUL MULLER sworn for the complainant.

*Direct-examination by Mr. Bilder:*

Q. Mr. Muller, you are the former receiver, now trustee in bankruptcy? A. Yes.

Q. For the Hamilton Warping & Winding Company, Inc? A. Yes.

20 Q. Can you state the amount, in dollars, that was received from the sale of the assets of this bankrupt, and which came into your hands as receiver? A. The amount is \$5,282.51.

Mr. Bilder: That is all.

The Court: Is that all?

Mr. Bilder: Yes; that is all.

The Court: Any cross?

Mr. Weinberger: None, your Honor.

30

FRED A. BECKER sworn for the complainant.

*Direct-examination by Mr. Bilder:*

Q. Mr. Becker, were you one of the appraisers of the assets and property of the Hamilton Warping & Winding Company, bankrupt? A. I was.

40 Q. And did you make an appraisal of the assets and property of it? A. Yes.

*Complainant's Witness, Fred A. Becker, Cross*

Q. And was that appraisal reduced by you to writing? A. It was.

Q. I ask you if this is the writing? Is your signature on there? A. Yes, sir.

Q. And it is your signature to the appraisal? A. Yes, sir.

Q. What is the total value that you placed upon the assets and property of the bankrupt? A. \$3,487.40. 10

The Court: Do you want to offer it?

Q. And is that the official appraisal which was filed in the bankruptcy court? A. Yes, sir.

Mr. Bilder: I desire to offer this appraisal in evidence, your Honor.

The Court: No objection, it will be received. 20

Paper marked Exhibit C3.

Mr. Bilder: That is all.

The Court: Any cross?

*CROSS-EXAMINATION by Mr. Weinberger:*

Q. You appraised all the assets at three thousand, you say, or whatever the figure is? A. Thirty-four hundred and— 30

Q. Were there any other assets other than those which you have here in your appraisal?

A. No, not that I know of. We just appraised the plant just as you see it there.

Q. What is your business? A. I am a silk salesman.

Q. Salesman? A. Yes.

*Complainant's Witness, Fred A. Becker, Cross*

Q. And how long have you been a salesman?

A. Why twelve years.

Q. And, I take it, that you only engage in the selling of silks in what state? A. Selling silk, yes.

10 Q. What state, what condition? A. I don't understand you.

Q. What condition, what shape is the silk in? A. In raw, thrown silk.

Q. Do you know anything about the value of warpers? A. Yes, I do.

Q. What was an Eastwood warper worth, seventy-two, new style, in June, 1924? A. Oh, in 1924 you could buy an Eastwood warper for about \$550.

20 Q. What was the market value of them, do you know? A. Well, today?

Q. At that time. A. At that time, about that.

Q. What do you base your market on? A. On the price of the warper.

Q. What was an Eastwood warper worth new at that time? A. Well, that is about what it was worth new, between \$550 to \$600.

30 Q. How old a warper was the warper in question, do you know? A. The warpers at the plant there?

Q. Yes. A. Why, I should say they were possibly a year and a half, two years old.

Q. Do you recall what you appraised them at? A. Beg your pardon?

Q. Do you recall what you appraised them at? A. No, I do not.

40 The Court: The appraisal will speak for itself—put it down there.

*Complainant's Witness, Nathan Magill, Direct*

Q. Do you know anything about motors? A. I have an idea, yes, sir.

Q. You do not mean to say you are an expert on the values of motors? A. Why, I am an expert on silk machinery, because in my line of business, of course, we have to be familiar with the prices of machinery in order to check accounts, in order to sell them, to give them credit, and when we check an account, why, of course, we go over their assets and we must have a familiar knowledge of the value of them. That is how I am acquainted with the value of silk machinery. 10

Q. What is a Sprague electric 500-pound hoist worth—how much was it worth in 1924? A. Have you got reference to that hoist he had there in that plant? 20

Q. I am speaking of the Sprague electric hoist. What was the value of a Sprague electric hoist in 1924? A. New?

Q. Yes. A. I should imagine about \$1,250.

Q. You say that is the price of one in 1924? A. New.

Mr. Weinberger: That is all.

30

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NATHAN MAGILL sworn for the complainant.

*Direct-examination by Mr. Bilder:*

Mr. Bilder: If the Court please, at this point I should like to introduce in evidence the schedules of the bankrupt, not 40

*Complainant's Witness, Nathan Magill, Direct*

10 in their entirety, but the schedule known as Schedule B2 #1, which sets forth personal property; Schedule B1 #1, sets forth real estate—rather, states that there was no real estate of the bankrupts; Schedule B3 #1, setting forth choses in action; Schedule B4 #1, setting forth property in reversion, remainder or expectancy, asking your Honor that the offer in evidence of these schedules, these particular portions of the bankrupt schedules, be limited in their effect on the complainant's case only to item of property therein mentioned and not to the particular estimate of the value placed on the items by the bankrupts; my purpose being merely to show what property bankrupts claimed they had on the date of their bankruptcy, not what they say.

20

Mr. Weinberger: I object to the offer on the ground that I know of no law that permits such limitation. It either goes in or it doesn't go in. That is the only theory I can see by which the thing can become evidential.

30

(Discussion.)

The Court: I will allow it to go in. You can argue as to its value; that is a matter of legal determination, it seems to me. Whether what this man thought it was worth is what it actually is worth, is another matter. This would merely show us what he said it was worth at that time.

40

*Complainant's Witness, Nathan Magill, Direct*

Paper marked Exhibit C4.

(Discussion.)

The Court: I am letting it in as is.

Q. Mr. Magill, you are an accountant, are you not? A. Sir?

Q. Public accountant? A. Yes.

Q. And are you a certified public accountant? 10  
A. No, sir.

Q. How long have you been a public accountant? A. Four years.

Q. And were you a public accountant in the year 1922? A. I was.

Q. And you were employed, were you not, as a public accountant by the Hamilton Warring & Winding Company, the bankrupt, during the year 1922? A. Not the entire year. I don't think I was employed in 1922 by them. 20

Q. I beg your pardon? A. I don't think I was employed in 1922 by them. I was employed in 1923. I may be wrong.

Q. You made entries in their books, did you not? A. I did.

Q. I show you this book and ask you whether you recognize that as one of the books of this bankrupt company in which you made entries. 30  
A. Yes, that is true, yes, 1922. I thought it was in the early part of 1923. I think—not the entire year, though. It must have been early.

Q. You were employed as public accountant at some time or other in 1922 by the bankrupt? A. Yes.

Q. And you do recognize this book as one of the books of the bankrupt company? A. Yes, after looking inside. 40

*Complainant's Witness, Nathan Magill, Direct*

The Court: He says he does.

Mr. Bilder: I offer this book in evidence.

The Court: All right. It will be received.

10 Mr. Weinberger: If your Honor please, may I formally object to it on the ground that the book is not properly proven?

Mr. Bilder: May I have it marked for identification?

The Court: All right.

Book marked C5 for identification.

Q. Did you make out an income tax report—return for the year 1922 for the corporation?

20 A. I think I or my office did it, somebody from our firm did it.

Q. I ask you whether you recognize your signature on this photostatic copy of the income tax return? A. I do.

Q. Do you recognize the signatures of Bernard Schram and Irving Sirota? A. Yes, I do.

Q. Was that signed and sworn to in your presence? A. Yes, sir.

30 Q. The original of this photostat? A. Yes, sir.

Q. You recognize the signatures? A. Oh, yes.

Mr. Bilder: I desire to offer this, your Honor.

40 Mr. Weinberger: I object to it on the ground there is no basis for it, in fact, now appearing in the evidence thus far elicited, and its materiality is not established or its relevancy or its competency.

*Complainant's Witness, Nathan Magill, Direct*

The Court: I will admit it.

Mr. Weinberger: Have my objection noted.

Photostats marked Exhibit C6.

Mr. Bilder: May I withdraw this witness for a moment, Vice Chancellor, while I prove by one of the officers of the corporation— 10

The Court: All right.

Mr. Bilder: Counsel for the defendants having shown this book to his clients, is willing to concede that this is one of the books of the corporation bankrupt.

The Court: Very well. You offer it?

Mr. Bilder: And I offer it in evidence.

Mr. Weinberger: I object to it on the ground there is no evidence which would justify its admission at this time, your Honor please. 20

The Court: I will admit it.

Article formerly marked C5 for identification now marked Exhibit C5.

Q. Mr. Magill, I call your attention to Exhibit C5, and in particular to page 103 of that exhibit, and ask you whether you know whose handwriting is the first item on page 103? A. It appears to be my handwriting. 30

Q. And will you read the item? A. Check #1239, the date is October 21st, check made out to A. Rosenthal for \$250. There is also a caption on top marked "Loan to members."

Q. Isn't there something else besides the words "Loan to member"? A. "Receivable." 40

*Complainant's Witness, Nathan Magill, Direct*

Q. Will you read the entire balance? A. "\$250."

Q. You do not find another figure in that, forming part of that entry? A. Oh, "13."

10 Q. Can you state the significance of the figure 13? A. That would be to the page in the general ledger where that item would be posted.

Q. And can you state what was the basis of the entry which you have just read? A. Well—

Q. The source of it? A. You see, these entries are from the check book and on the check book stub are marked certain things, as, for instance, whether it is for wages or salaries or a loan or it is to that effect.

20 Q. The check stub was the source of your— A. Altogether, yes.

Q. —of this entry? A. Yes.

Q. Meaning thereby the check stub of the corporation check book which you then had before you; is that correct? A. Yes; that is right.

Mr. Bilder: It is conceded also by counsel for the defendant that this book, which I now hold in my hand, your Honor, is a book of the corporation bankrupt.

30 The Court: Do you offer it?

Mr. Bilder: And I offer it in evidence.

The Court: Any objection?

Mr. Weinberger: I want the same objection made.

The Court: All right. The same ruling. Book marked Exhibit C7.

40 Q. I show you a book marked in evidence C7 and ask you whether you recognize any entries

*Complainant's Witness, Nathan Magill, Direct*

in that book that you made? A. Oh, yes. There is some right here on the first page. There are entries in here that I have made, no question about it.

Q. What is that book? A. This is the general ledger of the corporation.

Q. And is that the book to which the post- 10  
ing reference of 13 in the item of October 21st, on page 103 of Exhibit C5, refers? A. You mean the item you showed me previously?

Q. Yes. A. Oh, yes, that is it. That would be posted from this cash book into the general ledger.

Q. And the figure 13 in that entry on page 103 of Exhibit C5 would refer to page 13 of this book marked C7? A. Yes; in the general led- 20  
ger.

Q. Now, does this general ledger, marked C7, contain an index? A. It does.

Q. Will you refer to the index and see if you find a page referred to as 13? A. Yes; there is an item here, 13, but not in my writing.

Q. And what is this designation? A. It says, "Loans private 13"—meaning loans. Whatever 30  
the person who wrote "private" had in mind, I don't know—13 meaning page 13.

Q. Page 13 of the ledger, and would that mean loans by the corporation or to the corporation? A. Well, that I couldn't say.

Q. But the item on page 103 on C5 which you have just referred to, the \$250 item which is referred to as being posted in page 13 of the ledger, would be—is indicated by you a loan by the corporation, is it not? A. "Loans to mem- 40  
bers receivable."

*Complainant's Witness, Nathan Magill, Direct*

Mr. Weinberger: I object to counsel's leading.

The Court: It is leading, Mr. Bilder.

Mr. Bilder: Withdraw that.

The Court: Just ask him what it means.

10 Q. What is the meaning of the words "Loans to members receivable," which is embodied in the entry of October 21st, which you have read, on page 103, of Exhibit C5. A. Well, that would be a rather lengthy explanation, it seems to me; if you would want me to go through it, I could explain it.

Q. As an accountant, what is the expert meaning of that?

20 Mr. Weinberger: I object to the version as an accountant.

The Court: Well, let us see what he says.

A. You see, there are times when these members took loans—took money from the corporation, which should have been salaries, and charged it as a loan, the simple reason being—I don't know, I never questioned them—I suppose, is to show by withdrawing money from the corporation, which they were entitled to as salaries, it might reduce the assets of the corporation to some extent, and they felt that they wanted to show everything on the books.

30 Q. Now, for instance, if I came in I would say—

Mr. Bilder: If the Court please, I object to this answer as not being responsive.

40

*Complainant's Witness, Nathan Magill, Direct*

The Witness: I don't know what you have reference to.

Mr. Bilder: It is not what I am seeking to elicit from the witness.

Mr. Weinberger: It may not be what you want, but is a very good answer. You cannot speculate with answers. I submit that is clearly responsive. 10

The Witness: I would answer just whatever you wanted me to but—

The Court: Let that answer stay and you can ask another question.

Q. Mr. Magill, have you been in conference in the hall with Mr. Weinberger and Mr. Schram and Mr. Sirota? A. Have I been in conference? 20

Q. Yes. A. I was out there speaking to them, yes.

Q. Speaking to them? A. Yes.

Q. About this case? A. Well, not the case in particular but I was speaking to them about what was going on here today, because this is the first time I see Mr. Weinberger here and Mr. Schram and Mr. Sirota since I got a subpoena the day before yesterday. 30

Q. You were subpoenaed by me, weren't you? A. Deputy Sheriff Barnes brought the subpoena in the office.

Q. And the subpoena was on behalf of the complainant, was it not? A. I really don't know, to tell the truth.

Q. Have you it with you? A. I have it in my coat. 40

*Complainant's Witness, Nathan Magill, Direct*

Mr. Weinberger: That is improper, I think.

The Court: I do not see that this has anything to do with it.

10 Mr. Bilder: My point is that the witness started to give a lengthy answer, which, I respectfully submit, was evidently designed to aid the defense—not that I concede it would have that effect, but, it seems to me, it was colored.

The Court: He is your witness and you asked the question and he answered it. Now, the legal effect of that answer is a matter of argument.

20 Mr. Bilder: May I ask that my question be read and his answer be read?

The Court: Yes.

(Question and answer read as follows):

30 “Q. What is the meaning of the words ‘Loans to members receivable,’ which is embodied in the entry of October 21st, which you have read, on page 103 of Exhibit C5? A. Well, that would be a rather lengthy explanation, it seems to me; if you would want me to go through it I could explain it. You see, there are times when these members take loans—take money from the corporation which should have been salaries and charged it as a loan, the simple reason being—I don’t know, I never questioned them—I suppose, is to show by withdrawing money from the corporation, which they were entitled to as salaries, it might reduce the assets of the

40 corporation to some extent and they felt that

*Complainant's Witness, Nathan Magill, Direct*

they wanted, to show everything on the books. Now, for instance, if I came in I would say"—

The Court: This is a matter of argument. This is the way he has answered the question.

Mr. Bilder: What I want to do is to ask it be stricken out as unresponsive to my question. 10

The Court: I will leave it on the record and then you can ask him another question.

Q. Mr. Magill, have you now in your mind a distinct recollection of why you wrote the words "Loans receivable to members" on October 21st, 1922, on page 103 of this book? A. You mean, do I know why I did it? 20

The Court: Yes.

The Witness: Well, I do not.

The Court: All right.

Q. Now, without any recollection of why you did it, what do the words "Loans receivable"—"Loans to members receivable," those words now appearing before your eyes on this page, indicate to you? 30

Mr. Weinberger: Just a minute.

Q. Or mean in words— A. They mean—

Q. —of accountants.

Mr. Weinberger: I object to the interpretation of the language. That is a function of the Court, and I take it the words mean what they say, in the absence of proof to the contrary. 40

*Complainant's Witness, Nathan Magill, Direct*

The Court: I will allow it. This man is an expert accountant and he will tell us what the technical language means.

The Witness: It means that these members drew money from the corporation and it was charged as a loan.

10

Q. And the posting was to a sheet, page 13 of the ledger? A. In the general ledger, yes.

Q. As a loan to members? A. Yes, sir.

Q. Now, in view of that fact, look at the index in the ledger, Exhibit C9, designating page 13 as loans, and tell me, if you can, what the word "Loans" there indicates in connection with what you have just testified. A. I said it is not my writing and I do not know what that "Loans private" there means. I can't tell. I won't commit myself because I don't know. That is not my handwriting.

20

Q. But inasmuch as you, in your own handwriting, indicated that the loan to members of two hundred and fifty on October 21st entered by you on page 103 of Exhibit C5 was to be posted to page 13 of the ledger, what would you say that page 13 of the ledger contained?

30

Mr. Weinberger: Just a minute. That is objected—

Q. (Continuing.) In the light of the index entry.

Mr. Weinberger: That is objected to on the ground that it is decidedly leading, your Honor please.

40

The Court: I will allow it.

Mr. Weinberger: Note my objection.

*Complainant's Witness, Nathan Magill, Direct*

A. You mean what the accounts would be there?

Q. What would be the character of the entries designated by the loans? A. If it is marked page 13—I don't know how many accounts might be on the page, but naturally that account would appear on the page.

10

Q. And what would be the entry on that page, or entries on that page, designated by "Loans" in connection with this entry? A. Well, in connection with this entry there is a "Loans receivable to members." I can't say whether—I might have opened an account for that myself.

Q. I am asking you in connection with this—A. Entry? Well, there would be posting to their—

20

Q. And would the ledger sheet not contain an entry of loans? A. Oh, yes, sure.

Q. And loans to whom or by whom? A. Well, just as this explains here.

Q. Exactly. A. It would be an entry to that effect.

Q. Loans to whom and by whom, please? A. Well, it says here, "Loans to members receivable."

30

Q. And would that be on that page 13 of the ledger in connection with this posting? A. Well, to that effect, yes.

Q. Yes or no. A. Yes.

Q. Will you look to see if you find any page 13 of the ledger? A. No; from 12 to 17; those in between are missing.

Q. Are missing? A. Yes.

Q. Now, referring to Exhibit C6, being the

40

*Complainant's Witness, Nathan Magill, Direct*

corporation income tax return for the calendar year 1922, when you signed that you supervised the making of that return, did you? A. Well, it came through my office. I can't recall whether I actually made the return or somebody in the office made it, but I signed it.

10                   The Court: He signed it, he said.

The Witness: As a notary, I know that.

Q. Will you find on that return a statement of any loans, if there be such, entered on that statement— A. There is an item here—

Q. —owing, loans made by the corporation to the members, owing by members to the corporation at the end of 1922? A. Well, this tax return is for the year 1922, and for December 31st, 1922, there is an item here, "Due from members of the firm, \$4,699.67."

Q. Do you find an entry there of loans due from members of the firm at the beginning of that calendar year, 1922? A. At the beginning?

Q. Yes, of the year 1922. A. Yes; there is one here; that would be from the previous year; they are comparative balance sheets here, which would show on December 31st, 1921, an item of \$2,012.67 due from members of the firm.

Q. To whom? A. Well, it is a corporation return.

Q. To whom? A. I suppose, to the corporation.

Q. Do you suppose or do you know from the return before you—what does it say? A. It says, "Due from members of the firm." That

40

*Complainant's Witness, Nathan Magill, Direct*

is the only explanation. I couldn't go into details. That is what it says.

Q. Due to whom? A. I suppose to the corporation.

The Court: It says, "Due to members of the firm."

The Witness: I don't know—

10

By the Court:

Q. To whom could it be due except— A. To the corporation.

Q. Certainly. Why don't you answer the questions?

By Mr. Bilder:

Q. Referring to this income tax return, please state whether or not this return was made on the basis of the actual receipts and disbursements by the corporation? A. Well, according to the return here, it says, yes.

20

By the Court:

Q. And your answer would be yes— A. Well—

Q. —from the basis of that return? A. Not exactly, because there are accruals in the books.

30

By Mr. Bilder:

Q. Is that a truthful income tax return? A. Oh, yes; oh, yes; oh, yes.

Q. Now, will you also refer to this return marked C6 in evidence and state what it says as to salaries, compensation to officers during the year 1922? A. Forty-two hundred.

Q. For the entire year? A. For the entire year.

40

*Complainant's Witness, Nathan Magill, Direct*

Q. Do you know, of your own knowledge, who were the persons described here as members of the firm and officers of the corporation? A. All I know of was Schram and Sirota.

10 Q. Will you find, if you can, in the cash book, being the exhibit marked C5, any entries, if there be such, made in your handwriting during the year 1922, designated as salaries for Mr. Schram and Mr. Sirota? A. Yes; here is an item right here, the salaries, "December 30th, salaries, \$100."

Q. December 30, salaries, \$100? A. 1922.

Q. That is, the word is "salaries," plural, is it not? A. Yes.

20 Q. December, 1922, do you find anything on page 107? A. Yes, there is another one, "1922, salaries, \$100."

Q. Is that in your handwriting? A. Yes; that is in my handwriting.

Q. Now, will you find any other items in which the salaries are not grouped together? A. Yes; here is one, "B. Schram, salary, \$50; R. Sirota, salary, \$50."

30 Q. That is under date of December 1st? A. December 1st.

Q. 1922? A. Yes, sir.

Q. Do you find the same thing on page 105 of this exhibit, "B. Schram"? A. That is not my handwriting.

Q. That is not your writing. Did you ever see any minute book of the corporation? A. I don't know whether I did or not. I didn't open the books.

40 Q. During November, 1922, did you post ev-

*Complainant's Witness, Nathan Magill, Cross*

everything to the general ledger which was entered in the cash book? A. Well, under my knowledge—to my knowledge, I should say, I did post everything that was—(witness stops of his own accord.)

Q. I call your attention to page 105 of Exhibit C5, and in particular to an item dated 10 November 27th, and ask you whether any of that is in your writing? A. No; none of that at all.

Q. I call your attention to what appears to be red pencil check marks in connection— A. No.

Q. —with that item. Can you recognize those? A. I can't. I cannot.

Q. Can you, from your recollection, say 20 whether or not you ever posted the item which you observe on that page? A. No; I did not post it because there is the figure; you see, that is not my handwriting at all.

Q. The figures "13" is not your handwriting? A. No, nothing on that. Not that whole thing.

Mr. Bilder: That is all.

*CROSS-EXAMINATION by Mr. Weinberger: 30*

Q. Mr. Magill, I understood you to say that you came into possession of these books first some time in 1922? A. Latter part, yes.

Q. And you have had occasion to refer to what is known as the journal, and what other book? A. Yes; the cash book, and this is the general ledger.

*Complainant's Witness, Nathan Magill, Cross*

Q. Referring to Exhibits C5 and C7. Were there any other books? A. There was a purchase book and a sales book and a general journal, I think, all combined in one, if I am not mistaken. I can't say for sure.

10 Q. Now, as a matter of fact, referring now to the item which has been referred to here marked "Loans receivable," will you turn to that page, please?

The Court: That is the index.

A. You mean in the ledger?

Q. Yes.

The Court: That was torn out of that.

The Witness: Out of the ledger.

20 Q. It is out? A. Yes.

Q. Do you know in what condition these books were delivered to the receiver? A. I don't know just what condition. I don't believe they were—

Q. Do you know in what condition they were given to the attorneys in this case—when you last saw the books? A. Oh, they were perfectly O K when I last saw the books.

30 By the Court:

Q. When did you last see them? A. I last saw them at the date of the last entry, because I remember I was in the Referee's Court also and they were—I think there was another check book, if I am not mistaken, also, there was another cash book after. The last entry I made was the last time I saw the books.

40 Q. What is the date of the last entry? A.

*Complainant's Witness, Nathan Magill, Cross*

I haven't got the cash book here, your Honor, because there is another cash book after this.

By Mr. Weinberger:

Q. Now, as a matter of fact, there was an additional cash book then and other books which are not here now? A. Yes, sir.

10

Q. And when you last had occasion to examine the books prior to the Referee's examination, the fact is the pages were all intact? A. Yes; they were; I know that for a fact, all the pages were there the last time I was on the books.

Q. Now, sir, will you turn to the index, if you will, please, that has been referred to in your direct-examination? "Loans, private, 13," page 13 is missing out of that book; is that correct? A. Yes, sir.

20

The Court: There is no doubt about that.

Q. Now, are there any other pages missing?

The Court: Well, 12 to 17.

A. 12 to 17.

Q. Aside from those are there any others?

A. 13, 14, 15 and 16.

30

Q. Now, aside from that are there any others missing in that book— A. Well, that I don't know.

Q. —that you know? A. I don't know.

Q. Now, will you turn to this book and the particular page which has a notation on it with regard to receivables? Is that it there? A. That is it.

40

*Complainant's Witness, Nathan Magill, Cross*

Q. That appears on the cash book marked Exhibit C5 at page 103; is that correct? A. That is right.

Q. Did you write the words "Loans receivable" there? A. "Loans to members receivable," that is my writing.

10 Q. And at that time I ask you whether it is not a fact that these men were entitled, or claimed that they were entitled to certain salaries?

Mr. Bilder: I object to that on the ground that it is incompetent, irrelevant and immaterial.

The Court: I will sustain the objection.

20 Mr. Weinberger: May I have my objection noted? .

The Court: The point seems to me, not what they claim was their right, but what actually was their right.

Mr. Weinberger: I will go a step further now, your Honor please, in line with your suggestion.

30 Q. Isn't it a fact that when that money was withdrawn there was due to them for salary the amount which appears there for two hundred and fifty dollars and more? A. Well, I don't know.

Q. Would you say that there was not that much due and more? A. I don't know.

Mr. Bilder: I object. The witness says he doesn't know.

40 The Court: He doesn't know.

*Complainant's Witness, Nathan Magill, Cross*

Q. You did on direct-examination say that there was some reason why these things were marked "Loans receivable," though it came to them or was due to them in the form of salary. Will you state to the Court—

Mr. Bilder: I object.

10

Q. —what that reason was? A. I don't know. I said—

Mr. Bilder: I object.

The Court: Well, he answers that he doesn't know.

Q. What was the explanation that you give with regard—

The Court: He has given that. He said he thought and he presumed, and so forth. If I allowed the answer to stand—but I don't think it is of any very great value because it is an inference he draws.

20

Q. Have you any positive knowledge upon which you can base an intelligent answer in regard to why it is that was marked in that form? Can you tell us that? A. I cannot recall just now, no.

30

Q. Did you issue the check in question, do you know? A. No, I did not.

Q. Did you have anything to do with the transaction itself? A. No; I did not.

Q. All you did was merely make the entry which appears there? A. That is it.

Q. And you did that as an accountant? A. That is right.

40

*Complainant's Witness, Nathan Magill, Cross*

Q. So that you are not familiar with either the circumstances which led to the entry or any part of the transaction; is that correct? A. Well, certain times I may check as to what it is, but very seldom I would do it.

10 Q. Well, now, sir, referring to the income tax which has been marked Exhibit C6, there appears the item, "Wages 37, 35, 36." Does that mean actually paid or due? A. That means actually paid.

Q. Referring now to page marked Schedule C, what would the "amount of compensation" mean under that schedule? A. Well, this is a schedule of the amount of compensation they received.

20 Q. Actually were paid? A. Actually was paid to them.

Q. If that be true, then we go back again to the Schedule A and I ask you what the item "Wages" means, 37? A. That may refer to the employees.

30 Q. Oh, that may refer to the employees. Do you know or have you any knowledge as to whether any part of that was salary or wages to themselves? A. Well, I have no idea about that, but I would say that that was—

Q. Employees? A. Employees.

Q. I see. Referring to the item "Due from members of the firm, \$2,012.50," who were the members of the firm? A. Well, Schram and Sirota.

Q. The two that were there? A. That is all I know.

40 Q. Whom you regard as members of the firm, and there was due \$2,012.67. A. Right.

*Complainant's Witness, Nathan Magill, Cross*

Q. Can you state whether that was, in fact, paid to the corporation at any time thereafter?

A. I don't know.

Q. Will you say that it was not paid? A. I don't know.

The Court: Well, he says that he doesn't know. He cannot say anything because he doesn't know. 10

Q. Did this company ever have listed as an asset the real estate—any real estate at all? A. No, not in my opinion.

Q. Did this company ever have any interest in any real estate, so far as the records of the company are concerned? A. I don't know.

Mr. Bilder: I object. 20

The Court: He says he doesn't know.

Q. When you say you don't know, I ask you to point out anywhere in the records anything which would indicate that they own any real estate.

The Court: No; the records speak for themselves. Their schedules in bankruptcy say that they haven't got any real estate. 30

(Discussion.)

By the Court:

Q. Are you sufficiently familiar with those books to tell us whether in them there is any references to real estate? A. No; there is no reference that I know of.

The Court: All right. 40

*Complainant's Witness, Nathan Magill, Re-direct*

By Mr. Weinberger:

Q. Mr. Magill, do you know—did you keep the books in '23 and '24? A. Yes.

Q. Were you in charge of the books down to the time of the bankruptcy? A. Yes; about a month before, I think, or so. I don't know exactly when.

Mr. Weinberger: That is all.

*RE-DIRECT EXAMINATION by Mr. Bilder:*

Q. Mr. Magill, when you say there are no references in the books to real estate of the corporation that you know of, you mean that—

The Court: What do you mean.

Q. What do you mean, yes? A. I mean that I don't know as to whether—I don't know of any entries in there referring to real estate.

Q. You mean you don't know whether there are or are not? Is that what you mean? A. Not from my personal observation. Only if I went through I could answer more specifically.

Mr. Bilder: All right.

The Court: That is all, sir.

*Complainant's Witness, William Boyd, Jr.,  
Direct*

WILLIAM BOYD, JR., sworn for the complainant.

*Direct-examination by Mr. Bilder:*

Q. Mr. Boyd, you are an officer of the Hamilton Trust Company of Paterson, New Jersey? 10

A. I am.

Q. What office do you hold? A. Treasurer.

Q. And do you have with you the record of the account of the Hamilton Warping & Winding Company, Inc., the present bankrupt, with the Hamilton Trust Company of Paterson, New Jersey, during the year 1922? A. I have.

Q. Will you please look at that record, Mr. Boyd, and say whether you find a debit in that account during the latter part of November in the sum of \$2,250? A. I find a debit in the amount of \$2,250 as of November 28th, 1922. 20

Q. Now, does the record enable you to say whether that was a check debit? A. It does not.

Q. If it were a check debit, the debit would be as of the date of the clearance of the check through the bank? A. It would be the date as of the presentation of the check to the Hamilton Trust Company. 30

Q. For payment? A. For payment.

Q. And not necessarily the date on the face of the check? A. No.

Q. Do you find in that account, in the latter part of October, 1922, Mr. Boyd, in the sum of \$250— A. I will have to get another sheet.

Q. Oh, I am sorry. A. What was the date, the latter part of October? 40

*Complainant's Witness, William Boyd, Jr.,  
Cross*

Q. The latter part of October, in the twenties, in the sum of \$250. A. I find a debit of \$250 as of October 24th, 1922.

Mr. Bilder: All right. That is all.

10

The Court: Any cross?

*CROSS-EXAMINATION by Mr. Weinberger:*

Q. Whose account is that, the Hamilton Warping— A. The Hamilton Warping & Winding Company.

Q. From when to what time did they have an account with your bank? A. The account was opened back in 1919 and ran to 1924.

20

Q. What time in 1924? A. July 15th, 1924, the last entry.

Q. The two items in question are the two hundred and fifty dollar item appearing on what date? A. On October 24th, 1922.

Q. And the other? A. \$2,250, November 28th, 1922.

30

Q. You have no record which would indicate to whom those checks were made payable? A. None whatever.

Q. You have no way of identifying as to who got the proceeds of those checks, from your records? A. None.

*Complainant's Witness, Harold Clark, Direct*

HAROLD CLARK, sworn for the complainant.

*Direct-examination by Mr. Bilder:*

Q. Mr. Clark, you are connected with the Paterson National Bank of Paterson, New Jersey?

A. Yes, sir.

10

Q. And do you have with you a record of an account in that bank in the name of Lottie Schram and a lady by the name of Sirota?

The Court: Lottie Sirota and Anna Schram.

Q. Lottie Sirota and Anna Schram? A. Yes.

Q. You have. And when was that account opened? A. In November 27th, 1922.

20

Q. 1922? A. Yes.

Q. And what was the initial deposit in that account? A. Twenty-two fifty.

Q. Does your record enable you to say whether that initial deposit was a check drawn on another bank, or cash? A. Not with the records—I haven't got—

Q. Now, what is the first withdrawal which appears in that account? A. Two days later, \$1,807.

30

Q. Is there a withdrawal of—is there a debit of \$2,250 in that account? A. No.

Q. May I see your record, please? What is the next withdrawal? A. \$45, the same day.

Q. And the next? A. \$105.52, on December the 6th.

Q. And the next one after that? A. \$150 on January 5, 1923.

40

*Complainant's Witness, Harold Clark, Cross*

*CROSS-EXAMINATION by Mr. Weinberger:*

Q. My friend, Mr. Bilder, expected to see an item on there of \$2,250 on November 27th—

The Court: Strike that out.

10 Mr. Weinberger: Well, I will modify the question.

Q. Is there any withdrawal there of \$2,250 on the entire account?

The Court: He said no. He has already said no.

Mr. Weinberger: I didn't know. It is the entire account I am putting in.

20 The Court: Yes. He says there is no withdrawal of \$2,250 on that sheet. Is that right, Mr. Clark?

The Witness: Yes.

Q. I believe you have already stated that you have no method of identifying now from the record which you hold just what the initial deposit represented? A. Yes, we have.

Q. I mean, not with this record? A. No.

30 Q. You have no method of identifying now whom the check for \$1,807 was drawn to—the order of? A. No. Lottie Sirota and Anna Schram, I received their statements.

Q. I mean, you have no method of knowing that? A. (Witness nods no.)

Q. The date of withdrawal of that \$1,807 is what date? A. November 29th.

Mr. Weinberger: That is all.

40 The Court: That is all, sir.

*Complainant's Witness, Vera F. Hirsch, Direct*

BERNARD SCHRAM, sworn for the complainant.

*Direct-examination by Mr. Bilder:*

Q. Mr. Schram, I show you what purports to be depositions taken in the matter of the Hamilton Warping & Winding Company, bankrupt, before the Honorable Frank Van Cleve, Referee in bankruptcy, at his office in Paterson on the 15th day of October, 1924, and ask you whether this is your signature? A. Yes. 10

Mr. Bilder: I desire to read from this deposition, your Honor.

Mr. Weinberger: I object to it.

The Court: Why?

Mr. Weinberger: On the ground that I do not think that is the way to prove the contents of the deposition. 20

The Court: You can ask him the same question and then confront him with his answer in that. Perhaps that would be—

Mr. Bilder: I desire to use this as primary evidence. May I withdraw and put the stenographer on the stand?

The Court: All right. 30

VERA F. HIRSCH, sworn for the complainant.

*Direct-examination by Mr. Bilder:*

Q. Mrs. Hirsch, you are a court stenographer?  
A. I am. 40

*Complainant's Witness, Vera F. Hirsch, Direct*

Q. And you are the court stenographer of Referee Frank Van Cleve, Referee in bankruptcy in Paterson, New Jersey? A. I am.

10 Q. I show you the depositions, which have been previously referred to as having been taken before the Referee on the 15th day of October, 1924, and ask you whether that is a transcript of the testimony taken by you? A. This is the original transcript which has been filed in Referee Van Cleve's office.

Q. Taken by you? A. Yes.

Q. And will you look at it and tell me whose testimony it is?

The Court: Why don't you introduce it and it will speak for itself?

20

Mr. Bilder: I offer it in evidence.

Article marked Exhibit C8.

Mr. Bilder: I withdraw the offer in evidence, your Honor please. I am going a little too fast. I don't want to offer the entire deposition in evidence, because I don't want, even technically, to be bound by all the statements contained therein. I want to read from the depositions a particular question and answer which I hold constitutes an admission.

30

The Court: You are privileged to introduce that question and answer, if you want to.

Mr. Weinberger: May I have my objection to all of the questions of counsel and answers by the witness noted?

The Court: Yes.

40

*Complainant's Witness, Vera F. Hirsch, Direct*

Q. Referring to this deposition, was the following question asked of the witness, Schram, by the Referee and answered by the witness, Schram, as follows: "Q. But you own the house in which you live? A. Yes, sir." A. All I can say is that everything that I have down here were questions asked and answers which were given in our court before Referee Van Cleve on the day of the deposition. 10

Q. Can you not say this specific question and specific answer which I have read was asked and answered respectively as it was set forth? A. Yes, sir.

Q. Immediately thereafter was the following question asked by Mr. Bilder of the witness, Schram, and answered by the witness as follows: "Q. Have you paid the interest? A. Yes." And then immediately the following questions and answers: "Q. You and Sirota own the house together? A. Yes. Q. Did he pay the interest? A. We paid together." Were those questions and answers asked? A. Yes. 20

Q. And answered respectively.

Mr. Weinberger: What page is that on? 30

Mr. Bilder: 18.

Q. And was the following question and answer asked of the witness, Schram, on that occasion: "Q."—

Mr. Weinberger: Your Honor, please, may I make a formal objection on the record that I think it is clearly a violation of law for an attempted reading of a part 40

*Complainant's Witness, Bernhard Schram, Direct*

10 of a deposition without the entire deposition being offered in evidence, unless it is for the purpose of establishing contradiction on rebuttal? I never heard in my experience before, and I think your Honor likewise has never in his experience heard of the reading of testimony consisting of part of a deposition as part of the case.

The Court: I will allow it. You have the same privilege.

Q. "Q. This house"—being asked of Schram, "this house in which you live in was purchased when? A. In 1922. Q. 1922? A. Yes." Is that correct? A. Yes, sir.

20 Q. "Q. And in 1922 you and Mr. Sirota bought the house in which you live; is that right? A. Yes." Was that question asked and answer given? A. Yes.

Mr. Weinberger: That is what page, Mr. Bilder?

30 Mr. Bilder: 28. May I withdraw this witness and put Mr. Schram on the stand again to identify his signature in the other deposition?

The Court: Yes.

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BERNHARD SCHRAM, recalled.

*Direct-examination by Mr. Bilder:*

40 Q. Mr. Schram, I show you what purports to be a deposition taken in the matter of the

*Complainant's Witness, Vera F. Hirsch, Direct*

Hamilton Warping & Winding Company, Inc., bankrupt, before the Honorable Frank Van Cleve, Referee in bankruptcy, at his office in Paterson, on the 9th day of June, 1924, 2:00 c'clock in the afternoon and ask you whether that is your signature on page 29. A. Yes, sir.

Mr. Weinberger: What record are you reading from? 10

Mr. Bilder: I have been reading heretofore from my interrogation of Mrs. Hirsch from the deposition of October 15th, 1924, on pages 17, 18 and 38, signed by the witness and sworn to before the Referee on page 43.

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20

VERA F. HIRSCH, recalled.

*Direct-examination by Mr. Bilder:*

Q. I call your attention to what purports to be deposition taken before Referee Van Cleve on the 9th day of June, 1924, 2:00 o'clock in the afternoon and ask you whether that is the original transcript of the stenographic notes taken by you on that occasion? A. Yes. 30

Q. And filed with the Referee? A. Yes.

Q. Do you find the Referee's file on there? A. Filed on June the 13th, 1924, with Referee Van Cleve.

Q. I ask you whether the following questions were asked and answered by the witness, Bernhard Schram, on that occasion: "Q. And you swear that this check for \$2,250 was not turned 40

*Complainant's Witness, Vera F. Hirsch, Direct*

over to Mr. Samuel Rosenthal? A. Positively no. Q. Was it turned over to your wives? A. Maybe it was cashed. Q. That account was in what bank, the account of your wives? A. Paterson National Bank. By the Referee: What money on that check—that money on that check  
 10 was either deposited or the check was cashed? A. This was deposited. Q. But this money went to buy the property? A. Yes, sure"? A. Yes.

The Court: The answer is yes.

Mr. Bilder: It is conceded by counsel, your Honor, that the signature "Irving Sirota," appearing before the jurat  
 20 "Signed and sworn to before me this 13th day of June, 1924, Frank Van Cleve," is the signature of Irving Sirota, signed to the testimony given by him before the Referee in the matter of the Hamilton Warping & Winding Company, bankrupt, on the 9th day of June, 1924.

Q. On that same day, Mrs. Hirsch, being the 9th day of June, 1924, upon the occasion of the deposition being taken in the Hamilton Warping & Winding Company, bankrupt, matter, before Referee Van Cleve, were the following questions asked of the witness, Irving Sirota, and answered by him as follows: "Q. Mr. Sirota, on November  
 30 27th, you and Mr. Schram took a check for twenty-two hundred and fifty dollars from the Hamilton Warping & Winding Company, is that right? A. Well, if it is marked, it is right. Q. And that \$2,250 was used to buy the property at 161 Godwin Street, Paterson, from Samuel Rosenthal,  
 40

*Complainant's Witness, Vera F. Hirsch, Cross*

is that right? A. I think it was. Q. And there was a deposit of \$250 on October 10th given to Mr. Rosenthal on account of the price? A. Whatever is marked there it must be right. I didn't mark it. Q. It must be right? A. Yes." Were those questions asked and answered? A. Yes.

Mr. Weinberger: May I make a further objection, that none of this is binding on the women in the case, the women defendants, your Honor please. 10

Mr. Bilder: That is all.

Short recess.

*CROSS-EXAMINATION by Mr. Weinberger:*

Q. I direct your attention to page 38 of the deposition, which was read by Mr. Bilder of Mr. Schram, and ask you whether it is a fact that he testified as follows: "Q. Why didn't you take the mortgage off? A. We didn't buy the house. Our wives bought the house." 20

Mr. Bilder: Before you answer that question, may I object to the question on the ground that it is self-serving testimony and any grounds upon which my question is admissible are that they were admissions against the person whose answers they were, and any other testimony developed from that testimony by the husband is inadmissible as being self-serving declarations. The husbands can now get on the stand and say what they want, but I only utilized it as an admission. 30 40

*Complainant's Witness, Vera F. Hirsch, Cross*

The Court: I will sustain the objection.

Mr. Weinberger: I ask for an exception. I was going to read several passages of like character. I take it your Honor will make the same ruling?

The Court: Yes.

10 Mr. Weinberger: Shall I ask the specific questions?

The Court: I should think one would be enough to go up on. You can ask another question if you want to.

Mr. Weinberger: Your Honor gives me a general ruling on it and I except to it.

20 The Court: Yes. You have the husbands here in court and they can testify even though Mr. Bilder's idea was to show that they had admitted that they took this money out of the—

30 Mr. Weinberger: Perhaps I do not make my point clear to your Honor. I still maintain that there is no duty devolving upon the individual to take the stand. I think, as a matter of law, that the questions propounded by counsel were objectionable, and I think—

The Court: Well, I understand you feel that way.

40 Mr. Weinberger: I feel that where a part of a deposition goes in, any and all subject-matter contained in that deposition would, of necessity, constitute part of the same admission, because you cannot distort an admission by taking a part and say that is the admission, without taking

*Complainant's Witness, Vera F. Hirsch, Cross*

all the language accompanying it at the time. I might say this: "I know thus," or "I took the money thus and so," but go on and state—

The Court: Well, I can see that that may be so. I guess I will let it in for what it is worth. I will allow you to ask the questions. And of course, you object. 10

Mr. Bilder: May I attempt to answer that one point, because it is important?

The Court: Let us get these questions and answers in and then we can argue on it later. If I find you convince me that I have made a mistake, I will strike it out.

Mr. Weinberger: That is my view, your Honor please. 20

The Court: Yes, as long as there is no jury, it won't do any harm.

Q. Is it not a fact, the following question was asked, in the same deposition of Mr. Schram, and the following answer made thereto: "This house in which you live in was purchased when? A. In 1922." Is that correct? A. Yes, sir.

Q. At the bottom of page 38 the following answer also appears, does it not: "We did not buy the house, our wives bought the house"? A. Yes, sir. 30

Q. At the bottom of 39: "Q. With the money that you gave him? A. They gave us money"? A. Yes, sir.

Q. Page 39: "With the money you took out of the corporation and gave them? A. We didn't take out any money from the corporation"? A. Yes, sir. 40

*Complainant's Witness, Bernhard Schram, Direct*

Q. At page 19, the following question and answer appeared, did they not: "Q. Who went and paid the last interest? A. My wife and his wife." Is that correct? A. Yes, sir.

Q. At page 36, the following question is asked of Irving Sirota and the answer appearing there-  
10 to: "Cover what? A. Our wages"? A. That is right.

Q. Page 37: "It was put in the books as money borrowed from the corporation, wasn't it, you got the money and never paid it back? A. Yes, sir; the book shows we didn't pay it back, we were not supposed to pay it back. Q. Why were you not supposed to pay it back? A. It was coming to us. Q. For what? A. Wages"? A.  
20 That is right.

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BERNHARD SCHRAM, recalled.

*Direct-examination by Mr. Bilder:*

Q. Mr. Schram, did you write in the books of  
30 the corporation at the beginning? A. Yes.

Q. I call your attention to Exhibit C5, being the cash book of the corporation, and to page 105, and ask if that is your writing on that page? A. Yes, sir.

Q. I call your attention to the item of November 27th, 1922, and ask you whether that is in your writing? A. Yes.

Q. That reads as follows: "November 27th,  
40 1922, cash for loans payable, 13, \$2,250"? A. Yes.

*Complainant's Witness, Bernhard Schram, Direct*

Q. Is that correct? Now, the figure "13" refers, does it not, to the posting in the ledger? A. Yes, sir.

Q. And would refer to page 13 of the ledger? A. Yes, sir.

Q. Then that is right—

The Court: We know that. 10

Q. And that item, that entry of November 27th, 1922, represents a withdrawal of \$2,250 from the corporation, does it not? A. Yes.

Q. Now, that is the \$2,250, is it not, which was paid into the bank account of your wife and Mr. Sirota's wife in the Paterson National Bank on or about that date? A. Around that.

Q. How is that? A. Around that date. 20

The Court: Well, the answer is, "Yes, around that date."

Mr. Bilder: Yes.

Q. Now, that house on Godwin Street was bought on November 27th, 1922, was it not? A. Yes.

Q. And that was bought from whom? A. From Samuel Rosenthal. 30

Q. Samuel Rosenthal, who was then the owner? A. He was the owner of the house.

Q. You got the deed on November 27th, 1922? A. I didn't get anything.

Mr. Bilder: Have you the deed here?

Mr. Weinberger: No; we have not.

Mr. Bilder: Your Honor please, the complaint alleges the deed dated November 27th, 1922, and the answer admits it. 40

The Court: All right.

*Complainant's Witness, Bernhard Schram, Direct*

Q. Now, the money to pay for that house, which was paid to Rosenthal on November 27th, 1922, or thereabouts, came out of the bank account of the wives, did it not? A. Yes.

Q. And do you remember the amount that was paid on November 27th, 1922? A. I don't remember.

Q. Was it in the neighborhood of \$2,000? A. I don't remember the exact amount.

Q. Well, approximately two thousand? A. I think it—

Q. Let me ask you another question. A. I am not sure.

Q. What was the purchase price of that property? A. I don't remember.

Q. Do you remember anything about the purchase price? A. I don't remember how much it was.

Q. You are living in that house now? A. Yes.

Q. And who else is living in that house? A. Mr. Sirota.

Q. And your wives? A. And our wives.

Q. And you have been living in there since when? A. Since our wives have bought the house.

Mr. Bilder: I ask that that answer be stricken out.

The Court: Yes.

Mr. Weinberger: I insist that it stand for—

Q. I asked you for the date.

Mr. Weinberger: Just a minute. I insist that that was a perfectly responsive answer.

*Complainant's Witness, Bernhard Schram, Direct*

The Court: Well, it is not.

Mr. Weinberger: May I have my exception noted?

The Court: I will strike out the answer.

Q. Since that date have you been residing in that house? A. Since the date that the house was bought. 10

Q. Being November 27th, 1922? A. Well, we moved into that house, perhaps a month or two months later.

Q. And by "we" you mean both you and your wife and Mr. Sirota and his wife? A. Yes.

Q. Are any other persons in the house? A. Another party.

Q. It is a three-family house? A. Yes. 20

Q. And you have been paying interest and taxes on that house since then? A. Well, our wives take care of that, they took care of that.

Q. You know whether or not taxes are being paid on the house? A. I believe taxes has been paid on it.

Q. Yes. And are there any mortgages on that house now? A. Yes.

Q. How many? A. There is two mortgages, I believe. 30

Q. And who holds the mortgages? A. The mortgagor, a party that is named Alschuler.

Q. And his first name? A. Jacob.

Q. Jacob Alschuler, and who holds the other mortgage? A. The other mortgage, I think, the same party, the same party with another party.

Q. Who is the other party? A. I don't know his name.

Q. Charlie? A. I think, Silberman. 40

*Complainant's Witness, Bernhard Schram, Direct*

Q. Silberman, S-i-l-b-e-r-m-a-n? A. Yes.

Q. And his first name? A. I don't know his first name.

Q. Lives in Paterson? A. Yes.

Q. And what is the total of those two mortgages? A. About around seventy-five or eighty-five hundred dollars, I believe.

Q. And have those mortgages been reduced or is that the original amount? A. I think they have been reduced—the second mortgage.

Q. By how much? A. I don't know.

Q. When was it reduced? A. I can't remember that.

Q. This year? A. No.

Q. Last year? A. I don't remember.

20 Q. After the bankruptcy of the Hamilton Warping & Winding Company, or before? A. Before—I think after the bankruptcy—before—I am not—I don't remember when.

Q. Yes. And do you recall what the original amount of those mortgages was? A. Well, the first mortgage is, I believe, sixty-five hundred dollars and the second mortgage I don't remember how much it was.

30 Q. It was about thirty-five hundred, wasn't it? You remember testifying before Van Cleve, Referee Van Cleve, that there was ninety-five hundred dollars of mortgages on the house?

Mr. Weinberger: I object on the ground that that is not the proper way to prove how a man testified at a prior proceeding.

The Court: I will allow it.

40 Mr. Weinberger: I ask for an exception.

*Complainant's Witness, Bernhard Schram, Direct*

The Witness: Have to answer that question?

Mr. Bilder: Yes.

The Court: Did you so testify?

The Witness: I believe I did.

Q. And when you were testifying before Referee Van Cleve, you remembered how much had been paid on the house, didn't you? A. Yes, sir. 10

By the Court:

Q. Well, how much had been paid on the house? A. I don't remember the exact amount. It is such a long time.

Q. Well, approximately. A. It has been paid about three thousand—thirty-five hundred dollars. 20

By Mr. Bilder:

Q. Up to the present time? A. Up to the present time.

Q. And how much was paid right away, when you got the deed?

Mr. Weinberger: I object to that on the ground that he didn't say he got the deed. 30

The Court: No.

Q. When the deed was given.

The Court: Yes, when the deed was given how much was paid?

The Witness: Around two thousand dollars, something like that.

Q. Wasn't it twenty-five hundred? A. I don't remember. 40

*Complainant's Witness, Bernhard Schram, Direct*

By the Court:

Q. Did you testify to the amount before the Referee? A. I don't remember.

10 The Court: Is there testimony before the Referee that this was the amount paid?

Mr. Bilder: Yes, sir.

The Court: Well, ask him if he didn't testify before the Referee so and so.

By Mr. Bilder:

20 Q. Didn't you testify before Referee Van Cleve that two hundred and fifty dollars was paid to Rosenthal as an account first, and then a balance of two thousand was paid afterwards?

Mr. Weinberger: I object to the question on the ground that it is not the function of the counsel who puts a witness on the stand to attempt to impeach the credibility of his own witness.

The Court: I will allow it.

Mr. Weinberger: I respectfully except.

30 By the Court:

Q. Did you so testify? A. Yes.

By Mr. Bilder:

Q. That first two hundred and fifty dollars was paid directly to Rosenthal, was it not? A. I don't remember.

By the Court:

40 Q. Did you testify that it was paid directly to Rosenthal, before the Referee?

*Complainant's Witness, Bernhard Schram, Direct*

Mr. Weinberger: Just a moment. May I have my objection?

The Court: Yes, you may have all your objections. This man is trying to evade the clear statement here, plainly.

Mr. Weinberger: Your Honor, please—

The Court: He knows perfectly well 10  
whether it was paid or not.

Mr. Weinberger: I don't know that and your Honor don't know that.

The Court: He knows.

Mr. Weinberger: The record is there to prove that if it is, in fact, in existence.

The Court: What I want him to answer is, did he tell this Referee that two hundred and fifty was paid directly to 20  
Rosenthal.

Mr. Weinberger: May I have my objection to your Honor's question?

The Court: Yes, you can.

Mr. Weinberger: On the ground that if there is such a thing in the record, the witness is entitled to be confronted with it.

The Court: Very well, we will ask him 30  
if he so testified. If he did, that is the end of it.

The Court: Did you so testify?

The Witness: If I did testify it was so.

The Court: Well, did you testify or didn't you?

The Witness: I did testify.

The Court: Yes. All right. All you have to do is to answer the questions and tell the truth 40  
and you will get along better and more rapidly.

*Complainant's Witness, Bernhard Schram, Cross*

By Mr. Bilder:

Q. Now, the \$2,250 that was paid to Rosenthal, and of that two hundred and fifty was—strike it out. I call your attention to an entry in the books of the corporation, being an entry in Exhibit C5 on page 103, as follows: “October 21st, A. Rosenthal, loans to members receivable, 13, \$250,” and ask you whether that is not the two hundred and fifty dollars which was paid to Rosenthal on account of the house? A. Yes.

Q. And the balance as you say, of the purchase price, came out of the wives' bank account? A. Yes.

Q. At that time? A. At that time.

Q. That is, about at the time the deed was given? A. Yes.

Mr. Bilder: That is all.

*CROSS-EXAMINATION by Mr. Weinberger:*

Q. Who owns that property? A. Our wives, Mrs. Schram and Mrs. Sirota.

Q. Did you ever have any interest in that property at all? A. Never.

Q. Did you or the company ever have any title to that property? A. No.

Q. Mr. Schram, who collected the rents, paid the bills for the carrying of that property, all along from the time it was bought down to date? A. Our wives.

Q. Who paid the interest on the mortgages? A. Our wives.

Q. Were there any tenants in the property besides yourself? A. One.

*Complainant's Witness, Bernhard Schram, Cross*

Q. When the property was bought how many tenants were in there? A. There were three, that is, the owner and two tenants.

Q. And who collected the rent from the tenants? A. Our wives.

Q. Did you have anything to do with the collection of the rents? A. Never. 10

Q. At the time this property was bought by your wives, was your company in a solvent condition? A. Yes, sir.

Mr. Bilder: I object to that as incompetent, irrelevant and immaterial.

Q. Was every creditor, in fact, paid, whom you had? A. Yes, sir.

Q. Whom you owed any money to at the time your wives bought that property? A. Yes, sir. 20

Mr. Bilder: I object on the ground that it is incompetent, irrelevant and immaterial.

The Court: I will allow it. The answer is yes.

A. Yes.

Q. At the time that the property was bought by your wives, was there any wages to you from the company, you and your partner? A. Yes. 30

Q. And is it a fact that when you withdrew moneys from the company, speaking now with regard to the item of two hundred and fifty dollars and the item of \$2,250, that you withdrew that money as part of the salary and wages then due and part that might become due to you for salary and wages? A. Yes, sir. 40

*Complainant's Witness, Bernhard Schram, Cross*

Mr. Bilder: Now, wait, please. The witness has answered while I am on my feet addressing your Honor.

The Court: Just keep quiet.

10 Mr. Bilder: Your Honor please, this is a matter of defense, as well as the preceding questions: "Were there any wages due?" Mr. Weinberger is entitled to put in a defense by this witness, certainly, but on my examination he is not entitled to put in his case. My objection to the last question is, it is grossly leading.

20 The Court: This cross-examination, if it is cross-examination, he has a right to lead the witness, but I do not think this is a cross-examination on anything that came out in the original examination.

30 Mr. Weinberger: Your Honor please, if I may be permitted to show your Honor what I have in mind: I have a perfect right to ascribe any reason on cross-examination for the specific funds that were withdrawn, and I can have the witness account for the items, if, in fact, they were withdrawn, and if they were, in fact, for salary or wages, that is proper cross-examination, and that is the object, sir, of the entire examination. I am referring now specifically to the two items, withdrawals, which counsel has, on his direct-examination referred to.

The Court: I will allow the question.

40 Mr. Bilder: If the Court please, may I

*Complainant's Witness, Bernhard Schram, Cross*

just say this: My purpose in asking all my questions with reference to the two hundred and fifty and twenty-two hundred and fifty item has only as the object to show that that money went into those properties. I had nothing to do with it being withdrawn. That is purely a matter of defense. It appears very clearly that the corporation money went into the purchase money of these houses. As to whether they withdrew it, or were entitled to withdraw it, that is a matter of defense. I haven't gone into that. Therefore, it seems to me manifestly unfair to put in what Mr. Weinberger, in all frankness must concede to be his defense on my case. It is out of order. 10

The Court: I said I would allow it. I will strike it out if I find I have made a mistake.

Mr. Bilder: May I, for formal purposes, take an exception to your Honor's ruling?

By Mr. Weinberger:

Q. Mr. Schram, referring now to the books, Exhibit C5—referring now to page 103 of Exhibit 5, the item "A. Rosenthal, loans to members," was that taken for wages or salary at the time it was taken? A. Yes. 30

Mr. Bilder: I object to that question on the ground it is incompetent, irrelevant and immaterial, and improper cross-examination, and a matter of defense. 40

The Court: I will allow it.

*Complainant's Witness, Bernhard Schram, Cross*

Q. And in whose handwriting does the item appear? A. In the bookkeeper's handwriting.

Q. Referring to Exhibit C7—oh, were all of the pages in the books, so far as you know, when you last saw them and at the time the petition in bankruptcy was filed? A. Yes.

10 Q. Whose handwriting is that in, do you know?  
A. Bookkeeper's.

Q. Bookkeeper's. Who was the bookkeeper?  
A. Mr. Magill.

Q. Was he your bookkeeper? A. He was the bookkeeper, yes, the accountant.

The Court: I understood him to say it was not in his handwriting.

20 Mr. Magill: Not my handwriting, your Honor.

The Witness: It is not my handwriting.

Q. I am asking you whose handwriting was in it. A. I don't know.

Q. Who did you have working there? A. The only one, Mr. Magill, or somebody that works with Mr. Magill.

30 The Court: In other words, he doesn't know who wrote it.

Q. Now, Mr. Schram, when you were asked to bring the original agreement—your wives were—have you got the original agreement here when the property was bought? A. No.

Q. The receipt for two hundred— A. No; I have not. I didn't get a chance to get it.

40 Q. Did you at any time ever take title to that

*Complainant's Witness, Bernhard Schram, Recross*

property in the names of your wives for the purpose of defrauding creditors?

Mr. Bilder: I object to that question.

A. No.

The Court: I will sustain the objection. Strike it out. That is a matter for the Court to decide. 10

Mr. Weinberger: That is all.

*RE-DIRECT EXAMINATION by Mr. Bilder:*  
*er:*

Q. Mr. Schram, just a moment. I call your attention to page 105, Exhibit C5, being the cash book of the bankrupt corporation, and ask you whether you recognize the writing on that page? 20

A. Yes, sir.

Q. Whose is it? A. Mine.

Q. All of it? A. Yes, sir.

*RE-CROSS EXAMINATION by Mr. Weinberger:*

Q. Were all of the bills that were due in November, 1922, or prior thereto, paid? A. Yes, sir. 30

Mr. Bilder: I object to that question, incompetent, irrelevant and immaterial, and improper cross-examination.

The Court: I will allow it.

Q. Was every debt or claim or bill which was 40

*Complainant's Witness, Harold Clark, Direct*

due to creditors up to November, 1922, and December, 1922, paid? A. Yes, sir.

10 Mr. Bilder: I object, if the Court please. May I ask that the stenographer get my objection in before the witness has answered?

The Court: Yes.

Mr. Bilder: Then I object to that question on the ground it is improper cross and irrelevant and incompetent, and immaterial.

Mr. Weinberger: That is all, Mr. Schram.

---

20 HAROLD CLARK, recalled.

*Direct-examination by Mr. Bilder:*

Q. Mr. Clark, you now have in your possession the original deposit slip which accompanied and relates to the initial deposit in the bank account of Lottie Sirota and Anna Schram? A. Yes, sir.

30 Q. With the Paterson National Bank of Paterson, New Jersey, made on—which appears as a credit, the initial deposit, November 27th, \$2,250? A. Yes, sir.

Q. And you produce that, do you? A. (No answer.)

Mr. Bilder: I offer this.

Paper marked Exhibit C9.

40 Q. Can you tell by any notation on the face

*Complainant's Witness, Harold Clark, Cross*

of Exhibit C9 whether or not the deposit consisted of check or cash? A. It consisted of a check.

Q. Can you tell from the exhibit on what other bank the check was drawn? A. The Hamilton Trust Company.

Q. That is indicated to you by what? A. 10  
Number "7" on the left hand corner there.

Q. And "7" indicates the clearance number of the Hamilton Trust Company, of the Paterson Bank system? A. Yes, sir.

The Court: Well, is that all?

*CROSS-EXAMINATION by Mr. Weinberger:*

Q. Is that the way you generally indicate 20  
things on deposit, the clearing house check? A.  
Sure.

Q. Number of bank? A. Yes.

Q. Does that mean a check? A. Yes.

Q. Whose check was that? A. Check of the  
Hamilton Trust Company.

Q. But whose was it? A. I don't know.

Q. You don't know. Was it a savings check? 30  
A. I don't know.

Q. Was it an ordinary check? A. I don't  
know.

Q. Is there any means of telling that? A.  
(Witness nods "no.")

Q. On that slip? A. On that slip, no.

Q. There wouldn't be any way of knowing  
that from that slip? A. Not from the slip.

Mr. Weinberger: That is all.

*Complainant's Witness, Bernard Schram, Direct*

BERNARD SCHRAM, recalled.

*Direct-examination by Mr. Bilder:*

10 Q. There is only one family—other than the Schram—you and your wife, and your partner and his wife, Sirota and his wife, who live in that house? A. Yes, sir.

Q. And how much rent do they pay? A. Forty dollars.

Q. And is that the same rent they have been paying since November, 1922? A. Yes, sir. The party paid forty-three dollars a month at first, but now they pay forty dollars.

Q. How long have they been paying forty? A. Oh, about a year.

20 Q. Do you pay any rent to your wife? A. Sure.

Q. Eh? A. Sure we pay rent.

Q. You do to your wife? A. Not—I pay the rent, I give her wages and my wages she pays the rent, that is, she—

Q. To whom? A. Then she—they deposit so much for rent in order to pay off the—in order to pay off the—

30 Q. Taxes and insurance? A. Yes, the expenses.

Q. They pay that out of the money that you and Mr. Sirota give them; is that right?

The Court: That is what he said.

Mr. Bilder: He doesn't want to say it.

The Court: He has said "yes."

Mr. Weinberger: He said it and you say he don't want to say it.

40

The Court: Is that all?

*Complainant's Witness, Bernard Schram, Cross*

*CROSS-EXAMINATION by Mr. Weinberger:*

Q. Mr. Schram, how long after your wives bought the property did you move in the place or were you in there? A. About two months after we moved.

Q. How long after did Sirota—after Mrs. 10  
Sirota and your wife got the property, move in there?

The Court: He has already testified, about two months after.

Q. I show you a contract of Sam Rosenthal and ask you if that was the contract of purchase made with your wives for the purchase of the property? 20

Mr. Bilder: May I see that, your Honor?

Mr. Weinberger: Yes, sir.

The Court: I do not see that this is of any great importance. The testimony clearly shows that the wives took title to the property. The only question seems to be where the money came from.

Mr. Bilder: I object to its use, your Honor. 30  
(Discussion.)

Mr. Bilder: I consent the closing sheet should go in, but I object to the—I object to both of them.

Closing sheet marked Exhibit D1.

Mr. Weinberger: I rest the case, your Honor, please. I would like to have the record written up.

Mr. Bilder: May I ask leave to amend my bill of complaint to conform to the proof inso- 40

far as the thing may not square all along the line. I mean, substantially I have put in the case that my bill makes out, but, as I have indicated in my opening, we do not ask for the property in its entirety. We simply ask that a trust be impressed on the property *pro tanto*.

The Court: All right. We will amend the papers.

10 Mr. Weinberger: I want to reserve my right on the record that your Honor will do it subject to terms. If the amendment is to be a radical departure from their bill, I do not consent to it.

The Court: Yes. I understand it is not a radical departure.

Mr. Bilder: The amendment will ask for less, not for more than the bill prays for.

20 Mr. Weinberger: And I have no objection to them asking for less money.

Mr. Bilder: And I ask leave to make the trustee a party.

Mr. Weinberger: And I object to that unless I know how it is going to read.

Mr. Bilder: And also to file with you a certified copy of the order approving the trustee's bond.

30 The Court: You will have ten days after you receive the testimony in which to file briefs.

## Final Decree.

IN

## CHANCERY OF NEW JERSEY.

10.2526

Between:

PAUL MULLER, as trustee in  
Bankruptcy of The Hamil-  
ton Warping & Winding Com-  
pany, Inc., a corporation,  
Complainant,  
and

BERNARD SCHRAM, and ANNA  
SCHRAM, his wife IRVING SI-  
ROTA and LOTTIE SIROTA, his  
wife,

Defendants.

10

On Bill., &amp;c.

20

This cause coming on to be heard in the presence of Bilder & Bilder, solicitors of the complainant, and Weinberger & Weinberger, solicitors of the Defendants, and the Court having examined the pleadings and having taken proofs orally and in open court, and having heard and considered the arguments of counsel, and being satisfied that certain lands and premises situate, lying and being in the City of Paterson, County of Passaic, and State of New Jersey, more particularly described as follows:

30

BEGINNING at a point in the Northerly line of Godwin Street, distant 175 feet Westerly from

40

*Final Decree*

the Westerly line of Auburn Street running thence (1) Northerly parallel with Auburn Street 101.14 feet, thence (2) Westerly parallel with Tyler Street 25 feet, thence (3) Southerly parallel with the first course 101.19 feet to the Northerly line of Godwin Street, thence (4)  
 10 Easterly along the same 25 feet to the place of beginning.

Being lot #95 on a map entitled, "The Homestead," the property of the heirs of Philemon Dickerson, deceased, in the City of Paterson.

Being known as Lot 161, Godwin Street, Paterson, New Jersey.

Being the same premises conveyed by Samuel Rosenthal and Tillie Rosenthal, his wife, to said Anna Schram and Lottie Sirota, by deed  
 20 dated November 27th, 1922, and recorded on November 28th, 1922, in the office of the Register of the County of Passaic, in Book D-30 of Deeds, for said county, on pages 190, etc; together with a certain dwelling house located on said land and premises, was purchased by the defendants in the month of October or November, 1922, with moneys amounting to \$2,057, belonging to  
 30 the Hamilton Warping & Winding Co., Inc., bankrupt, of which bankrupt, the complainant is the duly qualified trustee in bankruptcy, and that the defendants procured a conveyance of title to said property to be made by the then owners thereof to the defendants, Anna Schram and Lottie Sirota, on November 27, 1922, and that the said moneys of the bankrupt corporation so used for the purchase of said property  
 40 were withdrawn from the funds of the bank-

*Final Decree*

rupt corporation by the defendants, Bernard Schram and Irving Sirota, who were then respectively the president and treasurer of the bankrupt corporation; and that the defendants have ever since the date of the conveyance of the property aforesaid been in possession thereof, receiving the rents and enjoying the issues and profits thereof, and that the complainant is entitled to the relief prayed for by him in his amended bill of complaint. 10

It is thereupon on this 9th day of November, 1926,

Ordered, Adjudged and Decreed, that the defendants hold the said land and premises and the title thereto in trust for complainant, as trustee in bankruptcy of the Hamilton Warming & Winding Co., Inc., bankrupt, and it is further 20

Ordered, Adjudged and Decreed, that this matter be referred to Roy F. Anthony, one of the Special Masters of this court to take an account of the rents, issues and profits of the said lands and premises collected by the defendants, and of the sums lawfully expended by them on account of the same for interest, taxes, repairs and other fixed charges, and that the said Master make report to this court with all convenient speed, and it is further 30

Ordered, Adjudged and Decreed, that defendants shall, within ten days after service of a copy hereof upon them, convey said land and premises to Frederick H. Groel, who is hereby appointed as receiver in this cause with power to take possession of said land and prem- 40

*Final Decree*

- ises and to collect the rents, issues and profits thereof, and to sell the same and to pay to complainant out of the proceeds of such sale, the sum of \$2,057 with interest thereon, at the rate of six percent (6%) from November 27, 1922 and such other sum as shall be found by said
- 10 Special Master to be due from defendants to complainants, and it is further

Ordered and Decreed that the defendants shall pay to complainant's solicitors, Bilder & Bilder, the sum of \$175 as a counsel fee, besides costs to be taxed.

Respectfully advised,

E. R. WALKER,

C.

- 20 Alonzo Church,  
V. C.  
A true copy,  
Thomas Barber,  
Clerk.

30

40

## Opinion.

IN

## CHANCERY OF NEW JERSEY.

Between:

PAUL MULLER, as receiver in Bankruptcy of The Hamil- ton Warping & Winding Com- pany, Inc., a corporation, Complainant, and	10
BERNARD SCHRAM, and ANNA SCHRAM, his wife IRVING SI- ROTA and LOTTIE SIROTA, his wife, Defendants.	20

Bilder & Bilder, Esqs., for Complainant.  
Weinberger & Weinberger, Esqs., for Defend-  
ants.

CHURCH, V. C.:

This is a bill brought by the receiver of a 30  
bankrupt corporation against its officers and  
their wives to impress a resulting trust on  
certain lands in Paterson, New Jersey, the  
title to which stands in the names of the  
wives. It is admitted that \$2,500 was withdrawn  
from the corporate funds for the purpose of  
making this purchase.

Speaking generally, this transaction creates a  
resulting trust. 40

*Opinion*

In the case of *Shaler v. Trowbridge*, 28 N. J. Eq. 595 (Court of Errors and Appeals), the Court said:

10       “The equitable doctrine applicable to the case is well settled. If a person having a fiduciary character purchase property with the fiduciary funds in his hands, and take the title in his own name, a trust in the property will result to the *cestui que trust* or other person entitled to the beneficial interest in the fund with which the property was paid for; or, if a partner purchase lands with partnership funds, and take the title to himself, a trust will result to the partnership. The rule embraces personal property as well as real estate, and if a man purchase a 20       bond, annuity, stock, mortgage, or other personal interest, in the name of a third person, the equitable ownership results to the person from whom the consideration moves. I *Perry on Trusts*, Sections 127, 130; *Johnson v. Dougherty*, 3 C. E. Gr. 406; *Cutler v. Tuttle*, 4 C. E. Gr. 558.”

\*           \*           \*           \*           \*           \*

30       “If a person occupying a fiduciary capacity purchases property with fiduciary funds in his hands, and takes the title in his own name, he will, by construction, be charged as a trustee for the person entitled to the beneficial interest in the fund with which such purchase was made.”

In the case of *Stratton v. Dialogue*, 16 N. J. Eq. 70, the Court said:

40       “1. Where real estate is in fact paid with the

*Opinion*

funds of a company, there is clearly a resulting trust in favor of the company, although the deed therefor is made absolute to a third part, and purports upon its face to be for his own use and benefit.

“2. A party so taking the title, becomes a trustee for the creditors and stockholders, and the trust will be enforced for their benefit at the instance of the receiver.” 10

Defendants contend that the withdrawals were perfectly proper in that they were payments or advances for wages. I think the testimony is entirely too vague to establish such a proposition.

Defendants also contend that fraud actual or constructive must be shown before complainant can prevail. That is not so because the trust is a “resulting,” not a “constructive trust.” It arises from operation of law and fraud need not be shown. 20

See 39 *Cyc.*, page 104:

“Resulting Trusts: 1. In General. a. Nature of Resulting Trust. A resulting trust never arises out of a contract or agreement between the parties, but arises by implication of law from their acts and conduct apart from an contract, the law implying a trust where the acts of the property to be charged as trustee have been such as are in honesty and fair dealing consistent only with a purpose to hold the property in trust, notwithstanding such party may have really intended to resist it. Such a trust cannot be subsequently changed by oral dec- 30 40

*Opinion*

larations. A resulting trust may arise: (1) Where an estate is purchased in the name of one person, but the money or consideration is paid by another; (2) where there is a disposition of property upon trusts which are not declared or are only partially declared, or are  
 10 illegal; (3) where a conveyance is made without any consideration, and it appears from the circumstances that the grantee was not intended to take beneficially; (4) where a person standing in a fiduciary relation uses fiduciary funds or assets to purchase property in his own or a third person's name; and (5) it has been said that a resulting trust will arise  
 20 in certain cases of fraud where transactions have been carried on *mala fide*; but the trust which arises in the case of fraudulent transactions is more properly classified as a constructive trust and not as a resulting trust."

\* \* \* \* \*

Page 148:

30 "It is an established rule at equity that where trust and confidence are reposed by one party in another, and the latter accepts the confidence or trust, equity will convert him into a trustee, whenever it is necessary to protect the interest of the party so confiding and do justice between them. In accordance with this rule, if a receiver, executor, factor, or other fiduciary uses the fiduciary funds or assets in the purchase of property and takes a conveyance in the name of himself or a third person, a resulting trust arises in such property  
 40

*Opinion*

in favor of the persons entitled to the funds or assets with which it is purchased, particularly where the purchase is made for the benefit of such persons. So where a guardian purchases property in his own name with funds of his ward, a trust results to the ward; and where an executor or administrator purchases property in his own or a third person's name with funds belonging to the estate, a resulting trust arises in favor of the heirs, legatees, or other persons entitled to the beneficial interest in the estate. If the fiduciary funds thus used constitute only a part of the consideration, a resulting trust *pro tanto* arises."

10

\* \* \* \* \*

Page 150:

20

"Funds in Hands of Agent. Where an agent, having funds or assets of his principal in his possession, uses the same in the purchase of property, and the purchase is made or title taken in the name of himself or of a third person's, a resulting trust in the property so acquired arises in favor of the principal or his heirs, as against the agent or their heirs, or creditors, although the agent made no express promise to act as trustee, and although the principal is indebted to the agent in an amount equal to the value of the property purchased."

30

Defendants finally contend that the corporation was not insolvent when its funds were used to buy the property and that no present creditor was then a creditor. Therefore, complainant should not succeed. This argument might be

40

*Opinion*

10 pertinent were this a suit to set aside a fraudulent conveyance, but such is not the case here. There is no attack made on the conveyance itself. The suit merely seeks in effect to have the equitable title to the property declared to be in the trustee in bankruptcy. The situation is the same as if the corporation were not the bankrupt and brought the suit itself. The trustee brings the action as the representative of the corporation as well as the representative of the creditors.

See Remington on Bankruptcy, Vol. IV, p. 85, Section 1409:

20 “The trustee succeeds to the bankrupt’s title and stands in his shoes and has the bankrupt’s rights and remedies.”

Page 190, Section 1479:

“The trustee is entitled to urge all rights and all the defenses the bankrupt might have urged had there been no bankruptcy.”

30 I, therefore, think it immaterial whether the corporation was insolvent at the time the property was bought or whether present creditors were then creditors.

I will advise a decree according to the prayer of the bill.

## Exhibit D1.

(Copy.)

## STATEMENT.

Purchase price	\$11,250.00	
Insurance	9.00	
Insurance	23.00	10
Stamp on mortgage	1.20	
	<hr/>	
		\$11,283.20
Mortgage	\$6,500.00	
Mortgage	2,400.00	
Interest on \$5,000	125.00	
Interest on \$1,500	45.00	
Taxes	105.52	
December rent	45.00	20
Stamp	2.50	
Water	3.00	
Deposit	250.00	
	<hr/>	
		9,476.02
		<hr/>
		1,807.18
		30

**Exhibit C3.**

UNITED STATES DISTRICT COURT,  
 DISTRICT OF NEW JERSEY.

10	IN THE MATTER of HAMILTON WARPING & WIND- ING Co., Bankrupt.	}	In Bank- ruptcy. Oath and Report of Appraisers.
----	---	---	---

State of New Jersey,  
 County of Passaic,                    ss:

20            Personally appeared the within-named Fred  
 Becker, Robert L. Fitzpatrick and J. L. Friedel,  
 and severally made oath and say: That they  
 will fully and fairly appraise the aforesaid  
 real and personal property according to their  
 best skill and judgment.

FRED A. BECKER,  
 ROBERT L. FITZPATRICK,  
 JOHN L. FRIEDEL.

30            Subscribed and sworn to before me this  
 24 day of June, A. D., 1924.  
               Garret Van Cleve,  
                   Atty. at Law of N. J.

40            We, the undersigned, having been notified that  
 we were appointed to estimate and appraise the  
 real and personal property aforesaid, have at-  
 tended to the duties assigned us, and after a

*Exhibit C3*

strict and careful examination and inquiry, we do estimate and appraise the same as follows:

3 Eastwood warpers, 72, new style Iron wrappers with creel @ \$350.00 each	\$1,050.00	
1 Eastwood warper, 60" (old style) with creel	100.00	10
1 Sipp, 102 spindle creel	15.00	
1 Eastwood 360 spindle creel	20.00	
4 Sipp, 80 spindle winders @ 30¢ per spindle	960.00	
3 Sipp, 72 spindle winders @ 30¢ per spindle	648.00	
90 ft. of 1 15/16 shafting @ 10¢ per ft.	9.00	20
13 Iron hangers @ \$1.00 each	13.00	
2 3 ft. steel drive pulleys @ \$2 each	4.00	
2 4 ft. split steel pulleys @ \$1 each	2.00	
7 wood cone pulleys @ 25¢ each	1.75	
2 14" split steel pulleys @ 75¢ each	1.50	
4 10" split steel pulleys @ 50¢ each	2.00	30
55 ft. 4" double belting @ 15¢ per ft.	8.25	
20 ft. 2½" double belting @ 12¢ per ft.	2.40	
80 ft. 2" double belting @ 10¢ per ft.	8.00	
140 ft. 1½" single belting @ 5¢ per ft.	7.00	40

*Exhibit C3*

	1 Western Electric motor, 2 Phase 5 H. P.	30.00
	1 Western Electric motor, 2 Phase 3 H. P.	20.00
	200 ft. 4x6 N. C. pine stringers @ 10¢ per ft.	20.00
10	1 "Wiz" with electric motor (Laun- dry-ette)	100.00
	1 Sprague electric 500 lb. hoist with motor	250.00
	7 Warping beams @ 50¢ each	3.50
	100 lbs. beaming paper @ 2¢ per lb.	2.00
	5000 winder bobbins @ 2¢ each	100.00
	1 Galv. iron tub	1.00
	2 wood tubs 25¢ each	.50
20	1 steel mixing tub	1.00
	1 wood silk closet	10.00
	1 work bench and vice	5.00
	4 wooden benches @ 25¢ each	1.00
	1 galv. iron ash can	1.00
	5 gal. machine oil @ 15 per gal.	.75
	1 silk wringer	1.00
	3 galv. pails @ 25¢ each	.75
	set of carpenter tools	5.00
30	1 oil stove	1.00
	Stepladder, 10 ft.	1.00
	Oil tank	1.00
	Set of switchboard, elec. attach- ments	50.00
	Fairbanks Standard Scale	25.00
	Extra set of soft silk winder swifts	5.00
40		<hr/> \$3,487.40

*Exhibit C3*

## OFFICE FURNITURE AND SILK.

Mahogany roll top (4 drawer) desk	\$ 10.00	
1 oak library table with drawer	5.00	
1 office, glass partition	20.00	
1 New Era check writer	3.00	10
Office accessories and stationery	3.00	
About 150 lbs. of Japan Raw silk 20/22 on spools and swifts @ \$2.50 per lb.	375.00	
	<hr/>	
	\$ 416.00	

## SUMMARY.

Machinery and fixtures	\$3,487.40	20
Silk and office furniture	416.00	
	<hr/>	
	\$3,903.40	

FRED A. BECKER,  
ROBERT L. FITZPATRICK,  
JOHN L. FRIEDEL,  
Appraisers.

30

40

**Exhibit C4.**STATEMENT OF ALL PROPERTY OF  
BANKRUPT.*Schedule B1. No. 1*

## REAL ESTATE

10

Estimated Value

\$ Cts.

None

None

None

Total

None

20

Insert in all cases, location and description of all real estate owned by debtor or held by him; incumbrances thereon, if any, and dates thereof; statement of particulars relating thereto.

This schedule must be executed in triplicate.  
HAMILTON WARPING & WINDING CO., INC.

BERNARD SHRAM,

Pres. Petitioner.

30

IRVING SIROTA,

Treas.

40

*Exhibit C4**Schedule B2. No. 1*

## PERSONAL PROPERTY

A. Cash on hand.		
In Hamilton Trust Co., Paterson, N.		
J.	100.00	10
To Paul Muller, Receiver	920.00	
B. Bills of exchange, promissory notes, or securities of any description (either to be set out separately.		
To Paul Muller, Receiver, promissory notes about	1,200.00	
C. Silk stock in trade in business of Ham. W. & W. Co. at 170 Main St. of the value of \$1,000.00.		20
Stock consists, of silk on spools, on winders and on warping frames	1,000.00	
D. Household goods and furniture, household stores, wearing apparel, and ornaments of the person, viz:	None	
E. Books, prints and pictures, viz.	None	
F. Horses, cows, sheep and other animals (with number of each) viz:		30
	None	
G. Carriages and other vehicles, viz:	None	
H. Farming stock and implements of husbandry, viz:	None	
I. Shipping and shares in vessels, viz:	None	40
K. Machinery, fixtures, apparatus and tools used in business, with the place		

*Exhibit C4*

where each is situated, viz.:

	4 Eastwood warpers with 6 creel, about 3000	
	4 Sipp winders, 80 spindles each, bob- bins.	
10	3 Sipp winders, 72 spindles each, office fixtures.	
	1 Electric hoist, 2 motors	
	1 Whiz machine. All at 170 Main St., Paterson, N. J.	8,000.00
	L. Patents, copyrights and trade marks, viz:	None

20 M. Goods or personal property of any  
other description, with the place where  
each is situated, viz:

None

Total

11,220.00

This schedule must be executed in triplicate.  
HAMILTON WARPING & WINDING CO., INC.

BERNARD SHRAM,  
Pres. Petitioner.

IRVING SIROTA,  
Treas.

30

40

*Exhibit C4**Schedule B3. No. 1*

## CHUSES IN ACTION.

	Amount	
	\$	cts.
A. Debts due Petitioner on open account.		10
		None
B. Stock in incorporated companies. Interest in joint stock companies, and Negotiable Bonds.		None
C. Policies of Insurance.		None
About \$6,000 on machinery and stock, A. P. Haldane, 153 Ellison St., Paterson, N. J. Agent for insurance companies.		20
	6,000.00	
D. Unliquidated Claims of every nature with their estimated value.		None
E. Deposits of money in banking institution and elsewhere.		
With Public Service as deposit	95.00	
	_____	30
Total	\$6,095.00	

This schedule must be executed in triplicate.

HAMILTON WARPING & WINDING CO.

BERNARD SHRAM,

Pres. Petitioner.

IRVING SIROTA,

Treas.

*Exhibit C4**Schedule B4. No. 1*

Property in Reversion, Remainder or Expectancy, Including Property Held in Trust for the Debtor or Subject to any Power or Right to Dispose of or to Charge.

10

(N. B.—A particular description of each interest must be entered. If all or any of the debtor's property has been conveyed by deed of assignment, or otherwise, for the benefit of creditors, the date of such deed should be stated the name and address of the persons to whom the property was conveyed, the amount realized from the proceeds thereof, and the disposal of the same, so far as known to the debtor).

20

General Interest	of my interest Supposed Value \$ Cts.
------------------	---

Interest in land.	None
-------------------	------

Personal property.	None
--------------------	------

30 Property in money, stocks, shares, bonds, annuities, etc.	None
---	------

Rights and powers, legacies and bequests.	None
---	------

Total	None
-------	------

40 Property heretofore conveyed for benefit of creditors.	
--	--

*Exhibit C4*

Particular Description	Amount realized from proceeds of Property conveyed	
	\$	cts.
What portion of debtor's property has been conveyed by deed of assignment or otherwise for benefit of creditors; date of such deed, name and address of party to whom conveyed; amount realized therefrom, and disposal of same, so far as known to debtor.		10
What sum or sums have been paid to counsel and to whom, for services rendered or to be rendered in this bankruptcy.	None	20
Hyman J. Stein, 136 Washington St., Paterson	350.00	
Wm. Surosky, 160 Market St., Paterson	300.00	
Total	<u>\$650.00</u>	

This schedule must be executed in triplicate. 30  
HAMILTON WARPING & WINDING CO., INC.

BERNARD SHRAM,  
Pres. Petitioner.

IRVING SIROTA,  
Treas.

## Exhibit C5.

October 1922

P. 103

## Disbursements

		(to members)		Net cash	Labor	General
1239	10/21	Loans (Receivable) →	13	12,499.12	702.93	11,796.19
		A. Rosenthal		250.00		250.00
40	24	I. Sirota	43	75.00	50.00	
		B. Schram			25.00	
1	26	Asiastic Silk Corp.	79	3,190.34		3,190.34
2	26	B. Schram	43	25.00	25.00	
10	3	Hamilton Warming & Winding	45	227.00	227.00	
4	27	Sulzer, Rudolf Co.	81	1,058.98		1,058.98
5	30	B. Schram—Expense	63	5.00		5.00
				<u>17,330.44</u>	<u>1,029.93</u>	<u>16,300.51</u>

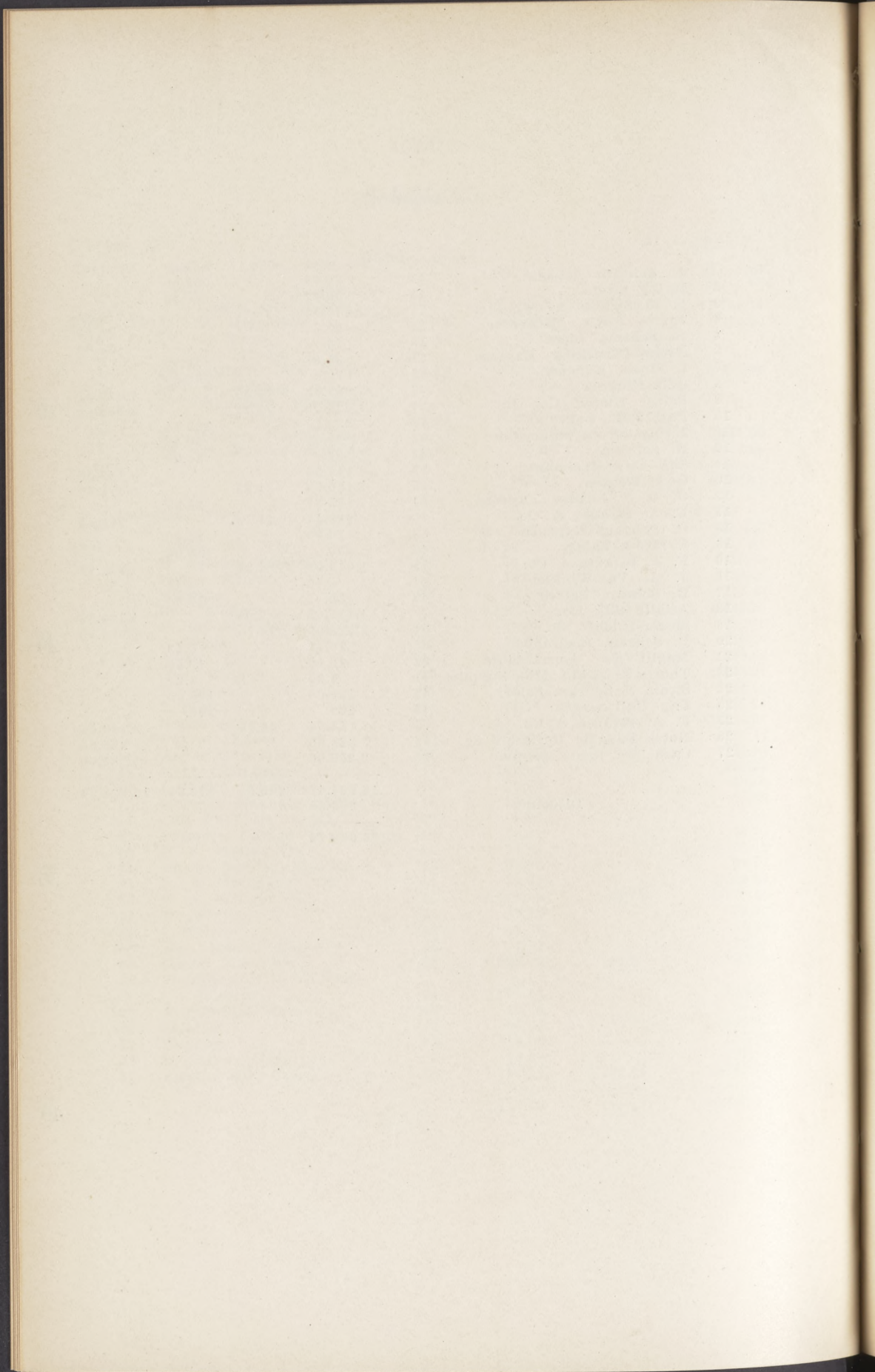
December 1922

P. 107

				Net cash	Discount	General	
Dec.	1	Gosho Silk Corp.	83	1,089.57	22.24	1,111.81	
	1	B. Schram Salary	43	50.00		50.00	
	1	Irving Sirota	43	50.00		50.00	
	1	Expense	63	10.00		10.00	
	4	Geo. Wagner	77	1,116.73	22.13	1,138.86	
20	6	B. Schram Salary	43	50.00		50.00	
	8	I. Sirota	43	50.00		50.00	
	8	Asiatic Silk Corp.	79	1,122.53	17.09	1,139.62	
	8	Geo. Wagner	77	1,126.84	17.15	1,143.99	
	8	P. Haldone Ins.	53	54.50		54.50	
	8	I. Sirota Ins.	53	21.74		21.74	
	9	Gosho Corp.	83	1,093.70	22.32	1,116.02	
	9	Payrol (Labor)	45	201.44		201.44	
	11	Arrow Trucking	61	35.90		35.90	
	11	Rent (Lampell)	47	150.00		150.00	
	11	I. Sirota Expense	63	10.00		10.00	
	11	Reliable Magneto (Auto Rep)	48	15.40		15.40	
	11	Call Publ. Co. (adv)	63	1.88		1.88	
	11	Paterson Garage (Auto Rep)	48	26.35		26.35	
	11	U. S. Testing Co.	67	21.18		21.18	
30	11	Public Service Electric	49	53.95		53.95	
	11	N. Y. Telephone Co.	51	12.65		12.65	
	13	F. A. Strauss Co.	75	2,086.86	36.75	2,123.61	
	14	B. Schram	43	50.00		50.00	
	14	I. Sirota	43	50.00		50.00	
	18	Mrs. Hunter (labor)	45	19.08		19.08	
	20	Gosho Silk Corp.	83	1,099.85	22.45	1,122.30	
	22	Hamilton N. & W. Co. (Payrol)	45	194.22		194.22	
	23	Brainbridge Elec. Co.	63	15.70		15.70	
	22	Salaries	43	100.00		100.00	
	23	Expense	63	115.00		115.00	
	23	B. Rayso (Loan)	9	100.00		100.00	
	27	Asiatic Silk Corp.	79	2,122.33	21.44	2,143.77	
40					<u>12,317.40</u>	<u>181.57</u>	<u>12,498.97</u>

## Exhibit C5

Nov. 1922			Net cash	Disc.	Labor	P. 105 General	
Nov. 1	B. Schram Salary	43	50.00		50.00		
3	Irving Sirota "	43	50.00		50.00		
3	F. A. Strauss & Co., Inc.	75	2,046.53	30.70		2,015.83	
4	James Royle, Carpenter	24	25.			25.00	
4	B. Schram Loan	13	25.			25.00	
8	Arrow Trucking Express	61	36.55		36.55		
7	I. Sirota Expense	63	10.		10.00		
8	Geo. Wagner	77	1,086.62	16.30		1,070.32	
8	Sulzer Rudolf Co., Inc.	81	1,064.99	15.97		1,049.02	10
10	Pay Roll wages	45	222.14		222.14		
10	Irving Sirota Salary	43	50.00		50.00		
10	B. Schram	43	50.		50.00		
10	Silk City Exchange	15	145.23			145.23	
10	Geo. Wagner	15	2,110.05	31.65		2,078.40	
13	C. & J. Lawler Express	61	35.31		35.31		
15	F. A. Strauss & Co.	75	983.44	14.75		968.69	
15	B. Schram Expense	63	20.00		20.00		
16	I. Sirota Salary	43	50.		50.00		
16	F. A. Strauss & Co.	75	1,012.03	20.24		991.79	
16	J. A. Van Winkle	41	5.46		5.46		
17	B. Schram Salary	43	50.		50.00		
18	Asiatic Silk Corp.		1,139.62	17.09		1,122.53	
18	Sulzer-Rudolf Co.	81	1,073.09	16.10		1,056.99	
20	B. Schram Insurance	63	16.42		16.42		
21	Magill Co. Accountants	63	12.50		12.50		
23	Thorn & Zakin Mill Supplies	41	6.30		6.30		
23	Sirota & Schram Salary	43	100.00		100.00		
25	Pay Roll wages	45	209.		209.		
25	F. A. Strauss & Co.	75	2,143.54	42.88		2,100.66	
25	Notes Payable for appx Sc	119	825.60			825.60	
27	Cash for loans payable	13	2,250.00			2,250.00	
			<u>16,904.42</u>	<u>205.68</u>	<u>973.68</u>	<u>15,725.06</u>	
	Discount		205.68				
			<u>16,698.74</u>				



NEW JERSEY SUPREME COURT OF ERRORS  
AND APPEALS.

Between :  
Paul Muller, as trustee in Bank- :  
ruptcy of The Hamilton Warming & :  
Winding Company, Inc., a corpora- :  
tion, :  
Complainant-Appellee, : ON APPEAL FROM THE  
and : Court of CHANCERY  
Bernard Schram and Anna Schram, his : STIPULATION  
wife, Irving Sirota and Lottie Sirota, :  
his wife, :  
Defendants-Appellants. :

It is hereby stipulated and

agreed by the parties hereto that the State of the Case on this appeal shall not include any of the other exhibits mentioned and referred to in the testimony excepting pages 103, 105 and 107 of Exhibit C5, and Exhibit D1.

It is further stipulated and

agreed that Exhibit C2, which consists of all the proofs of claim filed with the Referee in Bankruptcy in the bankruptcy matter of Hamilton Warming & Winding Company, Inc., bankrupt, together with orders allowing each of said claims made by said Referee in Bankruptcy, establishes the fact that the debts of said bankrupt amount to \$18,179.08.

Bilder & Bilder  
Solicitors of Complainant-Appellee

Weinberger & Weinberger  
Solicitors of Defendants-Appellant

Between

Paul Miller, as trustee in Bank-  
ruptcy of the Hamilton Waring &  
Winding Company, Inc., a corpora-  
tion,

ON APPEAL FROM THE  
COURT OF CHANCERY

Complainant-Appellee,

and

DEFENDANTS

Edward Sobran and Anna Sobran, his  
wife, Irving Sobran and Lottie Sobran,  
his wife,

Defendants-Appellants.

It is hereby stipulated and  
agreed by the parties hereto that the State of the Case on  
this appeal shall not include any of the other exhibits men-  
tioned and referred to in the testimony excepting pages 103,  
104 and 105 of Exhibit C, and Exhibit D.

It is further stipulated and  
agreed that Exhibit C, which consists of all the books of  
accounts maintained with the Referee in Bankruptcy in the bankruptcy  
of Hamilton Waring & Winding Company, Inc., bankruptcy,  
together with orders allowing each of said claims made by said  
Referee in Bankruptcy, establishes the fact that the debts of  
said bankruptcy amount to \$18,125.00.

Paul Miller  
Complainant-Appellee

Edward Sobran & Anna Sobran  
Defendants-Appellants