

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

THE BENNETT FUNDING GROUP, INC.
BENNETT RECEIVABLES CORPORATION
BENNETT RECEIVABLES CORPORATION II
BENNETT MANAGEMENT AND DEVELOPMENT
CORPORATION

Debtors

CASE NO. 96-61376
96-61377
96-61378
96-61379

Chapter 11
Jointly Administered

ORDER

Deposit Bank having filed a motion seeking sanctions against the Trustee, Richard C. Breeden, and his attorneys, Simpson, Thacher & Bartlett, pursuant to Federal Rules of Bankruptcy Procedure 7026, 7033, 7034 and 7037 and Federal Rules of Civil Procedure 26, 33, 34 and 37, for failure to respond to certain discovery demands and compelling the Trustee to file a particularized response to the Bank's motion filed pursuant to 11 U.S.C. § 362(d), and the motion having come on to be heard at a motion term of this Court held in Utica, New York on April 24, 1997, and Deposit Bank having appeared by its attorneys, McGrath & Associates, Joseph R. Lawrence, Esq. of counsel, and the Trustee, and Simpson, Thacher and Bartlett having appeared by Maurice H. Hartigan III, Esq. of counsel, and the Court having heard oral argument thereon and having reviewed the Bank's Request for Production of Documents as well as its First Set of Interrogatories together with the Trustee's Response thereto and having duly deliberated thereon, now therefore it is

ORDERED, that with regard to the Trustee's Response to the Bank's First Request for Production of Documents dated March 25, 1997, the Court finds the Trustee's responses to Requests 1, 2, 3 & 4 adequate to the extent that production of documents actually occurred as set forth in the responses and paragraph II of the Trustee's Opposition to the Motion dated April 18, 1997; in the

event that such production has not occurred it will occur within 30 days of the date of this order; that further, the Trustee's response to Requests #6 and 7 are adequate to the extent that the Bank will be provided with the documentation sought as attachments to the Trustee's declarations filed pursuant to the Court's scheduling order to be issued herein; that finally, the Trustee's response to Request #5 and #8 is adequate; and it is further

ORDERED, that with regard to the Trustee's Response and Objections to the Bank's Interrogatories, this Court finds the responses to Interrogatories #3, 7, 10, 11, 12, 13, 16, 19, 20, 23, 24, 25, 26, 28 and 29, are adequate; and it is further

ORDERED, that with regard to the Trustee's Responses and Objections to the Bank's remaining Interrogatories and notwithstanding Federal Rule of Bankruptcy Procedure 7033 and Federal Rule of Civil Procedure 33(d), they are inadequate and the Trustee as and for himself shall provide specific supplemental responses to the extent he has derived and assembled the information from the documents in his possession or control, to said Interrogatories identified as follows; #1 (expert witnesses only), 2, 4, 5, 6 (however, the names of non-expert witnesses need not be disclosed), 8 (only as to Deposit Bank as of a date to be specified), 9 (only as to Deposit Bank), 14, 15, 17, 18, 21, 22, 27 and 30; and it is further

ORDERED, that the supplemental responses required hereby shall be served upon Bank's counsel within 30 days of the date of entry of this order and Trustee's particularized response shall be served and filed not later than 30 days following the service of the supplemental responses; and it is finally

ORDERED, the Court having considered the Bank's allegations in support of the imposition of sanctions pursuant to Federal Rule of Bankruptcy Procedure 7026 and Federal Rule of Civil

Procedure 26 and having read the response of the Trustee on pages 7 and 8 of his Opposition to the Bank's motion dated April 18, 1997, together with the Exhibits attached thereto, the motion to impose sanctions is denied.

Dated at Utica, New York

this 19th day of May 1997

STEPHEN D. GERLING
Chief U.S. Bankruptcy Judge