

THE REPUBLIC OF UGANDA

**IN THE HIGH COURT OF UGANDA AT KAMPALA
(COMMERCIAL DIVISION)**

BANKRUPTCY PETITION NO. 8/2002

**IN THE MATTER OF A PETITION
BY MOHAMMED AMER ABDEL
KAHER MOHAMMED ABDEL MAGID NAGY**

BEFORE: THE HON. LADY JUSTICE M.S. ARACH - AMOKO

RULING:

The above named has filed this petition under S. 2 (1) (f), 7 and 15 of the Bankruptcy Act (cap 67). He is seeking a Receiving Order and order that he may be adjudged bankrupt.

The main ground for the petition is that he is unable to pay his debts. Section 2 (1) (f) of the Act provides that:

“(1). A debtor commits an act of bankruptcy in each of the following cases: -

(a). -

(b). -

(c). -

(d). -

(e) -

(f). If he or she files in the Court a declaration of his inability to pay his or her debts or presents a bankruptcy petition against himself or herself”

Section 4 of the Act empowers the Court to make a Receiving order for the protection of a debtor’s estate, where a debtor commits an act of bankruptcy. Section 7 of the Act provides that a debtor’s petition shall allege that the debtor is unable to pay his or her debts, and the presentation of the petition shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his or her debts, and the Court shall there upon make a receiving order “except however, that the order shall be refused until the debtor shall have filed with the official receiver a statement of and in relation to his or her affairs prepared in accordance with section 15”.

Section 15 is entitled “*Debtor’s Statement of affairs.*”

It provides in subsection (1) and (2) (a) as follows:

“(1). The debtor shall make out and submit to the official receiver a statement of and in relation to his or her affairs in the prescribed form, verified by affidavit; and showing particulars of the debtor’s assets, debts and liabilities, the names, residences and occupation of his or her creditors, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be prescribed or as the official receiver may require.

(2). The statement shall be so submitted -

(a). prior to, but not more than three days before, the date of the presentation of the debtor’s petition.”

I have carefully examined the petition before this Court and I find that the petitioner has not complied with the provisions of section 15 of the Act by filing the statement of affairs with the official receiver as required. The Statement of Affairs accompanying this petition does not bear the stamp of the official Receiver — a clear indication that it was not so filed. In the

circumstances, the petition for a Receiving order is refused and the Petitioner is directed to first file his statement of affairs with the official Receiver as required by sections 7 and 15 of the Act.

A Receiving order can only be granted after the debtor has complied with all the prescribed conditions. See: Re Pinfold, EX parte Pinfold (1892) 1 Q. B. 73.

M.S. Arach - Amoko

JUDGE

17/11/2004

Ruling received in the presence of:

1. Mr. Phillip Karugaba for the Petitioner.
2. Petitioner.
3. Okuni — Court clerk.

M.S. Arach — Amoko

JUDGE

17/11/2004