

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF RHODE ISLAND

- - - - -x  
 In re: :  
  
 THE NEWPORT CREAMERY, INC. : BK No. 01-13196  
                                   Debtor : Chapter 7  
   :  
 ANDREW S. RICHARDSON, Trustee of :  
 The Newport Creamery, Inc. :  
                                   Plaintiff :  
   :  
                                   v. : A.P. No. 01-1118  
   :  
 ROBERT E. SWAIN, :  
 ROCOMI ENTERPRISES, LLC, :  
 NEWPORT CREAMERY, L.P., :  
 NEWBERG, L.P., :  
 NEWHART, L.P., and :  
 TARPON HIGHLANDS DEVELOPMENT :  
 CORPORATION :  
                                   Defendants :  
 - - - - -x

TITLE: *Richardson v. Swain (In re The Newport Creamery, Inc.)*

CITATION: Unpublished

**ORDER GRANTING TRUSTEE'S EMERGENCY MOTION FOR ADMINISTRATIVE ORDERS AND FURTHER RELIEF**

The Motion of Andrew S. Richardson, Trustee of The Newport Creamery, Inc., having come on for hearing and after argument and representations by the Trustee, counsel for the Trustee, counsel for Defendants, and counsel for Jan Co., the Court finds that the relief requested by the Trustee is in the interest of the beneficial administration of the estate of the Debtor, and is necessary to prevent irreparable harm to the estate. It is therefore ORDERED:

1. The Order of September 21, 2001, is modified to authorize the Trustee to negotiate leases or occupancy agreements for the use

of those premises allegedly obtained by the respondent Newport Creamery, L.P. from the Debtor under circumstances constituting a fraudulent conveyance. The properties are the real estate and improvements owned by the Debtor prior to March 12, 1999, located in Middletown, Coventry, Seekonk, Greenville, and Smith Street, Providence, and the ice cream manufacturing facility in Middletown. The Trustee shall exercise his best business judgment in negotiating for leases of the properties and shall seek Court approval, with notice to all interested parties, prior to entering into any final lease agreement(s).

2. The respondent Newport Creamery, L.P., its partners, employees, agents, successors and attorneys are restrained and enjoined from interfering with the Trustee's administration of or the use of the five locations, and from interfering with use of said properties by any party reaching an agreement with the Trustee.

3. The respondent Newport Creamery, L.P., its agents, partners, employees, successors and attorneys are restrained and enjoined from taking any action in furtherance of the complaints filed in the Superior Courts of Providence, Kent, and Newport counties seeking to enjoin the continued use of the five locations by Jan Co.

4. All proceeds received from the lease or rental of the five locations shall be held in escrow by the Trustee until there is a

final determination on the merits of the Trustee's fraudulent conveyance claim affecting the five properties or until further order of the Court.

5. The oral motion of Newport Creamery, L.P. for a stay of this Order, pending appeal, is DENIED.

Dated at Providence, Rhode Island, this 15<sup>th</sup> day of February, 2002.

/s/ Arthur N. Votolato  
Arthur N. Votolato  
U.S. Bankruptcy Judge