

Bankruptcy brief rips 'Get LaRouche' plot

A response brief was filed in federal court in Alexandria, Virginia on March 27 on behalf of three companies run by associates of Lyndon LaRouche, which were shut down in April 1987, as a result of the U.S. Department of Justice's wrongfully filed involuntary bankruptcy action against them. That bankruptcy action was overturned by federal Bankruptcy Judge Martin V.B. Bostetter in October 1989. In his decision, the judge stated that the U.S. government had acted in "bad faith."

Earlier in March, the office of the U.S. Attorney for the Eastern District of Virginia, Henry Hudson, had filed an appeal to overturn Judge Bostetter's decision.

The brief on behalf of Caucus Distributors, Campaigner Publications, and the Fusion Energy Foundation, the three companies killed in the bankruptcy action, states:

"Operating in total secrecy, the Government deliberately failed to join other creditors in the [bankruptcy] petitions, and obtained, through an *ex parte* [one-sided] and unrecorded hearing, the appointment of interim trustees. At dawn the following day, U.S. Marshals, at the direction of the Alexandria U.S. Attorney's Office, seized all assets and padlocked all offices. By mid-afternoon physical possession was turned over to the interim trustees and all business operations were terminated. . . .

"This was the second massive, armed raid upon the [companies] by the Government in six months. . . ." The first was on Oct. 6-7, 1986, when 400 heavily armed men from the federal-state "Get LaRouche" task force raided companies run by LaRouche associates.

The brief shows that this bankruptcy seizure was one part of the Justice Department's "Get LaRouche" shutdown strategy and had nothing to do with legitimate bankruptcy concerns. It states:

"Those who were in charge of the criminal prosecution participated in the decision to file and gave the final approval for the bankruptcy action. Never before had the Government filed an involuntary bankruptcy petition; the pretext for doing so in these cases was to collect contempt judgments . . . which the Government believed were essentially uncollect-

ible. The evidence established [at trial] that the . . . petitions had virtually no economic justification, but were likely to enhance the Government's criminal objectives."

Attorney David Kuney, who successfully defended the three companies in bankruptcy court, presented the facts of the Justice Department's civil and criminal divisions' collusion to bring about the involuntary bankruptcy.

The planning occurred from September 1986 to April 1987, the brief states, describing 12 critical events or meetings among members of the two divisions, from the highest levels of the Justice Department to the Boston U.S. Attorney's office, to the Alexandria U.S. Attorney's office, culminating in the decision to file the action. The vigor of the action to "get LaRouche," led by the head of the Justice Department Criminal Division William Weld, is described in the brief by Kuney:

"In September 1986, Weld . . . reportedly 'demanded action from the U.S. Attorney's office in Alexandria, which had been relatively inactive on the LaRouche investigation' . . . and was described as having just thrown a 'hand grenade into the Department of Justice.' . . . The feeling was, 'Let's hit them.' . . . Weld's directive led to the immediate issuance of search warrants on October 5, 1986. . . ."

The government appealed the bankruptcy court's dismissal, in a brief that arrogantly demeans Judge Bostetter's legal findings. The government effectively asks the U.S. District Court to consider the "special circumstances" involving "these debtors" as the reason that the law should be disregarded to overturn the decision.

Government abuses

The companies' brief, in turn, argues the actual extent of the government's deliberate ignoring of the law. The most egregious abuse of law the government engaged in was to bring these petitions alone, even though it knew that there were more than 12 creditors of each company. This legal requirement is no "mere technicality"; it is "essential and vital policy 'to protect the debtor from the harassment of ill-considered or oppressive involuntary petitions. . . .'"

The final section of the brief is the companies' own cross-appeal. Here, the brief argues that the bankruptcy court, in finding "objective bad faith," should not then have also required a finding of "subjective bad faith" in order to award punitive damages against the government for its otherwise wrongful act. Bad faith is bad faith, the companies argue. The brief states:

"The . . . Court failed to accord proper consideration to the evidence of the Government's ulterior motives. . . . [Its] self-serving testimony that it was not seeking to advance its prosecutorial goals is belied by the . . . evidence of the entanglement between the civil and criminal units pursuing Mr. LaRouche. This case began with the articulated goal of William Weld to target LaRouche; it ended with the approval to file the petitions issuing from the Criminal Division."