

ROYAL COURT
(Samedi Division) | 47.

9th August, 1996

Before: F.C. Hamon, Esq., Deputy Bailiff,
and Jurats Myles and Le Ruez

In the matter of the Bankruptcy (Désastre)
(Jersey) Law, 1990.

And in the matter of an application by Philip
William Seawallis Shirley, by virtue of
Article 6 of the said Law, to declare the
property of Jerseycard Limited en désastre.

Advocate A.P. Begg for the Applicant.
Advocate M.P.G. Lewis for Ann Street Brewery Ltd,
Judgment Creditor and Shareholder of
Jerseycard Ltd.
Advocate S.J. Habin for G.F. Voisin,
Judgment Creditor and Shareholder of
Jerseycard Ltd.
Advocate B. Lacey for Roberts Garages Ltd,
Judgment Creditor and Shareholder of
Jerseycard Ltd.

JUDGMENT

THE DEPUTY BAILIFF: Last week, three substantial debts were registered
against Jerseycard Ltd by three of the Company's shareholders. They
amounted in total to over £396,000. They gave equality to the three
persons involved who had seen Mr. Philip Shirley (another shareholder)
5 obtain a judgment debt of £18,086.86 on 6th March of this year. The
creditors chose in their internal dispute to rely on an application by
Jerseycard under Article 125 of the Companies (Jersey) Law, 1991 to
protect their interests. It was apparently only when that matter was
strenuously opposed by Mr. Shirley that they decided to take their
10 judgments late in the day on 2nd August.

Advocate Lewis has asked us to consider equity in resisting the
application for a désastre made by Advocate Begg on behalf of Mr.
Shirley - a désastre which, of course, comes within ten days of the
15 three judgments obtained last week. However, we have to recall that the
three protagonists who took their judgments last week came at this very
late stage to prevent a désastre by Mr. Shirley. They are at the moment
on the same equitable footing. Mr. Shirley, as we see it, was entitled

on 16th March to assume that his debt was preferential and on 16th March it became preferential in fact. He makes a declaration of *désastre* in order to try to preserve his position. We have a detailed affidavit from Mr. Shirley which shows that Jerseycard Ltd is insolvent not being able to pay its debts in the ordinary course of its business but has realisable assets. The payment by Supercard to Jerseycard in March of next year is, we would have thought, in itself sufficient to prove the asset situation as being viable.

The Viscount has no comments to make and in the circumstances we can see no alternative but to order the *désastre* and we say that particularly as it seems to us strange that the opposition to the *désastre* has been made by the intervenors and Jerseycard itself has not seen fit to be present in Court today. Mr. Begg, we make the Order of *désastre* as you request.

No Authorities.