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Caplin v. Marine Midland Grace Trust Co.
406 U.S. 416 (1972)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



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M

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

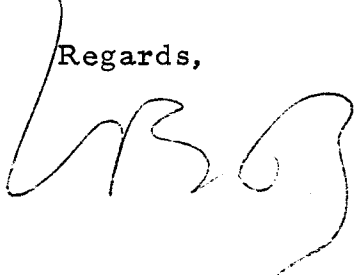
May 17, 1972

Re: No. 70-220 - Caplin v. Marine Midland Grace Trust Co.

Dear Thurgood:

Please join me.

Regards,



Mr. Justice Marshall

Copies to the Conference

B
AM

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

April 10, 1972

MEMORANDUM TO THE CONFERENCE:

I will in due course circulate a dissent
in No. 70-220 - Caplan v. Marine Midland Grace
Trust.

W. O. D.

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Black
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Harlan
Mr. Justice Burger
Mr. Justice Stewart
Mr. Justice Kennedy

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-220

Circulated: 4-19
Recirculated:

Mortimer M. Caplin, etc.,
Petitioner,
v.
The Marine Midland Grace
Trust Company of
New York.

On Writ of Certiorari to
the United States Court
of Appeals for the Sec-
ond Circuit.

[April —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

With all respect, today's decision reflects a misunderstanding of the important role which a reorganization trustee under Chapter X of the Bankruptcy Act, 11 U. S. C. § 567, is supposed to perform. Prior to Chapter X the debtor had usually remained in possession; and Chapter X effected a basic change in putting a disinterested trustee in charge. H. R. Rep. No. 1409, 75th Cong., 1st Sess., pp. 43-44. Working under the direction of the Court, the reorganization trustee was to make the necessary investigations concerning the debtor, the operation of its business, and the desirability of its continuance "and any other matter relevant to the proceeding or to the formulation of a plan, and report thereon to the judge." 11 U. S. C. § 567 (emphasis added). The reorganization trustee is, indeed, charged by 11 U. S. C. § 569 with the responsibility of formulating a plan.¹

¹ 11 U. S. C. § 569 provides:

"Where a trustee has been appointed the judge shall fix a time within which the trustee shall prepare and file a plan, or a report of his reasons why a plan cannot be effected, and shall fix a subsequent time for a hearing on such plan or report and for the consideration of any objections which may be made or of such amendments or plans as may be proposed by the debtor or by any creditor or stockholder."

To : The Chief Justice
 Mr. Justice
 Mr. Justice
 Mr. Justice
 Mr. Justice
 Mr. Justice
 Mr. Justice
 Mr. Justice
 Mr. Justice

8-11
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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-220

Circulate:
 Circulated: 4/20/72

Mortimer M. Caplin, etc., Petitioner, v. The Marine Midland Grace Trust Company of New York.	}	On Writ of Certiorari to the United States Court of Appeals for the Sec- ond Circuit.
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[April —, 1972]

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-220

To : The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Powell
Mr. Rehnquist

From : Douglas, J.

Mortimer M. Caplin, etc.,
Petitioner,
v.

The Marine Midland Grace
Trust Company of
New York.

On Writ of Certiorari to
the United States Court
of Appeals for the Sec-
ond Circuit.

4/21/72

[April —, 1972]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE WHITE concur, dissenting.

With all respect, today's decision reflects a misunderstanding of the important role which a reorganization trustee under Chapter X of the Bankruptcy Act, 11 U. S. C. § 567, is supposed to perform. Though prior to Chapter X the debtor had usually remained in possession, Chapter X effected a basic change by putting a disinterested trustee in charge. H. R. Rep. No. 1409, 75th Cong., 1st Sess., pp. 43-44. Working under the direction of the Court, the reorganization trustee was to make the necessary investigations concerning the debtor, the operation of its business, and the desirability of its continuance "and any other matter relevant to the proceeding or to the formulation of a plan, and report thereon to the judge." 11 U. S. C. § 567 (emphasis added). The reorganization trustee is, indeed, charged by 11 U. S. C. § 569 with the responsibility of formulating a plan.¹

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To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Blackmun
Mr. Justice Harlan
Mr. Justice Marshall
Mr. Justice Burger

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-220

Circulated: _____

Recirculated: 4-24

Mortimer M. Caplin, etc.,
Petitioner,
v.
The Marine Midland Grace
Trust Company of
New York.

On Writ of Certiorari to
the United States Court
of Appeals for the Sec-
ond Circuit.

[April —, 1972]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE BLACKMUN concur, dissenting.

With all respect, today's decision reflects a misunderstanding of the important role which a reorganization trustee under Chapter X of the Bankruptcy Act, 11 U. S. C. § 567, is supposed to perform. Though prior to Chapter X the debtor had usually remained in possession, Chapter X effected a basic change by putting a disinterested trustee in charge. H. R. Rep. No. 1409, 75th Cong., 1st Sess., pp. 43-44. Working under the direction of the Court, the reorganization trustee was to make the necessary investigations concerning the debtor, the operation of its business, and the desirability of its continuance "and any other matter relevant to the proceeding or to the formulation of a plan, and report thereon to the judge." 11 U. S. C. § 567 (emphasis added). The reorganization trustee is, indeed, charged by 11 U. S. C. § 569 with the responsibility of formulating a plan.¹

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11)

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 20, 1972

RE: No. 70-220 - Caplin v. Marine Midland
Grace Trust Co. of New York

Dear Bill:

Please join me in your dissent in the
above.

Sincerely,

Bill

Mr. Justice Douglas

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

11

April 11, 1972

No. 70-220, Caplin v. Marine Midland Grace
Trust Company of New York

Dear Thurgood,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.
/

Mr. Justice Marshall

Copies to the Conference

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 20, 1972

Re: No. 70-220 - Caplin v. The
Marine Midland Grace
Trust Company

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Douglas

Copies to Conference

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-220

Mortimer M. Caplin, etc., Petitioner, v. The Marine Midland Grace Trust Company of New York.	}	On Writ of Certiorari to the United States Court of Appeals for the Sec- ond Circuit.
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[April —, 1972]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

The sole issue in this case is whether petitioner, the trustee in reorganization of Webb & Knapp, Inc., has standing under Chapter X of the Bankruptcy Act, 52 Stat. 883, 11 U. S. C. § 501 *et seq.*, to assert, on behalf of persons holding debentures issued by Webb & Knapp, claims of misconduct by an indenture trustee. The United States District Court for the Southern District of New York held that petitioner lacked the requisite standing, and the United States Court of Appeals for the Second Circuit affirmed *en banc*, with two judges dissenting, 439 F. 2d 118 (1971).¹ We granted certiorari, — U. S. — (1971), and we now affirm the decision of the Court of Appeals.

¹ The District Court delivered three separate opinions in this case. They are unreported, but are included in the appendix prepared by the parties at pp. 58a-70a. The Court of Appeals heard the case *en banc* after a panel of three judges determined that it was inclined to overrule the case on which the District Court had placed almost exclusive reliance. 439 F. 2d, at 118.

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-220

Mortimer M. Caplin, etc., Petitioner, v. The Marine Midland Grace Trust Company of New York.	}	On Writ of Certiorari to the United States Court of Appeals for the Sec- ond Circuit.
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[May —, 1972]

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¹ The District Court delivered three separate opinions in this case. They are unreported, but are included in the appendix prepared by the parties at pp. 58a-70a. The Court of Appeals heard the case *en banc* after a panel of three judges determined that it was inclined to overrule the case on which the District Court had placed almost exclusive reliance. 439 F. 2d, at 118.

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MA
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 24, 1972

Re: No. 70-220 - Caplin v. Marine Midland
Grace Trust Co.

Dear Bill:

I, too, am with Learned Hand on this one.

Please join me in your dissent.

Sincerely,

HA B.

Mr. Justice Douglas

cc: The Conference

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11
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 18, 1972

Re: No. 70-220 Caplin v. Marine Midland
Grace Trust Company

Dear Thurgood:

Please join me.

Sincerely,

L. F. P.

Mr. Justice Marshall

lfp/ss

cc: The Conference

13
A
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 18, 1972

Re: 70-220 - Caplin v. Marine Midland Grace

Dear Thurgood:

Please join me in your opinion in this case.

Sincerely,

WHR

Mr. Justice Marshall

Copies to the Conference