

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

Solicitor
to the Commission

August 17, 1978

Gilbert F. Ganucheau, Esquire
Chief Deputy Clerk
Court of Appeals for the
Fifth Circuit
Room 100
600 Camp Street
New Orleans, La. 70130

Re: TMT Trailer Ferry, Inc., No. 78-1808

Dear Mr. Ganucheau:

There appear to be several typographical errors in the Court's opinion and the preceding synopsis prepared by the West Publishing Co.

On page 6185 the caption is set forth as "In the Matter of TMT Trailer Ferry, Inc., Bankrupt" (emphasis supplied). In the past the title "In the Matter of TMT Trailer Ferry, Inc., Debtor" has been used. See 292 F.2d 455 and 334 F.2d 118. The latter is accurate since there has never been an adjudication of bankruptcy in this case.

The most serious error is in the synopsis at page 6186. At page 6193 of the opinion, it is pointed out that attorneys assisting the trustee in the administration of a bankruptcy estate "should not expect to be compensated as generously for their services as they might be were they privately employed" (emphasis supplied). In paragraph 7 of the synopsis the word "not" is omitted.

There may also have been an inadvertent omission at page 6189. In the first paragraph on that page the Court states: "SEC counsel considers as much as a quarter to a third of Mr. Wolff's time was so occupied." As noted at page 34, note 56, of our brief, it was with respect to the year 1970 year that we made the 25-33% estimate; and the Court may have intended to add the phrase "in 1970" at the conclusion of that sentence.

In the last paragraph in the first column of page 6189, in quoting from page 15 of the memorandum of the Commission to the District Court, set forth as Appendix B to the Commission's brief, the word "rights" was printed instead of "rates." The sentence in the Commission's memorandum read:

Gilbert F. Ganucheau, Esquire
Page Two

“While trustee’s counsel *** is entitled to payment for all compensable legal work done, he is not entitled to senior partner rates for work which could have been adequately performed by a qualified associate” (emphasis supplied).

In the Court’s quotation from our brief at page 6190 of the opinion—at about the middle of the first column on the page—the syllable “re,” preceding “organization,” was omitted. The quotation should have read: “defeated unfair plans, questioned unjust claims and were successful in obtaining removal of the reorganization trustee who appeared to be venal.”

Sincerely,

David Ferber
Solicitor to the Commission

Copy to: Alexander S. Gordon, Esquire
Irwin L. Langbein, Esquire
Irma S. Mason, Esquire
Irving M. Wolff, Esquire
Thomas J. Kirkland, Esquire
Nathan Lobell, Esquire
Seward & Kissell