

1909-97

Southampton County Chancery

Smith, W. H. vs. Harrison, J. O. L.

^{separation}
To dissolve partnership

Smith - W.H.,

v. Rice of complaints.

Harrison, J.P.L.

1902. 27th Febry. Lodged in office
L.A. May 14/02.

J.B. Prince & Son
f.c.

Hon. Robert R. Prentis, Judge of the Circuit Court of the County of Southampton, Virginia.

---0000 In Chancery 000000---

Humbly complaining sheweth unto your Honor, your complainant Walter H. Smith, as follows:- That on or about the first day of March, 1901, your complainant entered into a partnership with one, J.P.L. Harrison, to conduct a general merchandise business and wheel-right and black-smith shop business at two places in Southampton county, viz., a general merchandise business and a wheel-right and black-smith shop business at Branchville, Va., and a general merchandise business at a point known as Little Texas, Va., about six miles from Branchville, both of said places being in said county of Southampton. That the said business was carried on by your complainant at the place known as Little Texas, and by J.P.L. Harrison at Branchville. That about the middle of December, 1901, ^{your complainant} told the said Harrison that he desired a dissolution of the said business, and the said Harrison readily agreed to dissolve the partnership. He, the said Harrison agreeing to assume all the indebtedness of the firm and release your complainant from all liability. Your complainant believing that the said Harrison was acting in good faith allowed the said Harrison to take charge of all the assets of the firm and he is now in the possession of the same. That when your complainant demanded of the said Harrison that he should be released from all liability for the debts of the partnership the said Harrison proposed that he take a trip with him to Norfolk and Suffolk, where the bulk of the creditors live, to which proposition your complainant consented. Upon going to said places your complainant was told by the creditors of the concern that they would not release him and charge the debts of the partnership to J.P.L. Harrison, and the said Harrison has not been able to carry out, nor has he carried out his agreement in this respect at all. That the said Harrison is now in possession of all the assets of the partnership and your complainant has no control over any of it whatever.

In tender consideration whereof and inasmuch as your complainant

That the said Harrison is managing and conducting the said business to suit himself, paying no debts of the concern and is not willing to make any arrangement whereby the partnership can be wound up and the debts paid. That according to your complainants best information and belief, on the 1st day of January, 1902, the debts of the partnership were about \$1600 and the assets about \$1200. That although nearly two months have elapsed since the agreement to dissolve and Harrison got control of all the assets of the concern he has paid very little on the indebtedness and the stock of goods is being reduced rapidly from time to time, and is being used to pay the debts of the said J.P.L. Harrison just as he wishes to pay them. That although they have a nice shop well fitted up at Branchville, with a store room attached to it, for which there will be no charge up to January 1st, 1903, yet the said J.P.L. Harrison is using the material of Smith and Harrison to build a shop for himself at the place known as Little Texas, to which arrangement your complainant has not consented and has not been consulted about the same. That the said J.P.L. Harrison is insolvent according to your complainants best belief. That the firm of ~~Smith~~ Harrison & Smith is also insolvent and that unless J.P.L. Harrison is restrained by an order from this court from the further management of the business of the concern and control of the assets of the same the creditors will not be paid their debts and your complainant will suffer irreparable loss. That it is absolutely necessary for the protection of your complainant, and for the protection of the creditors of the concern that a receiver should at once be appointed to take charge of the assets of the concern and administer the same according to law, and the rights of the parties.

In tender consideration whereof and inasmuch as your complain

~~ant is without remedy~~

ant is without remedy save in a Court of Equity where all such matters are properly cognizable, to the end therefore that justice may be done your complainant prays that J.P.L.Harrison may be made a party defendant to this bill and compelled to answer the allegations thereof, but answer under oath is expressly waived. That an order may be entered restraining and enjoining the said J.P.L. Harrison from any further management of the business of the concern and from any further control of assets of the same. That a receiver may be appointed to take charge of all the assets of the concern of Harrison and Smith of every description. That the said J.P.L.Harrison may be compelled to deliver the same to the receiver and that the said receiver may take charge of the same and administer them according to law and the rights of all parties.

That the said partnership may be declared dissolved and that your Honor will grant such other, further general and special relief as to equity may seem meet or the nature of this case may demand. And as in duty bound your complainant will ever pray &c.
May it please the court &c.

J.B. Prince, Jr.
f.c.

W. H. Smith

Virginia, County of Southampton, to-wit:-

Personally appeared before me J.B.Prince, jr., a commissioner in chancery of the Circuit Court of Southampton county, Va., Walter H. Smith, who has signed the above bill, and made oath that the allegations contained in the above bill, made of his own knowledge are true, and those made from information received from others he believes to be true.

Given under my hand this 26th day of Feb., 1902.

J.B. Prince, Jr.
Comr. in Chy. Cir. Ct. South. Co., Va.

Smith W. H.

to

}

BOND.

Commonwealth.

Know all Men by these Presents, That we, Walter H. Smith
and Henry L. Smith

are held and firmly bound unto the Commonwealth of Virginia, in the sum of (500.-)
Five Hundred & no/100 Dollars, to the payment whereof, well and truly to be made to the
said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and
administrators, jointly and severally, firmly by these presents. And we hereby waive the benefit of our
exemption as to this obligation, and any claim or right to discharge any liability to the Commonwealth arising
under this bond or by virtue of said office, post or trust, with coupons detached from the bonds of this
State. Sealed with our seals, and dated this 27th day of February one
thousand nine hundred 02.

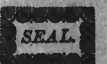
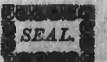
THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas Walter H. Smith
has on the 26th day of February 1902 sealed and before Robert R.
Prattis Judge of the Circuit Court of Southampton County in
Va. a motion, an injunction restraining J. P. L. Harrison, his
attorneys & agents from any further management of the business
of Harrison and Smith, and from any further control of the
assets of the same, and from disposing of or assigning any
of said assets until the further order of this Court.

And if the said obligors shall pay all such costs
as may be awarded against the ^{Complainant} and all such damages
as may be incurred, in case this injunction shall be dissolved

then this obligation to be void, or otherwise to remain in full force and virtue.

W. H. Smith

H. L. Smith



In the _____ Court of the _____ of _____, the _____ day of
_____ 190 _____.

This bond was executed and acknowledged in open Court by the obligors, and ordered to be recorded,

the suret therein having first justified on oath that _____ estate, after the payment of all
just debts, and those for which he _____ bound as security for others and expect to have to pay _____
worth the sum of _____ dollars, over and above
all exemptions allowed by law.

Teste :

Clerk.

Smith

vs. } Stat. of Rules

Harrison

Filed 19

19

1898

John A. Harrison vs. John A. Smith

John A. Harrison vs. John A. Smith

John A. Harrison vs. John A. Smith

John A. Harrison vs. John A. Smith

John A. Harrison vs. John A. Smith

John A. Harrison vs. John A. Smith

John A. Harrison vs. John A. Smith

W. H. Smith Plaintiff

vs.

J. P. Z. Harrison Defendant

In Chancery

1902. 26. Feby. Injunction awarded

1902. 27 " Bill Lodged in office

Process issued to 1st. March Rules.
with injunction order endorsed

Thereon and bond executed

1902. 1st. March Rules. Process returned executed

Bill filed, Deem nisi.

1902. 2nd March Rules. Bill taken for confessed
and answer set for hearing

Smith

vs. } books

Harrison

Smith.

vs. } cost

1902

Harrison

Feb. 27.5

Sum. with injunction order endorsed Harrison 50- .50

1 exp. 25. receipt 18. atty. 10. Docket 18- .71

Rules \$1.00. return 35. fil. Bill. 15. injunctive order 36- 1.36

injunction bond, 75. fil. notice 15. 1 Decm exp 72- 1.62

Lay envelope. 40. fil. away papers 25- .65

Future cost if removed at next term 36- .36

Paid by J. L. McQuinn L. A. Hay clerk \$5.70

shff .50

Law fee. 16.50

\$22.70

Total L. A. Hay 66

Smith, Walter H.,

v. Notice.

Harrison, J.P.L.,

1902. March third.

Virginia:

Southampton county, to-wit:-

I, ~~Wm~~ E.M. Harris, a Justice of the Peace for the county aforesaid, in the state aforesaid, do certify that H. L. Smith personally appeared before me and made affidavit that he executed this notice by delivering a copy thereof to J.P.L. Harrison in person on the 1st day of March, 1902.

Given under my hand this 1st day of March, 1902.

E.M. Harris J.P.

TO J.P.L.HARRISON :-

TAKE NOTICE that I shall on the third day of March, 1902, between the hours of 8 a.m. and 2 p.m. of that day, ask the Judge of the Circuit Court of Southampton County, Va., at his Office in the town of Suffolk, Va., to appoint a receiver in a chancery suit now pending in said Circuit Court in which I am plaintiff and you are defendant.

February 28th, 1902.

Respectfully,

Walter H. Smith.

By Counsel.

J. B. PRINCE

J. B. PRINCE, JR.

J. B. PRINCE & SON,
Attorneys & Counsellors at Law
Courtland, Va.

Feb- 28th, 1902.

Hon. Robert R. Prentis,
Suffolk, Va.

Dear Judge:-

The within notice is returned to you
because we were afraid it would not reach us by Monday in time to
have it before you. We got the party who served the notice to send
same to you.

Yours very truly,

J. B. Prince & Son.

ROBERT R. PRENTIS.

Messrs. J. B. Prince & Son,
Courtland, Va.,

SUFFOLK, VA., February 26, 1902.

Gentlemen:-

I have your favor of this date enclosing bill for an injunction and receiver in the case of Smith v. Harrison. I have granted the injunction, and herewith return the papers, but I cannot appoint a receiver until the defendant has had notice and an opportunity to be heard.

You can give him notice for either Friday or Monday morning.

I expect to leave home for a few days on Monday afternoon, so that if you do not get the matter up ^{morning} by Monday, at my office in Suffolk, it will be the latter part of next week before I could give it attention.

Very truly yours,



V.
Harrison, J.P.L.

Entered July 26, 1902
Robert R. Dentist

Continued
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In the Circuit Court of Southampton County, Va., ~~Feb'y., 1902,~~
in vacation, *February 26, 1902*

Walter H. Smith

v. Decree.

J.P.L. Harrison.

On motion of the complainant an injunction is awarded, to enjoin
and restrain J.P.L. Harrison, ^{his attorney & agents} the defendant, from any further man-
agement of the business of Harrison and Smith, and from any fur-
ther control of the assets of the same, ~~and upon the further~~
and from disposing of or assigning any
~~motion of said complainant it is ordered that J.W. Williams, Sheriff~~
~~of said assets until the further~~
~~order of this court.~~
~~all the assets belonging to the concern of Harrison and Smith.~~

~~That J.P.L. Harrison deliver the same to him. That the said receiver~~
~~or dispose of the stock of goods of said concern at public auc-~~
~~tion for cash after ten days public notice of the time and place~~
~~of sale and after the said J.P.L. Harrison shall have been ser-~~
~~ved with a copy of this order for at least five days. That the~~
~~said receiver proceed to collect at once all the notes, open ac-~~
~~counts and other evidences of debt due to the said concern in~~
~~the most expeditious manner.~~

~~And the said receiver will make report to court.~~ But before
the said complainant shall have the benefit of this order he
shall enter into a ^{proper} bond before the Clerk of this court in the
penalty of \$ ^{500.} ^{good} - with security, to be approved by the said
Clerk, conditioned to pay all such costs as may be awarded again-
st him, and all such damages as may be incurred, in case this
injunction shall be dissolved.

Robert R. Smith
To the Clerk of the
Circuit Court of
Southampton County.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County--Greeting:

WE COMMAND YOU THAT YOU SUMMON J. P. L. Harrison

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court on the 1st Monday in March 1902 next, to answer a Bill in Chancery exhibited against him in our said Court by

W. H. Smith

And this he shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, L. A GAY, Clerk of our said Court, at the Courthouse, this 27th day of February 1902, 1899, in the 126 year of the Commonwealth.

Teste: L. A. Gay C. C.

In, the Circuit Court of Southampton County, Va., in vacation.
February 26, 1902

Walter H. Smith

vs.

J. P. L. Harrison

Injunction or Sur

On motion of the complainant an injunction is awarded, to enjoin and restrain J. P. L. Harrison the defendant, his attorneys & agents, from any further interference of the business of Harrison and Smith, and from any further control of the assets of the same, and from disposing of or assigning any of said assets until the further order of this Court.

But before the said complainant shall have the benefit of this order he shall enter into a proper bond before the Court of this Court in the penalty of \$500.- with good security, to be approved by the said Court, conditioned to pay all such costs as may be awarded against him, and all such damages as may be incurred, in case this injunction shall be dissolved.

At Copy, Testes: L. A. Hay 13, 14.

Bond as required under

The above order has been executed.

Testes: L. A. Hay 13, 14.

Smith W. H.

vs. J. P. L. Harrison

Harrison J. P. L.

1902. 1st March Rules

law. let.

Virginia

Southampton County Court -

O. McLean is a Justice of the

Peace for the county of South

in the state of Virginia, as with

that W. L. Smith personally

appeared before me and

made affidavit - that he

executed this notice by

delivering a copy thereof

to J. P. L. Harrison in per-

son on the 4th day of

March 1902.

Given under my

hand this 1st day of

March 1902.

O. McLean J.P.

J. D. Primeau

-1909-

Smith, W.H.,

v. Decree.

Harrison, J.P.L.

March 3rd, 1902.

Enter this

Robert R. Huntley

Em. L. L. L.

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and

other matters especially deemed pertinent by himself or which may be required to be so stated by any interested party.

Robert R. Huntley
of the County of Clark
State of Nevada
do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears from the records of the County of Clark State of Nevada.

In the Circuit Court of Southampton County, Va., # in vacation,
March, 3rd, 1902.

Walter H. Smith

V. Decree.

J.P.L. Harrison.

It appearing to the court that the plaintiff has given notice to the defendant that he will make and application for a Receiver to be appointed in this cause before the Judge of the Circuit Court of Southampton county, at his office in the town of Suffolk on Monday, March 3rd, 1902, and the defendant showing no cause why the same should not be done, on motion of the plaintiff it is ordered that J.W. Williams, Sheriff of Southampton county, be and he is hereby appointed a Receiver; that he forthwith take charge of all the assets of every kind belonging to the firm of ~~W.H.S.~~ J.P.L. Harrison and Walter H. Smith, trading as Harrison and Smith, both at Branchville, Va., and at a place in Southampton county, known as Little Texas, that he also take charge of all the books, accounts and other evidences of debt belonging to said firm; that he cause an inventory to be made of the stock of goods and other assets of said firm, ~~and that he sell at public auction for cash all the goods, wares and merchandise belonging to said firm and that he proceed to collect by suit, or otherwise, as to him may seem best all the notes, accounts and other evidences of debt belonging to said firm.~~ And for the purpose of carrying out his duties under this decree the said Sheriff is authorized to employ such assistance as he may need, and pay therefor a reasonable compensation. It is also decreed that a commissioner of this court take an account of all the claims against the said firm of Harrison and Smith, stating the priorities, if any, and what claims waive the homestead exemption and which do not, which account the commissioner will report to court together with any

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other matters specially^{stated} deemed pertinent by himself or which may be required to be so stated by any interested party.

And the said Receiver will make report to court of his proceedings under this order.

Robert R. Hanks

To the Clerk of the
Circuit Court of
Southampton County.