NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE NINTH CIRCUIT

In re:	BAP No. NV-04-1561-PKS NV-04-1583-PKS
JAMES LENNON and CARMELITA LENNON,	(related appeals)
Debtors.	Bk. No. BK-S-01-17252-BAM
JAMES LENNON; CARMELITA LENNON,	
Appellants,	
v.	**MEMORANDUM**[1]
TOM GRIMMETT, Chapter 7 Trustee; TRAVERTINE CORPORATION,	
Appellees.	

Argued and Submitted on
June 23, 2005 at Las Vegas, Nevada

Filed - July 20, 2005

Appeal from the United States Bankruptcy Court
for the District of Nevada

Honorable Bruce A. Markell, Bankruptcy Judge, Presiding

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Before: PERRIS, KLEIN and SMITH, Bankruptcy Judges.

[1] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except when relevant under the doctrines of law of the case, res judicata, or collateral estoppel. See 9th Cir. BAP Rule 8013-1.

The debtors in these two appeals converted their chapter 7[2] case to chapter 11 to effectuate their plan to litigate a claim held by the bankruptcy estate. The bankruptcy court ordered the case reconverted to chapter 7 and then approved the chapter 7 trustee's motion to approve settlement of the claim. We AFFIRM.

FACTS

Prior to the bankruptcy petition date, James Lennon ("Lennon") had a business relationship with the Travertine Corporation ("Travertine"). Travertine was organized to acquire and develop certain real property located in California. In 1989, Lennon entered into a Management Agreement with Travertine under which he agreed to serve on the board of directors and as an officer of the corporation and to provide Travertine with certain management services, which included obtaining a buyer for the property acquired by Travertine. As compensation for his services, Lennon was entitled to a percentage of Travertine's net profits, which amount was dependent, in part, on the value of Travertine's property.

The Management Agreement contains an anti-assignment clause. Nevertheless, in 1996, Lennon purported to assign his right to compensation under the Management Agreement to Lexington Silverwood L.P. ("Lexington"), which had obtained a judgment against Lennon.

In March 1999, Lennon was removed from Travertine's board of directors. Lennon continued to serve as Travertine's president

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[2] Unless otherwise indicated, all chapter, section and rule references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1330 and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9036.

until he was removed from that position at a November 1999 shareholders' meeting. The Management Agreement was formally terminated in January 2001.

Debtors filed their chapter 7 petition approximately six months later. Tom Grimmett was appointed to serve as the chapter 7 trustee ("the trustee"). Debtors' bankruptcy schedules disclosed assets of approximately $23,000 and liabilities of approximately $4.2 million, most of which debtors designated as unsecured priority tax claims. Debtors listed the debt owed to Lexington as an unsecured claim, but did not disclose as an asset Lennon's claim for compensation under the Management Agreement or that he had purported to assign that right to Lexington as security.[3]

In March 2002, Lexington, claiming to be a successor in interest to Lennon by virtue of the assignment, filed a Demand for Arbitration against Travertine, arguing that Lennon was entitled to compensation under the Management Agreement in an amount between $3 and $4.5 million. A few months later, a Minnesota district court granted Travertine's motion to stay arbitration on the basis that Lennon's transfer of his right to compensation under the Management Agreement was not a valid assignment. Shortly after the district court issued its decision, Lennon filed an Amended Demand for Arbitration listing himself as the claimant. The Amended Demand was, in all other material respects, the same as that filed by

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[3] Debtors' Schedule F (Creditors Holding Unsecured Nonpriority Claims) lists the creditor as Spartan Properties, Inc., which is the general partner of Lexington. For ease of reference, we will refer to Lexington.

Lexington. Lennon filed a Second Amended Demand for Arbitration, stating that his right to compensation was subject to the assignment to Lexington. While the Minnesota Court of Appeals reversed the state trial court, the Minnesota Supreme Court ultimately agreed with the trial court, holding that Lennon's "purported assignment of his right to compensation to Lexington-Silverwood is void." Travertine Corp. v. Lexington-Silverwood, 683 N.W.2d 267, 274 (Minn. 2004). Debtors did not at any point in the original chapter 7 case, which lasted over three years, amend their schedules to disclose the claim against Travertine as a potential asset of their bankruptcy estate.[4]

Less than a week after the Minnesota Supreme Court decided that the assignment to Lexington was void, debtors filed a motion to convert to chapter 11. Debtors proposed to proceed with arbitration of the claim against Travertine in chapter 11 and to fund a liquidating plan with the proceeds of the arbitration. The trustee filed an opposition to debtors' motion to convert and, in the alternative, a motion to immediately reconvert to chapter 7. Shortly thereafter, the trustee filed a Motion to Approve Sale of Estate Asset, in which he sought court approval to settle Lennon's claim under the Management Agreement against Travertine for $900,000. Debtors opposed the settlement, arguing that the claim against Travertine was worth $15 million.

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[4] A debtor is under a continuing duty to amend his or her bankruptcy schedules and statement of financial affairs. See, e.g., Hamilton v. State Farm Fire & Cas. Co., 270 F.3d 778, 784 (9th Cir. 2001).

Citing In re Croston, 313 B.R. 447 (9th Cir. BAP 2004), the bankruptcy court concluded that debtors had a one-time absolute right to convert to chapter 11 under § 706(a).[5] However, the court barred debtors from taking any action regarding estate assets pending consideration of whether the case should be reconverted to chapter 7. The bankruptcy court held a hearing on November 3, 2004, at which it announced two decisions. First, the court ordered debtors' case reconverted to chapter 7. A representative of the United States Trustee was present at the hearing and he immediately reappointed the trustee in the reconverted chapter 7 case. The court then approved the trustee's proposed settlement of the estate's claim against Travertine. Debtors timely appealed both orders.

ISSUES[6]

I. Whether the bankruptcy court erred in reconverting debtors' case to chapter 7.

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[5] Section 706(a) states, in pertinent part, that "[t]he debtor may convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title."

[6] Debtors' complaints about Travertine's alleged lack of standing are of no consequence in these appeals. The trustee and the IRS moved for reconversion, not Travertine. Debtors do not suggest that either of the moving parties lacked standing to request reconversion. While debtors complain about Travertine's appearance before the bankruptcy court, they do not argue that the bankruptcy court committed reversible error in allowing Travertine to be heard. To the extent debtors are contesting Travertine's standing to appear in these appeals, Travertine and the trustee raise the same issues on appeal. Their appellate briefs are almost identical, and they have submitted separate but identical excerpts of record in both appeals.

II. Whether the court erred in approving the settlement agreement.

STANDARDS OF REVIEW

We review the bankruptcy court's order converting debtors' case to chapter 7 for an abuse of discretion. In re Consol. Pioneer Mortgage Entities, 248 B.R. 368 (9th Cir. BAP 2000), aff'd, 264 F.3d 803 (9th Cir. 2001). The bankruptcy court's approval of the settlement with Travertine is also reviewed for an abuse of discretion. In re Arden, 176 F.3d 1226, 1228 (9th Cir. 1999); In re Mickey Thompson Entm't Group, Inc., 292 B.R. 415, 420 (9th Cir. BAP 2003). A court abuses its discretion if it does not apply the correct law or if it rests its decision on a clearly erroneous finding of material fact. United States v. Sprague, 135 F.3d 1301, 1304 (9th Cir. 1998).

DISCUSSION

I. Reconversion to Chapter 7

A chapter 7 case that has been converted to chapter 11 is subject to reconversion to chapter 7 "for cause." § 1112(b).[7] See

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[7] Section 1112(b) states that, with certain exceptions not implicated here,

> on request of a party in interest or the United States trustee or bankruptcy administrator, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause[.]

There is no argument in this appeal that dismissal rather than conversion was in the best interest of creditors and the estate. As (continued...)

also In re Croston, 313 B.R. 447, 452 (9th Cir. BAP 2004). Section 1112(b) provides a list of examples of cause for conversion. The list set forth in § 1112(b) is not exhaustive. A bankruptcy court may "consider other factors as they arise and use its powers to reach appropriate results in individual cases." In re Gonic Realty Trust, 909 F.2d 624, 626 (1st Cir. 1990).

Courts, including this Panel, have held that a debtor's bad faith may be cause for conversion. Carolin Corp. v. Miller, 886 F.2d 693, 698-99 (4th Cir. 1989); Croston, 313 B.R. at 452. While debtors devote much space in their opening brief to arguing that their case could not have been dismissed for bad faith, we need not address this subject because the bankruptcy court did not order debtors' case converted for bad faith. The order converting does not mention bad faith as a basis for conversion, and the court made no findings of bad faith when it ruled on the record at the hearing. Appellees contend that debtors acted in bad faith in several regards, but they argue that the bankruptcy court should be affirmed based only on three of the enumerated examples of cause set forth in § 1112(b). This confirms our conclusion that the bankruptcy court did not convert for bad faith.[8]

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[7](...continued)
a result, we will hereafter refer only to conversion.

[8] Appellees also argue that there was cause to appoint a chapter 11 trustee. We do not address this argument because the court ordered debtors' case reconverted to chapter 7, thereby mooting this issue.

Appellees argue that conversion was warranted under § 1112(b)(1), (2) and (3), which provide that cause for conversion includes:

> (1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;
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> (2) inability to effectuate a plan;
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> (3) unreasonable delay by the debtor that is prejudicial to creditors[.]

Of these grounds, § 1112(b)(2) is the most clearly implicated in this case.[9]

"'Inability to effectuate a plan' means that the debtor lacks the ability to formulate a plan or to carry one out." 4 NORTON BANKRUPTCY LAW AND PRACTICE 2d § 82:5 (Rev. 7/93)(quoting § 1112(b)(2)). Dismissal under § 1112(b)(2) is warranted if there is no reasonable expectation that a chapter 11 plan can be confirmed within a reasonable amount of time. In re Orienta Coop. Ass'n, 256 B.R. 508, 511 (Bankr. W.D. Okla. 2000).

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[9] Section 1112(b)(1) requires the absence of a reasonable likelihood of rehabilitation. Rehabilitation under § 1112(b)(1) is distinct from reorganization and means "to put back in good condition and reestablish on a sound basis." 4 NORTON BANKRUPTCY LAW AND PRACTICE 2D § 82:4 (Rev. 7/93). Where, as here, a liquidating plan is contemplated, § 1112(b)(1) does not serve as a basis for conversion. Id. See also In re GPA Tech. Consultants, Inc., 106 B.R. 139, 142 (Bankr. S.D. Ohio 1989). Section 1112(b)(3) requires undue delay by the debtor. Appellees did not establish any factual basis for application of this statutory basis for conversion. Debtors' chapter 11 case was only approximately two weeks old when the court ordered the case reconverted. As a result, the bankruptcy court rejected unreasonable delay as a basis for conversion. See Transcript of November 3, 2004 Hearing, 42:2-14.

At this stage, this is a single asset bankruptcy case. Chapter 11 plans that enable debtors to liquidate their property in a reasonable manner are permissible under the Bankruptcy Code. "However, even a liquidating plan must aim toward a result consistent with the purposes and objectives of Chapter 11." In re Hoosier Hi-Reach, Inc., 64 B.R. 34, 38 (Bankr. S.D. Ind. 1986). One of the primary purposes of chapter 11 is maximizing the creditors' return. Orienta, 256 B.R. at 511.

> [T]he plan confirmation process often involves significant costs that are avoided in the chapter 7 context. In deciding whether a chapter 11 case should be converted . . . the court should consider whether liquidation in the chapter 11 case offers any advantages over liquidation in the chapter 7 context, and whether the added cost of the chapter 11 process is justified.

7 Alan N. Resnick & Henry J. Sommer, COLLIER ON BANKRUPTCY ¶ 1112.04[5][b][ii] (15th ed. Rev. 2000). See also In re Jartran, Inc., 886 F.2d 859, 870 n.12 (7th Cir. 1989).

The bankruptcy court did not err in converting debtors' case to chapter 7 because there is no indication that debtors' plan to liquidate the Travertine claim in chapter 11 offers any advantage over the trustee's plan to liquidate the claim via the proposed settlement in chapter 7, particularly in light of the additional administrative expenses associated with a chapter 11 case.

As we discuss in detail below, debtors have unrealistic expectations of recovery and they underestimate the associated risks and expense. Chapter 11 is not intended as a vehicle to allow debtors to "explore visionary options that are premised on little more than 'terminal euphoria.'" 7 Resnick & Sommer, COLLIER ON

BANKRUPTCY ¶ 1112.04[5][b][ii] (quoting In re Little Creek Dev. Co., 779 F.2d 1068, 1073 (5th Cir. 1986)).

Debtors repeatedly expressed their intent to litigate the Travertine claim to secure excess funds for their own benefit. This suggests that they would reject reasonable settlement offers at the expense of their creditors. A debtor in possession stands in a fiduciary relationship to creditors. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988). Debtors' inflexible intent to arbitrate/litigate the claim, combined with their unrealistic expectations for recovery, indicates an inability to fulfill the duties of a debtor in possession. This is a factor supporting the bankruptcy court's decision to reconvert the case to chapter 7. See In re Bowman, 181 B.R. 836, 845 (Bankr. Md. 1995).

In addition, there is cause for conversion under § 1112(b)(2) if the debtor has no reasonable prospect of satisfying a plan confirmation requirement set forth in § 1129. In re Windsor on the River Assocs., Ltd., 7 F.3d 127, 133 (8th Cir. 1993); 7 Resnick & Sommer, COLLIER ON BANKRUPTCY ¶ 1112.05[5][b][iii]. Debtors concede that there are at least $50,000 in unsecured priority tax claims that would have to be paid at confirmation pursuant to § 1129(a)(9)(C). See Transcript of November 3, 2004 Hearing, 16:23-17:2. Debtors have no resources to pay even run-of-the-mill chapter 11 administrative expenses, much less these unsecured, priority tax claims. While debtors argue that their children were willing to provide debtor in possession financing for such expenses, they provided no independent evidence corroborating their children's

ability or willingness to do so. "A reorganization plan under chapter 11 must be more than a nebulous speculative venture . . . and if outside financing is needed, it must be *clearly* in sight." In re Great Am. Pyramid Joint Venture, 144 B.R. 780, 792 (Bankr. W.D. Tenn. 1992)(original emphasis).

Debtors argue that the bankruptcy court erred in converting their case because they were not given adequate time to propose a plan. We reject this argument.

> In order to avoid the costs of chapter 11 in cases in which they are not justified, section 1112(b) was designed to provide the court with a powerful tool to weed out inappropriate chapter 11 cases at the earliest possible stage.

7 Resnick & Sommer, COLLIER ON BANKRUPTCY ¶ 1112.04[2]. Where, as here, "there is no reasonable possibility of an effective reorganization, the bankruptcy court is not compelled to wait a certain period of time, to the detriment of creditors, before ordering conversion of the case." In re Johnston, 149 B.R. 158, 162 (9th Cir. BAP 1992).

II. Compromise

A. Debtors' Standing

Bankruptcy appellate standing is limited to those persons who can demonstrate that they are directly and adversely affected pecuniarily by an order of the bankruptcy court. In re Fondiller, 707 F.2d 441, 442-43 (9th Cir. 1983). A party asserting standing must demonstrate that the bankruptcy court's order either diminishes its property, increases its burdens, or detrimentally affects its rights. Id. at 442. It is a well established rule that a Chapter 7

debtor ordinarily does not have standing to challenge orders affecting the size of the estate because the debtor has no pecuniary interest in the property of the estate. See, e.g., In re Mark Bell Furniture Warehouse, Inc., 992 F.2d 7, 10 (1st Cir. 1993). There is an exception to the general rule where a debtor can show that the estate is solvent and that the debtor is entitled to a distribution of surplus assets under § 726(a)(6). Id.

Appellees argue that debtors lack standing to appeal the order approving compromise of the claim against Travertine because the estate is insolvent. Debtors argue that the estate is solvent if the claim against Travertine is fairly valued. The $900,000 settlement proposed by the trustee will not result in a surplus for debtors, but if the claim against Travertine is worth the $15 million debtors claim it is worth, there would be a surplus.

We decline to treat the estate as insolvent given the dispute regarding the true value of the claim. As we discuss below, debtors' valuation of the claim is questionable, but their theory is not so implausible as to justify denying them standing.

Debtors have standing for another reason. Debtors scheduled approximately $2.8 million of priority tax claims on their Schedule E (Creditors Holding Unsecured Priority Claims). As the bankruptcy court noted, debtors have a "big stake" in the size of the settlement because the tax claims are nondischargeable. Transcript of November 3, 2004 Hearing, 14:8.

B. Merits

Rule 9019(a) provides that a bankruptcy court may approve a compromise or settlement. Settlements are favored in bankruptcy, see 10 Alan N. Resnick & Henry J. Sommer, COLLIER ON BANKRUPTCY ¶ 9019.01 (15th ed. Rev. 2003), and a bankruptcy court may approve a proposed compromise if it is fair and equitable. In re Arden, 176 F.3d 1226, 1228 (9th Cir. 1999); In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). At its base, the question is whether the compromise is in the best interest of the estate. In re Neshaminy Office Bldg. Assocs., 62 B.R. 798, 803 (E.D. Pa. 1986).

A bankruptcy court is not required to conduct a mini-trial on the merits of a claim sought to be compromised. See, e.g., In re Schmitt, 215 B.R. 417, 423 (9th Cir. BAP 1997). "When assessing a compromise, courts need not rule upon disputed facts and questions of law, but rather only canvass the issues." Id. In determining whether a settlement is fair and equitable, a court should consider the following four factors:

> (a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

A & C Properties, 784 F.2d at 1381. A review of these factors establishes that the bankruptcy court did not abuse its discretion in approving the settlement.

(1) Probability of Success

Debtors have an overly optimistic view of the probability of the success of their position. Travertine argues that Lennon is not entitled to any compensation under the Management Agreement because he failed to perform under the contract and because he breached the Management Agreement by engaging in certain acts of self-dealing. Travertine also argues that Lennon is judicially estopped from asserting a claim against Travertine because debtors did not disclose the claim in their bankruptcy case.

Assuming Lennon is entitled to some compensation, the parties disagree over how to measure the compensation to which he is entitled. The Management Agreement provides that Lennon is entitled to a certain percentage of Travertine's net profits as compensation for his services. The percentage to which he is entitled is calculated based, in part, on the value of the property on the date on which it is sold. The Management Agreement states that

> [t]he date of sale shall be the date Travertine shall execute an Agreement of Sale of the assembled parcel. Such Sale Agreement must have non-refundable earnest money, but may be subject to contingencies.

February 6, 1990 Amendment to Management Agreement, § II.

However, the Management Agreement makes a separate provision for compensation in the event of what is described as "early termination," stating as follows:

> Notwithstanding any other provision herein to the contrary, in the event that persons owning seventy-five percent (75%) or more of the capital stock of Travertine shall notify [Lennon] in writing of their decision to terminate this Agreement, this Agreement shall terminate in accordance with such notice. In the event of such termination, [Lennon] shall be entitled to

> reasonable compensation for [his] services to date of termination based upon the compensation provided for hereunder and the proportion or percentage of completion of the land acquisition, assembly and sale project referred to in [Travertine's business plan].

Management Agreement, § V.B.

The biggest dispute between the parties centers on the date upon which the compensation should be valued.[10] Debtors argue that Lennon's compensation should be measured based on the current value of Travertine's property. Travertine argues that Lennon should not receive the benefit of any appreciation in the value of the property after cessation of his involvement with the company. The trustee agreed with Travertine's position, and valued the claim accordingly.

While the Management Agreement is not a model of clarity, we find Travertine's position on this point to be more persuasive. As a general rule,

> [d]amages for a breach of contract are to be determined as of the time of the occurrence of the breach . . . . Under this rule, later events such as fluctuations in value after the breach do not affect the measure of damages.

22 AM.JUR.2D DAMAGES § 78 (2004).

In any event, none of Travertine's arguments is specious. To be sure, debtors vigorously dispute Travertine's arguments, but the likelihood of a long, expensive legal battle only reinforces the propriety of the bankruptcy court's decision.

> A compromise agreement allows the trustee and the creditor to avoid the expenses and burdens associated with litigating

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[10] Travertine also argues that, to the extent Lennon is entitled to any compensation, he must wait until such time as the property sells to collect.

> sharply contested and dubious claims. The bankruptcy court need not conduct an exhaustive investigation into the validity of the asserted claim. It is sufficient that, after apprising itself of all facts necessary for an intelligent and objective opinion concerning the claim's validity, the court determines that . . . the outcome of the claim's litigation is doubtful.

In re Walsh Constr. Inc., 669 F.2d 1325, 1328 (9th Cir. 1982)(Act case)(citations and internal quotations omitted). The probability that debtors will succeed on the merits is, at the very least, questionable.[11] This factor weighs in favor of approval of the settlement.

(2) Collection Difficulties

There is no argument that there would be any difficulty collecting from Travertine.

(3) Risks and Expense

Debtors entirely ignore the potential risks, delays and costs associated with litigating the claim. The risks appear to be substantial because Travertine has repeatedly expressed its intent to litigate numerous procedural and substantive issues. In addition to the substantive issues discussed in section (1) above, Travertine argues that the claim dispute is not subject to arbitration and that it will move to have the arbitration dismissed. This factor weighs in favor of approval of the settlement because there is a

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[11] Debtors' failure to schedule the claim for compensation at any point in their original chapter 7 case, while under a continuing duty to disclose all assets, undermines their position that Lennon is entitled to compensation of $15 million. Debtors filed their chapter 7 petition on July 16, 2001. Over three years later, on February 22, 2005, debtors filed their Notice to Amend Chapter 7 Schedule disclosing the asset. It defies credulity to believe that debtors would overlook a $15 million asset.

substantial likelihood of delay and expense absent a negotiated settlement.

(4) Wishes of Creditors

This factor supports approval of the settlement because the IRS, which is debtors' largest single creditor, supported the trustee's proposed settlement. The bankruptcy court properly relied on that fact in approving the settlement.

Lexington voiced its opposition to the settlement in its joinder to debtors' motion to convert to chapter 11. Debtors argue that the court erred because it did not consider Lexington's opposition to the settlement. We do not find this argument persuasive.

Just because the bankruptcy court approved the settlement does not mean that it failed to consider Lexington's opposition or the interests of the estate as a whole. No other creditor opposed the settlement. In addition, to the extent the bankruptcy court did give more weight to the position of the IRS, it was justified in doing so. Given the amount of priority tax claims, there was no reasonable prospect for recovery by general unsecured creditors in this case. A creditor's opposition to a proposed settlement while relevant, is not controlling. Such opposition should not prevent approval of the compromise where, as here, there is every indication that litigating the disputed claim "would be unsuccessful and costly." In re The General Store of Beverly Hills, 11 B.R. 539, 541 (9th Cir. BAP 1981). See also A&C Properties, 784 F.2d at 1382.

In considering a proposed settlement, a court generally should give deference to a trustee's exercise of business judgment. In re Mickey Thompson Entertainment Group, Inc., 292 B.R. 415, 420 (9th Cir. BAP 2003). Debtors argue in their opening brief that the trustee's moving papers did not supply adequate evidence that the trustee properly exercised his business judgment in proposing the settlement. The problem with this argument is that it completely ignores the fact that the trustee gave extensive testimony at the hearing.

The trustee testified that he reviewed all aspects of the claim against Travertine and directed his attorneys to perform legal research. The trustee testified that he was influenced, in part, by legal advice he received that the Management Agreement was an executory contract that had been rejected pursuant to § 365(d) in debtors' chapter 7 case. The trustee also met with debtors and listened to their position. The trustee testified that the costs of litigation and the risks presented by Travertine's potential defenses factored into his decision.

Debtors have not established that the bankruptcy court abused its discretion in determining that the proposed settlement was fair and equitable and in the best interests of the estate. The bankruptcy court was well apprised of the facts surrounding the dispute in this case. In deciding to approve the compromise, the bankruptcy court canvassed the pertinent issues and gave due regard to the trustee's exercise of business judgment.

CONCLUSION

The bankruptcy court did not abuse its discretion in reconverting debtors' case to chapter 7 and approving the settlement. We therefore AFFIRM.