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NOT FOR PUBLICATION

SUSAN M SPRAY, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:) BAP No. CC-11-1028-MkKiD
)
 DONALD RAY GIBSON and SANDRA) Bk. No. RS 10-21907-DS
 MAE GIBSON,)
)
 Debtors.)
 _____)
)
 DONALD RAY GIBSON; SANDRA MAE)
 GIBSON,)
 Appellants,)
 v.) **MEMORANDUM***
 STEVEN M. SPEIER, Chapter 7)
 Trustee; JURUPA VALLEY)
 SPECTRUM - Phase I LLC,)
 Appellees.)
 _____)

Argued and Submitted on June 17, 2011
at Pasadena, California

Filed - August 3, 2011

Appeal from the United States Bankruptcy Court
for the Central District of California

Honorable Deborah J. Saltzman, Bankruptcy Judge, Presiding

Appearances: Appellants Donald Gibson and Sandra Gibson, in
 propria persona, argued on their own behalf;
 Michael Byerts of Resch Polster & Berger LLP
 argued on behalf of Appellee Jurupa Valley
 Spectrum - Phase I LLC.

Before: MARKELL, KIRSCHER and DUNN, Bankruptcy Judges.

*This disposition is not appropriate for publication.
 Although it may be cited for whatever persuasive value it may
 have (see Fed. R. App. P. 32.1), it has no precedential value.
See 9th Cir. BAP Rule 8013-1.

1 • Whereas the Gibsons initially were allowed to advertise
2 their restaurant on the Shopping Center's "Marquee" (a
3 monument sign on the Shopping Center property identifying
4 some of the vendors operating restaurants and retail stores
5 therein), Jurupa in January 2008 removed from the Marquee
6 the display banner for the Gibsons' restaurant and
7 thereafter refused to permit the Gibsons to advertise on the
8 Marquee.

9 • The Gibsons attempted to replace their Marquee advertisement
10 with an advertisement on their store-front windows, but
11 Jurupa promptly removed their store-front advertisement even
12 though others businesses in the shopping center were
13 permitted to maintain store-front advertising.

14 The Gibsons further claimed that Jurupa's conduct towards them
15 was motivated by Mr. Gibson's race - because Mr. Gibson was
16 African American.

17 In June 2008, the Gibsons filed a complaint in the
18 California Superior Court for Riverside County (Case No. RIC
19 502124) against Jurupa and others (the "State Court Lawsuit").
20 Apparently, the initial version of the Gibsons' complaint alleged
21 less than \$25,000 in damages and focused exclusively on the
22 dispute over the grease trap. However, the Gibsons thereafter
23 amended their complaint on several occasions to add new
24 grievances and new causes of action. Their latest version, their
25 Fourth Amended Complaint (filed in April 2010, after they filed
26 bankruptcy), lists causes of action for: (1) breach of written
27 contract, (2) declaratory relief, (3) intentional
28 misrepresentation, (4) negligent misrepresentation, (5) breach of

1 oral contract, and (6) violation of the Unruh Civil Rights Act
2 and the Equal Protection Clause of the United States
3 Constitution. According to the Gibsons, their lawsuit is worth
4 \$400,000 or more, even though they did not list it in their
5 bankruptcy schedules as an asset of their estate.²

6 The State Court Lawsuit has been pending for over three
7 years and is not close to being resolved. It survived at least
8 one demurrer filed by Jurupa, as well as Jurupa's motion for
9 summary judgment. From all of the parties' papers, we get the
10 sense that there were a number of sharply contested factual
11 issues concerning the parties' respective obligations under the
12 Lease and whether and when each party breached those obligations.
13 The docket from the State Court Lawsuit indicates that the
14 Gibsons initially had counsel representing them, but the Gibsons
15 apparently are no longer represented by counsel therein.

16 Meanwhile, the Gibsons had stopped paying rent. Based
17 thereon, Jurupa sought and obtained an unlawful detainer
18 judgment, which awarded Jurupa roughly \$18,000 in damages.

19 The Gibsons filed their chapter 7 bankruptcy in April 2010.
20 Even though the Gibsons did not list the State Court Lawsuit in
21 their bankruptcy schedules, the Trustee learned of it when
22

23
24 ²As part of its supplemental excerpts of record, Jurupa
25 included an unsigned copy of a second amended complaint dated
26 July 2009, which still shows a relatively modest account of the
27 Gibsons' grievances. Attached to this complaint is a copy of
28 what appears to be the Lease between the Gibsons and Jurupa - the
only full copy provided to us. However, we will not consider
either of these documents because neither was presented to the
bankruptcy court so that it could consider them in ruling on the
Trustee's motion to compromise controversy.

1 Jurupa's counsel telephoned the Trustee shortly after the
2 commencement of the bankruptcy case. The Trustee looked at three
3 sources of information in assessing the merit and value of the
4 State Court Lawsuit: (1) information and documents obtained from
5 the debtors at their examination pursuant to § 341 and Rule
6 2003(b); (2) information and documents obtained from Jurupa; and
7 (3) copies of documents obtained from the State Court Lawsuit.
8 In addition to learning about the State Court Lawsuit, the
9 Trustee learned about the \$18,000 unlawful detainer judgment and
10 Jurupa's claim for roughly \$300,000 in rent that would have been
11 owed under the remaining term of the Lease.

12 The Gibsons listed both Jurupa's \$18,000 unlawful detainer
13 judgment and Jurupa's \$300,000 rent claim on their Schedule F
14 listing of creditors holding unsecured claims. According to
15 their Schedule F, the judgment and the rent claim were not
16 contingent, unliquidated or disputed.

17 The Trustee concluded that the State Court Lawsuit was of
18 minimal merit or value. The Trustee based this conclusion on the
19 information he had reviewed and on his two decades of experience
20 as a property manager, during which he says he has encountered
21 numerous similar lawsuits from tenants.

22 In October 2010, the Trustee filed his motion seeking the
23 court's approval of his proposed settlement with Jurupa (the
24 "Compromise Motion"). Under the terms of settlement, the Trustee
25 would receive \$5,000 and releases of Jurupa's \$18,000 unlawful
26 detainer judgment and \$300,000 rent claim. In exchange, Jurupa
27 would receive a release from any liability associated with the
28 Lease or the State Court Lawsuit. In support of the Compromise

1 Motion, the Trustee opined that the State Court Lawsuit was of
2 minimal merit and value and, based on that opinion, asserted that
3 the settlement was fair and equitable and in the best interests
4 of the creditors in that it would bring at least some funds into
5 the estate without significantly increasing the estate's
6 expenses.

7 The Gibsons filed an opposition to the Compromise Motion.
8 In their opposition, the Gibsons opined that the State Court
9 Lawsuit was worth \$400,000 or more. To support their valuation,
10 the Gibsons reiterated many of the same allegations that were set
11 forth in the latest version of their complaint.³ They also
12 attached to their opposition a handful of documents that,
13 according to the Gibsons, supported their allegations in the
14 State Court Lawsuit.

15 After the Trustee filed a reply in support of the Compromise
16 Motion, the court held a hearing on the motion on January 6, 2011
17 (the "Compromise Hearing").⁴ The Gibsons appeared in propria
18 persona and the Trustee and Jurupa each were represented by
19 counsel.

20 At the Compromise Hearing, the Gibsons argued that the

21
22 ³Among other things, the Gibsons complained that Jurupa
23 wrongfully refused to accept some of their rent checks. However,
24 the Compromise Motion did not turn on any specific allegation of
misconduct but rather on the Trustee's overall assessment of the
State Court Lawsuit.

25 ⁴On May 12, 2011, this panel issued an order directing the
26 Gibsons to obtain the transcript from the Compromise Hearing and
27 to file a copy of that transcript in the BAP Clerk's Office. On
28 May 24, 2011, the Gibsons filed a copy of the transcript in the
BAP Clerk's Office, thereby satisfying the requirements of the
panel's May 12, 2011 order.

1 Trustee had a conflict of interest. The Gibsons claimed that the
2 Trustee was biased because his substantial experience as a
3 property manager caused him to side with Jurupa, which functioned
4 in essentially the same capacity for the Shopping Center. The
5 Gibsons also expressed their disagreement with the Trustee's
6 valuation and assessment of the State Court Lawsuit and
7 reiterated their belief that the lawsuit was worth at least
8 \$400,000. But the Gibsons did not offer any explanation how they
9 arrived at that figure or how the costs and attorneys fees needed
10 to prosecute the lawsuit could be funded.⁵

11 The Trustee made only one argument at the hearing: that if
12 the Gibsons or anyone else believed that the State Court Lawsuit
13 was worth more than the Trustee had concluded, they could have
14 submitted a competing bid as an alternative to the proposed
15 compromise. But no one had submitted a competing bid, and no one
16 had proposed any other feasible alternative to the compromise.
17 To ensure that the Gibsons understood this point, the court
18 reiterated to them that the court would consider any competing
19 bid that the Gibsons cared to offer, but the Gibsons did not
20 respond by making a competing bid, nor did they respond by even
21 suggesting that there was any practical alternative to the
22 Proposed Compromise.

23 The court then recited the factors that bankruptcy courts
24

25 ⁵Pursuant to Local Rule 9013-1(i) of the Local Bankruptcy
26 Rules for the Central District of California ("Local Rules"), the
27 Compromise Hearing was noticed as a non-evidentiary hearing.
28 Because no party ever requested an evidentiary hearing, and the
court did not order one under Local Rule 9013-1(i)(1), the
Compromise Hearing was held as a non-evidentiary hearing.

1 consider in determining whether to approve a settlement, as set
2 forth in Martin v. Kane (In re A & C Props.), 784 F.2d 1377, 1381
3 (9th Cir. 1986).⁶ While the court did not make separate and
4 explicit findings as to each of the A & C Props. factors, it did
5 generally conclude that, based on the parties' papers and oral
6 argument, the proposed settlement sufficiently met the applicable
7 standards to justify granting the Trustee's Compromise Motion.

8 On January 20, 2011, the bankruptcy court entered its order
9 granting the Compromise Motion, and the Gibsons timely appealed.

10 JURISDICTION

11 The bankruptcy court had jurisdiction under 28 U.S.C.
12 §§ 1334 and 157(b)(2)(A). We have jurisdiction under 28 U.S.C.
13 § 158.⁷

14
15 ⁶(1) Likelihood of success on the merits; (2) difficulty of
16 collection efforts; (3) complexity, cost, inconvenience and delay
17 associated with the litigation; and (4) paramount interests of
the estate's creditors, and their reasonable views.

18 ⁷We must consider the Gibsons' standing. Standing is a
19 threshold jurisdictional issue that may be raised at any time.
20 Veal v. Am. Home Mtg. Servicing, Inc. (In re Veal), 2011 WL
2652328, at *4 (9th Cir. BAP June 10, 2011); Brown v. Sobczak
21 (In re Sobczak), 369 B.R. 512, 517 (9th Cir. BAP 2007). In order
22 to have standing to appeal, a debtor must show that he has been
23 "directly and adversely affected pecuniarily" by the order
24 appealed. Fondiller v. Robertson (In re Fondiller), 707 F.2d
441, 442 (9th Cir. 1983). A hopelessly insolvent debtor does not
25 have standing to appeal an order disposing of estate property
26 because "[s]uch an order would not diminish the debtor's
27 property, increase his burdens, or detrimentally affect his
rights." Id. Conversely, if the debtor "can show a reasonable
28 possibility of a surplus after satisfying all debts, then the
debtor has shown a pecuniary interest and has standing to object
to a bankruptcy order." Nangle v. Surratt-States (In re Nangle),
288 B.R. 213, 216 (8th Cir. BAP 2003) (emphasis added), aff'd,
83 Fed.Appx. 141 (8th Cir. 2003). Accord, Lopez v. Specialty

(continued...)

1 law were: "(1) illogical, (2) implausible, or (3) without support
2 in inferences that may be drawn from the facts in the record."
3 Id. (internal quotation marks omitted).

4 DISCUSSION

5 Rule 9019(a) authorizes the bankruptcy court to approve a
6 compromise or settlement on the trustee's motion and after notice
7 and a hearing. The bankruptcy court must consider all "factors
8 relevant to a full and fair assessment of the wisdom of the
9 proposed compromise." Protective Comm. for Indep. Stockholders
10 of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424 (1968).
11 In other words, the bankruptcy court must find that the
12 settlement is "fair and equitable" in order to approve it. A&C
13 Props., 784 F.2d at 1381.

14 In conducting this inquiry, the bankruptcy court must
15 consider the following factors:

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

23 Id.

24 The bankruptcy court enjoys broad discretion in approving a
25 compromise because it "is uniquely situated to consider the
26 equities and reasonableness [of it]" United States v.
27 Alaska Nat'l Bank (In re Walsh Construction, Inc.), 669 F.2d
28 1325, 1328 (9th Cir. 1982). As stated in A & C Props.:

The purpose of a compromise agreement is to allow
the trustee and the creditors to avoid the expenses and
burdens associated with litigating sharply contested
and dubious claims. The law favors compromise and not
litigation for its own sake, and as long as the

1 bankruptcy court amply considered the various factors
2 that determined the reasonableness of the compromise,
the court's decision must be affirmed.

3 Id. (citations omitted).

4 On the other hand, even though the bankruptcy court has wide
5 latitude in approving compromises, its discretion is not
6 completely unfettered. See Woodson v. Fireman's Fund Ins. Co.
7 (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988). The trustee
8 bears the burden of proving to the bankruptcy court that the
9 settlement is fair and equitable and should be approved. In re
10 A&C Props., 784 F.2d at 1382.

11 The Gibsons have argued on appeal that the order approving
12 the compromise motion must be reversed for three reasons: (1) the
13 bankruptcy court did not make the requisite findings necessary to
14 grant the compromise motion; (2) there was insufficient evidence
15 (or no evidence) on which the court could conclude that the
16 proposed settlement was fair and equitable; and (3) the Trustee
17 was biased in favor of Jurupa, and this bias should have caused
18 the court to deny the Compromise Motion.⁸ We will address each
19 of these arguments in turn.

20 **A. Absence of Specific Findings**

21 When opposed, a motion to compromise a controversy under
22 Rule 9019 is subject to the provisions governing contested
23

24 ⁸The Gibsons also argued on appeal that the bankruptcy court
25 should have denied the Compromise Motion because the Trustee did
26 not appear at the Compromise Hearing. However, the Gibsons did
27 not present this issue to the bankruptcy court, so they have
28 waived it. See Moldo v. Matsco, Inc. (In re Cybernetic Services,
Inc.), 252 F.3d 1039, 1045 n.3 (9th Cir. 2001) (declining to
consider new argument and deeming argument waived when argument
was raised for the first time on appeal).

1 matters, set forth in Rule 9014. 10 COLLIER ON BANKRUPTCY ¶ 9019.01
2 (Alan N. Resnick and Henry J. Sommer, eds., 15th ed. rev. 2010).
3 Rule 9014(c) incorporates and makes applicable to contested
4 matters the provisions of Rule 7052, which in turn incorporates
5 Civil Rule 52.

6 Civil Rule 52 provides in pertinent part:

7 (a) Effect. In all actions tried upon the facts
8 without a jury . . . , the court shall find the facts
9 specially and state separately its conclusions of law
10 thereon, and judgment shall be entered pursuant to
11 Rule 58 It will be sufficient if the findings
of fact and conclusions of law are stated orally and
recorded in open court following the close of the
evidence or appear in an opinion or memorandum of
decision filed by the court.

12 The bankruptcy court here did not make specific findings,
13 either orally or in writing, on each of the A & C Props. factors.
14 Rather, the court merely stated, after citing the appropriate
15 factors, "Based on that standard, I believe that there is basis
16 to approve the settlement today." Hearing Transcript (Jan. 6,
17 2011) at 5:16-17. While this statement is conclusory in nature,
18 conclusory findings do not necessarily require reversal if the
19 record supports the trial court's ultimate conclusion. Simeonoff
20 v. Hiner, 249 F.3d 883, 891 (9th Cir. 2001); see also Jess v.
21 Carey (In re Jess), 169 F.3d 1204, 1208-09 (9th Cir. 1999)
22 (holding that the trial court's failure to make specific findings
23 does not require reversal if the trial court record is sufficient
24 to afford a full understanding of the issues on appeal); Swanson
25 v. Levy, 509 F.2d 859, 860-61 (9th Cir. 1975) (same).⁹

26
27 ⁹The Gibsons' insistence that express findings were
28 necessary also is inconsistent with the well-recognized rule that
(continued...)

1 Moreover, "[i]f, from the facts found, other facts may be
2 inferred which will support the judgment, such inferences should
3 be deemed to have been drawn by the [trial court]." Grover Hill
4 Grain Co. v. Baughman-Oster, Inc., 728 F.2d 784, 793 (6th Cir.
5 1984). Accord, Caterino v. United States, 794 F.2d 1, 6 n.2 (1st
6 Cir. 1986); Brown v. Lykes Brothers Steamship Co., Inc., 484 F.2d
7 61, 62 n.4 (5th Cir.1973); Triangle Conduit & Cable Co. v.
8 Federal Trade Commission, 168 F.2d 175, 179 (7th Cir. 1948),
9 aff'd sub nom., Clayton Mark & Co. v. Federal Trade Commission,
10 336 U.S. 956 (1949).

11 Here, the bankruptcy court's comments at the Compromise
12 Hearing demonstrate that the court was addressing the A & C
13 Props. factors when it expressly found that the applicable
14 standard for approving the settlement had been satisfied. We can
15 infer from this finding that the court determined, under the A &
16 C Props. factors, the Compromise Motion should be granted. In
17 short, the absence of specific findings as to each of the A & C
18 Props. factors does not by itself justify reversal, so we will
19 turn our attention to the Gibsons' second argument - that there
20 was insufficient evidence (or no evidence) in the record to
21 support the court's conclusion that the Compromise Motion should
22 be granted.

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25 ⁹(...continued)
26 we may affirm the bankruptcy court's ruling on any basis
27 supported by the record. See, e.g., Heilman v. Heilman
28 (In re Heilman), 430 B.R. 213, 216 (9th Cir. BAP 2010); FDIC v.
Kipperman (In re Commercial Money Center, Inc.), 392 B.R. 814,
826-27 (9th Cir. BAP 2008); see also McSherry v. City of Long
Beach, 584 F.3d 1129, 1135 (9th Cir. 2009).

1 **B. Sufficiency of Evidence**

2 In addressing whether there was sufficient evidence to
3 support the court's ruling, we will separately look at each of
4 the A & C Props. factors.

5 **1. The Probability of Success in the Underlying Litigation**

6 The record is sufficient to support the conclusion that the
7 Gibson's likelihood of success in the State Court Lawsuit was
8 uncertain at best. While the Gibsons had survived at least one
9 demurrer and Jurupa's motion for summary judgment, the facts
10 concerning which party first breached the Lease and the
11 consequences of that breach were hotly contested and likely would
12 have required trial to resolve absent settlement. More
13 importantly, the Trustee in the first instance exercised his
14 business judgment and concluded after conducting a review of the
15 relevant documents and information that the State Court Lawsuit
16 was of little merit and of little value to the estate. While the
17 Gibsons disputed the Trustee's assessment, the Gibsons did not
18 offer any grounds to support their own assessment of the merit
19 and value of the State Court Lawsuit other than their analysis
20 and opinion as pro se litigants.

21 "Where there are two permissible views of the evidence, the
22 factfinder's choice between them cannot be clearly erroneous."
23 Donald v. Curry (In re Donald), 328 B.R. 192, 203 (9th Cir. BAP
24 2005) (quoting Anderson v. City of Bessemer City, N.C., 470 U.S.
25 564, 574 (1985)); Rifino v. U.S. (In re Rifino), 245 F.3d 1083,
26 1086-87 (9th Cir. 2001). Here, the court chose to accept the
27 Trustee's assessment of the State Court Lawsuit over the Gibsons'
28 assessment. On this record, we agree with the bankruptcy court

1 that the Trustee was in a better position than the Gibsons to
2 weigh the value of the lawsuit to the estate. Under these
3 circumstances, we conclude that there was sufficient evidence to
4 support a finding that the probability of success on the merits
5 militated in favor of the settlement with Jurupa.

6 **2. Difficulty of Collection**

7 This factor concerns whether there was any reason to doubt
8 the Trustee's ability to collect from Jurupa in the event the
9 Trustee were to prevail in the State Court Lawsuit. The Trustee
10 presented no evidence pertinent to this factor, nor are any
11 relevant facts evident in the record. Consequently, this factor
12 did not tend to support the settlement. However, in light of the
13 facts supporting the other A & C Props. factors, we do not
14 consider the absence of evidence in support of this factor fatal
15 to the bankruptcy court's ruling.

16 **3. Complexity, Cost, Inconvenience and Delay of Litigation**

17 The dispute between the parties centers on their respective
18 rights and duties under a commercial lease. While this
19 litigation was not particularly complex, the cost and delay
20 associated with continued litigation left the Trustee with few
21 options. According to the Gibsons' bankruptcy schedules, they
22 had no unencumbered, non-exempt assets available to fund
23 continued litigation with Jurupa.¹⁰ Nor was there any other
24

25 ¹⁰While the Trustee filed a notice that assets eventually
26 might be available for distribution to the estate's creditors,
27 the timing of that notice, along with the contents of the
28 Gibsons' schedules, indicate that the only unencumbered, non-
exempt assets anticipated were the expected proceeds from the
Trustee's proposed settlement with Jurupa.

1 likely means for the Trustee to prosecute the State Court Lawsuit
2 on behalf of the estate. The Gibsons were representing
3 themselves in the State Court Lawsuit, which indicates that
4 attorneys generally were unwilling to undertake their
5 representation in the State Court Lawsuit on a contingency fee
6 basis. Additionally, the Trustee's assessment of the merits of
7 the lawsuit further undermined any hope that contingency fee
8 counsel might be retained.

9 Tellingly, neither the Gibsons themselves nor any other
10 person stepped forward with a competing bid or with any
11 permissible alternative to the Trustee's proposed settlement with
12 Jurupa. The Gibsons in their written opposition to the
13 Compromise Motion and at the Compromise Hearing suggested that
14 the Trustee should abandon the State Court Lawsuit to them so
15 that they could pursue the lawsuit on their own behalf. However,
16 the Trustee is charged by statute to liquidate the estate's
17 assets for the benefit of the estate's creditors, 11 U.S.C.
18 § 704(a)(1), and is authorized to abandon estate assets only if
19 they are of inconsequential value and benefit or are burdensome
20 to the estate. 11 U.S.C. § 554(a).

21 Here, the State Court Lawsuit was not of inconsequential
22 value and benefit to the estate. In exchange for the lawsuit,
23 the Trustee obtained \$5,000 in cash from Jurupa, along with
24 Jurupa's release of its claims against the estate - claims the
25 Gibsons themselves valued in their schedules at over \$300,000.¹¹

27 ¹¹The Gibsons likely overstated the value of Jurupa's
28 claims. See 11 U.S.C. § 502(b)(6) (limiting the allowed amount
(continued...))

1 Simply put, the record supports the conclusion that the
2 State Court Lawsuit would have been overly expensive and time-
3 consuming for the Trustee to prosecute and that the Trustee had
4 little in the way of options available; on this record, the
5 settlement with Jurupa was the only apparent means for the
6 Trustee to liquidate for the benefit of the estate the value of
7 the State Court Lawsuit.

8 **4. Interest of Creditors**

9 As the Trustee noted in his moving papers, no creditor
10 expressed any objection to the Compromise Motion. Moreover, the
11 settlement patently was in the interest of the estate's creditors
12 because it brought \$5,000 in cash into the estate and because it
13 was the only apparent means for the Trustee to liquidate the
14 value of the State Court Lawsuit for the benefit of the estate.
15 The settlement further benefitted the estate's creditors by
16 reducing the amount of scheduled unsecured creditor claims by
17 more than 50%. Accordingly, the record supports the conclusion
18 that the Trustee's settlement with Jurupa was in the interests of
19 the estate's creditors.

20 Based on our analysis set forth above, we hold that there
21

22 ¹¹(...continued)
23 of claims for rent under a terminated lease). Furthermore, even
24 though the Gibsons listed the claims as non-contingent, Jurupa's
25 claims likely were contingent on the outcome of the State Court
26 Litigation. To the extent the Gibsons successfully established
27 that Jurupa breached the Lease first, that breach arguably may
28 have excused the Gibsons from further performance under the
Lease, perhaps including some or all of their obligation to pay
rent. Nonetheless, Jurupa's release of its claims against the
estate, along with its \$5,000 cash payment, still had tangible
value to the estate.

1 was sufficient evidence in the record to support the bankruptcy
2 court's conclusion that the Compromise Motion satisfied the A & C
3 Props. factors.

4 **C. Trustee Bias**

5 The Gibsons alleged that the Trustee was biased in favor of
6 Jurupa because of his lengthy experience as a property manager.
7 According to the Gibsons, the bankruptcy court should have
8 rejected the proposed settlement on this basis. Assuming without
9 deciding that the bankruptcy court could have inferred Trustee
10 bias from the facts in the record, its choice not to do so was
11 not clearly erroneous. As previously stated, the trier of fact's
12 choice between two permissible views of the evidence cannot be
13 clearly erroneous. See Anderson, 470 U.S. at 574; Rifino, 245
14 F.3d at 1086-87; In re Donald, 328 B.R. at 1203. In short, the
15 bankruptcy court did not clearly err by declining to find that
16 the Trustee was biased.

17 **CONCLUSION**

18 For the reasons set forth above, the bankruptcy court's
19 order granting the Trustee's Compromise Motion is AFFIRMED.
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