

UNITED STATES BANKRUPTCY APPELLATE PANEL

FOR THE FIRST CIRCUIT

BAP NO. NH 23-025

Bk Case No. 23-10366-BAH

CHRISTINE MARIE ANSIN, DEBTOR

CHRISTINE MARIE ANSIN, Appellant

V.

ROBERT ANSIN, Appellee

ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF NEW HAMPSHIRE

BRIEF OF APPELLANT

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January 12, 2024

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STATEMENT REGARDING ORAL ARGUMENT

In accordance with Fed. R. Bk Pro. Rule 8019 (a), and 1st Cir. BAP L.R. 8019-1, the Appellant believe that the facts and legal arguments are adequately presented in the Appellant's brief and record, , and the decisional process would not be significantly aided by oral argument, unless the BAP determines otherwise.

STATEMENT OF JURISDICTION

The underlying Chapter 7 Petition originated in the Bankruptcy Court for the District of New Hampshire (the “Bankruptcy Court” or “the Court below”). On October 4, 2023, after a hearing¹ (“the Motion Hearing”) on the Debtor’s Motion to Convert to Chapter 13 pursuant to 11 U.S.C. {706 (a) (“the Motion”)(**App. 1**), the Bankruptcy Court issued an Order denying the Motion. (**App.4**) The Bankruptcy Court had jurisdiction over the core proceeding under 28 U.S.C. {157(b). The statutory basis for relief sought in the Bankruptcy Court is 11 U.S.C. {105 (a).

Neither party elected, pursuant to 28 U.S.C. §158(c)(1), to have the District Court hear this Appeal. Venue is proper under 28 U.S. {1408 and 28 U.S.C. {1409. Therefore, the Bankruptcy Appellate Panel for the 1st Circuit (“the BAP”) has jurisdiction to consider this matter pursuant to 28 U.S.C. {158 (a)(1).

STATEMENT OF TIMELINESS OF APPEAL

The Debtor filed her Notice of Appeal on October 18, 2023², i.e. within fourteen (14) days of the Order appealed from (**App. 5**); therefore, her Appeal was timely filed, in accordance with Fed R. Bk Pro. Rule 8002 (a)(1).

STATEMENT OF FINALITY OF ORDER

A Bankruptcy Appellate Panel (BAP) may review a final Order of the Bankruptcy Court. 28 U.S.C. {158 (a)(1) and (b)(1). An Order denying conversion from Chapter 7 to Chapter 13 is a final Order, within the meaning of 28 U.S.C. §158(a)(1). See *Zizza v. Pappalardo (In re Zizza)*, 500 B.R. 288, 292 (B.A.P. 1st Cir. 2013) (conversion from Chapter 13 to Chapter 7)

¹ The hearing was conducted on offers of proof, and was not a full evidentiary hearing.

² Debtor also filed a Corrected Notice of Appeal on October 20, 2023 (**App.7**)

STATEMENT OF ISSUES

I. WHETHER, PRIOR TO DENYING THE DEBTOR’S MOTION TO CONVERT FROM CHAPTER 7 TO CHAPTER 13, THE BANKRUPTCY COURT WAS REQUIRED, BUT FAILED, TO CONDUCT AN EVIDENTIARY HEARING TO DETERMINE WHETHER TO ALLOW THE DEBTOR’S MOTION TO CONVERT.

Standard of Review: A bankruptcy court's findings of fact are reviewed upon appeal for clear error and its conclusions of law are reviewed *de novo*. *Marrama v. Citizens Bank of Massachusetts (In re Marrama)*³, 313 BR 525, 529 (1st Cir. BAP 2004) *aff'd* 430 F. 3d 374 (1st Cir. 2005), *aff'd* 549 U.S. 365, 127 S. Ct. 1105, 166 L. Ed. 2d 956 (2007)

A bankruptcy court's decision to dismiss or convert a case under 706 (a) requires *de novo* review. *Marrama*, (BAP) *supra*, at 530. The lower Court’s decision is reviewed for an abuse of discretion, which can be a misapplication of the law, or basing its decision on a clearly erroneous material fact. See *In re Zizza*, *supra*, at 292⁴, quoting *Sullivan v. Solimini (In re Sullivan)*, 326 B.R. 204, 210 (1st Cir. BAP 2005) (citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1222-23 (9th Cir.1999); *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 870-71 (9th Cir. BAP 2002)

II. EVEN ASSUMING THAT THE BANKRUPTCY COURT WAS NOT REQUIRED TO CONDUCT AN EVIDENTIARY HEARING, DID THE BANKRUPTCY COURT ABUSE ITS DISCRETION BY FAILING TO MAKE ANY FACT FINDINGS AS TO THE DEBTOR’S “BAD FAITH”, “EXTRAORDINARY” OR “ATYPICAL” CONDUCT, JUSTIFYING THE DENIAL AS REQUIRED UNDER THE STANDARD EXPRESSED IN MARRAMA V. CITIZENS BANK OF MASS., 549 U.S. 365, 127 S. CT. 1105, 166 L. ED. 2D 956 (2007)?

Standard of Review: See **Standard of Review** at section I, *supra*.

³ Subsequent references to *Marrama* are to the Supreme Court case at 549 U.S. 365, unless otherwise indicated.

⁴ *Zizza* involved conversion under 11 U.S.C. {1307(c)}.

III. EVEN IF THE BANKRUPTCY COURT WAS NOT REQUIRED TO CONDUCT AN EVIDENTIARY HEARING, NOR MAKE FINDINGS OF FACT, DID THE COURT ABUSE ITS DISCRETION BY (1) DENYING THE DEBTOR’S MOTION TO CONVERT BECAUSE SHE SOUGHT A BROADER DISCHARGE IN CHAPTER 13 TO POSSIBLY DISCHARGE A DEBT THAT MAY NOT BE DISCHARGEABLE IN CHAPTER 7 AND (2) BY IMPERMISSIBLY SHIFTING THE BURDEN OF PROOF TO THE DEBTOR?

Standard of Review: See **Standard of Review** at section I, *supra*, at 2.

STATEMENT OF THE CASE

In November of 2021, after a lengthy trial and contentious divorce proceedings, the 10th Circuit Family Court-Brentwood issued a divorce Decree (“the Decree”) in the matter of *Robert Ansin and Christine Ansin*.⁵ (**App. 9**) The Decree awarded the marital home and all other property to the husband, including property in the parties’ storage units, except for a used BMW Sport Utility Vehicle and any property that she brought into the marriage, which were awarded to the wife. The Decree also required her to vacate the marital home 30 days after the Decree was issued. In short, Ms. Ansin was left homeless, without health insurance, without money⁶, a cell phone, or any other resources, and with only a used vehicle. (**App. 12, 47**)

In December of 2021, as required by the Decree, Ms. Ansin moved out of the marital home in Derry, New Hampshire, and went to Florida to stay with family. Her mental state was very precarious, and she was distraught to the point of being suicidal. While Ms. Ansin was in Florida, her family members and friends took property from the marital home, and also from a storage unit that the parties had in Londonderry, New Hampshire. Ms. Ansin is not aware of where most of the property went, nor who distributed it or received it. (**Tr 58-60**)

On or about January 12, 2022, Robert Ansin’s counsel filed a Motion for Contempt and to Enforce, in the family court⁷. On March 23, 2022, the Family Court issued an Order finding the

⁵ 622-2019-DM-00387

⁶ The Decree did award her \$40,000 in connection with enforcement of the parties’ prenuptial agreement. (**App. 13**)

⁷ The original Motion for Contempt is not in the record.

wife in Contempt (**App. 55**)⁸; on or about October 14, 2022, the family Court ordered the Debtor to pay a total of \$195,955.49 to her ex-husband, and also ordered her to pay \$750.00 per month towards the debt, beginning in October 1, 2022 (which predated the Order). (**App. 62**) Due to her mental health issues, Ms. Ansin was not able to work, but the Order required her to seek employment.

On July 11, 2023, Debtor filed her Chapter 7 Petition. On August 8, 2023, Debtor attended the scheduled 341 Meeting. On August 16, 2023, Robert Ansin, Debtor's ex-husband, through counsel, filed an Adversary Complaint, AP, 23-01011 (**App. 66**) ("the Complaint") Objecting to the Discharge⁹ of Robert Ansin's State Court claims against her. The Complaint sought non-dischargeability of the Family Court debt for 2 reasons: (1) alleged embezzlement or larceny under 11 U.S.C. {523 (a)(4)}; (2) willful and malicious injury to Plaintiff under 11 U.S.C. {523 (a)(6)}. If the Debtor were allowed to convert to Chapter 13, the (a)(6) Count for willful and malicious injury would be eliminated under the broader Chapter 13 discharge, leaving only the (a)(4) Count alleging larceny/embezzlement. 11 U.S.C. {1328}.

Robert Ansin's claims against her total more than 68% of her total estimated unsecured non-priority debt of \$294,615.72. If Robert Ansin is successful in obtaining non-dischargeability of his debt in the Chapter 7, the Debtor would be left with more than 68% of her debt; therefore, Chapter 7 would be of limited benefit to her. Debtor seeks to convert to Chapter 13 in order to have a better opportunity to obtain a discharge of Robert Ansin's claims, as well as her other non-priority unsecured debt, pursuant to 11 U.S.C. {1328} which would provide her with a "fresh start".

PROCEDURAL HISTORY

On July 11, 2023, Debtor filed her Chapter 7 Petition and on August 8, 2023, Debtor attended the scheduled 341 Meeting¹⁰ On August 16, 2023, Robert Ansin, Debtor's ex-husband,

⁸ Highlighting/shading on this document is from Appellee's Exhibit in the record, and not from original Court Order.

⁹ The Adversary Proceeding is entitled "Complaint and Objection to Discharge", but requests relief pertaining to the dischargeability of Robert Ansin's claims against her, and not denial of a Chapter 7 discharge.

¹⁰ The Trustee has since filed his report of No Distribution

through counsel, filed a Complaint, AP#, 23-01011, Objecting to the Discharge¹¹ of Robert Ansin's Family Court claims against her (**App 66**).

On August 30, 2023, Debtor filed a Motion to Convert her Chapter 7 to Chapter 13 (**App 1**). On September 22, 2023, counsel for Robert Ansin filed an Objection to the Debtor's Motion to Convert (**App 78**). On October 4, 2023, the Bankruptcy Court, Harwood J., held a non-evidentiary hearing at which the Debtor and her counsel, as well as Robert Ansin's counsel¹², personally appeared. At the hearing, the Court issued its decision on the record denying the Motion to Convert (**App.53**), followed that day by an Order confirming the denial "...for the reasons stated on the record." (**App. 4**)

On October 18, 2023, Debtor's counsel filed a Notice of Appeal with the Bankruptcy Court (**App. 5**) On October 20, 2023, Debtor's counsel filed a Corrected Notice of Appeal. (**App.7**)

On November 1, 2023, Debtor's counsel filed Appellant's Statement of Issues, Designation of Items in the Record, and Certification of Transcript Ordered (**App. 95, 97, 99**).

On November 9, 2023, the Debtor's counsel filed a Motion to Delay Discharge/Closing of Case (**App.101**).

On November 14, 2023, Robert Ansin's counsel filed Appellee's Designation of Items in the Record. (**App. 103**) On that same date, the Court Transcription Service filed the Transcript of the October 4, 2023 Motion hearing. (**App. 42**)

On November 13, 2023, the Bankruptcy Appellate Panel issued its Briefing Schedule¹³. (**App. 105**) On December 12, 2023, the Appellant filed an Assented-to Motion to Extend time to file Appellant's Brief for 30 days (**App. 107**), which the BAP granted (**App. 109**), making the Appellant's Brief due on January 12, 2024.

On December 13, 2023, after a hearing on Debtor's Motion to Delay Discharge/Closing, the Bankruptcy Court Ordered that the closing of Debtor's case and issuance of a discharge be

¹¹ The Adversary Proceeding is entitled "Complaint and Objection to Discharge", but requests relief pertaining to the dischargeability of Robert Ansin's claims against her, and not denial of a Chapter 7 discharge.

¹² Robert Ansin did not appear.

¹³ Because Appellant's counsel's email was not updated with the BAP, she did not receive the Briefing Schedule until approximately November 29, 2023.

stayed (**App. 110**) Debtor did not seek a stay of the Adversary Proceeding, since the issues and discovery would be similar whether or not the Debtor converted to Chapter 13, or stayed in a Chapter 7.

SUMMARY OF THE ARGUMENT

Prior to denying the Debtor's Motion to Convert from Chapter 7 to Chapter 13, the Bankruptcy Court was required, but failed, to conduct an evidentiary hearing to determine whether to allow the Debtor's Motion to Convert.

The Bankruptcy Court's decision is also fatally flawed, because the Court denied the Motion to Convert "for reasons stated on the record", and failed to make any fact findings as to the Debtor's "bad faith", "extraordinary" or "atypical" conduct, justifying the denial as required under the standard expressed in *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 127 S. Ct. 1105, 166 L. Ed. 2d 956 (2007), and the multiple factors cited in *Sullivan v. Solimini (In re Sullivan)*, 326 B.R. 204, 212 (1st Cir. BAP 2005)

Finally, even if the Bankruptcy Court finds that an evidentiary hearing was not necessary, nor were specific findings of fact necessary, the Court abused its discretion by (1) concluding that the Debtor's goal to discharge a particular debt in Chapter 13, that may not be dischargeable in Chapter 7, on its own, was an improper reason for denying the Debtor's Motion to Convert to Chapter 13 and (2) impermissibly shifting the burden to the Debtor on the issue of bad faith.

ARGUMENT

I. PRIOR TO DENYING THE DEBTOR'S MOTION TO CONVERT FROM CHAPTER 7 TO CHAPTER 13, THE BANKRUPTCY COURT WAS REQUIRED, BUT FAILED, TO CONDUCT AN EVIDENTIARY HEARING TO DETERMINE WHETHER TO ALLOW THE DEBTOR'S MOTION TO CONVERT.

On October 4, 2023, the Bankruptcy Court held a hearing on the Debtor's Motion to Convert that was attended by the Debtor, Debtor's counsel, and Robert Ansin's counsel; Robert

Ansin did not attend, or participate remotely. (App. 42-43) The Court conducted the hearing by offers of proof, despite the presence of the Debtor in the Courtroom. (App.42-54) During the offers of proof, Debtor's counsel provided offers of proof concerning the Debtor's mental health struggles post-divorce, her progress in supporting herself by taking and passing the real estate broker's examination for New Hampshire and Massachusetts, being hired by a local broker. (App.47) Debtor's counsel also made offers of proof concerning the Debtor's state of mind post-divorce, and her lack of bad faith. (App.44-45) However, the Court found this information irrelevant, and focused instead solely on the Debtor's statement in her Motion to Convert, and at the hearing, that she sought a discharge under Chapter 13 of the claims that her ex-husband had brought against her in the Chapter 7 as the sole reason for denying her Motion to Convert. (App. 52-54)

In order to be eligible to convert under {706 (a) from Chapter 7 to Chapter 13, a Debtor must be eligible to be a Chapter 13 Debtor. *Marrama, supra* at 372, 1110-11. A Chapter 13 Debtor must meet the requirements of {109 (e) and {1307(c), i.e. the debt limits and "regular income" required by the former, and the "good faith" required by the latter. *Ibid.*

There is no allegation that the Debtor's debts exceed the limits at {109 (e), and although Appellee's counsel argued in his Objection that the Debtor did not have regular income, there was only a brief inquiry by the Court as to the Debtor's possible lack of regular income due to her occupation as a real estate broker. (App. 48) The Court did not rely on that factor in its Order denying the Conversion.

As to the "good faith" requirement under {1307 (c), the Court did not make any findings as to "good faith", or the lack thereof. Debtor's counsel made offers of proof as to Debtor's good faith, but the Court focused only on whether the Debtor's motivation for converting was to seek a broader Chapter 13 discharge, and whether the Court believed she would be successful in defending Mr. Ansin's Adversary Proceeding. (App. 52-53) (See discussion *infra* at Section III of the Argument, pp. 10-12)

A determination of good faith is a fact-intensive approach, in which the Court must consider the totality of the circumstances, and not just the allegation in the Debtor's Motion to Convert indicating that she sought a discharge of her debt to her ex-husband. *Sullivan v. Solimini (In re Sullivan), supra*, at 211-212.

The New Hampshire Bankruptcy Court has specifically confirmed that, prior to denying a Debtor's Motion under {706 (a), it must conduct a thorough investigation of all of the facts. *See In re Borriello*, 2009 BNH 039, In *Borriello*, the Court not only held an evidentiary hearing, but also required counsel for all parties to submit post-hearing memoranda as to eligibility under {109 (e). After taking the matter under advisement, the Court issued a well-reasoned 6-page Memorandum Opinion finding no bad faith, and allowing the Debtors' Motion to Convert under {706(a)¹⁴ *Id* at 41,44.

In a later case, the New Hampshire Bankruptcy Court, prior to ruling on Debtor's Motion to Convert, considered, in addition to evidence at the hearing on the Motion to Convert, an Affidavit of the US Trustee stipulated to by the parties, the Debtor's sworn testimony at the creditors' meeting, the Debtor's sworn testimony at a Rule 2004 Examination, as well as the full record. *In re Visconti*, 448 BR 617 (Bankr. D.N.H. 2011) Prior to denying the Debtor's Motion to Convert, the Court enumerated and discussed each of the factors outlined in *Sullivan, supra* at 212., *Visconti, supra* at 623-625.

The Court below had insufficient evidence to make a determination of bad faith, and therefore lacked the facts to conclude, under the "totality of the circumstances", that the Debtor's conduct rose to "extraordinary" levels (i.e. bad faith) in her attempt to convert from Chapter 7 to Chapter 13.

In fact, the Court made no specific finding of its reasons for denying the Motion, merely referring in its Order to the denial "...for the reasons stated on the record." (**App. 4**)

This facts in Ms. Ansin's case stand in sharp contrast to those of the debtor in *Marrama*. In *Marrama*, there was ample evidence of bad faith and abuse of the bankruptcy process by concealing a pre-petition transfer of property, and undervaluing assets (*Marrama, supra*, at 369,1108) In *Marrama*, the Debtor's bad faith conduct was part of the record, and the Court did not hold an evidentiary hearing, nor was one necessary to establish bad faith because the evidence was "on the record"; by contrast, although Debtor's counsel made offers of proof as to Ms. Ansin's good faith, the Court disregarded the offers of proof, and took no testimony from the Debtor on the issue of good faith. The Court's Order denying the Debtor's Motion to Convert, therefore, did

¹⁴ The Court also found that the Debtors met the debt limits under {109 (e), which is not an issue in this Motion.

not properly consider the “totality of the circumstances”, is an abuse of discretion, and must be overturned. See *Zizza, supra* at 292.

II. EVEN IF THE BANKRUPTCY COURT WASN'T REQUIRED TO HOLD AN EVIDENTIARY HEARING, IT ABUSED ITS DISCRETION BY FAILING TO MAKE ANY FINDINGS OF FACT AS TO THE DEBTOR'S "BAD FAITH", "EXTRAORDINARY" OR "ATYPICAL" CONDUCT, JUSTIFYING THE DENIAL OF HER MOTION TO CONVERT UNDER THE STANDARD EXPRESSED IN MARRAMA V. CITIZENS BANK OF MASS., 549 U.S. 365, 127 S. CT. 1105, 166 L.ED. 2D 956 (2007)

The Supreme Court in *Marrama* did not specifically define what constitutes “bad faith”; however, the Court emphasized that, in Order to rise to the level of “bad faith”, the Court must find “atypical’ conduct, and that Courts should deny conversion only in extraordinary cases. *Marrama, supra*, at 375, fn 11, 1111.

The Bankruptcy Code does not define “good faith” or “bad faith”, *Sullivan v. Solimini (In re Sullivan)*, *supra*, at 212. There are several factors that the Court uses to evaluate good faith, including: (1) debtor's accuracy in stating her debts and expenses, (2) debtor's honesty in the bankruptcy process, including whether she has attempted to mislead the court and whether she has made any misrepresentations, (3) whether the Bankruptcy Code is being unfairly manipulated, (4) the type of debt sought to be discharged, (5) whether the debt would be dischargeable in a Chapter 7, and (6) debtor's motivation and sincerity in seeking Chapter 13 relief. *Sullivan, supra* at 212. (citing *In re Cabral*, 285 B.R. 563, 573 (1st Cir. B.A.P. 2002); *In re Dicey*, 312 B.R. 456, 459 (Bankr.D.N.H.2004); *In re Virden*, 279 B.R. 401, 408 (Bankr.D.Mass.2002)

The Court did not consider the *Sullivan* factors, except possibly when weighing whether Robert Ansin’s claim might be dischargeable in Chapter 13. (**App. 52**). Converting to Chapter 13 would eliminate the {523 (a)(6) Count for malicious injury, leaving the {523 (a)(4) count for larceny/embezzlement as the only viable Count in the Adversary Proceeding. 11 U.S.C. {1328. Failing to consider all of the factors enumerated above is an abuse of discretion, and the Court’s decision must be reversed to consider the totality of the circumstances.

III. EVEN IF THE BAP FINDS THAT THE BANKRUPTCY COURT WAS NOT REQUIRED TO CONDUCT AN EVIDENTIARY HEARING, NOR MAKE FINDINGS OF FACT, THE COURT ABUSED ITS DISCRETION BY (1) CONCLUDING THAT THE DEBTOR'S INTENTION TO DISCHARGE A PARTICULAR DEBT IN CHAPTER 13, THAT MAY NOT BE DISCHARGEABLE IN CHAPTER 7, ON ITS OWN, WAS AN IMPROPER REASON FOR DENYING THE DEBTOR'S MOTION TO CONVERT TO CHAPTER 13 AND (2) BY IMPERMISSIBLY SHIFTING THE BURDEN OF PROOF TO THE DEBTOR.

A Debtor's attempt to discharge a claim in Chapter 13 that is not dischargeable in a Chapter 7, on its own, is not necessarily evidence of bad faith, unless the Debtor's only goal is to avoid paying creditors. *Borriello, supra*, at 6, citing *In re Nisbet*, 1999 BNH 038, 2. *In re Kafanelis*, Bk. No. 99-12383-MWV, Chapter 13 (Bankr. D.N.H. Nov. 6, 2000)

The Bankruptcy Court focused on the Debtor's goal to "...get the benefit of a broader discharge under [11 U.S.C.] Section 1328...", framing it as a "litigation tactic" that does not "...carr[y] the burden sufficient to provide cause to convert the case". (**App. 52-53**) The Court's reliance on this one factor in deciding the Debtor's right to convert to Chapter 7 was an abuse of discretion.

Although the Debtor has the initial burden of proof on the issue of eligibility for conversion from Chapter 7 to Chapter 13, i.e. no prior conversion, eligibility under {109, and seeking conversion for permissible purposes, it is up to the Objecting party to allege and prove that the Debtor acted in bad faith, or is otherwise ineligible for Chapter 13. See *Sullivan, supra*, at 211. *In re Condon*, 358 B.R. 317 (B.A.P. 6th Cir. 2007) See, e.g. *In re Broad Creek Edgewater, LP*, 371 B.R. 752, 757 (Bankr. D.S.C. 2007) (denial of conversion from Chapter 7 to Chapter 11); See e.g. *In re George Love Farming, LC*, 355 B.R. 170, 179 (Bankr. D. Utah 2007) (denial of conversion from Chapter 7 to Chapter 11).

The Objecting party (Robert Ansin) did not carry his burden of proof as to bad faith, and the Court failed to make any factual findings as to any such allegations; in fact, it appears that the Court shifted the burden of proof to the Debtor to show just cause why she should be eligible to convert her case from Chapter 7 to Chapter 13. Having cited the permissible purpose of seeking a broader discharge in Chapter 13 as her motivation for conversion, (**App. 45**), as well as other

relevant facts and circumstances, the burden then shifts to the Objecting party to demonstrate the Debtor's bad faith. See *In re Condon, supra*. The Court's burden-shifting was an abuse of discretion, and the Bankruptcy Court's decision must be reversed.

CONCLUSION

The Bankruptcy Court must, but failed to, consider the totality of the circumstances in evaluating whether this Debtor is an "honest but unfortunate debtor" who is entitled to the protection of the bankruptcy laws. *Marrama, supra*, at 374, 1111. Based on the foregoing, the Appellant respectfully requests that this Panel reverse the decision of the Bankruptcy Court denying the Debtor's right to convert to Chapter 13. In the alternative, the Appellant respectfully requests that the Panel reverse the denial of conversion, and remand the matter to the Bankruptcy Court with instructions to review the Motion in light of the totality of the circumstances analysis required by *Marrama* and enumerated in *Sullivan* and *Visconti*.

Date: January 12, 2024

Respectfully submitted,
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STATEMENT REGARDING RELATED CASES AND INTERESTED PARTIES

The undersigned hereby certifies, pursuant to 1st Cir. BAP L.R. 8014-1(a)(2), that there are no other related cases pending other than the Adversary Proceeding, *Ansin v. Ansin*, AP 23-01011-BAH (**App. 66**) The Court has held an initial Pretrial, and issued a Scheduling Order. The parties have exchanged initial disclosures, but have not yet commenced discovery.

Date: January 12, 2024

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CERTIFICATE OF COMPLIANCE-RULE 8015(a)(7)(B)

The undersigned hereby certifies that the Appellant's brief complies with the type-volume limitation of Fed. R. Bk Pro. Rule 8015(a)(7)(B):

The brief contains less than 13,000 words, excluding the sections that are exempted by Fed. R. Bk. Pro Rule 8015(a)(7)(B)(iii). This certificate is based upon the word-count function provided in Microsoft Word 365 software.

The brief complies with the typeface requirements of Fed. R. Bk. Pro. Rule 8015 (a)(5), (6), by using Times New Roman 12 point, a proportionally spaced typeface, in Microsoft Word version 365.

Date: January 12, 2024

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I provided a copy of the foregoing Appellant's Brief and Appendix to all interested parties, as follows:

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