No. 25-_____

IN THE
SUPREME COURT OF THE UNITED STATES

Richard W. Gannett,

Petitioner,

v.

Nahabet Cmenian,

Respondent.

On Petition for a Writ of Certiorari to
the United States Court of Appeals to the First Circuit

MOTION FOR ENLARGEMENT OF TIME TO SERVE PETITION FOR A WRIT OF CERTIORARI

Richard W. Gannett
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Dated: June 10, 2025

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SUPREME COURT, U.S.

This is a Motion for Enlargement of Time to Serve Petition for a Write of Certiorari. The opposing party was served on June 10, 2025 by electronic mail.

On March 24, 2025, the United States Court of Appeals for the First Circuit ("First Circuit") entered its Order which Petitioner is appealing from. This is well within the 90 days afforded Petitioner.

The Petitioner respectfully moves for an Order enlarging the time by 60 days to file and serve his Petition for a Writ of Certiorari from an Order of the First Circuit dated March 24, 2025 under 28 U.S.C. sec. 1257(a),

The Petitioner underwent required surgery on January 2, 2025 at Boston's Massachusetts General Hospital ("MGH"). Petitioner has obtained a letter from the surgical team excusing Petitioner from work until April 17, 2025.

28 U.S.C. sec. 1257(a) affords Petitioner 90 days to file and serve his Petition. A segment of the allotted time overlaps with the time period which the MGH surgical team opines Petitioner should not work, Petitioner seeks an additional 60 days to file and serve his Petition.

In addition to the foregoing, Petitioner seeks "a reasonable accommodation" under the Americans with Disabilities Act ("ADA").

The Petitioner will address an argument i)concerning the obligation of federal courts to honor state court injunctions issued on the merits; ii) the impossibility of a federal court honoring a bankrupt's contention that he could "disincorporate[1]" his stand alone corporation registered in a different state when a a preliminary injunction issued on the merits restraining such a "disincorporation" as well as any transfer of this nature without the Massachusetts Superior Court's approval; iii)the post-trial evidence gathered by Petitioner which supports Petitioner's position that "disincorporarion" is a sham and Mr. Cimenian's re-registration of a corporation he "disincorporated" in the Commonwealth of Massachusetts corporation's division he claimed had been "disincorporated" without disclosing any of this to the Maine Bankruptcy Court.

This Honorable Court can rule that "disincorporation" is fictitious and that the lower Court improperly held it can ignore the state court injunction expressly prohibiting such a transfer. .

Also attached is the Order of March 24, 2025 by the First Circuit which Petitioner seeks to reverse.

Relief requested:

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[1]This appears to be a device utilized only in the Maine Bankruptcy Court by Chapter 7 and 13 Debtors. There is no analog anywhere else.

Petitioner respectfully requests an enlargement of time to file his Petition for a Writ of Certiorari through and including August 21, 2025.

Respectfully submitted,

/s/ Richard W. Gannett

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Dated: June 11, 2025

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June 2025, the foregoing document was served upon Clerk United States Supreme Court 1 First Street NE Washington, D.C. 20543 and a copy served upon J. Scott Logan75 Pearl Street #212 Portland, ME 04101 by electronic mail.

/s/ Richard W. Gannett

Richard W. Gannett

United States Court of Appeals
For the First Circuit

No. 24-1250

IN RE: NAHABET CIMENIAN,

Debtor,

RICHARD W. GANNETT,

Appellant,

v.

NAHABET CIMENIAN,

Appellee.

Before

Montecalvo, Kayatta and Rikelman,
Circuit Judges.

JUDGMENT

Entered: March 24, 2025

Plaintiff-appellant Richard W. Gannett seeks review of the bankruptcy court's judgment, following trial, in favor of debtor-appellee Nahabet Cimenian in an adversary proceeding through which appellant sought, among other things, denial of discharge pursuant to 11 U.S.C. §§ 523(a)(2) and 727(a)(2), (a)(4), and (a)(5).

A first-tier appeal to the district court resulted in dismissal for lack of appellate standing. We bypass this non-Article III issue and assume, without deciding, that appellant has appellate standing. See Caribbean Mgmt. Grp. v. Erikon, LLC, 933 F.3d 35, 41 (1st Cir. 2020) ("When an appeal raises an enigmatic question of statutory jurisdiction and the merits are easily resolved in favor of the party who would benefit from a finding that jurisdiction is wanting, we may bypass the jurisdictional question and proceed directly to the merits."); see also Neira v. Scotiabank de Puerto Rico, 14 F.4th 60, 67 (1st Cir. 2021) (discussing non-Article III source of relevant bankruptcy appellate-standing principles).

This court reviews the bankruptcy court's decision directly, without affording special deference to the district court's intermediate decision (as noted above, we have elected in any event to bypass the district court's appellate-standing conclusion). See In re Francis, 996 F.3d 10, 16 (1st Cir. 2021); see also In re Reyes-Colon, 922 F.3d 13, 17 (1st Cir. 2019) ("[O]nce a notice of appeal to this court has been filed, the operative ruling under review is the bankruptcy court ruling, with the [] district court ruling serving more or less like an amicus brief (albeit one that can be extremely helpful.")). In undertaking this review of the bankruptcy court's reasoning, the court reviews factual findings for clear error, legal conclusions de novo, and any judgment calls for abuse of discretion. See In re Francis, 996 F.3d at 16.

We note that, on many points, appellant has failed to address the specific reasoning upon which the bankruptcy court expressly relied when ruling; this has worked a waiver that, standing alone, would provide a basis for this court to affirm as to the vast majority of appellant's claims of error. See Sparkle Hill, Inc. v. Interstate Mat Corp., 788 F.3d 25, 30 (1st Cir. 2015) (stating that this court "do[es] not consider any arguments for reversing a decision of the [lower] court when the argument is not raised in a party's opening brief," particularly where "the opening brief presents no argument at all challenging [the] express grounds upon which the [lower] court prominently relied in entering judgment"). Nonetheless, we address certain specific arguments. Our decision to do so should not be construed to mean that we have failed to consider points and arguments not specifically discussed. We have considered each of the points and arguments actually developed by appellant in briefing.

Based on that review, we conclude that affirmance is in order. See Fed. R. Bankr. P. 4005 (burden of proof on party seeking discharge exception); Grogan v. Garner, 498 U.S. 279, 287-88 (1991) (stating, in a § 523(a) dischargeability case, that "[i]t is fair to infer that Congress intended the ordinary preponderance standard to govern the applicability of all the discharge exceptions"); In re McDonald, 29 F.4th 817, 823 (6th Cir. 2022) (§ 727(a)(5) requires preponderance of evidence); In re Crawford, 841 F.3d 1, 7 (1st Cir. 2016) (§ 727(a)(4) requires preponderance of evidence); In re Watman, 458 F.3d 26, 32 (1st Cir. 2006) (§ 727(a)(2) requires preponderance of evidence).

As to appellant's claims under §§ 727(a)(2) and (a)(4) and under § 523(a)(2), he has not demonstrated any clear error in the bankruptcy court's finding that the debtor did not have the requisite intent. See Zizza v. Harrington (In re Zizza), 875 F.3d 728, 732 (1st Cir. 2017) ("The case for deferring to the bankruptcy judge's factfinding is particularly strong when intent is at issue -- since an intent finding depends heavily on the debtor's credibility, and the bankruptcy judge is uniquely qualified to make that call." (quoting Toye v. O'Donnell (In re O'Donnell), 728 F.3d 41, 45 (1st Cir. 2013) (internal quotation marks omitted))). Where, as here, the evidence is not so "one-sided as to compel an inference of fraud," "the bankruptcy court's contrary finding must be credited." In re Carp, 340 F.3d 15, 20 (1st Cir. 2003). As to appellant's § 727(a)(5) claim, he has not demonstrated any clear error in the bankruptcy court's finding that the debtor did not fail to disclose any loss or deficiency of assets. As the bankruptcy court explained, the transfer of business assets *to* the debtor pre-petition did not cause a loss of assets to the bankruptcy estate.

We also find no abuse of discretion in the bankruptcy court's denial of appellant's first motion in limine; the bankruptcy court was entitled to take judicial notice of the amended

schedules in the underlying bankruptcy case. See Clucky v. Town of Camden, 894 F.3d 25, 34 (1st Cir. 2018) (standard of review); see also Medtronic Med. CR SRL v. Feliciano-Soto, 59 F.4th 51, 53 n.2 (1st Cir. 2023) ("[I]t is well-accepted that federal courts may take judicial notice of proceedings in other courts if those proceedings have relevance to the matters at hand." (quoting Kowalski v. Gagne, 914 F.2d 299, 305 (1st Cir. 1990))). Any challenge to the denial of appellant's second motion in limine is moot, as the debtor ultimately did not introduce any writing evidencing his transfer of assets from a business to him personally. Appellant's challenges to the bankruptcy court's denial of his third, fourth, and fifth motions in limine are waived because the ruling was provisional, and appellant did not object to the admission of any relevant evidence during trial.

For all of these reasons, the bankruptcy court's judgment is affirmed. See 1st Cir. R. 27.0(c).

Finally, appellant's motion for leave to file a supplemental brief is denied. The reports that appellant seeks to discuss in the proposed supplemental brief were not placed before the bankruptcy court.

By the Court:

Anastasia Dubrovsky, Clerk

cc:
Jeffrey Taylor Piampiano
Richard William Gannett
John Scott Logan