

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE FIRST CIRCUIT

BAP NO. EP 97-022

JAMES N. PAPTONES
Appellant

v.

EDWARD ELLIOT
Appellee

Appeal from the United States Bankruptcy Court
District of Maine
[Hon. James A. Goodman, Bankruptcy Judge]

Before

HILLMAN, VAUGHN, AND DE JESUS,
U.S. Bankruptcy Judges.

James F. Molleur, Esq. On brief for Appellant.
Robert M. Raftice, Jr., Esq. On brief for Appellee.

October 15, 1997

PER CURIAM

Appellant James N. Papatones claims he is entitled to remain a Debtor under Chapter 13 of the U.S. Bankruptcy Code, because the

judgment by the State Court finding him liable to Appellee in the liquidated amount of \$276,606.87, is void as it was entered in violation of the automatic stay. The State Court committed its bench ruling to writing in a judgment entered after Mr. Papatones filed his bankruptcy petition. The bankruptcy judge held reducing the judgment entered in open court to a written document was a ministerial act not stayed by the filing of the petition citing Soares v. Brockton Credit Union, 107 F.3d, 969, (1st Cir. 1997). By affording full faith and credit to the State Court judgment, the bankruptcy judge ruled Mr. Papatones could not be a Debtor under Chapter 13 because he owed noncontingent, liquidated, unsecured debts exceeding the \$250,000.00 cap set by 11 U.S.C. § 109(e) when he filed his petition. This appeal ensued.¹

Having reviewed the record , we find ourselves in full agreement with the factual findings and conclusions of law expressed by the bankruptcy judge. Consequently, we adopt his opinion and also affirm. We only add the following.

We reviewed the transcript of the bench ruling entered by the State Court and produced in response to our order. This transcript reinforces the bankruptcy judge's findings and conclusions.

¹ We have jurisdiction to rule on the appealed issue under 11 U.S.C. § 158. "Findings of fact ... shall not be set aside unless clearly erroneous...." Fed.R.Bankr. 8013; see *North Atl. Fishing, Inc. v. Geremia*, 153 B.R. 607, 610 (D.R.I. 1993). Applications of law are reviewed *de novo* and are set aside only when they are made in error or constitute an "abuse of discretion". *In re Gonic Realty Trust*, 909 F.2d 624, 626-27 (1st Cir. 1990); *In re Carter*, 100 B.R. 123, 125 (D.Me. 1989). *In re DN Associates*, 3 F.3d 512, 515 (1st Cir. 1993).

Affirmed.