

**UNITED STATES BANKRUPTCY APPELLATE PANEL**

**FOR THE FIRST CIRCUIT**

**BAP No. NH 97-058**

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**IN RE: DANIEL E. JASOLKA  
and DIANE F. JASOLKA**

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**Mary L. Fezette, William C. Tucker  
and William G. Steele, Jr.  
Trustees of the Lisle and Mary Fezette  
Revocable Trust,  
Defendants/Appellants**

**v.**

**United States of America,  
Plaintiff/Appellee**

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**Appeal from the United States Bankruptcy Court  
for the District of New Hampshire  
(Hon. Mark W. Vaughn, U.S. Bankruptcy Judge)**

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**Before**

**Haines, Hillman, and Boroff, U.S. Bankruptcy Judges**

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**William S. Gannon was on brief for the Appellants.  
Paul M. Gagnon and T. David Plourde were on brief for the Appellee**

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**November 18, 1997**

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## **PER CURIAM.**

Mary L. Fezette, William C. Tucker, and William G. Steele, Jr., Trustees of the Lisle and Mary Fezette Revocable Trust (the “Trustees”) appeal from an order of the bankruptcy court granting summary judgment in favor of the United States of America (the “United States”) in this adversary proceeding. The United States brought the action asking the court to determine that its mortgage enjoyed priority over that of the Trustees. The bankruptcy court agreed with the United States and the Trustees appeal from that order.

### **Jurisdiction and Standard of Review**

The Bankruptcy Appellate Panel has jurisdiction over this appeal, pursuant to 28 U.S.C. § 158. A trial court’s findings of fact are upheld unless clearly erroneous; conclusions of law are reviewed de novo. Fed. R. Bankr. P. 8013; Piccicuto v. Dwyer, 39 F.3d 37, 40 (1st Cir. 1994). Because the grant of summary judgment here necessarily required the bankruptcy court to find the existence of no genuine issue of material fact and that the plaintiff United States was entitled to judgment as a matter of law, we review the determination of the bankruptcy court de novo. Fed. R. Bankr. P. 7056(a); Weiss v. Blue Cross/Blue Shield of Delaware, 206 B.R. 622, 623 (1st Cir. BAP, 1997). See also FDIC v. Ins. Co. of N. Am., 105 F.3d 778, 779 (1st Cir.1997).

### **The April 29, 1996 Order**

By order, dated April 29, 1996, the bankruptcy court granted summary judgment in favor of the United States. Said order was accompanied by a Memorandum Opinion of the same date. We have reviewed the record, the briefs filed by the parties and the

court's findings and rulings. We view the findings and rulings set forth in the bankruptcy court's Memorandum Opinion as well reasoned and well supported, most particularly with respect to the law of the State of New Hampshire. We are not able to improve on the bankruptcy court's logic or language.

The order appealed from is AFFIRMED.