NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL FOR THE FIRST CIRCUIT

BAP NO. MW 08-086

Bankruptcy Case No. 08-42577-JBR

CYNTHIA A. DZIURGOT FARNSWORTH,
a/k/a CYNTHIA A. DZIURGOT,
a/k/a CYNTHIA DZIURGOT FARNSWORTH,
a/k/a CYNTHIA A. FARNSWORTH,
Debtor.

CYNTHIA A. DZIURGOT FARNSWORTH,
Appellant,

v.

PHOEBE MORSE, United States Trustee,
and JOHN FARNSWORTH,
Appellees.

Appeal from the United States Bankruptcy Court
for the District of Massachusetts
(Hon. Joel B. Rosenthal, U.S. Bankruptcy Judge)

Before Lamoutte, Deasy, and Tester,
United States Bankruptcy Appellate Panel Judges.

Nicholas Katsonis, Esq., on brief for the Appellant.

John A. Burdick, Jr., Esq., on brief for the Appellee, John Farnsworth.

November 20, 2009

Per Curiam.[1]

Cynthia Farnsworth (the "Debtor") appeals from the bankruptcy court order dismissing her chapter 11 case (the "Dismissal Order"). The record does not permit appropriate appellate review because the bankruptcy court did not provide sufficient findings of fact and conclusions of law to enable the Panel to review the Dismissal Order. We **REMAND** this matter to the bankruptcy court for explicit findings of fact and conclusions of law and the evidentiary basis for such ruling.

BACKGROUND

The Debtor is a licensed attorney and real estate broker whose income was negatively impacted by the downturn in the real estate market. Additionally, she had been involved in a protracted divorce with her former husband ("Mr. Farnsworth") which culminated in a judgment for Mr. Farnsworth for approximately $750,000.00. The Debtor has appealed this judgment, which appears to be unresolved at this time.

A. Florida Bankruptcy Case.

On April 7, 2008, the Debtor filed a chapter 11 petition in the Southern District of Florida (Case No. 08-14217-RBR) (the "Florida case"), where she claimed to maintain a residence. On motion by the U.S. Trustee, the bankruptcy court dismissed the Florida case on July 22, 2008, for lack of venue pursuant to 28 U.S.C. § 1408. At the hearing on the motion to dismiss, the bankruptcy court reviewed the salient aspects of the Debtor's case and made several observations

[1] The Panel unanimously determined, after examination of the briefs and other materials submitted in this matter, that oral argument was not needed in this case because the facts and legal arguments were adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument. See Fed. R. Bankr. P. 8012 and 1st Cir. BAP L.R. 8012-1(d).

regarding the Debtor's credibility and the accuracy of the documents she filed in her bankruptcy case. Specifically, the court noted that the Debtor had no income to fund a plan and that she had not fully disclosed her interest in certain assets or the transfers of assets. The court rejected the Debtor's assertion that her failure to disclose millions of dollars of assets was an oversight, noting that the Debtor is a realtor and a lawyer, and is therefore held to a higher standard. The court stated that there was "no way" the Debtor could cram down a liquidating plan over the objection of the creditors: "[s]he can't swing the vote." The court further noted that the Debtor had stated during her § 341 meeting that she filed her bankruptcy petition for the purpose of staying the divorce proceeding, that she had not sought relief from the bankruptcy court to proceed with her appeal of the divorce judgment, and that the Debtor's case was a two-party dispute between the Debtor and Mr. Farnsworth. Additionally, the court questioned the Debtor's claim of Florida residency, pointing to many factors that indicate her claim was "a lie."

The bankruptcy court stated that it was not inclined to appoint a chapter 11 trustee, as a trustee would need to investigate everything that had transpired in the 10-11 year divorce proceeding, thus duplicating the parties' efforts. The bankruptcy court's concerns regarding the accuracy of the Debtor's filings were such that the court stated that if it had not dismissed the case, it would have referred the case to the U.S. Attorney for possible criminal investigation for bankruptcy fraud. Upon dismissing the case without prejudice to refiling in Massachusetts, the bankruptcy court warned that the Debtor would refile "at her peril" given the court's view of the Debtor's possible criminal conduct.

B. Massachusetts Bankruptcy Case.

On August 11, 2008, the Debtor filed a second chapter 11 petition in the Central District of Massachusetts. In her schedules, the Debtor disclosed that she does not own real estate or a car. She further disclosed that she had no rent or mortgage payments. She valued her assets at approximately $200,000.00, rather than $400,000.00 as she had represented to the Florida bankruptcy court. She listed an insider claim held by her mother in the approximate amount of $80,000.00, which she later represented to be secured, and then subsequently acknowledged was in fact unsecured. Additionally, she listed Mr. Farnsworth's $750,000.00 claim as unsecured, nonpriority.

1. Debtor's Motion to Extend the Automatic Stay.

The Debtor filed her petition within one year of the dismissal of the prior bankruptcy case, thus, the automatic stay would have terminated in thirty days pursuant to § 362(c)(3)(A). The Debtor filed an Expedited Motion to Extend Automatic Stay (the "Motion to Extend Stay"), in which she asserted that she was seeking bankruptcy protection because her income had been adversely affected by the decline in the real estate market and by the protracted litigation with her former husband. She further asserted that the value of her personal assets was approximately $400,000.00,[2] and that the purpose of her reorganization was to enable her to refocus on her businesses, liquidate non-exempt assets in an orderly fashion, and pay her creditors in an equitable fashion. She asked the court to extend the automatic stay pursuant to § 362(c)(3)(B), which authorizes the bankruptcy court to extend the stay if the movant demonstrates that she filed her petition in good faith as to the creditors to be stayed.

[2] In her schedules, the Debtor values her assets at approximately $200,000.00.

Mr. Farnsworth filed an Objection to Debtor's Motion to Extend Stay (the "Objection"), in which he asserted that the Debtor could not propose a confirmable plan because the amount of nondischargeable debt far exceeded the value of the Debtor's assets and she appeared to have no income. Mr. Farnsworth further asserted that the Debtor's bankruptcy was a two-party dispute and that she had filed her case in bad faith. Additionally, Mr. Farnsworth attached to his Objection a transcript of the Florida bankruptcy court's hearing regarding dismissal of the Debtor's case and noted that the Florida bankruptcy court had made numerous observations concerning the Debtor's credibility and the accuracy of her filings.

The bankruptcy court held a hearing on the Motion to Extend Stay. At the hearing, Mr. Farnsworth argued that the Debtor had filed her petition in bad faith because her purpose in filing was to thwart a probate court order and because she had no reasonable possibility of reorganizing as Mr. Farnsworth would be the controlling voting class and he opposed any plan that proposed to pay him less than the full value of his claim. The Debtor responded that she had filed her petition, in part, to allow herself the opportunity to rebuild her law practice and thus generate more income. The bankruptcy court stated that "if this was another creditor other than the ex-spouse I might be paying a little more attention," because it was clear from the "venom" in the pleadings that Mr. Farnsworth was not looking at the economics of the Debtor's reorganization. The bankruptcy court further stated that § 362(c)(3)(B) is not designed as anything more than a preliminary summary hearing with respect to extending the stay, and that extending the stay did not foreclose Mr. Farnsworth from seeking relief from stay or dismissal of the case at a later point in the proceeding. The bankruptcy court then granted the Motion to Extend Stay as to all properly served creditors.

2. Chapter 11 Status Conference.

Shortly thereafter, the bankruptcy court held a status conference during which the Debtor reported on her financial affairs. The Debtor described her plan as including an initial payment from a liquidation of assets and payments of income over five years. She reported that her debt totaled approximately $1,000,000.00, including the $750,000.00 judgment held by Mr. Farnsworth, and that her most significant asset was stock in an entity known as Honeycliff, which the Debtor planned to liquidate. With respect to the Debtor's income, she reported that there was very little activity in her real estate practice, and that she had seen "some income" in her legal practice but needed more time to develop consistent income. The Debtor further reported that the mortgage holder of a property in Florida that the Debtor used to own was foreclosing on the property, but that the Debtor had been removed from the chain of title a number of years ago. Additionally, the Debtor disclosed that she held a twenty per cent interest in a trust that owned property in Fitchburg, Massachusetts, and that the mortgage holder was threatening foreclosure. Finally, the Debtor alleged that Mr. Farnsworth had taken certain post-petition actions against the Debtor. The U.S. Trustee reported that it would take time to unravel the "labyrinth of trusts and corporations where the Debtor's interests lie," and that some of the Debtor's answers (or lack thereof) at the § 341 meeting were unsatisfactory. The bankruptcy court continued the status conference.

3. Debtor's Motion to Compel Compliance with the Automatic Stay.

The Debtor filed a Motion to Compel Compliance with Automatic Stay (the "Motion to Compel"), in which she alleged that Mr. Farnsworth and his attorneys had violated the automatic stay by (1) continuing litigation against the Debtor's brother, both individually and in his

capacity as trustee of the Elam Real Estate Trust; (2) obtaining the appointment of a receiver for the Elam Real Estate Trust; and (3) obtaining a writ of attachment against property owned by the Debtor or her brother. Mr. Farnsworth filed a response in which he stated that he had stopped all action against the Debtor individually, that he took action only against non-debtor entities and that the Debtor did not disclose her interests in certain trusts in her initial petition.

The bankruptcy court held a hearing on October 10, 2008, and took the matter under advisement. At the hearing, Mr. Farnsworth explained that as a result of his review of the registry of deeds records, he determined that the Debtor was a trustee of a trust that had transferred the res of the trust post-petition and without court authority. The Debtor acknowledged that she did not list the trust on her schedules. The bankruptcy court ordered the Debtor to file an affidavit explaining the real estate transfer. The Debtor subsequently filed a Memorandum Concerning Robert St. Realty Trust, in which she explained that she was the trustee of a trust for which her parents' home was the res and she and her siblings were the residual beneficiaries. The Debtor acknowledged that she should have disclosed her status as trustee of said trust, but asserted that her failure to do so did not violate any of her duties as the debtor in possession.

On October 28, 2008, the bankruptcy court issued an order and a memorandum of decision regarding the Motion to Compel. In the memorandum of decision, the court detailed the "acrimonious" eleven year divorce proceeding between the Debtor and Mr. Farnsworth, as well as the Debtor's numerous efforts to place her assets beyond the reach of Mr. Farnsworth as he attempted to collect on the $750,000 judgment. The court expressed concerns regarding the accuracy of the Debtor's schedules and statement of financial affairs and the Debtor's actions

post-petition. It also expressed concern that Mr. Farnsworth held an overwhelming amount of the unsecured debt, that the court could not determine whether the Debtor had a viable chance of reorganizing, and whether the Debtor was abusing the bankruptcy process. The court continued the Motion to Compel and ordered the Debtor to show cause (the "Order to Show Cause") why it should not dismiss or convert her case, or appoint a chapter 11 trustee. At no time prior to or during the hearing did the Debtor seek clarification as to the nature of the court's concerns or the grounds on which it was considering dismissing or converting her case or appointing a chapter 11 trustee.

4. Court's Order to Show Cause Why the Case should not be Dismissed, Converted, or a Chapter 11 Trustee Appointed.

On November 6, 2008, the court held a hearing on both the Motion to Compel and the Order to Show Cause. The Debtor suggested that the court appoint a chapter 11 trustee to address the concerns of the court and the parties. During the hearing, the Debtor stated that she had been able to generate some income, and that there was $200,000.00 in unsecured debt separate from Mr. Farnsworth's. The Debtor asserted that if the court dismissed the case, there would be a "one-creditor run on the assets" and thus it was in the best interest of creditors that the court appoint a chapter 11 trustee rather than dismiss the case.

The U.S. Trustee argued in favor of dismissal, characterizing the case as "essentially a two-party dispute" as the "overwhelming majority" of debt was owed to Mr. Farnsworth or to the Debtor's relatives. The U.S. Trustee further argued that the Debtor had failed to disclose all of her assets in both the Florida and Massachusetts bankruptcies. The U.S. Trustee questioned the Debtor's ability to reorganize, specifically noting that her recent claim of income of $9,000.00 a

month from her law practice after approximately a decade of generating no income was questionable, and also the Debtor's assets appeared to have recently diminished. Additionally, the U.S. Trustee asserted that appointment of a chapter 11 trustee was not appropriate in this case, because it would be difficult for a trustee to step into the Debtor's shoes or monitor her law practice. The U.S. Trustee asserted that the probate court was best suited to deal with this case.

Mr. Farnsworth also argued in favor of dismissal, asserting that the Debtor was engaged in a "pattern of conduct . . . designed to liquidate the entire estate of the bankruptcy through [her] brother." Additionally, Mr. Farnsworth argued that a chapter 11 trustee would need to rehash the thirteen year dispute between himself and the Debtor. Lastly, Mr. Farnsworth argued that the probate court was the appropriate venue for this matter, as the probate court had issued an order of payment on January 28, 2008, to be paid within sixty days, and thus the probate court could compel the Debtor to pay on Mr. Farnsworth's debt by exercising its contempt power.

5. The Dismissal Order.

The bankruptcy court dismissed the Debtor's case, explaining:

> Well, this is a debtor that, starting with the initial proceeding in Florida, has raised some real serious questions about the truth of the assertions that she has made, and I don't think she's been forthright in the pleadings since, and I think this is basically a two-party dispute; and for those reasons, the case is dismissed.

The court did not recite or elaborate on its basis for dismissal in the Dismissal Order. This appeal followed.

6. Stay Pending Appeal.

The Debtor sought a stay pending appeal from the bankruptcy court, which the court denied. In conjunction with its order denying stay, the court issued a memorandum of decision

(the "Memorandum") in which it offered insight into its reasons for dismissal of the Debtor's bankruptcy case: (1) the court does not believe that the Debtor has been forthright in her pleadings, (2) the court believes that the Debtor is seeking to exploit the Bankruptcy process to prolong what is essentially a two-party dispute with her husband,[3] (3) the bankruptcy court in the Southern District of Florida had serious questions about the accuracy of the Debtor's bankruptcy filing and the Debtor's credibility, and (4) among other suspicious actions, the Debtor failed to schedule an asset that is property of the estate under § 541, the Robert St. Realty Trust, for which she was trustee. The court concluded that the Debtor did not satisfy any of the four prongs of the standard for obtaining stay pending appeal, providing lengthy discussions on each point. The Debtor next sought a stay from the Panel. The Panel denied the motion for failure to demonstrate a likelihood of success on the merits.

In her brief to the Panel, the Debtor sets forth the arguments that she was not afforded due process prior to the dismissal as the November 6, 2008 hearing "lacked any hint of fundamental fairness" (See Appellant's Brief at 9); that the bankruptcy court's dismissal order did not comply with § 1112(b); and if other factors existed for the dismissal of the case, the proper standards were not applied and the required findings were not made in the dismissal order or subsequent Memorandum. Together, the Debtor states, these factors amount to an abuse of discretion by the bankruptcy court.

In his brief to the Panel, Mr. Farnsworth argues that the Debtor was afforded due process by the bankruptcy court because the Show Cause hearing held on November 8, 2008, alerted the

[3] The bankruptcy court noted that the Debtor scheduled Mr. Farnsworth as holding a claim in the amount of $750,966.00, while the remaining claims total a mere $236,791.00, $79,500.00 of which is held by the Debtor's mother.

Debtor to the court's concerns and provided her "nearly a month to prepare a defense. See Appellee's Brief at 4. Moreover, "cause" existed under § 1112(b)(2) to dismiss the Debtor's case, and this was clearly set forth in the Memorandum. The cause enumerated in the Memorandum fall squarely within subsections (4)(A) and (B) of § 1112(b), and therefore constitutes sufficient cause for dismissal. In addition, by the time of the November 6, 2008 hearing, the record was "replete with material supporting a finding of bad faith." See Appellee's Brief at 5.

JURISDICTION

A bankruptcy appellate panel may hear appeals from "final judgments, orders and decrees [pursuant to 28 U.S.C. § 158(a)(1)] or with leave of the court, from interlocutory orders and decrees [pursuant to 28 U.S.C. § 158(a)(3)]." Fleet Data Processing Corp. v. Branch (In re Bank of New England Corp.), 218 B.R. 643, 645 (B.A.P. 1st Cir. 1998). "A decision is final if it 'ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.'" Id. at 646 (citations omitted). An order dismissing a chapter 11 case is a final, appealable order. See In re Abijoe Realty Corp., 943 F.2d 121 (1st Cir. 1991) (reviewing bankruptcy court's dismissal of chapter 11 case).

STANDARD OF REVIEW

In the present case under appeal before the Panel, the bankruptcy court acted sua sponte and the court's orders evidenced in the record were not clearly based on § 105(a) or any statutory provision of the Code. The Panel reviews findings of fact for clear error and conclusions of law *de novo*. See Storneaway Fin. Corp. v. Hill (In re Hill), 562 F.3d 29, 32 (1st Cir. 2009). The Panel reviews a bankruptcy court's decision to grant relief under its inherent authority to manage

its own docket or under § 105(a) for abuse of discretion. See Brockton Sav. Bank v. Peat, Marwick, Mitchell & Co., 771 F.2d 5, 6 (1st Cir. 1985); 1500 Mineral Spring Assocs., LP v. Gencarelli, 353 B.R. 771, 780 (D.R.I. 2006). Abuse occurs where the bankruptcy court ignores a material factor deserving significant weight, relies upon an improper factor, or makes a serious mistake in weighing proper factors. Howard v. Lexington Inv., Inc., 284 F.3d 320, 323 (1st Cir. 2002).

DISCUSSION

The bankruptcy court did not specify under which statutory provision it was dismissing the Debtor's case, or the underlying evidence for its findings and conclusions. Dismissal of a chapter 11 case is governed by § 1112(b). Section 1112(b) mandates that a bankruptcy court shall dismiss or convert a chapter 11 case, whichever is in the best interest of creditors, if cause is found and the unusual circumstances described in § 1112(b)(2) are not present. See 11 U.S.C. § 1112(b)(1). Additionally, § 1104(a)(3) provides that "if grounds exist to convert or dismiss the case under section 1112, but the bankruptcy court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate," the appropriate remedy is the appointment of a chapter 11 trustee rather than dismissal or conversion. 11 U.S.C. § 1104(a)(3). Thus, in order to dismiss a case pursuant to § 1112(b), the court must find that "cause" existed, and that it was in the best interests of creditors to dismiss the case, rather than convert or appoint a chapter 11 trustee. The key finding and conclusion reached by the bankruptcy court was that the case was essentially a two -party dispute.

A. Cause to Dismiss.

Subsection 1112(b)(4) provides a lengthy but nonexhaustive list of what constitutes "cause." 11 U.S.C. § 1112(b)(4).

1. Lack of Good Faith.

The statements the bankruptcy court made at the November 6, 2008, hearing and in its subsequent order denying stay pending appeal indicate that the court may have dismissed the Debtor's petition for lack of good faith. Although lack of good faith is not named in the nonexhaustive (b)(4) list, some courts have stated that it is "well established" that good faith is an implicit prerequisite to filing a chapter 11 petition, and that lack of good faith in filing a chapter 11 petition constitutes "cause" under § 1112(b). See In re Gencarelli, 353 B.R. at 780-81; In re Sirius Sys., Inc., 112 B.R. 50, 51 (Bankr. D.N.H. 1990); 7 Collier on Bankruptcy ¶ 1112.07 (15th ed. rev. 2008). The question remains undecided in this circuit, however, see Fields Station LLC v. Capitol Food Corp. of Fields Corner (In re Capitol Food Corp. of Fields Corner), 490 F.3d 21, 24 (1st Cir. 2007), and at least one court has rejected the proposition that § 1112(b) imposes a good faith filing requirement. See In re Victoria Ltd. P'ship, 187 B.R. 54, 59-62 (Bankr. D. Mass. 1995).

The First Circuit has been clear, however, that if lack of good faith is a valid ground for dismissal under § 1112(b), debtors have no obligation to demonstrate that they filed their petition in good faith until a prima facie showing of bad faith had been made. See In re Capital Food Corp., 490 F.3d at 24 (declining to decide whether § 1112(b) imposes good faith filing requirement, but holding that if § 1112(b) does impose such requirement, movant must make prima facie showing of lack of good faith). Thus, if the bankruptcy court dismissed the Debtor's

case for lack of good faith, the court must find a prima facie showing that the Debtor filed her case with a lack of good faith, and that, subsequent to such a showing, the Debtor failed to demonstrate that she filed her case in good faith. The bankruptcy court did not make findings directly addressing the Debtor's good faith or lack thereof.

Good faith is a fact intensive determination based on the totality of facts and circumstances. Marrama v. Citizens Bank of Mass. (In re Marrama), 430 F.3d 474, 482 (1st Cir. 2005); In re Gencarelli, 353 B.R. at 781. In assessing the totality of the circumstances, the bankruptcy court may consider, among other things, the accuracy of the debtor's financial statements and any other attempts by the debtor to mislead the bankruptcy court or manipulate the bankruptcy process.[4] In re Marrama, 430 F.3d at 482. Additionally, a debtor who is an attorney is held to a higher standard with respect to disclosure of assets and financial affairs. See In re Quiles, 262 B.R. 191, 197 (Bankr. D.R.I. 2001). The bankruptcy court did not specify the evidence upon which it based its conclusions that the Debtor intentionally filed inaccurate schedules.

2. Diminution of Estate and Absence of Reasonable Likelihood of Rehabilitation.

At the November 6, 2008, hearing, the U.S. Trustee questioned the Debtor's ability to reorganize, specifically noting the Debtor's history of little or no income and the recent decline in the value of her assets. If the bankruptcy court dismissed the Debtor's case under § 1112(b)(4)(A), the court must find "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation." See 11 U.S.C. § 1112(b)(4)(A).

[4] The First Circuit named several other factors as well, which are not pertinent here.

However, the bankruptcy court did not make findings or conclusions as to the Debtor's reasonable likelihood of rehabilitation.

3. Gross Mismanagement of the Estate.

At the November 6, 2008, hearing, Mr. Farnsworth alleged that the Debtor was essentially liquidating her estate. If the bankruptcy court dismissed the Debtor's case under § 1112(b)(4)(B), the court must find that the Debtor grossly mismanaged the estate. Such a finding was not made.

B. Best Interests of Creditors.

If the bankruptcy court finds that "cause" existed, the court must then find that dismissal, rather than conversion or appointment of a chapter 11 trustee, was in the best interest of creditors. 11 U.S.C. § 1112(b)(1); § 1104(a)(3). The record reflects that the court considered all three options and that there was some discussion at the hearing on the Order to Show Cause between the court and the parties regarding appointment of a chapter 11 trustee. However, the court did not make a finding or even give an indication as to why dismissal would be in the best interests of creditors.

C. Remand.

For the multi-tiered adjudicative system to function smoothly, the trial court must provide an adequate record for appellate review. This record must include specific findings of facts and conclusions of law that provide the proper foundation for the basis of the order under appeal. When the basis for a ruling is not easily ascertainable from the bare record, the better course, rather than surmise as to the bankruptcy court's motives, is to remand for an elaboration of the

decision. See Fed. R. Bankr. P. 7052; Fed. R. Civ. P. 52(a). The Panel, however, is presented with a record that does not permit meaningful review of the legal authority justifying the dismissal of the bankruptcy case. While the Panel has made an attempt to resolve this appeal on the merits, so many assumptions about facts and procedures would have to be made that we could not do so in good conscience.

Federal Rule of Bankruptcy Procedure 9014 incorporates the provisions of Federal Rule of Civil Procedure 52, which require that findings and conclusions be stated on the record after the close of the evidence or to appear in an opinion or memorandum of decision filed by the court. Specifically, in an action tried on the facts without a jury, "the court must find the facts specially and state its conclusions of law separately." Fed. R. Civ. P. 52(a)(1), incorporated by Fed. R. Bankr. P. 7052. These findings must be sufficient to indicate the factual basis for the court's ultimate conclusion. See Groman v. Watman (In re Watman), 301 F.3d 3, 7 (1st Cir. 2002).

The Supreme Court has explained that without "statements of the preliminary and basic facts" on which the trial court relied, "their findings are useless for appellate purposes." Dalehite v. United States, 346 U.S. 15, 24 (1953). The findings must be explicit enough to give the appellate court a clear understanding of the basis of the trial court's decision, and to enable it to determine the ground on which the trial court reached its decision. Brandt v. Repco Printers & Lithographics, Inc. (In re Healthco Int'l, Inc.), 132 F.3d 104, 108 (1st Cir. 1997). Effective review should not depend upon the intuition of the appellate judges or their ability to divine the critical facts or the trial court's reasons for its judgment.

CONCLUSION

Because the bankruptcy court did not make explicit findings or conclusions to enable us to review the Dismissal Order, we **REMAND** this matter to allow the bankruptcy court to state its findings and conclusions.