

**UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE FIRST CIRCUIT**

BAP NO. RI 98-080

**IN RE: PETER SEARS,
Debtor.**

**THOMAS R. BURRELL,
Plaintiff-Appellee,**

v.

**PETER SEARS,
Defendant-Appellant.**

**Appeal from the United States Bankruptcy Court
District of Rhode Island
[Hon. Arthur A. Votolato, U.S. Bankruptcy Judge]**

**Before
De Jesús, Vaughn, Carlo, U.S. Bankruptcy Judges.**

Peter Sears, pro se, on brief for the appellant.

David M. Fleury and Carmichael & Zajac, P.C., on brief for the appellee.

October 6, 1999

PER CURIAM

After a trial, the Bankruptcy Court ruled Debtor had knowingly and with fraudulent intent falsely reported in his bankruptcy schedules the consideration he received from the sale of his shares and/or the assets of his corporation, and denied him a discharge pursuant to 11 U.S.C. section 727 (a) (4) (A).¹ Appellant-Debtor challenges this ruling urging us to reverse because the bankruptcy court erred in its appreciation of the facts, in turn resulting in an erroneous application of the law. We disagree, and hereby confirm the Bankruptcy court.

The Panel members have carefully examined the record proffered by the parties, including briefs, transcript of the trial and the opinion of the bankruptcy court dated September 29, 1999. We find Appellant is actually challenging several, if not all, of the bankruptcy court's factual findings, rather than questioning an erroneous legal framework. Thus, our review is limited to applying the clearly erroneous standard. In re Tully, 818 F. 2d 106, 108-110 (1st Cir. 1987).

The clearly erroneous standard, used by appellate courts in reviewing alleged factual errors, is a "high" hurdle to clear, Lenn v. Portland School Committee, 998 F.2d 1083, 1086 (1st Cir. 1993); United States v. Members of the Estate of Boothby, 16 F.3d 19, 21 (1st Cir. 1994), since it is well established that appellate courts must "accord appropriate deference" to trial court's findings, Irving v.

¹ According to the ruling the proceeds were an estate asset.

United States, 162 F.3d 154, 185 (1st Cir. 1998). These cases follow the lead set by Anderson v. Bessemer, 470 U.S. 564, 105 S. Ct. 1504, 84 L.Ed.2d 518, 53 USLW 4314 (1985).

Appellant questions many factual findings that are credibility determinations deserving special deference. All the bankruptcy court's findings are amply substantiated by considerable evidence in the record below and are plausible. We therefore affirm the judgment of the bankruptcy court on the basis of its opinion.