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    UNITED STATES BANKRUPTCY COURT
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    SOUTHERN DISTRICT OF NEW YORK
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    In the Matter of:
7
                                               Main Case No.
    SANJAY OM TEWARI,
8
              Debtor.
                                               22-10465-mg
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12
                  United States Bankruptcy Court
13
                  One Bowling Green
                  New York, New York
14
15
                  September 13, 2023
16
                  2:11 PM
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21
    B E F O R E:
22
    HON. MARTIN GLENN
23
    U.S. BANKRUPTCY JUDGE
24
25
    ECRO: JONATHAN
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    IN COURTROOM HEARING RE: OSC why this case should not be
    dismissed or alternatively converted to a case under Chapter 7
    because the Debtor has not established a reasonable likelihood
 5
    of rehabilitation in a reasonable period of time. (Doc nos. 77,
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    79, 82, 83, 84)
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19		
20	ALSO PRESENT:	
21	SANJAY OM TEWARI	
22	GEETA KOHLI	
23		
24		
25		

1 PROCEEDINGS

THE CLERK: All rise.

THE COURT: Please be seated. All right. Good afternoon. We're here in Sanjay Om Tewari, 22-10465. We're here on the Court's order to show cause why this case should not be dismissed or alternatively converted to a case under Chapter 7.

The order to show cause was entered as ECF docket number 77. I won't read it verbatim, but it required that any objections or support for the order to show cause had to be filed by 5 p.m. September 6th. Any replies by September 12th, yesterday, at noon.

The only thing that I found on the docket were two declarations submitted by Ms. Kohli, by her lawyers, ECF 82 and 83.

And Mr. Fischoff.

MR. FISCHOFF: Yes, Judge.

THE COURT: You didn't file any response to the order to show cause.

MR. FISCHOFF: No, because this balk (ph.) the Code.

I looked. It didn't have any provision that I could rely on to oppose the Court's order to show cause for dismissal. I did have another plan, but in talking to my client, that request is not going to work. And that was that perhaps the Court had once said they would force us all in a room and negotiate.

But Mr. Herman and I have been talking since the last conference. And I think we made some progress on money issues. But the issue that we can't make progress on, and no matter how long you lock us in a room together, we're not going to progress, is the custody and parenting issues.

And so I'm prepared today for the debtor to consent to the dismissal, except Mr. Tewari, and I'm not sure I should be saying this, but Mr. Tewari told me he wanted the case converted. And I told him, as his lawyer, I haven't really examined that issue, and I'm not in a position to recommend that. I said if a Chapter 7 makes sense, we can always file it at a later date. But I haven't talked to him about the implications that I think -- I think we would need to have a discussion. And we've talked about it. But I just don't think it's the course for him to go, and we can always file it at a later date. I don't know. I --

THE COURT: I'm only interrupting you to say this.

This wasn't in the order to show cause, but I am considering -have not yet made any decision about it -- the possibility if I
dismiss the case is to include in the order a bar on any filing
for some period of time, six months or whatever, but --

MR. FISCHOFF: Well, I would ask the Court to not bar a subsequent Chapter 7 filing at a later date, which could be in two weeks or never. But I would -- because I think everyone's entitled to the discharge, to the extent he would

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SANJAY OM TEWARI
                                                                   7
    get a discharge. And so one filing, I don't think, would
1
 2
    justify barring him from Chapter 7. I understand another 11,
 3
    and I'm not going to -- if it's a 180-day bar, I guess, or a
    90-day bar, the debtor can live with that. But I would ask
 4
 5
    that a Chapter 7 --
 6
             THE COURT: Okay.
 7
             MR. FISCHOFF: -- be excluded from that. So I don't
8
    know. I think Mr. Tewari was telling me he wanted to address
9
    the Court, but I'm not sure if the Court wants to hear from
    him.
10
11
             THE COURT: I'm certainly prepared to hear from him.
12
             MR. FISCHOFF: Okay.
13
             THE COURT: Why don't you come up to the microphone
    over there? Sure.
14
15
             And he's not being sworn. This is not testimony under
    oath. We can --
16
             DR. TEWARI: It doesn't matter.
17
18
             THE COURT: -- see where that goes.
             DR. TEWARI: Good afternoon, Judge Glenn. I'm Dr.
19
20
    Sanjay Tewari. I'm at my wit's end because I don't know what
21
            Right. There is no money. I've heard from every
    to do.
22
    conference that's been given that Blank Rome lies to you about
23
    secret cash, secret storage locker, secret this, secret that --
24
    secret that. This is exactly what they do in matrimonial
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court, where they lie without any facts, and they claim that a

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8
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1
    doctor makes 10,000 dollars a day in cash.
             THE COURT: Well, let me just -- I'm going to
 2
 3
    interrupt you.
 4
             DR. TEWARI: So I don't want to -- I'm asking you --
 5
             THE COURT: I want to interrupt you for this purpose.
             DR. TEWARI: Sorry. Sorry.
 6
 7
             THE COURT:
                         In my humble opinion, you don't do
8
    yourself any good if what I hear from you are they lie about
9
    this, they lie about that, they lie about the other thing. If
    that's what you want to tell me, I don't want to hear from you.
10
             DR. TEWARI: No, that's not what I want to tell you.
11
12
             THE COURT: Okay.
13
             DR. TEWARI: I just want to say that it's very
14
    frustrating for me, the -- the sole guy, who -- who every
15
    single paycheck is on record. Every tax dollar is -- tax
16
    record is on is on record. I don't know where I'm supposed to
    get this magic, magical money from. I -- other than it just
17
18
    being a pecuniary idea by Blank Rome and Ms. Kohli to just
19
    punish me further and further because I'm not a lawyer. All
20
    three of them are lawyers. I have no idea what happens in the
21
    legal world.
22
             I don't even have money for a lawyer in matrimonial
23
    court since January of this year. I bought the custody trial
24
    pro se because there's no money. I borrowed as much as I can
    from my parents, who are retired. I don't know what to do.
25
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9
    That's why I told Mr. Fischoff, well, if it goes to Chapter 7,
1
 2
    then just take what you want -- or take whatever's left because
 3
    I don't know what else to do. Like, I actually don't know what
 4
    else I can do --
 5
             THE COURT: Well, let me just say, because Mr.
    Fischoff raised this, bankruptcy judges don't deal with custody
 6
7
    issues, period.
8
             DR. TEWARI: No. I know. I'm just --
 9
             THE COURT: That is what happens in the matrimonial
10
    court, and I don't --
             DR. TEWARI: Correct, but I'm just stating that if I
11
12
    had any money, I would have paid for an attorney to defend me.
13
    There's no money for an attorney because they all want 50,000
14
    or 100,000 in retainer. There's no money at all. So then I'm
15
    here fighting this alone, and if I have to file Chapter 7, Mr.
16
    Fischoff, I have to pay him again. Where is that money going
    to come from?
17
18
             So I'm looking to the federal court for advice on,
19
    like -- or guidance. Like, what am I supposed to do? The
20
    money's all gone. There's no access to money. I work, but I'm
21
    completely dependent on autistic kids coming to me to find
    work. And then what am I supposed to do?
22
23
             In the end, what am I supposed to do? Right.
                                                             So
24
    if -- if converting to Chapter 7 today is best for me, then
25
    that's what's best. If it's not --
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SANJAY OM TEWARI
                                                                   10
1
             THE COURT: Well, I'm not the one to tell you that.
             DR. TEWARI: No, you're the one that --
 2
                         That's not my role.
 3
             THE COURT:
             DR. TEWARI: You're the one that decides that. And
 4
 5
    like, I don't know where I can magically create money from if
 6
    there's none available. And that's all I -- all I have to say.
7
    Like, I don't know where I can magically create money from.
8
             And these guys keep thinking there's a magical box
9
    somewhere with money in it. There is no magical box anywhere.
    No doctor gets paid in cash. If your doctor asks you for cash,
10
    please don't go to him. Right. Because then there's no
11
             The whole point is there's a record. But they keep --
12
    record.
13
    they keep pushing the same -- same agenda. Okay. And --
             THE COURT: Thank you.
14
15
             DR. TEWARI: -- that's it.
             THE COURT:
16
                         Thank you.
             Mr. Herman.
17
             Or Mr. Fischoff, is there something else you wanted to
18
    say before I turn to Mr. Herman?
19
20
             MR. FISCHOFF: I just want to say that, as I said, we
    don't object to a dismissal with a carve out to allow him to
21
22
    file Chapter 7 at any time in the future, if he chooses that
23
    path after further discussion.
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THE COURT: Well, let me hear from Mr. Herman first,

24

25

and then --

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MR. FISCHOFF: Okay.
1
             THE COURT: -- we'll come back and talk about that.
 2
             Mr. Herman. First, Mr. Herman, the order to show
 3
    cause, and this is an evidentiary hearing. You did file two
 4
    declarations. Do you wish to offer them in evidence?
 5
             MR. HERMAN:
                          I do, Your Honor. But I wanted to say
 6
7
    good afternoon. Ira Herman, Blank Rome, counsel for Mr. Kohli.
             Yes, I'd like to offer them into evidence. Both
8
9
    declarants are sitting here.
             This is Ms. Chamoun, my colleague. She basically
10
    provided a documentary custody affidavit or declaration.
11
             THE COURT: So one is her declaration is ECF 82, and
12
    Ms. Kohli's declaration is ECF 83. You're offering them in
13
    evidence?
14
15
             MR. HERMAN: I am, Your Honor.
             THE COURT: Any objections, Mr. Fischoff?
16
             MR. FISCHOFF: Well, the attachments, I have
17
18
    objections to, because they have a summary of alleged post-
    petition arrears that is incorrect. So I don't have an
19
20
    objection in the admitted evidence as to the -- as to for
21
    whatever they're worth.
             But they're incorrect. There are allegations that
22
23
    there's rent, many months of rent, that wasn't paid. There's a
24
    lot of stuff that assumes it was Mr. Tewari's obligation to
25
    pay. And when he did have matrimonial counsel, some of those
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1
    items weren't clear. So I guess I object to entry of that into
    evidence as it's not correct facts.
 2
 3
             MR. HERMAN: Your Honor, I think I'm hearing --
             THE COURT: Yeah. Just wait, wait, wait.
 4
                                                               Just
 5
    a second.
 6
             MR. HERMAN: Okay.
 7
             MR. FISCHOFF: That's the affidavit of Ms. Tewari, I
    believe (indiscernible).
8
 9
             THE COURT: If you had objections, you should have
    filed them yesterday by 12 noon. Both of these declarations
10
    were filed on September 6th, were timely filed, and you had
11
12
    your chance to respond.
             MR. FISCHOFF: Well, since we weren't opposing
13
    dismissal, I wasn't aware that the Court might enter these into
14
15
    evidence.
             THE COURT: Well, I said it was going to be. Look,
16
    the order to show cause on the second page says:
17
18
             "The hearing shall be an evidentiary hearing. All
             direct testimony in support of or in opposition to the
19
             show cause must be submitted via declarations filed on
20
             or before the objection deadline. The declarants must
21
22
             be present in person at the September 13th hearing and
             available for cross-examination."
23
24
             MR. FISCHOFF: That's correct. And if the Court
25
    wishes, I'll cross-examine Ms. Tewari on the attachment to her
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affidavit.
1
             THE COURT: Let me hear from Mr. Herman first, and
 2
 3
    then we'll --
             MR. HERMAN: Your Honor --
 4
 5
             THE COURT: It's a little -- because there's no
    opposition to the dismissal, it raises -- I don't know where
 6
7
    we're going.
8
             MR. HERMAN: First, Your Honor, I haven't heard an
9
    objection to the introduction of the declarations into
10
    evidence. I've only heard an argument with the substance of
    one of them so --
11
             THE COURT: Well, there was an objection to the
12
    exhibits that are attached to the declarations.
13
             MR. HERMAN: To the correctness of that exhibit, Your
14
15
    Honor. I think that's what I heard from Mr. Fischoff.
             MR. FISCHOFF: Look, let me clarify. I don't object
16
    to the declaration of Ms. Taranto and the evidence. Those are
17
18
    just referring to filed documents from the state court action.
19
             THE COURT: All right. So you're not objecting to the
20
    Taranto declaration or the exhibits attached?
21
             MR. FISCHOFF: That's correct.
22
             THE COURT: They're admitted into evidence.
         (Declaration of Ms. Taranto was hereby received into
23
24
    evidence as Geeta Kohli's Exhibit --, as of this date.)
25
             MR. HERMAN: Thank you, Your Honor.
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1
             THE COURT: Okay. That's ECF 82, and its exhibits are
    admitted into evidence.
 2
 3
             MR. HERMAN: Thank you, Your Honor.
             THE COURT: Well, I'm not sure I need the Kohli
 4
 5
    declaration, but go ahead, Mr. --
 6
             MR. HERMAN: I'm not sure you need it also, Your
    Honor, but as I said, I think I heard an objection on
7
8
    substantive matters, not on to the form or to the -- or to its
9
    admissibility as evidence. It was prepared. It's subject to
10
    cross, if we ever get there. It seems to me Your Honor does
    not want to rule on that evidentiary issue at this point, so
11
12
    I'll move on. We can --
13
             THE COURT: Go ahead.
             MR. HERMAN: -- circle back later.
14
15
             THE COURT: Sure.
16
             MR. HERMAN: I heard the vitriol, Your Honor, and I'll
17
    choose to ignore it.
18
             THE COURT: I mean, please ignore it. I don't --
             MR. HERMAN: Yes. I'll choose to ignore it, Your
19
20
    Honor.
             THE COURT: I tried to be nice about saying I don't
21
22
    think it advances the cause.
23
             MR. HERMAN: Right.
24
             THE COURT: Okay.
25
             MR. HERMAN: Your Honor, the fact is, Dr. Tewari has
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not produced a single document in this case. He can say
1
 2
    whatever he wants to say and make whatever statements he wants
 3
    to make. He has not fulfilled his obligations as a debtor-in-
 4
    possession. He has not acted in good faith as far as Ms.
 5
    Tewari is concerned. His operating reports show that he is
 6
    administratively insolvent, whether or not we reached Ms.
7
    Tewari's affidavit or declaration or not. He has used and --
 8
    or you've heard our argument before. He's used this case as a
 9
    sword and a shield. The matrimonial court is about to ask us
    for dates for trial on equitable distribution and other
10
    economic issues.
11
             THE COURT: What's the status of the state court?
12
13
             MR. HERMAN: The best I understand, and Ms. Taranto is
    sitting here and can help me if I need some help, Judge.
14
15
    the best --
16
             THE COURT: Okay. You probably need help, Mr. Herman.
             MR. HERMAN: I don't think I do, but I might.
17
18
             THE COURT: I want to try to --
             MR. HERMAN: She can correct me if I'm wrong.
19
20
             Your Honor, I believe they've tried custody, and that
21
    issue is sub judice. And they're ready to try or set a
22
    schedule to try economic issues. We were hoping that the case
23
    is dismissed today so there's no automatic stay so they can
24
    finish administering the matrimonial matter without having to
25
    worry about stay violations.
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And that's really fundamental, Judge, because there
1
    has been delay. Mr. Fischoff and I have spoken about economic
 2
 3
    issues, and we have made some progress on those issues. But as
    far as the custody issues and those matters, we've made no
 4
    progress, Judge. And as I said, that matter is sub judice.
 5
 6
    And that matter is not really before this Court.
7
             THE COURT: I made that clear. Issues of custody
8
    clearly are not --
9
             MR. HERMAN: Are not before this Court.
10
             THE COURT: Right.
             MR. HERMAN: So Your Honor, I could make a more
11
    complete argument, but I think the record and the documents
12
    attached to Ms. Taranto's declaration -- I guess it's ECF 82 --
13
14
             THE COURT: Yeah.
15
             MR. HERMAN: -- support dismissal of this case.
                                                               There
16
    is no hope of reorganization, as Your Honor, I think, has
    recognized. There is no reason for this to be a Chapter 7.
17
18
             THE COURT: Well, let me ask a couple of questions.
    What do you believe the accumulated arrears on domestic support
19
20
    obligations are as of now? And that --
21
             MR. HERMAN: I think they're in excess --
             THE COURT: While you're looking, just let me say
22
23
    this.
24
             MR. HERMAN: -- of 180,000 dollars, Judge.
             THE COURT:
25
                         I'm sorry. Say it again.
```

MR. HERMAN: It's in excess of 180,000 dollars, we believe, Judge.

THE COURT: Okay. And that does not seem to be an issue as to which there are grounds for dispute. I don't know whether that's the exact dollar amount or not, but the state court ordered certain payments. The accumulated DSO payments are what they are. And the one thing I can say with certainty as a bankruptcy issue is they're not dischargeable.

And I don't think you dispute that, Mr. Fischoff.

MR. FISCHOFF: No.

THE COURT: All right. So when I consider, and I do want you to address this, Mr. Herman, and that's the issue of dismissal versus conversion, conversion to Chapter 7. Because of the priority in the Code for DSO payments, let's put aside the fact that they're not dischargeable. They're not dischargeable.

But because of the priority, that does not seem to me to be assets to be administered for the benefit of other creditors. If the value of the estate exceeded the amount of priority payments that are due to Ms. Kohli as a priority, I would say, well, maybe the case should be converted to Chapter 7. And I may be missing something, and you can both address this. What's the point of converting it to a Chapter 7 when no creditors other than Ms. Kohli would stand to benefit from administering a Chapter 7 estate, which of course would cost

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1
    money to do?
             MR. HERMAN: Your Honor, I'll just add one thought to
 2
    what you just said. Even assuming it's 120,000 as opposed to
 3
    180,000, there still has not been a equitable distribution
 4
 5
    award, which is --
 6
             THE COURT: Which also is not dischargeable.
 7
             MR. HERMAN: -- also going to be entitled to priority.
8
             THE COURT: Right. But priority.
 9
             MR. HERMAN: Which could run into more hundreds of
    thousands of dollars.
10
             THE COURT: Okay. The basic point, and Mr. Fischoff,
11
    and I'll certainly ask you to address this as well, what would
12
13
    be the point of a Chapter 7 case if there's nothing left for
14
    unsecured creditors? There's nothing to be administered, just
15
    expense.
16
             MR. HERMAN: Your Honor, my only thought is it's a
17
    further attempt to delay the inevitable and force Ms. Kohli to
18
    move for stay relief.
             THE COURT: Yeah. As you stand there in good faith
19
    argument, you do not believe there are any assets in the estate
20
21
    to be administered that wouldn't go to Ms. Kohli as a priority
22
    creditor?
23
             MR. HERMAN: I think that's correct, Your Honor.
24
             THE COURT:
                         Is that a fair statement?
25
             MR. HERMAN: Let me confer.
```

THE COURT: Please. Go ahead. I want to be sure. 1 MR. HERMAN: Your Honor, as best we can tell, and as 2 3 an officer of the court, I can't prove it because I'm not going to provide evidence. Although the documents speak for 4 5 themselves, there does not appear to be sufficient assets in the estate to pay the arrears and certainly not to pay the 6 equitable distribution that we expect to happen in the case --7 in the matrimonial. 8 9 THE COURT: Mr. Fischoff, can you address that? I'm really not trying to be argumentative at all about this. 10 focusing on, it's really the question that you had about can 11 you advise Dr. Tewari to convert the case to a Chapter 7 if 12 there's just not enough to go beyond what priority Ms. Kohli is 13 entitled to. What's the point? 14 15 MR. FISCHOFF: And although I may dispute the numbers attached to Ms. Kohli's affidavit --16 THE COURT: Right. 17 18 MR. FISCHOFF: -- it doesn't matter whether it's the 19 190 or 50 because the Court's analysis is correct. I don't 20 believe there are sufficient assets above and beyond what she 21 might turn out to be -- what might be owing. 22 Dr. Tewari is a doctor. He has personal services 23 income, but his practice is just him. So I don't believe -- I 24 haven't had an economist analyze it, but I don't believe 25 there's anything available on liquidation.

And frankly, the Court's view is what's the benefit to creditors, and I believe there's no benefit to the debtor either because even if he went through a Chapter 7, he's going to still be in pretty much the same predicament he's now in.

And that's why I had said we would consent to a dismissal based on that analysis.

And down the road, if he determines with me or some other advisor that a Chapter 7 makes sense, he can embark on that. But for today, it clearly has no --

THE COURT: Here's my concern. If Ms. Kohli has a priority that exceeds the value of the estate, which it certainly appears to be the case, and it's nondischargeable, how could the filing of a Chapter 7 case or a conversion to Chapter 7 be in good faith? It would not be -- it would not be to the benefit of any unsecured creditors. It would raise -- in some ways, it would raise the issue that we all faced at the start of this case. And that was when the state matrimonial judge was holding him in contempt and the risk of incarceration.

And I have to say, I'm not ruling on this, but it would be a real, serious question whether it would be a filing in good faith if there was no conceivable creditors other than Ms. Kohli who would stand to benefit from any distribution in a Chapter 7. That's what's kind of bothering me.

MR. FISCHOFF: I understand that, and I --

```
1
             THE COURT:
                         That's one of the reasons I asked the
 2
    question about a bar on refiling.
 3
             MR. FISCHOFF: Yeah. I think he should have the
 4
            I'm not the only bankruptcy lawyer out there. And
 5
    maybe he'll find somebody that has --
 6
             THE COURT: Well, I'm not flattering you. You're a
7
    pretty good bankruptcy lawyer.
             MR. FISCHOFF: Well, the point is, I'm not asking to
8
9
    convert it because I don't see the point. And the point I
    don't see today may be the point I wouldn't see when we talk
10
    about it again separately. But I think he should be left --
11
    that option should be left open for him and perhaps some other
12
    professional to make that decision. That's all. I think, and
13
    I'm not -- yeah, that's it.
14
15
             THE COURT: It's okay.
             MR. FISCHOFF: Sometimes we have to know when to stop
16
    speaking.
17
18
             THE COURT:
                         Okay. Does U.S. Trustee have a position?
             Just a second, Dr. Tewari.
19
20
                         Sorry, Your Honor. I'll be brief.
             MS. SCOTT:
21
             THE COURT: You can sit behind the bar, but I can
22
    still call on you.
23
             MS. SCOTT: Okay. I'll be brief. I don't really have
24
    a position.
             THE COURT:
25
                         Just make your appearance.
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Shannon Scott for the U.S. Trustee.
1
             MS. SCOTT:
 2
    agree with the analysis that just occurred, and even in looking
 3
    at the list of unsecured claims, there really isn't anything
 4
    substantive here beyond what --
 5
             THE COURT:
                         I think that --
             MS. SCOTT: -- Ms. Kohli has.
 6
 7
             THE COURT: -- Ms. Kohli's mother is a creditor. Am I
    right about -- no? Maybe I'm confusing --
8
9
             MS. SCOTT: I see a personal loan for --
             THE COURT:
                         -- this case with another matrimonial case
10
11
    that I have.
                         I see a personal loan for less than 8,000.
12
             MS. SCOTT:
13
             THE COURT:
                         Okay.
             MS. SCOTT:
                         Oh, I see another personal loan for
14
15
    50,000.
             THE COURT:
16
                         Okay.
             MS. SCOTT: But given the priority and the
17
18
    nondischargeability, I agree with Your Honor's analysis and the
19
    facts that came to light during this hearing. I tend to
20
    support dismissal over conversion. Thank you.
21
             THE COURT:
                         Thank you.
22
             Dr. Tewari, go ahead.
23
             DR. TEWARI: Sorry, sir.
24
             THE COURT: Please go to the microphone so we have a
25
    clear record.
```

```
Thank you. The 58,000 in personal loans
1
             DR. TEWARI:
    were to me prior to filing, not from Ms. Kohli. Those are
 2
    other -- other debtors --
 3
             THE COURT: Okay. No, I understood Ms. Scott to be
 4
 5
    saying that.
 6
             DR. TEWARI: Okay. Okay. And the only reason I was
    asking about Chapter 7 was because I read that there was a
7
    homestead exemption if the equity on the house is low. And I
8
9
    work up near Albany in a autistic kids clinic. And that was
    the -- that was the only reason I thought maybe a Chapter 7
10
    would allow me to at least live somewhere while I take care of
11
12
    these kids. That -- but I don't know, obviously.
                         The exemption -- and I don't know the --
13
             THE COURT:
    the exemption would be relevant if there's equity in the house.
14
15
    The mortgage gets paid off first before --
             DR. TEWARI: Okay.
16
             THE COURT: If the mortgage exceeds the value of
17
18
    the -- if the unpaid secured debt --
19
             DR. TEWARI: Um-hum.
20
             THE COURT: -- exceeds the value of the property, I
21
    have no idea. The exemption isn't going to do you any good.
             DR. TEWARI: Well, that was the only reason I was
22
23
    thinking Chapter 7 because I can at least live somewhere and
24
    work.
           That -- that was the --
25
             THE COURT: Yeah.
```

```
1
             DR. TEWARI: But okay.
             MR. FISCHOFF: I'll discuss it with him further.
 2
             THE COURT: Okay. All right. I mean, is that the
 3
 4
    property on which there was a lift stay motion?
 5
             MR. HERMAN: Yes, Your Honor.
             MR. FISCHOFF: We entered into a conditional order on
 6
7
    that.
8
             THE COURT: I know.
 9
             MR. FISCHOFF: That specifically said it survived
    the -- the deal survives dismissal.
10
             THE COURT: Yes.
11
12
             MR. FISCHOFF: That took an extra couple of weeks to
    get that sentence, but I can see the future.
13
             THE COURT: Okay. Mr. Herman.
14
15
             MR. HERMAN: First of all, Your Honor, thank you for
16
    your patience with both -- and I think I'm going to thank you
    on behalf of Mr. Fischoff as well because --
17
18
             THE COURT: Both you and Mr. Fischoff have been
    entirely professional throughout this case, representing your
19
20
    clients to the best of your ability. Right.
             MR. HERMAN: Judge, I think Ms. Kohli at this point is
21
22
    entitled to complete the matrimonial case without interference
23
    by the automatic stay. And I use the word "interference"
    intentionally because it's being used as a sword to prevent
24
25
    various things from happening. And as I said earlier, Your
```

```
Honor, there's been no discovery provided in this case, and I'm
1
 2
    told there's been virtually none in the matrimonial case. And
 3
    yet Mr. Fischoff and I have been trying to settle the case
 4
    almost in an information vacuum.
 5
             Your Honor, we think that any dismissal order should
 6
    include a bar against a further filing because all that's going
7
    to happen is we'll be back here. Ms. Kohli will have to go
    through the expense of moving for the stay or dismissal in bad
8
9
    faith for all the reasons that Your Honor articulated.
    record supports that result.
10
             THE COURT:
                         If the case filed again in this district,
11
    quess who would have it? If he went elsewhere, if he has
12
13
    property in the Northern District, and he goes there then --
             MR. HERMAN: That's what we're concerned about, Your
14
15
    Honor.
16
             THE COURT: Yeah, I understand.
             MR. HERMAN: And I've seen it so many times.
17
18
             THE COURT:
                         I know.
             MR. HERMAN: I think she should be able to get to the
19
20
    end of the matrimonial case. And I think Dr. Tewari,
21
    notwithstanding what he believes, would be best served by just
22
    finishing.
             THE COURT: Don't. You can't tell him --
23
24
             MR. HERMAN: I can't tell that.
25
                         -- what's in his best interest.
             THE COURT:
```

MR. HERMAN: You heard how I said it. 1 2 THE COURT: Yes. MR. HERMAN: I said, I think completing something is 3 4 important here. And there's no benefit to a Chapter 7 to any creditor. All it will do is burden Ms. Tewari and interfere 5 6 with the completion --7 THE COURT: Okay. MR. HERMAN: -- of the matrimonial action, Judge. 8 9 THE COURT: All right. The Court will enter an order dismissing Dr. Tewari's Chapter 11 case with a bar on refiling 10 for six months from the date of the entry filing in this 11 district or any other district. Because I've seen it too. 12 13 he has property upstate, well, he runs upstate to file a case. And then there's a whole issue about history. 14 15 Okay. The Court concludes -- first off, the order to show cause -- the basis for the order to show cause was no 16 reasonable prospect of a successful reorganization in a 17 reasonable period of time. That's clear. Crystal clear. 18 That's not really disputed. 19 20 My analysis of the case shows there is no proper basis 21 for converting the case to a Chapter 7. I've expressed those 22

My analysis of the case shows there is no proper basis for converting the case to a Chapter 7. I've expressed those reasons. My analysis shows that there is no reasonable prospect in the event it was converted to Chapter 7 for any creditors other than Ms. Kohli to obtain a recovery. In other words, there's no assets to administer. Ms. Kohli is entitled

23

24

to priority. Equitable distribution hasn't been made, but that would be entitled to priority. It would also be nondischargeable.

So in the Court's view, there is no appropriate basis to convert the case to Chapter 7. And therefore, any new filing, in the Court's view, would be in bad faith. This case was filed after the state court matrimonial judge threatened Dr. Tewari with contempt and possible incarceration.

The early go-rounds in this case had to do with whether or not the automatic stay applied to prevent enforcement of the state court order. That's water under the bridge at this point. But under the circumstances I describe, I do not believe there would be any reasonable basis if this case was dismissed without a bar and refiling for any new filing. I think, in these circumstances, the six-month bar is the appropriate length of time.

I sincerely hope that you all can find a way -- when I "you all", this is really Dr. Tewari and Ms. Kohli -- can find a way to resolve the issues. Custody, that's completely out of my bailiwick. Okay. That is not something that bankruptcy courts deal with. But on the economics, you need to find a way.

Are there appellate proceedings pending in state court?

MR. HERMAN: They were dismissed, Your Honor. And

```
motion for reconsideration has also been denied.
1
 2
             MS. TARANTO: Correct.
             DR. TEWARI: Actually, Your Honor, the appellate
 3
 4
    decision was the case hasn't concluded yet, so they denied it
 5
    in -- in process --
 6
             THE COURT: Okay.
             DR. TEWARI: -- waiting for the final judgment.
 7
                                                               That
8
    was what was exactly said. All right.
             MS. TARANTO: If I may, Your Honor.
             THE COURT: Yes, please. Identify yourself, but go
10
11
    ahead.
12
             MS. TARANTO:
                           Yes.
                                 Thank you. Ms. Chamoun Taranto.
13
    I have been representing Ms. Kohli since the inception of the
    matrimonial action --
14
15
             THE COURT: Yes.
16
             MS. TARANTO: -- over two years ago. In regards to
    the appeal, Dr. Tewari had filed five appeals against every
17
18
    single decision and order in the matrimonial action. The First
    Department denied every single one of the five. He then filed
19
20
    a motion for reconsideration, which was also denied.
21
             THE COURT: Okay.
22
             MS. TARANTO: Thank you.
23
             THE COURT: Just give me a second.
24
             All right. So I will enter an order dismissing the
25
    Chapter 11 case. Declining to convert the case to a case under
```

```
Chapter 7. Include a bar on refiling any case under any
1
    chapter of the Bankruptcy Code for six months from the date of
 2
 3
    the entry of the order and from filing in this district or any
    other district. And hopefully, that order will be entered
 4
 5
    sometime this afternoon.
 6
             MR. HERMAN: Thank you, Your Honor.
7
             THE COURT: Thank you.
                            Thank you for your time, Judge.
8
             MR. FISCHOFF:
 9
             THE COURT: Okay. Thank you. We're adjourned.
                                                                Thank
10
    you.
11
             MS. TARANTO:
                            Thank you.
12
         (Whereupon these proceedings were concluded at 2:43 PM)
13
14
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18
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24
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30
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 2
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 3
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    GEETA KOHLI'S DESCRIPTION
                                  MARKED ADMITTED
5
                  Declaration of Ms.
                                                    13
6
                  Taranto
7
8
    RULINGS:
                                                    PAGE LINE
    Case is dismissed with a six-month
9
                                                    26
                                                           9
    bar on refiling
10
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CERTIFICATION

I, River Wolfe, certify that the foregoing transcript is a true and accurate record of the proceedings.

10 River Wolfe (CDLT-265)

2. W/

11 TTA-Certified Digital Legal Transcriber

13 eScribers

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15 Phoenix, AZ 85020

17 Date: July 18, 2024

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