

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 01-31472

RAGIP SINAN MUNGAN  
a/k/a R. SINAN MUNGAN  
a/k/a R. S. MUNGAN  
a/k/a SINAN MUNGAN

Debtor

Case No. 01-31630

STEPHEN M. LANNING  
d/b/a POWERTECH SERVICES  
PENNY A. LANNING

Debtors

**MEMORANDUM ON MOTIONS TO COMPROMISE**

APPEARANCES: GENTRY, TIPTON, KIZER & McLEMORE, P.C.  
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Knoxville, Tennessee 37901  
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O'CONNOR, PETTY, CHILD, BOSWELL & PIPER  
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Attorneys for G. Wayne Walls, Trustee

BILLY P. SAMS, ESQ.  
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Oak Ridge, Tennessee 37830  
Attorney for Mortgage Masters, Inc.

**RICHARD STAIR, JR.**  
**UNITED STATES BANKRUPTCY JUDGE**

On March 7, 2002, the court held an evidentiary hearing on the Motions to Compromise filed by Sterling Owen, IV, Trustee for the Chapter 7 estate of Stephen and Penny Lanning (Lanning Trustee), and G. Wayne Walls, Trustee for the Chapter 7 estate of Ragip Sinan Mungan (Mungan Trustee). The Motions seek approval of a \$3,000.00 compromise payment from the Lanning Trustee to the Mungan Trustee to settle a prepetition obligation of Stephen Lanning to Mortgage Masters, Inc. (Mortgage Masters). On January 30, 2002, Mortgage Masters filed an Objection to Motion to Compromise, contesting both the amount of the compromise and its payment to the Mungan estate.

This is a core proceeding. 28 U.S.C.A. § 157(b)(2)(B) (West 1993).

## I

At issue is a portion of the proceeds realized by the Lanning Trustee pursuant to the court's August 16, 2001 Order Granting Motion to Sell Real Estate Free and Clear of Liens (Order). The Order authorized the sale of the Lannings' property at 1533 Sherwood Drive in Newport, Tennessee, "in consideration of \$200,000.00, with the lien claims of Lisega[] USA, Inc., First Tennessee Bank National Association, and Mortgage Masters, Inc. and any other lien creditor attaching to the sale proceeds." Mortgage Masters holds a third Deed of Trust on the Sherwood Drive property. Although the property was owned by the Lannings as tenants by the entirety, the Mortgage Masters' Deed of Trust and \$20,000.00 Note that it secures were executed by Stephen

Lanning only.<sup>1</sup> Mortgage Masters did not file a proof of claim in the Lanning case nor did the Lannings schedule Mortgage Masters as a creditor.

According to a Tennessee Secretary of State Business Information Search dated June 26, 2001, Mortgage Masters<sup>2</sup> is a for-profit corporation on inactive status. Mr. Mungan is listed as Mortgage Masters' registered agent. The Business Information Search further states that Mortgage Masters was administratively dissolved on October 17, 1997 (although the corporation continued to file annual reports in 1998-2000).<sup>3</sup>

On his Amended Schedule B, filed May 4, 2001, and on his Amendment to Schedule B, filed November 28, 2001, Mr. Mungan claims a 100% ownership interest in Mortgage Masters. Also on the Amendment to Schedule B, Mr. Mungan states that he previously transferred the corporation's mortgages to himself. The parties stipulate that all of Mr. Mungan's interest in Mortgage Masters passed to his Chapter 7 Trustee.

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<sup>1</sup> All parties agree that Mortgage Masters' purported security is therefore only a contingent interest in Stephen Lanning's right of survivorship. See *Covington v. Murray*, 416 S.W.2d 761, 765 (Tenn. 1967). By Quit Claim Deed dated August 1, 2000, Stephen Lanning conveyed his interest in the property to his wife, thereby ending the tenancy by the entirety. The conveyance did not, however, extinguish whatever security interest Mortgage Masters may hold in Mr. Lanning's survivorship rights. See *Third Nat'l Bank in Nashville v. Knobler*, 789 S.W.2d 254, 255 (Tenn. 1990).

<sup>2</sup> The Business Information Search is for an entity named "Mortgage Masters." The court presumes for purposes of this contested matter that "Mortgage Masters" (the business registered with the State of Tennessee) and "Mortgage Masters, Inc." (the beneficiary of the Deed of Trust and the party now before the court) are in fact the same entity.

<sup>3</sup> "A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under § 48-24-105 and notify claimants under §§ 48-24-106 and 48-24-107." TENN. CODE ANN. § 48-24-202(c) (1995 & Supp. 2001).

Mortgage Masters' Deed of Trust was executed by Stephen Lanning on March 15, 1999 - after the corporation had been administratively dissolved.<sup>4</sup> At the evidentiary hearing, Mr. Mungan testified somewhat equivocally that Mortgage Masters was recently returned to active status.<sup>5</sup> The court does not find Mr. Mungan's testimony on this issue persuasive and concludes from the record before it that Mortgage Masters remains administratively dissolved.

After payment of property taxes, realtor commission, and the Lisega and First Tennessee secured claims, \$14,870.09 remains from the sale of the property. In light of the issues already noted regarding Mortgage Masters' alleged interest, and in light of the speculative value of Mr. Lanning's right of survivorship, the Lanning and Mungan Trustees seek to compromise the Mortgage Masters' claim by payment of \$3,000.00 to Trustee Walls ?in view of the expense and risks connected with challenging the Mortgage Masters Deed of Trust."

## II

Court approval of compromises is required by FED. R. BANKR. P. 9019. In deciding whether to approve a proposed compromise:

The question asked must always be whether the proposed compromise and settlement is in the best interests of the estate.

The factors to consider are the probabilities of ultimate success in litigation, the complexity, expense, and likely duration of such litigation, the possible difficulties in collecting any judgment that might be obtained, and all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise.

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<sup>4</sup> See *supra* n.2.

<sup>5</sup> When asked if Mortgage Masters has been reinstated as an active corporation in the State of Tennessee, Mr. Mungan replied, "I believe it may - yes, it has been, I think."

In considering these factors, the bankruptcy court should canvass the issues and determine whether the proposed settlement falls within the range of reasonableness in the case, but without trying the case or otherwise deciding the issues of law and fact presented.

In considering whether to approve a proposed compromise and settlement, the bankruptcy court is not to substitute its judgment for the trustee's. The trustee's judgment concerning the proposed compromise and settlement is entitled to some deference.

*Johnson v. Jackson Family Television, Inc. (In re Media Cent., Inc.)*, 190 B.R. 316, 320-21 (E.D. Tenn. 1994) (internal citations and quotations omitted).

The court finds the amount of the proposed compromise reasonable in light of the speculative value of Mr. Lanning's survivorship interest. Maurice K. Guinn, counsel for the Lanning Trustee, submitted an Affidavit detailing his previous experience selling survivorship interests as a Chapter 7 trustee. Mr. Guinn states he is typically able to sell survivorship interests for between seven and fourteen percent of either the remaining equity or the property's fee value. Mortgage Masters offered no contradictory evidence.

As noted, \$14,870.09 remains after satisfaction of the first and second liens on the Lannings' residence. The proposed compromise is approximately twenty percent of that amount and is fifteen percent of the \$20,000.00 originally loaned to Mr. Lanning. The court finds the compromise amount reasonable and in the best interest of the Lanning and Mungan estates.

The court will therefore approve the Lanning Trustee's payment of \$3,000.00 to the Mungan Trustee in compromise of the Mortgage Masters' claim. The Mungan Trustee is to hold

the settlement in his trust account until the parties determine which entity is properly entitled to those funds.<sup>6</sup>

The Lanning and Mungan Trustees' Motions to Compromise will therefore be approved as to the proposed compromise amount only. Orders consistent with this Memorandum will be entered.

FILED: March 14, 2002

BY THE COURT

RICHARD STAIR, JR.  
UNITED STATES BANKRUPTCY JUDGE

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<sup>6</sup> The record presently before the court is insufficient to identify the property rights of Mr. Mungan, the Mungan Trustee, Mortgage Masters, or any other entity.

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**ORDER**

For the reasons stated in the Memorandum on Motions to Compromise filed this date, the court directs the following:

1. The Objections to Motion to Compromise filed in the above cases by Mortgage Masters, Inc. on January 30, 2002, are OVERRULED.
2. The Motions to Approve Compromise filed by Sterling P. Owen, IV, Trustee for the Chapter 7 estate of Stephen and Penny Lanning, and G. Wayne Walls, Trustee for the Chapter 7 estate of Ragip Sinan Mungan, on January 8 and January 25, 2002, respectively, are GRANTED.
3. Sterling P. Owen, IV, Trustee, is authorized to compromise the lien claim of Mortgage Masters, Inc. by payment to G. Wayne Walls, Trustee, of the sum of \$3,000.00 from the proceeds

realized from the sale of the Lannings' property at 1533 Sherwood Drive, Newport, Tennessee. This payment is in full satisfaction of Mortgage Masters, Inc.'s third mortgage claim.

4. Upon receipt of the \$3,000.00 compromise payment, G. Wayne Walls, Trustee, will hold the funds in trust pending a determination of whether the Mungan bankruptcy estate, Mortgage Masters, Inc., or some other entity is entitled to the proceeds.

SO ORDERED.

ENTER: March 14, 2002

BY THE COURT

RICHARD STAIR, JR.  
UNITED STATES BANKRUPTCY JUDGE