

1 all matters arising under 11 U.S.C. §§ 101 et seq., and pursuant to this court's resolution dated July
2 19, 1984, which, in turn, refers all Title 11 matters to the United States Bankruptcy Court for the
3 District of Puerto Rico. This court has appellate jurisdiction pursuant to 28 U.S.C. § 158(a)(1).

4 **II. Standard of Review**

5 Appellate courts reviewing a bankruptcy appeal generally apply the "clearly erroneous"
6 standard to findings of fact and *de novo* review to conclusions of law. TI Fed. Credit Union v.
7 DelBonis, 72 F.3d 921, 928 (1st Cir. 1995); In re Savage Indus., Inc., 43 F.3d 714, 719-20 n.8 (1st
8 Cir. 1994). Where the issue on appeal is essentially one of statutory interpretation, appellate courts
9 review the issue *de novo*. In re San Miguel Sandoval, 327 B.R. 493, 506 (1st Cir. BAP 2005) (citing
10 Jeffrey v. Desmond, 70 F.3d 183, 185 (1st Cir. 1995)). In addition to the clearly erroneous and *de*
11 *novo* standards of review, "[t]he appellate court in a bankruptcy appeal may apply an abuse of
12 discretion standard of review of a decision or action by a Bankruptcy Court when such decision is
13 within the discretion of the Bankruptcy Court." Id. (quoting 9E Am.Jur.2d Bankruptcy § 3512
14 (2004)).

15 **IV. Discussion**

16 After an extensive review of the appellant's and appellee's briefs, as well as the Decision and
17 Order by the Bankruptcy Court and independent research done by this court, the court finds that the
18 Bankruptcy Court's rationale in its Decision and Order was correct. Therefore, this court adopts the
19 well-reasoned opinion of the Bankruptcy Court. The Bankruptcy Court found that "it would be
20 inequitable to allow the trustee to use the doctrine of equitable tolling to bring these actions against
21 general trade creditors for prepetition preferences, since these defendants played no role in the
22 alleged wrongful conduct perpetrated by the debtor's representative post-petition." In re Maxon
23 Engineering Services, Inc., 397 B.R. 228, 231 (Bankr.D.Puerto Rico 2008). Furthermore, this court
24 wants to emphasize that other courts "have refused to equitably toll section 546(a) based upon a
25 case's conversion to chapter 7 after the limitation period as [sic] run on the ground that the estate's
26 creditors ought to ensure that a chapter 11 debtor in possession diligently pursues the estate's causes
27 of action prior to conversion." 5 Collier on Bankruptcy ¶ 546.02[3] (15th Ed. Rev. 2008) (citations
28 omitted).

1 **V. Conclusion**

2 For the aforementioned reasons, the judgment of the Bankruptcy Court is hereby
3 **AFFIRMED.**

4 **SO ORDERED.**

5 In San Juan, Puerto Rico this 11th day of February 2009.

6 *S/Gustavo A. Gelpí*

7 GUSTAVO A. GELPI
8 United States District Judge

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