

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 19 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: LEONG PARTNERSHIP,

No. 18-60023

Debtor.

BAP No. 17-1015

WARREN C. HAVENS,

MEMORANDUM*

Appellant,

v.

ARNOLD LEONG; et al.,

Appellees.

In re: LEONG PARTNERSHIP,

No. 18-60024

Debtor.

BAP No. 17-1034

WARREN C. HAVENS,

Appellant,

v.

ARNOLD LEONG; et al.,

Appellees.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Spraker, Taylor and Brand, Bankruptcy Judges, Presiding

Submitted December 17, 2019**

Before: FARRIS, TROTT, and SILVERMAN, Circuit Judges.

Warren Havens appeals pro se the Bankruptcy Appellate Panel's ("BAP") decision affirming the bankruptcy court's summary judgment dismissing the involuntary Chapter 11 petition Havens filed against alleged debtor Leong Partnership. We have jurisdiction under 28 U.S.C. § 158(d). We independently review the bankruptcy court's decision on appeal from the BAP. *Eden Place, LLC v. Perl (In re Perl)*, 811 F.3d 1120, 1124 (9th Cir. 2016). We review the bankruptcy court's conclusions of law de novo, and we review its findings of fact a for clear error. *Liberty Tool & Mfg. v. Vortex Fishing Sys, Inc. (In re Vortex Fishing Sys., Inc.)*, 277 F.3d 1057, 1064 (9th Cir. 2002). We affirm.

First, Arnold Leong, an alleged partner in the Leong Partnership, was authorized under 11 U.S.C. § 303(d) to file an answer and oppose the involuntary bankruptcy petition.

Second, the bankruptcy court correctly determined that there existed a bona fide dispute as to the validity of the petitioning creditors' claims against Leong

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Partnership for salary and rent and for tort liability. *See* 11 U.S.C. § 303(b)(1) (petitioning creditor must hold a claim “that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount”); *In re Vortex*, 277 F.3d at 1064 (the bankruptcy court must “determine whether there are facts that give rise to a legitimate disagreement over whether money is owed, or, in certain cases, how much”).

Appellant’s motions to file a substitute or corrected reply brief (Docket Entry No. 31 in 18-60023, Docket Entry No. 27 in 18-60024) are granted.

Appellant’s motion for a stay (Docket Entry No. 33 in 18-60023) is denied.

Appellant’s motions for judicial notice (Docket Entry Nos. 34-36 in 18-60023, Docket Entry Nos. 31-33 in 18-60024) are denied.

AFFIRMED.