

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

In Re:)	
)	
ROBIN GARRETT TOMER,)	Bankr. Case No. 08-61265
)	
Debtor.)	
_____)	
)	
ROMAR ELEVATORS, INC.,)	
)	Civil Action No. 4:09CV0008
Appellant,)	
)	
v.)	ORDER
)	
ROBIN GARRETT TOMER,)	
)	By: Jackson L. Kiser
Appellee,)	Senior United States District Judge
)	
REBECCA B. CONNELLY)	
)	
Chapter 13 Trustee,)	
Party in Interest.)	

Appeal from the United States Bankruptcy Court

For the Western District of Virginia, at Lynchburg.

Hon. William E. Anderson, United States Bankruptcy Judge.

(Bankruptcy Case No. 08-61265)

Argued: June 29, 2009

Decided: July 2, 2009

COUNSEL: Darren W. Bentley, CLEMENT & WHEATLEY, Danville, Virginia, for Appellant. Lewis E. Goodman, Jr., Danville, Virginia, for Appellee. Rebecca B. Connelly, CHAPTER 13 TRUSTEE, Roanoke, VA, Party in Interest.

Before me is the appeal from the United States Bankruptcy Court's February 6, 2009 Memorandum and Order confirming the Appellee's Chapter 13 bankruptcy plan. [Docket 1 – 18]. In this appeal, Romar Elevators, Inc. contends the bankruptcy court should not have confirmed the Chapter 13 plan and petition because it did not use the correct legal test to consider Tomer's good faith in accordance with 11 U.S.C. §§ 1325(a)(3), (a)(7). All parties, including the Chapter 13 Trustee, filed appropriate briefs and reply briefs prior to providing oral argument on June 29, 2009. I have reviewed the legal arguments, the facts in the record, and relevant legal precedence.

For the reasons contained in the accompanying Memorandum Opinion, it is hereby **ORDERED** that the bankruptcy court's Memorandum Opinion is **REVERSED AND REMANDED** to provide specific findings of fact as to whether Robin Tomer's Chapter 13 petition for bankruptcy was entered in good faith. After making its specific findings of fact, the case shall be returned to this court for further consideration.

The Clerk is directed to send a copy of this *Memorandum Opinion* and the accompanying *Order* to all counsel of record.

Entered this 14th day of July, 2009.

s/Jackson L. Kiser
Senior United States District Judge