UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO

In re Avi Schwalb

In re Schwalb · No. 25-12666-JGR · Decided December 2, 2025

SUMMARY

The United States Bankruptcy Court for the District of Colorado denied Avi Schwalb's emergency and ordinary motions for a stay pending appeal of the order converting his Chapter 11 case to Chapter 7. The court concluded that Schwalb had not shown a likelihood of success on appeal, irreparable harm, absence of harm to creditors, or that the public interest favored a stay. The court emphasized that Chapter 7 administration would centralize asset liquidation, preserve estate property, and protect creditor interests.

CASE DETAILS

COURT	United States Bankruptcy Court for the District of Colorado
WRITING FOR THE COURT	Joseph G. Rosania, Jr.
JURISDICTION	United States Bankruptcy Court for the District of Colorado
DECIDED	December 2, 2025
DOCKET	25-12666-JGR
DISPOSITION	other
PROCEDURAL POSTURE	The chapter 11 debtor moved for a stay pending appeal of the bankruptcy court's order converting his case to chapter 7. The court denied both the emergency motion and the motion for stay.
STANDARD OF REVIEW	The court applied the four-factor standard governing a stay pending appeal: likelihood of success on the merits, irreparable harm absent a stay, absence of harm to opposing parties, and whether the public interest supports a stay. The moving party bears the burden of showing that the circumstances justify a stay.
PRECEDENTIAL VALUE	Unknown
PARTIES	Avi Schwalb v. Industrial Alliance Insurance and Financial Services, Inc., Chapter 7 trustee

TOPICS

appellate procedure chapter 11 chapter 7 bankruptcy real estate

PRACTICE AREAS

bankruptcy bankruptcy appellate procedure real estate

QUESTIONS PRESENTED

1. Whether Schwalb established a strong likelihood of success on his appeal of the order converting his chapter 11 case to chapter 7.
2. Whether Schwalb would suffer immediate or irreparable harm absent a stay pending appeal.
3. Whether granting a stay would harm creditors and other opposing parties.
4. Whether the public interest supported a stay pending appeal.

HOLDINGS

1. The debtor failed to establish any likelihood of success on appeal because the record supported conversion under 11 U.S.C. § 1112(b), the oral ruling incorporated findings of fact and conclusions of law into the minute order, the debtor had not shown eligibility for continuation under § 1112(b)(2), and the chapter 7 trustee was entitled to control and investigate estate property.
2. The debtor failed to show immediate or irreparable harm because chapter 7 administration would provide supervision, transparency, preservation of the real estate, orderly sales, and notice-and-hearing procedures for distributions.
3. Granting a stay would harm creditors by delaying liquidation and centralized claims administration and by extending bankruptcy benefits to the debtor without the supervision of a chapter 7 trustee.
4. The debtor failed to establish that the public interest supported a stay pending appeal.

KEY QUOTATIONS

> *“"The party requesting a stay bears the burden of showing that the circumstances justify an exercise of [the court's] discretion."”*

FACTUAL BACKGROUND

Schwalb's chapter 11 case involved civil litigation arising from real estate transactions, construction projects, and property management, as well as substantial creditor claims and a Colorado criminal indictment. Creditors alleged discrepancies in his bankruptcy disclosures and identified potential avoidance claims, transfers of interests in limited liability companies, and questions concerning real-property values and rental revenues. The court determined that conversion to chapter 7 would centralize estate administration, preserve assets, permit investigation by an independent fiduciary, and avoid a race to the courthouse.

PROCEDURAL HISTORY

Avi Schwalb filed a voluntary chapter 11 petition on May 2, 2025. After creditors objected to his motion to dismiss and Fannie Mae moved to convert the case, the court held a preliminary hearing on October 29, 2025, orally ruled that conversion was in the best interests of creditors and the estate, and entered a minute order converting the case to chapter 7 on October 30, 2025. Schwalb appealed and sought a stay pending appeal under Federal Rule of Bankruptcy Procedure 8007(a).

DISPOSITION

other

CASES CITED

- United States v. Peck, Nos. 23-4000, 23-4038, 2023 U.S. App. LEXIS 9782, at *2 (10th Cir. Apr. 17, 2023)
- Nken v. Holder, 556 U.S. 418, 433-34 (2009)
- Haines v. Kerner, 404 U.S. 519, 520-521, 30 L. Ed. 652, 92 S. Ct. 594 (1972)
- In re Gateway Access Solutions, 374 B.R. 556 (Bankr. M.D. Pa. 2007)
- In re Plaza de Diego Shopping Ctr., 911 F.3d 820 (1st Cir. 2018)
- In re Plaza de Diego Shopping Ctr., 911 F.2d 820 (1st Cir. 1990)
- In re Orbit Petroleum, 395 B.R. 145 (Bankr. D.N.M. 2008)
- Marsch v. Marsch (In re Marsch), 36 F.3d 825 (9th Cir. 1994)
- Marshall v. Marshall (In re Marshall), 403 B.R. 668
- In re Charter Co., 829 F.2d 1054 (11th Cir. 1987)
- Lutin v. United States Bankr. Court (In re Advanced Mining Sys.), 173 B.R. 467 (S.D.N.Y. 1994)