

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA (LAS VEGAS)

IN RE:	.	Case No. 16-50644-btb
	.	
	.	Chapter 15
PATRICK CANET AND	.	
JAZI GHOLAMREZA ZANDIAN,	.	300 Las Vegas Blvd. South
	.	Las Vegas, NV 89101
Debtors.	.	
	.	Tuesday, September 6, 2016
.	3:20 p.m.

TRANSCRIPT OF APPLICATION VERIFIED PETITION FOR RECOGNITION AND
CHAPTER 15 RELIEF FILED BY JEFFREY L. HARTMAN
ON BEHALF OF PATRICK CANET[5]
BEFORE THE HONORABLE BRUCE T. BEESLEY
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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transcript produced by transcription service.

1 (Proceedings commence at 3:20 p.m.)

2 THE COURT: This is Patrick Canet or Canet. I
3 apologize for keeping you.

4 MR. HARTMAN: Yes, Your Honor. Jeff Hartman on
5 behalf for -- on behalf of Mr. Canet, who is the representative
6 in the foreign main proceeding in Paris.

7 THE COURT: Just one second. Oh, okay.

8 MR. ZORIO: Good morning, Your Honor. Arthur Zorio
9 on behalf of Jed Margolin, and I believe I have co-counsel on
10 the phone.

11 THE COURT: Okay.

12 MR. ABELMAN: (Telephonically) Your Honor, this is
13 Steve Abelman, and I appreciate you accommodating me by
14 allowing me to participate telephonically.

15 THE COURT: Oh, you're very welcome.

16 MR. HARTMAN: Your Honor, if I may?

17 THE COURT: Yes. Please.

18 MR. HARTMAN: This began with Mr. Canet's Chapter 15
19 petition for recognition of a foreign proceeding which I filed
20 in May of this year.

21 THE COURT: And this is the proceeding that's in
22 France. Is that correct?

23 MR. HARTMAN: That's correct. And to jump to today,
24 Mr. Abelman filed an objection to the petition for recognition
25 on behalf of Mr. Margolin. That was docket entry -- excuse me,



1 Docket entry 13 filed on June 16th. On August 3rd, I filed a
2 -- what I called a status report and a reply regarding the
3 French proceeding against Zandian. That's docket entry 18.
4 Mr. Abelman and I agreed to continue the hearing, I believe,
5 twice, and now the matter is set for today. We have not
6 reached any kind of an agreement, so it's at issue for the
7 Court.

8 THE COURT: Okay.

9 MR. HARTMAN: So I would like to direct your
10 attention to the status report, which was docket entry 18.

11 THE COURT: Hang on. Thank you.

12 (Pause)

13 THE COURT: All right. And just wait a second.

14 Juanita (phonetic), could you please print docket
15 number 12 for me? Thank you. That's docket 12. Could I have
16 the next one?

17 THE CLERK: I apologize, Your Honor.

18 THE COURT: Oh, no problem. I was just confused.

19 THE CLERK: That is 12. Do you want 15?

20 THE COURT: Did I say 12? I want 13. I misspoke.
21 I'm sorry. You didn't make a mistake. I did.

22 THE CLERK: (Indiscernible)

23 (Court reviews documents)

24 THE COURT: So you -- there was an attempted bribery
25 of you, sir?



1 MR. HARTMAN: Are you talking to --

2 THE COURT: You, to --

3 MR. HARTMAN: Mr. Zorio.

4 THE COURT: Mr. Zorio.

5 MR. ZORIO: Oh, I'm counsel, Your Honor. That was
6 Mr. Adam McMillen.

7 THE COURT: Okay.

8 MR. ZORIO: Yes. At my offices.

9 THE COURT: I just have never seen an allegation that
10 somebody tried to bribe a lawyer in a case in front of me.

11 (Court reviews documents)

12 THE COURT: Okay. I have read these. Go ahead.

13 MR. HARTMAN: Thank you, Your Honor. I'll limit it
14 to basically what's addressed in my status report and reply,
15 which is that under Section 1516, the Court is entitled to
16 certain presumptions concerning recognition of a foreign
17 proceeding. Do you have it there available?

18 THE COURT: Title 1516? I do not, I don't think.
19 Oh, the bankruptcy --

20 MR. HARTMAN: Yeah, Section 1516 of Title 11.

21 THE COURT: I do have it. I don't get into the 15s
22 very often.

23 MR. HARTMAN: We -- I understand, Your Honor. This
24 is my second one.

25 THE COURT: Mine, as well. Okay.



1 MR. HARTMAN: Section 1516 is entitled, "Presumptions
2 concerning recognition." The (a) says:

3 "If the decision or certificate referred to in
4 1515(b) indicates that the foreign proceeding is a
5 foreign proceeding and that the person or body is a
6 foreign representative, the court is entitled to so
7 presume."

8 (b) also says:

9 "The Court is entitled to presume the documents
10 submitted in support of the petition for recognition
11 are authentic, whether or not they have been
12 legalized."

13 The documents which I attached to the initial
14 petition for recognition and then the one attached as Exhibit A
15 to the reply brief basically are documents issued by the French
16 court. And I have the original certified stamped copy in my
17 files. The copies that were filed with the Court, of course,
18 are not the originals.

19 But basically, I think that the foreign main
20 proceeding representative, Mr. Canet, has met the threshold
21 requirements of this Court granting the petition for foreign
22 recognition. And as I indicated in my paper that even if the
23 allegations made by Mr. Margolin against Zandian are true, the
24 policies under Section 1501 of the international provisions
25 regarding insolvency statutes should apply, and this Court



1 should extend what almost relates to comity to the proceedings
2 in the foreign court and allow this Court to take jurisdiction
3 over the assets here in the state of Nevada. I've indicated to
4 Mr. Abelman that if the Court is to -- Court determines to
5 grant our petition for foreign recognition, then under Section
6 1511 we would commence either an involuntary proceeding against
7 Mr. Zandian under Section 303; or if he were to consent to
8 being a debtor under Chapter 7, then we would proceed under
9 Section 301. In either case, we would seek to have a trustee
10 appointed to administer the assets that are located in the
11 state of Nevada. So I'll defer now to Mr. Abelman unless the
12 Court has questions of me.

13 THE COURT: No. Thank you.
14 Counsel.

15 MR. ABELMAN: Thank you, Your Honor.

16 THE COURT: Yeah.

17 MR. ABELMAN: Let me premise this by saying I'm not
18 questioning the authenticity of any of the materials presented
19 by Mr. Hartman. Rather, we question whether those materials
20 meet the requisite threshold. And as you pointed out earlier,
21 there are many -- there are any number of unique aspects to
22 this case, and there's still many unanswered questions which
23 cause us to feel profoundly uncomfortable with making a
24 decision to recognize the foreign proceeding at this juncture.

25 Just by way of quick background, Jeff Margolin has



1 been actively pursuing Zandian for almost seven years since he
2 filed his lawsuit against Zandian in December of 2009. He was
3 successful in obtaining a judgment against Zandian in June of
4 2013, so three and a half years later. Since then, Zandian has
5 engaged in evasive actions, including, we believe, fraudulent
6 conveyances. So in May of this year Mr. Margolin filed an
7 action to void deeds in, in essence, a fraudulent conveyance
8 action in the District Court located in Carson City. Two weeks
9 later, after an 18-year period of dormancy, Mr. Canet filed
10 this petition for recognition.

11 Mr. Hartman did, indeed, supplement the original
12 petition. It would be our position that he -- the information
13 was helpful but it was more in the line of providing an
14 additional tablespoon of content when, really, a full cup was
15 needed. And I'll be more specific. We believe that this
16 supplement was insufficient because the status report and
17 reply, if you have that in front of you, references a
18 certificate -- it has a certificate regarding insolvency
19 proceedings. And again, we're presuming the authenticity of
20 this. And so there's three entries on that certificate.

21 THE COURT: So hang on for just a second.

22 MR. ABELMAN: First one is --

23 THE COURT: Hang on for just one second.

24 MR. HARTMAN: It would be --

25 THE COURT: I'm going back to the English language



1 one.

2 MR. ZORIO: It would be docket 18-1, page 204, Your
3 Honor.

4 THE COURT: Docket 18 -- yeah. Hold on. Exhibit A.
5 Would that be what it is?

6 MR. ZORIO: Yes.

7 THE COURT: Okay. So I'm looking at a document whose
8 heading is "The clerk's office of the commercial court" with a
9 street address and a telephone number, "Certificate regarding
10 insolvency proceedings." Is that what we're looking at,
11 Counsel?

12 MR. ABELMAN: Yes.

13 THE COURT: Okay. Not the French version.

14 MR. ABELMAN: And a little bit -- right. And a
15 little bit further down, like halfway in the page, it says,
16 "Concerning Gholamreza Zandian, Jazi."

17 THE COURT: Correct.

18 MR. ABELMAN: But it's hard to discern from our
19 vantage point whether this is indeed a -- an insolvency
20 proceeding involving Mr. Zandian. We know that there was an
21 insolvency proceeding involving Computerworld in which
22 Computerworld obtained a judgment against Mr. Zandian for
23 20,000 francs. So what we can't discern is is there a separate
24 Zandian case, or is this part of the Computerworld case? I
25 mean it would be very helpful to have the docket sheet for the



1 Zandian case. It would be helpful to know what Mr. Canet did
2 to transform the 20,000 franc judgment into a judgment for
3 euros since euros -- I mean since francs were formally removed
4 as French currency in February of 2012. So it's our --

5 THE COURT: That does strike me as odd.

6 MR. ABELMAN: -- concern whether -- yeah. I mean how
7 do we know that this is current and still viable? And if you
8 look at 11 U.S.C. Section 1502, it says a debtor means an
9 entity that is the subject of a foreign proceeding. And so
10 we're still confused as to whether there's a separate
11 insolvency proceeding pending against Zandian, or if it's part
12 and parcel and with the Computerworld.

13 THE COURT: Well, let me ask you this, though.

14 MR. ABELMAN: Okay.

15 THE COURT: Aren't -- am I not required to presume
16 under 1516 that this document is what it purports to be?

17 MR. ABELMAN: Yes. But what does it -- the question
18 I have is what does it purport to be? It's a certificate
19 saying these pleadings are -- have been filed. So I'm not sure
20 what these pleadings reflect.

21 THE COURT: Well, it's a certificate regarding
22 insolvency proceeding. Regarding a receivership for the
23 liquidation of assets in '67, which was a long time, a judicial
24 reorganization, which was some time ago, but then a protection
25 judicial reorganization and liquidation that is in '05



1 concerning Mr. Zandian, who has an address. I don't know what
2 produced the following results on -- a search of the corporate
3 registry produced the following results, a judgment dated 1998.
4 And according to the way you read this, this judgment concerns
5 Mr. Zandian. Judgment in 2015, the way this reads also
6 concerning Mr. Zandian. The appointment of a new bankruptcy
7 judge to replace the previous judge in February of last year.
8 And then it says it's subject to any other bankruptcy courts.

9 MR. HARTMAN: Your Honor, I hate to interrupt Mr.
10 Abelman, but I think I can help on --

11 THE COURT: Explain this to all of us?

12 MR. HARTMAN: I think I can help on this particular
13 issue.

14 THE COURT: Okay.

15 MR. HARTMAN: If you, again, go to my reply and look
16 at page 2, paragraph 7.

17 THE COURT: Hang on.

18 MR. HARTMAN: I hate to --

19 THE COURT: No. That's okay.

20 MR. HARTMAN: -- refer you to all these things but --

21 THE COURT: Paragraph 2, page 7?

22 MR. HARTMAN: No. Page 2, paragraph 7.

23 THE COURT: "As a result of the commercial court
24 of" --

25 MR. HARTMAN: Right. Now that references Docket



1 entry 1, which was my original petition attached to which was
2 the April 1998 document referenced in what you've just read
3 from.

4 THE COURT: Okay.

5 MR. HARTMAN: So at docket entry 1, page 9 of 12 --
6 and I can hand it up if it's easier.

7 THE COURT: Okay, please. That would be better. You
8 have a copy for counsel?

9 MR. HARTMAN: Not here with me.

10 THE COURT: We can -- we'll make him one.

11 MR. HARTMAN: Okay. It's docket 1, page 9 of 12.

12 THE CLERK: Thank you.

13 (Pause)

14 MR. HARTMAN: May I approach, Your Honor?

15 THE COURT: Yeah, please. And can you give me your
16 -- the copy you have for me now?

17 MR. HARTMAN: Sure.

18 THE COURT: Thank you. Appreciate it. Is this my
19 copy? Thank you.

20 You get it, sir?

21 MR. HARTMAN: It's my copy, but it's your copy now.

22 THE COURT: Oh, our copy. It's a handsome picture of
23 Mr. Canet 20 years ago.

24 MR. HARTMAN: On one other page, right?

25 THE COURT: Oh.



1 MR. HARTMAN: I'm talking about 9 of 12.

2 THE COURT: Oh, I'm sorry. This was 5 of 12. Oh,
3 I'm sorry.

4 MR. HARTMAN: So, Your Honor, that document of which
5 9 of 12 is a part is the April 1998 document that's referenced
6 in the certificate regarding insolvency proceedings. And you
7 can see at the -- begins at the top of page 9 that essentially
8 it says, "It is ordered that a liquidation proceeding is
9 commenced against Mr. Zandian."

10 MR. ABELMAN: So, Your Honor, if I may?

11 THE COURT: Yes.

12 MR. HARTMAN: And I appreciate Mr. Hartman's help on
13 this. I'm happy to utilize what's most expeditious and we can
14 dispense with all formality. So I have no problem with Mr.
15 Hartman pointing that out. If you go back one page to the
16 pleading cover sheet where it says, "Judgment of 3 April 1998,
17 bankruptcy proceedings number" -- and I'm sorry. Are you
18 there?

19 THE COURT: What are we looking at exactly?

20 MR. ABELMAN: Well, it --

21 THE COURT: We're looking at -- I think it's two
22 pages back, "Judgment of April 3, 1998, Sixth Chamber"?

23 MR. ABELMAN: Yes.

24 THE COURT: Okay.

25 MR. ABELMAN: Yes. So it says, "Bankruptcy



1 proceedings number 989252, Canet, Judicial Liquidator of
2 Computerworld v. Mr. Gholamreza Zandian, Jazi." So my point is
3 I -- these materials don't reflect whether this is a
4 independent insolvency action of -- relating to Mr. Zandian or
5 this is just what would be akin to an adversary proceeding
6 brought by Mr. Canet as the judicial liquidator of
7 Computerworld. And if it's -- if it's the latter, then I would
8 submit that it doesn't meet the threshold for a Chapter 15, and
9 it's just another party seeking to sue or collect from Mr.
10 Zandian as opposed to an independent insolvency action of where
11 Mr. Zandian is the debtor.

12 MR. HARTMAN: Well, Your Honor, I guess --

13 MR. ABELMAN: And --

14 MR. HARTMAN: -- it comes down to --

15 MR. ABELMAN: If I -- if I may finish because --

16 THE COURT: Go ahead.

17 MR. ABELMAN: -- I -- there's a couple points that I
18 want to tie together and then Mr. Hartman can proceed. And
19 that's why, you know, a docket sheet from this case, which is
20 18 years old, would be informative. I also want to shift to
21 the public policy aspect. 11 U.S.C. Section 1506 says:

22 "Nothing in this chapter prevents the Court from
23 refusing to take an action governed by this chapter
24 if the action would be manifestly contrary to public
25 policy of the United States."



1 And this is where the underlying basis of this action
2 in France is so important. The -- it appears that the primary
3 purpose of the -- well, let me take a step back. Zandian was
4 the owner of 48 percent of Computerworld.

5 THE COURT: Okay.

6 MR. ABELMAN: Apparently, under French law, there
7 were sufficient grounds by which, as an owner of Computerworld,
8 Zandian would be held liable for the debts of Computerworld.
9 So the underlying judgment that Mr. Canet obtained was for up
10 to 20,000 francs. Now what's most curious is that the 19,000
11 of the 20,000 francs are a claim from what is referred to as
12 Bank Mellat. And Bank Mellat is an Iranian-owned bank. And
13 what transpired was -- in the United States was that Zandian
14 was arrested for illegally attempting to import two high-speed
15 IBM computers to Iran through Computerworld. And he was caught
16 and the two computers were confiscated because these were the
17 two -- these computers were IBM 9000s, which, at the time, were
18 the most powerful IBM computers made and had the capacity to be
19 used for military purposes. And because of that, the export of
20 these computers to Iran was banned.

21 So it appears that Bank Mellat, the Iranian-owned
22 bank, was financing the sale of those computers, and so 95
23 percent of the indebtedness owed by Computerworld appears to be
24 owed to Bank Mellat. And we think that it would be contrary to
25 U.S. public policy to allow this action to be utilized to take



1 the proceeds from assets in Nevada --

2 THE COURT: Well, I was told there are no proceeds of
3 assets or assets in Nevada.

4 MR. HARTMAN: No. There is property owned -- well,
5 there was property owned in Nevada by Zandian. Some parcels
6 were foreclosed upon by Mr. Margolin but others are subject --
7 have not been foreclosed upon and were the subject of the
8 fraudulent conveyance action that Mr. Margolin filed in May.

9 THE COURT: Well, let me ask you this. I mean,
10 you've told me lots of interesting stuff, but none of it's
11 evidence. You're just telling stuff. I've not seen
12 declarations, or I'm not even sure you could testify to most of
13 those things because it's kind of interesting historical
14 background. But my inclination is, since I'm required to give
15 weight to documents which purport to be foreign documents,
16 foreign judicial documents, I -- I'm inclined to go ahead and
17 recognize the cross-border insolvency which will result the
18 appointment of a Chapter 7 trustee in the near term, which
19 would prevent, then, this individual from -- it would -- I'm
20 sorry -- cloud the title to the real property he has, which
21 would make it much more difficult to -- for him to get rid of.

22 Your client could, at some point, move for stay
23 relief while the property was impacted by the bankruptcy court
24 and could go forward, but you'd have to make an evidentiary
25 showing that he was entitled to that property or had a -- or



1 had a judgment and that there were no other creditors. So I
2 understand what you're telling me, but I don't have any proof
3 of that. And I'm not questioning your verity or your lack of
4 knowledge, I just don't have it in a form that's admissible in
5 court. So I'm going to recognize the insolvency proceeding,
6 and Mr. Hartman can go forward and get a Chapter 7 filed and
7 get a trustee appointed.

8 It is without -- my recognizing this is without
9 prejudice to a further motion by your client to get rid of it
10 if we can -- if you can establish that, in fact, there is no
11 French proceeding. I know that there is an inconsistency in
12 that francs are referenced as opposed to euros. I don't know
13 why that might be. I just don't know enough French law how
14 they would do that, but -- I don't know any French law,
15 actually, on how they would do that. But maybe that's
16 explainable, maybe not.

17 But the fact that there is a currency that would have
18 been the currency involved at the time of the action is -- that
19 is referenced in a pleading that is post-recognition of the
20 franc and the euro would be ordinary, maybe there's some
21 requirement or some practice that in France that they would
22 denominate it that way. In this country, we're fortunate
23 enough to have had the dollar for a long, long time, and we
24 don't have to deal with that.

25 So I'm granting Mr. Hartman's motions. I am -- I'm



1 not discounting your client's position. I don't think your
2 client is significantly injured at this point by recognizing
3 the cross-border insolvency, but I think he can certainly make
4 a showing and try and get stay relief if that's appropriate.

5 So questions?

6 MR. HARTMAN: No, Your Honor. I'll --

7 MR. ABELMAN: I --

8 THE COURT: Yes, sir.

9 MR. ABELMAN: Your Honor, I just want to correct a
10 misstatement that I believe I made. I said the judgment was
11 for 20,000 francs. It was actually for 20 million francs.

12 THE COURT: Oh, okay. Well, that's -- I think that's
13 a lot more.

14 MR. ABELMAN: Not that that changes your result.

15 THE COURT: No.

16 MR. ABELMAN: I just wanted to correct the record.

17 THE COURT: No. I -- well, something -- I think
18 something said 20,000 francs because I had that same impression
19 from reading through these documents. But anyway, it's a
20 significant chunk of money. But I think you need more evidence
21 in order to get stay relief, and I would prefer to have more
22 evidence from the French court that is more understandable, if
23 that's possible.

24 MR. HARTMAN: I understand, Your Honor.

25 THE COURT: But --



1 MR. HARTMAN: I'll prepare an order and submit it to
2 Mr. Abelman.

3 THE COURT: Okay. Counsel is that okay?

4 MR. ZORIO: Very good. Thank you, Your Honor.

5 THE COURT: Okay. Thank you very much.

6 MR. HARTMAN: Thank you, Your Honor.

7 (Proceedings concluded at 4 p.m.)

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C E R T I F I C A T I O N

I, Sara Winkeljohn, court-approved transcriber,
hereby certify that the foregoing is a correct transcript from
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/s/ Sara Winkeljohn

SARA WINKELJOHN, AAERT NO. 808 DATE: August 29, 2017
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I, Lisa Luciano, court-approved transcriber, hereby
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter.

Lisa Luciano

LISA LUCIANO, AAERT NO. 327 DATE: September 5, 2017
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