25-2742
In re: Kwok

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 25th day of September, two thousand twenty-six.

PRESENT:
JOSÉ A. CABRANES,
GERARD E. LYNCH,
JOSEPH F. BIANCO,
Circuit Judges.

In Re: HO WAN KWOK,

Debtor.

LUC A. DESPINS, Chapter 11 Trustee,

Plaintiff-Appellee,

v. 25-2742-bk

GREENWICH LAND, LLC, HING CHI NGOK,

Defendants-Appellants.

FOR PLAINTIFF-APPELLEE: NICHOLAS BASSETT, Paul Hastings LLP, Washington, District of Columbia (Dennis M. Carnelli, Neubert, Pepe & Montieth, P.C., New Haven, CT, *on the brief*).

FOR DEFENDANTS-APPELLANTS: STEPHEN M. KINDSETH (James M. Moriarty, *on the brief*), Zeisler & Zeisler, P.C., Bridgeport, Connecticut.

Appeal from an order of the United States District Court for the District of Connecticut (Kari A. Dooley, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court, entered on September 29, 2025, is **AFFIRMED**.

Defendants-Appellants Greenwich Land, LLC ("Greenwich Land"), and Hing Chi Ngok ("Ngok") appeal from the district court's decision affirming the bankruptcy court's order granting summary judgment in favor of Plaintiff-Appellee Chapter 11 Trustee Luc A. Despins (the "Trustee"). *See generally* Decision and Order, *Despins v. Greenwich Land, LLC, et al.*, No. 23-AP-5005 (Bankr. D. Conn. July 2, 2024), Dkt. No. 133; *In re Kwok*, No. 3:24-CV-1185 (KAD), 2025 WL 2625264 (D. Conn. Sept. 11, 2025). Individual Debtor Ho Wan Kwok (the "Debtor" or "Kwok") filed for Chapter 11 bankruptcy, and the Trustee was appointed to recover any shielded assets. Greenwich Land, a Delaware LLC, has bought and sold various multimillion-dollar properties in Connecticut, and Ngok, who is Kwok's wife, is the sole member of Greenwich Land. Therefore, the Trustee commenced an adversary proceeding pursuant to Sections 541, 542, and 544 of the Bankruptcy Code, seeking a declaration that Greenwich Land was an alter ego of Kwok and that Kwok equitably owned the interest in Greenwich Land held by Ngok.

The bankruptcy court granted summary judgment in favor of the Trustee, concluding that (1) Greenwich Land is Kwok's alter ego; (2) Kwok is the beneficial owner of Greenwich Land; and (3) Greenwich Land's assets, and Ngok's membership interest in Greenwich Land, are property of Kwok's bankruptcy estate (the "Estate"). On appeal from the district court's affirmance of the bankruptcy court's summary judgment decision, Appellants raise several evidentiary challenges and argue that material factual disputes preclude summary judgment. We assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal, to which we refer only as necessary to explain our decision to affirm.

DISCUSSION

"[T]he rulings of a district court acting as an appellate court in a bankruptcy case are subject to plenary review." *Belton v. GE Cap. Retail Bank* (*In re Belton)*, 961 F.3d 612, 614 (2d Cir. 2020) (internal quotation marks and citation omitted). "In other words, we independently review the bankruptcy court's decision, accepting the bankruptcy court's factual findings unless they are clearly erroneous and reviewing its conclusions of law *de novo*." *In re DiBattista*, 33 F.4th 698, 702 (2d Cir. 2022) (alteration adopted) (internal quotation marks and citation omitted).

Summary judgment is warranted only "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *see Springfield Hosp., Inc. v. Guzman*, 28 F.4th 403, 415 (2d Cir. 2022). "When a party challenges . . . [the] evidentiary rulings underlying a grant of summary judgment, we undertake a two-step inquiry. First, we review the . . . evidentiary rulings, which define the summary judgment record. . . . At the second stage of our inquiry, with the record defined, we review the . . . summary judgment decision *de novo*." *Porter v. Quarantillo*, 722 F.3d 94, 97 (2d Cir. 2013) (internal quotation marks and citations omitted). "[O]nly admissible evidence need be considered by the . . . court in ruling on a motion for summary judgment," and a "district court deciding a summary judgment motion has broad discretion in choosing whether to admit evidence." *Presbyterian Church of Sudan v. Talisman Energy, Inc.*, 582 F.3d 244, 264 (2d Cir. 2009) (internal quotation marks and citations omitted).

I. Evidentiary Challenges

Appellants challenge four threshold evidentiary rulings that the bankruptcy court made prior to turning to its summary judgment analysis. For the reasons set forth below, we find no reversible error in the challenged evidentiary rulings.

First, Appellants argue that the bankruptcy court incorrectly applied the law of the case doctrine in adopting earlier rulings that certain entities related to Greenwich Land and its employees are Kwok's alter egos, namely, Golden Spring (New York) Limited ("Golden Spring") and HK International Funds Investments (USA) Limited, LLC ("HK USA"), and that another entity, Saraca Media Group, Inc. ("Saraca"), is related to Kwok's media ventures. However, even if that decision was erroneous, it would not warrant reversal because the earlier rulings were merely corroborative of evidence in this case, as discussed *infra*, establishing that Greenwich Land was controlled by individuals other than Ngok, that Kwok dominated and controlled Greenwich Land's operations and officers, and that Kwok's associates expended Greenwich Land's funds. Indeed, Appellants offered no evidence to dispute those facts throughout their summary judgment briefing. Therefore, any error in the bankruptcy court's application of the law of the case doctrine with respect to Golden Spring, HK USA, and Saraca was harmless. *See In re Sanshoe Worldwide Corp.*, 993 F.2d 300, 305 (2d Cir. 1993) (applying harmless-error standard to bankruptcy judge's failure to make "necessary specific [factual] findings" because of the "incontestable demonstration, based on uncontroverted documents," of those facts); *see also Hollander v. Am. Cyanamid Co.*, 172 F.3d 192, 200 (2d Cir. 1999) (holding that any error in the district court's failure to strike inadmissible evidence was harmless because of "ample other evidence" establishing that summary judgment was warranted).

Second, Appellants challenge the bankruptcy court's decision to disregard Ngok's prior testimony in the primary Chapter 11 case, in which she testified that her son created Greenwich Land and purchased multiple properties in its name. The bankruptcy court found this prior testimony to contradict evidence in this case (namely, Ngok's deposition testimony that she had no knowledge as to how or why the properties were purchased, and Appellants' initial disclosures and interrogatory responses that reflected the same) and did not allow the parties to "revive [the earlier] testimony at the eleventh hour, after discovery has closed, in order to prevent summary judgment." Special App'x at 23. The bankruptcy court also noted that Appellants "failed to include [the son] among their initial disclosures as a person with relevant knowledge." *Id*. Like the district court, we discern no abuse of discretion in the bankruptcy court's exclusion of Ngok's testimony about the role of her son in a January 2023 deposition outside this adversary proceeding because it directly contradicted her testimony in this adversary proceeding and was introduced at the eleventh hour solely to attempt to manufacture an issue of fact.

Third, although Appellants argue that the bankruptcy court improperly drew "adverse inferences" against the Appellants based on Kwok's and his daughter's invocations of the Fifth Amendment's privilege against self-incrimination, that argument is contradicted by the record. In particular, the bankruptcy court expressly recognized that "an adverse inference on the basis of an invocation of Fifth Amendment rights against self-incrimination is improper at summary judgment." Special App'x at 18; *see also id.* at 19 (emphasizing its "awareness that an adverse inference [from an invocation of the Fifth Amendment right] is impermissible at summary judgment"). Instead of drawing an adverse inference, the bankruptcy court merely acknowledged that, given the absence of testimony from Kwok and his daughter, there was no evidence to controvert the other testimony in the record. *Id.* Even though it may have been unnecessary for the bankruptcy court to refer to the "limited relevance" of their invocations of the Fifth Amendment, *id.*, that reference does not demonstrate that the bankruptcy court drew an impermissible adverse inference from the Fifth Amendment invocations and improperly considered them as evidence in support of its underlying factual determinations, especially in light of its express statements to the contrary. Thus, this challenge provides no basis to disturb the bankruptcy court's grant of summary judgment.

Finally, Appellants argue that the bankruptcy court erred in sustaining objections to their proposed facts regarding one individual's supposed lack of "personal knowledge of the matters to which he testified." Appellants' Br. at 30. For instance, the bankruptcy court excluded the fact that the witness lacked knowledge of Mandarin, which Appellants offered in order to show that he could not have understood any conversations between Ngok and her children, about a certain property, located on Taconic Road in Greenwich, Connecticut (the "Taconic Property"), which was purchased by Greenwich Land. We are unpersuaded. "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Here, the bankruptcy court correctly held that the witness's inability to speak Mandarin was irrelevant because he never testified that he was privy to any conversations between Ngok and her children. Moreover, as the bankruptcy court also noted, Appellants did "not put forward any evidence on the substance or importance of those conversations." Special App'x at 24. Thus, any proposed facts related to those conversations would be sheer speculation that cannot be used to defeat a summary judgment motion. *See Hicks v. Baines*, 593 F.3d 159, 166 (2d Cir. 2010) ("A party may not rely on mere speculation or conjecture as to the true nature of the facts to overcome a motion for summary judgment.") (alteration adopted); *see also PACA Tr. Creditors v. Genecco Produce Inc.*, 913 F.3d 268, 275 (2d Cir. 2019) (emphasizing that a "party opposing summary judgment must do more than simply show that there is some metaphysical doubt as to the material facts") (internal quotation marks and citation omitted). In addition, to the extent that Appellants were attempting to point to the witness's lack of knowledge as to the source of funds used to purchase the Taconic Property, the fact that Kwok provided that funding was not established through the witness's testimony, but rather through other uncontroverted evidence. Instead, the witness testified, based on his own conversations with Kwok, that Kwok controlled the purchase of the Taconic Property, and the bankruptcy court did not err in relying upon that uncontroverted testimony in granting summary judgment.

II. Alter Ego Determination

After examining the record, the district court affirmed the bankruptcy court's conclusion that the undisputed facts demonstrated, as a matter of law, "that [Kwok] so dominated and controlled Greenwich Land . . . that Greenwich Land had no separate economic existence from [Kwok]." Special App'x at 47. On appeal, Appellants argue that the record raises material disputed issues of fact that precluded summary judgment on that issue. On *de novo* review, we disagree and conclude that summary judgment was properly granted on the alter ego claim.

In applying Delaware law to an alter ego claim,[1] we have articulated "a two-pronged test focusing on (1) whether the entities in question operated as a single economic entity, and (2) whether there was an overall element of injustice or unfairness." *NetJets Aviation, Inc. v. LHC Commc'ns, LLC*, 537 F.3d 168, 177 (2d Cir. 2008). With respect to the first prong, as we explained in a prior appeal in this bankruptcy case, Delaware law requires a court to "weigh[] 'the traditional factors' for 'traditional veil piercing claims,' which 'include insolvency, undercapitalization, commingling of corporate and personal funds, the absence of corporate formalities, and whether the subsidiary is simply a façade for the owner." *In re Kwok*, 172 F.4th 145, 156 (2d Cir. 2026) (alteration adopted) (quoting *Manichaean Cap., LLC v. Exela Techs., Inc.*, 251 A.3d 694, 714 (Del. Ch. 2021)). The second prong also requires the weighing of various factors, including:

> (1) whether allowing a reverse pierce would impair the legitimate expectations of innocent shareholders; (2) the degree to which the corporate entity whose disregard is sought has exercised dominion and control over the insider who is subject to the claim; (3) the degree to which the injury is related to the corporate entity's dominion and control of the insider, or to that person's reasonable reliance upon a lack of separate entity status between the insider and the corporate entity; (4) the public convenience; (5) the extent and severity of the wrongful conduct; (6) the possibility that the person seeking the reverse pierce is himself guilty of wrongful conduct; (7) the extent to which the reverse pierce will harm innocent third-party creditors; and (8) the extent to which other claims or remedies are practically available to the creditor.

Id. (alterations and omission adopted) (quoting *Manichaen*, 251 A.3d at 714–15). As we have emphasized, "numerous factors come into play when discussing whether separate legal entities should be regarded as alter egos, and the legal test for determining when a corporate form should be ignored in equity cannot be reduced to a single formula that is neither over-nor under-

[1] The parties agree that Delaware law applies.

inclusive." *NetJets Aviation, Inc.*, 537 F.3d at 177 (alterations adopted) (internal quotation marks and citation omitted).

As to the first prong, the uncontroverted facts demonstrated that Greenwich Land and Kwok functioned as a single economic unit. Ngok, the purported owner of Greenwich Land, demonstrated virtually no knowledge of any of Greenwich Land's officers, past or present, nor anything about its operations, finances, or real estate transactions. Numerous other undisputed facts likewise support the conclusion that Greenwich Land operated as a façade for Kwok. For example, Greenwich Land shared an address with Kwok and his associates, was staffed by Kwok's associates, was funded through Kwok's associated entities, and owned and operated real property used by Kwok and sold for his further benefit. Moreover, it is undisputed that Greenwich Land paid for personal expenses and luxury purchases made by Kwok, his family, and his associates, whose access to debit cards connected to the Greenwich Land account did not depend on whether they held an official role in the entity.

Appellants attempt to undermine this determination by arguing that Greenwich Land was "overcapitaliz[ed]" and solvent, as evidenced by the fact that "Greenwich Land received large influxes of cash . . . to fund its purchases of property." Appellants' Br. at 39 (omission in original) (internal quotation marks and citation omitted). However, as the bankruptcy court correctly noted, any capitalization or solvency was "ephemeral," as the funds were transferred in and out of Greenwich Land for "no consideration," and for purposes "outside its purported business purpose" and "in contravention of law, [the bankruptcy court's] orders, and its own agreements entered into before the [bankruptcy court]." Special App'x at 57.

We likewise conclude that, based upon the uncontroverted facts in the record, Kwok used Greenwich Land to "perpetuate fraud and injustice" under the second prong. *In Re Kwok*, 172

F.4th at 157 (alteration adopted) (internal quotation marks and citation omitted). "The transfer of property by the debtor to his spouse while insolvent, while retaining the use and enjoyment of the property, is a classic badge of fraud. The shifting of assets by the debtor to a corporation wholly controlled by him is another fraud." *In re Kaiser*, 722 F.2d 1574, 1583 (2d Cir. 1983) (internal citation omitted). As the undisputed facts demonstrate, Kwok did just that: He used Greenwich Land, nominally owned by his wife,[2] to spirit away personal assets and funds and shield properties to which his creditors were otherwise entitled, in contravention of court orders, while he and those close to him continued to use and enjoy them. "Acts intended to leave a debtor judgment proof are sufficient to show fraud and injustice," as is the case here. *Manichaean*, 251 A.3d at 708–09 (internal quotation marks and citation omitted).

In sum, there was overwhelming, uncontroverted evidence that Kwok exercised control over, and operated as a single economic entity with, Greenwich Land, and that his control contributed to his efforts to perpetuate fraud and injustice by shielding his assets, held by Greenwich Land, from Kwok's creditors and the Estate. Therefore, the district court correctly affirmed the bankruptcy court's grant of summary judgment on the alter ego claim.

III. Beneficial Ownership Determination

Appellants also challenge the district court's affirmance of the bankruptcy court's grant of summary judgment on the issue of beneficial ownership. The bankruptcy court concluded that Kwok is the beneficial owner of Greenwich Land based on the factors set forth in *In re Dordevic*, 633 B.R. 553, 558 (Bankr. N.D. Ill. 2021), *aff'd*, No. 20 B 9807, 2022 WL 19638995 (N.D. Ill. July 25, 2022), *aff'd*, 67 F.4th 372 (7th Cir. 2023), and in light of "its extensive prior

[2] Ngok indisputably benefited from the conduct of Kwok, negating the factors regarding the impairment of shareholders or third-party creditors. *See Manichaean*, 251 A.3d at 715.

discussion regarding the alter-ego analysis," Special App'x at 89–90. Appellants principally argue that the bankruptcy court erred in relying "entirely" on its alter ego analysis, and in its reliance on and application of the *Dordevic* factors. Appellants' Br. at 46. We are unpersuaded and agree with the bankruptcy court's resolution of this issue.

As a threshold matter, Delaware law does not have an established test for determining beneficial ownership. Thus, we discern no error in the bankruptcy court relying on "common-law factors generally applied by federal courts to determine the existence of a nominee relationship" absent an "established test for this question under [state] law." *Dordevic*, 633 B.R. at 557.[3] Those factors, which aid in "determining whether a titleholder is actually serving as a nominee for the benefit of another, includ[e] whether: (1) there is a close personal relationship between the nominee and the transferor; (2) the nominee paid little or no consideration for the property; (3) the parties placed the property in the name of the nominee in anticipation of collection activity; (4) the parties did not record the conveyance; and, (5) the transferor continues to exercise dominion and control over the property." *Id.* at 558 (quoting *United States v. Szaflarski*, 614 F. App'x 836, 838–39 (7th Cir. 2015)).

Applying that framework, the bankruptcy court correctly concluded that four of the five *Dordevic* factors support Kwok's equitable ownership of Greenwich Land.[4] The first factor—that is, a close personal relationship between the nominee and the transferor—is clearly met, as

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[3] Appellants argue for the first time on appeal that we should apply an "asset-by-asset" approach as set forth in *SEC v. Ahmed*, 72 F.4th 379 (2d Cir. 2023). Not only is the argument forfeited because it was not raised below, *see Harrison v. Republic of Sudan*, 838 F.3d 86, 96 (2d Cir. 2016), but Appellants make no argument as to how that test would yield a different result than the application of the *Dordevic* factors utilized by the bankruptcy court, even assuming *arguendo* it applied here.

[4] As Appellants recognize, other district courts in this circuit have relied upon similar factors. *See* Appellants' Br. at 46–47 (collecting cases).

Ngok is Kwok's wife. As set forth in the alter ego analysis, the second, third, and fifth factors are likewise met because, *inter alia*, the uncontroverted facts in the record demonstrate that Ngok made no contribution to and had no knowledge of Greenwich Land and its transactions; Greenwich Land was used to shield Kwok's assets from his creditors; and Kwok and his associates, rather than Ngok, maintained dominion and control over Greenwich Land. In short, on this record, Appellants failed to demonstrate a material issue of disputed fact as to whether Kwok was the beneficial owner of Greenwich Land, and summary judgment was properly granted on that issue.

* * *

We have considered Appellants' remaining arguments and conclude that they are without merit. Accordingly, we **AFFIRM** the judgment of the district court.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court