

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1810

In re: ALLONHILL, LLC, f/k/a Allon Hill, LLC; f/k/a Allon Financial, LLC; f/k/a The
Murrayhill Company, LLC,
Debtor

ALLONHILL, LLC
Appellee

v.

STEWART LENDER SERVICES, INC.,
Appellant

Appeal from the United States District Court
for the District of Delaware
(Nos. 16-ap-50419, 14-10663, 1:19-cv-00879 & 1:19-cv-00938)
District Court Judge: Leonard P. Stark

Argued March 2, 2026

Before: SHWARTZ, BIBAS, and PHIPPS, Circuit Judges.

(Filed: May 22, 2026)

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AMENDED OPINION*

SHWARTZ, Circuit Judge.

* This disposition is not an opinion of the full Court and, pursuant to I.O.P. 5.7, does not constitute binding precedent.

During its bankruptcy, Allonhill LLC initiated an adversary proceeding and brought a preference claim under 11 U.S.C. § 547(b) against Stewart Lender Services (“SLS”) (“Preference Claim”). Because the Bankruptcy Court did not clearly err in concluding that Allonhill was solvent when it transferred funds to SLS, the Preference Claim fails. As a result, we will reverse and remand.

I

Allonhill was hired by Aurora Bank, FSB to review its foreclosure practices. The contract between Allonhill and Aurora included a \$2 million “Limitation on Liability” (“Liability Cap”) for “claims arising out of th[eir] agreement,” subject to exceptions not relevant here. App. 981. In 2012, Aurora learned that Allonhill had failed to disclose significant conflicts of interest and ended their relationship. Allonhill then sued Aurora in Colorado state court for breach of contract for failure to pay Allonhill’s outstanding invoices, and Aurora countersued for the return of the \$24 million it had already paid, alleging, among other things, that Allonhill had defrauded Aurora and breached the parties’ contract by failing to disclose conflicts of interest (the “Aurora Claim”). A bench trial was completed in 2013.

While the trial was ongoing that same year, SLS purchased almost all of Allonhill’s assets, including all of Allonhill’s accounts receivable, pursuant to an Asset Purchase Agreement (“APA”). The APA excluded any assets or liabilities that were the subject of the then-ongoing litigation between Allonhill and Aurora. In accordance with the APA, Allonhill transferred to SLS approximately \$6.6 million (“Transfers”) over

three different dates between January 13, 2014, and February 18, 2014 (“Transfer Dates”).

Less than one month after the last transfer, the trial court (1) found that Allonhill breached its contract and committed fraud, and (2) ordered Allonhill to pay Aurora almost \$25.9 million in damages (“Initial Aurora Judgment”). Allonhill thereafter appealed the judgment and filed for bankruptcy. A bankruptcy confirmation plan was entered in 2015.¹

While the bankruptcy was pending, the state appellate court vacated the Initial Aurora Judgment, held that the Liability Cap limited Aurora’s damages to \$2 million, and on remand the trial court entered a judgment in that amount in favor of Aurora (“Final Aurora Judgment”). Aurora appealed, but in 2018, the parties settled Aurora’s claims for \$2.05 million (“Settlement Amount”).²

B

During the bankruptcy, Allonhill filed an adversary proceeding and asserted the Preference Claim against SLS, alleging that the Transfers were improper preferences

¹ The confirmation plan explicitly referenced Allonhill’s litigation with Aurora, Third Amended Plan of Reorganization, Bankr. Dkt. No. 551 at §§ 5.09, 11.10(a)-(b), and Allonhill explained in its disclosure statement that “success on the appeal may . . . render[] the Estate solvent,” First Amended Disclosure Statement, Bankr. Dkt. No. 511, at 15.

² This amount also covered claims for interest and attorneys’ fees.

under § 547(b).³ SLS asserted the defense that, because Allonhill was solvent on the Transfer Dates, the Transfers were not improper preferences.

In support of its solvency defense, SLS introduced expert testimony by a forensic accountant and corporate restructuring advisor who opined that Allonhill was solvent on the Transfer Dates based on an examination of Allonhill's post-sale balance sheet and related records. Critical to this conclusion, the expert determined that the Aurora Claim was worth \$2.05 million on the Transfer Dates based on (1) the \$2.05 million Settlement Amount, (2) the \$2 million Liability Cap, and (3) the fact that Allonhill had recorded the Aurora Claim on its December 31, 2013 balance sheet (before the Transfer Dates) at \$2 million. The expert opined that the Initial Aurora Judgment was an "errant judgment" that "doesn't affect what the claim really was worth as of the measurement date." App. 573. Allonhill did not present a solvency expert and instead argued that the Initial Aurora Judgment was the proper valuation for the Aurora Claim on the Transfer Dates because it was a "contemporaneous judgment" that was "close in time to the transfers at issue." App. 662-66.

³ Section 547(b) allows for the bankruptcy estate to recover a transfer that the debtor made to creditor within ninety days of filing a bankruptcy petition if, among other things, the debtor was insolvent on the date of the transfer. 11 U.S.C. § 547(b). Section 547 "exists to prevent debtors from depleting the estate to pay favored creditors with assets that otherwise would have been apportioned among creditors according to the prioritization scheme of the Bankruptcy Code." In re Am. Pad & Paper Co., 478 F.3d 546, 551 (3d Cir. 2007) (internal quotation marks omitted).

The case proceeded to trial, and the Bankruptcy Court denied Allonhill's Preference Claim because it found that the Aurora Claim should be valued at \$2.05 million based on the expert's valuation and, as a result, Allonhill was solvent on the Transfer Dates, so the Transfers were proper. In re Allonhill, LLC ("Allonhill I"), No. 14-10663 (KG), 2019 WL 1868610, at *48-51 (Bankr. D. Del. Apr. 25, 2019), aff'd in part, remanded in part, No. 13-11482 (KG), 2020 WL 1542376 (D. Del. Mar. 31, 2020). Allonhill appealed, and the District Court concluded that Allonhill was insolvent on the Transfer Dates because the Aurora Claim should be valued "contemporaneously" based on the Initial Aurora Judgment of \$25.9 million. In re Allonhill, LLC ("Allonhill II"), No. 13-11482 (KG), 2020 WL 1542376, at *8 (D. Del. Mar. 31, 2020). The District Court ultimately concluded that "Allonhill's contemporaneous method" was "based on evidence available near the time of the Transfers" and was the "more appropriate" method to value the Aurora Claim "[u]nder the circumstances" due to its "concern[] about the consequences of upsetting settled expectations" of the parties who had "ordered their affairs on the understanding that Allonhill was insolvent." Id. at *8-9.

Following remand to the Bankruptcy Court, the parties agreed to forgo other issues and file a direct appeal of the solvency ruling.

SLS appeals.

The question before us is whether the Bankruptcy Court clearly erred in concluding that the debtor was solvent⁵ at the time of the challenged transfers. To make this determination, we note that 11 U.S.C. § 547 authorizes the trustee to recover transfers made to a creditor within 90 days of the filing of bankruptcy if, among other things, the debtor was insolvent on the date of the transfer. 11 U.S.C. § 547 (b)(3); In re Trans World Airlines, 134 F.3d 188, 193 (3d Cir. 1998). The debtor is presumed to have been insolvent during the 90 days prior to the transfer, but this presumption can be rebutted by the preference party with “nonspeculative evidence that is sufficient to permit

⁴ The Bankruptcy Court had jurisdiction under 28 U.S.C. §§ 1334(b) and 157(a). The District Court had jurisdiction under 28 U.S.C. § 158(a)(1). This Court has jurisdiction under 28 U.S.C. § 158(d)(2). On appeal, “we stand in the shoes of the District Court and apply the same standard of review” which it was bound to apply, meaning that “[w]e review the bankruptcy court’s legal determinations de novo, its factual findings for clear error, and its discretionary decisions for abuse of discretion.” In re Somerset Reg’l Water Res., LLC, 949 F.3d 837, 844 (3d Cir. 2020) (internal citation omitted). “Whether a company is insolvent under the Bankruptcy Code is considered a mixed question of law and fact.” In re Trans World Airlines, Inc., 134 F.3d 188, 193 (3d Cir. 1998); Amerada Hess Corp. v. Comm’r, 517 F.2d 75, 82 (3d Cir. 1975) (noting what “criteria” or “standard” to apply “in determining ‘value’” is a question of law, but a “[c]ourt’s determination of value, the proper standard having been applied by it, is a finding of fact” entitled to clear error review).

⁵ Under the Bankruptcy Code, insolvency is the “financial condition such that the sum of such entity’s debts is greater than all of such entity’s property, at a fair valuation.” 11 U.S.C. § 101(32)(A).

Under the “balance sheet test,” courts determine the debtor’s insolvency by tallying “[t]he debtor’s assets and liabilities . . . at fair valuation to determine whether the corporation’s debts exceed its assets,” which would render the corporation insolvent. Mellon Bank, N.A. v. Metro Commc’ns, Inc., 945 F.2d 635, 648 (3d Cir. 1991), as amended (Oct. 28, 1991).

a court to conclude that the debtor was indeed solvent at the time of the transfer.” In re CVEO Corp., 327 B.R. 724, 729 (Bank. D. Del. 2005). If the preference party rebuts the presumption, then “the burden of proof shifts back to the [trustee]” to affirmatively demonstrate “that the debtor was, in fact, insolvent.” Id.

Because the solvency question here is based on the value of the Aurora Claim on the Transfer Dates, we must first determine whether the claim is disputed or contingent. A claim is disputed where all facts necessary to determine liability have occurred. Cf. 2 Collier on Bankruptcy ¶ 303.10 (“[W]hen the duty to pay does not rest upon a future event, the claim is not contingent.”). A claim is contingent when the debtor’s liability does not come into being until some future event occurs, even if the parties could have predicted it. In re Mallinckrodt PLC, 99 F.4th 617, 620 (3d Cir. 2024). Here, no party challenges the Bankruptcy or District Court’s treatment of the claim here as disputed. This is not surprising because the events giving rise to the liability had occurred, and the subsequent issuance of a judgment does not change that. See, e.g., In re Bradley, No. 07-14607BF, 2008 WL 4065810, at *6 (Bankr. E.D. Pa. Aug. 26, 2008) (“Generally, the pendency of a judicial ruling does not render a claim contingent within the meaning of the Bankruptcy Code.”). The parties also agree that Allonhill would be deemed solvent if the Aurora claim is valued in the amount of \$2.05, rather than in the amount of the \$25.9 million, which is the judgment the Colorado state trial court entered.

In this case, the Bankruptcy Court’s finding that \$2.05 million is the proper valuation is supported by the record. SLS introduced expert testimony that the Auora

claim was worth \$2.05 million based on: (1) the \$2.05 million Settlement Amount;⁶ (2) the \$2 million liability cap in Allonhill's contract with Aurora; and (3) the fact that Allonhill valued the claim at \$2 million on its December 31, 2013 balance sheet, which was prepared before the Transfer Dates, **App. 558, 566, 573**. Together, these facts provided a basis to conclude that Allonhill was solvent on the Transfer Dates. The burden then shifted back to Allonhill to show it was insolvent. It, however, presented no evidence beyond the state trial court's \$25.9 million judgment that was reversed on appeal. Thus, the Bankruptcy Court had a basis to find that Allonhill did not satisfy its burden of proof and thus the Court did not clearly err in concluding both that the value of the disputed claim was \$2.05 million and that Allonhill was solvent when the transfers were made. Therefore, the Bankruptcy Court properly sustained SLS's solvency defense to the Preference Claim.

⁶ There is caselaw that supports considering a judgment that postdates the transfer dates to evaluate a disputed claim, so we cannot say the Bankruptcy Court's selection constitutes an error of law given the record before it. In re Turner & Cook, Inc., 507 B.R. 101, 109 (Bankr. D. Vt. 2014) (“[A] court may permissibly use the judgment amount in valuing the [] liability at the time of the transfers.”); In re Imagine Fulfillment Servs., LLC (“IFS”), 489 B.R. 136, 150 (Bankr. C.D. Cal. 2013) (holding that “the full amount of the Judgment,” which was entered before the transfer and was pending appeal, should be considered in solvency analysis), aff'd, 2014 WL 3867531 (B.A.P. 9th Cir. Aug. 6, 2014) (“IFS II”); S.E.C. v. Antar, 120 F. Supp. 2d 431, 443 (D.N.J. 2000) (determining solvency in a fraudulent transfer case based on the dollar amount of the SEC's unliquidated claims on the relevant date, as reflected in the amount “ordered by [the] court” on a later date), aff'd, 44 F. App'x 548 (3d Cir. 2002); In re Pilavis, 233 B.R. 1, 7-8 (Bankr. D. Mass. 1999) (valuing disputed claim based on “hindsight from” a judgment after the transfers); see also In re W.R. Grace & Co., 281 B.R. 852, 868 (Bankr. D. Del. 2002) (noting that the valuation of a claim and thus a debtor's solvency at the time of the transfer is “to be corrected to reflect the evidence”).

III

For the foregoing reasons, we reverse the District Court and remand with directions to vacate its ruling and further remand the case to the Bankruptcy Court.