

**PUBLICATIONS**

## **Fifth Circuit Holds That Debtor's Control of Funds in Another Entity's Bank Account Made it *De Facto* Owner in Fraudulent Transfer Cases**

**April 2012**

The U.S. Court of Appeals for the Fifth Circuit recently held, in a case of first impression, that a debtor's transfer of funds to corporate insiders from another entity's bank account was a fraudulent transfer. According to the court's decision in *In re IFS Financial Corp.*, the debtor "exercised such control over these accounts that it had de facto control over [them], as well as the funds they contained." The insider defendants had argued unsuccessfully in the lower courts that the debtor did not own the bank accounts from which they received more than \$3 million, but the Fifth Circuit, in affirming, held that "control is more decisive than ownership."

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