

PUBLICATIONS

Court Reverses ‘Ponzi-Like’ Fraudulent Transfer Ruling

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The United States Court of Appeals for the Fifth Circuit, on March 20, 2012, reversed a district court’s fraudulent transfer judgment based on a financially troubled entity’s gift to a charity. *The American Cancer Society v. Cook*, 2012 WL 919 674 (5th Cir. 3/20/12) (Jones, Ch. J.). The transferor was the subject of a Securities and Exchange Commission (SEC) receivership, not a bankruptcy case, and the plaintiff was its court-appointed receiver. Because the Fifth Circuit found no evidence in the record of “a traditional Ponzi scheme,” it held that “the district court erred in applying the presumption of [actual] fraudulent intent.” *Id.* at *3. As the court stated, “[n]ot all securities frauds are Ponzi schemes.” *Id.* at *1.

Related People



**Michael
Cook**

Of Counsel
New York

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