

PUBLICATIONS

Fifth Circuit Finds Undersecured Creditor Waived Right to Credit Bid

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An undersecured creditor (“C”) intending to credit bid at a sale of the debtor’s unencumbered property must give “notice” of its intent to the bankruptcy trustee, held the U.S. Court of Appeals for the Fifth Circuit on April 23, 2015. Affirming the bankruptcy and district courts’ denials of C’s belated request, the Fifth Circuit held that C “failed to exercise” its right to credit bid at a sale of its collateral. As SRZ partner Michael L. Cook discusses in this article, however, the case really dealt with a secured creditor’s right under Bankruptcy Code Section 1111(b) to “elect” a nominally large secured claim in exchange for waiving its unsecured deficiency claim.

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