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Courts Equitably Adjust Transferee Liability

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A “bankruptcy court has discretion to award the [bankruptcy] trustee the actual [fraudulently transferred] property or its pre-transfer value,” held the U.S. Court of Appeals for the Seventh Circuit on Oct. 23, 2015. *Hebenstreit v. Kaur*, 2015 U.S. App. LEXIS 18544, at *6-7 (7th Cir. Oct. 23, 2015). Affirming the lower courts, the Seventh Circuit rejected the transferee’s argument that “[s]he should not ... have to pay the value of the [closely held corporation’s] shares when she received them,” and that she “only [had to] return the shares to the bankruptcy estate.” *Id.* at *6. In this article, SRZ partner Michael L. Cook analyzes the Seventh Circuit’s decision, which held the transferee liable for the value of the shares at the time of the fraudulent transfer instead of ordering the return of shares of stock that had declined in value.

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