



ALERTS

Update on Insider Litigation

December 10, 2015

The U.S. Bankruptcy Court for the Northern District of Illinois ordered the “equitable subordination” of insider secured claims against a Chapter 11 debtor on Nov. 30, 2015 because the insiders left “the company and its unsecured creditors unprotected against a sharp market decline” in the debtor’s business; failed to make an equity infusion “when a sharp market decline [in the debtor’s business operations] did in fact occur ... immediately after [the insiders received a cash] distribution”; caused the debtor to lose its “equity cushion” with the distribution they received and “replaced” it with their secured loans, thereby “diminishing the funds available to support the trade creditors”; and kept the debtor’s finances “completely confidential from its trade creditors,” making it “impossible for any ... trade creditors to know about its shareholder distributions ... or its decision to substitute secured debt.” *In re SGK Ventures, LLC*, 2015 WL 7755525, at *22 (Bankr. N.D. Ill. Nov. 30, 2015). Because of the trustee’s broad attack on the debtor’s insiders here, the court’s decision provides a helpful update to the current state of insider litigation.

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