

#### NEWS & INSIGHTS

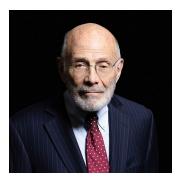
#### **ALERTS**

## Second Circuit Holds Safe Harbor Defense Bars Creditors' State Law Fraudulent Transfer Claims

#### March 29, 2016

Creditors of a Chapter 11 debtor asserting "state law, constructive fraudulent [transfer] claims ... are preempted by Bankruptcy Code Section 546(e)," held the U.S. Court of Appeals for the Second Circuit on March 29, 2016. In re Tribune Company Fraudulent Conveyance Litigation, 2016 WL \_\_\_\_, at \*1 (2d Cir. March 29, 2016), as corrected. Section 546(e), the so-called "safe harbor" defense, "shields from avoidance proceedings brought by a bankruptcy trustee transfers by or to financial intermediaries effectuating settlement payments in securities transactions or made in connection with a securities contract, except through an intentional fraudulent [transfer] claim." Id. Affirming the district court's dismissal of the creditors' suit, the Second Circuit rejected the district court's analysis, relying instead on a preemption analysis. In a separate summary unpublished order, the court affirmed another district court decision dismissing a similar suit on preemption grounds "for substantially [the same] reasons." Whyte v. Barclays Bank PLC, No. 13-2653-CV (March 24, 2016).

# Related People



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