

ALERTS

Texas Supreme Court Resolves Fraudulent Transfer Value Defense for Fifth Circuit

April 6, 2016

“Reasonably equivalent value” as a defense to a fraudulent transfer suit “can be satisfied with evidence that the transferee (1) fully performed under a lawful, arm’s-length contract for fair market value, (2) provided consideration that had objective value at the time of the transaction, and (3) made the exchange in the ordinary course of the transferee’s business,” held the Supreme Court of Texas on April 1, 2016, in response to a certified question from the U.S. Court of Appeals for the Fifth Circuit. *Janvey v. Golf Channel*, ___ S.W.3d ___, 2016 WL 1268188, at *2 (Tex. April 1, 2016), *responding to Janvey v. Golf Channel Inc.*, 792 F.3d 539, 547 (5th Cir. 2015) (“*Golf Channel II*”). The Fifth Circuit, on March 11, 2015, had initially held an advertising firm in an SEC receiver’s Texas fraudulent transfer suit liable for \$5.9 million it had received in good faith from a Ponzi scheme debtor. *Janvey v. Golf Channel Inc.*, 780 F.3d 641, 646-47 (5th Cir. 2015) (“*Golf Channel I*”) (advertising services had “no value” to Ponzi scheme creditors although services might be “quite valuable” to creditors of a legitimate business).

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