PUBLICATIONS

Safe Harbor Defense Bars Creditors' State Law Fraudulent Transfer Claims

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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 1226871, *1 (2d Cir. Mar. 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.* In this article, of counsel Michael Cook examines the Second Circuit's decision.

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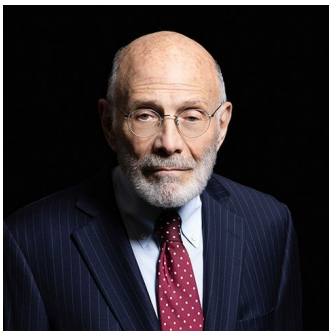

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