Davis Polk

Delaware Court 'Champions' Per Se Rule for Constructive Fraudulent Transfers

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In re Champion Enterprises Inc., the U.S. Bankruptcy Court for the District of Delaware dismissed, inter alia, portions of the creditors' committee's complaint against the pre-petition lenders that alleged that transfers of certain cash, collateral and other rights were constructive fraudulent transfers. In doing so, Hon. Kevin Gross applied a "per se test": A payment made or collateral granted on account of valid third-party antecedent debt, while potentially preferential, is per se not a fraudulent transfer.

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