Articles + Publications | August 8, 2024

What Are Fraudulent Transfer Claims and What Defenses Exist to Such Claims?

Creditor's Rights Toolkit

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A fraudulent transfer is an attempt to avoid a debt by improperly transferring assets to a third party, or a transfer of assets for less than fair value made while the company is insolvent or will become insolvent as a result of the transfer. Each state has its own statute regarding fraudulent transfers generally based on the Uniform Voidable Transactions Act or Uniform Fraudulent Transfer Act. Section 548 of the Bankruptcy Code provides an additional statutory basis to avoid fraudulent transfers when a company is in bankruptcy. This framework is designed to prevent a debtor from thwarting its creditors' rights by improperly transferring its assets.

This article discusses the different types of fraudulent transfers, how these transfers can be avoided or unwound during a bankruptcy case, and the defenses that exists to such claims. To access this article and read other insights from our Creditor's Rights Toolkit, please click here.

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