

PUBLICATIONS

Credible Fraudulent Transfer Advocacy

The Bankruptcy Strategist

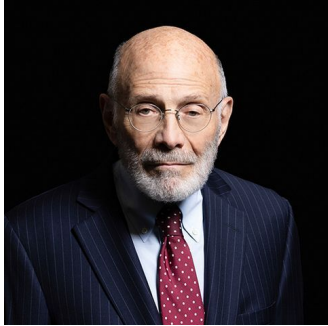
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In his latest article for *The Bankruptcy Strategist* titled, “Credible Fraudulent Transfer Advocacy,” Schulte Roth & Zabel of counsel Michael L. Cook discusses how appellate courts are leveraging common sense when disposing of constructively fraudulent transfer appeals.

“Common sense is not so common,” said Voltaire in 1764. But our appellate courts continue to use common sense when disposing of constructively fraudulent transfer appeals, as recent decisions show. *See, e.g., In re International Supply Co.*, 2024 WL 2813849 (7th Cir. June 3, 2024); (“[A] balance sheet can convey an unrealistic picture of a firm’s finances”; rejected lender’s argument that “sole legally permissible approach to defining solvency is the balance-sheet test”); *In re Wade Park Land Holdings, LLC*, 2024 WL 3024648, *4 (2d Cir. June 17, 2024) (“[T]he district court correctly concluded that the values stated ... in the appraisals were not plausible when viewed in light of other allegations in the complaint — in particular the conduct of the parties and the inability [of the debtors’ principal] to refinance [the debtor’s property].”); *In re The Mall at the Galaxy, Inc.*, 2024 WL 3688721 (3d Cir. Aug. 7, 2024) (debtor received no value from insider loan and pre-bankruptcy payment constructively fraudulent; multiple transactions collapsed; pre-judgment interest awarded on pre-bankruptcy loan repayment because defendant “able to use” funds “for over a decade.”); and *In re White*, 2024 WL 689232 (10th Cir. BAP Feb. 21, 2024) (“a true dollar-for-dollar exchange ... almost always constitutes reasonably equivalent value”).

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