Opinion Title: 09/26/2005 PUBLISHED In re Kenneth L. Perry, Loveridge v. The Ark of Little Cottonwood, 05-2183, Judge Thurman.

Body:

Chapter 7 Trustee sought to avoid a pre-petition use of a credit card to pay the Defendant Creditor. The Trustee alleged that the Debtor's use of credit pre-petition was avoidable as either a preference under § 547 or a fraudulent transfer under § 548. At issue in this case was whether use of credit, on its own, constitutes “a transfer of an interest of the debtor in property.”The Court held that credit is not an interest of the debtor in property because credit is not property of the estate under § 541(a)(1). Citing to Begier v. IRS, 496 U.S. 53 (1990), the Court held that an interest of the debtor in property follows the standard for deciding whether credit is property of the estate. The Court held that credit is not property of the estate because it does not reduce to liquidity for creditors. Accordingly, the Court granted summary judgment in favor of the defendant and dismissed the complaint.

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Judge: Judge William T. Thurman [2]
Date: Monday, September 26, 2005

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