Opinion Title: 06/16/2011 UNPUBLISHED Strong v. Western United Life Assurance Co., 04-2453, Judge Thurman.

Body: The Court dealt with multiple claims of the Examiner seeking to reclaim property transferred from the Debtor's estate, including claims under 11 U.S.C. §§ 362, 363, and 549, and Utah law. The Court determined that real property transferred by the Debtor postpetition to an affiliate which then transferred a security interest in that property to the Defendant could not be brought back into the estate because the Defendant successfully invoked the good faith defense under Utah law and under the Bankruptcy Code. In addition, the Examiner could not establish that the Defendant had not given reasonably equivalent value under Utah law or present fair equivalent value under § 549 for the transfer because the Court did not see it proper to collapse two separate loans into one. Finally, insufficient evidence prevented the Court from finding that the transferor (the Debtor's affiliate) was insolvent at the time of the transfer. On the other causes of action, the Court found that § 549 was the proper mechanism to attempt to avoid the initial transfer from the Debtor, rather than §§ 362 or 363.

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Judge: Judge William T. Thurman [2]

Date: Thursday, June 16, 2011

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