Opinion Title: 08/13/2014 UNPUBLISHED Gillman, Chapter 7 Trustee v. Geis (in re TWIN PEAKS FINANCIAL SERVICES, INC.), 09-02574, Judge Mosier.

Body:

The Trustee brought an avoidance action against the defendants under § 548 to recover payments they received in excess of their investment in the debtor's ponzi scheme. The defendants argued that they were entitled to offset their potential claim for securities fraud under Utah state law or retain the payments under § 548(c). Held: Defendant's may not offset a pre-petition claim against the Trustee's avoidance claim. The defendant's potential statutory claim does not constitute value for purposes of § 548(c) and the payments the defendants received were not in satisfaction of the potential statutory claim.

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Judge: Chief Judge R. Kimball Mosier [2]
Date: Wednesday, August 13, 2014

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