

BANKRUPTCY AND REAL ESTATE FINANCE

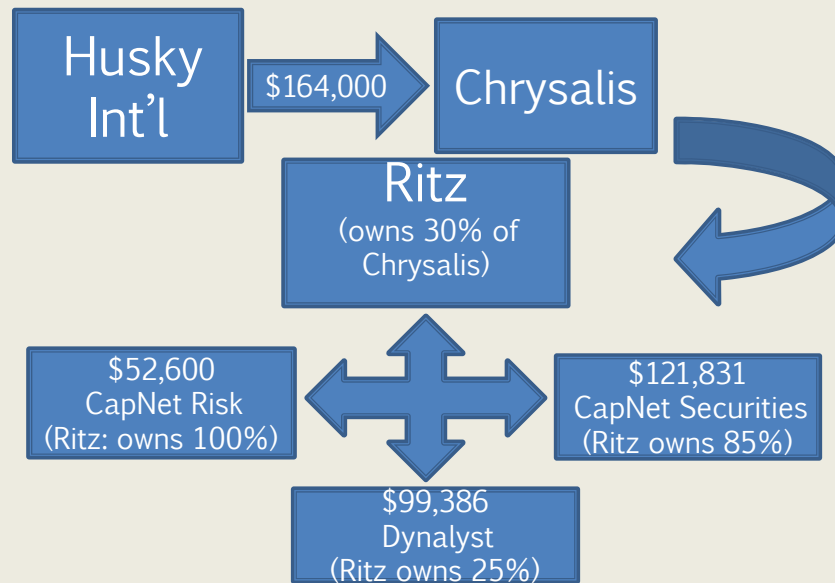
Presented by Judge Tony M. Davis
51st Annual William W. Gibson, Jr.
Mortgage Lending Institute
September 29, 2017



***Husky Int'l Electronics v. Ritz*, 136 S. Ct. 1581 (2016)**

- Chrysalis Manufacturing incurred debt of approximately \$164,000 to Husky International Electronics
- Daniel Lee Ritz, Jr., was Chrysalis' director and part owner at the time the debt was incurred.
- Ritz drained Chrysalis of assets by transferring Chrysalis' funds to entities that Ritz owned, controlled, or had an interest in.
- Husky filed suit against Ritz. The bankruptcy and district courts both found Ritz personally liable, but held that the debt was not obtained by "actual fraud" and therefore, could be discharged in Ritz' Chapter 7 bankruptcy.
- 5th Circuit affirmed the bankruptcy and district courts.

***Husky Int'l Electronics v. Ritz*, 136 S. Ct. 1581 (2016)**



***Husky Int'l Electronics v. Ritz*, 136 S. Ct. 1581 (2016)**

- **11 U.S.C. § 523(a)(2)(A)**- [Excepts from discharge]: “any debt—for money, property, services, or an extension, renewal, or refinancing of credit, *to the extent obtained by*—false pretenses, a false representation, or *actual fraud*. . . .

Issue:

- Whether prohibition of a bankruptcy discharge for “actual fraud” under section 523(a)(2)(A) includes fraudulent conveyance schemes that do not involve a false representation.

***Husky Int'l Electronics v. Ritz*, 136 S. Ct. 1581 (2016)**

Supreme Court Decision (7-1, Sotomayor; Thomas dissenting)

- “[A]ctual fraud in § 523(a)(2)(A) encompasses . . . fraudulent conveyance schemes, that can be effected without a false representation.”
- Because Texas law imposes personal liability on Ritz for effectuating the transfers, the debt could have been “obtained by” actual fraud.
- The Supreme Court reversed and remanded the case. On remand, the Bankruptcy Court determined that the debt was nondischargeable.

***Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973 (2017)**

- Sun Capital acquired Jevic with money borrowed from CIT in a leveraged buyout.
- Two years later, Jevic filed under Chapter 11 and terminated its employees.
- The employees sued Jevic under the WARN Act and got a \$8.3 million priority wage claim.
- Proceeds of the sale of tangible assets paid to Sun Capital.

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First appeared as part of the conference materials for the
51st Annual William W. Gibson, Jr. Mortgage Lending Institute session
"Bankruptcy Law Update"