



Virginia Business Lawyers

Preference Claims Defense Number 1

By: Bill Gray. Monday, June 18th, 2012

In our last post we outlined the **legal defenses against a bankruptcy preference claim**. Now let's look at the "ordinary course payment" defense in a bit more detail.

An ordinary course payment is, essentially, when there was nothing at all unusual or out of the ordinary pertaining to the payment at issue. For example, prior to the look back preference period, a debtor always pays invoices from a creditor within 30 days of receipt of the invoice. Likewise, for all payments made within the preference look back period, the debtor also pays invoices within 30 days of receipt. Because there is nothing different, or out of the ordinary, with the payments in the preference period, when compared to payments outside of the preference period, **the creditor has a defense to the preference claim**. This makes perfect sense, since the public policy here is to prevent a debtor from, in fact, favoring or preferring certain creditors over other creditors.

In the next post, we'll examine another one of these defenses so you can be ready if a trustee wanting a return of payment reaches out to your company. If you are party to a preference claim, you should contact a **Virginia creditors' rights lawyer** who can explain your rights.

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