

ACTION ON DECISION

SUBJECT: United States Internal Revenue Service v. Donald Snyder,
343 F.3d 1171 (9th Cir. 2003)

Issue: Whether the value of a debtor's interest in a pension plan that is excluded from the bankruptcy estate under Bankruptcy Code § 541(c)(2) should be included in the value of the Service's secured claim under Bankruptcy Code § 506(a).

Discussion: In this Chapter 13 bankruptcy case, the Service filed a proof of claim asserting secured status based upon its lien against the debtor's interest in future retirement benefit payments from a pension plan. The pension plan contained an anti-alienation clause as required under ERISA and the Internal Revenue Code. The debtor objected to the Service's secured claim, arguing that the pension plan was excluded from property of the bankruptcy estate under the holding in Patterson v. Shumate, 504 U.S. 753 (1992), and, therefore, could not be included in the value of the Service's secured claim. The Ninth Circuit agreed with the debtor and held that the anti-alienation provision which prevented the debtor's interest in the pension plan from becoming property of the estate under section 541(c)(2) also prevented the Service from having a secured claim under section 506(a). United States v. Snyder, 343 F.3d 1171, 1179 (9th Cir. 2003).

In Patterson v. Shumate, 504 U.S. 753 (1992), the Supreme Court held that the anti-alienation clause required for ERISA compliance and tax qualification constitutes a restriction on transfer enforceable under "applicable nonbankruptcy law" within the meaning of section 541(c)(2). Accordingly, a debtor's interest in a pension plan containing the anti-alienation clause is excluded from the bankruptcy estate under section 541(c)(2).

In In re Lyons, 148 B.R. 88, 94 (Bankr. D.D.C. 1992), the bankruptcy court held that because the anti-alienation provisions in retirement annuity contracts were "ineffective against Federal tax liens," they were not, under the terms of section 541(c)(2), "enforceable under applicable nonbankruptcy law" against the Service. The court held that the debtor's rights to future payments from the annuities remained property of the bankruptcy estate under section 541(c)(1) and were included in the value of the Service's secured claim under section 506(a).

While noting a split in the case law on this issue, the Ninth Circuit rejected the reasoning of Lyons. The court found irrelevant the fact that an anti-alienation clause is not enforceable against the Service and held that the provision will prevent the transfer of a

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debtor's interest in the pension plan to the bankruptcy estate. Because the pension plan was excluded from the bankruptcy estate under section 541(c)(2), the estate did not have an interest in the plan to which the federal tax lien could attach and secure the Service's claim under section 506(a).

Although the Ninth Circuit's holding prevented the Service from attaining secured status in the bankruptcy proceeding, the court noted that the Service's lien against the debtor's interest in the pension plan was not extinguished or otherwise affected by the bankruptcy case.

Recommendation:

Acquiescence.

Reviewers:

LHS
GDG

_____/s/
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