

EXERCISE

AVOIDANCE ACTIONS

Background

You represent Tempo Cycles, Inc., a manufacturer of road bikes and accessories. They're in significant financial distress and are about to file a Chapter 11 petition with the bankruptcy court. You've been working with the company to prepare a Schedule of Financial Affairs that will be filed on the petition date.

While doing so you flag the following transactions:

- One of the company's executives was paid a \$50K bonus during the past six months. No other employees received a bonus.
- The company entered into a new contract two months ago to purchase bike chains. They prepaid for the goods, which they received this month.
- The company paid off one of its creditors last month because the creditor sent them a threatening letter demanding payment prior to the contract due date.

The company wants to understand why you have singled out these transactions as important.

Instructions

Come prepared to discuss what you'll tell the client, being sure to cover:

- What an avoidance action is in general.
- What about these transactions is concerning?
- The company's obligation in the bankruptcy with respect to these transactions.
- What happens if the company fails to prosecute one or more avoidance actions?
- What defenses, if any, the recipients of these transfers might have.