PENSION FUNDS' ATTEMPTS TO PURSUE SUCCESSOR LIABILITY EXTINGUISHED

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Central Grocers, Inc. and its affiliates filed for Chapter 11 bankruptcy. As part of the bankruptcy proceeding, the debtors sought to sell substantially all of their assets as part of a competitive bidding process free and clear of all claims, including any successor liability. Among certain of the debtors' creditors were multiemployer pension funds that held unsecured claims for withdrawal liability. Supervalu Holdings, Inc. successfully bid on one of the debtor's distribution centers where the debtor had employees on whose behalf it had made contributions to the multiemployer pension fund. The bankruptcy court approved the sale free and clear of all claims.

The multiemployer funds subsequently appealed, asking that the portion of the sale approval preventing them from pursuing Supervalu for the unsatisfied withdrawal liability under a successor liability theory be set aside. However, the district court held that, since the funds had not obtained a stay of the sale pending appeal as required by Section 363(m) of the Bankruptcy Code, there were no grounds to set aside the bankruptcy court's approval. Accordingly, the funds' appeal was dismissed. *The Chicago Area I.B. of T. Pension Fund v. Central Grocers, Inc.* (N.D. Ill.)