

§ 541(a)
interline trusts

Morrow v. Utah Idaho Freight Systems, Adversary No. 00-3366
In re Silver Eagle Company, Case No. 300-34096
Appellate No. CV 01-1263-BR

10/3/2001 Dist. Ct. aff'g ELP Unpublished

The district court affirmed the bankruptcy court's entry of summary judgment for the trustee. The court adopted the bankruptcy court's letter ruling in the companion case of Morrow v. A.C. Freight Systems, et al., Adv. No. 00-3274 (found at P01-11(23)). This adversary proceeding presented the same issues as in the A.C. Freight Systems case. See P01-11(23) for a more complete summary and for the text of the bankruptcy court's letter ruling.

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DISTRICT OF OREGON
PORTLAND, OREGON

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BY _____ *JLG*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

In re SILVER EAGLE COMPANY,)	CV 01-1263-BR
)	
Debtor.)	BR Case No. 00-34096-elp7
_____)	
)	Adv. Proc. No. 00-03366-elp
UTAH IDAHO FREIGHT SYSTEMS,)	
INC., a Utah corporation,)	OPINION AND ORDER
)	
Defendant-Appellant,)	
)	
v.)	
)	
ROBERT K. MORROW, INC.,)	
Trustee,)	
)	
Plaintiff-Appellee.)	

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Certified to be a true and correct
copy of original filed in my office.
Dated 10-10-01
Donald M. Cinnamond, Clerk
By *[Signature]* Deputy

1- OPINION AND ORDER

(W)
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BROWN, Judge.

This matter comes before the Court on appeal from a Judgment of the Bankruptcy Court for the District of Oregon in a Chapter 7 proceeding. The Bankruptcy Court granted Plaintiff-Appellee Robert K. Morrow, Inc.'s Motion for Summary Judgment and found certain funds it received as bankruptcy trustee from Wells Fargo Bank constitute an asset of the estate. Defendant-Appellant Utah Idaho Freight Systems Inc. objected to referral of this matter to the Bankruptcy Appellate Panel and elected to have the appeal reviewed by this Court. The Court has jurisdiction over the appeal pursuant to 28 U.S.C. § 158(a)(1).

The Bankruptcy Court's conclusions of law are reviewed *de novo*. *In re Federated Group, Inc.*, 107 F.3d 730, 732 (9th Cir. 1997) (citation omitted). See also *In re Daniels-Head & Assoc.*, 819 F.2d 914, 918 (9th Cir. 1987). Findings of fact are reviewed under a "clearly erroneous" standard. *In re Leach*, 130 B.R. 855, 856 (9th Cir. BAP 1991) (citations omitted). See also Fed. R. Bank. P. 8013.

Debtor Silver Eagle Company (Silver Eagle) was a trucking company that had interline agreements with other trucking companies under which customers made a single payment to Silver Eagle, as the originating carrier or destination carrier, to ship freight in areas outside of Oregon and Washington. The unitary-customer payments to Silver Eagle included the fees charged by

other carriers to transport customers' shipments in geographical areas where Silver Eagle did not operate. As it was authorized to do, Silver Eagle deposited and commingled such funds in its general operating account, did not maintain a separate account for the interline payments it received, had unrestricted use of the interline payments, and periodically paid out settlement amounts to the other carriers. Defendant-Appellant is an interline carrier that received pro-rated payments for the services it provided under an agreement with Silver Eagle.

The trustee filed an adversary proceeding pursuant to 28 U.S.C. § 2201 for a court declaration that money deposited by the debtor with Wells Fargo Bank is property of the bankruptcy estate under 11 U.S.C. § 541(a). Defendant-Appellant contends funds received by Silver Eagle for interline shipping are held in trust for its benefit pursuant to the Interline Trust Fund Doctrine. The Bankruptcy Court held the interline funds are not held in trust for Defendant-Appellant and entered Judgment accordingly.

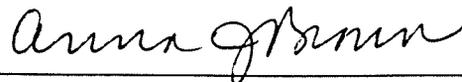
At issue in this appeal is whether the Interline Trust Fund Doctrine should be adopted as a matter of law in this Circuit and applied in this matter.¹ This Court has carefully and thoroughly reviewed the record *de novo* and finds no error. The Bankruptcy

¹The identical issue is raised in an appeal presently pending before this Court in a related proceeding that will be addressed in a separate Opinion and Order. See *In re Silver Eagle Co., A.C. Freight Systems, Inc. v. Robert K. Morrow, Inc.*, No. CV 01-1262 (appeal received August 21, 2001).

Court Judgment, therefore, is **AFFIRMED** and Judge Perris's March 20, 2001, Letter-Opinion is **ADOPTED** as the opinion of this Court.

IT IS SO ORDERED.

Dated this 3rd day of October, 2001.



ANNA J. BROWN
United States District Judge

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