

Crosby v. Lewis

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Crosby v. Lewis

Case: Crosby v. Lewis (1988)

Subject Category: Pyramid

Agency Involved: Private Civil Suit

Court: Florida District Court of Appeal

Florida

Case Synopsis: The Crosby's used several cashiers' checks to invest in Lewis's pyramid scheme. The State ultimately shut it down and appointed a receiver to distribute the remaining funds to creditors, of which the Crosby's were also. Lewis had some of the cashiers' checks still in her possession, undeposited, at the time the receiver was appointed, and Crosby instructed the bank to stop payment on the checks. They intervened in the receivership proceeding to challenge the order by the court refusing to distribute proceeds to them until the cashiers' checks were paid to the receiver.

Legal Issue: Should the stop-payment order by the Crosby's preclude them from participating in the distribution of assets from the receiver?

Court Ruling: The Court held that the non-payment of the cashiers' checks was improper, but it should not preclude the Crosby's participation in the distribution of funds from the receiver. The issuance of a

cashiers check is preapproval for payment by the bank, and to stop payment without justification may violate state law. However, the question of the correctness of a stop payment order is between the bank and the receiver, and legitimate reasons may exist that would allow the bank to justifiably stop payment on a cashiers check. Because the stop-payment order creates an issue between the bank and the receiver, it should not preclude Crosby's from participating in the distribution of funds.

Practical Importance to Business of MLM/Direct Sales/Direct Selling/Network Marketing/Party Plan/Multilevel Marketing: A receiver can be appointed to preserve the assets of a fraudulent entity and to prevent further fraudulent activity. They are generally given wide discretion to intervene for the benefit of creditors.

Crosby v. Lewis , 523 So.2d 1154 (1988) : The Court held that the non-payment of the cashiers' checks was improper, but it should not preclude the Crosby's participation in the distribution of funds from the receiver. The issuance of a cashiers check is preapproval for payment by the bank, and to stop payment without justification may violate state law. However, the question of the correctness of a stop payment order is between the bank and the receiver, and legitimate reasons may exist that would allow the bank to justifiably stop payment on a cashiers check. Because the stop-payment order creates an issue between the bank and the receiver, it should not preclude Crosby's from participating in the distribution of funds.

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523 So.2d 1154

James R. CROSBY, Vernon E. Crosby, Robert E. Crosby and Keith Crosby,

Appellants,

v.

Gerald LEWIS, As Comptroller and Head of the Department of Banking and Finance,

et al., Appellees.

No. 86-2131.

District Court of Appeal of Florida,

Fifth District.

Jan. 14, 1988.

Rehearing Denied April 27, 1988.

SHARP, Judge.

James Crosby, Vernon Crosby, Robert E. Crosby and Keith Crosby (the Crosbys) appeal from a non-final order of partial distribution of funds held by a receiver. [FN1] The Crosbys were allowed to intervene in the receivership as investors. They object to the provisions of the partial distribution plan which prevents them from participating in any disbursements until the proceeds of cashier's checks purchased by the Crosbys and delivered to the payee, but not cashed before the receivership was instituted, are paid into the receivership fund. We reverse.

FN1. Fla.R.App.P. 9.130(a)(3)(C)(iii).

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