

Bond Case Briefs

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BANKRUPTCY - KENTUCKY

In re Seven Counties Services, Inc.

United States Bankruptcy Court, W.D. Kentucky, Louisville Division - May 30, 2014 - B.R. - 2014 WL 2442176

Kentucky Employees Retirement System (KERS) filed complaint seeking a determination that debtor, a tax-exempt nonprofit employer which operated mental health facilities in Kentucky, was “governmental unit” that was statutorily barred from seeking Chapter 11 relief, as well as to enjoin debtor from seeking to withdraw from KERS and to require debtor to continue to contribute to KERS. Debtor moved to reject its alleged contract with KERS.

The Bankruptcy Court held that:

- Non-profit charitable organization which was established by private individual, and which was only later recognized by the Commonwealth as regional mental health board to operate mental health facilities pursuant to contracts with the Commonwealth, was not department, agency, or instrumentality of the Commonwealth and did not qualify as “governmental unit”;
- Federal statute requiring trustee or debtor-in-possession to manage and operate property postpetition pursuant to valid state laws in effect where property was located could not be interpreted so broadly as to prevent debtor from withdrawing from KERS;
- Debtor’s contributions to KERS were not in nature of “regulatory fees,” “taxes” or “assessments”;
- Arrangement between debtor and KERS was in nature of contract; and
- Contract was still “executory” and could be rejected by debtor.