

Reforming Preference Law

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I. INTRODUCTION.....	41
II. THROWING OUT THE BABY WITH THE BATHWATER.....	42
III. PREFERENTIAL TRANSFERS IN CONSUMER BANKRUPTCY	44
IV. CONCLUSIONS.....	49
V. APPENDIX: TABLE.....	51

I. INTRODUCTION

The proper role and contours of preference law continues to stir debate.¹ In *Conflicting Preferences in Business Bankruptcy*, Professor Brook Gotberg recommends that Congress “do away with general preference liability when a strict policy of equal distribution is not a priority, and more firmly establish preference liability when it is.”² Focusing on the goal of equality among creditors, she proposes to do away with preference recoveries in business reorganizations and permit them only in liquidations.³ This Essay addresses the implications of Gotberg’s proposal, ultimately concluding that her prescriptions would do more harm than good. Noting that, in most

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1. AM. BANKR. INST., COMMISSION TO STUDY THE REFORM OF CHAPTER 11, 2012–14 FINAL REPORT AND RECOMMENDATIONS 150 (2014), available at <https://abiworld.app.box.com/s/wircv5xv83aav14dp4h> (discussing hearing testimony expressing “strong frustrations with preference law”).

2. Brook E. Gotberg, *Conflicting Preferences in Business Bankruptcy: The Need for Different Rules in Different Chapters*, 100 IOWA L. REV. 51, 92 (2014).

3. *Id.* at 88–92. She also briefly discusses the potential to vary the ability to set aside preferential transfers depending on the goal of the bankruptcy, regardless of the chapter. *Id.* at 86–87.

circumstances, consumer bankruptcies operate under the same rules Gotberg advocates for businesses, I provide some empirical evidence on preferential transfers in consumer cases. This evidence bolsters the argument that treating preferences differently by chapter would unnecessarily increase liquidations. I also briefly discuss other proposals to reform preference law and call for more research into the extent and contours of the problem.

II. THROWING OUT THE BABY WITH THE BATHWATER

An important goal of the bankruptcy system writ-large is to deter “the race of . . . creditors to dismember the debtor.”⁴ The idea is to allow the debtor breathing room to recover and perhaps prevent a filing in the first instance.⁵ Allowing recovery of preferential transfers serves this goal in that it deters “opt-out behavior by in-the-know creditors.”⁶ Seemingly all commentators agree that another important goal of preference law is to equalize distribution among creditors (of the same class).⁷ To Gotberg, the goal of equality swallows the first, at least in the liquidation context.⁸ Consequently, she would only permit preference recoveries during a liquidation. Regrettably, requiring that a business liquidate before preferences can be clawed back threatens to trigger dismemberment of the debtor in a reorganization.⁹

I find the unequal treatment of preferential transfers Gotberg proposes a peculiar way to emphasize the goal of equality of distribution. Like Professor Bussel, I do not see the utility of putting equality above all other goals.¹⁰ Preventing a bankruptcy filing may be more salient in the consumer context,

4. Vern Countryman, *The Concept of a Voidable Preference in Bankruptcy*, 38 VAND. L. REV. 713, 728 n.100 (1985) (quoting H.R. REP. NO. 95-595, at 177-79 (1977)).

5. Empirically, it is very difficult to establish whether deterrence works. With enough breathing room the putative debtor may never file bankruptcy.

6. Daniel J. Bussel, *The Problem with Preferences*, 100 IOWA L. REV. BULL. 11, 14 (2014); see also Gotberg, *supra* note 2, at 57 (characterizing one of the goals of preference law as ensuring “the continuation of the debtor as a going concern”); AM. BANKR. INST., *supra* note 1, at 149 (describing this goal as “maximiz[ing] estate value . . . through . . . deterrence”).

7. See AM. BANKR. INST., *supra* note 1, at 150; Bussel, *supra* note 6, at 14; Gotberg, *supra* note 2, at 57.

8. Gotberg acknowledges that deterrence is a significant policy goal, but decouples it from the reorganization context. See Gotberg, *supra* note 2, at 88 (“Continuing to avoid preferences in the liquidation context will provide appropriate deterrence to creditors who might otherwise ‘race to the courthouse,’ even in situations where the debtor opts for reorganization over liquidation.”).

9. Accord Bussel, *supra* note 6, at 11-12.

10. *Id.* at 17 (“[P]reference law is not and should not be a single-minded pursuit of equality of distribution without consideration of complementary, and even countervailing policies.”). “[W]ith creditors classified for distribution purposes on the basis of liens and priorities, no bankruptcy policy of ‘equality’ exists. A policy of preserving classes and of preserving equality within classes does exist, however . . .” Countryman, *supra* note 4, at 748 (footnote omitted). But see Charles Jordan Tabb, *Rethinking Preferences*, 43 S.C. L. REV. 981, 1022-26 (1991) (critiquing the “incentive effect justification”).

but it should also be important in business cases.¹¹ Gotberg's piecemeal approach is likely to motivate opportunistic behavior from insider and other "in the know" creditors, as Professor Bussel aptly described.¹² It would also incentivize unsecured creditors to object to a plan to obtain a higher payout from the reorganizing firm. On the margin, it will force more businesses to liquidate, destroying the going-concern value associated with business continuation.¹³

As Gotberg notes, increasingly, bankruptcy cases do not neatly fall into "liquidation" and "reorganization" cases.¹⁴ Her proposal leaves open the question of how liquidating Chapter 11 plans would be handled. She describes two potential approaches to adjust "the availability of preference actions" to liquidating reorganization plans.¹⁵ Both approaches are problematic.

The first, requiring conversion to Chapter 7 when a Chapter 11 proposes liquidating the debtor, would effectively eliminate liquidating Chapter 11 plans. Much ink has been spilled on whether liquidating plans are a good idea,¹⁶ but as Gotberg notes, the Debtor in Possession ("DIP") is arguably better "able to obtain a better price for estate assets, both by virtue of its connections in the relevant field and its superior ability to operate the business until the most beneficial deal can be reached."¹⁷ Replacing the DIP with a trustee during a conversion is likely to negatively impact the value of the estate.

Her second approach, "permitting a chapter 11 trustee or DIP to pursue preference actions once a liquidating plan is confirmed" runs into the larger problem of the best interest test.¹⁸ Gotberg acknowledges the "possibility that the existence of a preferential transfer could impact the best interests test" in

11. One reason is that many "consumer" cases are business cases. Robert M. Lawless & Elizabeth Warren, *The Myth of the Disappearing Business Bankruptcy*, 93 CALIF. L. REV. 745, 746-48 (2005).

12. See generally Bussel, *supra* note 6; see also *id.* at 15-16 (noting that Gotberg's proposal will "torpedo some viable reorganizations").

13. Cf. AM. BANKR. INST., *supra* note 1, at 150 n.557 ("The Commissioners agreed that [eliminating preferences] would only accelerate the prepetition depletion of a debtor's assets.").

14. Gotberg, *supra* note 2, at 86-87. "Liquidating Chapter 11 cases, for better or worse, have been the rule and not the exception in this Court and others over the last decade, if not longer." AM. BANKR. INST., *supra* note 1, at 58 n.220 (quoting *In re Applied Theory Corp.*, Case No. 02-11868, 2008 WL 1869770, at *5 (Bankr. S.D.N.Y. Apr. 24, 2008)).

15. Gotberg, *supra* note 2, at 87.

16. See *id.* at 87 n.205; Lynn M. LoPucki & Joseph W. Doherty, *Bankruptcy Fire Sales*, 106 MICH. L. REV. 1, 2-15 (2007).

17. Gotberg, *supra* note 2, at 87. "Scholars and policymakers are in agreement that piecemeal sales are the least desirable alternative because they provide the lowest values." LoPucki & Doherty, *supra* note 6, at 5; see also Bryant P. Lee, *Chapter 18? Imagining Future Uses of 11 U.S.C. § 363 to Accomplish Chapter 7 Liquidation Goals in Chapter 11 Reorganizations*, 2009 COLUM. BUS. L. REV. 520, 531-34.

18. Gotberg, *supra* note 2, at 87.

a Chapter 13 bankruptcy.¹⁹ In those cases, she proposes that the court estimate the amount that would be recovered under a preference action for purposes of the test.²⁰ Putting aside difficulties of valuation and proof, a hypothetical liquidation analysis does not solve this problem in Chapter 11. Indeed, Gotberg's proposal incentivizes creditors to object to a plan of reorganization to extract a higher payout from the debtor.

The best interest analysis applies in Chapter 11 as well as in Chapter 13: a dissenting creditor can block a plan that fails to give him at least as much as he would receive under a Chapter 7 liquidation.²¹ Preferences do not have to benefit unsecured creditors to be recoverable,²² but in at least some cases, avoiding the preference would inure to them. If an unsecured creditor objects to plan confirmation under these circumstances, confirming a plan over their objection (but without the possibility of recovering the preference) would require the debtor to come up with additional cash in order to meet the best interest test.²³

This scenario would only arise where the debtor is administratively solvent, such that in a hypothetical liquidation (that necessarily includes recovery of the preferential transfer) part of the preference recovery would inure to unsecured creditors. And therein lies a perverse consequence of varying the rules between chapters: this bifurcation would drive solvent debtors to a more precarious position as unsecured creditors have an incentive to object to the plan in order to extract a higher payout. On the margin, this will increase the number of liquidations.²⁴

III. PREFERENTIAL TRANSFERS IN CONSUMER BANKRUPTCY

Conflicting Preferences "generally restricts itself to an analysis of preference law in the business context."²⁵ Nonetheless, on the way to her proposal, Gotberg lays out a very thorough description on the law of preferential transfers generally, including sections which only apply to individuals.²⁶ In doing so, she reveals the striking parallels between her business bankruptcy proposal and what already happens to preferences in many consumer bankruptcies.

19. *Id.* at 79 n.161.

20. *Id.*

21. *Id.* at 84 n.194 (describing the Best Interest Test at 11 U.S.C. § 1129(a)(7) (2012)).

22. *Id.* at 55 & n.12.

23. Gotberg acknowledges this in the context of Chapter 13, but does not draw out the connection between the court estimating the Chapter 7 liquidation analysis which includes recovery of a preference, and the debtor having to pay more to creditors in Chapter 13 to meet the best interest test. *Id.* at 79 n.161.

24. *Cf.* Bussel, *supra* note 6, at 16.

25. Gotberg, *supra* note 2, at 59 n.32.

26. *See id.* at 60–81 (describing the law of preferences); *id.* at 76 (discussing exception for preferences to domestic support claimants); *id.* at 77 (discussing exception for payments to nonprofit budget and credit counseling providers).

Consumer cases are inherently different from business bankruptcies. But some of the considerations in consumer cases are similar to business reorganizations. In a number of jurisdictions, Gotberg's corporate bankruptcy proposal is the status quo in consumer cases.²⁷ That is, preference actions are brought in Chapter 7 consumer bankruptcies but are not available in reorganization (Chapter 13) cases.²⁸

To explore this parallel, I present an empirical analysis of the number and kind of preferential transfers trustees avoided in a random sample of Chapter 7 consumer bankruptcies. My aim here is to add to our knowledge of consumer bankruptcy and to explore what it can tell us about the effect of applying preference law differently among chapters.²⁹

If a trustee recovered a preference in a case, it would necessarily be classified as an asset case; that is, a case that had assets to distribute to creditors. In previous work, I showed that out of a random sample of 2500 Chapter 7 consumer bankruptcy filings, just under 7% had assets to distribute to their creditors.³⁰ Examining this dataset for preferential transfers, I find that the trustee recovered a preference in just 16 of the 169 cases, or 9.5%.³¹

27. Gotberg notes this distinction, but does not draw the parallel to her own proposal. *See id.* at 78–79 nn.157–61 and accompanying text.

28. The lack of incentives for trustees to bring preference actions in Chapter 13 cases “has prompted some courts to permit the Chapter 13 debtor, as the party really representative of the estate and motivated to maximize it, to maintain avoidance proceedings.” Dianne K. Rudmann, *What Power Does and Should the Chapter 13 Debtor Have to Avoid Liens and Transfers?*, 37 GONZ. L. REV. 513, 514 (2002); *see also* Gotberg, *supra* note 2, at 78–79. Courts are split on whether either the trustee or the debtor can bring preference actions in Chapter 13. *Id.* at 78–79 n.159 and accompanying text.

29. Having information about these cases necessarily paints only a partial picture. Nonetheless, with the belief that a few facts are better than none, my hope is that others will be encouraged to seek out this data and research these issues further.

30. Dalié Jiménez, *The Distribution of Assets in Consumer Chapter 7 Bankruptcy Cases*, 83 AM. BANKR. L.J. 795, 797 (2009). A brief word on methodology. I created a dataset consisting of a random sample of 2500 consumer Chapter 7 cases filed during a three-month period in 2007. *Id.* After examining the dockets in the 2500 cases, I found that only 169 of them (6.76% of the sample) had assets to distribute to creditors. *Id.* at 798. I downloaded the schedules and any documents or motions that involved the trustee in those cases. *Id.* In particular, in asset cases, the trustee issues a “Final Report” once she has disbursed all of the moneys. This report typically contains an explanation of the source of the assets as well as their disbursement. If not in the Final Report, I sometimes found clues as to the identity of the assets from the trustee’s time sheet (sometimes submitted to the court) or from adversary proceedings filed in the case. For a more thorough description, *see id.* at 797–800.

31. At the time the previous Article was published, the trustee had not issued a Final Report in 15 out of the 169 cases. Putting aside those cases, I reported that the trustee had recovered a preference for the benefit of the estate in 13 of the asset cases. *Id.* at 821 tbl.1. The total amount recovered from preferential transfers was reported as \$76,650 (or 3% of the total amount recovered in all asset cases). *Id.* The median preferential transfer was \$1872.13 (mean \$5896). In the almost seven years since, the trustee has closed all of the outstanding cases by issuing Final Reports. After updating those 15 cases, I report on the full set of asset cases in which the trustee recovered preferential transfer.

V.Appendix: Table

This means that trustees captured preferential transfers in 0.64% of the cases in the 2500 random case sample; a truly low incidence event.³²

The debtors in cases where the trustee avoided a preferential transfer avoided enjoyed a slightly better financial position relative to the debtors in the other asset cases. In the six months before filing the petition, these debtors had a median monthly income of \$2588, slightly more than the \$2,312 median for all asset cases. As of the filing of the petition, the debtors in these cases expected to earn a median \$43,322 annually, higher than the median \$36,588 in all asset cases. Neither difference is statistically significant.

Table 1 presents summary statistics for the 16 cases where a preference was recovered. In seven cases (44%), the only asset recovered was the preferential transfer. In the median case, the trustee recovered \$5818 from the estate, with \$2086 coming from the avoidance of a preferential transfer. About a quarter of the recovery in the median case was consumed by administrative expenses, leaving an 8.7% distribution to general unsecured creditors.

Table 1. Summary Statistics of Asset Cases
Where Preferential Transfers Were Recovered

	Total Amount Recovered	Amount of Preferential Transfer	Percent Recovered from Preference	Percent Spent in Admin Expenses	Distribution to General Unsecureds
Mean	\$8519	\$5641	74%	32%	12.3%
Median	\$5818	\$2086	88%	26%	8.7%
Max	\$28,767	\$24,267	100%	70%	54.8%
Min	\$1200	\$1200	6%	13%	0.0%

In nine cases (56%), the trustee recovered other assets in addition to the preferential transfer. In six of those cases (38%), the trustee swept in the debtor's tax refund.³³ In three cases, the trustee also recovered funds from a

Table 3, *infra*, provides details at the case level.

32. In a study of cases that closed between 1984 and 1987 in the Eastern District of Virginia, Michael Herbert and Domenic Pacitti found that preference litigation was filed in 5 out of 4,723 cases (0.11%). Michael J. Herbert & Domenic E. Pacitti, *Down and Out in Richmond, Virginia: The Distribution of Assets in Chapter 7 Bankruptcy Proceedings Closed During 1984-1987*, 22 U. RICH. L. REV. 303, 311, 320 (1988).

33. My previous study reported that the trustee captured a tax refund in approximately 60% of all asset cases, something which I argued could have been avoided with trivial pre-

bank account and in two, she recovered wages.³⁴ Three of the other nine cases involved other nonexempt assets (a collection of knives,³⁵ a 1999 Harley Davidson Sportster,³⁶ and a 1998 Chevy Tahoe and inheritance³⁷).

There were two primary types of creditors involved in a preferential transfer recovery: creditors who had provided a consumer financial product and insider creditors. In most cases (44%), the preferential transfer had been made to a creditor who had issued a credit card or auto loan, as shown in Table 2. All but one of the non-insider creditors were banks.³⁸

The median amount collected from these non-insider consumer credit providers was \$9000, more than 4.5 times the median collected from all preferential transfers. This was also more almost 3.5 times the median asset debtor's pre-bankruptcy monthly income. In contrast, \$3232 was collected in the median case with an insider preference. Administrative expenses consumed 27% of the assets in the consumer credit cases and 11% in the insider cases. This disparity appears to be due to the higher rate of filings of adversary proceedings in the consumer credit cases relative to the insider cases.

bankruptcy planning. Jiménez, *supra* note 30, at 812.

34. In one case the trustee recovered \$35.50 in wages. The total recovery in that case was \$2,633, most of it (\$2300) came from the preferential transfer. *See infra* Table 3 (case no. 5).

35. *See infra* Table 3 (case no. 10).

36. *See infra* Table 3 (case no. 9).

37. *See infra* Table 3 (case no. 15).

38. The remaining creditor was a landlord.

Table 2. Recovery from Preferential Transfers by Creditor Type

Creditor Type	Number of Cases	Median Amount Recovered	Median % of Total from Preferential Transfer	Median % Spent in Admin Expenses	Median % Distribution to Unsecureds
Consumer Finance Creditors	7	\$9000	65%	27%	9%
Insiders	6	\$3238	88%	11%	11%
Other ³⁹	2	\$7150	61%	21%	10%
Unknown Source	1	\$1872	100%	25%	0% ⁴⁰

Lower administrative fees do not necessarily mean that unsecured creditors will receive a higher pro-rata distribution.⁴¹ Nonetheless, that turned out to be true in this case: in cases of an insider preference, the median creditor received an 11% distribution. In cases where consumer finance creditors received a preferential payment, the distribution was 9%. All in all, \$36,213 were spent in administrative expenses in these 16 cases, expending 26.5% of the total recovery from all assets (\$136,299). This figure is significantly less when compared to all other asset cases. There “the total administrative costs consumed a whopping 43% of the total amount recovered by trustees in all the asset cases.”⁴²

Who received distributions from these assets? In 3 out of the 16 cases, priority creditors received between 30%–100% repayment on their allowed claims. In the median case, general unsecured creditors received 9% distribution. Every case had one or more banks as a general unsecured creditor. Banks and debt buyers made up the overwhelming majority of creditors who filed claims.

39. One of these preferential transfer involved a mortgage that was recorded 37 days after the note was executed. *See infra* Table 3 (case no. 13). The other was a payment to a landlord. *See infra* tbl.3 (case no. 9).

40. Priority creditors (city taxes) were paid in 30.7% of their claims.

41. The distribution to general unsecured creditors also depends on the existence and amount of priority claims as well as the amount and number of claims that are submitted by the general unsecured creditors.

42. Jiménez, *supra* note 30, at 803.

It is important to note that had these debtors filed Chapter 13, the creditors would have likely kept these preferences. This fact may help explain the large proportion of insider and bank creditors in this data. Since a clawback depends on the debtor's chapter choice, sophisticated creditors may decide to attempt to collect larger amounts from the debtors who are most likely to file Chapter 13: homeowners. Detailed information about a consumer's home loan is available from her credit report; creditors could use this information to decide what kinds of payments to request from financially distressed debtors.

Recovery of a preferential transfer is rare in consumer cases. In this dataset, trustees recovered preferences in 9.5% of all asset cases, or 0.64% of all Chapter 7 consumer cases. But simply because recoveries are rare does not mean they are not significant. The median preference recovered represented 80% of the median debtor's monthly salary. For the seven debtors in the sample with preferential payments to finance creditors, the median claw back was more than three months' the debtors' salary.

Preference recoveries may also be important to unsecured creditors. Median payouts in consumer asset cases were higher for general unsecured creditors where a preference was recovered: 8.7% distribution versus 7.9% in asset cases without preferences. These recoveries are also important to debtors, in particular if to a debtor who owes non-dischargeable priority debts or will not receive a discharge of some of her other debts, such as student loans. This was the case in almost a third (5) of the 16 cases in the sample. In three of those cases, the debtors owed priority tax debt. All of those debts were paid in full. In the other two cases, the debtor continued to owe student loans after the discharge, but, the preferential transfer recovery lowered the debtor's future obligation. Bifurcating how we treat preferential transfers thus incentivizes consumers in these situations to file Chapter 7.

The incentives created by the disparate treatment of preferential transfers across chapters are at odds with the goal of deterring opt-out behavior by insider creditors and sophisticated lenders (who can access credit reports, for example). Just like in the business context, treating chapters differently may have the perverse effect of driving additional consumers into a Chapter 7 bankruptcy. As others have argued, the Bankruptcy Code should be amended to clarify that Chapter 13 debtors have standing to pursue avoidance actions.⁴³ This would go a long way to equalizing the treatment of preferential transfers across chapters and deterring negative opt-out behavior by sophisticated players.

IV. CONCLUSIONS

One difficulty in suggesting changes to fix the problems with preference law is that we lack basic information about what happens to preferential

43. See generally Rudmann, *supra* note 28.

transfers in business cases today. The conventional wisdom is that some trustees are using preference actions as a way to wrest a settlement out of a creditor.⁴⁴ But how often does this happen? In consumer cases we learned that it is a miniscule portion of cases. Is it more prevalent in large company filings or is it distributed throughout business bankruptcies? The conventional wisdom has not always born out,⁴⁵ so it is important to gather evidence.

In his response to *Conflicting Preferences*, Professor Bussel makes a few suggestions to deal with the problems with preferences in business bankruptcies. The Commission to Study the Reform of Chapter 11 also recently proposed some reforms.⁴⁶ Among the suggestions both Bussel and the Commission make include a proposal to raise the minimum amount at which a preference may be recovered from the current \$6225 in business cases. Bussel suggests an increase to a \$100,000 floor.⁴⁷ The Commission proposes \$25,000, with a Consumer Price Index adjustment every three years.⁴⁸

The lack of details about preferences in business cases notwithstanding, we do know that the vast majority of businesses in bankruptcy are small.⁴⁹ In a sample of 2002 filings from the Business Bankruptcy Project, 97% of Chapter 7 business filings reported owning less than \$500,000 in assets.⁵⁰ In the same sample, 15% of Chapter 11 cases had less than \$100,000 in assets.⁵¹ What effect might a \$25,000 or \$100,000 floor have on these businesses?

As Professor Charles Tabb notes, certain limits may “well encourage aggressive pre-petition debt collection efforts for amounts” slightly below whatever the jurisdictional limit is.⁵² If the number is large enough relative to the size of the business and its debts, we lose the power of deterrence altogether, as creditors become immune to preference actions.⁵³ This may increase small businesses liquidations as trade creditors are able to

44. AM. BANKR. INST., *supra* note 1, at 150.

45. See generally Stephen J. Lubben, *What We “Know” About Chapter 11 Cost Is Wrong*, 17 FORDHAM J. CORP. & FIN. L. 141 (2012); Elizabeth Warren & Jay Lawrence Westbrook, *The Success of Chapter 11: A Challenge to the Critics*, 107 MICH. L. REV. 603 (2009).

46. See AM. BANKR. INST., *supra* note 1, at 148–51.

47. Bussel, *supra* note 6, at 13.

48. AM. BANKR. INST., *supra* note 1, at 148. The Commission also recommends that this number be adjusted according to the Consumer Price Index under section 104(a). *Id.*, 11 U.S.C. § 104(a) (2012).

49. See Lawless & Warren, *supra* note 11, at 746–48. See generally Elizabeth Warren & Jay Lawrence Westbrook, *Financial Characteristics of Businesses in Bankruptcy*, 73 AM. BANKR. L.J. 499 (1999).

50. Warren & Westbrook, *supra* note 45, at 634.

51. *Id.* at 609.

52. Charles J. Tabb, *Brave New World*, 13 AM. BANKR. INST. L. REV. 425, 434 (2005).

53. Writing in 2005, Tabb opined that in the small business case there may “rarely [be] transfers as high as \$5,000, and thus preference litigation would largely be eliminated in the bulk of business cases.” *Id.*

aggressively pursue debts without fear of having to return the money if they drive the debtor off the cliff.

The \$25,000 and \$100,000 limits will be too large for some businesses and too small for others. We may in fact want to have two jurisdictional limits, one for small and another one for much larger businesses. “At bottom, this is essentially an empirical question.”⁵⁴ And more data is needed.⁵⁵

V. APPENDIX: TABLE

Table 3. Case-by-Case Breakdown of Asset Cases with Preferential Transfers in Sample

Case No.	Total Amount Recovered	Total from Preferential Transfer (% of total)	Admin Expenses (% of total recovered)	Distribution to General Unsecureds ⁵⁶	Description of Preferential Transfer
1	\$1188	\$1188 (100%)	27%	7.4%	Payment to collection attorney regarding Aspire Visa
2	\$1200	\$1200 (100%)	46%	1.5%	Payment to relative/ friend
3	\$1850	\$1850 (100%)	63%	1.0% ⁵⁷	Payment to QVC

54. *Id.*

55. Those wanting to explore this question in the large company context may want to use Lynn LoPucki’s excellent bankruptcy database, which has “approximately 200 fields of data on each of the approximately one thousand large, public company bankruptcies filed in the United States Bankruptcy Courts since October 1, 1979.” *Setting the Standard for Big Case Bankruptcy Research*, UCLA-LOPUCKI BANKRUPTCY RESEARCH DATABASE, <http://lopucki.law.ucla.edu/> (last visited Jan. 13, 2015). The database does not currently contain preferential transfer information, but it could well be added to the rich data already existing. With respect to bankruptcy cases more generally, this should now be a lot easier for academics at business and law schools now that many offer access to Bloomberg Law, which in turn offers access to all the bankruptcy dockets available on the Public Access to Court Electronic Records.

56. There were no priority creditors unless noted.

57. Priority debts (county taxes) were paid in full.

Case No.	Total Amount Recovered	Total from Preferential Transfer (% of total)	Admin Expenses (% of total recovered)	Distribution to General Unsecureds ⁵⁸	Description of Preferential Transfer
4	\$1872	\$1872 (100%)	25%	0.0% ⁵⁹	No explanation given / none discernible
5	\$2633	\$2300 (87%)	26%	12.1%	Payment to relative/ friend
6	\$3953	\$1800 (46%)	26%	8.8%	Creditor garnishment (Nissan auto)
7	\$4498	\$3387 (75%)	32%	26.9%	Payment to relative/ friend
8	\$5644	\$3089 (55%)	25%	27.2%	Payment to relative/ friend
9	\$5993	\$1300 (22%)	23%	18.0%	Payment to landlord

58. There were no priority creditors unless noted.

59. Priority debts (city taxes) received a 30.7% distribution.

Case No.	Total Amount Recovered	Total from Preferential Transfer (% of total)	Admin Expenses (% of total recovered)	Distribution to General Unsecureds ⁶⁰	Description of Preferential Transfer
10	\$9000	\$8000 (89%)	22%	7.7%	Payment to relative/ friend
11	\$9000	\$9000 (100%)	58%	8.6%	Payment to Chase
12	\$9566	\$1500 (16%)	70%	0.3%	Payments to Chase and Citibank
13	\$13,000	\$13,000 (100%)	18%	2.6% ⁶¹	Avoidable mortgage
14	\$15,000	\$15,000 (100%)	21%	9.0%	Settlement; potentially fraudulent transfer ⁶²
15	\$23,136	\$1500 (6%)	13%	54.8%	Payment to American Express

60. There were no priority creditors unless noted.

61. Priority debts (IRS) were paid in full.

62. In this case, the trustee alleged that the debtor fraudulently transferred \$27,500 to her mother less than a month before the bankruptcy. The matter settled for \$15,000.

Case No.	Total Amount Recovered	Total from Preferential Transfer (% of total)	Admin Expenses (% of total recovered)	Distribution to General Unsecureds ⁶³	Description of Preferential Transfer
16	\$28,767	\$24,267 (84%)	18%	10.2%	Payment to Bank of America

63. There were no priority creditors unless noted.