

June 6, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 06-10631

In The Matter Of: BIO-MED SERVICES CORPORTATION

Debtor

DIANE REED, Trustee

Appellant

v.

UNITED STATES OF AMERICA, Internal Revenue Service

Appellee

Appeal from the United States District Court
for the Northern District of Texas, Dallas
No. 3:05-CV-1836

Before KING, DeMOSS, and OWEN, Circuit Judges.

PER CURIAM:*

The judgment of the district court affirming the judgment of the bankruptcy court is affirmed for essentially the reasons given by the district court in its Memorandum Opinion and Order entered May 2, 2006. Reed v. United States, No. 3:05-CV-1836-M, 2006 WL 1152719 (N.D. Tex. May 2, 2006). The Trustee takes issue

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

with the lower courts' conclusion that, during the pendency of the Chapter 7 proceeding, the Debtor remained in its pre-petition business of medical specimen transportation, pointing to the fact that the Debtor was in liquidation and the Trustee was not authorized to carry on a business. While that may, nevertheless, be a fair conclusion on the part of the lower courts, we need not premise our affirmance on it. It is enough to say that, during the pendency of the liquidation, the Debtor was not in the business of selling real property.

AFFIRMED.