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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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EXECUTIVE BENEFITS INSURANCE AGENCY *v.* ARKISON, CHAPTER 7 TRUSTEE OF ESTATE OF BELLINGHAM INSURANCE AGENCY, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 12–1200. Argued January 14, 2014—Decided June 9, 2014

Bellingham Insurance Agency, Inc. (BIA), filed a voluntary chapter 7 bankruptcy petition. Respondent Peter Arkison, the bankruptcy trustee, filed a complaint in the Bankruptcy Court against petitioner Executive Benefits Insurance Agency (EBIA) and others alleging the fraudulent conveyance of assets from BIA to EBIA. The Bankruptcy Court granted summary judgment for the trustee. EBIA appealed to the District Court, which affirmed the Bankruptcy Court's decision after *de novo* review and entered judgment for the trustee. While EBIA's appeal to the Ninth Circuit was pending, this Court held that Article III did not permit a Bankruptcy Court to enter final judgment on a counterclaim for tortious interference, even though final adjudication of that claim by the Bankruptcy Court was authorized by statute. *Stern* v. *Marshall*, 564 U. S. ___, ___. In light of *Stern*, EBIA moved to dismiss its appeal for lack of jurisdiction. The Ninth Circuit rejected EBIA's motion and affirmed. It acknowledged the trustee's claims as "*Stern* claims," *i.e.,* claims designated for final adjudication in the bankruptcy court as a statutory matter, but prohibited from proceeding in that way as a constitutional matter. The Court of Appeals nevertheless concluded that EBIA had impliedly consented to jurisdiction. The Court of Appeals also observed that the Bankruptcy Court's judgment could instead be treated as proposed findings of fact and conclusions of law, subject to *de novo* review by the District Court.

Held:

1. Under the Bankruptcy Amendments and Federal Judgeship Act

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of 1984, federal district courts have original jurisdiction in bankruptcy cases and may refer to bankruptcy judges two statutory categories of proceedings: "core" proceedings and "non-core" proceedings. See generally 28 U. S. C. §157. In core proceedings, a bankruptcy judge "may hear and determine . . . and enter appropriate orders and judgments," subject to the district court's traditional appellate review. §157(b)(1). In non-core proceedings—those that are "not . . . core" but are "otherwise related to a case under title 11," §157(c)(1)—final judgment must be entered by the district court after *de novo* review of the bankruptcy judge's proposed findings of fact and conclusions of law, *ibid.*, except that the bankruptcy judge may enter final judgment if the parties consent, §157(c)(2).

In *Stern,* the Court confronted an underlying conflict between the 1984 Act and the requirements of Article III. The Court held that Article III prohibits Congress from vesting a bankruptcy court with the authority to finally adjudicate the "core" claim of tortious interference. The Court did not, however, address how courts should proceed when they encounter a *Stern* claim. Pp. 4–8.

2. *Stern* claims may proceed as non-core within the meaning of §157(c). Lower courts have described *Stern* claims as creating a statutory "gap," since bankruptcy judges are not explicitly authorized to propose findings of fact and conclusions of law in a core proceeding. However, this so-called gap is closed by the Act's severability provision, which instructs that where a "provision of the Act or [its] application . . . is held invalid, the remainder of th[e] Act . . . is not affected thereby." 98 Stat. 344. As applicable here, when a court identifies a *Stern* claim, it has "held invalid" the "application" of §157(b), and the "remainder" not affected includes §157(c), which governs non-core proceedings. Accordingly, where a claim otherwise satisfies §157(c)(1), the bankruptcy court should simply treat the *Stern* claim as non-core. This conclusion accords with the Court's general approach to severability, which is to give effect to the valid portion of a statute so long as it "remains 'fully operative as a law,' " *Free Enterprise Fund* v. *Public Company Accounting Oversight Bd.*, 561 U. S. 477, 509, and so long as the statutory text and context do not suggest that Congress would have preferred no statute at all, *ibid.* Pp. 8–10.

3. Section 157(c)(1)'s procedures apply to the fraudulent conveyance claims here. This Court assumes without deciding that these claims are *Stern* claims, which Article III does not permit to be treated as "core" claims under §157(b). But because the claims assert that property of the bankruptcy estate was improperly removed, they are self-evidently "related to a case under title 11." Accordingly, they

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fit comfortably within the category of claims governed by §157(c)(1). The Bankruptcy Court would have been permitted to follow that provision's procedures, *i.e.,* to submit proposed findings of fact and conclusions of law to the District Court for *de novo* review. Pp. 11–12.

4. Here, the District Court's *de novo* review of the Bankruptcy Court's order and entry of its own valid final judgment cured any potential error in the Bankruptcy Court's entry of judgment. EBIA contends that it was constitutionally entitled to review by an Article III court regardless of whether the parties consented to bankruptcy court adjudication. In the alternative, EBIA asserts that even if such consent were constitutionally permissible, it did not in fact consent. Neither contention need be addressed here, because EBIA received the same review from the District Court that it would have received had the Bankruptcy Court treated the claims as non-core proceedings under §157(c)(1). Pp. 12–13.

702 F. 3d 553, affirmed.

THOMAS, J., delivered the opinion for a unanimous Court.