



Anfechtung im Falle der Kongruenz (German Edition)

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Studienarbeit aus dem Jahr 2014 im Fachbereich Jura - Zivilrecht / Handelsrecht, Gesellschaftsrecht, Kartellrecht, Wirtschaftsrecht, Note: 1,3, Fachhochschule der Wirtschaft Paderborn, Sprache: Deutsch, Abstract: Im Falle einer Insolvenz haftet der Schuldner seinen Insolvenzgläubigern mit der vorliegenden Insolvenzmasse. Diese besteht grds. zunächst einmal aus den Vermögensgegenständen, die dem Schuldner im Zeitpunkt der Insolvenzeröffnung zuzurechnen sind (§35 InsO). Gegenstände, die der Schuldner vor Eröffnung des Insolvenzverfahrens veräußert hat und somit einem Dritten zuzurechnen sind, gehören nicht mehr zur Masse. Allerdings hat der Insolvenzverwalter unter bestimmten Voraussetzungen die Option, solche Gegenstände während des Insolvenzverfahrens durch Insolvenzanfechtung wieder in die Insolvenzmasse zurückzuholen (§§129 ff. InsO).

Durch dieses rechtliche Instrument wird der Grundsatz der Gläubigergleichbehandlung (par conditio creditorum) bereits ab dem Zeitpunkt einer sich abzeichnenden Insolvenzsituation zu Lasten des Prioritätsprinzips Geltung verschafft. Durch die Zurückholung der Werte können diese nun quotal an die gesamten Gläubiger verteilt werden.

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