

"Chapter 13 debtor had made a series of payments to her uncle during the year prior to filing her bankruptcy petition. The trustee objected to confirmation of the debtor's plan, arguing that it failed the liquidation analysis because if the case were a Chapter 7, the trustee would be able to recover those payments as preferences and distribute them to creditors. At the evidentiary hearing, the debtor conceded that she'd made the payments during the preference period, but argued that they were subject to the ordinary-course-of-business defense under section 547(c)(2). She argued that she had taken three loans from her uncle over a ten-year period, and had repaid each with interest by having regular payments deducted from each of her paychecks. She argued that it was her ordinary course of business to borrow money from her uncle and to pay it back in this way. The trustee argued that a personal loan could not fall under the ordinary-course defense. The debtor responded that in cases such as In re Jackson, 90 B.R. 793 (Bankr. D.S.C. 1988); In re Gawronski, 411 B.R. 139 (Bankr. W.D.N.Y. 2009); and In re Eckman, 447 B.R. 546 (Bankr. N.D. Ohio 2010), courts had left open the possibility that repayment of a personal, family loan could be subject to the ordinary-course defense, although it would be very difficult for the debtor or the creditor to prove the defense. The Court found that, in this case, while the debtor may have presented evidence that it was in *her* ordinary course of financial affairs to borrow money from her uncle and repay it through wage deductions, she had not presented any evidence that it was in her *uncle's* ordinary course to make such loans, and that section 547(c)(2) required the debt to be incurred in the ordinary course of the financial affairs of both the debtor and the transferee. The Court nonetheless acknowledged that the cases the debtor had cited indicated that there could exist a set of facts which would make the ordinary course defense applicable to repayments of a personal, family loan."