

Bad Faith in Consumer Insolvency

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Annual Review of Insolvency Law, vol 23, 2025 CanLIIDocs 3295

Good Faith Under the BIA and CCAA: It Depends on Who You Are and Who You Ask,
2025 CanLIIDocs 3301

Author(s): Julia K Lockhart and Kayla K Strong

Catch Me if You Can: An Examination of Good Faith and Bad Behaviour in Insolvency
Proceedings, 2025 CanLIIDocs 3302

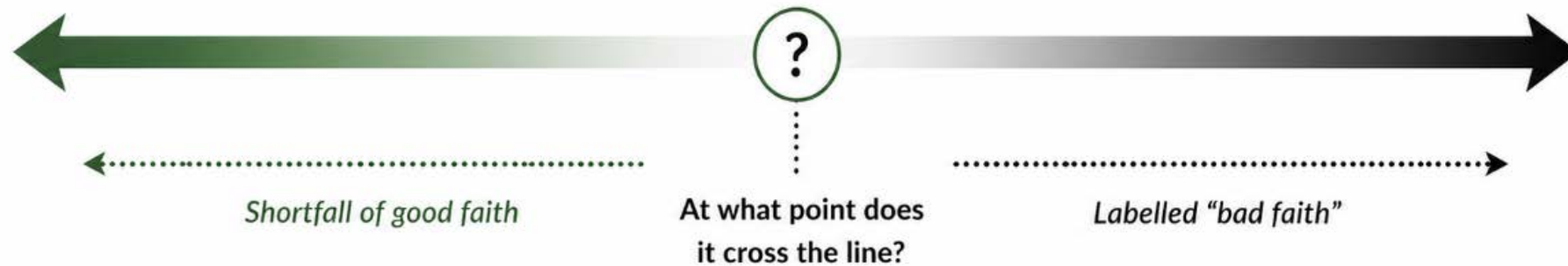
Author(s): Carole J Hunter and Jill Strueby

Enough is Enough: Dealing with Bad-Faith Stakeholders in Insolvency Proceedings,
2025 CanLIIDocs 3300

Author(s): Adam Fisher and Gina Rhodes

4.2 (1) Any interested person in any proceedings under this Act shall act in good faith with respect to those proceedings.

(emphasis added)



The registrar in *(Re) McInnis* (Nova Scotia, 2024) considered this exact question and confirmed that section 4.2 of the BIA does not impose sanctions for "bad faith", but rather for a "shortfall of good faith".



History & Legal Framework

- **Duty of Good Faith**
- **BIA s. 4.2** → applies to *any interested person*
- Broad, system-wide obligation
- Evolving through **jurisprudence & trends**

Case Study

Re Gregoriou (2024 ONSC 5972)

Discussion:

What does this change for practitioners?

Have Faith in the Process: *McInnis (Re)*

McInnis (Re):

- **Debtor/bkpt:** “neither credible nor reliable”
- **Administrator:** “knew, or should have known...& this information was not conveyed to creditors”
- **Creditors:** “approve the proposal because creditors did not object”
- **OSB:** “It is to the OSB’s infinite credit that this came to me for review”
- **Court:** “to approve the proposal would be an affront tothe integrity of the insolvency process”

Have Faith in the Process: *McInnis (Re)*

1.

the **burden is on the debtor** to establish good faith;
the test is **not** that another stakeholder must establish *bad faith*;



2.

in addition to the statutory test of reasonableness and general benefit to creditors, there is an **overarching public interest** in the insolvency system's integrity.



Impact on the Process

- Increased **costs**
- Procedural **delays**
- Undermines **system integrity & Creditor recovery efforts**
- Erodes **stakeholder trust**

Discussion:

Where is the line between advocacy and abuse?

**REPORT OF THE OFFICIAL RECEIVER
PURSUANT TO SUBSECTION 66.24(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT**



TAKE NOTICE that the Official Receiver's position is that the court should refuse to approve the consumer proposal of Lisa Renay Geiger (**Consumer Debtor**), pursuant to ss. 66.24(2) of the *Bankruptcy and Insolvency Act (BIA)*.

7.1. In the last six (6) months, have you received professional advice regarding your financial situation other than from the Licensed Insolvency Trustee? Yes No

7.2. Name any and all providers of professional financial advice: Surname: Cook Given names: Scott

7.3. Name the firm/organization of the individual provider of professional financial advice: Metus Lykos Debt Law Firm

7.4. Address of the firm/organization noted at 7.3: -, -, -, -

7.5. Total amount paid to date: 0.00 7.6. Total remaining amount to be paid: 0.00

16. Mr. Doufexis is not a lawyer.⁷ The Service Provider (i.e., Metus Lykos Debt Law Firm) was formerly known as “Gem Debt Law”.⁸ A [Google Search](#) of “Gem Debt Law” leads to the “Metus Lykos Debt Law Firm” website, where the name “Gem Debt Law” appears under the tab “Blog”,⁹ in the same colour as the background text, meaning it is invisible unless highlighted to expose the following:

GEM Debt Law is a Multidisciplinary Law Practice, providing Legal Services in Ontario and Alberta through Cook Law Professional Corporation. Cook Law Professional Corporation is a Licensed Law Firm under the Law Society of Ontario and operates in partnership with Daria Chyc, a Licensed Lawyer under the Law Society of Alberta.

GEM Debt Law serves clients in Manitoba, Saskatchewan and British Columbia, acting on a temporary basis under the National Mobility Agreement between the Provincial Law Societies of Canada.

We strive to significantly reduce your debt load, by utilizing lawful negotiation strategies against your creditors. We have saved clients \$1000's!

GEM Debt Law Contract Review

Home » Debt Help Resources » GEM Debt Law Contract Review



Posted in Debt Relief

By J. Douglas Hoyes, CA, LIT

ASSETS			
Description	Value as per Statement of Affairs	Amount Realized	Estimate of Assets to be realized
Refunds- miscellaneous	0.00	1,563.15	0.00

12. Other pertinent information?

The Trustee was successful in obtaining a refund of the pre filing fees paid by the bankrupt to Gem Debt, a debt advisor not licensed to provide services in the bankrupt's territory.

3. While the BIA does not compel the disclosure of privileged legal advice, the Consumer Debtor must provide the Court (and her creditors) with complete and accurate information regarding her financial situation if she wants to gain the benefit of the consumer proposal regime. The payments to the Service Provider are material and relevant to the Consumer Debtor's financial situation. Therefore, the Consumer Debtor may choose to either disclose this allegedly privileged information or withdraw her proposal. If she does neither, the proposal should be refused on account of the incomplete disclosure.

6. The Official Receiver is also concerned the payments to the Service Provider are for services duplicative of those provided by the licensed insolvency trustee (**LIT**), and may represent a diversion of funds that should (1) be kept by the Consumer Debtor to fund her fresh start, and/or (2) be used to satisfy creditor claims. The court has an obligation to ensure the integrity of the insolvency regime is maintained, including by ensuring the terms of the consumer proposal are reasonable and fair to both the Consumer Debtor and the creditors.⁴ Due to the Consumer Debtor's non-disclosure, the court is unable to make this assessment and should therefore not approve the consumer proposal.



Creditors:

- Repeated frivolous motions / appeals
- Delay tactics
- Pressure for off-record settlements

Debtors:

- Control dynamics: test limits, attacks, negotiations
- Shock factor, storytelling

For Lawyers:

- Advice and Direction
- Case Conference
- Substantial Cost Award
- Mareva Injunction
- Investigative Appointment
- Disclosure Order
- Contempt (jurisdiction)



For Trustees:

BIA s.38, 68, 34, 161, 163

LIT duties: s.21&158, s.135 & 136,
s.22 & 56

Provincial & Federal non-insolvency
legislation (ie PPSA, Criminal Code etc)

Relational Skills, Professional
Judgment & Experience

How to keep your gloves on..... *when their gloves come off*



Betty bop



C. Buhler & Associates Ltd. ...

Most useless human beings that we have ever encountered. Wasted and dragged our time out for 2 weeks to have NOTHING explained or taken care of!! Way too busy for individual help. Promised email returns and nothing!! Way too busy!! Has to be passed / shared between two people!! BEWARE!!

How to keep your gloves on..... *when their gloves come off*



“...understand that it is not uncommon for the options available to those in financial difficulty to feel unclear, or overwhelming.

“You made the right decision to reach out to a Licensed Insolvency Trustee (LIT) for assistance....

“...however, the manner in which you engaged with both my team and I was, as highlighted here, disrespectful and offensive, and we were unable to move forward.

“We are truly sorry that your situation is complex and frustrating... from the tone of your review, it’s clear you may be navigating more than just financial pressure right now. As a resource for you and others who might be feeling the same, please know you can find help in your area....”

Leverage Trustee – Counsel coordination

- Do the actions of the debtor (or other interested party) dissipate the value of the assets?
- Will the creditors be negatively affected?
- Has the bad-faith conduct resulted in a negative recovery?
- Is there evidence that the debtor will destroy documents or other records (electronic)?
- Will there be a shortfall in a realization scenario?

Q&A