The Legal Eye: Technical Update

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REEDMAN
Bankruptcy & Insolvency Law

Agenda: 8 Cases

1. *Williams (Re)*, 2025 BCSC 1128
2. *Sihota (Re)*, 2025 BCSC 1639
3. *Chura (Re)*, 2025 BCSC 2133
4. *Saskin, Re*, 2024 ONSC 3488
5. *Re Gary Man Kin Ng*, 2026 ONSC 1418
6. *McInnis (Re)*, 2026 NSSC 10
7. *Sirois (Re)*, 2026 BCSC 468
8. *GCMR Contracting Inc. v. MNP Ltd. et al.*, 2026 FC 368

Williams (Re), 2025 BCSC 1128
Sihota (Re), 2025 BCSC 1639

Facts

- Both Bankrupts found to have engaged in fraudulent schemes in administrative proceedings
- BC Securities Commission ordered disgorgement orders of $6.8 million (*Williams*) and $1.126 million (*Sihota*), representing values of bankrupts' liabilities caused by fraudulent conduct
- Neither Bankrupts made any payments, and later assigned into bankruptcy
- BCSC sought declaration that the debts were non-dischargeable under section 178(1)(e) of the *BIA*

Williams (Re), 2025 BCSC 1128
Sihota (Re), 2025 BCSC 1639

Decision

- Court declared that the disgorgement debts were non-dischargeable under section 178(1)(e)
  - Applying *Poonian*, the Court relied on prior administrative findings of fact, and made its decision based on whether:
    - the Bankrupts were engaged in false pretences or fraudulent misrepresentation;
    - a passing of property or provision of services occurred; and
    - a link existed between the debt or liability and the fraud.

Williams (Re), 2025 BCSC 1128
Sihota (Re), 2025 BCSC 1639

Takeaways

- Prior findings of fraud significantly streamline s. 178 applications
- BCSC likely to bring more applications under s. 178(1)(e) moving forward

Chura (Re), 2025 BCSC 2133

Facts

- Former employee (the Bankrupt) sued employer for wrongful dismissal; employer counterclaimed for misconduct
  - Employer was awarded about $16,000 in damages and about $333,000 in costs
  - Findings of breach of fiduciary duty
- Bankrupt later assigned into bankruptcy
- The former employer, as a creditor of the bankrupt, has applied to:
  - have damages and costs awards declared non-dischargeable under section 178(1)(d)
  - lift stay of proceedings that was automatically imposed by section 69.3(1) of the *BIA* upon the bankrupt's assignment in bankruptcy

Chura (Re), 2025 BCSC 2133

Decision

- Court declared that the damages award, interest on that award, the costs award, and the costs arising from the present application would survive the bankruptcy
- Note: Court noted the distinction of the words “resulting from” used in s. 178(1)(e), versus “arising out of” in s. 178(1)(d)
  - “resulting from” implies strict causation
  - “arising out of” implies broader scope
- As long as breach of fiduciary duty established, the Court applies a lower causation threshold

Chura (Re), 2025 BCSC 2133

Takeaways

- Scope of "fiduciary capacity" is broad—senior employees may qualify, not just formal fiduciaries
- For some matters, the costs award may exceed the principal debt (damages award) and still survive discharge if declaration made under s. 178(1)(d), whereas it may not be the case if declaration was made under s. 178(1)(e)
- As long as breach of fiduciary duty established, the Court applies a lower causation threshold in s. 178(1)(d) than in s. 178(1)(e)

Saskin, Re, 2024 ONSC 3488

Facts

- "Trial" of Bankrupt's Discharge—the Bankrupt was the principal of Urbancorp Group, a group of companies that make up a large real estate development enterprise
- Failed Division I Proposal led to assignment in bankruptcy in 2019
- Estate effectively asset-less, with:
  - ~$15M in proven claims (~$10M opposing discharge)
  - No realizations
  - No surplus income contributions
- Multiple parallel proceedings, including: *CCAA* proceedings involving related entities; receiverships; Israeli insolvency proceedings; section 38 litigation challenging alleged transfers of assets; and potential section 178 issues
- Bankrupt sought absolute discharge, while creditors sought either: refusal; suspension; or conditional discharge
- Opposing creditors sought adjournment of the discharge hearing pending determination of the outstanding litigation

Saskin, Re, 2024 ONSC 3488

Decision

- Court refused adjournment, highlighting that any further delay would prejudice the bankrupt, burden the Trustee, and delay resolution for creditors
- While the Court recognized significant creditor skepticism regarding: family trusts; spousal ownership; asset transfers; and corporate structures, due to evidentiary limits, the Court could not conclusively determine wrongdoing
- Nonetheless, Court granted bankrupt discharge upon the completion and fulfillment of the following payment conditions:
  - The bankrupt shall pay $960,000 to the Trustee on account of:
    - The amount of $600,000 requested by the Trustee for the s. 173(1)(a) fact issues opposed by the Trustee as being 10% of the obligations entered into by the Bankrupt, as detailed in these reasons; and
    - The Bankrupt shall pay an additional $360,000 being approximately 15% of the CRA Debt owing, as requested by CRA in the range of 10% and 20% of the tax indebtedness of $2,371,447.17
- Court focused on analysis of s. 173 factors, particularly: deficiency of assets (s. 173(1)(a)), conduct of the bankrupt (s. 173(1)(o)), and broader fairness considerations

Saskin, Re, 2024 ONSC 3488

Takeaways

- Courts are increasingly reluctant to allow discharge hearings to be stalled by parallel litigation, especially where timelines are uncertain
- Funding is critical—an unfunded estate severely limits investigations, recovery actions, and leverage at discharge
- Section 38 must be applied strategically, and early—while creditor-driven litigation can fill gaps, timing is uncertain
- Maintaining focus on the relevant, provable grounds of section 173(1) in submissions support conditional or refused discharges

Re Gary Man Kin Ng, 2026 ONSC 1418

Facts

- Bankrupt was a high-net-worth businessman with alleged assets in the tens or hundreds of millions
- Significant creditor claims:
  - ~$27.2 M admitted claims
  - ~$326M contingent/unliquidated claims, with many tied to fraud allegations
- Minimal estate recovery: ~$131,000 total realizations, with no meaningful surplus income contributions
- Court had previously granted a conditional discharge requiring payment of 50% of proven claims
- Present decision involves issues relating to the modification of terms of the conditional discharge order

Re Gary Man Kin Ng, 2026 ONSC 1418

Decision

- Court upheld the initial Conditional Discharge Order, which included a condition that the Bankrupt shall pay $13,613,167 into the estate, being 50% of the unsecured admitted claims against him
- Court also discussed credibility concerns of the Bankrupt and the unresolved but credible misconduct allegations

Re Gary Man Kin Ng, 2026 ONSC 1418

Takeaways

- Fraud allegations can justify stricter terms of discharge, but cannot be double-counted—the Court excluded fraud-based contingent claims when determining the amount for the payment condition
- Payment conditions can function as quasi-punitive tools

McInnis (Re), 2026 NSSC 10

By the Court:

[1] Kurt Cobain professed that he "never met a wise man, if so it's a woman." Likewise, there may very well be helpful, constructive unregulated players in the for-profit debt advisory market. If so, I have yet to make their acquaintance.

[2] This is a taxation of a Proposal Administrator's (the "PA's") accounts, originally calculated according to BIA Rule 129. Even the PA now admits that its fees should be reduced, conceding that a taxation at nil is within the range of acceptable outcomes, and saying at this hearing that they are "fully prepared to say, 'give us nothing'." The OSB originally advocated a smaller haircut but at hearing took no position as to whether the PA should receive anything at all.

[3] This is an appropriate occasion to make it crystal clear that the history of this file is not acceptable, and that the PA's actions have consequences. The accounts are taxed at zero, inclusive of disbursements.

[4] I will explain.

McInnis (Re), 2026 NSSC 10

[21] At Case Management, Mr. Harris also expressed opposition to the debt advisory marketplace and characterized this file as "an outlier." He also indicated that the PA has terminated all relationships with the debt advisory marketplace in and since 2024.

[22] I hope so. It is, however, worth noting that the same individual LIT worked on the proposal material submitted through the Court, throughout. The same individual LIT who signed the assessment certificate also signed the proposal, signed the Form 48 report of the PA (with the corresponding attestation of reasonability discussed in the Proposal Decision at para. 16), signed the Form 65 statement of income and expenses, and appeared in Court for the Proposal Decision application. As the affidavit above correctly notes, it may be one thing to attribute a file's miasma to a rogue employee, but that does not mitigate responsibility. This Court deals with situations in which there are not enough bucks to begin with. Passing them is not acceptable.

[23] Put another way, it may very well be the case that the PA obtained the file through a prior relationship with a debt advisor. That relationship may be the result, directly or indirectly, with an employee now departed. And the PA may have severed those business channels, sometimes also referred to as "lead generators." But it does not take away from the PA's acknowledged responsibility for the proposal itself; nor its nefarious nature; nor its lack of good faith. The best that can be said – and if it is so, to paraphrase Martha Stewart, it is a "very good thing" – is that I have minimal evidence that this firm of LITs is part of the systemic, chronic, and concerning nature of the unregulated for-profit debt advisory marketplace.

McInnis (Re), 2026 NSSC 10

[24] That does not, however, mitigate the seriousness of this file. I continue to look at the May 8 email seeking to remove this matter from the Court's oversight in exchange for a $500 fee abatement with significant concern. Mr. Harris called it a "good faith" effort to take this off my "overloaded" plate. Respectfully, that is for the Court and not for a stakeholder to decide. Once a matter is placed before the Court for taxation (either because it is required under the BIA General Rules, because a party has requested it, or because the Court has directed it), the Court's supervisory authority is engaged. "Because we agree" does not oust the Court's obligation, nor does it displace the Court's properly-exercised discretion to reach its own conclusions, after hearing and placing proper weight on the parties' submissions.

[25] In this case, the nature of the proposal, the knowledge possessed by the PA, and the systemically – hazardous apparent interloping of a debt advisor (who appears to have sought a path for Mr. McInnis to circumvent a proper order) are all of substantial concern to the Court. So is any attempt to remove a matter of such concern from the Court's oversight, supervision, and comment, notwithstanding the PA's characterization of its "agreement" with the OSB's recommendation. It is to the OSB's credit that it did not subscribe to this, but instead continued to require the matter to be brought before me for taxation. And, as noted, **at the taxation hearing the PA readily conceded that a Godfather II disposition – "my offer is this, nothing" – is appropriate**. Not even the disbursements, which the PA will put up personally.

[26] I do not consider a $500 reduction in fees adequately to address the evils of this file. How Mr. McInnis came to darken the PA's door, what the PA did next, how it presented the proposal, how it executed and then resiled from documentation related to it, and its post-rejection attempt to "do a deal" on fees so as to pull a serious file from my eyes, all call for Court disapproval.

McInnis (Re), 2026 NSSC 10

[29] Before concluding, I wish to add some comments with respect to the for-profit Debt Advisory marketplace, whose intersect in this file at least contributed to if not directly caused the distasteful path taken and pursued by Mr. McInnis and which the PA attempted to further. In doing so, I reiterate and remind myself that the specific firm consulted by Mr. McInnis is not before the Court.

[30] Both the OSB and governments have expressed concern with the proliferation of these "advisors." Those are concerns shared by this Court.

[31] Such "advisors" are unregulated. They are unlicensed. They advertise aggressively. They do not have any legal authority to navigate a debtor – often perhaps an indigent, unsophisticated, and desperate debtor – through the insolvency system. The for-profit industry has grown exponentially in recent years, to the concern of professional LITs, regulators, legislators, and the Court. System integrity and consumer protection are at stake. Many public-service educational resources exist and are of tremendous benefit to what I have at times bemoaned as an alarming level of consumer financial illiteracy. I have not yet encountered a for-profit non-LIT debt advisory entity who may be counted among them. They may exist.

McInnis (Re), 2026 NSSC 10

Decision

- PA's fees and disbursements taxed at nil
- The $1,750 said to be in the PA's trust account, as "after-acquired property of the bankrupt", ordered to be paid to the Trustee of Bankrupt's second bankruptcy

McInnis (Re), 2026 NSSC 10

Takeaways

- Disclose everything material
- Do not rely on private resolutions
- Be cautious with debt advisors
- Maintain strict internal controls

Sirois (Re), 2026 BCSC 468

Facts

- Bankrupt brought multi-pronged application against Trustee and Inspector, with relief sought as follows:
  - Removal of inspector (s. 116(5))
  - Examination of Trustee (s. 163(2))
  - Broad document production by the Trustee (s. 26(3))
- Trustee had not attached to its report on Bankrupt's application for discharge the inspector's resolution required by s. 170(1) of the *BIA*
  - Administrative step missed by Trustee

Sirois (Re), 2026 BCSC 468

Decision

- Majority of relief sought dismissed
- With respect to document disclosure, within 21 days, the Trustee will make available to the Bankrupt the following documents for review at a mutually convenient time:

  (a) proofs of claim,

  (b) notices to creditors,

  (c) reports to creditors, the court and the superintendent of bankruptcy,

  (d) non-privileged correspondence, redacted or omitted as necessary to remove discussion of the Trustee's strategy or tactics in pursuing asset recovery,

  (e) time sheets,

  (f) applications and court orders,

  (g) all minutes of meetings, redacted as necessary to remove discussion of the Trustee's strategy or tactics in pursuing asset recovery,

  (h) banking and accounting records showing receipts and disbursements of funds, and

  (i) supporting documents for disbursements.

Sirois (Re), 2026 BCSC 468

Takeaways

- The fact that an inspector is a creditor does not, by itself, create an actual or perceived conflict of interest
- Trustees must provide core records, but can protect strategy and recovery efforts

GCMR Contracting Inc. v MNP Ltd., 2026 FC 468

Facts

- Creditor (GCMR Contracting Inc. challenged the Trustee's disallowance of its proof of claim under s. 135(2) of the *BIA*
- Judicial review brought in Federal Court instead of provincial superior court
- At the hearing, counsel for the Applicant conceded that wrong forum was used

Decision

- Application dismissed for lack of jurisdiction, with costs to the application respondent

Thank you!

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