

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Smith v. Royal Bank of Canada*,
2026 BCCA 287

Date: 20260702
Dockets: CA50771; CA50772
Docket: CA50771

Between:

Robert Kyle Smith

Appellant
(Respondent)

And

Royal Bank of Canada

Respondent
(Applicant)

- and -

Between:

Craig Allen Smith

Appellant
(Respondent)

And

Royal Bank of Canada

Respondent
(Applicant)

Before: The Honourable Madam Justice Fisher
The Honourable Justice Gomery
The Honourable Justice Mayer

On appeal from: Orders of the Supreme Court of British Columbia,
dated June 13, 2025 (*Smith (Re)*, 2025 BCSC 1099,
Vancouver Dockets B250134 and B250135).

Counsel for the Appellants:

W. Stransky

Counsel for the Respondent:

T. Posyniak
K.M. Jackson

Place and Date of Hearing: Vancouver, British Columbia
June 16, 2026

Place and Date of Judgment with Written
Reasons to Follow: Vancouver, British Columbia
June 16, 2026

Place and Date of Written Reasons: Vancouver, British Columbia
July 2, 2026

Written Reasons by:

The Honourable Justice Gomery

Concurred in by:

The Honourable Madam Justice Fisher

The Honourable Justice Mayer

Summary:

The appellants challenge an order declaring them bankrupt. They allege that the chambers judge erred in law and misapplied the test under s. 43(7) of the Bankruptcy and Insolvency Act, and that her findings of fact are vitiated by palpable and overriding errors in her consideration of the evidence. The respondent asks this Court to dismiss the appeal summarily for non-compliance with a term of a chambers order. Held: Application and appeal dismissed. Regarding the application to dismiss the appeal summarily, no breach of the order is made out. Regarding the appeal, the chambers judge did not err in law. The judge's analysis was properly focused on whether the appellants had demonstrated an ability to pay at present or within a reasonable period of time. Whether financial documents before the judge were audited or unaudited was not material to her conclusion that they were inadequate to meet the standard of clear and independent evidence. Although the judge made errors in her discussion of the evidence, they do not override her overall conclusion that the evidence is insufficient.

Reasons for Judgment of the Honourable Justice Gomery:**Overview**

[1] Robert Kyle Smith (Kyle Smith) and Craig Allen Smith (Craig Smith) are brothers who entered into business dealings together. The business went badly and judgments were obtained against them by the Royal Bank of Canada and other creditors. Their indebtedness to the Bank approximates \$590,000. The Bank does not expect to recover the debt from other sources. The total amount owing by the Smiths to their creditors is about \$5 million.

[2] The Bank applied to the Supreme Court of British Columbia to bankrupt the Smiths on the basis that they had ceased to meet their liabilities generally as they became due.

[3] The Smiths opposed the application. They conceded that the essential requirements for a bankruptcy order pursuant to s. 43(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 [BIA], are satisfied: they owe the Bank more than \$1,000, and they committed the act of bankruptcy alleged. Relying on s. 43(7) of the BIA, they sought dismissal of the application because they said they could show that they are able to pay all their debts. Alternatively, they maintained that there exists "other sufficient cause" to dismiss the application.

[4] The application was heard over two days by Justice Fitzpatrick in chambers. She is a judge with considerable experience in insolvency matters. She reserved judgment and, in written reasons indexed at 2025 BCSC 1099, rejected the Smiths' arguments and adjudged the Smiths bankrupt.

[5] The Smiths appeal. They submit that the chambers judge erred in law and misapplied the test under s. 43(7) of the *BIA*, and that her findings of fact are vitiated by palpable and overriding errors in her consideration of the evidence.

[6] The Bank submits that the judge did not err. As a preliminary matter, it asks us to dismiss the appeal summarily for non-compliance with a term of an order made in chambers prohibiting the Smiths from disposing of or encumbering any direct or beneficial interest they may have in any assets or property while the appeal is pending. The Smiths deny having breached the order.

[7] At the conclusion of the hearing, we dismissed both the application and the appeal for reasons to follow. These are the reasons.

Background

[8] The Smiths operated their business through two holding companies, Bastian Holdings Ltd. (owned by Craig Smith) and Krystle Holdings Ltd. (owned by Kyle Smith). The holding companies had equal ownership of other companies, including Skaw Properties Ltd. and 1226745 B.C. Ltd., termed "745" by the judge. Skaw and 745 each had wholly owned subsidiaries termed by the chambers judge "Lougheed" and "734" respectively.

[9] The Bank is a judgment creditor of Bastian, Krystle, and other companies within the group, but not Lougheed and 734.

[10] 734 owns a property called the River Road Property. Lougheed owns a property called the Lougheed Property. The Smiths contend that the River Road and Lougheed Properties have abundant equity sufficient to enable them to discharge their debts.

[11] The Smiths' financial troubles date back to September 2023, when their companies defaulted on obligations to the Bank. The Bank sued for judgment and the appointment of a receiver. It obtained judgment in July 2024. In November 2024, another creditor obtained judgment against the Smiths for approximately \$3.6 million.

[12] On March 12, 2025, the Bank filed its applications for bankruptcy orders. The applications were initially set for hearing on April 9. At the Smiths' request, the hearing was adjourned to April 17. On April 17, no judge was available to hear the applications, and they were adjourned again to be heard by the chambers judge on April 30 and May 7. She gave judgment on June 13, 2025.

[13] The Smiths filed notices of appeal on June 23, 2025. The legal effect of the notices of appeal was to stay the bankruptcy order: *BIA*, s. 195.

[14] The Smiths failed to take timely steps to proceed with the appeals as required by the *Court of Appeal Rules*, and were obliged to apply for an extension of time. That application was allowed by Justice Harris, but only on terms, on December 23, 2025.

Application to dismiss

[15] Sections 28 and 36 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, authorize a justice or the Court to dismiss an appeal summarily for failure to comply with an order of the Court. Justice Harris' order of December 23, 2025 includes the following term:

IT IS FURTHER ORDERED that the Appellants shall not dispose of or encumber any direct or beneficial interest they may have in any assets or property without further order of this court or the prior written consent of the Respondent.

[16] The Bank maintains that the Smiths breached this term by causing a company controlled by them to mortgage its property as security for a \$200,000 loan on January 6, 2026. The mortgage lists the Smiths, Bastian, Krystal, and Skaw as

covenantors. The Bank asks that the appeal be dismissed for non-compliance with the order that permitted it to proceed.

[17] The Smiths deny any breach of the order. In correspondence, their counsel advised the Bank's counsel that "the property is not owned directly or beneficially by either of the Smiths and the mortgage doesn't encumber any such interest". There is no evidence to the contrary.

[18] Kyle Smith deposes in an affidavit that the financing was agreed on December 19, 2025, before the order was made on December 23, 2025. If the mortgage encumbers property in which the Smiths hold a beneficial interest, it makes no difference that the financing was agreed in advance. It is the making of the mortgage on January 6, 2026, that matters.

[19] The Bank submits that the Smiths must be considered as beneficial owners of the property of which they are "the ultimate, indirect owners". This is untenable. Beneficial and indirect ownership are different. Beneficial ownership is ownership in the eyes of a court of equity. It arises where a legal owner of assets holds them in trust for another, the beneficial owner. Absent a declaration of trust or special circumstances, companies do not hold their assets in trust for their shareholders, or for shareholders of their shareholders. The Smiths may be viewed as indirect owners of the company that granted the mortgage, but there is nothing in the evidence to suggest that this company holds its property in trust for them. They are not beneficial owners.

[20] Justice Harris' reasons for making the order suggest that he had in mind a broader prohibition than the one contained in the entered order. What he contemplated was an order "that the Smiths do not take any steps to encumber or dissipate their assets or the assets of their subsidiaries without the agreement of the bank". Had the order been entered in those terms, the Bank would have a point. However, in the case of a discrepancy between reasons and an entered order, it is the entered order that governs. The Smiths were entitled to consider that the

conduct of subsidiary companies was only constrained to the extent that they themselves held a direct or beneficial interest in the companies' property.

[21] A breach of the order is not made out and the application to quash must therefore be dismissed.

Legal framework

[22] Subsections 43(1) and (7) of the *BIA* provide as follows:

43 (1) Subject to this section, one or more creditors may file in court an application for a bankruptcy order against a debtor if it is alleged in the application that

(a) the debt or debts owing to the applicant creditor or creditors amount to one thousand dollars; and

(b) the debtor has committed an act of bankruptcy within the six months preceding the filing of the application.

...

(7) If the court is not satisfied with the proof of the facts alleged in the application or of the service of the application, or is satisfied by the debtor that the debtor is able to pay their debts, or that for other sufficient cause no order ought to be made, it shall dismiss the application.

[23] Subsection (7) permits the court to dismiss a bankruptcy application, even where the requirements of subsection (1) are satisfied, on either of two grounds: (a) the court is satisfied by the debtor that the debtor is able to pay their debts; or (b) there is "other sufficient cause [that] no order ought to be made". In either case, the onus is on the debtor opposing the application: *Braich v. Clarke*, 2023 BCCA 305 at paras. 37, 48.

[24] An assertion that the debtor is in fact solvent requires "clear and independent" evidence: *Braich*, adopting language of Justice Ground in *484030 Ontario Ltd. (Re)* (1992), 8 O.R. (3d) 243 (O.C.(G.D.) in Bankruptcy) at para. 26, 1992 CanLII 7417. Such evidence may include financial accounts or statements: *484030 Ontario* at para. 27; *0757376 B.C. Ltd. (Re)*, 2011 BCSC 1268 at para. 21; *Forjay Management Ltd. v. 0981478 B.C. Ltd.*, 2018 BCSC 1409 at para. 30. In *Braich* at para. 37, Justice Marchand (as he then was) spoke for the Court and stated that the onus on a debtor to provide clear and independent evidence of solvency typically involves

“providing a full and transparent outline of the financial position of the debtor supported by such things as financial accounts, financial statements, and/or information regarding the debtor’s total indebtedness, revenues, profits, assets, liabilities and/or cash flow”.

[25] On appeal, the standard of review is deferential. A chambers judge’s consideration of subsection (7) under the first ground engages an assessment of the evidence tendered by the debtor. Where the first ground is made out, the court “shall dismiss” the application to bankrupt the debtor. On its face, the dismissal is not discretionary: Houlden & Morawetz, *Bankruptcy and Insolvency Law of Canada*, 4th ed. (Toronto: Thomson Reuters) (loose-leaf updated 2021, release 10), 3.70 at 3-117. Where the trial court has found that the first ground is not made out, absent an extricable error of law, an appellate court may only intervene on a showing of a palpable and overriding error: *Housen v. Nikolaisen*, 2002 SCC 33 at paras. 25, 36.

[26] Some courts have held that a trial court’s decision to grant relief under s. 43(7) and *not* bankrupt a debtor has a discretionary component: *Ivaco (Re)* (2006), 83 O.R. (3d) 108 at para. 37, 2006 CanLII 34551 (C.A.), leave to appeal granted but appeal abandoned, 31761 (3 May 2007); *Medcap Real Estate Holdings Inc. (Re)*, 2022 ONCA 318 at para. 9. A judge’s decision to grant or refuse relief under the second ground likewise involves an exercise of discretion: *Immeubles Zenda Itée/Zenda Realities Ltd. v. A. Schuster Holdings Inc.*, 2020 QCCS 3450 [Zenda] at para. 31. In either case, the standard of review is still deferential. An appellate court should only interfere on a showing of a palpable and overriding error of fact, an error in principle or if the result is an order that is plainly wrong: *Cowper-Smith v. Morgan*, 2017 SCC 61 at para. 46.

Decision of the chambers judge

[27] The Smiths presented evidence and argued that there is substantial equity in the River Road and Loughheed Properties. Based on that equity, they contended that there is about \$10.6 million equity in 745 and \$10.6–17.8 million equity in Skaw, all of which would be distributable to Bastian and Krystle equally. They said that

Bastian is therefore worth \$9.6–13.2 million, giving Craig a personal net worth, net of his debts, of \$6.2–9.8 million, and Krystle is worth \$9.2–12.8 million, giving him a personal net worth of \$5.6–9.2 million.

[28] The chambers judge addressed the Smiths' contentions in the context of the requirements of s. 43(7).

[29] Concerning the first ground, that the debtors are able to pay their debts, she examined the evidence of wealth claimed by the Smiths and found that "it is manifestly clear that the Smiths have failed to provide clear and independent evidence to satisfy the Court that that wealth actually exists, particularly at the amounts stated": at para. 44. She criticized the completeness and intelligibility of the financial information provided and observed that it was out of date. She made the following factual finding:

[50] I conclude without hesitation that the Smiths have entirely failed to meet their onus in failing to disclose their complete financial picture to the Court, in respect of both their own interests and their indirect interests in the various companies. ...

[30] The chambers judge went on to hold, as a further reason to reject the Smiths' argument on the first ground, that "[c]ourts have rejected a debtor's assertion that, since they have access to funds held by others, they are 'able' to pay their creditors": at para. 52.

[31] The chambers judge gave a third reason for rejecting the Smiths' argument on the first ground. She said that ability to pay cannot be assessed "on a balance sheet basis"; rather, as she put it, "the true test is whether the Smiths are able to pay their debts – not maybe at some point in the future – but generally as they fall due or, within a reasonable period of time": at para. 55, citing *Aircon Electric Ltd. (Re)*, [1978] 1 W.W.R. 1 at 5–6, 1977 CanLII 2244 (B.C.S.C.), *Forjay* at para. 31, and *Zenda* at paras. 15–16. She observed that the Bank's judgments had been outstanding since July 2024, and found that "[d]espite that lengthy time, the Smiths have failed to establish any ability to repay the [Bank] debt (let alone the other debts) in a timely manner": at para. 60.

[32] Turning to the second ground, the judge was unpersuaded that there was other sufficient cause to dismiss the applications. Responding to an argument that the Smiths were taking steps to address their indebtedness and needed more time, she said that they had already had plenty of time and their arguments “seem directed more toward delay, rather than action”: at para. 74. She rejected as impractical an argument that the Bank could realize on its judgments through the seizure and private sale of the Smiths’ shares in Bastian and Krystle. Taking control of the further shareholdings would involve “a myriad of corporate procedures” and “the end result may hold many surprises in terms of the value of realizable assets and the presence and priority of liabilities (including tax) in those operating companies”: at para. 79.

Issues

[33] The Smiths contend that the judge’s reasons disclose the following four errors:

1. The judge misapplied the test under s. 43(7) in concluding that assets owned by a wholly-owned holding company were “irrelevant” as a matter of law for the purpose of assessing a debtor’s ability to pay;
2. The judge misapplied the test under s. 43(7) in concluding categorically that the financial statements and other information put into evidence by the Smiths, being unaudited, were insufficient for the purposes of proving a debtor’s ability to pay, and by otherwise applying a standard of proof inconsistent with the framework of the *BIA*;
3. The judge made palpable and overriding errors in her consideration of the evidence with respect to the Smiths’ ability to pay, by misapprehending or misconceiving the financial statements and other materials led; and
4. The judge made palpable and overriding errors in her consideration of the evidence with respect to the Smiths’ ability to pay within a

reasonable period of time, by ignoring evidence of the estimated exposure time for the sale of the commercial properties.

Analysis

Did the judge err by misapplying the test under s. 43(7) in concluding that assets owned by a wholly-owned holding company were “irrelevant” as a matter of law for the purpose of assessing a debtor’s ability to pay?

[34] As noted, the judge challenged the Smiths’ reliance on assets held by their companies, stating that “[c]ourts have rejected a debtor’s assertion that, since they have access to funds held by others, they are ‘able’ to pay their creditors”: at para. 52. This is the second of the three reasons given by the judge for rejecting their argument on the first ground. The Smiths submit that this reasoning reflects legal error. Their point is that the cases cited by the judge do not exclude, as a matter of law, consideration of assets controlled by a debtor through holding companies and their subsidiaries in determining the debtor’s ability to pay.

[35] I agree with the Smiths that the judge may have spoken too broadly in characterizing assets owned by 734 and Loughheed as “held by others” for the purpose of assessing ability to pay. I need not decide this question, because the legal proposition is not at all critical to the judge’s conclusion that the Smiths had not shown that they are able to pay their debts. In the judge’s reasoning, what was critical was whether the Smiths had demonstrated an ability to pay at present or within a reasonable period of time: at para. 55. Their possible ability to pay at some undetermined point in the future was irrelevant: at para. 61.

Did the judge err by misapplying the test under s. 43(7) in concluding categorically that the financial statements and other information put into evidence by the Smiths, being unaudited, were insufficient for the purposes of proving a debtor’s ability to pay, and by otherwise applying a standard of proof inconsistent with the framework of the BIA?

[36] The Smiths argue that “the chambers judge faulted [them] for failing to produce current audited financial statements – dismissing the financial statements and other materials led categorically”. At its highest, this argument is grounded in a

misreading of the reasons for judgment. The judge does not criticize the financial materials presented by the Smiths because they are unaudited. The criticism goes much deeper than that. The judge describes the financial documentation provided for Bastian and Krystle as follows at para. 36 of the reasons:

- a) Craig produced management-prepared financial statements for Bastian as of October 2023. The balance sheet shows assets (due from related parties with no detail) and liabilities which also include “due to related parties” and “due to shareholder”, again with no detail. The document is purportedly supported by a trial balance, which is incomprehensible in terms of what is due from or to related parties (which include the ones in receivership or bankruptcy). For the year ended October 2023, Bastian reported no income for 2023 (in 2022, it declared dividend income of over \$1.27 million); and
- b) Kyle has produced what he describes as “financial statements” for Krystle, however, they are not financial statements at all. They are a trial balance as of October 31, 2023 based on some journal entries, which appears to have been reviewed by a Chartered Professional Accountant, but not approved by anyone. They are incomprehensible in terms of portraying any accurate picture of Krystle’s financial status, despite Kyle’s statement to that effect.

[37] The judge states:

[44] However, even after considering the Smiths’ argument about their wealth, it is manifestly clear that the Smiths have failed to provide clear and independent evidence to satisfy the Court that that wealth actually exists, particularly at the amounts stated. As set out above, to the extent that there are financial statements, they are not current: they are dated from 2023. In addition, those statements have not been independently verified as accurate. No financial statements have been produced by Krystle at all.

...

[47] It must be emphasized that Craig and Kyle remain in full control of all companies in the corporate group. It is inexplicable why they have not produced more recent and independently confirmed financial information for the benefit of this proceeding. Presumably, those would confirm their bald assertion that there are “no significant debts or liabilities” presently beyond what is shown in the various “financial statements”, let alone clarified the true picture arising from those financial statements.

[Emphasis added.]

[38] The judge’s statements that the financial materials produced by the Smiths were not “independently verified” or “independently confirmed” is not a reference to the absence of audited statements. Nowhere does the judge refer to the materials as

audited or unaudited. As noted by the judge, some of the materials were not even approved by management. Some were nothing more than a trial balance. All of them were dated.

[39] The Smiths submit that references to an absence of independent verification (at para. 44 of the reasons) or independent confirmation (at para. 47) of financial information provided by them illustrate legal error by the imposition of an unwarranted categorical requirement for full financial statements prepared by an external accountant. I do not so read the reasons for judgment. I agree with the Smiths that there may be circumstances in which management-prepared financial statements could provide clear and independent evidence as required by the authorities. In my view, the judge's reasons do not manifest a categorical rejection of management-prepared financials. She was unsatisfied with the particular financial materials presented by the Smiths.

[40] As noted, the onus of proof was on the Smiths to satisfy the judge of their ability to pay by clear and independent evidence. The judge had regard to this legal burden on the Smiths to provide clear and independent evidence and did not exaggerate it. I am unable to discern any error of law in the judge's analysis.

Did the judge make palpable and overriding errors in her consideration of the evidence with respect to the Smiths' ability to pay, by misapprehending or misconceiving the financial statements and other materials led?

[41] The Smiths submit that it was obviously wrong for the judge to reject their argument ascribing to Craig a personal net worth exceeding \$6.2 million and to Kyle a personal net worth exceeding \$5.6 million. They say that the judge "relied heavily on criticisms that financial statements were management-prepared and somewhat dated" and that, "[w]hile such imperfections may go to weight, they do not justify disregarding the evidence entirely". They complain that the Bank did not tender evidence contradicting their evidence, and there would be no basis to find that their evidence was dishonest or fabricated. They describe the calculations involved as "a matter of simple arithmetic".

[42] To be clear, the judge was not obliged to accept the Smiths' evidence simply because it was uncontradicted. The foundational premise as to the value of the River Road and Lougheed Properties was tenuous.

[43] As to the River Road Property, there was a signed appraisal prepared by real estate appraisers valuing it at \$21 million as of September 7, 2024, "to assist in making decisions relating to first mortgage financing" and for no other purpose. The appraiser noted, as an "Extraordinary Assumption", that he had not personally inspected the comparable evidence upon which the valuation was based. The assessed value of the property in July 2024, was about \$7.3 million. It was encumbered by a \$7 million mortgage. The property was listed for sale in March 2025 without specifying a list price.

[44] As to the Lougheed Property, there was an unsigned draft appraisal valuing it at \$28.6 million as at March 22, 2022. The draft appraisal noted a similar Extraordinary Assumption. There was also an undated and unsigned one-page document headed by the Lougheed Property's address and containing two tables, one entitled "Property Information" and the other "Depreciated Replacement Cost", the latter showing calculations leading to a "Total Value of Land and Improvements" of \$35.81 million. Craig Smith described this document as a valuation prepared by Colliers on or around August 8, 2024. It was open to the judge to accord it very little weight.

[45] As noted by the judge, the reasoning by which the Smiths sought to trace value through a chain of corporations was much more than a matter of simple arithmetic. In reality, it was grounded in doubtful and unproven assumptions. On the evidence, it was not possible to assess whether funds obtained by Lougheed or 734 by refinancing or selling the Lougheed and River Road Properties could be moved up to Skaw and 745, and from there to Bastian and Krystle, and from there to the Smiths, without incurring substantial tax liabilities or losing the funds to other undisclosed creditors in transit.

[46] The Smiths point to statements in the judge's reasons that they submit disclose palpable and overriding errors in her appreciation of the evidence. I agree with them that there are errors in her description of the evidence. In reviewing 745's management-prepared financial statement, the judge comments that an associated trial balance "does not even match the figures in the balance sheet": at para. 34(a). The judge is mistaken: the numbers do match. Referring to management-prepared financial statements and an associated trial balance for Bastian in October 2023, the judge describes the documents as "incomprehensible in terms of what is due from or to related parties": at para. 36(a). This is an overstatement, because the amounts owed by and owing to related parties are set out in the trial balance. At para. 49 of the reasons, the judge points to what she views as contradictory evidence given by the Smiths and a related failure to disclose a significant contingent liability. The criticism is again overstated, given the careful wording of the affidavits.

[47] For context and in fairness to the judge, she was presented with a volume of financial documentation attached to affidavits made by the Smiths. The statements and trial balances make reference to various related parties, many of them in receivership. The receiverships post-date the materials. The financial documentation is unexplained in the affidavits. Taken together, the materials fall well short of "a full and transparent outline of the financial position of the debtor[s]", as contemplated in *Braich*: at para. 37.

[48] In my view, viewed individually or collectively, the specific mistakes identified in argument do not override or overwhelm the judge's overall conclusion as to the insufficiency of the evidence proffered by the Smiths.

[49] Contrary to the Smiths' submission, the judge did not disregard their evidence entirely. She gave it due consideration, wrestled with its shortcomings, and found herself unpersuaded for reasons articulated at some length in her reasons for judgment. These are the tasks of a judge in chambers. The Smiths would have us reassess the evidence and come to a different conclusion. This is not the role of an appellate court.

[50] I reject the argument that the judge made overriding errors in her consideration of the evidence bearing on the Smiths' ability to pay.

Did the judge make palpable and overriding errors in her consideration of the evidence with respect to the Smiths' ability to pay within a reasonable period of time, by ignoring evidence of the estimated exposure time for the sale of the commercial properties?

[51] The Smiths submit that the judge erred by ignoring evidence demonstrating a realistic and timely pathway to payment. They point to evidence that the River Road Property was listed for sale with Colliers on March 25, 2025, the valuation evidence I have described, and to anticipated exposure times of up to six months contained in the appraisal of the River Road Property and draft appraisal of the Lougheed Property. They submit that "this evidence supported the Smiths' ability to pay the subject debts within a reasonable period of time". They say that the judge failed to grapple with central evidence.

[52] I do not accept that the judge made an obvious error in considering the evidence bearing on the Smiths' ability to pay within a reasonable period of time. It was open to her to consider that the Smiths had made minimal efforts before the bankruptcy applications were filed—they listed the River Road Property ten days afterwards—and to find that "there is no indication that any funds will be flowing in the near future through the operating companies up to the HoldCos and then the Smiths personally, so as to satisfy the [Bank's] Judgments or any of their other debts": at para. 63.

Disposition

[53] As noted, we dismissed the application to dismiss the appeal summarily and the appeal.

“The Honourable Justice Gomery”

I AGREE:

“The Honourable Madam Justice Fisher”

I AGREE:

“The Honourable Justice Mayer”