[2025] JMCC Comm 146

REASONS FOR DECISION

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE INSOLVENCY DIVISION

CLIAM NO. SU2025IS00002

IN the Matter of the Insolvency Act

And

IN the Matter of an Appeal Under Section 201 (5) of the Insolvency Act

Between	**Niche Financing Limited**	**Appellant**
And	**Office of the Government Trustee (Estate Largue Patricia Nedrick)**	**Respondent**

Insolvency – Appeal pursuant to Section 201(5) of the insolvency Act – Whether decision of trustee in Bankruptcy to disallow claim should be set aside – Whether Creditors loan in breach of Money Lending Act – Whether Loan enforceable.

D'Angelo Foster and Sean Christopher Castle for the Appellant instructed by Cardinal Law

Gabrielle Munoz for The Government Trustee

Gavarie Ashmead Judicial Counsel

Heard: 17th November 2025

In Open Court

Coram: Batts J.

[1] My decision in this matter was delivered orally on the 17th November 2025. These written Reasons for Decision were prepared at the request of the Court of Appeal which I received on the 30th October, 2026.

[2] The Appellant, by Fixed Date Claim filed on the 30th June 2025, appealed pursuant to Section 201(5) of the Insolvency Act against a decision of the Office of the Government Trustee, made on the 29th May 2025, disallowing its claim in the estate of the bankrupt, see exhibit KP21 to the affidavit of Kristen Palmer filed on the 3rd November, 2025. The claim was disallowed because, in the opinion of the Office of the Government Trustee, the loan agreement on which the Appellant relied did not comply with the provisions of the Money Lending Act in that the contract did not state:

a. The date on which the loan was made
b. The amount of the principal of the loan
c. The rate of interest as a rate per centum.

[3] Counsel for the Appellant stated that it was not within the remit of the Trustee to determine whether the Money Lending Act applied. The bankrupt and his client had, he submitted, entered into a loan agreement and his client was owed money. The statement to the customer showed the loan amount as well as the interest charged and should suffice to prove the loan in bankruptcy. Counsel invited me to exercise my discretion under Section 8(3) of the Money Lending Act.

[4] The loan agreements in question are exhibited at #VW6 and VW7 of the affidavit of Venice Williams dated 27th June 2025. I have read those agreements. It is manifest that they do not comply with the requirements of the Money Lending Act as identified by the Office of the Government Trustee. It is manifest that the Appellant set up a system involving “Master Loan” agreements and that it is designed to avoid the requirements of the Act. It may be a convenience to the lender, and may avoid the burden of stamping a separate agreement for each loan

or advance to the borrower, but whatever the reason it is inconsistent with the provisions of the Money Lending Act. The Office of the Government Trustee stands in the shoe of the bankrupt and is entitled, and indeed duty bound, to deny a claim based on an unenforceable contract.

[5] I hold that the contract is unenforceable. I also decline to exercise a discretion to allow or waive these breaches of the Money Lending Act. The Appellant is a professional Money Lender and it seems to me has set up a system designed to break the law. This should not be encouraged. Borrowers at the time a loan is made are entitled to know: the date the loan commences, the principal loaned and the rate of interest to be applied.

[6] For the above stated reasons, I dismissed the appeal against the decision of the Office of the Government Trustee.

David Batts
Puisne Judge
12th November 2026.