

Coutts & Co v Michael Stock

This was a case where a petition was presented to the court to wind up the company and after the advertisement of the petition, substantial payments were made out of the company's bank account.

The court held that making payments out of an account pursuant to an overdraft facility was not void against the bank and that the section in the Insolvency Act stating that such payments were void was to allow recoveries against the third party recipient.

This effectively will now clarify the position which has become commonplace in liquidations where it has previously been possible to claim monies back from the bank where payments were made out of the account after the date of advertisement of the winding up petition. It will now not be possible to do this and the liquidator will have to seek the money back from the recipient.

Often banks have frozen bank accounts immediately upon presentation of a petition to safeguard themselves. This practice may change following this case.