

## INSOLVENCY- WHEN LIQUIDATORS USES INACTION AS A PROCEDURAL SHIELD: RULE 93 VS SECTION 517 COMPANIES ACT 2016

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In a recent case, we acted for a creditor whose Proof of Debt (“**POD**”) had been pending for over 10 months. The Liquidator refused to make a decision — neither admitting nor rejecting it — and then argued that the Applicant’s court application was “premature” under **Rule 93** of the **Companies (Winding-Up) Rules 1972**.

This is a procedural shield we’re seeing more often: “No rejection = no appeal = no hearing.”

But what happens when the delay is deliberate? Can the Liquidator really benefit from his own inaction?

We argued that this is precisely what **Section 517** of the **Companies Act 2016** was designed to address. It allows the Court to review “*any act*” or decision of the Liquidator — not just a formal rejection. This is a wider provision than its counterpart in Rule 93. Section 517 of the Companies Act 2016 provides a broader remedy. It empowers the Court to review “any act or decision” of a liquidator—including a refusal or failure to act. This statutory provision allows creditors to circumvent procedural obstacles where a liquidator’s silence becomes a strategy of avoidance.

The High Court agreed with our position. The Judge rejected the preliminary objection and compelled the Liquidator to finally make a decision.

This issue is not just procedural — it goes to the heart of fairness in insolvency. As officers of the Court, Liquidators must act reasonably and impartially, not deploy silence as a legal tactic. And creditors should not be left in limbo or punished for taking steps to protect their rights.

This direction reinforces a crucial point: Rule 93 is not a licence for delay, and Section 517 remains a powerful remedy for creditors facing unreasonable silence.

Keen to hear if others have faced similar procedural roadblocks in liquidation work — and share insights on how the courts are responding to these evolving issues.

This case update is contributed by our partner Dennis Yuean Jin Han, who acted and appeared for the Applicant.

*DISCLAIMER: This update is intended for readers' general information only. It is not intended to be nor should it be regarded or relied upon as legal advice. Readers should consult a qualified legal professional before taking any action or omitting to act in relation to matters discussed herein.*

**Dennis Yuean Jin Han**

Partner

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Practice Focus:

Dennis' practice area is dispute resolution with a focus on corporate shareholder and boardroom disputes and insolvency practice.

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E [dennisyuean@cheangariff.com](mailto:dennisyuean@cheangariff.com)

GL +603 2691 0803 ext 302