SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT

Blue River Gems Inc. v. Gross

2026 NY Slip Op 03224 · No. Index No. 150883/20; Appeal No. 6710; Case No. 2025-02029 · Decided May 21, 2026

SUMMARY

The Appellate Division, First Department reversed an order that had entered a $50,946 judgment against Michael Gross under Debtor and Creditor Law § 276. The court held that the evidence supported piercing the corporate veil because Gross dominated Michael Gross Diamonds Inc. and used that domination to cause the corporation to become judgment-proof after converting a necklace. The court permitted recovery against Gross of the entirety of the judgment previously entered against the corporation and did not reach the interest-calculation issue.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; González, J.; O'Neill Levy, J.; Chan, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	May 21, 2026
DOCKET	Index No. 150883/20; Appeal No. 6710; Case No. 2025-02029
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order entered after a CPLR 3212(c) evidentiary hearing that imposed personal liability on Michael Gross under Debtor and Creditor Law § 276. The Appellate Division reversed and permitted plaintiff to recover against Gross under a corporate-veil-piercing theory.
STANDARD OF REVIEW	Fair interpretation of the evidence, because Supreme Court held an evidentiary hearing pursuant to CPLR 3212(c).
PRECEDENTIAL VALUE	Published
PARTIES	Blue River Gems Inc. v. Michael Gross, Michael Gross Diamonds Inc.

TOPICS

corporate veil piercing · corporate law · commercial litigation · remedies · appellate procedure

PRACTICE AREAS

corporate law · commercial litigation · remedies · appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence established the domination and fraud-or-wrong elements required to pierce the corporate veil and hold Michael Gross personally liable for the judgment against Michael Gross Diamonds Inc.
2. Whether the court properly calculated interest under Debtor and Creditor Law § 276.

HOLDINGS

1. The evidence satisfied both requirements for piercing the corporate veil: Gross completely dominated the corporation with respect to the transaction at issue, and he used that domination to commit a wrong or inequity against plaintiff by causing the corporation to become judgment-proof. Plaintiff was therefore permitted to recover against Gross the entirety of the judgment entered against Michael Gross Diamonds Inc.
2. The court did not reach the interest-calculation issue because reversal on the corporate-veil-piercing theory resolved the appeal.

KEY QUOTATIONS

> *“"To pierce the corporate veil and hold . . . individual defendants liable for a corporation's actions, [a] plaintiff[was] required to show that (1) the individual owner[] exercised complete domination over the corporation with respect to the transaction attacked, and (2) that such domination was used to commit a fraud or wrong against the plaintiff, resulting in the plaintiff's injury"”* ([*1])

FACTUAL BACKGROUND

Michael Gross was the sole shareholder and officer of Michael Gross Diamonds Inc. and exercised sole discretion in causing the corporation to convert the necklace underlying plaintiff's judgment. Trial evidence showed that Gross controlled the corporation's bank accounts, took personal loans, paid personal and family expenses, made contributions that generated a kickback, and withdrew approximately $550,000 between 2013 and 2018. His conflicting financial testimony, inconsistent bookkeeping, and personal transfers after notice of the judgment left the corporation judgment-proof and prevented plaintiff from collecting its judgment.

PROCEDURAL HISTORY

A judgment was entered on January 16, 2019, in favor of Blue River Gems Inc. against Michael Gross Diamonds Inc. Plaintiff was unable to collect that judgment. After a trial pursuant to CPLR 3212(c), Supreme Court, New York County, directed entry of judgment against Michael Gross for $50,946 plus statutory interest under Debtor and Creditor Law § 276. The First Department unanimously reversed, holding that Gross could instead be held liable for the entirety of the prior judgment under a veil-piercing theory.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The order was reversed, and plaintiff was permitted to recover against Michael Gross under its corporate-veil-piercing theory the entirety of the judgment entered in plaintiff's favor against Michael Gross Diamonds Inc.

CASES CITED

- BML Props. Ltd. v. China Constr. Am., Inc., 237 AD3d 461, 462 [1st Dept 2015]
- Kahan Jewelry Corp. v. Coin Dealer of 47th St. Inc., 173 AD3d 568, 568 [1st Dept 2019]
- Blue Riv. Gems Inc. v. S.V. & V. Diamond Corp., 190 AD3d 581, 581 [1st Dept 2021]
- Rich v. J.A. Madison, LLC, 246 AD3d 1, 8 [1st Dept 2025], appeal dismissed, 45 NY3d 954 [2026]

OPINION

PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. Blue River Gems Inc., Plaintiff-Appellant, v Michael Gross et al., Defendants-Respondents. Decided and Entered: May 21, 2026 Index No. 150883/20|Appeal No. 6710|Case No. 2025-02029| Before: Moulton, J.P., González, O'Neill Levy, Chan, JJ. Weg and Myers, P.C., Rye Brook (Dennis T. D'Antonio of counsel), for appellant.

Ofeck & Heinze, LLP, New York (Mark F. Heinze of counsel), for respondents. [*1] Order, Supreme Court, New York County (James D'Auguste, J.), entered December 2, 2024, which, to the extent appealed from as limited by the briefs, after trial pursuant to CPLR 3212(c) directed that judgment be entered in favor of plaintiff in the principal amount of $50,946.00 against defendant Michael Gross pursuant to Debtor and Creditor Law § 276, plus interest at the statutory rate from May 23, 2017, unanimously reversed, on the law, with costs, and plaintiff permitted to recover against Michael Gross on plaintiff's piercing the corporate veil theory the entirety of the judgment entered in plaintiff's favor on January 16, 2019 against defendant Michael Gross Diamonds Inc. (MGD).

As a preliminary matter, because the court held an evidentiary hearing pursuant to CPLR 3212(c), we review this appeal under a "fair interpretation of the evidence" standard (see BML Props. Ltd. v China Constr. Am., Inc., 237 AD3d 461, 462 [1st Dept 2015]). "To pierce the corporate veil and hold... individual defendants liable for a corporation's actions, [a] plaintiff[is] required to show that (1) the individual owner[] exercised complete domination over the corporation with respect to the transaction attacked, and (2) that such domination was used to commit a fraud or wrong against the plaintiff, resulting in the plaintiff's injury" (Kahan Jewelry Corp. v Coin Dealer of 47th St. Inc., 173 AD3d 568, 568 [1st Dept 2019] [internal quotation marks and brackets omitted]).

Here, a fair interpretation of the evidence supports the conclusion that plaintiff satisfied the domination prong. Michael Gross, as MGD's only shareholder and officer, exercised sole discretion in causing MGD, as we previously found, to convert the necklace upon which the judgment is based (see Blue Riv. Gems Inc. v S.V.& V. Diamond Corp., 190 AD3d 581, 581 [1st Dept 2021]).

Furthermore, evidence presented at trial established that Gross controlled the corporate bank accounts from which he took personal "loans," paid personal expenses for himself and his family, and made contributions to his congregation that paid him a "kickback." With respect to the second prong, the judgment against MGD based on Gross's conversion of the necklace, together with the evidence presented at trial, such as Gross's conflicting testimony about his finances and corporate tax returns, his inconsistent bookkeeping, and his personal withdrawals of approximately $550,000 between 2013 and 2018, demonstrate that Michael Gross caused MGD to become judgment-proof, resulting in a wrong or inequity against plaintiff, which has not been able to collect on its judgment against MGD (see Rich v J.A.

Madison, LLC, 246 AD3d 1, 8 [1st Dept 2025], appeal dismissed 45 NY3d 954 [2026]). Notably, the court's finding that Gross made personal transfers from MGD's corporate accounts after he had actual notice of the judgment in violation of Debtor and Creditor Law § 273 serves as further evidence that Gross abused the corporate form. [*2] In light of the foregoing, we need not reach the issue of whether the court properly calculated interest.

We have considered defendants' remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: May 21, 2026

PER CURIAM.

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Ltd. v China Constr. Am., Inc.</i>, 237 AD3d 461, 462 [1st Dept 2015]).</p> <p>"To pierce the corporate veil and hold... individual defendants liable for a corporation's actions, [a] plaintiff[is] required to show that (1) the individual owner[] exercised complete domination over the corporation with respect to the transaction attacked, and (2) that such domination was used to commit a fraud or wrong against the plaintiff, resulting in the plaintiff's injury" (<i>Kahan Jewelry Corp. v Coin Dealer of 47th St. Inc.</i>, 173 AD3d 568, 568 [1st Dept 2019] [internal quotation marks and brackets omitted]).</p> <p>Here, a fair interpretation of the evidence supports the conclusion that plaintiff satisfied the domination prong.

Michael Gross, as MGD's only shareholder and officer, exercised sole discretion in causing MGD, as we previously found, to convert the necklace upon which the judgment is based (<i>see</i>

<i>Blue Riv. Gems Inc. v S.V.& V. Diamond Corp.</i>, 190 AD3d 581, 581 [1st Dept 2021]). Furthermore, evidence presented at trial established that Gross controlled the corporate bank accounts from which he took personal "loans," paid personal expenses for himself and his family, and made contributions to his congregation that paid him a "kickback."</p> <p>With respect to the second prong, the judgment against MGD based on Gross's conversion of the necklace, together with the evidence presented at trial, such as Gross's conflicting testimony about his finances and corporate tax returns, his inconsistent bookkeeping, and his personal withdrawals of approximately $550,000 between 2013 and 2018, demonstrate that Michael Gross caused MGD to become judgment-proof, resulting in a wrong or inequity against plaintiff, which has not been able to collect on its judgment against MGD (<i>see Rich v J.A.

Madison</i>, <i>LLC</i>, 246 AD3d 1, 8 [1st Dept 2025], <i>appeal dismissed</i> 45 NY3d 954 [2026]).</p> <p>Notably, the court's finding that Gross made personal transfers from MGD's corporate accounts after he had actual notice of the judgment in violation of Debtor and Creditor Law § 273 serves as further evidence that Gross abused the corporate form.</p> [*2] <p>In light of the foregoing, we need not reach the issue of whether the court properly calculated interest.</p> <p>We have considered defendants' remaining contentions and find them unavailing. </p> <p>THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.</p> <p>ENTERED: May 21, 2026</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>