



Neutral Citation Number: [2025] CIGC (FSD) 108

Cause No: FSD 2023-0201 (RPJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)
AND IN THE MATTER OF CHINA INDEX HOLDINGS LIMITED

Before: The Honourable Justice Raj Parker

Heard: On the papers

Date of Decision: 10 November 2025

Draft Reasons

Circulated: 12 November 2025

Reasons delivered: 13 November 2025

HEADNOTE

Interim payment-determination on the papers- GCR Order 62, r.4(2)- GCR Order 62, r.4(7)-starting assumption-quantum- likely amount to be awarded following taxation-50% rule of thumb-discretion

JUDGMENT

Introduction

1. Koa Capital L.P. (Koa) and 507 Summit LLC (507 Summit) (collectively the Dissenters) applied by summons dated 16 May 2025 (the Summons) for an order pursuant to GCR O.62r.4(7):
 - a. that the Company pay USD 180,373.38 on account of the Dissenting Shareholders' costs ordered to be taxed on the standard basis pursuant to the Order dated 20 September 2024 and
 - b. that the Company pay USD 5,508.38 on account of the Dissenting Shareholders' costs ordered to be taxed on the standard basis pursuant to the Order dated 3 December 2024 and
 - c. that the Company pay the costs of and incidental to the Summons to be taxed on the standard basis if not agreed, and that, the Company pay Dissenting shareholders 50% of the estimate of such costs on account of such costs, being the sum of USD 5,450.16.

Background

2. These s.238 Companies Act proceedings were commenced by the Company's Petition dated 19 July 2023.
3. Following a hearing on 18 July 2024 with regard to an interim payment application issued by the Dissenters Justice Doyle decided in favour of the Dissenters and ordered payment of an interim payment plus interest.
4. The Company failed to make the payment and an unless order was applied for, seeking to have the Company debarred from taking further part in the proceedings. The Unless order application was subsequently withdrawn by consent, the Company agreeing to pay the Dissenters' costs related to the unless order application, to be taxed on the standard basis if not agreed.

5. Justice Doyle decided on 13 September 2024 in relation to the costs of the interim payment proceedings, that the Company should pay the Dissenters' costs of the Dissenters' successful application for an interim payment. The costs were to be taxed on the standard basis if not agreed.
6. Communications then followed concerning the Dissenters' attempts to agree a payment on account from the Company. These attempts were unsuccessful.

The Law

7. GCR Order 62, r.4(2) states the overriding objective regarding Order. 62 is:

"The overriding objective of this Order is that a successful party to any proceeding should recover from the opposing party the reasonable costs incurred by successful party in conducting that proceeding in an economical, expeditious and proper manner unless otherwise ordered by the Court."

8. In circumstances in which payment of a costs order is subject to taxation, the Court may order the paying party to pay a reasonable interim amount prior to taxation:

"The orders which the Court may make under this rule include an order that a party must pay—

...

(h) where the Court orders the paying party to pay costs subject to taxation, a reasonable sum on account of costs, such sum to be assessed summarily."

9. The starting assumption is that the successful party is entitled to a reasonable proportion of the money likely to be ordered after a taxation as soon as possible¹. To displace that starting assumption a good reason would have to be shown for requiring the receiving party to be deprived of any costs until the taxation process is complete².

¹ *In re Al Sadik v Investcorp Bank BSC [2019 (2) CILR 585], 06 August 2019 Kawaley J*

² *Ibid.* §25(d)

Decision

10. There is no question as to the Dissenters' entitlement to receive the costs of both the interim payment application and the December costs order which was also in favour of the Dissenters. The Court will also grant this summons and has decided that the Dissenters are again the successful party and so costs should follow the event in the usual way.
11. It follows that the starting assumption is that an interim payment on account of all of those costs should be made and should have been made some time ago. It is the case that any taxation at the end of this case will be many months into the future, and it is not fair or just for the Dissenters to be entirely kept out of their costs for that period of time. The Court has found no good reason to depart from that starting assumption.

Quantum

12. In arriving at a sum to be paid on account the Court should identify a reasonable sum that will be allowed on taxation ³. The Court balances the injustice of the receiving party being kept out of the money to which it is entitled, against the risk of prejudice of the paying party of an overpayment.
13. A rule of thumb that courts often award in relation to this balancing exercise is 50% of the total costs.
14. The Dissenters have provided details in relation to the September costs order and estimates in relation to the December costs order and the Court has reviewed the 4th affidavit of Henry Patner dated 16 May 2025 and the second affirmation of Lili Chen dated 13 June 2025.
15. The Dissenters' calculations in this case in relation to total costs incurred amounts to US\$382,746.75. They say that an interim payment should be made of US\$191,331.92 (50%).
16. The Company says that the court has not been assisted by the Dissenters in arriving at a reasonable estimate for the purposes of an interim payment on account because they have wrongly included a 'multitude of irrecoverable items in the bill of costs.

³ *In re The Armand Hammer Foundation Inc v Hammer International Foundation and Others* FSD 113 of 2023 (Asif J) 24 April 2024 at 6c

17. Having reviewed the bill of costs, the Court does not agree. Sufficient material has been provided for the Court to conduct a summary assessment.
18. Chen 24 makes reference to various disputed items and argues that the starting point for total costs should be US\$242,200, although the Company says that it reserves its position in relation to other objections it might take on taxation in due course.
19. The order the court will make having reviewed all of the evidence is that an interim payment in the amount of US \$191,331.92 should be made by the Company. This is more than the usual rule of thumb and represents approximately 72% of the amount the Company says should be the starting point, but no substantive disputes have been raised in relation to that amount, and the Court is of the view that there will be little risk of prejudice of overpayment.
20. US \$191,331.92 is an amount which helps reduce the prejudice that to the Dissenters of being kept out of the money to which they are ultimately entitled. In the unlikely event of an overpayment, the Company has the remedy of repayment of any excess funds paid either voluntarily or by court order.
21. The interim payment should be made within 14 days of the date of the Court's order.



THE HON. JUSTICE RAJ PARKER
JUDGE OF THE GRAND COURT

⁴ *Exhibit LC-2*