



Neutral Citation Number: [2026] CIGC (FSD) 19

CAUSE NO: FSD 2024-0395 (JAJ)

CAUSE NO: FSD 2025-0344 (JAJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

IN THE MATTER OF SECTION 131 OF THE COMPANIES ACT (2025 REVISION)

AND IN THE MATTER OF ATLAS CAPITAL MARKETS LLC (IN VOLUNTARY LIQUIDATION)

Appearances: Mr Andrew Jackson of Appleby (Cayman) Ltd for the Petitioner

Mr Dennis Brady of Brady Attorneys for the Defendant

Before: The Honourable Justice Jalil Asif KC

Heard: 8 December 2025, 3 February 2026 and 17 February 2026

Ex tempore judgment delivered: 17 February 2026

Finalised judgment approved: 24 March 2026

Insolvency—parallel petitions for supervision order and for just and equitable winding up—whether to make supervision order or proceed with just and equitable petition

Insolvency—determination of appropriate appointees as liquidators—whether proposed appointees lack independence

JUDGMENT

1. There are two petitions listed before me: one petition is listed for directions and the other is listed for a substantive decision. The first of the two matters is Cause No. FSD 395 of 2024, which is a winding-up petition, initiated by Mr Charles Agyemang Ofori against Atlas Capital Markets LLC (“**ACM LLC**”) as long ago as 13 December 2024, and that is the matter which is listed before me for directions today. The second is Cause No. FSD 344 of 2025, which is a petition presented by the joint voluntary liquidators of ACM LLC for a supervision order, immediately following their appointment on 24 November 2025.
2. I can summarize the underlying facts very briefly as follows. Mr Ofori and Mr Mustapha Raddi together set up ACM LLC as an investment fund. Mr Ofori says that he has a long track record of working in investment funds and had previously worked as a portfolio manager for Atlas Capital Markets Limited (“**ACM Ltd**”), a different company owned by Mr Raddi. ACM LLC was incorporated on 16 June 2021. Mr Raddi was allocated 60 shares in the company, and Mr Ofori was allocated 40 shares in the company. Initially, the working relationship between the two of them proceeded smoothly, but, as often happens in cases that end up before the Financial Services Division of the Grand Court, the two gentlemen had a falling out. This is evidenced by Mr Ofori’s account that: in December 2022, Mr Ofori agreed to Mr Raddi’s request for the return of his capital contribution, leaving Mr Ofori as the sole source of funds to capitalise ACM LLC; on 21 March 2023, Mr Ofori was locked out of the company’s IT system, without any explanation; and on 14 April 2023 Mr Ofori was removed as manager of ACM LLC, he says, again with no explanation. Shortly after this, on 10 May 2023, Mr Raddi and/or ACM LLC informed certain third parties that Mr Ofori was no longer working with ACM LLC but remained a shareholder in the company. Mr Ofori alleges that on 23 May 2023 he asked ACM LLC to return to him the value of the capital contribution with which he had been credited and his profit share, but on 15 June 2023, ACM LLC refused to do so.

3. On 25 September 2023, Mr Raddi transferred his shares in ACM LLC to ACM Ltd and, since that date, Mr Raddi has not been a direct shareholder in ACM LLC. On 16 February 2024, Mr Ofori's shares in ACM LLC were compulsorily redeemed. It is not clear whether Mr Ofori knew this was happening at the time, but I infer that it was against his wishes. As a result of that, ACM Ltd became the sole member of ACM LLC with effect from 16 February 2024. It appears that the grounds put forward on behalf of ACM LLC for the compulsory redemption of Mr Ofori's shares were allegations of misconduct and misbehaviour on Mr Ofori's behalf, which Mr Ofori strenuously denies. It appears that there were then some discussions between Mr Ofori and Mr Raddi concerning Mr Ofori's position, but those discussions did not result in any offer to resolve the dispute between them that was acceptable to Mr Ofori.
4. On 13 December 2024, Mr Ofori presented his winding-up petition against ACM LLC, which is Cause No. FSD 395 of 2024. The petition alleges that ACM LLC was effectively run as a quasi-partnership between Mr Ofori and Mr Raddi, that there has been a breakdown in the relationship between them, and that it would be just and equitable for the Court to wind-up ACM LLC as a result. Mr Ofori swore a short form affidavit on 14 December 2024, verifying the factual allegations in his petition. On 20 January 2025, Mr Michael Lam of Arkus Advisory LLC swore an affidavit of suitability, indicating that he is willing to act as liquidator if Mr Ofori's winding-up petition were to be granted.
5. Mr Ofori's progress of the winding-up petition was not nearly as speedy as one would expect for a petition of this kind. On or about 7 February 2025, James Brady Compliance & Law Solutions Ltd, who were then acting for Mr Ofori, provided an un-sealed copy of Mr Ofori's winding-up petition to Appleby (Cayman) Ltd on behalf of ACM LLC. However, Mr Ofori seems to have thought it necessary to serve the petition on Mr Raddi, before seeking any directions from the court, notwithstanding that Mr Raddi is no longer a member of ACM LLC and has not been since February 2024. As Mr Raddi is not within the jurisdiction, Mr Ofori appears to have faced some difficulties in achieving personal service on Mr Raddi. On 15 April 2025, Mr Ofori swore his second affidavit, which was in support of an application for directions from the Court regarding service upon Mr Raddi out of the jurisdiction. On 22 April 2025, Brady Attorneys came on the record for Mr Ofori in place of his previous attorneys. On 9 May 2025, Mr Ofori swore a third affidavit in support of an application to

appoint provisional liquidators over ACM LLC. On 23 May 2025, Mr Ofori filed his summons for directions and for the appointment of provisional liquidators, in respect of which he had earlier sworn his second and third affidavits. That summons was listed before me on 25 June 2025. Mr Dennis Brady of Brady Attorneys appeared on behalf of Mr Ofori and Mr Andrew Jackson of Appleby appeared on behalf of ACM LLC. On that occasion, because Mr Jackson had only recently been instructed, the matter was adjourned by consent to be re-listed on the first available date. It appears that Mr Brady served Appleby with the sealed petition and supporting evidence in Cause No FSD 395 of 2024 on 16 July 2025.

6. I do not know why that summons for directions did not come back for hearing sooner than December 2025. However, in the interim, ACM Ltd as the sole member of ACM LLC resolved on 24 November 2025 to put the company into voluntary liquidation and appointed Mr Russell Homer and Ms Paula Richmond of Chris Johnson Associates Ltd as joint voluntary liquidators and provided a letter of support for an intended petition for a supervision order. On the same day, Appleby prepared a draft petition for a supervision order and wrote to Mr Brady on behalf of Mr Ofori inviting Mr Ofori to discontinue his winding-up petition in favour of the joint voluntary liquidators' petition for a supervision order. In their letter, Appleby suggested that it would be quicker and more straightforward to proceed on the joint voluntary liquidators' petition for a supervision order than to continue to fight out the issues that would arise on Mr Ofori's just and equitable petition.
7. The joint voluntary liquidators presented their petition for a supervision order in short order on 26 November 2025, along with a summons for directions and four affidavits. This is Cause No. FSD 344 of 2025. Two of the affidavits, one from Mr Homer and one from Ms Richmond, are the usual affidavits that one sees indicating their independence and suitability for appointment as joint official liquidators. Mr Homer also swore a more substantive affidavit providing some background information regarding ACM LLC and the position of the joint voluntary liquidators. In addition, Ms Carla Lynn Lopez, a paralegal employed by Appleby, swore an affidavit exhibiting certain correspondence in order to put that material in evidence before the court.

8. The summons for directions in Cause No. FSD 395 of 2024 had been listed for hearing on 8 December 2025 and Appleby sensibly sought to have the petition for a supervision order in Cause No. FSD 344 of 2025 listed on the same date, to which I agreed.
9. Appleby prepared their materials in support of the application for supervision order and provided a copy of their skeleton argument and proposed bundles to Mr Brady on 2 December 2025 and requested Mr Brady's comments on the indexes to the proposed bundles, which were due to be filed on 3 December 2025. During the very early morning of 3 December 2025, at 3:19 am Cayman Islands time, Mr Brady responded. He said that he would revert to Appleby as soon as possible. However, he did not do so. Later in the morning of 3 December 2025, during normal working hours, Appleby chased for Mr Brady's comments regarding the contents of the hearing bundle, which they indicated needed to be filed by 10:00 am that morning. Unfortunately, Mr Brady did not respond to that request. As a result, Appleby proceeded to file the bundles without Mr Brady's input, in order to comply with the time limit for filing the bundles.
10. On 5 December 2025, Mr Brady wrote to Appleby confirming that Mr Ofori opposed the joint voluntary liquidators' application for a supervision order and that he intended to press ahead with his winding-up petition on the just and equitable basis.
11. On 8 December 2025, I heard Mr Jackson develop his argument in favour of making a supervision order. However, due to a combination of late service by Mr Brady that morning of a bundle of materials on which he sought to rely, and also that the time estimate was inadequate to hear both parties, I unfortunately had to adjourn the matters, part-heard, to 3 February 2026.
12. On the morning of 3 February 2026, just after 9:30 am, Mr Brady delivered a large bundle and two different versions of a skeleton argument to the court for the hearing that morning. Mr Jackson complained about the late delivery of these materials, which he wished to review and consider before continuing with his submissions. For the reasons that I gave on that occasion, I concluded it was unfair to the joint voluntary liquidators to require them to address and deal with the arguments that Mr Brady wished to put forwards on behalf of Mr Ofori and to deal with a large volume of new

case law authorities that had not previously been disclosed to Mr Jackson. I also considered that it was not fair on Mr Ofori to proceed with a hearing where the arguments would not be delivered efficiently and in a way that would help the court to reach a conclusion. I therefore adjourned the hearing to 17 February 2026.

13. At the hearing today, 17 February 2026, I have now heard both parties develop their arguments in full.
14. It is clear from Mr Brady's skeleton argument, as Mr Jackson submitted, that there is no real issue between Mr Ofori on the one hand and the joint voluntary liquidators on the other that ACM LLC should be wound up and that joint official liquidators should be appointed.
15. I agree with Mr Jackson's submission that there are really two issues for determination by the court today. The first is whether I should make a supervision order, which is Mr Jackson's position, or whether I should defer doing so and should allow Mr Ofori to proceed on his petition for a winding-up order on the just and equitable basis, as Mr Brady argues. The second issue is that, if I do make a supervision order today, who should be the liquidators.
16. Mr Jackson has helpfully taken me, first, to the jurisdiction in section 131 of the Companies Act to make a supervision order, which I will briefly refer to. Section 131 provides that:

"131. When a resolution has been passed by a company to wind up voluntarily, the liquidator or any contributory or creditor may apply to the Court for an order for the continuation of the winding up under the supervision of the Court, notwithstanding that the declaration of solvency has been made in accordance with section 124 [...]"

The section then sets out grounds for making a supervision order, to which I will return in a moment; at this stage, I want to highlight that the threshold condition is that a resolution has been passed by a company to wind it up voluntarily. That is the case here. ACM Ltd passed a member's resolution to wind up ACM LLC.

17. Reading on in section 131, the grounds for making a supervision order are:

"(a) the company is or is likely to become insolvent; or

(b) the supervision of the Court will facilitate a more effective, economic or expeditious liquidation of the company in the interests of the contributories and creditors.”

It is section 131(b) on which the application for a supervision order is founded in this case, and which provides the statutory basis for the jurisdiction to make a supervision order.

18. Mr Jackson also helpfully took me to the Court of Appeal’s decision in Re Asia Private Credit Fund Limited [2020] 1 CILR 134, a decision of Field, Morrison and Beatson JJA, where Field JA gave the substantive judgment with which the other two members of the Court of Appeal agreed. Field JA explained at paragraph 77:

“77. A liquidator in a liquidation ordered by the court is an official liquidator (see the definition of ‘official liquidator’ in s.89 and s.105(1)). By s.108(2), a liquidator is an officer of the court, whereas a voluntary liquidator does not have this status and for that reason is outwith the common law power recognized by the House of Lords in Singularis Holdings Ltd v PricewaterhouseCoopers ([2015] 1 A.C. 1697, at para. 25) to assist a foreign insolvency by ordering the production of information in oral or documentary form which is required for the administration of a foreign winding up.”

The importance of this paragraph is that it underlines the role of official liquidators as being court officers, unlike voluntary liquidators.

19. In paragraph 90, which is of significance in the context of the matters I have to decide, Field JA said:

“90. [...] In my judgment, if a supervised liquidation is more suitable than a voluntary liquidation on the facts because it has the immediate potential for achieving a more thorough investigation, it will be more effective from the outset than the current voluntary liquidation which lacks such potential. And depending on the facts, for instance where an investigation is called for, it may well be that the appointment of official liquidators who cannot be dismissed by resolution in a general meeting in place of voluntary liquidators who can be so dismissed will immediately result in a more effective liquidation, particularly where the manager of a fund has appointed its own choice of voluntary liquidators in defiance of the choice of the stakeholder or stakeholders in the liquidation.”

It is worth adding to that statement that, of course, official liquidators have a range of statutory powers to obtain information and documents in order to assist them with their investigations, which voluntary liquidators do not necessarily have.

20. Reading on, in paragraph 92 of Field JA’s judgment, he said this:

“92. If Kawaley, J. was meaning to say in para. 45 that after the court had formed the view that one or all of the jurisdictional requirements of s.131(b) had been established, the court still had a residual discretion, albeit a narrow one, whether to make a supervision order, I disagree with him. As I have said, the process of deciding whether any of those requirements has been

established is an evaluative one, but once that process has been completed there is no room for the operation of a residual discretion in respect of the jurisdictional thresholds.

Thus, the gist of what Field JA was explaining is that if the court is satisfied in respect of section 131(b) of the Companies Act that the appointment of official liquidators will facilitate a more effective, economic or expeditious liquidation of the company, then the court should simply proceed to appoint official liquidators as a result.

21. Mr Jackson sensibly concedes that in Re Asia Private Credit Fund Ltd the Court of Appeal did not have the situation which is facing me today of a competing and undetermined petition to wind up ACM LLC on another basis. But I do not consider that that makes any difference to the force of Field JA's statement that once the statutory condition in section 131(b) has been satisfied, there is no longer any scope for the court to exercise a discretion and the court should appoint official liquidators pursuant to a supervision order so as to achieve the more effective, economic and expeditious outcome of the liquidation that the court has determined will follow from that appointment.
22. To elaborate on that, it seems to me that it makes good sense that if the court has reached the conclusion that the appointment of official liquidators will have the benefit to the estate of achieving a more effective, economic and expeditious winding-up of the company in question than a voluntary liquidation, then it would be completely counterintuitive not to make that appointment, simply because there is some other petition in existence which is still outstanding for determination.
23. I therefore conclude that I should apply Asia Private Credit Fund Ltd in this case in its full rigour, as Field JA intended. The consequence is that I should proceed to appoint official liquidators today on the basis of the joint voluntary liquidators' petition for a supervision order, without having any further regard to the concurrent existence of the outstanding winding-up petition filed by Mr Ofori.
24. However, in case I am wrong on that question, I will go on to consider the benefits and demerits of taking that approach compared with the benefits and demerits of allowing Mr Ofori's just and equitable winding-up petition to proceed.

25. Mr Jackson suggests that, even if the court should weigh the competing petitions in the balance, the relevant considerations point strongly in favour of making a supervision order in any event. I can deal with those arguments in relatively short order.
26. There is no difference in substantive outcome or in the powers of the official liquidators that will result from making an order on a petition for a supervision order or making an order on the basis of a just and equitable winding-up petition: see s.133 of the Companies Act

“133. A supervision order shall take effect for all purposes as if it was an order that the company be wound up by the Court except that —

(a) the liquidation commenced in accordance with section 117; and

(b) the prior actions of the voluntary liquidator shall be valid and binding upon the company and its official liquidator.”

27. I qualify that only to say that where there is a significant difference in the dates on which the two petitions have been presented, there may possibly be a benefit in moving forward with the petition that is earliest in time. This is because of the effect of section 99, and of section 145 and the similar provisions relating to transactions at an undervalue, voidable preferences and certain other provisions in the Companies Act, where the date on which the petition was presented may have a knock-on effect on the ability either to avoid transactions which have been entered into or to seek to recover assets which have left the bankruptcy estate within the relevant period before the presentation of the petition. In this case, Mr Ofori’s petition is nearly 12 months earlier in time than that of the joint voluntary liquidators. However, it seems to be tolerably clear on the facts that there have not been any relevant disposals of ACM LLC’s assets that have occurred on dates where the difference between the date of presentation of Mr Ofori’s petition on 13 December 2024 and the date of presentation of the petition for a supervision order on 26 November 2025 will make any difference to the outcome.
28. I also accept and agree with Mr Jackson’s submission that there are significant downsides to delaying the appointment of official liquidators until Mr Ofori’s just and equitable petition is finally determined. First, Mr Jackson is right in saying that there is a real chance that Mr Ofori may be found not to have any standing to pursue his petition because Mr Ofori is no longer a registered member of ACM LLC, with the result that Mr Ofori’s petition will not succeed. So, there is a strong argument

that before he is properly able to progress his petition, Mr Ofori needs to seek and obtain rectification of ACM LLC's Register of Members in order to give him that standing. In support of that submission, Mr Jackson referred me to the decision of Walters J (Act) in *RBH Holdings v Juniper and Life Sciences Limited* (unreported, 23/10/23). I do not need to make a final decision on that point, but it seems to me that there is a real risk that that would be the outcome, in which case much time will have been wasted with no real benefit to the stakeholders in the liquidation of ACM LLC.

29. The second problem issue that Mr Jackson advances is that there are a number of procedural steps that would be required in order to advance Mr Ofori's just and equitable petition to a final hearing, all of which are going to take significant time and involve Mr Ofori and potentially ACM LLC in significant cost. First, Mr Ofori still needs to serve the winding-up petition on ACM Ltd. That should not take very long, seeing as it is a Cayman-incorporated company. Mr Ofori has also named Mr Raddi as a respondent. Service upon him is likely to take some time and expense as Mr Raddi is not in the jurisdiction. Once he has been served, and assuming that Mr Raddi does not apply or is unsuccessful in setting aside service, the summons for directions will need to come back again for directions as to who should be the participants in the proceedings, and how the matter should be advanced to trial. The court will need to consider and make orders regarding the extent to which there should be pleadings on the part of Mr Ofori and Mr Raddi, the extent to which there should be discovery, the extent to which there should be affidavit evidence filed on both sides, whether there should be cross-examination of deponents, and as to the timing and length of the trial. All of this will take time and will cost money, both for Mr Ofori and for ACM LLC. Insofar as the costs impact ACM LLC, the obvious consequence is that the estate will be further reduced, diminishing the returns for Mr Ofori, to the extent that he is entitled to receive money from ACM LLC, and to ACM Ltd as the current member of ACM LLC.
30. Thirdly, Mr Jackson submits that it is unclear, even if the just and equitable petition is uncontested, that Mr Ofori will be able to prove his case that there has been conduct that is sufficiently bad to justify a just and equitable winding-up of ACM LLC. Again, if Mr Ofori were to fail to do so, then the parties would be back at square one, with no benefit to show for the delay and cost incurred.

31. Fourthly, Mr Jackson submits, and again, it seems to me that there is merit in this point, that the longer the delay in appointing the official liquidators and allowing them to get on with their task of investigating and getting to the bottom of what has been going on within ACM LLC, the more difficult that investigation becomes, simply because the evidence will be more difficult to locate and, to the extent that any property needs to be recovered on behalf of ACM LLC, the longer that takes, the more difficult it becomes. In addition, I bear in mind that there may be limitation issues that might arise, depending on the overall timescales.
32. Lastly, Mr Jackson indicates that waiting for the determination of the just and equitable petition means that either the voluntary liquidators, or the provisional liquidators that Mr Ofori wishes to have appointed, are going to have to remain in office for a longer period of time, essentially doing little other than to protect the assets of ACM LLC until Mr Ofori's petition is determined. But even doing that will have necessary cost consequences, which are likely to be visited on the bankruptcy estate and, it seems to me, against the interests of Mr Ofori and anyone else who has a potential claim to be a creditor or member of ACM LLC.
33. In those circumstances, if I had a discretion as to which of the two petitions that are live before me today should proceed, I would exercise that discretion firmly in favour of proceeding on the joint voluntary liquidators' petition for a supervision order rather than Mr Ofori's petition to wind up ACM LLC on the just and equitable basis.
34. The last question that I need to determine is who should be appointed to act as the official liquidators. Mr Jackson submits that the only evidence before the court as to the suitability of Mr Homer and Ms Richmond as official liquidators comes from their sworn affidavits in which they have confirm their independence, that they have not had any prior dealings with ACM LLC, and that they are content on having carried out a review that they meet the independence requirements.
35. As to Mr Lam, Mr Jackson complains, I should say somewhat mutedly, that Mr Lam has not formally been put forward as a rival candidate in response to the supervision petition. Mr Lam's affidavit is sworn in connection with the just and equitable petition. Mr Jackson is technically correct, but it

seems to me that I should have regard to the reality of the situation, which is that Mr Lam is clearly being advanced by Mr Ofori as an alternative candidate to Mr Homer and Ms Richmond; and in my view I should properly consider Mr Lam as a potential alternative appointee.

36. Mr Brady, on behalf of Mr Ofori, challenges the independence of Mr Homer and Ms Richmond by way of submissions. It is therefore important that I should consider with a little care the basis for that challenge.

37. Mr Brady's skeleton argument asserts that Mr Homer and Ms Richmond have prejudged the outcome of the dispute between Mr Ofori and Mr Raddi, or his company, and that that prejudging of the outcome of the dispute taints the entirety of everything that follows in relation to consideration of suitability of Mr Homer and Ms Richmond for the appointment. Paragraph 30 of Mr Brady's skeleton argument says this, under the heading "*Prejudgment of Contested Issues*":

30. The JVLs have pre-judged the central contested issue in these proceedings. At paragraph 21 of the First Affidavit of Russell Homer sworn 26 November 2025, the JVLs state:

'The liquidators recognise that Mr Ofori was appropriately and properly removed as a manager, and subsequently redeemed as shareholder, as a result of his conduct.'

31. This is pre-judgment of a matter that goes to the heart of the JVLs' own appointment. Whether Mr Ofori was 'appropriately and properly removed' is not merely a matter requiring independent investigation – it is a matter that directly affects the validity of the voluntary liquidation itself. The Petition expressly pleads that the removal was wrongful and that the subsequent redemption of Mr Ofori's membership was ultra vires, having been effected without express power in the LLC Agreement."

Mr Brady continues towards the end of that paragraph:

"[...] The JVLs have adopted Mr Raddi's characterisation that the removal was 'appropriate and proper' without any independent investigation, thereby prejudging the validity of the very resolution that brought them into office."

38. If Mr Brady's quotation of Mr Homer's evidence were correct, I am sure that I would have real concerns about the independence of Mr Homer and Ms Richmond. However, unfortunately, Mr Brady's quotation is not correct. Indeed, it is very substantially incorrect and is a complete misreading and misrepresentation of what Mr Homer says in his affidavit. At paragraph 21 of Mr Homer's first affidavit sworn on 26 November 2025, he says this:

“The JVLs are advised by the managers that Mr Ofori was appropriately and properly removed as a manager and subsequently redeemed as shareholder as a result of his conduct.”
(emphasis added)

39. That is very substantially different language from Mr Brady’s purported quotation of Mr Homer’s evidence, which has a very different meaning and different connotations. It seems to me that Mr Jackson is right to say that Mr Homer is simply recording in paragraph 21 of his affidavit what the joint voluntary liquidators have been informed by the managers. It does not indicate, in any respect, that the joint voluntary liquidators have formed a conclusion about the correctness of what they have been told by the managers.

40. This conclusion is supported by paragraph 22 of Mr Homer’s affidavit, where he goes on to say:

“22. Consequently, the status of the J&E Petition, and Mr Ofori’s intentions regarding any potential claims against ACM, are uncertain.”

He notes that Appleby wrote to Mr Ofori on 24 November 2025 and exhibits a copy of their letter. Earlier in his affidavit, he indicates that there has been little response on behalf of Mr Ofori to previous correspondence. Mr Jackson, in his oral submissions, said that paragraph 22 of Mr Homer’s evidence was drafted at a time when it was unclear as a result of the lack of communication what was Mr Ofori’s plan regarding his petition, which had been outstanding and not progressed for some time.

41. Reading on in paragraph 23 of Mr Homer’s affidavit, he makes clear, it seems to me, that the joint voluntary liquidators have not reached any conclusion as to the merits of the dispute between Mr Ofori, ACM LLC and Mr Raddi. Mr Homer says:

“23. The JVLs seek to bring the liquidation of ACM under the supervision of the Court, with the consent of its sole member [...] and its Managers, in the interests of facilitating a more effective, economic or expeditious liquidation of ACM in the interest of its stakeholders [...]”

and this is important, Mr Homer adds in parentheses:

“[...] (which may potentially include Mr Ofori). As set out in the supervision petition, the JVLs consider that a supervision order will have those effects for at least the following reasons [...]”

which Mr Homer then sets out in the remainder of that paragraph. Now, the inclusion of that passage in parentheses makes clear that Mr Homer was not expressing any concluded view at all about whether Mr Ofori had a valid claim or not along the lines that he has sought to advance in his just

and equitable petition; instead Mr Homer was recognising that Mr Ofori's claim that he should still be a member of ACM LLC might have merit, so that he should be treated as a potential stakeholder in the liquidation.

42. Given my view of the proper interpretation of Mr Homer's affidavit, Mr Brady's criticism that the joint voluntary liquidators have prejudged the central issue is completely without foundation and, as a result of that, the entire structure on which Mr Ofori's opposition to the independence of Mr Homer and Ms Richmond collapses.
43. It also seems to me significant to bear in mind that it is no part, and it would not have been any part of Mr Homer's or Ms Richmond's role, to have investigated the issues between Mr Ofori and Mr Raddi or ACM Ltd that formed the basis for Mr Ofori's petition whilst they were merely acting as voluntary liquidators. I think Mr Jackson is also right to submit that it would not be the role of official liquidators to try to determine a shareholder dispute of the kind that Mr Ofori wishes to advance. Instead, that would be determined within the liquidation as a distinct dispute between Mr Ofori on one hand and either ACM Ltd or ACM Ltd and Mr Raddi on the other, as the other members of ACM LLC.
44. The significance of this is that there is no situation in which it is realistically likely that Mr Homer and Ms Richmond, either as voluntary liquidators or as official liquidators, would have reason to reach conclusions on the merits of the complaints that Mr Ofori wishes to put forward concerning the behaviour of Mr Raddi and/or ACM Ltd.
45. Finally, in terms of my approach to the question of independence, Mr Jackson refers me to the decision of Doyle J in Re Global Fidelity Bank Ltd [2021] 2 CILR 361. For present purposes, I will simply pick up at paragraph 77 in his judgment where Doyle J summarises the principles to be applied as follows:

*“(1) a qualified insolvency practitioner (“the practitioner”) should not be appointed by the court as an official liquidator unless the practitioner is and can be properly regarded as independent of the company in respect of which the practitioner is to be appointed an official liquidator;
(2) the practitioner cannot be regarded as independent if within a period of three years immediately preceding the commencement of the liquidation, he, or the firm of which he is a*

partner or employee, or the company of which he is a director or employee, has acted in relation to the company as its auditor;”

I pause there to say that neither of those disqualifications apply to Mr Homer or Ms Richmond.

“(3) other than acting as auditors within the previous three years, there could be other circumstances which could be indicative that the practitioner cannot be properly regarded as independent;

(4) when there is a challenge to the appointment of JVLs as JOLs, the JVLs should take a neutral stance but they may appear and be represented and assist the court by the provision of evidence, information and neutral submissions to enable the court to come to a fair and just determination of the issue before it. The JVLs would normally be allowed their costs of such involvement;”

In my judgment, Mr Jackson has not trespassed beyond that proper scope for involvement by the joint voluntary liquidators in this case. Continuing in Doyle J’s summary of the principles:

“(5) there needs to be confidence in the independence of JOLs;

(6) when determining whether a particular personal, professional or economic relationship may lead to a conclusion that an insolvency practitioner cannot be properly regarded as independent previous case law stresses that the court must (i) identify the relationship, and (ii) determine whether it is capable of impairing the appearance of independence and, if so, determine (iii) whether it is sufficiently material to the liquidation in question that a fair-minded stakeholder would reasonably object to the appointment of the nominated practitioner in question. Mr. Heaver-Wren is right to stress that it is a three-stage approach and an objective analysis is key;

(7) Mr. Goodman is right to stress that the views of those with an economic interest in the proceedings should be considered (and where appropriate very significant weight attached to them) but they cannot alone dictate to the court how the issue as to who should be appointed JOLs is determined. The court should, of course, take into account what would be in the best interests of those having the real economic interest in the company and also the reputation of the Cayman Islands as a well-respected leading international financial centre. In an insolvency situation the focus will be on the best interests of the creditors rather than the contributories;

(8) the court takes into account the subjective views of all stakeholders including, where relevant, creditors and contributories. The court also undertakes a full and careful assessment of all the circumstances of the case and all the objective factors that are relevant to determining who should be appointed JOLs. The court may, despite the subjective views of significant creditors, conclude that on an objective analysis no reasonable perception of lack of independence has been established. On an issue such as the identity of the JOLs subjective views of one, albeit significant, creditor cannot dictate the correct legal result for the court. The court of course takes into account the subjective views of the creditors but the court must consider the law and the facts and circumstances of each case and reach the appropriate determination as to the identity of the JOLs itself;

(9) it is important to stress, as other judges have done in the past, that the correct approach includes an objective element. It is not the subjective views of the stakeholders that are determinative. Such views, even from significant stakeholders, will carry little weight if they are irrational or not held in good faith or on reasonable grounds. It is the reasonable views of a fair minded and informed hypothetical stakeholder that are important. The courts have rightly emphasised the importance of liquidations being conducted in the best interests of the relevant stakeholders but when it comes to determining the identity of the JOLs (when there are a couple of alternative hats in the ring) if the subjective views of the stakeholders are not based upon bona fide, reasonable concerns they will carry little, if any, weight;

(10) when considering whether a particular personal or professional relationship would lead to a perception of lack of independence and impartiality the court should consider the issue from the perspective of a reasonable, fair minded and well-informed stakeholder;

(11) in some cases, previous involvement with the company may be an advantage (provided the candidates can still be properly regarded as independent) in that time and costs may be saved and knowledge already built up utilised further. In other cases, previous involvement (even if time and costs would be saved and existing knowledge utilised) will be a disadvantage and will disqualify the candidates from appointment as JOLs;

(12) in some cases, the appointment of the same JOLs over several connected companies will be desirable but in other cases separate appointments or at least an additional conflict liquidator may be necessary;

(13) in summary whether or not any kind of personal, professional or economic relationship and prior involvement with the target company would lead to the conclusion that a practitioner cannot be properly regarded as independent from such company either in reality or in perception depends upon the factual circumstances of each case. As the previous case law makes plain, the court is engaged in a three-stage process. The task of the court is first to identify the factual circumstances of the relationship and prior involvement and then secondly, to come to a conclusion as to whether its existence and the circumstances of the case are such that they are capable of impairing the appearance of independence. Perception is just as important as reality in these cases. Thirdly, if the court reaches such a conclusion, the court then needs to come to a conclusion as to whether it is sufficiently material to the liquidation in question that a fair-minded stakeholder would reasonably object to the appointment of the nominated practitioner in question. I note the comment of Jones, J. in Hadar (Cause No. FSD 94 of 2013, at para. 17) that it is “not good enough to say that these particular individuals can be relied upon to perform their duties properly” but in my judgment a fair-minded stakeholder would also be well-informed and aware that once appointed JOLs act as officers of the court and have duties to act in the best interests of all the company’s stakeholders irrespective of who sought their appointment;

(14) overall the court should not lose sight of the well-established proposition that liquidation proceedings whether solvent or insolvent should be conducted in the best interests of those persons who are financially interested in the liquidation process; and

(15) the reputation of the Cayman Islands in respect of the appointment of independent official liquidators to deal with the liquidation process appropriately also plays an important part in the court’s determination. There needs to be continuing justifiable confidence in those appointed as JOLs to fulfil their onerous duties independently as officers of the court.”

46. Mr Jackson submits that having regard to that guidance, there is no proper basis to conclude that Mr Homer and Ms Richmond are not independent and would not be perceived by a fair-minded stakeholder as being independent, as argued by Mr Brady on behalf of Mr Ofori.
47. Mr Brady relies on a number of cases to support his arguments that Mr Ofori has significant concerns about the independence of Mr Homer and Ms Richmond, and that those concerns would be shared by a fair-minded stakeholder. I have not found those cases to be of any assistance in determining the issue in this case. In respect of a number of those cases, Mr Brady’s argument appears to depend on

misquotations or misapplications of the judgments. It seems to me that I am better guided by what was said by Doyle J in Re Global Fidelity Bank Ltd than by the authorities relied on by Mr Brady.

48. Both sides recognise that there are really two choices: on the one hand are Mr Homer and Ms Richmond, and on the other hand is Mr Lam. Mr Jackson submits that there is no /particular reason to prefer Mr Lam over Mr Homer and Ms Richmond. I think he would also concede that there is no particular reason in terms of their independence and ability to prefer Mr Homer and Ms Richmond over Mr Lam. However, Mr Jackson does say that there are two relevant considerations that I should bear in mind in favouring Mr Homer and Ms Richmond over Mr Lam. The first is that Mr Homer and Ms Richmond have now been in post as voluntary liquidators for a period of some 4 months or so and, as a result, have developed some initial understanding of the position within ACM LLC. Secondly, over that period, they have necessarily incurred some time and expense for which they would be entitled to be reimbursed by ACM LLC if they are not appointed as official liquidators. But in that eventuality, that work will most likely need to be repeated by Mr Lam or whoever else is appointed, leading to duplication of effort and duplication of cost to be borne by ACM LLC, thereby further depleting its limited resources and reducing the sums of money that are likely to be available to anyone who is able to demonstrate a real financial interest in the liquidation of ACM LLC.
49. Mr Jackson concluded his submission by saying that there is no particular preference either way, but that the Court, in a case where the estate is not large, should aim to maximise the returns to the creditors and members.
50. Turning to Mr Brady's position, the primary objection that he puts forward on behalf of Mr Ofori appears to relate solely to the fact that Mr Homer and Ms Richmond were appointed as voluntary liquidators on a requisition of ACM Ltd, which he says is under the control of Mr Raddi. Mr Ofori therefore considers subjectively that Mr Homer and Ms Richmond are stooges for Mr Raddi.
51. That seems to me to fail to give any recognition to the fact that official liquidators owe their duties to the court and are officers of the court. In those circumstances, as Doyle J indicated in paragraph 77(13) of his judgment in Re Global Fidelity Bank Ltd:

“[...] a fair-minded stakeholder would also be well-informed and aware that once appointed JOLs act as officers of the court and have duties to act in the best interests of all the company's stakeholders irrespective of who sought their appointment”.

52. Going back to the three-stage test identified by Doyle J in paragraph 77(6) of his judgment in Re Global Fidelity Bank Ltd, it seems to me that the only pre-existing relationship between Mr Raddi and Mr Homer and Ms Richmond that needs to be borne in mind is that Mr Homer and Ms Richmond were appointed as voluntary liquidators on the basis of a resolution passed by ACM Ltd at the instigation of Mr Raddi, and that that appointment took place two days before Mr Homer and Ms Richmond presented their petition for a supervision order. There is no evidence at all of any other relationship, or indeed even that Mr Homer and Ms Richmond have any knowledge of Mr Raddi beyond their agreement to act as voluntary liquidators of ACM LLC.
53. In my judgment, that relationship is not seriously capable of impairing the appearance of independence of Mr Homer and Ms Richmond. It is not material to the liquidation in question, and certainly not sufficiently material that a fair-minded stakeholder would reasonably object to the appointment of Mr Homer and Ms Richmond. I therefore reject the argument that there is a lack of independence on their part that should point against their appointment as official liquidators.
54. As there is no reason to prefer Mr Lam over Mr Homer and Ms Richmond, or vice versa, there is no proper basis on which to draw any other distinction between them.
55. I then come back to what is in the best interests of all the stakeholders in ACM LLC, irrespective of who has sought the appointment. My conclusion is that Mr Jackson is right that in a case where the estate is not large, I should do what I can to minimize the unnecessary drain on the estate. It seems to me that the best way to do that is to make the pragmatic decision to appoint the voluntary liquidators who have the benefit of already having spent some time and having done some work in getting to know ACM LLC, which, in my judgment, if I were to accept Mr Ofori's preference for Mr Lam, would likely result in that work being duplicated and would reduce the net value of the estate for the benefit of its stakeholders as a result.

56. My conclusions are therefore, firstly that I should make a supervision order today, which seems to me is clearly going to produce a more effective, economic or expeditious liquidation of the company in the interests of both the contributories and creditors. I have no hesitation in concluding I should proceed to make that order today. Secondly, I am satisfied that a reasonable, fair-minded, independent stakeholder would have no objection to the appointment of Mr Homer and Ms Richmond as joint official liquidators and as there is likely to be a saving in expense and time if they are appointed, it seems to me that that gives them the advantage over Mr Lam as the appropriate appointees. I will therefore appoint Mr Russell Homer and Ms Paula Richmond as joint official liquidators of ACM LLC.
57. As to the issue of costs, Appleby invite me to adjourn that question so that they can consider with the joint official liquidators whether to make an application for wasted costs against Mr Brady. I agree with Appleby that if they are considering whether to make such an application then it would be better to adjourn and deal with costs on the basis of a summons, evidence and argument. I therefore make that order.

Dated 24 March 2026



**THE HONOURABLE JUSTICE JALIL ASIF KC
JUDGE OF THE GRAND COURT**