Neutral Citation Number: [2026] CIGC (FSD) 22

Cause No: FSD 2025-0173 (JAJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

IN THE MATTER OF THE COMPANIES ACT
AND IN THE MATTER OF ENERGY EVOLUTION GP LIMITED

BETWEEN:

PEAKWAVE INVESTMENT MANAGEMENT LIMITED

Petitioner

-and-

(1) ENERGY EVOLUTION GP LIMITED
(2) WEALTH TRAIN GLOBAL LIMITED

Respondents

Appearances:	**Mr Alex Potts KC of counsel instructed by Mr Spencer Vickers, Ms Nienke Lillington and Ms Sean-Anna Thompson of Conyers Dill & Pearman LLP for the Petitioner**
	Mr Hamid Khanbhai of Campbells LLP for the joint provisional liquidators of the First Respondent
	The First Respondent was not represented and did not appear
	Mr Matthew Bradley KC of counsel instructed by Mr Brett Basdeo, Ms Laure-Astrid Wigglesworth and Ms Tiani Purton-Clark of Walkers (Cayman) LLP for the Second Respondent
Before:	**The Honourable Justice Jalil Asif KC**
Heard:	**8 December 2025 and 23 March 2026**
Judgment:	**31 March 2026**

Insolvency—appointment of provisional liquidators—whether appointment of provisional liquidators automatically terminates directors' management powers—whether appointment order has effect of terminating directors' management powers

Insolvency—joint provisional liquidators' application for sanction to enter into funding arrangement—extent to which joint provisional liquidators should show need for funding and for amount of funding sought

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JUDGMENT

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A. Introduction

1. This case concerns a dispute between two participants in a joint venture structured as a Cayman Islands-registered exempted limited partnership, which I shall refer to as the Fund, with a Cayman Islands-registered exempted company as its general partner, which is the First Respondent and which I shall refer to as the GP. As is often the case, the joint venture is structured through various corporate vehicles on each side. As the details of the corporate structure are irrelevant for present purposes, I will ignore them for now and refer to the Petitioner's side as "Haitong" and to the Second Respondent as "Mr Jiao", reflecting that Haitong International Securities Group Ltd and Mr Jiao are the entities on each side with the ultimate economic interest.

2. The proceedings take the form of a winding up petition filed against the GP on 20 June 2025 by Haitong on the just and equitable basis. On the same date, Haitong filed a summons seeking to appoint joint provisional liquidators over the GP. The summons was listed for hearing on 30 June 2025 on an *ex parte* on notice basis. On the morning of the hearing, Mr Jiao filed a cross-summons and supporting materials seeking to stay the winding up petition and Haitong's summons. The basis for the proposed stay was that Mr Jiao was in the course of commencing an arbitration in respect of the matters in issue in accordance with the terms of an arbitration agreement between the parties. Because the parties were not ready to deal with these developments, I accepted undertakings and cross-undertakings and made limited orders for interim relief against Mr Jiao and his corporate vehicle on 30 June 2025 and adjourned both summonses for further hearing on 8 August 2025.

3. Following argument on the summonses on Friday 8 August 2025, on Tuesday 12 August 2025 I indicated my decision to the parties and provided them with brief reasons running to twenty-six paragraphs, with a fully reasoned judgment to follow. On 5 February 2026, I handed down my

judgment, *Peakwave Investment Management Ltd v Energy Evolution GP Ltd (No.1)* [2026] CIGC (FSD) 7 which should be read with this judgment to provide the background context.

4. As explained in my first judgment in this matter, my decisions on the summonses heard on 8 August 2025 were to stay the winding up petition pending the determination of the arbitration, but to appoint joint provisional liquidators in respect of the GP with a view to protecting and preserving the GP's assets and preventing any mismanagement or misconduct by its directors in the meantime. I indicated that the joint provisional liquidators' powers should be carefully circumscribed so as to avoid trespassing on matters for determination by the arbitral tribunal and also to avoid duplication of work and expense, to the detriment of all stakeholders. I invited the parties to consider and prepare a draft order setting out detailed terms of appointment with those principles in mind.

5. On 1 September 2025, I finalised the Order I was prepared to make, which I will refer to as the Appointment Order. However, a dispute has arisen between the parties as to the effect and meaning of that Order. Haitong argues that the Appointment Order gives the joint provisional liquidators full powers of control and management of the GP. Mr Jiao disagrees and contends that the powers given to the joint provisional liquidators by the Court are limited to asset protection and preservation, and that there is nothing in the Appointment Order that has the effect of removing other aspects of the GP's management from the existing directors. Unfortunately, the parties did not identify and raise this difference of view for decision at the time that the appointment order was being finalised.

6. In light of this divergence of views and for other reasons, Haitong applied by summons filed on 29 October 2025 to vary the joint provisional liquidators' powers to expand them in significant respects, without prejudice to Haitong's contention that the Appointment Order already gives the joint provisional liquidators those powers.

7. On 19 November 2025, the joint provisional liquidators filed a separate summons seeking retrospective sanction to engage attorneys in the Cayman Islands, BVI, Hong Kong and the PRC and for sanction to conclude unspecified funding agreements.

8. The two summonses came before me for hearing on 8 December 2025. Haitong was represented by Mr Alex Potts KC instructed by Conyers Dill & Pearman LLP, as it has been on previous occasions. The joint provisional liquidators were represented by Mr Hamid Khanbhai of Campbells LLP. The joint provisional liquidators filed two affidavits which record their support for Haitong's summons and provide some evidence supportive of that summons, but the joint provisional liquidators do not make any submissions in respect of Haitong's summons. Mr Khanbhai appeared solely to argue the joint provisional liquidators' summons for sanction. Mr Jiao, who opposed both summonses, was again represented by Mr Matthew Bradley KC instructed by Walkers (Cayman) LLP.

B. The Appointment Order

9. Following receipt of my decision and brief reasons dated 12 August 2025, Haitong and Mr Jiao were not able to agree a form of order regarding the appointment of the joint provisional liquidators. Their attorneys submitted rival versions of a draft order to the Court on the afternoon of Friday 22 August 2025. Haitong proposed a form of order giving the joint provisional liquidators the full suite of powers in Part 2 of Schedule 3 to the Companies Act, in particular the power to take possession of and get in the assets of the GP and the Fund and to act on behalf of the Fund in all respects. Haitong's draft order sought to give the joint provisional liquidators wide powers to take control of the GP, the Fund and all of the subsidiaries within the corporate structure if the joint provisional liquidators considered such action to be expedient to protect the assets of those entities. The draft order included power to call meetings of the GP to enable the joint provisional liquidators to remove and replace directors, officers and legal representatives; power to liaise with regulatory bodies on behalf of the GP; power to engage staff, attorneys and other professionally qualified persons to assist the joint provisional liquidators; and power to appoint agents in the Cayman Islands, the British Virgin Islands and the People's Republic of China to act on behalf of the joint provisional liquidators.

10. Mr Jiao proposed a much more limited form of order, giving the joint provisional liquidators power only to take necessary or expedient action to prevent the dissipation or misuse of the GP's assets and to prevent any mismanagement or misconduct on the part of the GP's directors.

11. Both parties proposed that the GP's management should assist the joint provisional liquidators in the exercise of their powers, including meeting with the joint provisional liquidators as necessary – however, Haitong's draft order referred to the "former" management while Mr Jiao simply referred to them as "the management". The difference in wording was not explored and its impact was not made clear by the parties at the time, however it has now taken on real significance and is at the heart of Haitong's current summons.

12. On Monday 25 August 2025, the Court circulated a revised draft appointment order for comments from the attorneys for Haitong and Mr Jiao. Consistently with the reasons provided to the parties for my decision to appoint joint provisional liquidators, the revised draft order limited the powers to be given to the joint provisional liquidators to those that I considered to be necessary to protect the GP's assets and to prevent mismanagement or misconduct by the GP's directors. The revised draft order therefore omitted many of the powers included in Haitong's draft order. Walkers responded on behalf of Mr Jiao on 28 August 2025 with limited suggested corrections to the draft order. Conyers for Haitong, however, sought substantially to broaden the joint provisional liquidators' powers again and to reintroduce certain provisions of their original draft order that I had already rejected. Walkers objected to this attempt to revisit matters that they said had already been determined.

13. On 1 September 2025, having considered the arguments put forward by the attorneys in correspondence, I concluded that the majority of Conyers' proposed revisions to the draft order sought to make significant changes of substance, which ought to be pursued by way of restoring the summons for further hearing or by way of a fresh application, if they were to be advanced. I therefore finalised the Appointment Order rejecting those revisions and indicated my reasons for doing so to the parties.

C. Haitong's summons filed on 29 October 2025

14. Haitong filed its summons on 29 October 2025, approximately two months after I made the Appointment Order. The summons seeks the following relief:

> *"1. That the powers of Mr. Simon Conway, Mr. Victor Jong Yat Kit and Mr. Man Chun So the joint provisional liquidators (the "JPLs") under the Appointment Order be varied.*

2. *Without prejudice to the Applicant's position that the powers of the management of Energy Evolution GP Limited (the "Company") have already been suspended by the Appointment Order, an order to expressly confirm that such powers have been suspended to the extent that those powers are now to be exercised by the JPLs in the performance of their functions as set out in paragraph 4 of the Appointment Order, save insofar as the JPLs may restore any of those powers in writing.*

3. *In the performance of their functions as set out in paragraph 4 of the Appointment Order, the JPLs be authorised to exercise the following powers within and outside the Cayman Islands without further sanction or order of the Court:*

   (a) the power to take such steps as may be necessary or expedient in their professional opinion to protect the Company's interests in the ongoing HKIAC arbitration (Case No.: HKIAC/A25198) in the name and on behalf of the Company including (without limitation):

      i. The power to communicate with the HKIAC on behalf of the Company; and

      ii. The power to collect, get in, inspect, review, secure, take possession of and copy of the documents in the HKIAC arbitration (whether confidential or not) to which the Company is entitled (whether in hard copy, electronic form or otherwise).

      iii. The Company's management and any directors and/or former directors shall assist the joint provisional liquidators in the exercise of their powers in relation to the HKIAC arbitration.

   (b) The power to communicate with any third parties, including (without limitation) CDH Battery Limited, Gorgeous Company Limited and Fujian Nanping Dafeng Electric Co., Ltd, and to collect, get in, inspect, review, secure, take possession of and copy of the books and records and documents of the Company or to which it is entitled (whether in hard copy electronic form or otherwise), in order to ascertain the status and whereabouts of the Company's assets and assets owned by the Company on behalf of others.

   (c) The power to exercise all rights to which a registered holder of any shares or other securities registered in the name of the Company, or to which an owner of any shares or securities held by or on behalf of the Company (whether as principal or as agent), is entitled, including:

      i. the right to receive dividends and the benefits of other corporate actions in relation to such shares or other securities;

      ii. the right to attend meetings and to exercise any voting power pertaining to such shares or other securities; and

      iii. the right to direct nominees of the Company in whose names shares or other securities beneficially owned by the Company are registered to exercise all or any such rights as the joint provisional liquidators shall direct.

   (d) Without prejudice to, and without limiting, paragraph 3(c), the power (acting through the Company in its own capacity and/or as general partner of Energy Evolution Fund L.P.), the JPLs be granted power to take all steps which are necessary and expedient in the JPLs' professional opinion to protect and preserve the value of the Company's assets, including by exercising partner, member and/or shareholder rights in relation to entities in which the Company (directly or indirectly) holds an interest (the "Subsidiaries") wherever located, in accordance with applicable law and the constitutional documents of such entities, including (without limitation) to:

      i. call or requisition meetings of members/partners/directors;

ii. circulate, sign and adopt written resolutions where permitted;

iii. increase or fix the number of directors of the Subsidiaries within the limits of the relevant constitutional documents;

iv. appoint directors to fill new seats or vacancies and/or remove directors or officers, and appoint or remove (as applicable) any legal representatives;

v. proceed with 3(d)(iii) and (iv) notwithstanding any contractual provision (including in any shareholders' agreement) purporting to restrict the same;

vi. instruct registered agents, corporate service providers, registrars and regulators to update registers of members and directors/officers and to make all required filings and notifications;

vii. apply to any court or regulator of competent jurisdiction for directions or orders necessary to give effect to the foregoing, including to compel the recording of changes; and

viii. take ancillary steps, including taking custody and control of corporate chops/seals, business licences and statutory records (particularly in the PRC) and updating bank mandates and authorised signatories.

4. The JPLs, the Petitioner and the Respondent have liberty to apply with respect to matters arising from this Summons.

5. Costs."

15. It is apparent from this summons that Haitong is again seeking that the Court give the joint provisional liquidators very broad powers to take over control of the GP, the Fund and the subsidiaries, including the power to override contractual agreements between the subsidiaries contained in any relevant shareholder agreements. Mr Potts KC says that Haitong's concerns about what is happening within the corporate structure have increased since 1 September 2025, justifying adding to the joint provisional liquidators' powers in the various respects sought in Haitong's summons if, contrary to Haitong's primary position, the joint provisional liquidators do not already have those powers pursuant to the Appointment Order.

16. The fundamental dispute between the parties appears to be based on their conflicting views of the effect of the Appointment Order as regards the continuing role, if any, of the GP's board of directors. Haitong contends that the powers of the board of directors have been displaced, which Mr Jiao disputes. Mr Potts argues that Haitong's position is correct and follows from or is consistent with:

16.1 the terms of the Appointment Order;

16.2 the application of CWR O.4, r.4(3);

16.3 English case law, namely *Re Mawcon Ltd* [1969] 1 WLR 78, *Re Union Accident Insurance Co Ltd* [1972] 1 WLR 640, and *Pacific and General Insurance Co Ltd v Hazell* [1997] 1 Lloyds Reinsurance Law Reports 65; and

16.4 the views of the authors of *French on Applications to Wind up Companies* (2nd edition).

17. In addition, Mr Potts relies on the evidence filed by Haitong, the joint provisional liquidators' first report and the second affidavit of Man Chun So, one of the joint provisional liquidators, sworn in support of the joint provisional liquidators' summons for sanction to engage attorneys. He submits that these materials highlight difficulties that the joint provisional liquidators are said to have faced in taking steps that they consider are within the scope of their appointment. In immediate practical terms, this appears to have resulted in a dispute between Haitong, the joint provisional liquidators and Mr Jiao as to who is entitled to communicate with the HKIAC on behalf of the GP, amongst other things.

18. In response, Mr Bradley submits that Haitong's interpretation of the Appointment Order is untenable, and that Haitong has unfairly sought to portray Mr Jiao's objections to that interpretation as Mr Jiao being obstructive of the joint provisional liquidators, when he has simply been disagreeing with their interpretation of the Appointment Order. Mr Bradley says that there has been no real change of circumstances since 8 August 2025, so that Haitong's summons is an impermissible attempt to have a second bite at the cherry, or even a third bite considering Haitong's attempts during finalisation of the Appointment Order to write powers back into the draft that had been rejected by the Court. He suggests that I should dismiss Haitong's summons for that reason.

19. Mr Bradley continues that the joint provisional liquidators overstepped their role as early as 5 September 2025, when they wrote to the HKIAC purporting to represent the GP and asserting that they were *"the only independent party who can properly represent [the GP] in the arbitration."* Mr Bradley says that the joint provisional liquidators must have known that the Court had already rejected Haitong's attempt to give them that authority in the draft order, because the joint provisional liquidators had worked with Haitong in preparing the terms of Haitong's draft appointment order. Mr Bradley argues that, if Mr Jiao is right as to the proper interpretation of the

Appointment Order, then Haitong's complaints that Mr Jiao has been uncooperative are unfounded and that Mr Jiao was justified in trying to prevent the joint provisional liquidators from spending the GP's money on pointless and superfluous endeavours, outside the scope of their appointment.

D. Construction of the Appointment Order

D.1 Law

20. Mr Bradley submits that the applicable principles are clear and well established: the basic question is what the Appointment Order means objectively, applying normal principles of construction, with the added caveat that orders with extreme consequences, for example injunctions, should be construed restrictively. Mr Bradley relies in particular on *Sans Souci Ltd v VRL Services Ltd* [2012] UKPC 6, an appeal from the Court of Appeal of Jamaica. Lord Sumption, giving the opinion of the Privy Council, said:

> *"13. […] the construction of a judicial order, like that of any other legal instrument, is a single coherent process. It depends on what the language of the order would convey, in the circumstances in which the Court made it, so far as these circumstances were before the Court and patent to the parties. The reasons for making the order which are given by the Court in its judgment are an overt and authoritative statement of the circumstances which it regarded as relevant. They are therefore always admissible to construe the order. In particular, the interpretation of an order may be critically affected by knowing what the Court considered to be the issue which its order was supposed to resolve."*

21. Mr Potts said that he did not anticipate that there would be a debate on the proper approach to construction of an order, and so did not deal with this in his skeleton argument. Nevertheless, he addressed me on the point in his oral submissions. Mr Potts' position is not dissimilar to that of Mr Bradley, namely that an order should be construed objectively. However, Mr Potts refers to the decision of the English Court of Appeal in *SDI Retail Services Ltd v The Rangers Football Club Ltd* [2021] EWCA Civ 790, where there was a difference of view within the Court of Appeal regarding the extent to which it is permissible to consider the argument before the judge in the course of construing the order in question. The case concerned the breach of a licence to use certain intellectual property. The judge at first instance granted an injunction to restrain the defendant from performing or assisting its contractual counterparties from performing an agreement. The defendant subsequently applied for a declaration that the injunction did not prevent the defendant from

seeking payment under the agreement. The claimant objected that this amounted to a breach of the injunction. The judge disagreed with the claimant's submission and granted the declaration. The claimant appealed. Phillips LJ gave the following helpful general guidance at [60]-[61] of his judgment:

> *"60. As the authorities cited by the Judge make plain, the interpretation of the Injunction is an objective exercise, determining what the language used conveys in the context in which the order was made. That context includes, in particular, the Judge's reserved and ex tempore judgments of 19 July 2019 which explain the reasons for the grant of the Injunction. As the Injunction has penal consequences if disobeyed, it must be construed strictly and restrictively.*
>
> *61. This court is in just as good a position to consider that issue as the Judge at first instance. Rangers pointed out that it was "fortunate" that the Judge was available to consider the issue, but did not rely upon the fact that the Judge was interpreting his own order in the context of his own judgments, and rightly so. Apart from the fact that the objective nature of the exercise forbids that subjective consideration (not least because the proper interpretation cannot depend in the slightest on whether or not the judge who made the order is the judge interpreting it), the wording of paragraph 6 of the Injunction was not debated at all, but was simply that proposed by SDIR […]"*

Mr Potts relies, in particular, on the passage in paragraph 61, where Phillips LJ explained why the subjective views of the judge who made the order are inadmissible in construing it.

22. As to the ability of the court to consider the arguments that had been put forward before the judge as an aid to construing the resulting order, Underhill LJ, dissenting, said:

> *"94. I have also considered carefully the concerns expressed by Phillips LJ at para. 66 of his judgment about the legitimacy of referring to the submissions which led to the making of the order, as I do at paras. 87-89 above (though the references are not in fact essential to my reasoning). I agree that it is not generally desirable to have to do this kind of forensic excavation: a well-drafted order should speak for itself. But I cannot think that it is objectionable in principle in a case where, as here, there is real doubt about the intended effect of the order. The relevant intention is of course that of the Court, rather than, as in the contractual context, that of the parties. The submissions made to the Court may shed light on that intention, or on the overall purpose of the order, to the extent that they establish the relevant factual background and what the issues were understood to be.*
>
> *[…]*
>
> *96. In summary, I can see nothing in the context or overall purpose of the injunction that supports a construction of para. 6(2) under which Rangers are prohibited from suing Elite for any royalties due. On the contrary, they seem to me to support what I believe to be the natural meaning of the language of the order.*
>
> *97. I am reinforced in that conclusion by three other considerations. First, although the Judge very properly approached the construction of the injunction objectively, I do not think that it is illegitimate to recognise the special advantage he had, as the person making the order, in assessing the context in which it was made. […]"*

23. Lord Justice Phillips and Baker LJ disagreed with Underhill LJ on this point and also on the substance of the appeal. Phillips LJ said this:

> *"66. […] I appreciate, having seen a draft of his judgment, that the Vice-President reaches a different conclusion on this aspect, giving some prominence in the analysis to the transcript of the argument before the Judge on 19 July 2019. For my part, I would express considerable caution about placing any weight on such material in circumstances where the transcript does not contain the Judge's reasons for making the order (as is sometimes the case where the terms of an order are discussed at the end of a hearing), the Judge in this case having recorded his reasons in formal judgments. As explained by Lord Sumption in* Sans Souci*, the reasons given by the court for making an order are 'an overt and authoritative statement of the circumstances which it regarded as relevant' and are admissible if (and only if) there is an ambiguity. Engaging in an excavation and analysis of the parties' submissions to discover their motives for seeking particular orders seems to me to be a difficult and dubious exercise, with parallels to admitting evidence of negotiations in construing a contract. As far as I am aware, such an approach finds no support (even if not expressly forbidden) in the authorities. […]"*

Lord Justice Baker added:

> *"80. Like Phillips LJ, I am cautious about the extent to which it is appropriate to consider submissions made in argument before an order is made as relevant to the interpretation of the order. The starting point must be the terms of the order and the judgment in which the court explains its reasons for making it. I do not see any ambiguity in the terms of the order and the interpretation I put on those terms is reinforced by the Judge's ex tempore judgment delivered after considering the submissions."*

24. Mr Potts also relies on ***Perry v Lopag Trust*** [2023] 1 CILR Note 4. The note of Segal J's judgment records that the learned judge referred to Phillips LJ's judgment in ***SDI v Rangers*** and to ***Sans Souci Ltd***, amongst other English authorities, on the question of the correct approach to the construction of an injunction order but does not provide additional details of Segal J's reasoning, and so I do not find it particularly helpful.

25. In response to Mr Potts' submissions, Mr Bradley relied in particular on the English case of ***Sea Master Special Maritime Enterprise v Arab Bank (Switzerland) Ltd*** [2022] EWHC 1953 (Comm) and the judgment of Kawaley J in ***Re Port Link*** [2025] CIGC (FSD) 87.

26. In ***Sea Master***, having quoted paragraph 13 of Lord Sumption's opinion in ***Sans Souci***, Picken J continued in paragraph 42 as follows:

> *"42. As Mr Collett QC pointed out, although Lord Sumption only expressly mentioned the Court's 'reasons' as admissible circumstances, he appears to have recognised that the parties' submissions might also be relevant circumstances because he added at [15] that:*

> *'it is admissible to construe an order of remission by reference to the issues in the arbitration'.*
>
> *This must mean that submissions can, at least in principle, be looked at since the issues in the arbitration might only be apparent from the parties' submissions. That said, as Mr Collett QC fairly went on to point out, in* SDI Retail Services Ltd v The Rangers Football Club Ltd *[2021] EWCA Civ 790, differing views were expressed in the Court of Appeal as to the weight to be placed on hearing transcripts. Thus, whilst Phillips LJ and Underhill LJ agreed that an order should not be interpreted by focusing exclusively on the precise words used and that context should be taken into account (see per Underhill LJ at [84] and Phillips LJ at [44(3)]) and Underhill LJ considered that it could be legitimate to have regard to the parties' submissions 'to the extent that they establish the relevant factual background and what the issues were understood to be' (see [94]), Phillips LJ regarded a process of analysis of the parties' submissions to discover their motives for seeking particular orders to be 'a difficult and dubious exercise, with parallels to admitting evidence of negotiations in construing a contract' (see [66]), a view with which Baker LJ agreed (see [80]).*
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> *43. As I see it, the Tribunal were right to approach matters on the basis that the exercise is to ascertain (objectively) the intention of the court or arbitral tribunal and, in this respect, it is permissible to have regard to parties' submissions, albeit being careful to avoid placing too much emphasis, in order to ascertain what the issues to be decided were or were understood to be. In addition, where a judge or arbitrator accepts a party's submissions, these can (and should) be looked at because they thereby become part of that judge's or arbitrator's reasons for making the relevant order or award. Beyond that, however, there is a real need for caution."*

27. *Re Port Link* is a very recent decision of Kawaley J where the issue concerned the proper interpretation of an order appointing receivers, namely whether the effect of the order in question was to give a funder priority over the unsecured creditors. Starting at paragraph 29 of his judgment, Kawaley J said this:

> *"29. […] It is quintessentially a matter for the Court to clarify the terms of one of its Orders where any of its terms are in doubt. The disputed question of construction involves three layers of analysis:*
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> *(a) the relevant terms of the Order;*
>
> *(b) the commercial and/or legal purpose of the relevant terms as demonstrated by the legal and commercial context in which the Receivership Order was made; and*
>
> *(c) the scope of the Court's jurisdiction.*
>
> *30. That is the approach I was minded to adopt without reference to authority. However, to the extent that it might be suggested that authority is needed to justify this approach, the following observations of Ward LJ in* Feld v Secretary of State for Business, Innovation and Skills *[2014] EWHC 1383 (Ch) provide helpful guidance:*
>
> > '27. In a court order; one is concerned with the intention of the court in making the order, and this is closer to the exercise involved in construing the intention of the legislature when enacting a statute than it is to construing the intention of parties to a contract. On the other hand, it would be a rare and unusual case where a person to whom a statutory provision was to be applied (in a civil or criminal proceeding where the meaning of the statutory provision was at issue) had been involved in the drafting of that provision. But where a court order is to be applied to a person, such as Mr Feld, who had a hand in drafting the terms of the order, the court should be entitled to have regard, as part of the

> exercise of construing the order, to what that person could reasonably have been thought to have intended in drafting the order in a particular way, as far as that may be objectively determined on the basis of the evidence presented to the court.
>
> 28. The interpretation of a court order cannot be entirely assimilated to the exercise of interpreting a contract nor can it be entirely assimilated to the exercise of interpreting a statute. In all three cases, however, the common starting point is the natural and ordinary meaning of the words used in light of the syntax, context and background in which those words were used. What additional principles and factors come into play as part of the court's exercise of interpretation will depend on the nature of the writing to be interpreted (contract, court order or statute) and, of course, will be highly dependent on the facts of the specific case. In the context of statutory interpretation, Lord Reid pointed out in Cozens v Brutus, and Lord Hoffmann in Moyna, the importance of interpreting the natural and ordinary meaning of the words used in the relevant statute in light of the 'syntax, context and background' in which those words were used (*Moyna* at [24], quoted by Dyson LJ in *Evans* at [14]).' *[Emphasis added]"*

28. Kawaley J returned to this topic in paragraphs 41-42 of his judgment:

> *"41. The Funders' interpretation of what the Receivership Order records is accordingly confirmed not just by the general principles of law and practice but also by the drafting history in relation to the Order upon which Mr McCourt Fritz KC also relied. In summary:*
>
> *(a) paragraphs 3 and 5 mirror the language in the Funders' Receivership Summons (paragraphs 3 and 4);*
>
> *(b) Ogier prepared a draft Order on behalf of the Funders proposing paragraphs 3 and 5 in the form which was ultimately approved. Campbells on behalf of D2-D4 sought to modify draft paragraphs 3 and 5 of the draft Receivership Order to signify that the Receivers' costs and expenses would rank pari passu;*
>
> *(c) in an email dated 25 May 2023 from Ogier to Campbells, the following observations were made:*
>
> > 'Your suggestion that the Receivers remuneration ranks pari passu as an unsecured debt of the Company and the Fund. The Receivers' remuneration should be paid as an expense in priority in the usual course. The same goes for any sum paid by the Plaintiffs towards the Receivers remuneration and expenses. This position is entirely reasonable. As such, we have deleted your additions to paragraphs 3 and 5….
> >
> > Please confirm your clients' agreement to the attached amended draft order by 5pm today. In the event that your clients do not agree to the attached version by 5pm, we shall provide the Court with the competing orders and the updated consents to act from the Receivers and seek that Parker J adjudicates on the competing orders.' *[Emphasis added]; and*
>
> *(d) Campbells did not contest Ogier's form of Order as regards paragraphs 3 and 5 and so Parker J approved that wording on an uncontested basis.*
>
> *42. The drafting history of paragraphs 3 and 5 reveals that these clauses were subjectively intended by the drafters of the Order to confer priority in favour of the Receivers' right to be indemnified out of the Receivership assets in respect of remuneration and expenses including the liability to repay sums advanced by the Funders. It is unsurprising that Campbells were unable to muster any resistance to wording reflecting the 'usual course'."*

29. None of *Sans Souci Ltd*, *SDI Retail Services Ltd* or *Sea Master* were considered by Kawaley J or appear to have been cited to him. As a result, Kawaley J's reliance in paragraph 42 of his judgment on the subjective intention of those involved in the drafting of the order in question must be treated with significant caution, since it goes against the firm judicial guidance to be derived from each of those English cases. Nevertheless, the other aspects of Kawaley J's judgment helpfully confirm that the approach in the Cayman Islands to the interpretation of an order is the same as that in England, namely what is the natural and ordinary meaning of the words in the order, in light of their syntax, context and background and looking at the matter objectively. If, and only if, the wording of the order is ambiguous is it then permissible and appropriate to look more widely at the judge's reasons for making the order, as expressed in any judgment. If there is no judgment or the judgment does not address the point, then it becomes permissible to look at any discussion of the terms of the order with the judge in court or afterwards; and it may rarely be permissible as aids to construction to look at the parties' submissions in order to identify the factual position underlying the order and the mischief which the order can objectively be seen to be intended to address.

D.2 Analysis

30. The first step in the process of construing the Appointment Order is to consider the objective meaning of its terms. It is only if the Appointment Order is ambiguous that it becomes permissible to consider the wider context in which it was made. The key issue between Haitong and Mr Jiao is the extent to which the GP's board of directors has been displaced by the joint provisional liquidators and the directors' powers have transferred to the liquidators. In my view, the opposing positions taken by Haitong and Mr Jiao as to the proper interpretation of the Appointment Order demonstrate that the Appointment Order is arguably ambiguous in this regard.

31. Mr Potts is correct that CWR O.4, r.4(3), requires that an order appointing joint provisional liquidators *"… shall specify the powers conferred upon the provisional liquidator, any limitations upon the specified powers and the powers, if any, remaining with the company's directors."* He argues that the use of *"if any"* in relation to the directors' powers indicates that all powers of the directors will be vested in the joint provisional liquidators following their appointment, except where any powers are

expressly reserved to the directors. However, Mr Bradley is right that this appears to be contradicted by section 104(4) of the Companies Act, which provides that:

> *"(4) A provisional liquidator shall carry out only such functions as the Court may confer on that person and that person's powers may be limited by the order appointing that person."*

In other words, section 104(4) of the Companies Act contemplates that joint provisional liquidators will only have those powers expressly given to them by the court, with the corollary that the directors must retain all powers not expressly given to the joint provisional liquidators.

32. In addition, Mr Bradley points out that there is a notable difference between the rules in the CWR concerning the effect of the appointment of an official liquidator and the appointment of a provisional liquidator. As regards an official liquidator appointed pursuant to a winding up petition, CWR O.3, r.22(4) states:

> *"(4) On the appointment of an official liquidator all the powers of the directors cease, save that directors retain residual powers to allow them to initiate an appeal against the winding-up order."*

Similarly, CWR O.15, r.8(3) concerning the appointment of an official liquidator on an application for a supervision order states:

> *"(3) On the making of a supervision order all the powers of the directors cease, save that directors retain residual powers to allow them to initiate an appeal against the supervision order."*

By contrast, CWR O.4, dealing with the appointment of provisional liquidators, does not include similar language. Instead, CWR O.4(3) is in the terms set out in the preceding paragraph of this judgment, requiring that the appointment order to set out the powers conferred on the liquidator and those powers which are to remain with the directors. Mr Bradley relies on this difference in approach to bolster his argument that, in the situation of a provisional liquidation, it is necessary to look at the precise terms of the order made rather than to make assumptions about what powers are exercisable by the provisional liquidators and by the directors.

33. In support of Mr Potts' argument that the appointment of provisional liquidators automatically has the effect of displacing the power of the directors, he relies on three English cases. The first is ***Re Mawcon Ltd*** [1969] 1 WLR 78, where Pennycuick J said at 82C-E:

> *"The order dated June 1, 1961 provided that 'the directors of the company be at liberty to continue the business of the company until June 28,1961' upon certain undertakings by them.*

> *This order was not in the appropriate terms.* ***Upon the appointment of a provisional liquidator the powers of the directors to act as such are determined and they could not be revived so long as the provisional liquidator remained in office.*** *On the other hand, the court had power under section 263 of the Companies Act, 1948, upon the application of the official receiver to appoint the same individuals as special managers, and in that capacity to continue the business of the company, subject to whatever restrictions the court might impose. I think it would be right to treat the order as effective to make such an appointment notwithstanding the mistaken label which it attaches to the two individuals. […]"* (emphasis added)

34. The second case on which Mr Potts relies is *Re Union Insurance Co Ltd* [1972] 1 WLR 640. Like the curate's egg, this authority is good for Mr Potts only in parts. Mr Potts relies on the statement of Plowman J at 642A in the judgment, endorsing Pennycuick J's approach in *Re Mawcon Ltd*:

> *"[…] It is of course well settled that on a winding up the board of directors of a company becomes functus officio and its powers are assumed by the liquidator. My attention was drawn to* In re Mawcon Ltd. *[1969] 1 W.L.R. 78, where Pennycuick J. stated in effect that the appointment of a provisional liquidator had the same result. […]"*

However, Plowman J continued immediately after that passage as follows, recognising that, even in England, Pennycuick J's broad statement in *Re Mawcon Ltd* has to be qualified:

> *"[…] No doubt that is so, but it is common ground that notwithstanding the appointment of the provisional liquidator, the board has some residuary powers, for example it can unquestionably instruct solicitors and counsel to oppose the current petition and, if a winding-up order is made, to appeal against that order."*

35. Mr Potts also relies on *Pacific and General Insurance Co Ltd v Hazell* [1997] 1 Lloyds Reinsurance Law Reports 65, where Moore-Bick J commented on the effect of appointing a provisional liquidator. Moore-Bick J said at 73-74:

> *"The standard works on company law and insolvency appear to contain surprisingly little discussion of the effect of the appointment of a provisional liquidator on the position of agents previously appointed to act on the company's behalf […]. However, the learned authors of* The Law of Receivers of Companies *(1994) note in par. 2-14 that the appointment of a provisional liquidator operates to transfer to him the powers of the directors who thereby cease to be the company's authorized agents. This displacement of the directors' powers is said to result from the inconsistency that would otherwise arise between the statutory role of the provisional liquidator and the continued existence of the director's powers.*
>
> *In my judgment the English authorities and commentators support the conclusion that the appointment of a provisional liquidator automatically revokes the authority of agents appointed to act on behalf of the company by or under the authority of the directors. I think that is a necessary consequence of an order which places the provisional liquidator in control of the company's assets and operations (whether with or without power to carry on its business); it is also consistent with the general rule that an agent's authority ceases when his principal becomes incapable of acting on his own behalf […] In any event, as I have already indicated, the terms of the order in the present case seem to me to be clearly intended to place the provisional liquidator fully in control of the company's assets with very limited powers to carry on its affairs. It would*

> *in my view be quite inconsistent with that order for the directors or any other agents to retain the power to act on its behalf in relation to some aspect of its business independently of the provisional liquidator.*
>
> *The conclusion that the appointment of a provisional liquidator automatically revokes the authority of existing agents is in my view not only consistent with principle but also has the attraction of certainty. The alternative view for which Mr. Moss argued, namely, that agents retain their authority to act on behalf of the company except to the extent that it is inconsistent with the provisional liquidator's own powers, seems to me to be productive of great uncertainty […]"*

36. Finally, Mr Potts cites in support of his argument the views of the authors of *Applications to Wind up Companies (2nd edition, 2008)* by French and others. Relying upon *Re Mawcon Ltd*, *Re Union Accident Insurance Co Ltd*, *Pacific and General Insurance Co Ltd v Hazell* and other cases, the learned authors assert at paragraph 11.1.2 (footnotes omitted) that:

> *"The appointment of a provisional liquidator of a company terminates the powers of the directors as effectively as does the making of a winding-up order. The directors do, however, have standing to apply for the provisional liquidator's appointment to be discharged, or apply for an administration order to be made in relation to the company or to apply to dismiss or otherwise resist the petition.*
>
> *Where a provisional liquidator of a company has been appointed, the directors of the company do not have power to allocate and issue shares of the company.*
>
> *The appointment of a provisional liquidator of a company terminates the actual authority of all the company's agents, but the authority of an agent is not terminated until the agent has notice of the appointment of the provisional liquidator."*

For completeness, I record that substantially the same text appears at paragraphs 4.18-21 in the current, 4th edition, of *French on Applications to Wind up Companies*, published in 2021, with the addition of a caveat that there is a superadded statutory requirement in Australia for directors to obtain permission of the court to exercise any of the powers described in the first paragraph of the extract that I have set out.

37. The difficulty with these English cases, in my view, is that Mr Potts rightly does not suggest that the effect of the appointment of a provisional liquidator is a matter of common law and I do not have any information before me as to the statutory context against which the broad statements in question regarding the effect of appointing a provisional liquidator have been made. For example, Pennycuick J's broad statement in *Re Mawcon Ltd* as to the effect of the appointment of a provisional liquidator must be based upon the statutory wording of the English Companies Act then in force and its consequences, which is likely to have been the 1948 Act. Haitong has not included the English Companies Act 1948 in the materials before me, I do not know what the 1948 Act says regarding the

appointment of a provisional liquidator and I have not had any submissions on its effect. I therefore cannot determine to what extent Pennycuick J's broad statement is directly transferrable to the Cayman Islands and to the statutory regime that applies to companies in the Cayman Islands under the Companies Act (2025 Revision).

38. In any event, I do not consider that the English cases relied on by Mr Potts are reflective of the law in the Cayman Islands. In my view, CWR O.4, r.4 and section 104(4) of the Companies Act are inconsistent with Pennycuick J's broad statement as to the effect of appointing provisional liquidators and show that *Re Mawcon Ltd* is not applicable in the Cayman Islands. The Companies Act and CWR O.4, r.4(3) both clearly contemplate that provisional liquidators may be given only limited powers, and that directors may retain certain other powers. Indeed, the ability to give provisional liquidators limited powers and to leave the directors of a company with other powers provides the foundation for the well-established practice in the Cayman Islands of appointing provisional liquidators on a "soft touch" basis. Thus, in the Cayman Islands, there is no necessary inconsistency between a provisional liquidator's statutory role and the continued existence of the director's powers, as relied upon by Moore-Bick J in *Pacific and General Insurance Co Ltd*. Further, it is not necessarily the case in the Cayman Islands that an order appointing provisional liquidators will give the provisional liquidators control of the company's assets and operations, which was a factor that provided additional support for Moore-Bick J's conclusion in that case that such an appointment automatically revokes the directors' authority. I therefore do not accept Mr Potts' submission that it is a necessary consequence of the joint provisional liquidators' appointment here that the GP's directors no longer have any management powers.

39. Furthermore, if it had been submitted to me on 8 August 2025 that the consequence of appointing joint provisional liquidators would be automatically to remove the directors' powers, then it is quite possible that I might have reached a different conclusion regarding whether it was necessary to appoint joint provisional liquidators.

D.3 The proper construction of the Appointment Order

40. I therefore proceed on the basis that the Appointment Order does not have the automatic effect that the GP's directors have been stripped of their powers. It is then necessary to look at the terms of the Order to determine what it says about the division of powers between the joint provisional liquidators and the directors. Paragraph 4 of the Appointment Order identifies the purposes for which the joint provisional liquidators are appointed:

> *"4. The joint provisional liquidators are directed to take such steps as may be necessary or expedient in their professional opinion:*
>
> *a) for the protection and preservation of the value of the Company's assets, rights and/or property whether legally owned by the Company or not;*
>
> *b) for the protection and preservation of the value of assets owned by the Company on behalf of others;*
>
> *c) for preventing the dissipation or misuse of the Company's assets;*
>
> *d) for preventing the dissipation or misuse of assets owned by the Company assets on behalf of others; and*
>
> *e) for preventing mismanagement or misconduct on the part of any of the directors of the Company."*

41. It is clear from an objective reading of the Appointment Order that there are two purposes stated for appointing the joint provisional liquidators: (i) protection and preservation of the GP's assets etc and the assets that it holds on behalf of others; and (ii) preventing mismanagement or misconduct by the GP's directors. Importantly, requiring the joint provisional liquidators to prevent mismanagement or misconduct of the GP's directors necessarily proceeds on the basis that the GP's directors retain management powers in respect of the GP; otherwise, this part of the Appointment Order would be otiose.

42. This conclusion is reinforced by paragraph 8 of the Appointment Order, which states:

> *"8. Until further order, the Company's management and any former directors shall assist the joint provisional liquidators in the exercise of their powers and duties stated in this Order, including but not limited to consulting and meeting with the joint provisional liquidators as necessary or as reasonably required and providing all such documents, information and assistance as the joint provisional liquidators may reasonably request."*

The reference to the GP's *"management"*, rather than to its *"former management"*, indicates that the GP's directors are intended to continue to have management responsibility. To the extent that it is appropriate to consider the drafting history of the Appointment Order, this conclusion is reinforced

by the court's deletion of *"former"* in the wording of the draft appointment order proposed on behalf of Haitong.

43. The content of my brief reasons dated 12 August 2025, on which Haitong and Mr Jiao each rely, provides some limited assistance on the resolution of this question. At paragraphs 23 and 24, my brief reasons were:

> *"23. However, the provisional liquidators' powers should be strictly limited to what is absolutely necessary and should avoid encroachment on the competence of the tribunal.*
>
> *24. I will hear counsel on the terms of the appointment order. My present view is that the order should not require or permit the provisional liquidators to embark upon any investigation – it is for the parties before the arbitral tribunal to pursue discovery and to argue out the facts, and for the tribunal to decide them."*

The statement that the provisional liquidators' powers should be *"strictly limited to what is absolutely necessary"* supports the conclusion that the intention of the Appointment Order is to leave the GP's directors with management powers, with the provisional liquidators acting as "watchdogs" whose role is to police the directors' good behaviour and to ensure that no further diversion of dividend income occurs before the conclusion of the HKIAC arbitration.

44. Accordingly, my conclusion is that the Appointment Order does not remove the GP's directors' powers in the way contended for by Mr Potts. It follows from this finding that a number of Haitong's criticisms of Mr Jiao's behaviour, which I consider in the following section of this judgment, are without foundation.

45. Separately, Mr Potts relies on paragraph 25 of my brief reasons to argue that the joint provisional liquidators were given power to exercise any shareholder rights vested in the GP. Paragraph 25 of my brief reasons is as follows:

> *"25. Secondly, a number of the provisions in the draft order prepared on behalf of Peak Wave purport to enable the provisional liquidators to take direct action in respect of subsidiary companies of the partnership, of which Energy Evolution acts as general partner. I do not consider that the court has power to make such orders. The provisional liquidators may be able to exercise power through the share ownership structure, but that does not permit the court to bypass the arrangements within the corporate structure."*

46. There are three problems with Mr Potts' submission. The first is that no provision was included in the Appointment Order allowing the joint provisional liquidators to exercise shareholder rights. The

power to exercise such rights is not a necessary corollary of the two purposes for which the joint provisional liquidators were appointed, so I do not consider that the Appointment Order should be construed as impliedly giving the joint provisional liquidators power to exercise such shareholder rights either. The second problem is that Mr Potts is engaging upon excavation of the reasons behind the Order when there is no ambiguity as regards this aspect of the Order that permits him to do so. The third is that Mr Potts is reading far too much into paragraph 25 of the brief reasons. Looking at that paragraph objectively, the purpose of paragraph 25 is to explain why the Court rejected the provisions in Haitong's draft order that sought to give the joint provisional liquidators direct powers over the GP's subsidiaries, ignoring the corporate structure and the rights properly exercisable at the various levels within it. The final sentence, which is the foundation for Mr Potts' submission, is clearly a continuation of the explanation why the Court does not have power to make the order sought by Haitong. It does not purport to give the joint provisional liquidators any powers at all. Accordingly, if the joint provisional liquidators did consider that they had power to exercise shareholder rights on behalf of the GP as a result of paragraph 25 of the brief reasons, as submitted by Mr Potts for Haitong but not advanced by Mr Khanbhai for the joint provisional liquidators, then the joint provisional liquidators were wrong in reaching that conclusion.

E. Should the Appointment Order be varied as sought by Haitong?

47. Mr Potts asserts at paragraph 4 of his skeleton argument that:

> *"4. As further explained in Wang 2, in circumstances where the JPLs (as officers of the Court) have themselves been frustrated and obstructed in their ability to perform any or all of their duties, the Petitioner seeks orders, in the terms of the draft Order […]"*

48. Mr Wang, managing director of Haitong's Department of Investment and Alternative Asset Management, the entity which stands behind Haitong, makes a number of complaints about Mr Jiao's actions in his second affirmation dated 28 October 2025. On behalf of the joint provisional liquidators, Mr So states in his second affidavit that the joint provisional liquidators support the grant of the relief sought by Haitong's summons, but Mr So does not say that the joint provisional liquidators have been *"frustrated"* or *"obstructed"* in the performance of their duties, whether by

Mr Jiao or otherwise, as asserted by Mr Potts. I will return to the matters that Mr So does raise in his affidavit later in this judgment.

E.1 Can Haitong apply to vary the Appointment Order at all?

49. As indicated earlier in this judgment, Mr Bradley for Mr Jiao objects that Haitong is attempting to have a second or third bite of the cherry, the Court having rejected Haitong's repeated attempts in August 2025 to obtain a wide-ranging appointment order. Mr Bradley submits that there has not been any material change in circumstances so that Haitong's summons is an abuse of process and I should dismiss it on that basis.

50. Mr Potts responds that Haitong can pursue its summons because:

50.1 CWR O.4, r.5 gives the Court general power in a winding up context to vary or discharge an order appointing a provisional liquidator on application by anyone within the classes of applicants specified within CWR O.4, r.5(1) and Haitong is within those classes;

50.2 the Appointment Order expressly includes liberty to apply;

50.3 the conduct of the provisional liquidation is under the supervision of the court, and the joint provisional liquidators are officers of the court and have power to seek directions from the court at any stage, including directions that have the effect of varying the appointment order, pursuant to CWR O.4, r.5(2);

50.4 a material change of circumstances is not required, the mere effluxion of time may be sufficient to justify the court reconsidering the terms of its order and varying them as necessary.

In addition, Mr Potts submits that none of these considerations prevent Haitong bringing the matter back before the court for clarification of the proper interpretation of the Appointment Order.

51. I agree with Mr Potts that it is permissible in principle for Haitong to bring the matter back before the Court to seek clarification of the proper interpretation of the Appointment Order. I also agree that Haitong can seek a variation of the Appointment Order, both on the basis of CWR O.4, r.5(1)

and in light of the liberty to apply in the Order. I accept in principle Mr Potts' argument that provisional liquidators can seek directions at any time, including variations of existing orders, as officers of the court and in connection with the court's supervisory role. However, the summons in this case is filed and pursued by Haitong, not by the joint provisional liquidators, so that this gateway to pursue the relief sought by the summons is not available.

52. In addition, I consider that Haitong's complaints regarding lack of cooperation with the joint provisional liquidators, which are adopted by the joint provisional liquidators, albeit in muted terms, provide a change of circumstances sufficient to require the Court to consider whether those complaints justify varying the Appointment Order.

E.2 Should the Court vary the Appointment Order?

53. Mr Bradley argues that the Court should summarily refuse to vary the Appointment Order. He starts by reminding me that Haitong was contractually entitled to appoint a director to each of the subsidiary companies and was thereby able to obtain information about their operation and to exercise a degree of control of each but has chosen not to do so. Secondly, he says, the evidence in Mr Chen's second affirmation is that Haitong had been monitoring the payment of dividends within the structure for some time: in other words, Haitong was aware of Mr Jiao's diversion of dividends out of the structure but did nothing about it. Thirdly, Mr Jiao was open with Haitong about the fact that he had paid the dividends out of the structure and his reasons for doing so. Fourthly, Haitong first expressed concern regarding the dividends in November 2024 but waited until June 2025 to apply to the court and accepted that Mr Jiao had complied with all of its information requests up to March 2025. Fifthly, he says that the dispute between Haitong and Mr Jiao was always something that should have been determined by arbitration, as per the agreement between the parties, and Haitong should itself have commenced an arbitration rather than petitioning the Grand Court to wind up the GP.

54. Mr Bradley says that, substantively, the only real issue between the parties is whether Mr Jiao was entitled to divert the dividends as he has done. Mr Bradley says that is to be decided in the HKIAC

arbitration that is on foot. There is no need for any investigation by the joint provisional liquidators for the purpose of performing their functions.

55. On the basis of the independent expert evidence of Chow Pin Yeung, a barrister practising in Hong Kong, for which leave was not sought or obtained by Mr Jiao but which I have considered *de bene esse*, Mr Bradley submits that the High Court of Hong Kong has powers to make orders in support of the arbitration which would cover the areas of complaint that Haitong has raised before the Grand Court, and that Mr Chow indicates that assistance would also be available within the PRC. Mr Bradley criticises Haitong for not making any efforts to apply for relief in Hong Kong and instead using the nuclear option of provisional liquidation in the Cayman Islands. He says that the High Court of Hong Kong as the curial court for the arbitration is more closely aligned with the conduct of the arbitration and is best placed to grant any relief needed in support of the arbitration that the arbitrators are unable to grant themselves.

56. In my view, there is some force in these points. They could provide grounds to set aside the appointment of the joint provisional liquidators, if such an application were to be made. But Mr Jiao has not made such an application. In addition, Mr Bradley's complaints focus on the past history rather than the current position. The task for the Court now is to address the situation that currently faces it.

57. For these reasons, I do not accept Mr Bradley's invitation simply to dismiss the application to vary the Appointment Order.

E.3 Mr Jiao's complaint that the joint provisional liquidators lack independence

58. Mr Jiao raises in his fourth affirmation his perception that the joint provisional liquidators are too closely aligned with Haitong and sets out his evidence and comments on this point in paragraphs 38-46. However, in the absence of an application by Mr Jiao to remove the joint provisional liquidators and to appoint new joint provisional liquidators, Mr Jiao's complaints are irrelevant to the determination of Haitong's summons.

E.4 Mr Wang's complaints #1: dispute regarding board authority

59. Mr Wang puts forward in his affirmation Haitong's view that the Appointment Order has the result of removing the GP's directors' powers. He asserts, without identifying the source of his information, that:

> *"13. […] the JPLs have proceeded on the basis that they are the sole authority empowered to act on behalf of the Company."*

This is not expressly stated by Mr So in his second or third affidavits, which contain the only substantive evidence filed on behalf of the joint provisional liquidators. However, it does appear from the general tenor of Mr So's evidence that the joint provisional liquidators have assumed that they are authorised to act on behalf of the GP in a number of respects. For the reasons I have already set out, that assumption is not necessarily correct.

60. Mr Wang continues in paragraphs 13 and 14 of his second affirmation:

> *"13. […] In contrast, Walkers (acting for the Respondent) and Mr Jiao have consistently asserted that the board remains in control of the Company. This position has been advanced in correspondence with the HKIAC, CO Services Cayman Limited (the Company's registered office provider (CO)), and the JPLs, and has been used to obstruct the JPLs' efforts to obtain information, assert control over the Company's assets, and engage with third parties.*
>
> *14. The Respondent's position has created confusion among stakeholders and third parties, including the HKIAC and CO, and has materially impeded the JPLs' ability to carry out their functions. It has also led to procedural uncertainty in the Arbitration, where the JPLs ' authority to represent the Company has been challenged."*

61. On the basis of the proper construction of the Appointment Order, the answers to Mr Wang's complaints are as follows:

61.1 Mr Jiao and Walkers were correct to assert that the GP's directors remain in control of the GP.

61.2 The Appointment Order does not provide for the joint provisional liquidators to assert *"control"* over the GP's assets as Mr Wang asserts; it requires them to take steps as necessary or expedient to protect and preserve the value of the GP's assets. That does not necessarily require the joint provisional liquidators to take control of the assets in question. Mr So does not state in his affidavits that the joint provisional liquidators need to assert control over the GP's assets in order to protect and preserve the assets in question, nor does he explain why they would need to do so.

61.3 The Appointment Order does not give the joint provisional liquidators authority to represent the GP or to act on its behalf in relation to the GP's registered office or in respect of the conduct of the HKIAC arbitration, except to the extent that that is necessarily incidental to the two purposes for which the joint provisional liquidators are appointed. It is not obvious to me why the joint provisional liquidators would need to do so and Mr So does not offer any explanation in his evidence.

62. In the circumstances, Mr Wang's complaints about the dispute regarding the authority of the GP's directors and its consequences are unfounded.

E.5 Mr Wang's complaints #2: "Day 1" letters, responses and dealings with third parties

63. I have collected in this section of my judgment a number of complaints made by Mr Wang in separate parts of his affirmation as they are all based on the same underlying factor of Mr Wang's erroneous position regarding the effect of the Appointment Order, which he attributes also to the joint provisional liquidators, and which underpins the majority, if not all, of his complaints.

64. Mr Wang says in paragraph 16 of his affirmation that the joint provisional liquidators sent "Day 1" letters immediately following their appointment. Notably, he says that the joint provisional liquidators' letters were intended to *"initiate the process of securing control of the GP's records, assets, and operations"*. Putting on one side for the moment how Mr Wang can properly give evidence as to the joint provisional liquidators' intentions, Mr Wang again demonstrates a misunderstanding of the Appointment Order, which says nothing about taking control of the GP's records, assets or operations.

65. Mr Wang then goes on to provide evidence in paragraphs 17-22 of his affirmation of the communications between the joint provisional liquidators, Mr Jiao's representatives and the GP's registered office, and Mr Jiao's objection to the joint provisional liquidators' request for the GP's seal.

66. Mr Jiao responds in paragraph 33 of his fourth affirmation that the GP's directors instructed its registered office on 12 September 2025 to seek the documents requested by the joint provisional liquidators from Mr Wang. Mr Jiao explains that:

> *"33. On 12 September 2025, I instructed my colleague, Anna Wong, to respond to COSCL on the Board's behalf, with [Mr Wang] and his associates in copy, to confirm that the Board raises no objection to the production of the Company's Records, save for the production of the Company's seal, pending a valid reason from the JPLs. In that same email chain, the Board directed COSCL to seek the Company's Records from [Mr Wang] who has been in possession of most of the requested documents from the outset. This was not me being difficult or unco-operative: Peakwave and/or its parent, Haitong International Securities Group Limited ("Haitong") through other affiliates, has historically been responsible for matters of the Company's corporate administration […]"*

67. Mr Jiao says in paragraph 12 of his fifth affirmation affirmed on 3 December 2025 that he has informed the joint provisional liquidators that the GP's financial records are maintained and held by Haitong and that he does not have such documents in his possession. He says that Mr Wang has not said in his evidence that this is incorrect.

68. Mr So indicates in paragraph 19 of his second affidavit that the joint provisional liquidators have received documents and information from CO Services Cayman Ltd including the GP's Memorandum and Articles of Association, the Registers, resolutions and other governance documents. He also indicates that the joint provisional liquidators have received accounting documentation from June 2023 to June 2025 from Mr Wang. Apart from the GP's audited accounts for 2024, it appears from the list in paragraph 20 of Mr So's second affidavit of items said to be outstanding that the joint provisional liquidators' particular focus is on the corporate documents of the subsidiaries, which I consider in the following section of this judgment.

69. In light of my conclusion on the proper construction of the Appointment Order, Mr Jiao's position regarding the GP's seal was justified and the joint provisional liquidators' request for the GP's seal is likely to have been outside what was necessary for them to protect and preserve the GP's assets and to prevent mismanagement or misconduct by the GP's directors. Mr So has not sought to explain in his own evidence why the joint provisional liquidators need to take possession of the GP's seal to achieve the tasks with which they have been entrusted by the Court.

70. In paragraph 27-35 of his affirmation Mr Wang rehearses the disagreement between the joint provisional liquidators and Mr Jiao as to the joint provisional liquidators' authority to represent the GP in the HKIAC arbitration and to communicate with the tribunal. Mr So echoes the complaint that Mr Jiao has objected to the joint provisional liquidators seeking to act for the GP in the arbitration. In my view, Walkers for Mr Jiao were correct to say that the Appointment Order does not authorise the joint provisional liquidators to control the GP's participation in the arbitration, unless such participation is necessary or expedient to enable the joint provisional liquidators to protect or preserve the GP's assets or to prevent mismanagement or misconduct by the GP's directors. Given that Haitong's and the joint provisional liquidators' position appears to be that the GP's only reason to be involved in the arbitration is to give discovery and that the GP will not need to be an active participant, I do not currently see how the joint provisional liquidators' participation in the arbitration on behalf of the GP would be necessary or expedient. If there is a genuine concern that the GP has not properly complied with its discovery obligation in the arbitration, then Haitong can apply to the tribunal for appropriate relief. If that does not resolve the matter, then Haitong can make a further application to the High Court in Hong Kong, as the supervisory court, or the Grand Court to address any alleged failure to give discovery.

E.6 Mr Wang's complaints #3: failures of subsidiaries to provide information to joint provisional liquidators

71. I accept the validity of Mr Wang's complaint that the various subsidiary companies lower down the corporate structure have not responded to the joint provisional liquidators' requests dated 16 September 2025 for information regarding dividends that have been declared or are expected to be declared in the near future and have not provided information about the flow of dividend income within the corporate structure.

72. Mr So indicates in his second affidavit that the joint provisional liquidators have not received responses to their enquiries from the subsidiary companies, despite Mr Jiao's role in certain of them. Mr So relies on this as providing the basis for the joint provisional liquidators' request for sanction to engage attorneys in various jurisdictions where the subsidiary companies are registered so that

the joint provisional liquidators can obtain advice on their rights to obtain information from those subsidiary companies.

73. However, Mr Bradley correctly points out that the only request made by the joint provisional liquidators to the subsidiary companies was for information about the dividends; the joint provisional liquidators' letters relied upon by Haitong did not include requests for the kinds of corporate documents and financial information that Mr So asserts in paragraph 20 of his second affidavit are outstanding and which Mr Wang complains have not been forthcoming. Mr So's and Mr Wang's criticisms of the subsidiary companies therefore do not have a sound foundation.

74. Mr Jiao complains in his fourth affirmation about this contact by the joint provisional liquidators with the subsidiary companies. He says that the Appointment Order does not give the joint provisional liquidators authority to make direct contact in this way. He also complains about the joint provisional liquidators contacting third parties.

75. I do not agree with Mr Jiao on this aspect. There is no good reason why the joint provisional liquidators cannot contact the subsidiaries and third parties in order to obtain an understanding of the GP's assets and how they might be protected and preserved, and to understand the GP's ability to enforce payment of dividends upwards within the corporate structure. In order to do so, the joint provisional liquidators need to understand the corporate structure. If Mr Jiao does not like this, then the solution is for him to provide the joint provisional liquidators with the necessary information or to make sure that the subsidiary companies provide full and proper responses promptly to all enquiries made by the joint provisional liquidators so that the joint provisional liquidators have no need to make such requests to others.

76. It is also irrelevant in my view that the joint provisional liquidators may be able to obtain such information or documents from other sources. The joint provisional liquidators are entitled to request documents and information from whomever they consider may be able to provide them with assistance in performing the tasks given to them by the court.

E.7 What variations to the Appointment Order should now be made?

77. I will deal with this by reference to the variations sought in Haitong's summons. I dismiss Haitong's application in paragraph 2 of its summons to confirm, or to order, that the management powers of the GP's directors have been or should be suspended in favour of the joint provisional liquidators. For the reasons that I gave in my previous judgment, I do not consider that it is necessary or appropriate for the GP's directors' powers to be removed. Briefly, as I indicated in that judgment, in light of the ongoing arbitration proceedings, the powers of the joint provisional liquidators should not encroach on or pre-judge the outcome of the arbitration and should be limited to what is strictly necessary to achieve the two purposes for which the joint provisional liquidators have been appointed, namely to protect and preserve the GP's assets and to prevent mismanagement or misconduct of, in essence, Mr Jiao. I do not consider that it is necessary to transfer management powers to the joint provisional liquidators to achieve these ends. In this regard, I note that the GP and the Fund are holding vehicles, which do not carry on any business of their own so that any active management ought to be limited in nature in any event.

78. I do not consider it is necessary to give the joint provisional liquidators the powers regarding the HKIAC arbitration that Haitong seeks in paragraph 3(a) of its summons. As I have already indicated, it is accepted by both Haitong and Mr Jiao that the GP's only role in the arbitration will be to give discovery. If this changes for any reason, Haitong or the joint provisional liquidators can make a further application for the joint provisional liquidators to take over conduct of the GP's position in the arbitration.

79. However, I agree with Haitong that the joint provisional liquidators should be kept informed of what is happening in the arbitration. As the joint provisional liquidators currently have authority to act on behalf of the GP to the extent permitted by the Appointment Order, in my view they are already authorised to receive communications from the tribunal, Haitong and Mr Jiao regarding the arbitration, and copies of all communications sent by or to the GP. However, for the avoidance of doubt, I will specifically order that all correspondence regarding the arbitration should be copied to the joint provisional liquidators for their information.

80. As regards the powers sought by paragraph 3(b) of Haitong's summons, namely:

> *"(b) The power to communicate with any third parties, including (without limitation) CDH Battery Limited, Gorgeous Company Limited and Fujian Nanping Dafeng Electric Co., Ltd, and to collect, get in, inspect, review, secure, take possession of and copy of the books and records and documents of the Company or to which it is entitled (whether in hard copy electronic form or otherwise), in order to ascertain the status and whereabouts of the Company's assets and assets owned by the Company on behalf of others."*

I will make the order sought. However, I draw attention to the fact that the relief sought by Haitong is limited to the books and records of the GP or to which it is entitled. It is quite possible that the joint provisional liquidators will be met with the response that the subsidiary companies do not have any of the GP's books and records or any books and records to which the GP is entitled.

81. Whilst I am satisfied that there is a real and continuing risk that Mr Jiao will take steps, or cause the subsidiary companies to take steps, to divert or prevent dividends from being paid up the structure to the GP, I do not accept that the powers sought by paragraph 3(c) of Haitong's summons are appropriate, necessary or consistent with the limited role that the joint provisional liquidators should be playing pending the determination of the arbitration.

82. In the course of preparing this judgment, I raised with the parties whether this risk could be addressed in a different and less costly and intrusive way, namely by ordering an injunction in similar terms to the interim injunction that I ordered by consent on 30 June 2025. The consent order dated 30 June 2025 included the following provision:

> *"3. Wealth Train Global Limited and Mr Jiao Shuge shall not, until determination of the Petitioner's ex parte summons to appoint provisional liquidators or further Order, transfer out of the Company's corporate structure, including the Company, the Partnership, and the following direct and indirect subsidiaries of the Partnership:*
>
> *a) CDH Battery Limited, a company incorporated under the laws of the British Virgin Islands;*
>
> *b) Gorgeous Company Limited, a company incorporated under the laws of Hong Kong; and*
>
> *c) Fujian Nanping Dafeng Electric Co., (福建南平大丰电器有限公), a company incorporated under the laws of the PRC;*
>
> *any future dividend income that is received by any of them without the prior express written consent of the Petitioner and Haitong International Security Group Limited."*

The Appointment Order does not include a similar paragraph, but it seemed to me that it could easily be varied to add such a provision to address in a more straightforward way the risk of diversion of the dividends which gives rise to Haitong's proposed variation of the Appointment Order.

83. However, Mr Bradley indicated that Mr Jiao wished to oppose that suggestion. I therefore heard further argument from Mr Potts and Mr Bradley on 23 March 2026 on this specific point. Mr Bradley complains that it would be unfair to Mr Jiao to have to contest the possibility of the court making an injunction at this stage of the proceedings, where Haitong has not made any application, and the parties have not adduced evidence or presented their arguments in respect of such potential relief, which Mr Bradley says would need a full *American Cyanamid* analysis. Of more substance, he complains that the Grand Court is not the appropriate venue for any such application. He points out that the HKIAC arbitration has now been on foot since June 2025 and that the arbitrators could make any necessary orders. Alternatively, the High Court of Hong Kong, as the court of the seat, could make any orders that are necessary to support the arbitration. Mr Bradley contends that, in substance, Haitong would be seeking relief in support of the arbitration, and so the court should apply section 54 of the Arbitration Act 2012 when determining whether to grant relief. He relies on the recent judgment of Doyle J in *Re A v B and C* [2026] CIGC (FSD) 6 at [63], where Doyle J re-stated the broad principles applicable to section 54 of the Arbitration Act, as summarised in the judgment of Smellie JA in *Leed Education Holdings Ltd v Minsheng Vocational Education Company Ltd* [2024] 1 CILR 308. Of particular relevance, Doyle J said:

> *"(2) […] first and foremost, in the exercise of the powers vested, it must be remembered that they are indeed ancillary powers and must be exercised with caution. The policy of the Act and a principle of international arbitration is that there should be limited curial (i.e. court) intervention. Parties ought not to be allowed to bypass the arbitral tribunal to seek interim measures from the court merely because curial assistance is conceivably available. Accordingly, the powers are to be used only as needed for the purpose of assisting the foreign arbitral proceedings. An order must not usurp the powers of the tribunal. […]*
>
> *(4) While, if access to the arbitral tribunal or the courts at the seat of the arbitration is available, the burden will be on the party applying to explain why it was not taken, the section 54 powers may nonetheless be exercised in appropriate circumstances, such as in cases of urgency or where it is shown that the arbitral tribunal or foreign court (as the case may be) would not have the power to grant the interim measure or measures particularly needed."*

Mr Bradley concludes by saying that the court should not accept Haitong's invitation to consider the grant of an injunction as being divorced from the arbitration and made in support of the appointment of the joint provisional liquidators instead. He submits that there is no principled

distinction to be made, and that granting relief would create an enormous loophole, contrary to the principles applicable to relief under section 54 of the Arbitration Act 2012. Finally, he argues that if I were to make such an order then it should be of limited duration and should only apply until determination of an application to be made by Haitong either to the arbitral tribunal or to the High Court in Hong Kong for equivalent relief.

84. Mr Potts argues that the court has power to make orders in support of the appointment of the joint provisional liquidators, both to define the joint provisional liquidators' powers and to define the limitations on the directors' powers. In response to Mr Bradley's complaints, he argues that in doing so, the court is not constrained to apply *American Cyanamid* principles. Mr Potts submits that, by making an order in similar terms to paragraph 3 of the consent order dated 30 June 2025, the court would simply be preserving the status quo. He therefore urges me to make such an order now. However, Mr Potts does not engage with Mr Bradley's argument that the court should recognise that the state of play has moved on from 30 June 2025 and that section 54 of the Arbitration Act 2012 should now control the extent to which the Grand Court is willing to and should make interim orders.

85. I am persuaded by Mr Bradley that the court should approach the question whether to make an order in similar terms to paragraph 3 of the consent order dated 30 June 2025 on the basis that section 54 of the Arbitration Act is now applicable. The overriding principle is therefore that the court should only intervene as a last resort, in circumstances where appropriate relief is not available, or not available in time, from the arbitral tribunal or from the courts of the seat of the arbitration, which have been selected by the parties as the mechanism to resolve their disputes, including their ability to obtain interim relief. I therefore accept Mr Bradley's argument that I should decline to make an order in similar terms to paragraph 3 of the consent order dated 30 June 2025, except to the extent that it is necessary to give Haitong protection until it can make an application to the arbitral tribunal or to the High Court of Hong Kong.

86. Whilst I have accepted Haitong's case that there is a continuing risk of dividends being diverted from within the structure by Mr Jiao, there is no evidence before me that there is a risk of imminent action by Mr Jiao now and before Haitong could make an application to the arbitral tribunal or to the High

Court. Mr Potts asserts that a dividend was declared in December 2025, which has not been paid up the structure, and which Haitong believes has already been diverted by Mr Jiao. If so, then it would be futile to order an injunction now. Further, Mr Potts asserts that a further dividend is likely to be declared in April 2026. If that is so, then I consider that Haitong has sufficient time to make an application to the arbitral tribunal or to the High Court of Hong Kong for appropriate orders. I therefore conclude that it is not necessary for me to make an interim order now. I therefore decline to grant the relief sought by Haitong in paragraph 3(c) of its summons and also decline to grant the alternative relief in the form of an injunction that I canvassed with the parties.

87. Moving on to paragraph 3(d) of Haitong's summons, I do not consider that it is necessary or consistent with the limited role of the joint provisional liquidators at this stage to give them the powers sought. I am not satisfied that protecting and preserving the GP's assets and preventing mismanagement or misconduct of the GP's directors requires the joint provisional liquidators to be able to call meetings and exercise voting powers of the GP and of the subsidiaries etc as set out in paragraph 3(d). It would only be appropriate to give the joint provisional liquidators the powers sought by that paragraph of Haitong's summons if the joint provisional liquidators were tasked with taking control of the structure. They have not been because that does not seem to me to be necessary to achieve the two purposes for which they have been appointed.

88. In addition, I am particularly concerned by Haitong's inclusion in the powers that it seeks to be given to the joint provisional liquidators that they should be able to disregard any contractual provision, including in any shareholder agreement, that would otherwise control the exercise of powers by a shareholder or member of the subsidiaries. The joint provisional liquidators have not been appointed as liquidators of any of the entities within the structure other than the GP. Any powers that the joint provisional liquidators would be able to exercise at the level of the subsidiary companies can only be powers exercised *qua* shareholder. I do not see how this Court has jurisdiction to order that the joint provisional liquidators, when exercising such shareholder powers, should not be bound by any pre-agreed contractual limitations on those powers.

89. Accordingly, I will vary the Appointment Order: (a) to order that all correspondence regarding the HKIAC arbitration should be copied to the joint provisional liquidators for their information; and (b) as requested in paragraph 3(b) of Haitong's summons. Otherwise, Haitong's summons is dismissed.

F. The joint provisional liquidators' summons for sanction

90. As indicated earlier in this judgment, by a summons filed on 19 November 2025 the joint provisional liquidators seek:

90.1 retrospective sanction to engage attorneys in the Cayman Islands, BVI, Hong Kong and the PRC; and

90.2 sanction to conclude unspecified funding agreements.

However, by the time of the hearing on 8 December 2025, the joint provisional liquidators had narrowed the scope of the relief that they seek, as explained below.

F.1 Sanction to engage attorneys

91. The joint provisional liquidators' summons is supported by the evidence in the second affidavit of Mr So. He says that the joint provisional liquidators consider that they need to engage attorneys in the Cayman Islands, BVI, Hong Kong and the PRC because various of the subsidiary companies are incorporated in those jurisdictions and because, as least in part, the joint provisional liquidators need to take advice in those jurisdictions as to how to overcome an alleged lack of cooperation to date from the subsidiaries in providing information to the joint provisional liquidators regarding their assets.

92. Mr So states in paragraph 9 of his second affidavit:

> *"9. As set out in sections· 2.3 and 4.2 of the 1st Interim Report […], despite numerous requests by the JPLs for statutory records, financial information and cooperation from the directors of the Company, the registered agent and the Subsidiaries, limited information has been provided to us to ascertain exactly what assets the Company has, which has made it difficult to take steps to preserve the Company's assets."*

93. Mr So complains in paragraph 10 of his second affidavit that "Day 1" letters which the joint provisional liquidators sent to the subsidiary companies were ignored. In paragraph 11, he says that it is essential that the joint provisional liquidators can engage legal counsel in each of the jurisdictions in question:

> *"[…] in order to seek legal advice on the rights of the Company and the duties of the Subsidiaries, with a view to the JPLs obtaining information in satisfaction of the Appointment Order, and exploring and proceeding with the legal remedies which may be available to the JPLs in the case of a continued lack of cooperation, so that the JPLs can carry out their duties under the Appointment Order."*

94. However, in his third affidavit sworn on 2 December 2025, no doubt recognising the need to comply with *Re UCF Fund* [2011] 1 CILR 305, Mr So limits the jurisdictions for which the joint provisional liquidators seek sanction to engage attorneys to the Cayman Islands and the BVI. He indicates that the joint provisional liquidators may seek leave for sanction to engage attorneys in other jurisdictions at a later stage.

95. In my judgment, Mr So significantly overstates the position regarding the subsidiary companies. Mr Khanbhai accepted in his oral argument that the joint provisional liquidators had only sent one letter to the subsidiaries, on 16 September 2025, which sought information regarding dividends that had been declared and which were intended to be declared. Mr So's evidence that *"numerous requests"* have been made by the joint provisional liquidators for *"statutory records, financial statements"* is simply wrong as regards the subsidiaries. The suggestion that the joint provisional liquidators therefore need to engage attorneys in the BVI, Hong Kong and/or PRC in order to obtain advice on how to address the subsidiaries' alleged lack of cooperation is therefore unfounded.

96. Mr Bradley conceded that it is appropriate for the joint provisional liquidators to engage Campbells LLP to provide advice on Cayman law issues. However, he objected to the engagement extending to BVI law matters, essentially for the reason set out in the previous paragraph.

97. I have no difficulty with giving sanction for the joint provisional liquidators to engage attorneys at law in the Cayman Islands. It is obvious that the joint provisional liquidators will need to engage attorneys in the Cayman Islands to assist them. The evidence shows that Campbells LLP are not

conflicted and their proposed terms of engagement appear to be satisfactory. Given that the assets held by the GP comprise the Fund's shares in CDH Battery Limited, a BVI incorporated company, I also accept that the joint provisional liquidators may need advice on BVI law as regards the GP's rights in respect of CDH Battery Limited. I will therefore give sanction for the joint provisional liquidators to include within their engagement of Campbells LLP the provision of advice on BVI law issues.

98. As Mr So has indicated in this third affidavit that the joint provisional liquidators no longer pursue sanction to engage attorneys in Hong Kong or in the PRC, I will refrain from expressing any view on the appropriateness or otherwise at this time of that request for sanction.

F.2 Sanction to conclude funding agreements

99. The funding agreements that are referred to in the joint provisional liquidators' summons are completely unspecified. Mr So says in his second affidavit that, notwithstanding that the Appointment Order permits the joint provisional liquidators to pay their own invoices out of the GP's assets, they have not received any such payment. There is no explanation in Mr So's second or third affidavit why this is so, for example, whether the GP's management is obstructing such payment and, if so, in what way. Mr So says the joint provisional liquidators wish to conclude funding agreements so that they can pay their fees and disbursements in a timely manner.

100. Mr So indicates that the joint provisional liquidators had preliminary discussions with Haitong regarding funding and on 14 November 2025 also asked Mr Jiao whether he would provide funding. In his third affidavit sworn on 2 December 2025, Mr So states that Mr Jiao indicated on 19 November 2025 he would not provide funding for the joint provisional liquidators. Mr So says that, as a result, the joint provisional liquidators' discussions with Haitong have progressed, and the joint provisional liquidators' application is more focussed and narrower as a result.

101. Accordingly, the joint provisional liquidators seek sanction to conclude a funding agreement with Haitong for US $700,000 on an interest free and unsecured basis. The funding would be repayable from the GP's funds during the provisional liquidation or on the commencement of any official

liquidation, if funds become available. Mr So suggests that the terms of the funding agreement are in the GP's best interests because the funding would be provided on an interest free and unsecured basis. Mr Khanbhai added in his oral submissions that the funding is simply intended to provide the joint provisional liquidators with liquidity so that they can pay their fees and expenses. He submits that the funding is on the best commercial terms available, given that it is interest free and unsecured, and that the effect of the funding agreement is simply to transfer the financial risk from the joint provisional liquidators to Haitong.

102. Mr Bradley complains on behalf of Mr Jiao that there is a dearth of explanation as to what fees the joint provisional liquidators have incurred so far, why they have done so and why the joint provisional liquidators need funding of US $700,000 given the limited purposes for which they have been appointed and given that they do not appear to have done very much so far. He says that Mr Jiao's requests for these explanations have not been answered.

103. Mr Khanbhai responds that the joint provisional liquidators will have to justify their fees to the court in due course on an application for sanction of those fees. Mr Jiao will have to be given notice and will have an opportunity to make representations at that stage. Accordingly, Mr Khanbhai says, this is not the stage in the process where the joint provisional liquidators should have to provide an explanation of the work they have done so far and why the funding sought is necessary. He submits that it is not normal for liquidators seeking sanction to enter into a funding agreement to have to demonstrate what work has been done at what cost and for what purposes funding is being sought.

104. I find Mr Khanbhai's submission a little surprising. Part of the Court's function in supervising a liquidation is to try to ensure that where the estate is being encumbered with a liability, there is a good reason in the interests of the creditors as a whole to do so. This is because payment of the liability is usually given priority over any distribution to the unsecured creditors, whose recovery in the insolvency is diminished as a result. This is the case with the funding which the joint provisional liquidators propose to obtain from Haitong, which, as I understand it, is to be paid out of any funds received by the GP during the provisional liquidation or any official liquidation in priority to any

payment to members. Thus, any recovery by the members of the Fund is likely to be reduced by up to US $700,000 pro rata.

105. In these circumstances, it seems to me that it is incumbent on the joint provisional liquidators to provide some explanation as to why the funding is required, and why it is required at the level sought. As is well established in the authorities in other contexts, the court will give considerable weight to the joint provisional liquidators' professional judgment as to what is needed. But that is not to say that the court will give the joint provisional liquidators carte blanche.

106. In this case, the joint provisional liquidators have indicated that they wish to obtain the funding so that they can pay their fees and disbursements in circumstances where they have not been able to do so from the GP's own assets. In my view, that is a perfectly understandable and acceptable justification for seeking sanction to enter into a funding agreement.

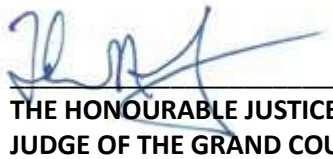
107. However, US $700,000 appears to be a disproportionate figure having regard to the limited purposes for which the joint provisional liquidators have been appointed, the limited substantive work that they appear to have done so far and, in the absence of an explanation from the joint provisional liquidators, the limited work that it appears likely that they will have to do in the future. I am not satisfied that the joint provisional liquidators have made out a case why they need funding of up to US $700,000.

108. I do not accept Mr Khanbhai's submission that I should simply grant sanction to conclude the funding agreement and then deal with any issues regarding the reasonableness of the joint provisional liquidators' fees and disbursements on any fee application by the joint provisional liquidators in due course. In my judgment it is far better to consider the appropriate level of funding and resulting budget at an early stage, so that the joint provisional liquidators can work within a known budget rather than the Court trying to exercise financial control after the event, which is always a much more difficult task once the money has been spent and the question becomes where the liability should fall. If the approved level of funding subsequently turns out to be inadequate for any reason, the joint provisional liquidators can make a further application supported by evidence at that time.

109. Accordingly, for these reasons, I am not willing to sanction the joint provisional liquidators' request to conclude a funding agreement with Haitong in the sum of US $700,000 on the material currently before me.

110. On the other hand, the joint provisional liquidators clearly need to be able to cover their reasonable fees and disbursements reasonably incurred. I therefore strongly encourage the GP's directors promptly to remove any impediment that there may be preventing the joint provisional liquidators from paying their reasonable fees and disbursements reasonably incurred from the GP's assets.

Dated 31 March 2026



THE HONOURABLE JUSTICE JALIL ASIF KC
JUDGE OF THE GRAND COURT