



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

Neutral Citation Number: [2025] CIGC (FSD) 14

CAUSE NO. FSD 93 of 2021 (DDJ)

IN THE MATTER OF THE COMPANIES ACT (2021 REVISION)

AND

IN THE MATTER OF SKYE ASSETS FUND SPC (In Voluntary Liquidation)

Before: The Hon. Justice David Doyle

Heard: On the papers

Draft Judgment circulated: 18 February 2025

Judgment delivered: 21 February 2025

Determination of issues in respect of costs

JUDGMENT

1. On 17 February 2025 the matter was reassigned to me.

2. I have considered:

- (1) The judgment of former Chief Justice Anthony Smellie delivered on 30 June 2021 (the “Judgment”).

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- (2) A summons dated 13 July 2021 (the “Summons”) where Mr Du Ki Hong (the “Voluntary Liquidator”) seeks the following orders:
 - (a) Mr Kiu Kim (the “Petitioner”) shall pay the Voluntary Liquidator’s costs of the proceedings on the indemnity basis, alternatively the standard basis, to be assessed if not agreed;
 - (b) Notwithstanding paragraph (1), the Petitioner shall pay the Voluntary Liquidator’s costs of the Summons on the standard basis, to be assessed if not agreed.
 - (3) The 6 pages of written submissions of the Voluntary Liquidator dated 27 July 2021.
 - (4) The 3 pages of written submissions of the Petitioner dated 27 July 2021.
3. The Petitioner does not dispute that costs should follow the event but he submits that they should not be on the indemnity basis.
 4. I have carefully considered the Judgment. In particular, former Chief Justice Smellie:
 - (1) at [36] stated “Viewed objectively and in the round, it became apparent from all the circumstances, that [the Petitioner’s] resort to the process of the Court (both for the Deferral Application and ultimately the supervision order) was abusive. His real objective was to leverage a position of advantage in his proposed claim, not so much against the Company itself which had no assets, but personally against Mr Hong”;
 - (2) at [37] commented to the effect that the Petitioner “had no remaining proprietary interest in the Company whose dissolution he wished to defer” and “There was no apparent basis upon which his claim could be regarded as aimed at recovering assets belonging to the Company...”;
 - (3) at [40] stated “[The Petitioner’s] objectives would be anathema to the statutory rationale for deferral of dissolution ... [The Petitioner’s] claim may fairly be described as “shadowy” and his pleadings as patently lacking in merit – both as regards the deferral of

dissolution itself, as well as his Petition seeking to bring the liquidation under the supervision of the Court.”

- (4) at [41] stated that the Petitioner “should not be allowed to use the process of the Court here as a means for exerting undue pressure.”
5. In my judgment the conduct of the Petitioner was plainly improper and unreasonable to a high degree. The Petitioner’s conduct was, or should be, outside the normal and it is right that it attracts the court’s disapproval by way of an order for costs on the indemnity basis.
6. I therefore make the orders sought in the Summons in favour of the Voluntary Liquidator. The attorneys should email to my PA a draft order agreed as to content and form within 7 days of the delivery of this judgment.
7. I should apologise on behalf of court administration for the delay in determining the Summons, which was beyond my control. The Summons appears to have fallen between the cracks. As soon as I was reassigned to the case I endeavoured to expeditiously consider the relevant papers and produced my judgment within a couple of days thereafter.

David Doyle

THE HON. JUSTICE DAVID DOYLE
JUDGE OF THE GRAND COURT