

IN THE GENERAL DIVISION OF  
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

**[2025] SGHC 170**

Originating Claim No 593 of 2023

Between

(1) Deepak Mishra  
(2) Nimisha Pandey

*... Claimants*

And

Rashmi Bothra

*... Defendant*

Counterclaim of Defendant

Between

Rashmi Bothra

*... Claimant in Counterclaim*

And

(1) Deepak Mishra  
(2) Nimisha Pandey

*... Defendants in Counterclaim*

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**JUDGMENT**

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[Contract — Illegality and public policy]

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**Deepak Mishra and another**  
v  
**Rashmi Bothra**

[2025] SGHC 170

General Division of the High Court — Originating Claim No 593 of 2023  
Chua Lee Ming J  
2, 6–8, 13–15, 28 May 2025

26 August 2025 Judgment reserved.

**Chua Lee Ming J:**

## Introduction

1 The claim by the claimants, Mr Deepak Mishra (“Deepak”) and  
2 Ms Nimisha Pandey (“Nimisha”), and the counterclaim by the defendant,  
3 Mrs Rashmi Bothra (“Rashmi”), are based on a running account between the  
4 claimants and the defendant (the “Running Account”). The claimants claim that  
5 an amount is due to them from the defendant under the Running Account  
6 whereas the defendant claims the reverse.

2 Following oral testimony given by Deepak, the claimants decided to withdraw their claims on the ground that the whole Running Account is unenforceable for illegality, save for one claim on which they had pleaded an alternative basis. The defendant disputed the alleged illegality and proceeded with her counterclaim.

### **Background facts**

3 Deepak is married to Nimisha and Rashmi is married to Mr Rajesh Bothra (“Rajesh”). Both couples first met in Singapore sometime in 2011 or 2012 and became close friends.

4 Deepak is a businessman who operates businesses in, among others, Singapore, India, Hong Kong and Thailand. Prior to 2021, Rajesh was the sole shareholder and sole director of Kobian Pte Ltd (“Kobian”). Kobian’s business suffered as a result of the COVID-19 pandemic, and it went into liquidation. Rajesh was a guarantor for a substantial part of Kobian’s debts, and he was declared a bankrupt on 25 February 2021.

5 In 2011, the claimants and Rashmi started having mutual dealings with each other in their own personal names and using corporate entities which they beneficially owned and/or controlled and/or instructed payment to (the “Claimants’ Entities” and “Defendant’s Entities” respectively). These dealings included loans extended by the claimants (or their corporate entities) to Rashmi (or her corporate entities) and *vice versa*. The dealings led to the formation of the Running Account between the claimants (Deepak and Nimisha) and the defendant (Rashmi).

6 It is common ground that Rajesh is not a party to the Running Account. However, Rashmi left the handling of the transactions under the Running Account to Rajesh.<sup>1</sup> Rashmi herself does not understand or know anything about any of the transactions.<sup>2</sup>

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<sup>1</sup> Rashmi’s Affidavit of Evidence-in-chief, at para 6; NE, 2 May 2025, at 53:19–54:5.

<sup>2</sup> NE, 3 May 2025, at 53:4–6 and 54:2–5.

7 It is not disputed that the Claimants' Entities include the following:

- (a) Allianz Trading Private Limited ("Allianz");
- (b) Blue Wings International ("Blue Wings");
- (c) Brindille Holdings Inc ("Brindille");
- (d) Capital Systematics Pte Ltd ("Capital Systematics");
- (e) Greenfield Advisory Pte Ltd ("Greenfield Advisory");
- (f) Greenfield Trade Services Pte Ltd ("Greenfield Trade");
- (g) Lucky Maple Investment Limited ("Lucky Maple");
- (h) Metro Capital Limited ("Metro");
- (i) Pascal Industries Group Ltd ("Pascal");
- (j) Polygon Far East Corporation ("Polygon");
- (k) Sundance Delight International Inc ("Sundance"); and
- (l) Skytex Advance Group Ltd ("Skytex").

8 It is also not disputed that the Defendant's Entities include the following:

- (a) FarEast Distribution and Logistics Private Limited ("FarEast");
- (b) Fausta Limited ("Fausta");
- (c) FarEast Distribution and Logistic Pte Ltd ("FarEast BVI"); and
- (d) SuntecCity (33) Pte Ltd ("Suntec 33").

FarEast was ordered to be wound up on 20 September 2019.

9 The claimants claim that the Claimants' Entities also include the following:<sup>3</sup>

- (a) BlueJet Express Pte Ltd ("BlueJet");
- (b) Chimera Arbitrage SA ("Chimera"); and
- (c) Sparrow Global Fund ("Sparrow").

However, the defendant dispute this and claim that these entities fall outside the scope of the Running Account.<sup>4</sup> As matters turned out, the question as to whether the Claimants' Entities included these three entities became irrelevant (see [18(a)] below).

10 The defendant claims that the Claimants' Entities include another entity, Mystic Serenity Ltd ("Mystic") as it was an entity which the claimants instructed payment to.<sup>5</sup> The claimants deny that they instructed payment to Mystic or that Mystic is one of the Claimants' Entities.<sup>6</sup>

11 Sometime in February 2021, the relationship between the two couples soured and broke down.

12 On 8 September 2023, the claimants commenced the present action.

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<sup>3</sup> Statement of Claim (Amendment No 3) ("SOC"), at paras 7.2(d), (f) and (n).

<sup>4</sup> Defence & Counterclaim (Amendment No 3) ("D&CC"), at paras 20(b) and (c).

<sup>5</sup> D&CC, at para 20(a).

<sup>6</sup> Defence to Counterclaim (Amendment No 3) ("DtoCC"), at para 8.4(a).

**The parties' claims under the Running Account**

13 The claimants' pleaded case is that the defendant owes them US\$54,752,064 under the Running Account.<sup>7</sup> The defendant's pleaded case is that the claimants owe her US\$137,112,023 under the Running Account.<sup>8</sup>

14 The Running Account comprises 287 transactions.<sup>9</sup> Of these, 198 transactions are undisputed (the "Undisputed Transactions").<sup>10</sup> The trial proceeded on the remaining 89 transactions that were in dispute. The parties helpfully grouped these 89 disputed transactions under the following 10 categories, described as Issues 1 to 10:<sup>11</sup>

(a) Issue 1 relates to the *claimants*' claims in respect of payments by BlueJet to Fausta totalling US\$3,091,500. The defendant objects to these payments being included in the Running Account on the ground that BlueJet is not beneficially owned by Nimisha and therefore does not fall within the Running Account.

(b) Issue 2 relates to the *claimants*' claims in respect of payments by Sparrow and Chimera to FarEast totalling US\$30,999,926. The defendant objects to these payments being included in the running account on the ground that Sparrow and Chimera fall outside the Running Account. The defendant also claims that the payments by Sparrow and Chimera were in respect of investments that Deepak was managing on behalf of Rajesh.

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<sup>7</sup> SOC, at para 37.

<sup>8</sup> D&CC, at para 115.

<sup>9</sup> Claimants' Core Bundle ("CB"), at pp 12–28.

<sup>10</sup> CB, at pp 12–28 (in green).

<sup>11</sup> Exhibit C3.

(c) Issue 3 relates to the *defendant's* claim in respect of a payment of US\$267,063 by FarEast to Mystic. The claimants object to this payment being included in the running account because they deny having instructed payment to be made to Mystic or that Mystic is one of the Claimants' Entities.

(d) Issue 4 relates to the *claimants'* claims in respect of payments by Polygon to Fausta totalling US\$63,595,800. The defendant objects to these payments on the ground that the monies were subsequently transferred from Fausta to a third party, Alchemist Enterprise (S) Pte Ltd ("Alchemist") on Deepak's instructions.

(e) Issue 5 relates to the *claimants'* claims in respect of payments by Skytex, Pascal, Greenfield Advisory, Polygon and Deepak to Fausta, Pankaj (Rajesh's uncle) and Rajesh totalling US\$4,765,993. The defendant objects to these payments on the ground that they relate to separate business dealings between Deepak and Rajesh.

(f) Issue 6 relates to the *defendant's* claims in respect of payments by FarEast and FarEast BVI to Capital Systematics, Brindille, Polygon, Skytex, Metro and Sundance totalling US\$81,743,922. The claimants object to these payments on the ground that they were repayments and/or settled against dealings involving the defendant, the Defendant's Entities, Rajesh or his entities. The claimants claim that these payments were made in relation to letter of credit discounting transactions ("LC Discount Trades"),<sup>12</sup> which are explained later in this judgment.

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<sup>12</sup> In the DtoCC, the claimants use the term "LC Trade Transactions" but Deepak has used the term "LC Discount Trade" in his AEICs.

(g) Issue 7 relates to the *defendant's* claims in respect of payments by FarEast to Metro and Skytex totalling US\$232,318. The claimants object to these payments on the ground that they constitute the claimants' agreed share of handling fees in relation to LC Discount Trades.

(h) Issue 8 relates to the *defendant's* claim in respect of a payment of US\$1,243,922 by FarEast to Metro. The claimants object to this payment on the ground that it was a repayment of a loan from Deepak to Rajesh.

(i) Issue 9 relates to the *claimants'* claim in respect of a payment of US\$67,756 from Metro to FarEast. The defendant objects to this payment on the ground that she does not have records of the same.<sup>13</sup>

(j) Issue 10 relates to cross claims by the claimants and the defendant in respect of a property at 222 Ocean Drive #06-27, The Berth By The Cove, Singapore 098619 (the "Berth Penthouse"). The parties dispute (i) their respective contributions towards the acquisition of the property, (ii) the income earned and the expenses incurred in connection with the property, and (iii) the claimants' liability in respect of the repayment of a mortgage loan that was taken to partially pay for the acquisition of the property.

***The claimants withdraw their claims save for Issue 10***

15 The trial started on 2 May 2025. As Deepak was not available at the start of the trial, the parties agreed that the defendant's witnesses (*ie*, the defendant and Rajesh) would give evidence first. Towards this end, the defendant

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<sup>13</sup> D&CC, at para 110(c).

confirmed that she would not be making any submission of no case to answer. The trial thus started with the oral testimonies of the defendant and Rajesh.

16 Deepak took the stand on 8 May 2025. His oral testimony in relation to the payments under Issue 6 raised questions of illegality. By way of a letter from their lawyers dated 14 May 2025 (after Deepak and Nimisha had completed their oral testimonies), the claimants informed the court that they were withdrawing all their claims save for their claim under Issue 10.<sup>14</sup> The claimants took the position that based on evidence given by Deepak, the whole Running Account was unenforceable on the ground of illegality but their claim under Issue 10 could proceed as the claimants had pleaded an alternative claim independent of the Running Account. The claimants also proposed amending their Statement of Claim accordingly.

17 On 15 May 2025, the claimants confirmed their position as stated in their lawyers' letter of 14 May 2025. Both parties agreed that there was no need to amend the Statement of Claim just because the claimants were withdrawing their claims (except for Issue 10). The defendant denied the allegation of illegality and confirmed that she was proceeding with her counterclaim. In her closing submissions, the defendant confirmed that the amount owing to her in respect of the *Undisputed Transactions* (see [14] above) is US\$41,272,115.<sup>15</sup>

### **The issues before me**

18 The turn of events set out above means that:

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<sup>14</sup> Letter dated 14 May 2025 from Clasis LLC to the Court.

<sup>15</sup> Defendant's and Claimant in Counterclaim's Closing Submissions ("Defendant's Closing Submissions"), at para 20.

- (a) I do not have to decide the claimants' claims under Issues 1, 2, 4, 5 and 9. As BlueJet, Chimera and Sparrow are relevant only to the claimants' claims (Issues 1 and 2), this also explains why the question as to whether the Claimants' Entities include these three entities has become irrelevant.
- (b) If I find that the Running Account is unenforceable on the ground of illegality, I have to decide on only the competing claims under Issue 10.
- (c) If I find that the Running Account is enforceable:
  - (i) the defendant would be entitled to payment of US\$41,272,115 in respect of the Undisputed Transactions; and
  - (ii) I have to decide on the defendant's claims under Issues 3, 6, 7 and 8, and on the parties' claims under Issue 10.

19 Thus, the issues before me are as follows:

- (a) Whether the Running Account is unenforceable on the ground of illegality?
- (b) If the Running Account is unenforceable, what is the position under Issue 10?
- (c) If the Running Account is enforceable, what is the position under each of Issues 3, 6, 7, 8 and 10?

**Whether the Running Account is unenforceable on the ground of illegality**

20 The question of illegality arises from Deepak's testimony regarding Issue 6. Issue 6 concerns 28 payments amounting to US\$81,743,922 made by three of the Defendant's Entities (*ie*, FarEast, FarEast BVI and Fausta) to six of the Claimants' Entities (*ie*, Capital Systematics, Brindille, Polygon, Skytex, Metro and Sundance).<sup>16</sup>

***The LC Discount Trades***

21 The claimants do not deny that the payments under Issue 6 totalling US\$81,743,922 were made. However, their case is that 25 of the 28 payments were made in connection with LC Discount Trades.<sup>17</sup> The remaining three payments under Issue 6 do not relate to any LC transactions<sup>18</sup> and will be dealt with separately.

22 Deepak explained that the LC Discount Trades involved three steps.<sup>19</sup>

- (a) In the first step ("Step 1"), Deepak remitted (through one of the Claimants' Entities) a sum of money in US\$ to a third party.
- (b) In the second step ("Step 2"), the third party procured a letter of credit ("LC"), which fell due for payment in 180 days, to be issued in favour of one of the Defendant's Entities.

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<sup>16</sup> Exhibit C3, at pp 11–12.

<sup>17</sup> These transactions are referred to in para 39.2(j)(i) of the DtoCC as "LC Trade Transactions". However, Deepak uses the term "LC Discount Trade" in his affidavits of evidence-in-chief.

<sup>18</sup> Agreed Table of References – Issue 6 of the Common List of Issues, attached to the letter dated 13 June 2025 from Clasis LLC to the Court ("Agreed Table of References"), under Category 5.

<sup>19</sup> Deepak's Further Supplementary Affidavit of Evidence-in-Chief ("Deepak's 3rd AIEC"), at para 9; Exhibit C1.

(c) In the third step (“Step 3”), one of the Defendant’s Entities remitted a sum of money in US\$ to one of the Claimants’ Entities.

According to Deepak, the payments under Issue 6 represented Step 3 of the LC Discount Trades.

23 The third party involved in Steps 1 and 2 above was either Spring Trading Pvt Ltd (“Spring Trading”), Spring Infradev Ltd (“Spring Infradev”) or Alchemist Ltd (“Alchemist India”), all of which were companies incorporated in India. It is not disputed that Spring Trading and Spring Infradev belonged to the same group of companies (which Deepak referred to as the “Spring Trading Group”).<sup>20</sup> Rajesh admitted that Spring Infradev was his customer and also a customer of one or more of the Defendant’s Entities.<sup>21</sup> Rajesh also admitted that Alchemist India was his customer.<sup>22</sup> Deepak agreed that Spring Trading was a close business associate of his but denied any business association with Alchemist India.<sup>23</sup> It is also not disputed that each of the third parties had applied for LCs to be issued in favour of one of the Defendant’s Entities.

24 In his oral testimony, Deepak explained how Steps 1 to 3 were connected to each other and formed part of the LC Discount Trades.

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<sup>20</sup> Deepak’s 3rd AEIC, at para 9(a); NE, 7 May 2025, at 43:7–16.

<sup>21</sup> NE, 7 May 2025, at 41:2–16.

<sup>22</sup> NE, 6 May 2025, at 123:3–4.

<sup>23</sup> NE, 8 May 2025, at 87:21–24.

(a) The third party placed the money remitted by Deepak on fixed deposit in *Indian rupees* for 6 months at an interest rate of between 7.5% to 8% per annum (*ie*, 3.75% to 4% for the 6-month period).<sup>24</sup>

(b) The third party purported to purchase goods from one of the Defendant's Entities. The purchases were sham purchases because no goods were intended to be, and no goods were, shipped.<sup>25</sup> The third party then procured a LC, payable in 180 days, to be issued purportedly to pay for the goods (Step 2). As the LCs were opened in US\$, the third party paid interest at a lower rate of about 2.5% for the 180-day term of the LC (about six months).

(c) Rajesh arranged for each LC to be discounted and used the proceeds from discounting the LC (the "Discounting Proceeds") to pay one of the Claimants' Entities an amount equal to 97.5% of the face amount of the LC (the "LC Amount") (Step 3). 2.5% was deducted from the LC Amount as a handling fee (the "Handling Fee"). Part of the Handling Fee was to pay the costs of discounting the LC. The balance was shared equally between Deepak and Rajesh.<sup>26</sup>

(d) The money remitted by Deepak in Step 1 would ultimately be used to pay the issuing bank (and in turn, the negotiating bank that discounted the LC), when the LC fell due. By arbitraging the interest rates, the third party made about 1% to 1.5% (depending on the Indian rupee deposit rate) for the six-month period.

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<sup>24</sup> NE, 8 May 2025, at 100:22–101:8.

<sup>25</sup> NE, 8 May 2025, at 101:13–15.

<sup>26</sup> NE, 8 May 2025, at 104:8–12.

(e) The payments to the Claimants' Entities (Step 3) were to repay Deepak for the amounts remitted in Step 1. By sharing the balance of the Handling Fees equally, Rajesh and Deepak each earned about 0.65% to 0.7% (of the LC Amounts) over the period of about a week, which was the time taken for Steps 1 to 3 to be carried out.<sup>27</sup> Deepak testified that Rajesh and he were making about 2.8% to 3% *per month* on the money that was deployed.<sup>28</sup>

25 As stated earlier, Deepak testified that the sales and purchases of goods between the third party and Rajesh's entities were sham transactions and no goods were shipped. Deepak admitted that the LC Discount Trades involved misleading the banks that issued and discounted the LCs.<sup>29</sup>

26 Rajesh admitted that (a) the Discounting Proceeds were used to make some of the payments under Issue 6, and (b) he deducted 2.5% of LC Amounts as Handling Fees. Rajesh testified that the price quoted to the third party would be marked up by 2% to 2.8% if the third party chose to pay using an LC.<sup>30</sup> Rajesh also admitted that the balance of the Handling Fees was shared equally between Deepak and him. However, Rajesh denied engaging in LC Discount Trades with Deepak and claimed that he had no knowledge of the remittances by Deepak to the third parties. Rajesh also claimed that the sales to the third parties were genuine sales and goods were shipped and delivered.<sup>31</sup>

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<sup>27</sup> NE, 8 May 2025, at 103:23–104:15.

<sup>28</sup> NE, 8 May 2025, at 145:25–146:4.

<sup>29</sup> NE, 8 May 2025, at 104:16–18.

<sup>30</sup> Rajesh's 3rd Supplementary Affidavit of Evidence-in-chief ("Rajesh's 3rd SAEIC"), at para 13; NE, 7 May 2025, at 58:15–17.

<sup>31</sup> NE, 7 May 2025, at 101:8–13, 113:21–23, 122:2–4.

27 The documentary evidence of Steps 1 and 2 relating to the payments under Issue 6 is incomplete. The 28 payments under Issue 6 can be grouped into five categories and are discussed below. Only Categories 1 to 4 relate to the question of LC Discount Trades.

*Category 1: No evidence of Steps 1 and 2*

28 This category comprises six payments under Issue 6 (Combined Running Account (“CRA”) s/n 1, 46, 58, 65, 77 and 84).<sup>32</sup> The claimants allege that these payments represented Step 3 of the LC Discount Trades. However, there is no evidence of the corresponding Steps 1 and 2 except for Deepak’s bare statement that he *believed* that these payments were related to LC Discount Trades.<sup>33</sup> Rajesh denied that these six payments had anything to do with discounting of LCs.

29 I find that the claimants have not proved their case that these six payments were made in connection with LC Discount Trades.

*Category 2: Not disputed that payments were from Discounting Proceeds*

30 This category comprises 14 of the payments under Issue 6. Rajesh admitted that all 14 payments were made from the Discounting Proceeds after deducting the Handling Fees.<sup>34</sup>

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<sup>32</sup> Exhibit C3, at p 11; Agreed Table of References, under Category 1.

<sup>33</sup> Deepak’s 3rd AEIC, at para 11.

<sup>34</sup> NE, 7 May 2025, at 44:11–46:18, 62:6–64:18, 65:7–68:1, 72:19–74:23, 78:17–81:2, 82:9–84:22, 85:1–86:13, 100:1–101:17, 103:3–106:10, 109:23–111:10, 111:19–112:23, 113:2–23, 114:2–115:15, 119:22–120:11.

31 With respect to four of the payments (CRA s/n 86, 113, 184 and 188),<sup>35</sup> the claimants produced documentary evidence of remittances, which they claimed were the Step 1 remittances corresponding to each of the four payments. Rajesh claimed that he had no knowledge of the remittances. As for the remaining 10 payments (CRA s/n 69, 70, 107, 109, 128, 132, 189, 190, 197, 205),<sup>36</sup> there is no documentary evidence of the Step 1 remittances corresponding to these payments.

32 The evidence relating to the 14 payments shows the following:

CRA s/n	Remittance to third party (Step 1)	LC issued on third party's application (Step 2)	Payment to Claimants' Entity (Step 3)
86	US\$2,550,816 on 26 December 2012 from Capital Systematics to Spring Infradev <sup>37</sup>	US\$2,497,800 on 26 December 2012 by Spring Trading in favour of FarEast <sup>38</sup>  (97.5% = US\$2,435,355)	US\$2,435,341 on 7 January 2013 from FarEast BVI to Capital Systematics
113	US\$2,052,050 on 12 March 2013 from Greenfield to Spring Infradev <sup>39</sup>	US\$2,050,080 on 21 March 2013 by Spring Trading in favour of FarEast <sup>40</sup>	US\$1,999,413 on 2 April 2013 from Fausta to Capital Systematics

<sup>35</sup> Exhibit C3, at p 11. See Agreed Table of References, under Category 2(a).

<sup>36</sup> Exhibit C3, at pp 11–12. See Agreed Table of References under Category 2(b).

<sup>37</sup> Deepak's 3rd AEIC, at p 26. (Bundle of Affidavits of Evidence-in-chief, volume 4 ("4BAEIC"), at p 28).

<sup>38</sup> Deepak's 3rd AEIC, at p 23–25 (4BAEIC, at pp 25–27).

<sup>39</sup> CB, at pp 255–256.

<sup>40</sup> CB, at pp 260–265.

		(97.5% = US\$1,998,828)	
184	US\$5,028,996 on 6 February 2014 from Polygon to Alchemist India <sup>41</sup>	US\$5,501,250 on 5 March 2014 by Alchemist India in favour of FarEast <sup>42</sup>  (97.5% = US\$5,363,718.75)	US\$5,363,719 on 17 March 2014 from FarEast to Skytex
188	US\$2,052,050 on 5 March 2014 from Metro to Spring Trading <sup>43</sup>	US\$2,101,050 on 24 March 2014 by Spring Trading in favour of FarEast <sup>44</sup>  (97.5% = US\$2,048,523.75)	US\$2,048,509 on 26 March 2014 from FarEast to Skytex
69	No evidence	US\$2,100,000 on 19 November 2012 by Spring Infradev in favour of FarEast <sup>45</sup>  (97.5% = US\$2,047,500)	US\$2,047,500 on 29 November 2012 from FarEast to Capital Systematics

<sup>41</sup> Deepak's 3rd AEIC, at p 63 (4BAEIC, at p 65).

<sup>42</sup> CB, at pp 275–278.

<sup>43</sup> CB, at p 282.

<sup>44</sup> CB, at pp 283–284.

<sup>45</sup> 4BAEIC, at p 21.

70	No evidence	US\$2,000,160 on 3 December 2012 by Spring Trading in favour of FarEast <sup>46</sup>  (97.5% = US\$1,950,156)	US\$1,950,142 on 5 December 2012 from FarEast BVI to Capital Systematics
107	No evidence	US\$2,500,560 on 26 February 2013 by Spring Infradev in favour of FarEast <sup>47</sup>  (97.5% = US\$2,438,046)	US\$2,438,032 on 1 March 2013 from FarEast BVI to Capital Systematics
109	No evidence	US\$2,050,080 on 21 March 2013 by Spring Trading in favour of FarEast <sup>48</sup>  (97.5% = US\$1,998,828)	US\$1,999,413 on 25 March 2013 from FarEast <sup>49</sup> to Capital Systematics
128	No evidence	US\$5,202,000 on 15 June 2013 by Alchemist India in favour of FarEast <sup>50</sup>	US\$5,069,475 on 18 June 2013 from FarEast to Skytex

<sup>46</sup> 4BAEIC, at p 23.

<sup>47</sup> CB, at pp 252–254.

<sup>48</sup> 4BAEIC, at pp 52–55.

<sup>49</sup> The payment is erroneously stated in Exhibit C3, at p 11, as having been made by Fausta.

<sup>50</sup> 4BAEIC, at p 64–65.

		(97.5% = US\$5,071,950)	
132	No evidence	US\$5,202,000 on 10 July 2013 by Alchemist India in favour of FarEast <sup>51</sup>  (97.5% = US\$5,071,950)	US\$5,071,950 on 18 July 2013 from FarEast to Skytex
189	No evidence	US\$5,500,350 on 24 March 2014 by Alchemist India in favour of FarEast <sup>52</sup>  (97.5% = US\$5,362,841.25)	US\$5,362,841 on 26 March 2014 from FarEast to Skytex
190	No evidence	US\$2,300,160 on 26 March 2014 by Spring Trading in favour of FarEast <sup>53</sup>  (97.5% = US\$2,242,656)	US\$2,242,656 on 27 March 2014 from FarEast to Sundance <sup>54</sup>
197	No evidence	US\$2,300,200 on 8 April 2014 by Spring Trading in favour of FarEast <sup>55</sup>	US\$2,242,695 on 11 April 2014 from FarEast to Skytex

<sup>51</sup> CB, at pp 269–272.

<sup>52</sup> 4BAEIC, at p 67.

<sup>53</sup> CB, at pp 288–289.

<sup>54</sup> CB, at p 22, wrongly states the date as 26 March 2014. See Deepak's AEIC, at p 286.

<sup>55</sup> CB, at pp 290–296.

		(97.5% = US\$2,242,695)	
205	No evidence	US\$5,000,400 on 14 June 2014 by Alchemist India in favour of FarEast <sup>56</sup>  (97.5% = US\$4,875,390)	US\$4,875,390 on 18 June 2014 from FarEast to Skytex

33 The amounts paid to the Claimants' Entities did not always match the amounts remitted by Deepak to the third parties. Deepak testified that the LC Amount may be higher or lower than the amount remitted by him and there was a reconciliation of the accounts with the third parties over time.<sup>57</sup>

34 I accept Deepak's explanation. It is supported by an email from Rajesh to him in November 2014, which contained an image of a spreadsheet (the "Reconciliation Email"):<sup>58</sup> A copy of the image of the spreadsheet is in Annex 1 of this judgment.

35 As can be seen from the spreadsheet:

- (a) It was titled "Spring A/c" and contained various amounts under the headings "LC's [sic] opened", "Net proceeds" and "Advance paid".
- (b) The total under "Net proceeds" amounted to US\$37,072,925.18. Deepak explained that this referred to net proceeds from the LCs that

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<sup>56</sup> CB, at pp 297–300.

<sup>57</sup> NE, 8 May 2025, at 106:17–23.

<sup>58</sup> CB, at p 318.

were issued.<sup>59</sup> Each of the amounts under this column represented 97.5% of the corresponding amounts under “LC’s [sic] opened”. This is consistent with the Deepak’s and Rajesh’s evidence that 2.5% was deducted as Handling Fees (see [24(c)] above).

(c) The total under “Advance paid” amounted to US\$36,241,312.43. Deepak explained that this referred to the advances paid by him.<sup>60</sup> These advances would be the remittances in Step 1 of the LC Discount Trades (see [22(a)] above).

(d) The net proceeds from the LCs exceeded the total advances by US\$831,612.75. This amount was described as “Spring Excess to be refunded”. Deepak confirmed that the amount was to be refunded to “Spring”.<sup>61</sup>

36 Deepak explained that this was a settlement account between Rajesh and him on one side and “Spring” on the other side.<sup>62</sup> Deepak had sent a spreadsheet to Rajesh for him to check, and the Reconciliation Email was a snapshot of the spreadsheet.<sup>63</sup>

37 Some of the amounts paid to the Claimants’ Entities were also not equal to exactly 97.5% of the LC Amounts. The variances were small. Deepak explained that these could have been due to bank charges for the payments. In any event, these variances do not raise any issue since it is not disputed that the

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<sup>59</sup> NE, 8 May 2025, at 128:2–3.

<sup>60</sup> NE, 8 May 2025, at 128:15–16.

<sup>61</sup> NE, 8 May 2025, at 128:18–129:8.

<sup>62</sup> NE, 8 May 2025, at 126:9–25.

<sup>63</sup> CB, at p 319; NE, 8 May 2025, at 127:2–17.

Discounting Proceeds were used to make the payments to the Claimants' Entities, after deducting amounts equal to 2.5% of the LC Amounts.

38 I find that all 14 payments were Step 3 payments made in connection with LC Discount Trades. The Reconciliation Email shows that the total net proceeds from the LCs procured by the third party exceeded the total remittances by Deepak to the third party and that the excess was to be refunded to the third party. This is compelling evidence that the LCs (Step 2) were connected to the remittances to the third parties (Step 1). There would have been no reason to refund the excess to the third party otherwise. The Reconciliation Email also shows that, contrary to his assertion, Rajesh was well aware of the remittances to the third parties. Finally, the Reconciliation Email is evidence that the sales of goods to the third parties were sham transactions. If they were genuine sales (as Rajesh claimed) there would have been no reason to refund the excess moneys to the third parties.

39 Rajesh had no explanation for the Reconciliation Email. He simply claimed that he could not remember it.<sup>64</sup> I do not believe Rajesh. His alleged memory loss relating to this crucial piece of evidence is all too convenient.

40 The fact that the LCs and the payments to the Claimants' Entities represented Steps 2 and 3 of the LC Discount Trades is further supported by the following facts:

- (a) Rajesh repeatedly used the Discounting Proceeds to make payments of 97.5% of the LC Amounts to the Claimants' Entities; and

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<sup>64</sup> NE, 7 May 2025, at 124:17–125:12.

(b) Rajesh deducted the Handling Fees from the LC Amounts and shared the balance of the Handling Fees (after deducting the costs of discounting the LCs) equally with Deepak.

There was no commercial reason otherwise for the above, especially since Rajesh claimed that the LCs were payment for goods sold by the Defendant's Entities. As explained below, I reject Rajesh's attempts to explain away the above.

41 Rajesh claimed that the Discounting Proceeds were used to make the payments to the Claimants' Entities because Deepak had access to his cash flow and whenever Deepak knew that Rajesh did not need the cash immediately, Deepak would instruct Rajesh's office to send the money to him and the money would be transferred without Rajesh being informed as to the purpose.<sup>65</sup> I do not believe Rajesh's claim. The amounts involved were large. In addition, there was a clear and consistent pattern of making the payments in question from the Discounting Proceeds after deducting the Handling Fees. This shows the existence of an arrangement that is consistent with the claimants' case. This was not a case of Deepak simply asking Rajesh to transfer spare funds wherever he found them. Further, Rajesh's claim is inconsistent with his evidence that the LC were discounted to improve FarEast's own cash flows.<sup>66</sup> If the LCs were discounted to improve FarEast's cash flows, the Discounting Proceeds ought not to have been available to Deepak.

42 There is also no evidence of Deepak making any request for advances with respect to the payments under Issue 6. Instead, the evidence shows Deepak

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<sup>65</sup> NE, 7 May 2025, at 47:17–25.

<sup>66</sup> Rajesh's 3rd SAEIC, at para 12.

giving instructions for funding to be made to the Claimants' Entities after deducting the Handling Fee. This shows that the payments to the Claimants' Entities and the Handling Fees were connected and were part of the same arrangement. Examples of Deepak giving instructions for the funding to be made including the following:

- (a) With respect to CRA s/n 113, Deepak instructed Mr Haema Daran ("Haema"), an employee in Kobian (Rajesh's company) as follows: "Can we get the funding done today. Funds need to be transferred to capital systematics ocbc a/c after debiting 2.5%."<sup>67</sup>
- (b) With respect to CRA s/n 70, Deepak instructed Haema to "... debit 2.5% and transfer the rest to Capital Systematics account".<sup>68</sup>
- (c) With respect to CRA s/n 107, Deepak instructed Haema that "we need to debit 2.5% as our handling fee" and to "... remit the funds to Capital Systematics ocbc account post funding".<sup>69</sup>
- (d) With respect to CRA s/n 189, Deepak instructed Haema to "... debit 2.5% and transfer the rest to skytex".<sup>70</sup>
- (e) With respect to CRA s/n 190, Deepak instructed Haema to "... debit 2.5% and transfer the rest to Sundance ocbc a/c".<sup>71</sup>

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<sup>67</sup> CB, at p 258.

<sup>68</sup> 4BAEIC, at p 23.

<sup>69</sup> CB, at p 252.

<sup>70</sup> 4BAEIC, at p 66.

<sup>71</sup> CB, at p 286.

(f) With respect to CRA s/n 205, Deepak instructed Haema to "... debit 2.5% as our handling fee and transfer the rest to skytex ocbc a/c."<sup>72</sup>

Rajesh was well aware of the above emails as they were either also addressed to or copied to him.

43 Rajesh claimed that he shared the balance of the Handling Fees with Deepak because Deepak had introduced the third parties as customers to FarEast (one of the Defendant's Entities).<sup>73</sup> I do not believe Rajesh. As Rajesh admitted, Spring Infradev and Alchemist India were his customers and Spring Infradev was also a customer of one or more of the Defendant's Entities (see [23] above).

44 Rajesh was evasive when questioned about the LC Discount Trades. For example, he was evasive when asked whether Spring Trading and Spring Infradev belong to the same group of companies.<sup>74</sup> He claimed to have sold goods to Spring Trading, which had applied for several of the LCs in question. Spring Infradev was his customer and a customer of one or more of the Defendant's Entities. It is unbelievable that Rajesh would not have known whether the two companies were related.

45 I note that there is evidence of the Step 1 remittances for four of the payments under Issue 6 but none for the remaining 10 payments. However, in my view, the lack of evidence of the Step 1 remittances makes no difference. The reasons stated above are sufficient for my finding that all 14 payments represented Step 3 of the LC Discount Trades.

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<sup>72</sup> CB, at p 297.

<sup>73</sup> NE, 7 May 2025, at 59:3–7.

<sup>74</sup> NE, 7 May 2025, at 43:7–16.

*Category 3: Not admitted that payments were from Discounting Proceeds*

46 This category comprises three of the payments under Issue 6 (CRA s/n 67, 213 and 216). There is documentary evidence of the LCs issued by the third parties for all three payments. There is documentary evidence of the remittances to the third party for two of the payments (CRA s/n 213 and 216),<sup>75</sup> but no documentary evidence of the remittance for the remaining payment (CRA s/n 67).<sup>76</sup>

47 The evidence relating to these three payments shows the following:

CRA s/n	Remittance to third party (Step 1)	LC issued on third party's application (Step 2)	Payment to Claimants' Entity (Step 3)
213	US\$2,121,909 on 4 August 2014 from Skytex to Spring Trading <sup>77</sup>	US\$2,171,700 on 5 August 2014 by Spring Trading in favour of FarEast <sup>78</sup>  (97.5% = US\$2,117,407.50)	US\$2,121,909 on 4 August 2014 from FarEast to Skytex <sup>79</sup>

<sup>75</sup> Exhibit C3, at p 12. See Agreed Table of References under Category 3(a).

<sup>76</sup> Exhibit C3, at p 11. See Agreed Table of References under Category 3(b).

<sup>77</sup> CB, at p 308.

<sup>78</sup> CB, at p 302.

<sup>79</sup> 3AB, at p 260.

216	US\$2,122,060.50 on 11 September 2014 from Skytex to Spring Trading <sup>80</sup>	US\$2,182,083 on 29 August 2014 by Spring Trading in favour of FarEast <sup>81</sup>  (97.5% = US\$2,128,232.93)	US\$2,122,061 on 11 September 2014 from FarEast to Skytex
67	No evidence	US\$2,100,000 by Spring Trading; accepted on 5 November 2012 <sup>82</sup>  (97.5% = US\$2,047,500)	US\$2,047,500 on 19 November 2012 from FarEast to Capital Systematics

48 Rajesh testified that he was unable to confirm whether the three payments were made from Discounting Proceeds.<sup>83</sup> The burden is on the Claimants to prove that the three payments related to LC Discount Trades.

49 I find that the Claimants have not proved that the payments with respect to CRA s/n 213 and 216 were related to LC Discount Trades. The evidence is inconsistent with Deepak's description of the LC Discount Trades.

<sup>80</sup> CB, at p 316.

<sup>81</sup> 4BAEIC, at pp 68–74. The parties have agreed that the LC was dated 29 August 2014 (see Agreed Table of References under Category 3(a)). The amount stated in the Agreed Table of References is wrong – see 4BAEIC, at p 68.

<sup>82</sup> 4BAEIC, at pp 19–20. The document shows that the LC was accepted on 5 November 2012 but does not identify who the applicant or beneficiary was, or when the LC was issued. However, the parties have agreed that the applicant for the LC was Spring Trading (see Agreed Table of References under Category 3(b)).

<sup>83</sup> NE, 7 May 2025, at 69:6–71:8, 71:11–72:11 and 77:15–78:4.

50 With respect to CRA s/n 213, the alleged Step 3 payment was made on 4 August 2014, *before* the alleged Step 2 LC was issued on 5 August 2014. The alleged Step 3 payment could not have been made using the Discounting Proceeds of that LC.

51 With respect to CRA s/n 216, the alleged Step 2 LC was issued on 29 August 2014, some 13 days *before* the alleged Step 1 remittance was made on 11 September 2014. The alleged Step 3 payment was made on the same day as the alleged Step 1 remittance. The sequence of the steps as well as the period of 13 days are inconsistent with Deepak's description of the LC Discount Trades.

52 As for CRA s/n 67, the claimants relied on an email dated 5 November 2012 in which Deepak instructed Haema to "debit 2.5% and transfer the rest to Capital Systematics a/c".<sup>84</sup> This was on the same day that the LC was accepted. Rajesh pointed out that the alleged Step 3 payment was made on 19 November 2012, 14 days after the acceptance of the LC.<sup>85</sup> This was more than the period of about a week that Deepak said Steps 1 to 3 would take. However, I find on a balance of probabilities that the payment in CRA s/n 67 was made from the Discounting Proceeds of the LC that was accepted on 5 November 2012. The LC referred to in the email was more likely than not related to an LC Discount Trade since there was a deduction of 2.5%. Rajesh did not claim that there the Discounting Proceeds of that LC were used for some other purpose.

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<sup>84</sup> 4BAEIC, at p 19.

<sup>85</sup> NE, 7 May 2025, at 77:15–78:4.

*Category 4: Disputed LC Discount Trades*

53 This category comprises two payments (CRA s/n 194 and 217) under Issue 6.<sup>86</sup> Rajesh denied that the payments had anything to do with any LCs.

54 CRA s/n 194 concerns an alleged Step 3 payment of US\$2,242,890 on 7 April 2014.<sup>87</sup> The claimants produced documentary evidence of a remittance of US\$2,047,966.92 from Sundance to Spring Trading on 9 April 2014 and relied on this as evidence of the Step 1 remittance.<sup>88</sup> I find that the claimants have not proved that the payment in CRA s/n 194 was related to a LC Discount Trade.

(a) There is no evidence of the relevant LC (Step 2) and hence no evidence that the alleged Step 3 payment was made using Discounting Proceeds.

(b) The alleged Step 1 remittance was made *after* the alleged Step 3 payment of US\$2,242,890 on 7 April 2014. This sequence is inconsistent with Deepak's description of the LC Discount Trades.

55 CRA s/n 217 concerns an alleged Step 3 payment of US\$2,323,404 on 1 October 2014. The claimants produced documentary evidence of a remittance of US\$2,323,202 on 26 September 2014 to Spring Trading<sup>89</sup> and a LC for US\$2,381,400 issued on 8 October 2014 on Spring Trading's application.<sup>90</sup> I

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<sup>86</sup> Exhibit C3, at pp 11–12, CRA s/n 194 and 217. See Agreed Table of References under Category 4.

<sup>87</sup> 3AB, at p 239.

<sup>88</sup> CB, at p 315.

<sup>89</sup> CB, at p 313.

<sup>90</sup> 4BAEIC, at pp 78–86.

find that the claimants have not proved that the payment in CRA s/n 217 was related to a LC Discount Trade. Since the alleged Step 3 payment was made *before* the alleged Step 2 LC was issued, the payment could not have been made using the Discounting Proceeds of that LC.

#### *Conclusion on LC Discount Trades*

56 In conclusion, I find that the claimants have proved that 15 of the payments under Issue 6 related to LC Discount Trades. These 15 payments are as follows:

- (a) 14 payments in CRA s/n 86, 113, 184, 188, 69, 70, 107, 109, 128, 132, 189, 190, 197 and 205 (see [31] and [38] above); and
- (b) one payment in CRA s/n 67 (see [52] above).

#### *Whether the LC Discount Trades are tainted by illegality*

57 Illegality has not been pleaded in the present case. It arose in the course of Deepak's oral testimony. In *Fan Ren Ray and others v Toh Fong Peng and others* [2020] SGCA 117 at [13], the Court of Appeal endorsed the observations in *Edler v Auerbach* [1950] 1 KB 359 at 371, which set out the following principles:

- (a) Where the contract is *ex facie* illegal, the court will not enforce it, whether the illegality is pleaded or not.
- (b) Where the contract is not *ex facie* illegal, evidence of extraneous circumstances tending to show that it has an illegal object should not be admitted unless the circumstances relied on are pleaded.

(c) Where unpleaded facts, which taken by themselves show an illegal object, have been revealed in evidence, the court should not act on them unless it is satisfied that the whole of the relevant circumstances is before it.

(d) Where the court is satisfied that all the relevant facts are before it and can see clearly from them that the contract had an illegal object, it may not enforce the contract, whether the facts were pleaded or not.

58 The defendant's claims under Issue 6 are for payments made by the Defendant's Entities to the Claimants' Entities under the Running Account. These payments are not *ex facie* illegal.

59 Even on the basis of the claimants' claim that these payments were part of the LC Discount Trades, there is nothing in Steps 1 to 3 (see [22] above) that is *ex facie* illegal.

60 The claimants' case is that the LC Discount Trades had an illegal object, *ie*, deceiving the issuing and negotiating banks into believing that the sale of goods to the third parties were genuine, and on that basis to respectively issue and discount the LCs. The facts that revealed the illegal object arose from Deepak's oral testimony. These facts have not been pleaded but have been adduced in evidence. In these circumstances, claims arising from the LC Discount Trades are unenforceable if I am satisfied that all the relevant facts are before me and I can see clearly from them that they had an illegal object, whether the facts were pleaded or not (see [57(d)] above).

61 Deepak gave his oral testimony after the defendant's witnesses had given theirs. On 13 May 2025 (when Deepak was still on the stand), the defendant sought permission for Rajesh to file an affidavit addressing the

question as to whether the goods ordered by the third party were shipped and I granted the permission sought.<sup>91</sup> The question as to whether the alleged sales were genuine or sham transactions was crucial to the determination as to whether the LC Discount Trades had an illegal object.

62 However, the defendant subsequently decided not to recall Rajesh to the stand without giving any credible reason. I draw an adverse inference against the defendant to the effect that there is no evidence that the goods ordered by the third parties were in fact shipped. In the circumstances, I am satisfied that all the relevant facts are before me and that it is clear that the LC Discount Trades had an illegal object and the defendant's counterclaim in respect of 15 payments under Issue 6, which have been proven to relate to LC Discount Trades (see [56] above), are therefore unenforceable.

#### ***Whether the entire Running Account is tainted by illegality***

63 The fact that the LC Discount Trades are unenforceable on the ground of illegality does not necessarily mean that the entire Running Account is also unenforceable on the ground of illegality.

64 The claimants first submitted that the entire Running Account is illegal and therefore unenforceable because the *core purpose* of the Running Account was to support or facilitate the illegal object of defrauding the banks in connection with the LC Discount Trades.<sup>92</sup> I disagree with the claimants' submission. This is not the claimants' pleaded case. More importantly, there is simply no evidence that the Running Account was set up for the alleged core

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<sup>91</sup> NE, 13 May 2025, at 1:6–12 and 2:17–21.

<sup>92</sup> Claimants' Closing Submissions, at paras 5 and 68.

purpose. Many of the transactions in the Running Account had nothing to do with the LC Discount Trades.

65 The claimants next submitted that even if they fail to establish the alleged core purpose, the entire Running Account was still unenforceable because it was sufficiently tainted by illegality.<sup>93</sup> I reject this submission. The claimants have not shown how the illegal object in the LC Discount Trades has tainted the other transactions in the Running Account, many of which had nothing to do with the LC Discount Trades.

66 The claimants argued that a running account is treated as a “single and undivided debt for the amount of the balance due on the account” (*In re Footman Bower & Co Ltd* [1961] Ch 443 at p 450) and that there are “reciprocal obligations giving rise to credits and debits in a single running account, a single liability to pay the ultimate balance found due on taking the account” (*In re Charge Card Services Ltd* [1987] Ch 150 at 174).<sup>94</sup> In my view, neither case assists the claimants. A claim based on a running account is a claim for the ultimate balance found due on taking the account. Clearly, this involves determining the validity of each transaction claimed in the running account. A transaction may be rejected for different reasons. The mere fact that some may be rejected on the ground of illegality is insufficient to render the entire running account unenforceable.

67 Accordingly, I find that the Running Account itself is enforceable, notwithstanding the fact that 15 of the payments under Issue 6 are not enforceable on the ground of illegality.

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<sup>93</sup> NE, 28 May 2025, at 2:19–3:16.

<sup>94</sup> Claimants’ Closing Submissions, at para 66.

**The defendant is entitled to payment in respect of the Undisputed Transactions**

68 As stated in [18(c)(i)] above, since the Running Account is itself enforceable, the defendant is entitled to payment of US\$41,272,115 in respect of the Undisputed Transactions in the Running Account.

**The defendant's counterclaims for the payments under Issues 3, 6, 7 and 8*****Issue 3***

69 Issue 3 relates to the defendant's claim in respect of a payment of US\$267,063 from FarEast to Mystic on 14 February 2018 (CRA s/n 264).<sup>95</sup> The claimants deny that they instructed payment to Mystic or that Mystic is one of the Claimants' Entities.

70 Deepak referred to HC/OC 138/2023 ("OC 138"), in which Nimisha had claimed against Rajesh's daughter, Ms Divya Bothra ("Divya") for payment of the balance purchase price of a property sold by her to Divya. In that action, Divya had claimed (among other things) that the payment of S\$353,446 (US\$267,063) to Mystic was a loan from her to Nimisha and Deepak, which should be set off against the balance purchase price. The High Court found in that case that it was clear that Nimisha and Deepak did not own Mystic and that there was no evidence that the payment to Mystic constituted a loan from Divya to Nimisha and Deepak: *Nimisha Pandey and another v Divya Bothra* [2024] SGHC 88 at [32(b)].<sup>96</sup>

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<sup>95</sup> Exhibit C3, at p 7.

<sup>96</sup> CB, at p 371.

71 Notwithstanding the finding by the High Court in OC 138, in his oral testimony, Rajesh confirmed that the moneys used to make the payment to Mystic belonged to Divya.<sup>97</sup> Divya is not a party to the Running Account. In his oral testimony, Rajesh conceded that the claim in respect of the payment under Issue 3 has no basis.<sup>98</sup>

72 The defendant argued that since the purpose of the payment (*ie*, as payment toward the purchase of the property) was not achieved, the claimants should account for the payment in CRA s/n 264 to the defendant under the Running Account.<sup>99</sup> I disagree. Although the purpose may not have been achieved, that purpose means that the payment in CRA s/n 264 falls outside the scope of the Running Account. The present proceedings deal only with the Running Account. Whether the claimants are liable to account to the defendant for the payment on some other ground is not a question that arises in these proceedings. Besides, Rajesh has maintained that the moneys belonged to Divya who is not a party to the Running Account.

73 I find therefore that the defendant is not entitled to claim the amount of US\$267,063 paid to Mystic (CRA s/n 264) as part of the Running Account.

### ***Issue 6***

74 25 of the 28 payments under Issue 6 have been dealt with above. The claimants have proved that 15 of the 25 payments were related to LC Discount Trades (see [56] above). As the LC Discount Trades are illegal, the defendant is not entitled to claim these 15 payments as part of the Running Account.

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<sup>97</sup> NE, 6 May 2025, at 108:8–109:7.

<sup>98</sup> NE, 6 May 2025, at 110:8–13.

<sup>99</sup> Defendant's Closing Submissions, at para 47.

75 The claimants have failed to prove that 10 of the 25 payments were related to LC Discount Trades (see [28]–[29], [49] and [54]–[55] above). Accordingly, I find that the defendant is entitled to claim the 10 payments (CRA s/n 1, 46, 58, 65, 77, 84, 213, 216, 194 and 217) as part of the Running Account. The total amount of these 10 payments is US\$27,798,329.

76 There remain three payments under Issue 6 (CRA s/n 96, 110 and 222) that have not been dealt with. The claimants have confirmed that these three payments are not related to LC transactions.<sup>100</sup> The three payments are as follows:

- (a) a payment of US\$781,486 from FarEast BVI to Skytex on 25 January 2013 (CRA s/n 96);<sup>101</sup>
- (b) a payment of US\$5m from FarEast to Metro on 26 March 2013 (CRA s/n 110);<sup>102</sup> and
- (c) a payment of US\$969,531 from FarEast to Skytex on 12 November 2014 (CRA s/n 222).<sup>103</sup>

*CRA s/n 96*

77 The claimants' case with respect to CRA s/n 96 is as follows:

- (a) On 15 January 2013, Deepak asked Rajesh "can we issue this invoice from a [S]ingapore company, quoted 1% as fee".<sup>104</sup> On the same

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<sup>100</sup> Agreed Table of References, under Category 5.

<sup>101</sup> Exhibit C3, at p 11.

<sup>102</sup> Exhibit C3, at p 11.

<sup>103</sup> Exhibit C3, at p 12.

<sup>104</sup> 3AB, at p 137.

day, Rajesh replied, naming Cinnabar Holdings Pte Ltd (“Cinnabar”).<sup>105</sup> Rajesh controlled Cinnabar.

(b) On 22 January 2013, Keynote Capitals Limited (“Keystone”), a company controlled by Deepak, paid US\$789,464.97 to Cinnabar.<sup>106</sup>

(c) On 23 January 2013, Deepak sent an email to Rajesh telling him that “[f]unds would have hit Cinnabar account” and asking him to “retain 1% as our handling fee and to transfer the rest to [Skytex]”.<sup>107</sup> After deducting 1%, the balance of the amount paid to Cinnabar would have been US\$781,570.32.

(d) The payment of US\$781,486 from FarEast BVI to Skytex on 25 January 2013 was repayment of the amount paid to Cinnabar less the 1% handling fee.

78 Rajesh denied that (a) he controlled Cinnabar, and (b) the payment to Skytex was connected to the payment to Cinnabar. Rajesh claimed that Deepak wanted a particular invoice issued from a Singapore company, he (Rajesh) recommended Cinnabar to Deepak, and he did not know what the transaction was about.<sup>108</sup>

79 I do not believe Rajesh’s claim that he did not control Cinnabar. Deepak’s email to Rajesh clearly asked *him* to “retain 1% as our handling fee and to transfer the rest to [Skytex]”. This showed that Rajesh had control of Cinnabar. Rajesh could not offer any other explanation. I also do not believe

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<sup>105</sup> 3AB, at p 136.

<sup>106</sup> 4BAEIC, at p 36.

<sup>107</sup> 3AB, at p 136.

<sup>108</sup> NE, 7 May 2025, at 87:14–88:10.

Rajesh's claim that he had merely recommended Cinnabar to Deepak. The fact that Deepak described the 1% as "our" handling fee is telling. Clearly, this was an arrangement that Rajesh was a participant in. Rajesh claimed that the 1% fee was a fee paid to Cinnabar for managing the transaction.<sup>109</sup> I reject Rajesh's claim. If that were true, Deepak would not have described the 1% fee as "our" handling fee.

80 The amount paid to Skytex is not exactly the same as the amount paid to Cinnabar (after deducting 1%). However, I agree with the claimants that it was close enough to prove that the two payments were connected to each other. Further, there is no evidence of a separate payment from Cinnabar to Skytex. Finally, I note that Rajesh could not explain what the payment to Skytex (CRA s/n 96) was about except to say that it was a "separate request" from Deepak.<sup>110</sup>

81 I therefore find that the payment in CRA s/n 96 was a repayment of the amount paid by Keystone to Cinnabar. The defendant is not entitled to claim the payment in CRA s/n 96 as part of the Running Account.

*CRA s/n 110*

82 The claimants' case with respect to CRA s/n 110 is as follows:

(a) On 25 February 2013, Sundance (one of the Claimants' Entities) paid US\$5m to Breeze Sails Overseas Ltd ("Breeze Sails"), a company owned or controlled by Rajesh. On the same day, Deepak informed Rajesh that the US\$5m had been transferred.<sup>111</sup>

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<sup>109</sup> NE, 7 May 2025, at 88:11–16.

<sup>110</sup> NE, 7 May 2025, at 95:3–10.

<sup>111</sup> CB, at p 228.

(b) On 13 March 2013, Deepak sent Rajesh a copy of the telegraphic transfer to Breeze Sails and told Rajesh that he “would need the 5 mio by 26th.”<sup>112</sup> On the same day, Rajesh replied “Sure”.<sup>113</sup>

(c) The payment of US\$5m from FarEast to Metro on 26 March 2013 was repayment of the US\$5m paid by Sundance to Breeze Sails.

83 Rajesh denied that he owned or controlled Breeze Sails. He claimed that:<sup>114</sup>

- (a) he introduced the owner of Breeze Sails to Deepak in 2013 after the transaction involving Breeze Sails;
- (b) he was assisting the owner of Breeze Sails, and he communicated Deepak’s message to him; and
- (c) the payment of US\$5m on 26 March 2013 from FarEast to Metro was just pure coincidence.

84 I do not believe Rajesh. The evidence provided by the contemporaneous emails is clear. Further, Deepak told Rajesh that he “would need the 5 mio by 26th” at 11:29:53pm on 13 March 2013. There is no evidence of Rajesh communicating this message to anyone. Indeed, Rajesh replied “Sure” less than 5 minutes later, at 11:34pm on the same day. Rajesh also had no other explanation as to why FarEast paid the US\$5m to Metro.<sup>115</sup>

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<sup>112</sup> CB, at p 228–229.

<sup>113</sup> CB, at p 227.

<sup>114</sup> NE, 7 May 2025, at 107:7–20 and 108:6–20.

<sup>115</sup> NE, 7 May 2025, at 109:18–21.

85 I find that the payment of US\$5m to Metro on 26 March 2013 was in repayment of the US\$5m paid to Breeze Sails on 25 February 2013. The defendant is therefore not entitled to claim the payment in CRA s/n 110 as part of the Running Account.

*CRA s/n 222*

86 Deepak claimed that the payment of US\$969,531 from FarEast to Skytex on 12 November 2014 in CRA s/n 222 should be excluded from the Running Account. According to him, that payment represented payment by Rajesh (through FarEast) of an amount of US\$926,578.75 owed by Rajesh to Deepak in connection with LC Discount Trades in 2014 involving Spring Trading.<sup>116</sup>

87 Deepak relied on the Reconciliation Email<sup>117</sup> (see [34] above) in support of his claim that Rajesh owed him US\$926,578.75. In his affidavit of evidence-in-chief (“AEIC”), Deepak asserted that the Reconciliation Email showed that *he had overpaid* what was properly payable and that Rajesh was refunding the overpaid sums to him.<sup>118</sup>

88 The Reconciliation Email does not support Deepak’s claim. The Reconciliation Email states that of the amount of US\$926,578.75, an amount of US\$831,612.75 was described as “Spring Excess to be refunded”. In his oral testimony, Deepak gave a different explanation of the Reconciliation Email. Deepak explained that:<sup>119</sup>

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<sup>116</sup> Deepak’s AEIC, at para 124; Deepak’s 3rd AEIC, at para 11 (s/n 222).

<sup>117</sup> CB, at p 318.

<sup>118</sup> Deepak’s AEIC, at para 125(c).

<sup>119</sup> NE, 8 May 2025, at 126:9–25.

- (a) the Reconciliation Email showed that the net proceeds from the LCs exceeded the total remittances by US\$831,612.75 and this excess amount was to be refunded to “Spring”; and
- (b) the Reconciliation Email was a settlement account between Rajesh and him on one side and “Spring” on the other side.

89 Deepak’s explanation in his oral testimony is more consistent with the Reconciliation Email. Further, the amount of US\$926,579.75 shown in the Reconciliation Email is different from the amount of US\$969,531 under CRA s/n 222. Deepak tried to explain the difference as a “relatively small discrepancy”, which he could not reconcile and *believed* would have been due to other dealings.<sup>120</sup> I do not accept Deepak’s explanation. The difference is significant.

90 I reject Deepak’s claim that the payment in CRA s/n 222 was a repayment by Rajesh of amounts owing by Rajesh to Deepak in connection with LC Discount Trades for 2014. I find that the defendant is entitled to claim the payment of US\$969,531 (CRA s/n 222) as part of the Running Account.

### ***Issue 7***

91 Issue 7 relates to the defendant’s claims in respect of six payments by FarEast to Metro and Skytex, between 18 June 2013 and 19 November 2014, totalling US\$232,318 (CRA s/n 127, 129, 200, 218, 221 and 224).<sup>121</sup> During the course of the trial, the claimants withdrew their objections to these payments.<sup>122</sup>

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<sup>120</sup> Deepak’s AEIC, at para 126.

<sup>121</sup> Exhibit C3, at p 13.

<sup>122</sup> NE, 8 May 2025, at 51:16–20.

Accordingly, the defendant is entitled to claim these payments as part of the Running Account. The six payments amount to a total of US\$232,318.

***Issue 8***

92 Issue 8 relates to the defendant's claim in respect of a payment of US\$1,243,922 (S\$1,634,000) by FarEast to Metro on 14 February 2018 (CRA s/n 263).<sup>123</sup>

93 The claimants rely on an email dated 12 February 2018, in which Ms Daisy Ong ("Daisy"), an employee of Greenfield Advisory (one of the Claimants' Entities), told Ms Shammy Wong ("Shammy"), Rajesh's secretary at Kobian, to remit (among others) S\$1,634,000 to Metro; the purpose was stated as "To repay loan".<sup>124</sup> The transaction advice for the payment also stated that the purpose of the payment as "To repay loan".<sup>125</sup>

94 Rajesh denied that the purpose of the payment was to repay a loan and claimed that the purpose was stated as "To reply loan" pursuant to Daisy's express instructions.<sup>126</sup> Rajesh also claimed that Shammy did not check with him before making the payment because he had instructed her to act on Deepak's instructions "at face value".<sup>127</sup>

95 I find Rajesh's explanations unbelievable. Further, Shammy's email dated 14 February 2018 informing Daisy that the payment had been done was

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<sup>123</sup> Exhibit C3, at p 14.

<sup>124</sup> CB, at p 329.

<sup>125</sup> 3AB, at p 428.

<sup>126</sup> Rajesh's AEIC, at para 154.

<sup>127</sup> NE, 6 May 2025, at 82:4–21.

copied to Rajesh.<sup>128</sup> There would have been no reason for Shammy to copy Rajesh in the email if (as Rajesh's claimed) she had been instructed to act on Deepak's emails without checking with him (Rajesh). Rajesh admitted that he knew about the payment.<sup>129</sup> There is no evidence that Rajesh queried or objected to the description of the purpose of the loan. I find that the payment in CRA s/n 263 was in repayment of a loan.

96 Even if the payment in CRA s/n 263 was not in repayment of a loan, it should still be excluded from the Running Account. In OC 138 (see [70] above), Divya had claimed that the same payment of S\$1,634,000 was a loan from *her* to Deepak and Nimisha. Divya sought to set off the alleged loan against the balance of the purchase price of the property that she was being sued for. Rajesh admitted that he had filed an affidavit in OC 138 in which he alleged that the sum of S\$1,634,000 was paid to Nimisha towards the purchase price of the property.<sup>130</sup> In the event, the High Court rejected Divya's claim.<sup>131</sup>

97 Nevertheless, in his oral testimony, Rajesh maintained that the sum of S\$1,634,000 was paid towards the purchase price of the property that Divya had bought.<sup>132</sup> Rajesh then conceded that his claim that the payment is part of the Running Account is not correct.<sup>133</sup>

98 The defendant argued that since the purpose of the payment (*ie*, as payment toward the purchase of the property) was not achieved, the claimants

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<sup>128</sup> CB, at p 329.

<sup>129</sup> NE, 6 May 2025, at 89:7–13.

<sup>130</sup> NE, 6 May 2025, at 99:22–100:20.

<sup>131</sup> CB, at p 371 (para 32(a)).

<sup>132</sup> NE, 6 May 2025, at 102:20–25.

<sup>133</sup> NE, 6 May 2025, at 103:1–3.

should account for the payment under CRA s/n 263 to the defendant under the Running Account.<sup>134</sup> I disagree. Although the purpose may not have been achieved, that purpose means that the payment under CRA s/n 263 falls outside the scope of the Running Account. The present proceedings deal only with the Running Account. Whether the claimants are liable to account to the defendant for the payment on some other ground is not a question that arises in these proceedings.

99 In the circumstances, I find that the defendant is not entitled to claim the payment in CRA s/n 263 as part of the Running Account.

### **The parties' claims under Issue 10**

100 Issue 10 relates to cross claims by the claimants and the defendant in respect of the Berth Penthouse (CRA s/n 265 and 279). It is not disputed that:

- (a) the property was purchased in 2014 for S\$3.5m and it was registered in the names of Nimisha and the defendant as tenants-in-common in equal shares;<sup>135</sup>
- (b) the purchase was financed in part by a mortgage loan of S\$1.4m from EFG Bank AG (the “EFG Loan”);
- (c) the EFG Loan was repaid in 2018 by way of a remittance of S\$1,403,212.42 from a joint account held in Nimisha’s and Rashmi’s names (the “Joint Account”);

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<sup>134</sup> Defendant’s Closing Submissions, at para 50.

<sup>135</sup> DtoCC, at paras 41–44.

- (d) the property was rented out and earned rental income;<sup>136</sup>
- (e) the property was sold in 2023 for S\$3.25m and the net sale proceeds (S\$578,896.21) are currently held in escrow by M/s Rajah & Tann pending the resolution of the present proceedings and any appeals therefrom;<sup>137</sup> and
- (f) the claimants and the defendant are equally liable for the acquisition cost and any expenses incurred to hold and maintain the property after accounting for the rental income.<sup>138</sup>

101 The disputes between the parties relate to CRA s/n 279 and 265 in the Running Account. CRA s/n 279 concerns the parties' disputes over (a) their respective cash contributions towards the acquisition cost of the property, and (b) the expenses incurred to hold and maintain the property after taking into account the income earned. CRA s/n 265 concerns the parties' dispute over the claimants' liability for half of the repayment of the EFG Loan.

***CRA s/n 279***

102 The claimants claim that the defendant owes them S\$365,948 (US\$269,813), comprising:<sup>139</sup>

- (a) S\$312,300, being half of the excess payment of S\$624,600 made by the claimants towards the acquisition cost of the property; and

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<sup>136</sup> DtoCC, at paras 41–42.

<sup>137</sup> DtoCC, at paras 47–48.

<sup>138</sup> DtoCC, at paras 51–52.

<sup>139</sup> Nimisha's AEIC, at para 17(a). The amount is slightly lower than that stated in the SOC (at para 23) because the amount of the expenses incurred has been reduced from S\$111,296 (SOC, at para 21) to S\$107,296.

(b) S\$53,648, being half of the expenses of S\$107,296 incurred by the claimants (after taking into account the rental income).

103 The defendant claims that she had paid an excess amount of S\$656,327 (US\$515,980) towards the acquisition cost of the property,<sup>140</sup> and that the claimants are liable for this amount.<sup>141</sup> The defendant disputes the claimants' claim for expenses incurred to hold and maintain the property. The defendant also disputes the claimants' account of the income earned.

*The parties' contributions towards the acquisition cost*

104 The acquisition cost of the Berth Penthouse is not in dispute. The dispute is over the parties' respective contributions.

105 In this regard, it is not disputed that:

(a) The claimants paid S\$626,400 comprising the 5% deposit of S\$175,000.00 and stamp duty of S\$449,600.<sup>142</sup>

(b) The defendant paid a total amount of S\$1,937,252.42 by way of six cheques payable to various parties.<sup>143</sup>

106 However, the claimants claim that they paid half of the amount of S\$1,937,252.42 paid by the defendant by way of payments of S\$963,277 and S\$5,350 on 20 October 2014 from Lucky Maple (one of the Claimants' Entities)

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<sup>140</sup> Rajesh's AEIC, at para 166.

<sup>141</sup> Rajesh's AEIC, at para 172(b); D%CC, at para 58.

<sup>142</sup> Rajesh's AEIC, at para 167.

<sup>143</sup> D&CC, at para 46; DtoCC, at paras 20.2 and 20.3.

to FarEast.<sup>144</sup> The two payments total S\$968,627.<sup>145</sup> Thus, according to the claimants, the claimants and the defendant have each paid half of the amount of S\$1,937,252.42 but the claimants have paid an additional S\$626,400. Therefore, the defendant was liable to them for half of the latter amount, *ie*, S\$313,200.<sup>146</sup>

107 The defendant claims that she has paid an excess amount of S\$656,327 (US\$515,980) and that the claimants are liable for this amount.<sup>147</sup>

108 It is not disputed that the two payments from Lucky Maple to FarEast (see [106] above) were made. However, as the defendant has pointed out, these two payments are claims *by the claimants* in the Running Account (CRA s/n 277 and 278), which are part of the Undisputed Transactions. In other words, the defendant has already credited the claimants with these two payments. I agree with the defendant that the claimants cannot rely on these payments a second time. The claimants cannot double-claim.

109 I therefore find that the claimants have contributed only S\$626,400 towards the acquisition cost of the property while the defendant has contributed S\$1,937,252.42. This means that the defendant has paid S\$1,310,852.42 more than what the claimants have paid. To equalise their respective contributions, the claimants have to pay the defendant half of this amount, *ie*, S\$655,426.21 or US\$515,271.83.<sup>148</sup>

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<sup>144</sup> Nimisha's AEIC, at para 23; SOC, at para 14; DtoCC, at para 21.2.

<sup>145</sup> Half of S\$1,937,252.42 is S\$968,626.21.

<sup>146</sup> Nimisha's AEIC, at paras 19–21.

<sup>147</sup> Rajesh's AEIC, at para 166 and 172(b).

<sup>148</sup> Using the exchange rate applied by the defendant (see [107] above).

*Expenses incurred to hold and maintain the Berth Penthouse*

110 The claimants claim that for the period from October 2015 to June 2023, the expenses incurred exceeded the income received by S\$107,296.<sup>149</sup> The claimants therefore claim half of this amount from the defendant.

## (1) Income received

111 The claimants claim that the rental income, tenancy deposit and late payment interest for the period from 2015 to June 2023 was as follows:<sup>150</sup>

Year	Amount (S\$)
2015	35,000
- Tenancy deposit: Two months' rent at S\$7,000 pm	
- Rent: October – December at S\$7,000 pm	
2016	84,000
- Rent: January – December at S\$7,000pm	
2017	84,000
- Rent: January – December at S\$7,000 pm	
2018	84,473
- Rent: January – December at S\$7,000 pm	
- Late payment interest: S\$473	
2019	53,500
- Rent: January – March at S\$7,000 pm	
- Rent: August – December at \$6,500 pm	
2020	61,300

<sup>149</sup> Nimisha's AEIC, at paras 33–34.

<sup>150</sup> Nimisha's AEIC, at pp 24–40.

<ul style="list-style-type: none"> <li>- Rent: January – July at S\$6,500 pm</li> <li>- Rent: November – December at S\$7,900 pm</li> </ul>	
2021	94,800
<ul style="list-style-type: none"> <li>- Rent: January – December at S\$7,900 pm</li> </ul>	
2022	79,000
<ul style="list-style-type: none"> <li>- Rent: January – October at S\$7,900 pm</li> </ul>	
2023	48,000
<ul style="list-style-type: none"> <li>- Rent: April – July at S\$12,000 pm</li> </ul>	
<b>Total</b>	<b>624,073</b>

112 Rajesh testified that the defendant and he were only able to verify the rental income received for the periods from August 2019 to July 2020, November 2020 to October 2022 and April 2023 to June 2023.<sup>151</sup> The total rental income for these periods amounts to S\$303,600 comprising:

- (a) rental income from August 2019 to July 2020 (12 months) at S\$6,500 pm = S\$78,000;
- (b) rental income from November 2020 to October 2022 (24 months) at S\$7,900 pm = S\$189,600; and
- (c) rental income from April to June 2023 (three months) at S\$12,000 pm = S\$36,000.

113 It is not clear what is the basis on which the defendant disputes the claimants' claim as to (a) the income for the period from 2015 to February 2019, and (b) the income for July 2023.

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<sup>151</sup> Rajesh's AEIC, at para 226.

114 The claimants have adduced in evidence the following agreements:

- (a) a Tenancy Agreement dated 30 September 2015 (the “2015 Tenancy Agreement”) for a tenancy from 1 October 2015 to 30 September 2017 at a monthly rent of S\$7,000;<sup>152</sup>
- (b) a Tenancy Agreement (Extension) dated 30 August 2017 extending the tenancy from 1 October 2017 to 31 January 2018 at a monthly rent of S\$7,000,<sup>153</sup> and
- (c) a Tenancy Agreement (Extension) dated 22 January 2018 extending the tenancy from 1 February 2018 to 30 November 2018 at a monthly rent of S\$7,000.<sup>154</sup>

115 The above agreements support the rental income and tenancy deposit for the periods from October 2015 to January 2018 and from February to November 2018.

116 The above agreements also do not cover the period from December 2018 to March 2019. I note that a new Tenancy Agreement was entered into with a different tenant for a tenancy commencing from August 2019.<sup>155</sup> I see no reason not to accept the claimants’ claim that the rental income from December 2018 to March 2019 was at S\$7,000 pm.

117 As for the rental income for July 2023, it is supported by a Tenancy Agreement dated 17 April 2023 for a two-year tenancy commencing from April

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<sup>152</sup> 4AB, at pp 35–47.

<sup>153</sup> 4AB, at p 97.

<sup>154</sup> 4AB, at p 121.

<sup>155</sup> 4AB, at pp 245–252.

2023 at S\$12,000 pm.<sup>156</sup> The defendant has also accepted that the rental income for the period from April to June 2023 was S\$36,000 as claimed by the claimants. I find that the rental income for July 2023 was S\$12,000.

118 Finally, I see no reason not to accept the claimants' claim that S\$473 was received as late payment interest in 2018.

119 Accordingly, I find that the claimants have proved that the total income received from renting out the Berth Penthouse from October 2015 to July 2023 was S\$624,073.

(2) Expenses incurred

120 The claimants claim that the expenses incurred in respect of the Berth Property from 2015 to 2023 were as follows:<sup>157</sup>

Year	Amount claimed (S\$)
2015	40,298
2016	83,784
2017	48,614
2018	88,907
2019	152,337
2020	106,091
2021	73,312

<sup>156</sup> 4AB, at pp 750–756.

<sup>157</sup> Nimisha's AEIC, at pp 24–41.

2022	81,984
2023	56,042
<b>Total</b>	<b>731,369</b>

121 With respect to 2015, the claimants have referred to documents in support of some but not all of the expenses.<sup>158</sup> The documents referred to do support the corresponding expenses. However, the accounts for 2015 were maintained by Rajesh; the claimants took over managing the accounts in 2017.<sup>159</sup> Nimisha testified that she did not know how much of the expenses were paid by her/Deepak.<sup>160</sup> In the circumstances, I find that the claimants have not proved that they paid any of the expenses incurred in 2015.

122 With respect to 2016, the claimants have referred to documents in support of some but not all of the expenses. The documents do support the corresponding expenses. However, Nimisha again testified that she did not know how much of the expenses were paid by her/Deepak.<sup>161</sup> I find that the claimants have not proved that they paid any of the expenses incurred in 2016.

123 With respect to 2017, the claimants have referred to documents in support of all the expenses, which amount to S\$48,614.<sup>162</sup> The expenses were paid by either Deepak or Greenfield, save for an amount of S\$17,130.02 that was stated as having been paid by FarEast. Nimisha agreed that this amount was

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<sup>158</sup> Nimisha's AEIC, at p 24.

<sup>159</sup> NE, 13 May 2025, at 93:5–7, 14–15.

<sup>160</sup> NE, 13 May 2025, at 96:2–7.

<sup>161</sup> NE, 13 May 2025, at 96:8–9.

<sup>162</sup> Nimisha's AEIC, at pp 27–28.

paid by FarEast and said she did not know why she was claiming it.<sup>163</sup> Nimisha agreed that from 2017 onwards, some payments may have been made by FarEast.<sup>164</sup> However, she was not otherwise cross-examined on the rest of the expenses for 2017. As the rest of the expenses were paid by either Deepak or Greenfield, I find that the claimants have proved that they paid the expenses for 2017 in the total amount of S\$31,483.98.<sup>165</sup>

124 With respect to 2018, the claimants have referred to documents in support of all the expenses, which amount to S\$88,907.<sup>166</sup> The expenses were paid by Deepak save for the following, which are to be excluded:

- (a) S\$14 (s/n 1) in respect of which there is no evidence as to who paid the amount;
- (b) S\$3,573 (s/n 5) which was paid by FarEast; and
- (c) S\$54,841 (s/n 9) which was paid from the Joint Account.

Nimisha agreed that expenses paid from the Joint Account should not be included.<sup>167</sup> Nimisha was not cross-examined on any of the other expenses. I find that the claimants have proved that they paid the expenses for 2018 in the total amount of S\$30,479.<sup>168</sup>

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<sup>163</sup> NE, 13 May 2025, at 97:2–10.

<sup>164</sup> NE, 13 May 2025, at 97:11–13.

<sup>165</sup> S\$48,614 – S\$17,130.02.

<sup>166</sup> Nimisha’s AEIC, at pp 29–30.

<sup>167</sup> NE, 13 May 2025, at 99:10–19.

<sup>168</sup> S\$88,907 – S\$14 – S\$3,573 – S\$54,841.

125 With respect to 2019 to 2023, the claimants have referred to documents in support of all the expenses.<sup>169</sup> Nimisha was not cross-examined as to any specific expense. However, the evidence shows that not all of the expenses were paid by the claimants.

126 With respect to 2019, the expenses were paid by Deepak/Nimisha save for the following, which are to be excluded:<sup>170</sup>

- (a) S\$20,874 (s/n 1) which was paid from the Joint Account;
- (b) S\$21,653 (s/n 4) which was paid from the Joint Account;
- (c) S\$22,480 (s/n 15) which was paid from the Joint Account;
- (d) S\$1,359 (s/n 23) which appears to have been deducted from rental;<sup>171</sup>
- (e) S\$712 (s/n 25) which was paid from the Joint Account; and
- (f) S\$23,069 which was paid from the Joint Account.

I find that the claimants have proved that they paid the expenses for 2019 in the amount of S\$62,190.<sup>172</sup>

127 With respect to 2020, the expenses were paid by Nimisha, Deepak or Metro save for the following, which are to be excluded:<sup>173</sup>

- (a) S\$178 (s/n 3) which was paid from the Joint Account; and

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<sup>169</sup> Nimisha's AEIC, at pp 31–41.

<sup>170</sup> Nimisha's AEIC, at pp 31–33.

<sup>171</sup> Nimisha's AEIC, at p 527.

<sup>172</sup> S\$152,337 – S\$20,874 – S\$21,653 – S\$22,480 – S\$1,359 – S\$712 – S\$23,069.

<sup>173</sup> Nimisha's AEIC, at pp 34–35.

(b) S\$160 (s/n 19) in respect of which it is not clear who made the payment.

I find that the claimants have proved that they paid the expenses for 2020 in the amount of S\$105,753.<sup>174</sup>

128 With respect to 2021, the expenses were paid by either Nimisha or Fulcrum Advisory (Deepak's company)<sup>175</sup> save for the following, which are to be excluded:<sup>176</sup>

(a) S\$589 (s/n 2) which was paid from the Joint Account; and

(b) S\$24,830 (s/n 4) which was paid from the Joint Account.

I find that the claimants have proved that they paid the expenses for 2021 in the amount of S\$47,893.<sup>177</sup>

129 With respect to 2022, the expenses were paid by Nimisha, Fulcrum Advisory, Illuka Marketing (Deepak's company)<sup>178</sup> or Greenfield.<sup>179</sup> I find that the claimants have proved that they paid the expenses for 2022 in the amount of S\$81,984.

130 With respect to 2023, the expenses were paid by Nimisha, Deepak or Chandra (Deepak's company) save for S\$65 (s/n 18) which should be excluded

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<sup>174</sup> S\$106,091 – S\$178 – S\$160.

<sup>175</sup> Nimisha's AEIC, at p 38 (s/n 4 under Expenditures).

<sup>176</sup> Nimisha's AEIC, at pp 36–37.

<sup>177</sup> S\$73,312 – S\$589 – S\$24,830.

<sup>178</sup> Nimisha's AEIC, at p 39 (s/n7).

<sup>179</sup> Nimisha's AEIC, at pp 38–39.

as there is no evidence of the payment.<sup>180</sup> I find that claimants have proved that they paid the expenses for 2023 in the amount of S\$55,977.<sup>181</sup>

131 Accordingly, I find that the claimants have proved that the total expenses incurred from 2015 to 2023 and paid by them amounts to S\$415,759.98.

132 I would add an observation. The claimants' case is that the income earned from the Berth Penthouse was less than the expenses incurred to maintain the property, and that as the claimants had met the deficit from their own funds, the defendant should bear half of the deficit.<sup>182</sup> It is obvious that in this regard, the claimants can only include expenses that were paid by them. Yet, the claimants have included expenses that they themselves said were paid by FarEast or from the Joint Account. FarEast is one of the Defendant's Entities. Payments from the Joint Account are, absent evidence to the contrary, payments made by both Nimisha and the defendant equally. The claimants have not produced any evidence to the contrary. In her oral testimony, Nimisha also agreed that expenses paid from the Joint Account should not be included.<sup>183</sup> The claimants' inclusion of expenses that they knew were not paid by them is simply incomprehensible.

(3) Conclusion with respect to expenses incurred

133 For the period from 2015 to 2023, the total expenses (S\$415,759.98) paid by the claimants (or on their behalf) is less than the total income received (S\$624,073). The claimants have therefore failed to prove that they are entitled

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<sup>180</sup> Nimisha's AEIC, at pp 40–41.

<sup>181</sup> S\$56,042 – S\$65.

<sup>182</sup> Nimisha's AEIC, at para 28.

<sup>183</sup> NE, 13 May 2025, at 99:10–19.

to claim any contribution from the defendant in respect of expenses incurred by them.<sup>184</sup>

*Conclusion on CRA s/n 279*

134 As stated in [102] above, CRA s/n 279 relates to the excess payment towards the acquisition cost of, and the expenses incurred in respect of, the Berth Penthouse. I have found that the claimants have to pay the defendant S\$655,426.21 (US\$515,271.83) in respect of the acquisition cost (see [109] above) and the claimants have no claim against the defendant in respect of the expenses incurred (see [133] above).

135 Accordingly, I find that the defendant is entitled to claim payment of US\$515,271.83 in CRA s/n 279 as part of the Running Account.

*CRA s/n 265*

136 It is not disputed that on 14 February 2018, FarEast remitted S\$1,403,212.42 (US\$1,068,230) to the Joint Account and that this was used to repay the EFG Loan.<sup>185</sup> In CRA s/n 265, the defendant claims US\$534,115, being half of this amount, from the claimants.

137 The claimants submitted that they are not liable because it was agreed between the parties that the mortgage loan would not form part of the acquisition cost.<sup>186</sup> I reject the claimants' submission. The parties have excluded the mortgage loan from the acquisition cost in the context of their computations as

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<sup>184</sup> Applying the same exchange rate used by the claimants – see [102] above.

<sup>185</sup> Rajesh's AEIC, at p 267; Nimisha's AEIC, at para 62(c) and p 65.

<sup>186</sup> Nimisha's AEIC, at para 62(d); Claimants' Closing Submissions, at para 98(a).

to the amounts they each claimed to have paid in excess.<sup>187</sup> However, that does not mean that the claimants have no liability to repay half of the EFG Loan.

138 There is no evidence of any agreement that the claimants do not have to pay half of EFG Loan. There is no reason why the payment should not be borne equally between the claimants and the defendant. It is contrary to common sense that the defendant would have agreed to bear this payment on her own. After all, the claimants have agreed that they have to bear half of the acquisition cost and expenses incurred in connection with the Berth Penthouse. It is also the claimants' pleaded case that they would purchase residential properties in Singapore with the defendant for investment purposes and that they would contribute towards the mortgage instalments.<sup>188</sup>

139 In the course of the trial, counsel for the claimants said that it was agreed between the parties that payments towards the mortgage loan would not form part of the Running Account.<sup>189</sup> However, that is not the claimants' evidence, which was that it was agreed that the mortgage loan would not form part of the acquisition cost.<sup>190</sup> In any event, there is no reason why the claimants' liability for half of the repayment of the EFG Loan should not form part of the Running Account. It relates to the Berth Penthouse, which the claimants have themselves included in the Running Account.

140 The Berth Penthouse was subsequently mortgaged to Standard Chartered Bank (Singapore) Limited ("SCB"). On 12 July 2023, SCB appointed receivers (the "Receivers") to sell the property. The receivers sold the property

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<sup>187</sup> SOC, at para 18; D&CC, at para 58.

<sup>188</sup> SOC, at para 8(b).

<sup>189</sup> NE, 8 May 2025, at 50:23–51:16.

<sup>190</sup> Nimisha's AEIC, at para 62(d).

for S\$3.25m. As stated earlier, the net proceeds from the sale are being held by M/s Rajah & Tann in escrow.

141 In their closing submissions, the claimants submitted that since the proceeds from the sale of the property were used to discharge the mortgage loan from SCB, and the balance is being held in escrow, a “net-zero position was achieved, such that the [d]efendant has no basis to claim any monies relating to the mortgage(s)”.<sup>191</sup>

142 I reject the claimants’ submission. First, it is not logical. The taking of the new loan from SCB (and the repayment of that loan) cannot mean that the claimants are therefore not liable for half of the repayment of the mortgage loan from EFG, *unless* the loan from SCB was used to repay FarEast for the S\$1,403,212.42 that was used to repay the EFG Loan. However, that is not the claimants’ case, and there is no evidence, that the loan from SCB was used in this way. In fact, there is no evidence as to what the new loan from SCB was used for. Second, in any event, this was not put to the defendant nor Rajesh during cross-examination. The claimants cannot be permitted to make this submission now.

143 I find that the defendant is entitled to claim payment of US\$534,115 (CRA s/n 265) as part of the Running Account.

### **Summary of findings**

144 The defendant is entitled to claim payment of US\$41,272,115 in respect of the Undisputed Transactions in the Running Account (see [68] above).

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<sup>191</sup> Claimants’ Closing Submissions, at para 98.

145 With respect to Issue 3, the defendant is *not* entitled to claim payment of US\$267,063 (CRA s/n 264) (see [73] above).

146 With respect to Issue 6:

- (a) the defendant is *not* entitled to claim 15 payments that were related to LC Discount Trades (CRA s/n 67, 86, 113, 184, 188, 69, 70, 107, 109, 128, 132, 189, 190, 197 and 205) (see [56] and [74] above);
- (b) the defendant is entitled to claim 10 payments (CRA s/n 1, 46, 58, 65, 77, 84, 213, 216, 194 and 217) amounting to US\$27,798,329 (see [75] above);
- (c) the defendant is *not* entitled to claim two payments (CRA s/n 96 and 110) (see [81] and [85] above); and
- (d) the defendant is entitled to claim one payment (CRA s/n 222) amounting to US\$969,531 (see [90] above).

147 With respect to Issue 7, the defendant is entitled to claim six payments (CRA s/n 127, 129, 200, 218, 221 and 224) amounting US\$232,318 (see [91] above).

148 With respect to Issue 8, the defendant is *not* entitled to claim payment of US\$1,243,922 (CRA s/n 263) (see [99] above).

149 With respect to Issue 10, the defendant is entitled to claim payment of US\$515,271.83 (CRA s/n 279) and US\$534,115 (CRA s/n 265) (see [135] and [143] above).

150 The defendant is therefore entitled to payment of the total amount of US\$71,321,679.83 under the Running Account.

### **Conclusion**

151 For the above reasons, I enter judgment for the defendant in the sum of US\$71,321,679.83 with interest at 5.33% pa from the date of the originating claim until judgment.

152 Parties are to file written submissions on costs (maximum of five pages) within 14 days.

Chua Lee Ming  
Judge of the High Court

Prakash Pillai, Koh Junxiang, Wong Chun Mun, Ng Pi Wei (Clasis LLC) for the claimants;  
Vikram Nair, Ashwin Kumar Menon, Han Xin Yi (Rajah & Tann Singapore LLP) for the defendant.

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### Annex 1: Image of spreadsheet referred to in [34]

Spring Advance ac (2) [Read-Only] - Microsoft Excel

Spring A/c

	LC's opened	Net proceeds	Advance paid	
8		2,171,700	2117407.5	-2121909 acceptance sent
9		2,171,400	2117115	-2121606 acceptance sent
10		2,182,083	2127530.925	-2118538 acceptance sent
11		2,181,600	2127060	-2121000 acceptance sent
12		2,175,800	2121405	-2121000 acceptance sent
13		2,180,040	2125539	-2122060 acceptance sent
14		2,180,500	2125987.5	-2323161.6 acceptance sent
15		2,200,020	2145019.5	-1957789.825 acceptance sent
16		2,380,320	2320812	-2323404 acceptance sent
17		2,380,800	2321280	-2323404 acceptance sent
18		2,381,400	2321865	-2183616 acceptance sent
19		2,385,600	2325960	-2183126 acceptance sent
20		2,231,100	2175322.5	-2300460 acceptance sent
21		2,232,000	2176200	-2182698 acceptance sent
22		2,171,900	2117602.5	-2121000 acceptance sent
23		2,163,000	2108925	-2116540 acceptance sent
24		2,254,250	2197893.75	-1500000 acceptance sent
25				
26				
27				
28				
29				
30				
31				
32				
33				
34			37072925.18	-36241312.43
35				
36	Spring Excess to be refunded		\$ 831,612.75	
37			\$ 94,966.00	
38			<u>\$ 926,578.75</u>	
39				
40				
41				

Sheet1 | Sheet2 | Sheet3 | | | | | | |