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

[2025] SGHC 63

Originating Claim No 468 of 2023

Between

Ren Xin Wu

… *Claimant*

And

(1) Lee Kuan Fung
(2) Chua Chim Kang

… *Defendants*

Originating Claim No 226 of 2024

Between

Homing Holdings Pte Ltd
(in compulsory liquidation)

… *Claimant*

And

(1) Goldciti Pte Ltd
(2) Lee Kuan Fung

… *Defendants*

JUDGMENT

[Companies — Directors — Breach of duties]
[Contract — Breach — Shareholders' agreement]
[Contract — Consideration — Sufficiency of consideration]
[Contract — Contractual terms — Implied terms]
[Contract — Formalities — Affixation of seal]
[Contract — Intention to create legal relations — Sham]
[Contract — Remedies — Damages]
[Legal Profession — Conflict of interest — Representation of both creditor and liquidator]
[Tort — Conspiracy — Lawful means conspiracy]

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Ren Xin Wu
v
Lee Kuan Fung and another
and another matter

[2025] SGHC 63

General Division of the High Court — Originating Claim No 468 of 2023 and Originating Claim No 226 of 2024
Mohamed Faizal JC
12, 14, 15, 21, 22, 25 November 2024, 8–10, 21 January, 18 March 2025

9 April 2025 Judgment reserved.

Mohamed Faizal JC:

Introduction

1 The two claims before me, namely, HC/OC 226/2024 ("OC 226") and HC/OC 468/2023 ("OC 468"), have been consolidated and were heard together as they both stem from the demise of Homing Holdings Pte Ltd ("Homing"), which was liquidated in 2021.

2 OC 226 is a claim by the liquidators of Homing against Goldciti Pte Ltd ("Goldciti"), a company that was ostensibly hired to provide corporate restructuring advice to Homing when it was threatened with possible winding-up proceedings, as well as one of Homing's directors, Mdm Lee Kuan Fung ("Mdm Lee"). The main issue in OC 226 is whether such transaction with

Goldciti constituted a sham orchestrated by Goldciti and Mdm Lee that was set up with a view to siphon moneys out of Homing.

3 OC 468 is a claim by one of Homing's creditors, Mr Ren Xin Wu ("Mr Ren"), against the other two founding shareholders of Homing, Mdm Lee and one Mr Chua Chim Kang ("Mr Chua"), relating to a loan which had been given to Homing. The main issue, broadly speaking, in OC 468 is whether the loan agreement between the three shareholders contained an implied term that sought to impose duties on Mdm Lee and Mr Chua to procure the return of such loan from Homing.

4 For the reasons set out in this judgment, both the questions I have posed in the preceding two paragraphs ought to be answered in the negative.

The facts

The lifetime of Homing

5 It would be useful to begin with a discussion of the origins of Homing. Sometime in or around August 2016, three individuals (collectively, the "parties"), namely Mdm Lee, Mr Chua and Mr Ren, began discussions with a view to entering into a joint venture. Such a joint venture was anticipated to be used as a business vehicle promoting the use of Mandarin via various modalities, including teaching and tutoring.[1] On 2 June 2017, Mdm Lee incorporated Homing in preparation for the finalisation of such a joint venture.[2]

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1 HC/OC 468/2023 Statement of Claim dated 26 September 2023 ("OC 468 SOC"), at [6]–[7].

2 OC 468 SOC, at [8]; OC 468 Mr Ren Xin Wu's Affidavit dated 8 November 2023 ("OC 468 Mr Ren Affidavit"), at [10]; OC 468 Mdm Lee Kuan Fung's Defence dated 24 October 2023 ("OC 468 Mdm Lee Defence"), at [8.1].

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6 The corporate structure of the joint venture, in essence, was to involve Homing serving as a holding company for two wholly-owned subsidiaries, namely Luminaries Holdings Pte Ltd ("Luminaries") and Lulele Learning Space Pte Ltd ("Lulele"). Luminaries was a company that Mdm Lee had already incorporated previously on 24 May 2017.[3] As part of the joint venture, on 27 July 2017, Mdm Lee transferred the shares of Luminaries into Homing for nominal consideration.[4] As for Lulele, it was incorporated in June 2018 as part of the joint venture arrangements.[5] The agreement between the parties was for Mdm Lee and one Ms Huang Mingjing ("Ms Huang") to hold 65% and 35% of the shares of Lulele respectively as nominees of Homing for the first three years.[6]

7 As for the shareholding structure of Homing, the agreement between the parties was for Mr Ren, Mr Chua and Mdm Lee to beneficially own 35%, 35% and 30% of the shares in Homing respectively. Nonetheless, both Mr Ren's and Mr Chua's shares were to be held by nominees, *ie*, Ms Huang and Mdm Lee respectively, on their behalf. Both subsidiaries were to be wholly owned by Homing.

8 As for the management of Homing, both Mdm Lee and Ms Huang were appointed as directors.[7] It is not in dispute that Mdm Lee was the primary person

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3 OC 468 Mdm Lee Kuan Fung Affidavit of Evidence-in-Chief dated 17 September 2024 ("OC 468 Mdm Lee AEIC"), at [37].

4 OC 468 Mr Ren Xin Wu's Affidavit of Evidence-in-Chief filed 7 October 2024 ("OC 468 Mr Ren AEIC"), at [11].

5 OC 468 Claimants' Bundle of Documents dated 11 November 2024 ("OC 468 CBOD"), at pp 142–143 (Memorandum titled "Set up new company Lulele Learning Pte Ltd" dated 1 June 2018).

6 OC 468 Mr Ren AEIC, at [13]; OC 468 CBOD, at pp 142–143 (Memorandum titled "Set up new company Lulele Learning Pte Ltd" dated 1 June 2018).

7 OC 468 Mr Ren AEIC, at [9], [22]; OC 468 Mdm Lee AEIC, at [17.4].

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overseeing the day-to-day affairs of Homing, and that Ms Huang played a significantly more diminished role,[8] though the parties take divergent positions on the specifics of Ms Huang's precise involvement, with Mdm Lee claiming that she "gave recognition to [Ms] Huang as [Mr] Ren's nominee" and that Mr Ren consequently participated in management decisions via Ms Huang as his proxy on multiple occasions.[9] Mr Ren alleges that Ms Huang was oppressed and treated as a subordinate by Mdm Lee, claiming, as examples, that Ms Huang was not able to gain access to the bank tokens for internet banking services and how she was not made a joint signatory of Homing's bank accounts.[10] As for the subsidiaries, namely Luminaries and Lulele, Mdm Lee was appointed the sole director.[11] In essence, therefore, the primary person overseeing the day-to-day operations of both Homing and its two wholly-owned subsidiaries was Mdm Lee.

9 On 26 July 2017, the parties entered into a "Joint Co-operation Agreement" (the "Agreement").[12] The Agreement's contents are in Mandarin, but the parties have agreed on an interpreted version for the purposes of these proceedings.[13]

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8 OC 468 Mr Ren AEIC, at [22], [24].

9 OC 468 Mdm Lee AEIC, at [17].

10 15 November 2024 NEs, at p 4 lines 1–22, p 6 line 7–p 7 line 10; Claimants' Joint Closing Submissions dated 3 March 2025 ("CCS") , at [15].

11 22 November 2024 NEs, at p 15 lines 4–5.

12 OC 468 Mr Ren Affidavit at pp 11–20; OC 468 Mdm Lee AEIC, at pp 19–22 (Original and translated copy of the Agreement).

13 OC 468 Mdm Lee AEIC, at [5]; OC 468 Mr Chua Chim Kang Affidavit of Evidence-in-Chief dated 17 September 2024 ("OC 468 Mr Chua AEIC"), at pp 18–21 (Translation of the Agreement tendered by the Claimants).

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10 As the material terms of the Agreement which are relevant to the present proceedings are somewhat lengthy, I have attached them as Annex A to this judgment. For present purposes, however, I would highlight the broad contours of the especially significant clauses:

(a) Clause 3.2 stipulates the investment mechanics, and initial funding, agreed upon by the parties. In essence, it was agreed that Mr Ren would invest $10,000 into Homing for a 35% share; while Mr Chua and Mdm Lee would "commit to management and intellectual property" in return for a 35% and 30% share of Homing respectively.

(b) Clause 3.4 stipulates that above and beyond Mr Ren's equity investment of $10,000, he would also extend a loan of $990,000 to Homing (the "Loan") on a "no guarantee, interest-free basis for a duration of three years".

(c) While Clause 5.1 "entrusts" Mdm Lee to "perform the daily operations of [Homing]", Clause 5.2 provides a gloss to that by requiring that "decisions related to the major affairs of [Homing]" be decided by way of majority vote amongst the three shareholders, with each of the parties holding one vote. In gist, therefore, major decisions were to be made by the shareholders, but day-to-day decisions could be taken by Mdm Lee.

(d) Clause 8.1 states that the Agreement "shall be valid for three (3) years from the date of incorporation of [Homing]". Interestingly, the Agreement does not stipulate what would happen if the parties did not, or could not, agree on whether to continue with their co-operation or to terminate it after three years.

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(e) Clause 9.3 states that the Agreement only comes "into effect when all [the parties] have signed and affixed their stamps". It is not in dispute that no "stamps" were affixed onto the Agreement at any point of time, and all the parties merely appended their signatures to the Agreement.

11 On 27 July 2017, in furtherance of the terms of the Agreement, Mr Ren made the necessary payment of $1,000,000 to Homing comprising the payment for both his equity share and for the Loan.[14] To facilitate working capital for the subsidiaries, which, as the corporate structure described earlier, would have been the primary active entities operating businesses and generating revenue, most of the Loan was transferred from Homing to the subsidiaries, with $700,000 being channelled to Luminaries and $100,000 transferred to Lulele.[15]

12 The parties did not enter into any further agreement to extend the Loan subsequently. Whatever the implications of this more broadly to Homing, it is not disputed that, pursuant to Clause 3.4 of the Agreement, this would mean that the Loan would have fallen due on or about 27 July 2020, *ie*, three years after the Loan had been disbursed by Mr Ren.[16]

The liquidation of Homing

13 For the first few years, it would appear that Homing's business was generally carried on without much incident or problems. However, starting from early 2020, Homing and its subsidiaries (collectively, the "Homing Group") faced financial difficulties, ostensibly in large part due to the impact that

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14 OC 468 SOC, at [15]; OC 468 Mdm Lee Defence, at [15.1].

15 OC 468 Mr Ren AEIC, at [47].

16 OC 468 SOC, at [18].

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COVID-19 had on their business operations.[17] In view of the bleak financial outlook, Mr Ren decided to terminate the Agreement and to seek repayment of the Loan upon it falling due.[18] Despite numerous discussions between the parties on arranging the repayment of the Loan, the Loan was never repaid to Mr Ren.[19]

14 Consequently, Mr Ren proceeded to serve statutory demands on Mr Chua, Mdm Lee and Homing in the last quarter of 2020. On 22 September 2020, and subsequently on 17 November 2020, Mr Ren sent statutory demands to Mr Chua seeking the return of the sum of $990,000 from Mr Chua *personally*, on the premise that it was an implied term of the Agreement that "the parties would procure that the Loan be repaid to [Mr Ren]" once it was due, *ie*, on or around 27 July 2020.[20] Mr Chua proceeded to file an application to set aside the two statutory demands in HC/OSB 79/2020 ("OSB 79"). OSB 79 was heard by an assistant registrar who eventually allowed Mr Chua's application on the premise that "there are triable issues, such as whether there is an implied term that [Mr Chua] is to procure [Homing] to repay the loan".[21] Mr Ren appealed that decision but Chua Lee Ming J dismissed the appeal on the same premise in HC/RA 33/2021.[22] In Chua J's views, the issues of whether such a term can be

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17 OC 468 Mdm Lee AEIC, at [23]–[25].

18 OC 468 Mr Ren AEIC, at [39].

19 OC 468 Mr Ren AEIC, at [40]–[44].

20 Defendants' Bundle of Records of Prior Proceedings (Volume 1) dated 6 November 2024 ("DROP-1"), at pp 40–48 (Statutory demands served on Mr Chua by Mr Ren dated 22 September 2020 and 17 November 2020).

21 Defendants' Bundle of Records of Prior Proceedings (Volume 3) dated 6 November 2024 ("DROP-3"), at p 673 lines 10–13 (OSB 79 NEs 2 February 2021).

22 Defendants' Bundle of Records of Prior Proceedings (Volume 5) dated 6 November 2024 ("DROP-5"), at p 1132 (HC/ORC 1619/2021 dated 8 March 2021).

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implied, and if so, whether Mr Chua would be acting in breach of such term, were clearly triable issues of fact.[23]

15 On the same dates that the statutory demands were sent to Mr Chua by Mr Ren (*ie*, 22 September 2020 and 17 November 2020), he sent similar statutory demands to Mdm Lee, alleging personal liability on the very same basis.[24] Much like Mr Chua, Mdm Lee filed an application to set aside the statutory demands in HC/OSB 10/2021 ("OSB 10"). On 6 April 2021, a different assistant registrar allowed the application on the basis that "whether there was [an implied term that the parties to the Agreement would procure the repayment of the loan] is a triable issue" and, furthermore, "the issue of whether the corporate veil may be pierced such that [Mdm Lee] is liable for [Homing's] debt is another triable issue".[25] No appeal was lodged by Mr Ren against this decision.

16 On the very same dates (*ie*, 22 September 2020 and 17 November 2020), Mr Ren also sent similar statutory demands to Homing.[26] For Homing, the parties were *ad idem* that the Loan was in fact due and owing, though payment could not be effected as a result of the financial difficulties it faced. Thereafter, on 14 December 2020, Mr Ren filed an application under section 125(1)(*e*) of the Insolvency, Restructuring and Dissolution Act 2018 (the "IRDA") in HC/CWU 224/2020 ("CWU 224") for a winding-up order to be made against Homing on the basis that the company was unable to pay its debts (*ie*, the

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23 DROP-5, at p 1130 lines 13–18 (HC/RA 33/2021 NEs 8 March 2021).

24 DROP-5, at pp 1143–1151 (Statutory demands served on Mdm Lee by Mr Ren dated 22 September 2020 and 17 November 2020).

25 HC/OSB 10/2021 6 April 2021 Minute Sheet, at p 10.

26 OC 226 Yessica Ms Budiman Affidavit of Evidence-in-Chief dated 9 September 2024 ("OC 226 Ms Budiman AEIC"), at pp 49–50 (Statutory demand served on Homing by Mr Ren dated 22 September 2020).

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outstanding loan of $990,000).[27] In CWU 224, Homing raised technical challenges pertaining to how the COVID-19 (Temporary Measures) Act 2020 applied to restrict Mr Ren from issuing the statutory demand(s) *vis-à-vis* the winding-up application.[28] I need not go into the specifics of these challenges as they are not of significance for the purposes of the proceedings before me. Suffice it to say that unlike the stances taken in relation to the statutory demands against Mr Chua and Mdm Lee, there was no suggestion that Homing did not have an obligation to repay the Loan. Consequently, on 22 January 2021, after hearing the parties, Mavis Chionh J granted the winding-up order sought by Mr Ren, including his prayer for two liquidators from AAG Corporate Advisory Pte Ltd (the "liquidators"), including Ms Yessica Budiman ("Ms Budiman"), to be appointed.[29]

17 In the course of such winding-up proceedings, on or about 6 October 2020, G.N. Tang & Co ("GN Tang") took over conduct of the winding-up proceedings as the solicitors of Homing.[30]

After the appointment of liquidators

18 After the liquidators were appointed, they undertook the necessary investigations into Homing's affairs. During the course of these investigations, the liquidators discovered two bills which suggested that Homing had entered into an agreement on 30 September 2020 with Goldciti, a company which,

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27 HC/CWU 224/2020 Mr Ren Xin Wu Affidavit dated 7 December 2020, at [6], [12]–[13].

28 HC/CWU 224/2020 Homing Holdings Submission dated 6 January 2021, at [11]–[14].

29 OC 226 Ms Budiman AEIC, at pp 24–25 (HC/ORC 485/2021 dated 22 January 2021).

30 OC 226 Tang Gee Ni Affidavit of Evidence-in-Chief dated 17 September 2024 ("OC 226 Mr Tang AEIC), at pp 96–104 (e-mail conversations and a letter from GN Tang regarding the engagement of GN Tang as Homing's solicitors dated 6 October 2020).

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according to the Statement of Claim and the affidavit of Ms Budiman, was ostensibly in the business of wholesale trade of a variety of goods.[31] Mdm Lee claims to have hired Goldciti to provide corporate advisory services with a view to attempting to save Homing, and by extension, the Homing Group (the "Goldciti Transaction").[32] The two bills, involving a composite invoiced sum of $80,000, comprised the following:

(a) Bill No 200901 (the "first bill") dated 30 September 2020, issued by Goldciti for the sum of $40,000, ostensibly for "50% payment" pursuant to a proposal signed on 30 September 2020, in which Goldciti would review and advise Homing on its shareholdings, financials, and overall strategy (the "Goldciti Proposal").[33] Specifically, the Goldciti Proposal seeks to "[e]valuate the existing capital structure; [p]erform a financial review of [Homing]; and [a]dvise on the various options and steps to be performed to achieve the objective".[34] It is not in dispute that the first bill was paid by Homing;[35] and

(b) Bill No 201102 (the "second bill") dated 30 November 2020, issued by Goldciti for the sum of $40,000, ostensibly for "final billing – 50% payment" pursuant to the Goldciti Proposal, and an additional $120

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31 OC 226 Statement of Claim dated 9 September 2022 ("OC 226 SOC"), at [4], [11].

32 OC 226 Mdm Lee Kuan Fung Affidavit of Evidence-in-Chief dated 17 September 2024 ("OC 226 Mdm Lee AEIC"), at [10]–[12].

33 OC 226 SOC, at [11(a)], [13]; OC 226 Tan Hui Meng Affidavit of Evidence-in-Chief dated 17 September 2024 ("OC 226 Mr Tan HM AEIC"), at p 17 (Bill No. 200901 issued by Goldciti to Homing dated 30 September 2020); OC 226 Mdm Lee AEIC, at pp 49–51 (Letter from Goldciti to Homing titled "Appointment of Advisor" dated 30 September 2020).

34 OC 226 Mdm Lee AEIC, at p 49 (Letter from Goldciti to Homing titled "Appointment of Advisor" dated 30 September 2020).

35 OC 226 SOC, at [12]; OC 226 Mdm Lee AEIC, at [29].

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for disbursements.[36] The parties agree the second bill was eventually not paid by Homing.[37]

19 Over the course of their *initial* investigations, the liquidators were unable to find any documentary proof of the Goldciti Proposal, or of any work done by Goldciti pursuant to it.[38] From October to December 2021, the liquidators sent various letters to Goldciti and Mdm Lee seeking more information on the nature of the transaction(s) between Homing and Goldciti, as well as the relevant supporting documents. However, this was unfortunately to little avail, and where answers to such queries did come, they largely came in the form of *pro forma* responses. In gist, Mdm Lee merely responded to indicate that Goldciti had been engaged to "provide review, and advice on the shareholdings, financial and strategy" for Homing, but did not provide any documentation for this as she no longer had any such documents in her possession.[39] Goldciti, on the other hand, did not respond to the liquidators' correspondences at all.[40]

20 Mdm Lee's and Goldciti's failure to provide any substantive explanation for what Homing's engagement of the latter entailed fortified the liquidators' views that there was in fact no legitimate business relationship between Homing and Goldciti, and that the Goldciti Transaction was a sham. The liquidators thus commenced these proceedings in OC 226 on 9 September 2022, on behalf of Homing, to reclaim moneys they perceived Homing to have lost as a result of

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36 OC 226 SOC, at [11(b)]; OC 226 Mr Tan HM AEIC, at p 18 (Bill No. 201102 issued by Goldciti to Homing dated 30 November 2020).

37 OC 226 Mdm Lee AEIC, at [30].

38 OC 226 Ms Budiman AEIC, at [8(c)].

39 OC 226 Ms Budiman AEIC, at [8].

40 OC 226 Ms Budiman AEIC, at [8(j)]–[8(l)].

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such a sham transaction and to declare the Goldciti Transaction null and void. Significantly, at the time the liquidators commenced proceedings, neither Goldciti nor Mdm Lee had provided the purported report drafted by Goldciti dated 23 November 2020 (the "Goldciti Report") to the liquidators. Instead, the Goldciti Report was only extended to the liquidators for the first time some two months later, on or about 16 November 2022[41] – this was over a year from when the liquidators started seeking such documentation.

OC 226

Homing's claim

21 In OC 226, the liquidators (on behalf of Homing) advance two main arguments against Goldciti and Mdm Lee. The first argument stems from allegations that the Goldciti Transaction was a sham orchestrated by Goldciti and Mdm Lee to siphon moneys from Homing.[42] The second argument is that Goldciti and Mdm Lee were in a conspiracy to cause Homing to suffer loss through the alleged sham transaction.[43] Consequently, the liquidators seek for the sum of $40,000 (that had been paid to Goldciti pursuant to the first bill) to be paid by Goldciti and Mdm Lee jointly and severally, and also for the first and second bills to be declared null and void.[44] Additionally, for Mdm Lee, the liquidators allege that Mdm Lee breached her fiduciary duties owed to Homing by engaging in such a sham transaction.[45] Consequently, the liquidators seek a

41 OC 226 Ms Budiman AEIC, at [15].

42 OC 226 SOC, at [18], [19]; CCS at [21(a)].

43 OC 226 SOC, at [35]–[37]; OC 226 Ms Budiman AEIC, at [37], [44]; CCS, at [21(b)].

44 OC 226 Ms Budiman AEIC, at [45(a)]–[45(b)].

45 OC 226 SOC, [24]–[34].

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declaration that Mdm Lee was in breach of her fiduciary duties and for Mdm Lee to account for all profits made from the Goldciti Transaction.[46]

22 Starting with the allegation that the Goldciti Transaction was a sham transaction, the liquidators, broadly speaking, rely on six reasons to support this. I describe each of these in turn:

(a) First, the liquidators point to the extremely belated production of two documents – the Goldciti Proposal entered into between Homing and Goldciti on 30 September 2020, and the Goldciti Report – to suggest that these documents were manufactured at a later date.[47] It would be useful for me to expound on this argument in slightly greater detail. Despite having sought these documents from Mdm Lee and Goldciti on numerous occasions (*ie*, 25 October 2021, 9, 17, 18, 25 November 2021), as I have indicated earlier, the Goldciti Report was only produced on 16 November 2022, some two months after formal legal proceedings were commenced.[48] To the liquidators' minds, it was inexplicable that the Goldciti Report had not been handed over much earlier on if it did in fact exist from the outset. Further, the liquidators claim that this allegation is fortified by how Goldciti and Mdm Lee have been unable to produce an original soft copy of the Goldciti Report, which would allow for the liquidators to access, and scrutinise, its metadata with a view to determining whether the Goldciti Report had been prepared at a much later date than has been suggested by Mdm Lee and/or Goldciti,[49] presumably as a means to set up a manufactured defence to this case. In

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46 OC 226 SOC, at p 16.

47 CCS, at [29(n)]–[29(r)].

48 OC 226 Ms Budiman AEIC, at [8], [11]–[15]; CCS, at [29(p)].

49 OC 226 Ms Budiman AEIC, at [24]–[29]; CCS, at [29(n)]–[29(r)].

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this connection, the liquidators further note that Goldciti was not able to provide any timesheets to detail the work expended to prepare the Goldciti Report.[50]

(b) Second, the liquidators allege that it simply did not make sense for Mdm Lee to have engaged Goldciti as Homing's corporate advisor. Not only was Goldciti "allegedly in the business of wholesale trade of a variety of goods" (as opposed to restructuring),[51] but evidence emerged in the course of the proceedings before me that Mdm Lee was aware at the time that the main protagonist in Goldciti who worked with Mdm Lee, Mr Tan Hui Meng ("Mr Tan HM"), was assisting with criminal investigations at the time Goldciti had been engaged.[52] The liquidators also claim that Mr Tan HM was unqualified and contend that if Mdm Lee had been "serious about seeking expert advice on restructuring strategies for [Homing]", she "would have appointed an established expert with a track record and appropriate background".[53] At the very least, the liquidators assert, she would have attempted to obtain a few competing quotes before deciding on whether to engage Goldciti.[54]

(c) Third, the liquidators observe that if indeed the arrangements were *bona fide*, it was odd that Goldciti has not, to date, filed any proof of claim for the payment of the outstanding debt of $40,000, as set out in the second bill.[55] In their view, a genuine service provider "would

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50 OC 226 Ms Budiman AEIC, at [36]; CCS, at [29(n)].

51 OC 226 Ms Budiman AEIC, at [4].

52 10 January 2025 NEs, at p 117 lines 17–21; CCS, at [29(d)].

53 OC 226 Ms Budiman AEIC, at [31(d)].

54 CCS, [29(e)].

55 OC 226 Ms Budiman AEIC, at [34]; CCS, at [29(j)]–[29(m)].

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invariably issue repeated requests, reminders, or demands to recover such a significant outstanding amount or at the very list [*sic*] part thereof".[56]

(d) Fourth, the liquidators allege that the nature and the quality of the services provided by Goldciti cannot, in substance, justify the cost of $80,000.[57] In that sense, the liquidators contend that there is no evidence of the "professional advice" that Mr Tan HM purports to have provided.[58] The liquidators claim that the Goldciti Report itself was woefully lacking, comprising of "suggestions and/or observations" that were "general and trite" and "comparable to what might be found in a textbook on restructuring". The liquidators further contend that the Goldciti Report fails to provide recommendations that cater specifically to Homing's circumstances, and instead likens the kind of generic advice "usually given in preliminary meetings" by liquidators.[59] In the liquidators' view, such services could not have justified the incurring of a sum of over $80,000, which, in context, would have comprised "over 42% of the entire cash and bank balance of [Homing] and wholly in excess of [Homing's] net tangible assets".[60]

(e) Fifth, the liquidators allege that Mdm Lee's failure to follow up with any queries about the Goldciti Report and to implement any of the

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56 CCS, at [29(l)].

57 CCS, at [29(v)].

58 CCS, at [29(g)]–[29(i)].

59 OC 226 Ms Budiman AEIC, at [35].

60 CCS, at [29(f)].

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proposed options demonstrates that Goldciti was not "genuinely advising [Homing] on the claims that were made by [Mr] Ren".[61]

(f) Sixth, the liquidators contend that "a personal relationship" exists between Mdm Lee and Mr Tan HM, which, in their view, lends credence to the allegation that the two had co-operated to execute the purported sham transaction.[62] The liquidators made reference to an e-mail dated 5 October 2020 in which Mr Tan HM sent various documents to GN Tang for legal advice, without copying any of Homing's personnel in the e-mail thread.[63] The liquidators also rely on how Goldciti was copied in correspondences between GN Tang and Homing.[64]

23 In essence, the liquidators take the view that the circumstances "point to the overwhelming inference" that Goldciti and Mdm Lee never had a genuine intention to form legal relations.[65] Instead, from their perspective, the Goldciti Transaction was "a sham orchestrated by [Mdm] Lee and Goldciti" to extract moneys from Homing to put it out of reach of creditors.[66]

24 On the matter of the argument on conspiracy, the liquidators submit that it can be inferred from the same reasons (at [22(a)]–[22(e)] above) that "there was an agreement between [Mdm] Lee and Goldciti to work together to cause

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61 CCS, at [29(w)]–[29(x)].

62 OC 226 Ms Budiman AEIC, at [40].

63 OC 226 Ms Budiman AEIC, at [39]–[41], p 105 (e-mail from Mr Tan HM to Mr Tang titled "Shareholders' Disputes" dated 5 October 2020).

64 OC 226 Ms Budiman AEIC, at [43].

65 CCS, at [30]–[32].

66 OC 226 Ms Budiman's AEIC, at [30]; CCS, at [33].

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[Homing] harm".[67] The predominant purpose of this agreement was to "inflict loss on [Homing] just as much as it was to profit themselves", by siphoning the moneys from Homing.[68]

25 The liquidators' final argument pertains to Mdm Lee's breach of fiduciary duties as a director of Homing. It would be important to note what precisely is being alleged, and, by extension, what is *not* being alleged. What the liquidators are alleging is *not* that Mdm Lee had breached her director's duties by entering into a transaction which was, on hindsight, not commercially prudent. Instead, the liquidators allege that Mdm Lee had breached her duties *by entering into a bad faith sham transaction*, with the intent of dissipating Homing's assets.[69] The liquidators claim that Mdm Lee's "actions can be inferred to be in furtherance of and/or for the purpose of facilitating the dissipation of [Homing's] funds".[70] To support this inference, the liquidators cite two instances – how *during* the course of the Goldciti Transaction, Mdm Lee had failed to keep a proper record of documents relating to the transaction; and how *after* the Goldciti Transaction, Mdm Lee had failed to co-operate with the liquidators, as is required under s 243 of the IRDA, when they requested for documents.[71] For instance, the documents Mdm Lee handed over appeared to be

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67 CCS, at [39].

68 CCS, at [40]–[44].

69 CCS, at [35], [39]–[44], [53]–[64].

70 CCS, at [60].

71 CCS, at [59(b)] and [59(d)]; 8 January 2025 NEs, at p 56 lines 16–22.

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missing many documents,[72] including the purported tender documents for Luminaries, which would have comprised the biggest projects for Luminaries.[73]

26 The duties which have allegedly been breached are as follows:[74]

> … the transaction was a sham transaction orchestrated by [Mdm] Lee … [In so doing], [Mdm] Lee had failed to:
>
> (a) act *bona fide* in good faith in the interest of [Homing] in the discharge of her duties, powers, responsibilities, obligations and functions vested in her as a director of [Homing].
>
> (b) ensure that the affairs of [Homing] are properly administered and that its assets and property are not dissipated or exploited to [Homing's] prejudice.
>
> (c) serve [Homing] faithfully and dutifully and not to advance or promote her own or external interests to the prejudice of or contrary to or in conflict with the corporate interests of [Homing].
>
> (d) ensure that each contract/transaction/agreement is entered into at arm's length; and/or
>
> (e) manage and deal with [Homing's] property in a trustee-like manner.

Goldciti's and Mdm Lee's defence

27 Goldciti contends that the Goldciti Transaction involved genuine and *bona fide* work done to review and advise Homing about its shareholdings, financials and overall strategy, and also liaising with the then-solicitors of Homing, GN Tang (the "corporate advisory role").[75] Mr Tan HM, who largely dealt with the matter on behalf of Goldciti, contends that the relationship

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72 OC 226 Ms Budiman's AEIC, at pp 100–103 (Annex-1 to letter from the Claimants to the Defendants titled "List of Documents of the 2nd Defendant (the "LOD") dated 18 September 2023).

73 8 January 2025 NEs, at p 31 line 11–p 33 line 13.

74 OC 226 Ms Budiman's AEIC, at [30].

75 OC 226 Mr Tan HM AEIC, at [16].

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between Goldciti and the Homing Group began sometime at the end of September 2020 when Mdm Lee approached him to assist the Homing Group as a corporate advisor.[76] As part of the arrangements, Mr Koh Cher Chow ("Mr Koh") was tasked with preparing the Goldciti Report.[77] Although Mr Koh termed Mr Tan HM as a "colleague" in his affidavit,[78] providing the perception that he was an employee of Goldciti, in reality, the two operate on a barter-trade arrangement where they pass each other work as and when either of them is engaged, and they do not bill each other for the services rendered.[79] According to Mr Tan HM and Mr Koh, the Goldciti Report was completed in late November 2020, and was soon thereafter handed over to Mdm Lee.[80]

28 Mdm Lee's defence is that the Goldciti Transaction was not a sham, and that it was entered into in an urgent bid to attempt to save the Homing Group and its operations after Mr Ren had filed the first statutory demand against Homing (see [16] above).[81] Mdm Lee states that she had gotten to know Mr Tan HM and Goldciti through Mr Chua.[82] Having apparently been "impressed" with Mr Tan HM's background and knowledge in commercial and company matters, Mdm Lee appointed Mr Tan HM as corporate advisor with a view to assessing what the options were to salvage Homing as an ongoing entity.[83] It was in that

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76 OC 226 Mr Tan HM AEIC, at [5], [17].

77 OC 226 Mr Tan HM AEIC, at [21]; OC 226 Mr Koh Cher Chow Affidavit of Evidence-in-Chief dated 17 September 2024 ("OC 226 Mr Koh AEIC"), at [4].

78 OC 226 Mr Koh AEIC, at [4].

79 21 January 2025 NEs, at p 11 line 13–p 13 line 16.

80 OC 226 Mr Tan HM AEIC, at [22]; OC 226 Mr Koh AEIC, at [8].

81 OC 226 Mdm Lee AEIC, at [9]–[12].

82 OC 226 Mdm Lee AEIC, at [10]; OC 468 Mdm Lee AEIC, at [30].

83 OC 226 Mdm Lee AEIC, at [10]; OC 468 Mdm Lee AEIC, at [31].

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context that the Goldciti Proposal was signed.[84] Mdm Lee affirms that she eventually received the Goldciti Report, which she claims to have found "helpful" as it set out possible restructuring options and analysed the Homing Group's financial situation.[85]

29 Mr Tang Gee Ni ("Mr Tang"), the sole proprietor of GN Tang, broadly affirms the positions taken by both Mdm Lee and Goldciti (*ie*, the evidence of Mr Tan HM), albeit with some gaps in his evidence as a result of the constraints of solicitor-client privilege. While he could not provide positive evidence of what Goldciti had specifically done in the circumstances for Homing (being a third party to such a transaction), he nonetheless confirmed that Mr Tan HM did attend some meetings and was involved in discussions involving Homing during the period that Goldciti was purportedly engaged. Mr Tang also confirmed that he had liaised with Mr Tan HM and that it was clear from their interactions that Mr Tan HM was engaged by Homing.[86] I would add that Mr Tang's evidence was admitted by consent, and his attendance was dispensed with as counsel for the Claimants confirmed that they did not have any questions for him.[87]

Findings for OC 226

The Goldciti Transaction was not a sham

30 The main issue that arises for determination in OC 226 is whether I find, on a balance of probabilities, that the Goldciti Transaction was a sham in so far as it was a contrived arrangement set up between Mdm Lee and Goldciti to

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84 OC 226 Mdm Lee AEIC, at [11]; OC 468 Mdm Lee AEIC, at [32].

85 OC 226 Mdm Lee AEIC, at [17]; OC 468 Mdm Lee AEIC, at [33].

86 OC 226 Mr Tang AEIC, at [23]–[27].

87 9 January 2025 NEs, at p 42 lines 7–8.

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siphon funds from Homing, presumably to have such funds be out of reach from creditors, not least Mr Ren.

31 As noted by the Court of Appeal in *Toh Eng Tiah v Jiang Angelina and another appeal* [2021] 1 SLR 1176 ("*Toh Eng Tiah*"), "the essential element of a sham is that the parties did not intend to create the legal relations that the acts done or documents executed give the impression of creating" (at [74]). The inquiry focuses on the parties' subjective intentions to mislead, which the court often infers from the circumstances surrounding the relevant events (*Chng Bee Kheng and another (executrixes and trustees of the estate of Fock Poh Kum, deceased) v Chng Eng Chye* [2013] 2 SLR 715 ("*Chng Bee Kheng*"), at [54], citing *Hitch v Stone* [2001] STC 214, at [66]). In coming to any such finding, the court observed that "there is a very strong presumption that parties intend to be bound by the provisions of agreements which they enter into" (*Chng Bee Kheng*, at [51]). I would also observe that given that an allegation that one is involved in a sham is, by its very nature, an assertion of dishonesty as it assumes a deliberate misrepresentation crafted to conceal the truth, a party making such an allegation would be required to bring more evidence than is conventionally required in an ordinary civil case (see *Chua Kwee Chen and others (as Westlake Eating House) and another v Koh Choon Chin* [2006] 3 SLR(R) 469, at [39]) to make good such a grave allegation.[88]

32 In my judgment, the liquidators (on behalf of Homing) have not discharged their burden of proving on a balance of probabilities that the Goldciti Transaction is a sham.

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88 Defendants' Joint Closing Submissions dated 28 February 2025 ("DCS"), at [101.2].

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33 For one, it would seem that Ms Budiman herself, the very individual representing the liquidators in the proceedings before me, accepted, in substance during cross-examination, that the arrangements were not likely to be a sham as had been suggested by the contents of her affidavit. By the conclusion of her own cross-examination, Ms Budiman distanced herself almost entirely from the account advanced in her affidavit that the Goldciti Transaction was a sham transaction in the sense of being a contrived business arrangement primarily engineered to siphon funds from Homing (see [21]–[26] above). Her concessions were wide-ranging and, with respect, an all-but-fatal turn to the claim in OC 226. I state a few of the more obvious and critical concessions on the part of Ms Budiman while she was giving evidence on the stand:

(a) In terms of timing, Ms Budiman accepted that the Goldciti Report was a genuine report prepared at the time Goldciti and Mdm Lee alleged (*ie*, 23 November 2020), as opposed to being prepared after the event purely for the purposes of these court proceedings.[89]

(b) Upon studying Mr Koh's affidavit while on the stand, Ms Budiman accepted that based on his curriculum vitae, his professional background in the field meant he was qualified and competent to advise on corporate matters.[90] She also broadly accepted that if she had known of the specifics of Mr Koh's affidavit, she would have accepted the authenticity of the report as being prepared at the time alleged by Mdm Lee and Goldciti, *ie*, on or about 23 November 2020.[91]

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89 25 November 2024 NEs, at p 31 line 21–p 32 line 11.

90 25 November 2024 NEs, at p 31 lines 7–13.

91 25 November 2024 NEs, at p 31 line 21–p 32 line 11.

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(c) Ms Budiman further accepted that her characterisation of Goldciti's nature of business was somewhat skewed. It would be reminded that Ms Budiman had, in her affidavit, observed that Goldciti was in the business of wholesale trade in a variety of goods.[92] However, this was not complete, since, as Ms Budiman has admitted, the ACRA searches that her team had done suggested that the business activities of Goldciti was not just limited to wholesale trade, but that it had a secondary activity of being involved in management consultancy.[93] I parenthetically note such a selective articulation of Goldciti's business purposes in the affidavit is unfortunate, as it has the effect of shielding from the court's view the part of Goldciti's declared business activities that would specifically clothe with legitimacy its management consultancy work. It should be obvious that such an incomplete portrayal of Goldciti's articulated purposes runs the risk of being misleading – indeed, to her credit, Ms Budiman herself conceded that such a portrayal would give the court, or any objective reader of her affidavit, a "skewed view as to the nature of Goldciti's business".[94] In reality, the Goldciti Transaction was very much in line with one of Goldciti's articulated business purposes.

34 To my mind, Ms Budiman's candid concessions, along with her acceptance that the objective facts did not quite support the central assertion in OC 226 that the Goldciti Transaction was a sham, reflected her candidness with the court in her oral testimony. I thus find Ms Budiman's oral testimony (in which she fundamentally departed squarely from the allegations advanced in

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92 OC 226 Ms Budiman AEIC, at [4].

93 25 November 2024 NEs, at p 9 lines 9–14.

94 25 November 2024 NEs, at p 12 line 25–p 13 line 4.

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her affidavit, as summarised at [33] above) to be cogent, honest and truthful and I give weight to it. To be clear, such concessions do not mean that Ms Budiman does not continue to harbour lingering reservations about the sensibility and reasonableness of the Goldciti Transaction. On the stand, Ms Budiman maintained that the Goldciti Report remained unsatisfactory as one could not be said to reasonably necessitate paying $80,000 for work resulting in such a lacklustre report.[95] Put another way, using the parlance of the IRDA, Ms Budiman's primary contention by the conclusion of the proceedings did not appear to be that Mdm Lee had knowingly entered into a fraudulent transaction with Goldciti, but that Mdm Lee had caused Homing to enter into a transaction at an undervalue. As Mdm Lee and Goldciti observed, by the conclusion of Ms Budiman's evidence, it would appear that her "only concern about this transaction was price".[96] Such a pivot is critical in light of the fact that this concern did not comport to the pleaded parameters of OC 226.

35 Notwithstanding the near-fatal effects of Ms Budiman's concessions to the case in OC 226 (being, in effect, the singular witness who was testifying in support of OC 226), it would still be necessary for me to consider the merits of the arguments broadly advanced by the liquidators. This is necessary since the claim curiously continues to be pursued in its original form characterising the deal with Goldciti as a "sham" transaction in the closing submissions for OC 226, with such submissions completely ignoring and bypassing all of Ms Budiman's many concessions in cross-examination. In dealing with the arguments, I will address each of the six reasons that have been put forth by the liquidators (on behalf of Homing) in their affidavit (at [22(a)]–[22(f)] above). As can be seen below, none of the reasons advanced stand up to scrutiny.

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95 25 November 2024 NEs, at p 58 line 18–p 59 line 21.

96 DCS, at [21]; See also 25 November 2024 NEs, at p 117 lines 7–23.

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36 The first reason that the liquidators proffer is that the Goldciti Proposal and/or the Goldciti Report are not genuine documents as they were manufactured at a later date to give legitimacy to the sham transaction (see [22(a)] above). This allegation holds little force in light of Ms Budiman's acceptance, during cross-examination, that the Goldciti Report was likely prepared at the time Mr Tan HM and Mr Koh assert as the circumstances do not provide her much evidence to maintain the alternative position that the Goldciti Report was not genuine (see [33(a)] above). For what it is worth, I accept Mr Tan HM's account regarding the delay in producing the Goldciti Proposal and the Goldciti Report – *ie*, that Mr Tan HM only searched for those documents sometime in April 2022 upon Mdm Lee's request, which was prompted by the liquidators' claims that the Goldciti Transaction was a sham.[97] As for Goldciti's non-responses to the liquidators requests for more documentation, to my mind, these non-responses were not admissions of liability as the history of the proceedings and the thrust of the correspondences could have led Goldciti to the understandable assumption that any reply would simply be used as leverage to initiate further action, however well-intentioned such reply may have been. All of this must also be seen against the broader observations and findings that I make about the rudimentary nature of the operations of Goldciti later on.

37 In relation to Goldciti's and Mdm Lee's failure to produce an original soft copy of the Goldciti Report, while I understand the point and appreciate why the liquidators opine that this is indicative of the Goldciti Report having been prepared at a much later date, with respect, I am unable to agree and to come to the conclusion they have arrived at. In the contemporary context, the misplacement of original soft copies of documents is a common, unintentional, and frustrating feature of our daily lives and such lack of an original soft copy

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97 OC 226 Mr Tan HM AEIC, at [24].

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cannot, in and of itself, be grounds for inferring malicious intentions. Indeed, if Mdm Lee and Goldciti were lying about Goldciti's role, one would have imagined that a far simpler lie to peddle would be for Goldciti to claim to have been involved in giving corporate restructuring advice (for which the fees amounted to $80,000), without needing to develop a complicated narrative about having issued any report and then having to make good such a lie. In my view, the layered nature of the narrative mirrors the complexity of genuine experience, which in turn, makes it deeply unlikely that the Goldciti Report would have been fabricated from scratch. In the circumstances, I am of the view that there is no force underlying the first reason articulated by the liquidators.

38 The second reason that the liquidators raise is how Mdm Lee would not have engaged Goldciti if she was genuinely seeking restructuring advice (see [22(b)] above). There is, in my mind, little force underlying such an argument. Ms Budiman has conceded, contrary to what was written in her affidavit, that both Goldciti and Mr Tan HM appear to be competent to prepare the Goldciti Report (see [33(b)] above).[98] If *prima facie*, Mr Tan HM appeared to be qualified, then it is not for the court to say what a director ought, or ought not to have done, before engaging Goldciti. The court "will be slow to interfere with commercial decisions of directors which have been made honestly even if they turn out, on hindsight, to be financially detrimental" (*Ho Kang Peng v Scintronix Corp Ltd (formerly known as TTL Holdings Ltd)* [2014] 3 SLR 329, at [37]). For the liquidators' contention that Mdm Lee could not have considered Mr Tan HM suitable in light of his ongoing criminal investigations at the time (see [22(b)] above), it is not clear to me why this would be the case – the mere fact that an accountant may be under investigation for criminal offences is, without more, of little consequence in assessing a director's decision to engage

[98] 25 November 2024 NEs, at p 31 line 21–p 32 line 11, p 68 line 8–p 69 line 17.

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the accountant's services. It does not, in itself, imply any wrongdoing, particularly when the circumstances suggest that the criminal matter was only tangentially related to the accountant's professional competence and expertise.

39 The third reason that the liquidators raise is regarding Goldciti's billing arrangements (see [22(c)] above). In my view, the fact that Goldciti "did not take any action to pursue for payment of the remaining sum of $40,000" is of little salience.[99] I agree with Mdm Lee and Goldciti that creditors are fully entitled, for a variety of practical and legal reasons, not to take any action for their claims.[100] In some instances, a company's abysmal finances are such that pursuing claims in bankruptcy would be a pointless exercise of having good money chase after bad; in others, writing off the debt would be more financially sensible than expending resources to take on an aggressive liquidator; in some others, the costing of services (especially for companies at the brink of bankruptcy) would have already taken into account the possibility that some part of the bill may end up being unpaid; and yet, in more others, it may be that the provider of services had less than satisfactory time-keeping practices to particularise the amount of work they did, and therefore have no interest in expending efforts to defend such practices in order to claim the rest of their legal entitlement. On the present facts, there is a plainly commonsensical and logical explanation for Goldciti not pursuing the debt further. As Mr Tan HM noted, Goldciti did not pursue the matter as he was of the view that "the residual amount in Homing may not even [be] enough to pay the liquidators".[101] In my view, this was an informed decision since Mr Tan HM would have been familiar with the accounts of the Homing Group in the course of his work for them.

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99 OC 226 Ms Budiman AEIC, at [34].

100 Defendants' Joint Reply Submissions dated 17 March 2025 ("DRS"), at [8.3].

101 10 January 2025 NEs, at p 115 lines 3–6.

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Given my observations below about the services provided by Goldciti (see [58]–[61] below), there is also another reason evident on the facts, which is the real risk that any attempt to seek further payment may result in the liquidators vitiating the entire arrangement as a transaction at an undervalue. Therefore, from Goldciti's perspective, the decision not to pursue the outstanding debt appeared not only to be reasonable, but strategically sound.

40 Indeed, contrary to the point made by the liquidators, the billing arrangement itself further militates from the suggestion that the Goldciti Transaction was a sham. If the point of the Goldciti Transaction was to illegitimately extract moneys from Homing, it is perplexing that Mdm Lee and Goldciti would structure a deal in which they only extract a relatively small sum of $40,000 through the Goldciti Transaction. This is particularly since Homing had a cash balance of $137,937.10 in their coffers, which was subsequently handed over to the liquidators.[102] More significantly, if the motivations were cancerous, it is inconceivable that Goldciti and Mdm Lee would structure the billing in a two-stage process, a framework designed to specifically frustrate the aims of maximising illegal extraction of funds as it would result in a delay in the disbursement of the second instalment, thereby increasing the odds exponentially that the second payment would never be made. Indeed, that is precisely what happened in this case – by the time the second bill was issued, Mdm Lee was sufficiently concerned about whether she could, as a matter of law, properly pay up, even in order to pay for work that had been done by Goldciti, without then incurring potential liability as a director on her part.[103] Mdm Lee had even acted on this concern by seeking legal advice from Mr Tang

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102 OC 468 Mdm Lee AEIC, at [22].

103 OC 226 Mdm Lee AEIC, at [32], [34]–[35]; DCS, at [100.2].

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before taking any action to pay out the second bill.[104] All of this then points to the fact that Mdm Lee was actively applying her mind to the viability of the disbursement of sums generally, and this extended even to the payment of the second bill. Seen in its proper context therefore, contrary to the liquidators' contention, the two-tier billing arrangements thus supports Goldciti's and Mdm Lee's position that the Goldciti Transaction was genuine, and not a sham transaction.

41 The fourth reason that the liquidators raise pertains to the limited and generic nature of the advisory services provided by Goldciti (see [22(d)] above). The point appears to be this: the Goldciti Report was so woefully lacking in substance that it must have been prepared *ex post facto* to fashion a defence to OC 226. With respect, the argument simply cannot stand. If one were to fashion a report belatedly after the event knowing that it would likely have to be passed off in court as an authentic and legitimate work product, one would presumably take considerable care to ensure that such false documentation is well-drafted, comprehensive and carefully crafted in order to give it a superficial veneer of legitimacy. In that sense, assuming the contention that the Goldciti Report was "bare" (in that it was not a particularly useful document for Homing) is true, and I see some force in such an assertion, it only suggests a lack of effort on the part of those who authored the document. That in itself hints to the fact that no one contemplated that the specifics of the document would be carefully scrutinised and parsed through by liquidators or by the court, thus detracting from the contention that the Goldciti Report was crafted *ex post facto* with the intention to deceive. Therefore, the liquidators' arguments against the authenticity of the Goldciti Report ironically strengthens the inference that it was an authentic document, in that such an unsatisfactorily drafted document

104 OC 226 Mdm Lee AEIC, at [34].

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was not likely to have been manufactured after the event specifically for the present proceedings.

42 The fifth reason that the liquidators raise pertains to the absence of any follow-up by Mdm Lee after she had been sent the Goldciti Report (see [22(e)] above). It is not clear to me why an absence of any follow-up by Mdm Lee necessarily means that Goldciti's advice was not genuine. It could very well have been that Mdm Lee simply did not have any questions arising from the Goldciti Report, or that she found the Goldciti Report to be of little value and did not bother following up. It may also be that, by the time the Goldciti Report was in her possession, it was obvious that the only real possibility was that of a winding up, and therefore, the issue of how Homing could be salvaged was moot.

43 The sixth reason that the liquidators raise pertains to the alleged personal relationship between Mdm Lee and Mr Tan HM (see [22(f)] above). This was, in my view, a scurrilous assertion that was entirely baseless. The liquidators rely on the e-mail dated 5 October 2020 between Mr Tan HM and Mr Tang to support this argument and it is plain and obvious that the e-mail does not even remotely support the mischievous claim of there having been any form of personal relationship. Indeed, in cross-examination, Ms Budiman conceded as much, accepting that she had no evidence that there was anything but a professional relationship between Mdm Lee and Mr Tan HM, and her only point was that she could not understand why Homing's personnel had not been copied into that specific e-mail.[105] The answer to that apparent conundrum is obvious: as Mr Tan HM explained, this was the result of nothing more than a simple prosaic mistake on his part in failing to copy Homing's personnel for the

105 25 November 2024 NEs, at p 103 lines 13–22.

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purposes of that specific e-mail.[106] Indeed, in my view, no other inference is even sensible or plausible on the facts.

44 As an aside, I do not accept the liquidators' argument that "there was no reason for [Goldciti] to have been copied in the correspondence between GN Tang and [Homing]".[107] As counsel for the Defendants noted, by the point Ms Budiman affirmed her affidavit, she would have been aware that the Defendants' version of events (*ie*, that Goldciti was copied as it was Homing's corporate advisor at the time) essentially served as the *only* reason to explain the correspondence.[108] There was no other reason that was viable. In cross-examination, Ms Budiman conceded she could not explain why Goldciti would have been copied in such correspondences involving counsel if the case theory she expounded on affidavit were correct (*ie*, that Goldciti was engaged in a co-ordinated arrangement to pilfer moneys from Homing).[109] In closing submissions, the liquidators contend that such actions were an "attempt to create the false impression of an active adviser providing substantial services, and [Mr Tan HM] was copied only to bolster the façade of a genuine engagement".[110] It should be obvious that it would take a deeply conspiratorial mind to conclude that there was some form of grand plan involving GN Tang e-mailing Goldciti since October 2020 with a view to creating a paper trail for the purposes of court proceedings many years later. Indeed, it would seem that the liquidators are no longer actively advancing this argument since, as I explained earlier, they

106 OC 226 Mr Tan HM AEIC, at [20].

107 OC 226 Ms Budiman AEIC, at [43].

108 25 November 2024 NEs, at p 110 line 10–p 111 line 13.

109 25 November 2024 NEs, at p 111 lines 2–13.

110 CCS, at [29(i)].

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elected not to cross-examine Mr Tang on his evidence,[111] despite how Mr Tang unequivocally asserts the involvement of Mr Tan HM during the time Goldciti was purportedly engaged by Homing and confirms Mr Tan HM's presence in at least some of the meetings he had with Mdm Lee during that period.[112]

45 In essence, given the preceding analysis, the parties' cases can be crystallised into two dichotomous accounts.

(a) On the first account, *ie*, the liquidators' account on affidavit, numerous discrete individuals and entities (*ie*, Mdm Lee, Mr Chua, Goldciti, and GN Tang) perpetuated a complex scheme of fraud in which they all came together, lied about what happened, manufactured a multi-page restructuring report, numerous false correspondences, filed affidavits doubling down on these falsehoods, and committed to coming to court to rationalise a fabricated $40,000 expense – a sum which, in all likelihood, would be similar to, if not entirely eclipsed by, the costs of perpetrating, engineering and testifying as part of the somewhat elaborate and longstanding fraud. Under this highly implausible version of events, the Defendants in OC 226 (*ie*, Mdm Lee and Goldciti) were far-sighted enough to leave a paper trail from the get-go, with GN Tang copying Goldciti into correspondences since October 2020, even before the liquidators came into the picture. They even managed to get an unconnected individual, an advocate and solicitor at that (*ie*, Mr Tang), to agree to be involved in this complex arrangement, at the pain of disciplinary sanctions if he were ever found out to be complicit in such dishonest conduct. For some indiscernible reason, Goldciti and

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111 9 January 2025 NEs, at p 42 lines 7–8; DCS, at [112]–[113]

112 OC 226 Mr Tang AEIC, at [23], [27].

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Mdm Lee then decided to stage the payment being siphoned off in two tranches, and to then frustrate the receipt of the second tranche of the payments, thus sabotaging even more payments to themselves. Indeed, such a narrative is so extreme in its implausibility that Ms Budiman, on the stand, did not appear to even be advocating such a position. On the contrary, by the end of cross-examination, Ms Budiman accepted (contrary to her evidence on affidavit) that the employees of Goldciti were qualified to serve as corporate advisers, that the Goldciti Report was, in all probability, prepared at the time the Defendants asserted, and that there was no reason to quibble with Mr Tang's evidence that Goldciti was involved in discussions at the time it was appointed as Homing's corporate advisor.[113]

(b) On the second account, *ie*, the Defendants' account in OC 226, the parties entered into a genuine contract in September 2020, and quite explicably could no longer find soft copies of the Goldciti Report as the digital correspondence had been overlooked and deleted. It should be plain that this is clearly the preferable account. Indeed, the very fact that Ms Budiman herself appeared to accept large swathes of this account on the stand while *serving as the main witness in support of the claim in OC 226* speaks volumes about the lack of credibility and logic underlying the claim in OC 226.

46 However, the conclusions that I have arrived at above unfortunately raise some uncomfortable questions. If indeed, even Ms Budiman accepted much of the explanations given by Goldciti and Mdm Lee for OC 226, how is it that the case was not ceased when these documents became available, or, at

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113 25 November 2024 NEs, at p 31 line 21–p 32 line 11, p 36 lines 1–4, p 38 lines 14–20, p 89 lines 13–23, p 113 lines 8–18.

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the very least, sometime after Ms Budiman seemingly jettisoned much of her own account on affidavit while on the stand? After all, liquidators are officers of the court – the liquidators themselves submit that liquidators "are required to investigate and, where appropriate, pursue claims that serve the best interests of the [c]ompany's stakeholders".[114] Just as much as they have no mandate to commence litigation that has no real prospect of succeeding (*SW Trustees Pte Ltd (in compulsory liquidation) and another v Teodros Ashenafi Tesemma (also known as Tewodros Ashenafi) and others (Teodros Ashenafi Tesemma (also known as Tewodros Ashenafi), third party)* [2024] SGHC 322, at [273]),[115] they would necessarily be duty bound to cease such proceedings once it becomes plain that the case being pursued must, by their own account, invariably fail.

47 Seen in that context, it is also curious as to how various unsubstantiated allegations made on affidavit ended up being there, even if Ms Budiman's candid concessions in court stand to her credit and reflect the fact that she, in all likelihood, did not intend to mislead the court. Indeed, it would seem from the evidence that emerged in these proceedings that Ms Budiman was not even briefed about the evidence touching on some parts of her affidavit. On the stand, she indicated that she was not made aware of specific pieces of evidence furnished by Goldciti and Mdm Lee that would have squarely contradicted her assertions on affidavit, despite these having seemingly been in the possession of counsel.[116] Assuming this to be true, it then raises questions about the manner in which Ms Budiman's affidavit was crafted, and whether the picture painted in her affidavit, when read as a whole, fairly reflects the evidence available to the liquidators at the time.

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114 Claimants' Joint Reply Closing Submissions dated 18 March 2025 ("CRS"), at [36].

115 25 November 2024 NEs, at p 116 lines 18–25; DCS, at [92]–[93].

116 25 November 2024 NEs, at p 48 lines 1–10, p 85 lines 4–13.

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48 In this connection, if OC 226 was pursued merely as a means to provide collateral support to OC 468 (the merits of which I will turn to in due course), then, to the extent the claim in OC 226 cannot otherwise stand on its own, this would be impermissible as liquidators should be careful never to take sides or to adopt positions (or make claims in affidavits) informed by extraneous considerations that pertains to claims associated with third party creditors. It is trite that "the golden rule for the liquidator in the performance of his functions was and is his duty to be objective, impartial and independent in the discharge of his duties and the exercise of his powers" (Daniel Tan, "On the Sharp Edge of Public Duty and Private Interests – The Liquidator's Duty to be Objective, Impartial and Independent", *Singapore Law Gazette*, October 2009 <https://v1.lawgazette.com.sg/2009-10/feature2.htm> (accessed 8 March 2025)). As VK Rajah JC (as he then was) observed in *Liquidator of W&P Piling Pte Ltd v Chew Yin What and others* [2004] 3 SLR(R) 164 (at [27]):

> 27 … The liquidator is expected to assume different roles and to discharge different responsibilities in different insolvency milieu. Where, as is usually the case, a company fails because of business conditions or for reasons that do not hint of any impropriety, the liquidator ought to assume a benign approach in dealing with the failed company's affairs and processes. His role, in such an instance, is that of a watchdog. Where there is evidence of impropriety, the liquidator will have to shift gears. He then assumes the role of a hound dog. The court will, however, have to be astute to ensure that the liquidator does not use the insolvency scheme for improper third party collateral interests or personal considerations; in other words, he must not become a lapdog held thrall to improper considerations. *Liquidators are usually viewed differently by the court, as compared to other litigants, because they are presumed to be independent, to have no personal interest in the outcome of the proceeding, and to carry no emotional baggage that may cloud their objectivity.* In reality, they may on rare occasions be manipulated knowingly or unknowingly by creditors or third parties to pursue collateral objectives that may be inimical to the statutory objectives and scheme. …
>
> [emphasis in original omitted; emphasis added]

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49 Coming back to the evidence before me, as I observed earlier (at [34] above), by the end of cross-examination, Ms Budiman's sole substantive gravamen was a need for Goldciti "to justify why [the Goldciti Report] cost $80,000" in light of its seemingly shoddy quality.[117] However, as I noted earlier, the claim pleaded for in the Statement of Claim for OC 226 is not for a transaction at an undervalue, or for a decidedly bad bargain. The fulcrum on which the liquidators' entire case rests is the allegation that Mdm Lee had engineered a sham transaction with Goldciti, being "fully aware" that "there was no legitimate business relationship" and "no services [being] received".[118] For that reason, the many protestations in the closing submissions about what a reasonable director would have done, and whether it was reasonable for a director to commit some 40% of its remaining funds to a corporate advisor in the circumstances are, on their own, not germane to the discussion,[119] since the pleaded case is not the lack of value given in the context of a genuine transaction, but the absence of value arising from a sham transaction. In that sense, the liquidators' claim (on behalf of Homing), as pleaded, must fail.

50 All of this then begs the obvious question as to who is, in fact, driving the litigation in OC 226, even up till the time of closing submissions, and urging that the court find that the $80,000 Goldciti Transaction was a sham. On this front, it speaks volumes that despite this characterisation being at the heart of the liquidators' claim, Mr Ren appears to be the only party maintaining that the Goldciti Transaction constitutes a sham designed to pilfer moneys out of Homing. When cross-examined on the stand, Mr Ren asserted to the end that Mdm Lee's aim of consulting Goldciti was to "move the money away" from

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117 25 November 2024 NEs, at p 113 lines 8–18, p 121 lines 2–4.

118 OC 226 SOC, at [19], [29].

119 See, for example, CCS, at [59].

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Homing "illegal[ly]".[120] Significantly, as I noted earlier, in their written closing submissions, counsel for the Claimants did not address a single one of Ms Budiman's concessions in court, instead, electing to align to Mr Ren's continued narrative of stridently characterising the Goldciti Transaction as a sham. This clearly leaves OC 226 in a very precarious position. I will come back to some of these concerns at the end of this judgment (at [148]–[151] below) to touch on how the lines in this case may potentially have been blurred as a result of one set of lawyers representing two discrete parties (the two claimants) in this case.

51 However, before turning to OC 468, for completeness, I will deal with the remaining allegations in OC 226, namely the contention that there was a conspiracy between Goldciti and Mdm Lee, and that Mdm Lee had breached her director's duties. I deal with each of these very briefly in turn.

No conspiracy between Goldciti and Mdm Lee

52 To succeed in a claim for lawful means conspiracy, a claimant must prove the following elements (*Kapital Fund SPC v Lee Tze Wee Andrew and another* [2024] SGHC 289, at [66]–[67]):

(a) there was a combination of two or more persons to do certain acts;

(b) the alleged conspirators had the predominant intention to cause damage or injury to the claimant;

(c) the acts were performed in furtherance of the agreement; and

(d) the claimant suffered loss as a result of the conspiracy.

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120 15 November 2024 NEs, at p 26 line 1–p 27 line 23.

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53 Having found that there was in fact no sham transaction and that Mdm Lee and Goldciti had genuinely entered into the Goldciti Proposal as a contract for corporate restructuring services, it must invariably follow that the abovementioned elements cannot be made out. I note that this was also accepted by Ms Budiman in cross-examination.[121]

54 Therefore, I find that there was no lawful means conspiracy between Mdm Lee and Goldciti to cause Homing to enter into a sham transaction with Goldciti.

Mdm Lee did not breach her director's duties

55 The liquidators are claiming against Mdm Lee for a breach of director's duties by causing Homing to enter into the alleged sham transaction to its detriment (see [25]–[26] above). Such a claim is similarly predicated on the finding that the Goldciti Transaction was a sham transaction and must fail given my earlier findings. Additionally, the two instances cited by the liquidators of Mdm Lee's conduct during and after the Goldciti Transaction are irrelevant as they simply do not speak at all to the question of whether the agreement with Homing represented a sham or otherwise.

56 For completeness, I also reject any suggestion (as was hinted at) that even if the Goldciti Transaction *was not* a sham transaction, Mdm Lee had breached her duties *qua* director since it could not have been "in the company's interest from the perspective of a reasonable director" to enter into the Goldciti Transaction.[122] The liquidators rely on similar reasons for this allegation – that a reasonably diligent director exercising reasonable care and skill would not

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121 25 November 2024 NEs, at p 90 lines 7–10.

122 OC 226 Ms Budiman AEIC, at [30]–[32].

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have thought it prudent to incur an $80,000 debt on behalf of Homing when it was already struggling financially, and would not have appointed Goldciti without seeking alternative quotations or verifying that Goldciti possessed the requisite expertise.[123] As I alluded to earlier, the liquidators further poured considerable scorn on the Goldciti Report, claiming that it contained "nothing substantial" and was "comparable to what might be found in a textbook on restructuring".[124]

57 With respect, in my view, much of what the liquidators assert reeks of *ex post facto* logic and is an unfair and uncharitable statement of the steps Mdm Lee had undertaken.[125] Despite the sympathy I have for the liquidators after reviewing the Goldciti Report and the evidence of Mr Tan HM and Mr Koh on the stand (as I explain below at [58]–[61]), the pleaded case relates to a breach of director's duties for the sham transaction Mdm Lee was involved in, and not an alternative hypothetical where the question before the court is whether she entered into an agreement *bona fide* but without doing the necessary checks on whether such an agreement would be in the company's best interests and would represent good value. In any event, for completeness, I would not have found a breach of director's duties (at least based on the evidence that has been presented before me) for reasons which I set out below.

58 I start first with stating my own reservations regarding the Goldciti Report. Having perused it, I do think Ms Budiman's criticism of its (lack of) depth has much force to it, in so far as on my reading of the Goldciti Report, it does set out a "textbook" laundry list of proposals for restructuring which are

123 CCS, at [59(a)] and [59(c)].

124 OC 226 Ms Budiman AEIC, at [35].

125 DRS, at [8.2], [9].

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self-evident, and not even remotely contextualised to the situation Homing was in. The 14-page report (excluding executive summary) mostly comprised of setting out basic matters (such as the company structure, and basic auditing work), and was couched or marketed essentially as corporate advisory work through the tacking on a *pro forma* section on restructuring options right at the end.[126] To highlight the patent dearth of meaningful advice found in the Goldciti Report, I quote *in full* one of its recommendations. In suggesting that Homing could divest its subsidiaries as a means of restructuring, this was literally *the entirety* of what was said about what such an option entailed:[127]

> [Homing] can engage a consultant to carry-out a strategic review of the subsidiaries operations.
>
> This is done with the objective of enhancing their value and to attract potential investor [*sic*] to take-over the subsidiary or its business.
>
> The subsidiary operations can be marketed that it will add synergy to the business of the potential investor.

59 As can be seen above, the recommendation was so generic, and summarised, as to be of little value to Homing. It did not take into account Homing's corporate structure, had nothing to do with its finances, and could have been stated by any corporate advisor in relation to any company facing financial difficulties. In the same way one does not need pricey or premium legal advice when facing a potential legal suit from a third party to be told in generic terms that they could choose to litigate the matter, negotiate a settlement, or hope for the best that they would not be sued, telling one that they can "restructure" by selling assets without telling them how they can go about doing it *on these specific facts* is telling them nothing at all. The fact that there were other recommendations that were *even more scanty and bare-bones* than

126 OC 226 Mr Tan HM AEIC, at pp 31–35 (the Goldciti Report).

127 OC 226 Mr Tan HM AEIC, at p 32 (the Goldciti Report).

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the recommendation I have reproduced in full above on possible divestiture speaks volumes about the complete lack of depth of the Goldciti Report.

60 Indeed, the evidence given by Mr Tan HM and Mr Koh leaves me with little doubt that Goldciti overpromised and under-delivered. It is clear to me that both Mr Tan HM and Mr Koh knew that the lack of value they gave would become apparent in these court proceedings and, in court, sought to *ex post facto* rationalise why the skimpy 14-page report they produced represented good value for money. Much of the explanations they provided simply did not make much sense. I highlight a few key points on this:

(a) In order to pad up the reasons for such a high costing, both Mr Tan HM and Mr Koh claimed that their hourly charge-out rates were $800 per hour.[128] Such a claimed charge-out rate for the work actually done appears to be so manifestly excessive that it stands in stark relief, rendering any comparative analysis with industry norms almost pointless. To exacerbate matters, such an elevated charge-out rate was incurred despite the fact that a majority of the work done involved what Mr Tan HM termed as a "financial review", a sophisticated term that belied the reality that it involved merely the rudimentary act of matching invoices to ledger entries.[129] Quite apart from the fact that this entire exercise appeared to not be targeted to any end (as the issue the Homing Group was facing had nothing to do with false or otherwise unverified invoices), such manual verification of invoices is not even typically the work of an accountant, but a book-keeper (who would, for self-evident reasons, be considerably less costly to hire).

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128 10 January 2025 NEs, at p 35 lines 6–7, 20–22.

129 10 January 2025 NEs, at p 33 line 20–p 34 line 18.

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(b) Apart from the "financial review", Mr Tan HM also claims that, as part of his services, he spent a fair amount of time reaching out to "potential investors" to invest in Homing.[130] If this were true, to be fair, this could presumably justify the cost of $80,000, or at least some part thereof. Nonetheless, I had little reason to accept such an assertion. For one, interestingly, this was only suggested in court, and not found anywhere in the affidavit. For another, Mr Tan HM has failed to produce any evidence of his attempts to source for investors, despite alleging he had text conversations with at least some potential investors.[131] I see no reason for this: if such evidence existed, it would have been obvious that Mr Tan HM would have produced it since it would be fatal to the entirety of the liquidators' case in OC 226. Finally, the sourcing of such investors was not even the purpose of the engagement which, according to the Goldciti Report, was "to explore the various restructuring options to safeguard the interest of [Homing] from being wound-up".[132] The artificiality of the claim becomes further evident once one realises that Mr Tan HM never raised the fact he was speaking with potential investors to Mdm Lee at any time.[133] The claim that he was seeking potential investors also has an obvious logical flaw that betrays its falsity – if Mr Tan HM contends, as he did on the stand, that his recommendations in the Goldciti Report had to be generic as he was not in possession of enough meaningful information about the Homing Group to provide any concrete recommendations (*ie*, he did not even

130 10 January 2025 NEs, at p 36 lines 4–19, p 94 lines 7–10.

131 10 January 2025 NEs, at p 94 lines 11–15.

132 OC 226 Mr Tan HM AEIC, at p 22 (Executive summary of the Goldciti Report).

133 10 January 2025 NEs, at p 94 lines 16–18.

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have a clear understanding of how the business works),[134] how was he ever going to source for investors to market the company to?

(c) Nothing about the operations of Goldciti suggests a level of sophistication that warranted any sort of premium.[135] On the contrary, it was clear that its operations were rudimentary. Goldciti does not keep time-sheets. It does not keep soft copies of its reports, indeed, there is no system for the retention of records or background documents.[136] Its reports are apparently largely written by hand.[137] As I noted earlier (see [27] above), work is apparently outsourced on a barter-trade basis, where Mr Tan HM and Mr Koh swap work assignments between each other for no money. There is no suggestion that either Mr Tan HM or Mr Koh even did any desk research in the preparation of the Goldciti Report – in any event, any suggestion that they did do so would be unbelievable given the very bare and non-substantive nature of the Goldciti Report, and how a computer did not even appear to have been used until the report was in its final version.

61 All in all, from a reading of the Goldciti Report, and from the testimonies of Mr Tan HM and Mr Koh, I had little doubt that their assertions of untenable hourly rates and contentions of trying to get investors in were belated attempts to artificially shore up the value Goldciti gave to Homing to defend the $80,000 that Goldciti charged, knowing full well that the services they had rendered, and the report that they had delivered, could never be objectively valued at such an amount.

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134 10 January 2025 NEs, at p 93 lines 15–21, p 93 line 25–p 94 line 4.

135 21 January 2025 NEs, at p 19 lines 12–21.

136 21 January 2025 NEs, at p 20 line 8–p 22 line 9.

137 21 January 2025 NEs, at p 19 lines 4–24.

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62 Nonetheless, all of what I have stated at [58] to [61] above arises as a result of *post hoc* reasoning to ascertain Mdm Lee's state of mind. At the time of entering into the Goldciti Proposal, much of these facts would have been unbeknown to Mdm Lee, who was, at that time, caught between a rock and a hard place – Homing's shareholder and key creditor, Mr Ren, had issued a statutory demand to Homing, and Mdm Lee was concerned of the legal implications of this. Mdm Lee elected understandably to seek "professional help" to assist her to navigate the process.[138] She would reasonably have been concerned about the possibility that she might face personal liability if she did not get sufficient assistance to navigate the process. This must especially be so given the backdrop of the consistent pressure Mr Ren was placing on Mr Chua and her to effectively be personally liable for the Loan in OC 468.

63 Based on the facts as she understood it at the time, Mdm Lee decided it was prudent to enter into the arrangements with Goldciti, and, subsequently, to hire GN Tang. In my mind, there was nothing to suggest that the decision on the part of Mdm Lee, at least based on the facts as she knew them at the time, was in any way inexplicable: the liquidators contend that there was no suggestion on the face of the Goldciti Report that Goldciti had the necessary expertise, but both Mr Tan HM and Mr Koh have in fact had years of experience being involved in accounting and corporate governance. Ms Budiman suggested that Mdm Lee could have undertaken a Google search for a "restructuring company" instead of hiring Goldciti[139] – Mdm Lee admittedly could have, but who is to say that this would have been objectively better than referring to a word-of-mouth recommendation? Just as how one may prioritise positive reviews of services, especially from known acquaintances, over the outcomes of random

138 8 January 2025 NEs, at p 49 line 21–p 50 line 4.

139 25 November 2024 NEs, at p 65 line 23–p 66 line 6.

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Google searches, I see no reason why Mdm Lee could not have given some weight to Mr Chua's referral of her to Goldciti. In this connection, it was suggested by counsel for the Claimants that perhaps Mdm Lee should have asked whether Mr Chua was in a position of conflict of interest in referring Goldciti.[140] With respect, it is hard to conceive of why Mdm Lee would have asked such a question based on what appeared, at the time, to be an entirely plain-vanilla referral. In my mind, there was simply nothing on the evidence to suggest there would have been a vested interest on the part of Mr Chua to refer Goldciti, or anything for Mdm Lee to be wary about at the time. Indeed, such a suggestion seems even more perplexing as the liquidators have not, to date, even provided a semblance of a narrative of *how or in what circumstances* such conflict ostensibly arose.

64 As such, while I would agree with the liquidators that Homing ultimately did not get value for money in the Goldciti Transaction, the question before me is not whether their services were qualitatively worth $80,000. I accept the liquidators' view that it would not. Nonetheless, there are obvious problems with using retrospection in this manner and in attempting to cast subjective hindsight-tinged assessments about how Mdm Lee should have considered whether the services provided would be worth $80,000 and, consequently, whether she should have entered into such an arrangement. Mdm Lee was especially concerned at the time with whether she could maintain Homing as a going entity and as noted in *Foo Kian Beng v OP3 International Pte Ltd (in liquidation)* [2024] 1 SLR 361 ("*Foo Kian Beng*") (at [106(b)]), in this context, the court will "be slow to second-guess the honest, good faith commercial decisions made by a director to afford the company the best possible chances of revitalising its fortunes".

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140 8 January 2025 NEs, at p 47 line 20–p 48 line 11, p 70 line 23–p 71 line 2.

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65 The need to exercise caution and not try to second-guess such *bona fide* assessments after the event is, in my view, especially important given that the value of a corporate advisor in the face of possible bankruptcy (indeed, the same observations could potentially apply *mutatis mutandis* to having legal counsel in navigating the road to possible bankruptcy, and the implications surrounding such a course of action) goes beyond just financial metrics but the ability to provide a sounding board as well as strategic advice and insights. Navigating the process involves complex emotional and legal challenges and having someone who is perceived to understand the nuances allows one, in theory at least, to make better decisions. Their ability to offer perspectives in real-time can be invaluable to adapting to circumstances as they change. Of course, it may be that such engagement never ends up meeting these exacting expectations and, in that sense, can be said, on hindsight, to be exceedingly bad value for money. Indeed, in this case, Mdm Lee was likely overcharged and was overpromised assistance that ended up being of little to no utility. Nonetheless, the simple point I make is that a director cannot be faulted for entering into such arrangements when it would be impossible at the time to meaningfully discern how such engagement would mature and the court should be slow to interfere with commercial decisions arrived at honestly, which on hindsight may perhaps be said to not have been particularly financially sensible (*Foo Kian Beng*, at [75])), especially in a situation where time is of the essence and Mdm Lee felt the understandable need to move fast to avoid Homing going into liquidation. As Mdm Lee noted, her "greatest intention was to save [Homing]", her perception being that if Homing "wound up … [she] would have done more wrong".[141] I therefore am unable to fault Mdm Lee for entering into the arrangements that she did with Goldciti, even if, as I explained earlier, I do have

[141] 8 January 2025 NEs, at p 69 lines 15–18.

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much sympathy for the liquidators' observations that, on hindsight, the appointment of Goldciti as corporate advisor was perhaps moneys not particularly well spent.

66 On balance therefore, I disagree with the liquidators that the Goldciti Transaction was a sham. I find, on the preponderance of evidence, that in fact what happened here was exactly as Mdm Lee, Mr Tan HM and Mr Tang assert – namely that the agreement was for Goldciti to serve as the corporate advisor for Homing and this was with a view to considering what the options for the company were in view of the statutory demand filed by Mr Ren. While in my judgment, the services rendered by Goldciti could not, in all probability, be reasonably valued at $80,000, this is not a factor in coming to the conclusion that I did as the question before me is not whether Mdm Lee made proper enquiries before entering into such an arrangement, but whether she did so with the subjective *mala fides* aim of diverting moneys from Homing. That latter question, in my view, must be answered in the negative.

67 I make one final point about OC 226. To some extent, the commencement of OC 226 by the liquidators was a problem of Mdm Lee's, and Goldciti's, own doing. For one, Mdm Lee could have avoided this entire debacle by being more proactive in her actions. I note, for example, that Mdm Lee waited many months before attempting to trace a copy of the Goldciti Report, and even though there is objective evidence to show that a copy of this was sent to her in end-April 2022 by Mr Tan HM,[142] she did nothing with such a document in her possession for many months. It was only a few months later – in September 2022 – that the liquidators decided it had no choice but to file suit.

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142 OC 226 Mr Tan HM AEIC, at p 16 (e-mail from Mr Tan HM to Mdm Lee titled "Homing Holdings Pte Ltd" dated 28 April 2022).

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Mdm Lee only disclosed the document in question sometime thereafter. If one elects to stonewall liquidators undertaking their statutory responsibilities, for instance, by failing to use one's best efforts to provide the documents that such liquidators require for assessing a company's transactions, whatever one's concerns about co-operating may be, the liquidators cannot be faulted for assuming that such a non-response represents an admission of guilt. In that sense, the liquidators' decision in this case to file OC 226 was not theirs alone but was, in part, shaped by the conspicuous lack of satisfactory answers they were getting from Mdm Lee and Goldciti. While it is obvious to me that the liquidators should not have continued with the proceedings once Ms Budiman jettisoned large swathes of the liquidators' own case on the stand, or shortly after that at the latest, this does not change the fact that the commencement of OC 226 was something precipitated by the actions of Mdm Lee and Goldciti.

68 For the reasons set out above, I dismiss OC 226. I next turn to OC 468.

OC 468

Mr Ren's claim

69 About nine months after the liquidators commenced OC 226, on 24 July 2023, Mr Ren commenced OC 468 against Mdm Lee and Mr Chua seeking a sum of $990,000 arising from the non-return of the Loan given to Homing.[143] Mr Ren also sought a declaration that Mdm Lee caused and/or procured Homing to enter into agreements with Goldciti and with another third party, *ie*, JS Gifts & Trading ("JS Gifts") to Homing's detriment.[144]

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143 OC 468 Originating Claim filed 24 July 2023.

144 OC 468 Originating Claim filed 24 July 2023.

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70 In relation to the Loan, Mr Ren claims that there was an implied term under the Agreement that Mdm Lee and Mr Chua would procure that Homing returns the Loan. Mr Ren then contends that Mdm Lee and Mr Chua had acted in breach of such implied term to procure repayment to him by Homing, and that damages of $990,000 would follow from such a breach.[145]

71 To support his claim that such an implied term exists, Mr Ren points to how Homing was controlled by Mr Chua and Mdm Lee and they were the only parties who would be able to authorise Homing to return the Loan,[146] as well as how the Agreement was between the three parties and did not involve Homing as a signatory.[147] Mr Ren further claims that he would not have loaned the moneys to Homing if he thought that it would be possible for Mdm Lee and Mr Chua to refuse to return the Loan as such an arrangement would not have made "commercial or practical sense" to him.[148] In his affidavit, Mr Ren also exhibited transcripts of "the relevant part" of two telephone conversations he had with Mr Chua, which Mr Ren had surreptitiously recorded without Mr Chua's knowledge. Based on such transcripts evidencing "the relevant part" of the telephone conversations in question, Mr Chua had informed Mr Ren that he would procure the return of the Loan by Homing and that he would "mortgage his house in order to repay the Loan".[149] The recordings are of some salience to the issues germane to this case, and I will discuss them in some detail later on.

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145 OC 468 SOC, at [23].

146 OC 468 SOC, at [14], [21].

147 OC 468 Mr Ren AEIC, at [59].

148 OC 468 Mr Ren AEIC, at [60].

149 OC 468 Mr Ren AEIC, at [63].

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72 The other key pillar of Mr Ren's claim in OC 468 rests on his contention that under Clause 5.1 of the Agreement, which broadly states that the parties collectively entrust Mdm Lee "to perform the daily operations of the joint investment on behalf of all Joint Investors", it was implied that Mdm Lee would be subject to the following duties:[150]

> a) Act honestly and in good faith, bearing in mind [Homing's] interests at all material times;
>
> b) Manage the affairs of [Homing] with due care, skill and diligence;
>
> c) Avoid any conflict of interest; and
>
> d) To not make improper use of her position as an officer of [Homing] or any information acquired by virtue of her position to gain directly or indirectly, an advantage for herself or for any other person or to cause detriment to [Homing].

73 In Mr Ren's affidavit, he alleged that Mdm Lee had breached these implied duties by entering into agreements with Goldciti and JS Gifts, and by having Luminaries hire Mdm Fu Shaoli ("Mdm Fu"), a Chinese national, as a titular or paper employee in order to assist her in obtaining a work permit or employment pass in Singapore.[151] I describe each of these alleged breaches briefly in turn.

74 In relation to the agreement with Goldciti, Mr Ren alleges that Mdm Lee breached her implied duties *qua* director by entering into the Goldciti Transaction in late 2020 despite the Loan having been due to Mr Ren since July 2020.[152] Mr Ren claims that "a reasonable director in [Mdm] Lee's shoes … acting in good faith" would not have entered into the agreement with Goldciti.[153]

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150 OC 468 SOC, at [24]; CCS, at [93].

151 OC 468 SOC, at [25]; OC 468 Mr Ren AEIC, at [27]–[38], [56].

152 OC 468 Mr Ren AEIC, at [50]–[53]; OC 468 SOC, at [25].

153 OC 468 Mr Ren AEIC, at [53].

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75 In relation to the agreement with JS Gifts, Mr Ren relies on a letter from the liquidators addressed to JS Gifts dated 21 June 2022 (the "June 2022 Letter") to allege that by causing Luminaries to enter into a lease agreement and a sales agreement for the purchase of a truck, Mdm Lee had caused Homing *qua* shareholder of Luminaries to suffer losses.[154] Mr Ren claims that for the lease agreement, Mdm Lee had failed to retrieve a security deposit of $3,325 from JS Gifts after the lease was terminated early.[155] Mr Ren also claims that for the sales agreement, Mdm Lee took no steps to pursue the proceeds from JS Gifts for the disposal/scrapping of the truck.[156] In a sense therefore, the point made by Mr Ren is that these exchanges between the liquidators and JS Gifts, that were the result of investigations undertaken by the liquidators, suggest that Mdm Lee was not conscientious as a director and often acted in a manner in which moneys were dissipated from the Homing Group as a result of her inaction or ineptitude. Significantly, Mr Ren was not a party to any of these correspondences he produced in evidence, a point that I will eventually revisit.

76 In relation to the matter of Luminaries hiring Mdm Fu, Mr Ren alleges this began as a corollary of an alleged co-operation agreement between Luminaries and a Chinese company, Changsheng Films. The value of the co-operation agreement was said to be about $235,000, and as part of the agreement, Luminaries was to hire Mdm Fu, the wife of the owner of Changsheng Films, to "oversee" the co-operation.[157] Mr Ren claims that he was disturbed by the fact that "such an arrangement did not seem above board at

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154 OC 468 Mr Ren AEIC, at [54]–[57], at pp 82–84 (Letter from the Claimants to JS Gifts titled "Luminaries Holdings Pte. Ltd. (in creditors' voluntary liquidation) Claim against JS Gifts & Trading" dated 21 June 2022); OC 468 SOC, at [25].

155 OC 468 Mr Ren AEIC, at [55(a)], p 82.

156 OC 468 Mr Ren AEIC, at [55(b)].

157 OC 468 Mr Ren AEIC, at [28].

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all".[158] Mr Ren's understanding, based on his e-mail exchanges with Mdm Lee, was that entire arrangement "had been primarily orchestrated to facilitate [Mdm] Fu's immigration status".[159] Based on the e-mail conversations, Mr Ren's understanding was that, Changsheng Films, and not Luminaries, had borne the costs of Mdm Fu's employment and Mdm Fu had not contributed to the Homing Group's businesses at all.[160] Mr Ren thus submits that Mdm Lee's decision to hire Mdm Fu despite the potential illegality "had blatantly placed [the Homing Group] at risk" and was in breach of her implied duties under Clause 5.1.[161] In particular, Mr Ren alleges that Mdm Lee's decision to hire Mdm Fu was not in the best interests of the Homing Group as this exposed Homing and Luminaries to "potential liability for breaches of employment law".[162]

Mdm Lee's and Mr Chua's defence

77 In response to Mr Ren's submission that the Agreement contained an implied term that Mdm Lee and Mr Chua would procure that Homing returns the Loan, Mdm Lee and Mr Chua raise four main points.

78 First, in their affidavits, both Mdm Lee and Mr Chua contend that the Agreement was not actionable in any event since in accordance with Clause 9.3, the Agreement was only to become effective after the parties had "signed and

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158 OC 468 Mr Ren AEIC, at [31].

159 CCS, at [96].

160 OC 468 Mr Ren AEIC, at [34]; OC 468 Mr Ren Affidavit for Translation dated 16 October 2024 ("OC 468 Mr Ren Affidavit for Translation"), at pp 10–12 (e-mail thread between Mdm Lee and Ms Huang titled "Cooperation with Changsheng Film and Television Culture Media, Xi'an, China" dated 15 May 2020).

161 OC 468 Mr Ren AEIC, at [36]; CCS, at [94].

162 CCS, at [93]–[100].

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affixed their stamps", and it is not disputed that the parties never affixed their stamps on the Agreement.[163] Both Mdm Lee and Mr Chua further indicate that they had no intention for the Agreement to be binding, and had merely wanted the arrangements to be in the form of a memorandum of understanding or guideline.[164] The parties eventually still signed the Agreement due to Mr Ren's insistence on the need for a comprehensive contract of the parties' rights and obligations.[165] I pause here to note that notwithstanding such a stance being taken in their affidavits, in cross-examination, Mdm Lee and Mr Chua accepted that the Agreement was binding,[166] and in their closing submissions, Mdm Lee and Mr Chua also observed that, having considered the court's observations (in the course of trial) on the untenability of their defence on this specific point, they were no longer advancing this argument and instead are happy to accept the position that the Agreement ought to be taken as binding on the parties.[167]

79 Second, while Mdm Lee and Mr Chua accept that Homing would be liable for the return of the Loan by Mr Ren, they submit that the implied term asserted by Mr Ren cannot be implied into the Agreement as it does not satisfy the three-step process set out in *Sembcorp Marine Ltd v PPL Holdings and another and another appeal* [2013] 4 SLR 193 ("*Sembcorp Marine*").[168]

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163 OC 468 Mdm Lee AEIC, at [6]; OC 468 Mr Chua AEIC, at [19] and [20].

164 OC 468 Mdm Lee AEIC, at [11]; OC 468 Mr Chua AEIC, at [20].

165 OC 468 Mdm Lee AEIC, at [11]–[13].

166 8 January 2025 NEs, at p 22 lines 11–13, p 23 line 21–p 24 line 2 (Cross-examination of Mdm Lee); 9 January 2025 NEs, at p 52 line 15–p 53 line 6 (Cross-examination of Mr Chua).

167 DCS, at [34].

168 DCS, at [35]–[56]; OC 468 Mdm Lee AEIC, at [9].

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80 Third, both Mr Chua and Mdm Lee deny that the Agreement had the effect of a personal guarantee, such that it would render them personally liable. They point to how a personal guarantee would fall within the ambit of a "special promise" under s 6(*b*) of the Civil Law Act 1909, and since no such personal guarantee is in writing or signed by Mr Chua and Mdm Lee, they contend that that no action shall be brought against them.[169] Next, they submit that personal liability was never envisioned under the Agreement,[170] as evidenced by Clause 3.4(b) which specifically provides that the Loan was on a "no guarantee, interest free basis",[171] and, as further reflected by the thrust of the full audio recordings that were eventually disclosed by Mr Ren.[172]

81 Fourth, Mdm Lee and Mr Chua highlight that it was Mdm Lee who effectively oversaw matters at Homing with the assistance of Ms Huang, who was a nominee of Mr Ren. In that sense, Mr Chua was never involved in the management of Homing.[173]

Findings for OC 468

82 I propose to deal with the issues relating to OC 468 along the following schematic lines:

(a) What is the impact of the fact that stamps were not affixed to the Agreement and the attendant fact that Clause 8.1 states that the Agreement "shall be valid for" three years?

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169 DCS, at [57]–[58].

170 OC 468 Mr Chua AEIC, at [24].

171 OC 468 Mdm Lee AEIC, at [10].

172 DCS, at [59]–[67].

173 OC 468 Mdm Lee AEIC, at [8]; OC 468 Mr Chua AIEC, at [21], [25].

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(b) If the Agreement was binding, what was the import of such Agreement?

(c) Was there a separate implied term (pursuant to Clause 5.1 of the Agreement) that Mdm Lee would act honestly and in good faith, manage the affairs of Homing with due care, skill and diligence, avoid any conflict of interest, and not make improper use of her position to seek an advantage for herself or to cause detriment to Homing? If so, how would such a term apply in this case?

The Agreement is binding on the parties

83 As I mentioned earlier, Mdm Lee and Mr Chua have, in their closing submissions, conceded that the Agreement is binding (see [78] above). Nonetheless, given Mdm Lee's and Mr Chua's initial stances that the Agreement was not binding as the parties had not placed their stamps on the Agreement as appears to be required under Clause 9.3, it would be useful for me to make a few observations on this.

84 In my view, when assessing the enforceability of a contract, it is paramount that formalities do not overshadow the conduct underscoring the parties' intentions. This is because the law seeks ultimately to promote fairness and to uphold the spirit of agreements, prioritising the parties' behaviour and understanding over any rigid adherence to procedural niceties. Indeed, even where there are common law requirements for the affixation of seals for certain documents, *eg*, in the execution of deeds, the law has also taken a commonsensical approach of not insisting on the use of a physical seal and has advocated an approach where substance triumphs over form: see, for example, *Lim Zhipeng v Seow Suat Thin and another matter* [2020] 2 SLR 1151, at [37]–

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[38]. Such an approach must presumably apply with amplified force in the context of the present situation where no such common law requirement exists.

85 In the premises, I would have had little hesitation in rejecting any contention that the absence of the affixing of "stamps" in this case would have been of legal significance. I make in particular the following observations:

(a) There is simply no evidence that the parties themselves even actually contemplated the use of stamps on the Agreement. Both Mdm Lee and Mr Chua, for example, accepted that although they both owned their own seals, the parties did not end up bringing these seals along for the signing and neither raised any concern regarding the absence of seals on the Agreement.[174] Counsel for the Defendants even conceded, in the course of his opening statement, to having to research significantly on what the use of a "stamp" would even entail,[175] a concession which belies the point that the parties never really thought that they had to use "stamps" in the commonly understood sense. All of this therefore suggests that the need for the parties to have "signed and affixed their stamps" is simply a different way of the parties expressing in writing their intent that the Agreement would come into force once the parties have "shown in some way that [they] recognised the document as an expression of the contract" (see footnote 232 of Andrew Phang, *The Law of Contract in Singapore* (Academy Publishing, 2nd Ed, 2022) ("Phang (2022)"), at [08.075], citing M P Furmston, *Chesire, Fifoot and Furmston's Law of Contract* (Oxford University Press, 15th Ed, 2007), at p 273). Adopting a liberal approach to the interpretation of

174 8 January 2025 NEs, at p 19 lines 6–16; 9 January 2025 NEs, at p 48 line 22–p 49 line 18.

175 12 November 2024 NEs, at p 56 lines 7–13.

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the phrase "signed and affixed their stamps" as found in Clause 9.3 is in line with how the courts in both Singapore and the UK have quite liberally interpreted what suffices as a "signature" as a matter of law (see, for example, *Joseph Mathew and another v Singh Chiranjeev and another* [2010] 1 SLR 338, at [29]).

(b) Such a conclusion is fortified by the parties' conduct *before* the Agreement was signed, which suggests that they had all collectively assumed that the Agreement would be binding from the day it was signed. Starting from the drafting stage, the chronology of events shows that there was seriousness and solemnity to the negotiations as to how the Agreement was to be drafted, with various rounds of amendments and drafts circulated before the parties landed on the finalised draft that was signed.[176] In this connection, I found it difficult to understand Mdm Lee's and Mr Chua's claims on affidavit that they were happy to "sign" on the Agreement since it was not binding until they put their "stamp" on them – what would be the point of signing the Agreement, if they had assumed such act of signing was nothing more than an entirely hollow exercise?

(c) The parties' conduct *after* the Agreement had been signed leads us to the same conclusion. The evidence clearly shows that Mdm Lee received the funds and ran the business in a way consistent with the Agreement.[177] Indeed, how could it be that the parties otherwise had no binding agreement on how they were to run the businesses that they had, collectively, put over $1 million dollars into?

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176 OC 468 CBOD, at pp 27–65 (Various draft copies of the Agreement).

177 8 January 2025 NEs, at p 20 line 11–p 21 line 4.

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86 In any event, even assuming *arguendo* that Mdm Lee and Mr Chua did not believe that the Agreement was binding as they had not affixed their stamps on it (which appears extremely unlikely in light of what I indicated earlier), their willingness to sign it on Mr Ren's insistence only serves to underscore the fact that they knew full well that Mr Ren would have considered it to be binding upon its signing, and would have assumed this to be the common understanding across all three of them. It would otherwise make little sense from their perspective as to why Mr Ren would care that the Agreement be signed. If so, then even assuming Mdm Lee and Mr Chua genuinely believed that the Agreement would not have been binding as a matter of legal logic, it would be inequitable for Mdm Lee and Mr Chua to *now belatedly* contend that the Agreement was never binding for want of such a technicality if they knew, by so doing, they would be implicitly representing to Mr Ren that they intended to be bound by the Agreement. This is precisely why the court engages in an objective inquiry when determining whether an agreement is valid and binding (*SECC Holdings Pte Ltd v Helios PV (Asia Pacific) Pte Ltd (Sinohydro Corp Ltd (Singapore Branch), garnishee)* [2024] SGHC 215, at [45]). As was clearly articulated in *Smith v Hughes* (1871) LR 6 QB 597 (at 607):

> If, whatever a man's real intention may be, he so conducts himself that a reasonable man would believe that he was assenting to the terms proposed by the other party, and *that other party upon that belief enters into the contract with him*, the man thus conducting himself would be equally bound as if he had intended to agree to the other party's terms.
>
> [emphasis added]

87 For the above reasons, to the extent the issue remains a live one, it is clear to me that the fact that no stamps were affixed to the Agreement does not in any way detract from the fact that the Agreement is valid and binding on the parties.

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No implied term that Mdm Lee and Mr Chua would procure Homing to return the Loan to Mr Ren

88 Having found that the Agreement is binding on the parties, I next turn to the question of whether the proper interpretation of Clause 3.4 of the Agreement is, as Mr Ren asserts, that it requires the incorporation of an implied term that Mdm Lee and Mr Chua are duty-bound to procure the return of the Loan by Homing. As the Court of Appeal noted in *Sembcorp Marine* (at [100]–[101]), the implication of terms necessitates meeting a high threshold and is considered using a three-step process:

(a) The first step is to ascertain how the gap in the contract arises. Implication will be considered only if the court discerns that the gap arose because the parties did not contemplate the gap.

(b) At the second step, the court considers whether it is necessary in the business or commercial sense to imply a term in order to give the contract efficacy.

(c) Finally, the court considers the specific term to be implied. This must be one which the parties, having regard to the need for business efficacy, would have responded "Oh, of course!" had the proposed term been put to them at time of the contract. If it is not possible to find such a clear response, then the gap persists and the consequences of that gap ensue.

89 Using the test set out above as a scaffold, it is difficult to understand how the implied term alleged by Mr Ren could exist as a matter of law and as a matter of construction. Starting with the first step, there was nothing on the face of the Agreement, or the circumstances surrounding its signing, to suggest that such a term as suggested by Mr Ren was a gap that had not been contemplated.

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Indeed, the very fact that Clause 3.4(b) of the Agreement specifically states that the moneys were being loaned "on a no guarantee" basis fortifies the conclusion that the Loan was provided to Homing without any assurances, promises, or confirmation on outcomes or results.[178] One cannot countenance the existence of an implied term that is squarely contradicted by an express term of the Agreement – as G P Selvam J eloquently pointed out in *MP-Bilt Pte Ltd v Oey Widarto* [1999] 1 SLR(R) 908 (at [16]), one "cannot have two contracts, one written and the other implied, contradicting each other". In this connection, I disagree with the Claimants' contention that Mr Ren would have "zero recourse in the event of non-repayment",[179] as there was obvious recourse, but it is against Homing for the debt owed, and not a claim against Mdm Lee or Mr Chua for any purported breach of implied agreement (and even less so, for personal liability). In coming to this conclusion, I also disagree with Mdm Lee's and Mr Chua's contention that this was a situation where the parties had contemplated the issue but did not include any express term since they could not agree on a solution.[180] There was simply no evidence to suggest any specific discussion and/or non-agreement on this specific point at the time – although, if there had been, then it would put paid to any suggestion of the possibility of an implied term since an implied term's role is not to fill a gap caused by an explicit impasse: see *Sembcorp Marine*, at [95]. In any event, given the clear language of Clause 3.4(b) of the Agreement, the parties did in fact agree to squarely put the risk of non-return on Mr Ren if the business of Homing did not blossom in the way the parties must have hoped. There was therefore, in that sense, no gap to speak of.

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178 DCS, at [36].

179 CCS, at [77].

180 DCS, at [46], citing *Sembcorp Marine*, at [94(c)].

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90 That itself would suffice to deal with the matter. That said, for completeness, moving on to step two, even if a "gap" existed, I find that the implied term was far too vague to reasonably be said to make business or commercial sense. It is unclear what is meant by suggesting that Mdm Lee and Mr Chua have a duty to "procure that [Homing] returns the Loan to [Mr Ren]".[181] If what is meant is that they are giving a personal guarantee, then, as I explained earlier, that cannot be so since the Agreement squarely asserts that the Loan had been extended on a "no guarantee" basis. If the point being advanced is that such an implied term was in the form of a "best endeavours" clause, then that cannot in itself amount to a guarantee since even where such a clause explicitly stipulates for the need for a party to secure a specific outcome, the courts would be unwilling to interpret this as a "super-guarantee" that is "unqualified, unlimited or open-ended" and certainly not as a "warranty to procure the contractually-stipulated outcome": see *Hai Jiao 1306 Ltd and others v Yaw Chee Siew* [2020] 5 SLR 21, at [174] and [194].

91 On this point, Mr Ren relies on the case of *Tan Yong Hui v Aasperon Venture Pte Ltd and another* [2015] SGHC 169 ("*Tan Yong Hui*"), where the court implied a term that the director would take the necessary steps to give effect to the agreement in question, including having the company procure a bank guarantee (at [11(a)]). Mr Ren submits that a similar term should be implied in the present case "to give business efficacy to the entire transaction".[182] The case of *Tan Yong Hui* is clearly distinguishable in that the implied term imposing such duties on the director was to give effect to an express term in the agreement stating that the company would procure a banker's guarantee (at [10(b)]). In that sense, it was self-evident that the implied

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181 OC 468 SOC, at [14].

182 CCS, at [82].

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term would be necessary to the efficacy of the contractual arrangements between the parties; indeed, it was at the very heart of how the express arrangement involving a banker's guarantee could have been facilitated. The same cannot be said here. On the present facts, there is instead an express term to the opposite effect, providing that the Loan was to be on a "no guarantee" basis.[183] There is thus no reason why the term alleged by Mr Ren should be implied into the Agreement.

92 Counsel for the Claimants further seek to buttress their arguments by contending that the implied term is aligned to the tenor of the rest of the Agreement. In particular, Mr Ren places reliance on Clauses 4.1 and 8.3 of the Agreement. In my view, neither of these clauses advance Mr Ren's case in any appreciable way. For ease of reference, these clauses read as follows.

> 4.1. The Joint Investors shall distribute profits and allocate losses in accordance with the ratio [*sic*] shares held by them.
>
> …
>
> 8.3. In the event the Joint Investors come to an agreement to terminate their cooperation, the Joint Investors shall distribute or allocate any accruals arising from their investment according to the ratio of shares held, including but not limited to capital, assets and debts.

93 Mr Ren appears to be claiming that by virtue of Clause 4.1, the parties are willing to bear unlimited losses in accordance with their shares.[184] Consequently, it would follow, on Mr Ren's logic, that any debt on the part of Homing that was not paid back would be personally due from the shareholders. With respect, such an argument is not only a strained interpretation of Clause 4.1, but it is squarely contradicted by Mr Ren's own claim in OC 468.

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183 DCS, at [54]–[55].

184 12 November 2024 NEs, at p 86 lines 8–16.

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(a) On a matter of interpretation, Clause 4.1 was a clause that, on its face, only suggested that to the extent the parties take the risk of their shareholder equity being diluted as a result of losses, the parties agree to bear these risks in proportion to their investments. This is entirely unexceptional and largely coheres with how shareholdings work in that equity holders are exposed potentially to liability to the extent of the value of their shareholdings (and if the company ultimately fails, then there is a real risk that their entire equity is wiped out).

(b) In any event, the argument does not align to Mr Ren's own claim in OC 468. This is because Mr Ren is not suggesting that Mr Chua and Mdm Lee are liable for the proportion of the Loan that is in line with their shareholdings (*ie*, 35% and 30% of the Loan respectively), as his own interpretation of Clause 4.1 would necessarily imply, but instead that Mr Chua and Mdm Lee are responsible for the *full* loan. In that sense, Mr Ren's own demand that Mr Chua and Mdm Lee are responsible in full belie the falsity of his alleged reliance on Clause 4.1.

94 The same, in my view, can be said about Clause 8.3. The argument was made that Clause 8.3 requires that the parties bear all losses in proportion to their shareholdings.[185] This is, in my view, an attempt to completely re-write Clause 8.3. Clause 8.3 relates to the distribution of "accruals", *ie*, profits of the company. The simple point for Clause 8.3 is that the parties shall share profits in accordance with their shareholdings, after taking into account the net value of the company (*ie*, the "accruals" net of "capital, assets, and debts").

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185 8 January 2025 NEs, at p 25 lines 16–22.

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95 I note that in cross-examination, Mdm Lee appeared to concede that the parties agreed to share profits *and losses* pursuant to Clause 8.3.[186] Nonetheless, it is clear that this was an admission she did not fully appreciate. Indeed, such a concession would be entirely at odds with how she herself took pains to impress to Mr Ren in the negotiations prior to the signing of the Agreement that for limited liability companies, the question of personal liability simply possesses no scope for application and that personal liability of shareholders is a concept alien to company law generally. I provide slightly more context to what I mean by this. In an earlier draft of the Agreement, Mdm Lee struck off the following clause that was initially wedged between what eventually ended up being Clauses 4.1 and 4.2, explaining in a comment accompanying such deletion that she deleted the clause as it did "not apply to limited companies":[187]

> The debt of the investment project shall be repaid with the common property first. When the common property is insufficient to repay the debt, the co-investors shall each be liable for the common investment within the limit of their shareholding ratio, and the co-investors shall be liable to [Homing] within the limit of their shareholding ratio.

96 The point made by Mdm Lee in her explanation for why she deleted the clause in question paints a very clear and unambiguous picture. It reflects the fact that the question of shareholders "sharing" losses of a company is inimical to the separate personality principle, and, as a matter of general principle, the debts of a company do not extend to its investors or equity holders. In that sense, it was a clear assertion by Mdm Lee of the fact that the separate personality principle was intended to apply in this specific setting, and that the parties should not be held liable for any of Homing's debts should Homing not be able

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186 8 January 2025 NEs, at p 25 lines 16–22.

187 OC 468 CBOD, at p 50 (comment by Mdm Lee on an earlier draft of the Agreement).

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to repay its loans. I note, on this point, that there is no evidence to suggest that Mr Ren pushed back on this specific edit to the Agreement.

97 Turning finally to the third step of the *Sembcorp Marine* framework, it is difficult to see how any party could reasonably have replied "oh, of course!" if the proposed term had been put to them at time of the contract. On the contrary, they would have quite understandably responded, "of course not! How would that even work?" In particular, Mdm Lee and Mr Chua would have highlighted the difficulties involved in satisfying any duty to return the Loan moneys when Homing was in financial trouble, or technically insolvent. They may have pointed out how, on a practical level, Homing would not be able to disburse funds that it may not even have in its possession in the event of financial difficulties. If they were aware of the niceties of company and insolvency law, they may have even added that it was difficult to see how such an arrangement would not potentially contravene s 225 read with s 226 of the IRDA.[188] For context, the IRDA expressly disallows and renders nugatory any attempts immediately pre-liquidation to siphon moneys away from a company (which is potentially on the brink of insolvency, if not already in insolvency) to an individual creditor related to the company by way of an undue preference.

98 Utilising the three-step *Sembcorp Marine* framework, therefore, it is patently clear that the term that Mr Ren seeks the court to imply was not something that the parties would likely have ever come to an agreement on. It was also something that would have been unworkable in any event and would have been illogical to execute. In any event, on a more fundamental level, the entire premise that directors can be made personally responsible in some way for the repayment of loans given to their companies, without more, would be to

188 DCS, at [56].

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drive a coach and horses through the separate legal personality principle since it would, in effect, be an insidious way to have loans to corporate entities automatically result in personal director liability, despite there being no specific agreement on the part of the company's management to do so. In that sense, what Mr Ren is suggesting squarely contravenes "business or commercial sense" and is inimical to the very *raison d'être* of company law, rather than being aligned to it.

99 Finally, I note how Mdm Lee accepted in cross-examination that she had an obligation to arrange for Homing to repay the Loan when it fell due.[189] This acceptance does not detract from my conclusion that the term alleged by Mr Ren ought not to be implied into the Agreement. In a general sense, Mdm Lee's concession is correct in so far as in very broad terms, directors have a duty to ensure that the company meets its financial obligations as they arise, not least in order to safeguard its solvency and protect the company from the implications of default. However, this presupposes that the company stands in decent financial health to begin with. It would be obvious that such duties take on a somewhat different form where the financial health of a company is poor, which is precisely the situation that Homing found itself in due to the effects of the COVID-19 pandemic on its business.[190]

100 As an aside, I do not accept Mr Ren's claims (while on the stand) that Homing was not, in fact, facing financial difficulties. For one, Mr Ren was not in possession of any accounts that could meaningfully debunk Mdm Lee's characterisation of the financial status of Homing Group,[191] and instead, sought

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189 9 January 2025 NEs, at p 4 lines 7–14.

190 OC 468 Mdm Lee AEIC, at [23].

191 14 November 2024 NEs, at p 55 line 24–p 56 line 3.

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to untenably appeal for the court to accept his impressionistic perception that he did "not feel that it was the pandemic that had a negative effect on the company … and [Mdm Lee and Mr Chua] were using the pandemic as an excuse".[192] For another, as was noted by Mdm Lee and Mr Chua, if indeed, Homing was viable financially and had access to a ready pool of funds, it is perplexing why Mr Ren did not seek recourse through the more obvious approach of suing Homing directly and/or seeking a default judgment from it on the matter of the debt.[193] There would be little reason for Mr Ren to opt to wind up Homing. When asked about this in cross-examination, Mr Ren vacillated and gave various contradictory responses – insisting all in the same breath that the Agreement had ended by then, that everything needed to be wound up as a matter of principle, that the period of discussions on whether to extend the business could be used to pilfer moneys out, and that the entire joint venture was a fraud and that winding up was necessary to assess the value of the contributions of Mdm Lee and Mr Chua.[194] None of these answers actually responded to the question posed – *ie*, if he had reason to believe that Homing's finances were healthy, why not just sue it for repayment?

101 As I alluded to earlier (see [71] above), in support of his version of events, Mr Ren alleges that sometime in August 2020, he had spoken to Mr Chua over the phone to procure the return of such loan from him. Mr Ren in his affidavit testified that, over the phone, on 3 and 4 August 2020, Mr Chua had agreed to a return of the Loan in the following manner:[195]

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192 22 November 2024 NEs, at p 16 lines 5–9.

193 15 November 2024 NEs, at p 50 line 6–p 51 line 25.

194 15 November 2024 NEs, at p 50 line 6–p 51 line 13.

195 OC 468 Mr Ren AEIC, at [63], pp 116–117 (Extracts of audio transcript for audio recording 20200803-001 between Mr Chua and Mr Ren).

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(a) That Homing would transfer $210,000 to Mr Ren within two days;

(b) That Mr Chua and Mr Ren would subsequently transfer all of their shares to Mdm Lee; and

(c) That Homing would draw up a contract to pay Mr Ren a sum of $765,000 with interest over the next one to three years.

102 As I explained earlier, Mr Ren offered audio footage of "the relevant part" of a conversation between himself and Mr Chua suggesting that such an agreement did take place.[196] For context, and in order to understand the observations I intend to set out later on such evidence, I have set out the *entire* translated transcript of the approximately two-minute audio recording that constitutes "the relevant part" initially produced in evidence by Mr Ren in Annex B attached to this judgment.[197]

103 On any reading, the extract provided little to no context to it and appears to have been reduced to only provide evidence of the above points made in the conversation *in vacuo*. I make a few observations on this front.

(a) Seen *in vacuo*, what Mr Ren is urging this court to infer, based on the extracts he put forth, is that Mr Chua was insisting *to incur* personal liability for a debt in a company which he was not largely involved in anymore, and to pay off the debt of a business that was not profitable (whether due to COVID-19 or just bad management), at the pain of even mortgaging his own house. Mr Ren claims that Mr Chua

196 OC 468 Mr Ren AEIC, at [63].

197 OC 468 Mr Ren AEIC, at pp 116–121 (Extracts of audio transcript for audio recordings 20200803-001, 20200803-007 and 20200804-3 between Mr Chua and Mr Ren).

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provided such promises in spite of the fact that doing so is of no ostensible benefit to him and despite Mr Ren literally saying nothing in response in such a conversation except stock phrases or platitudes, and at times, even persuading Mr Chua to think twice about promising such things to his own detriment. Not only does the stark difference between Mr Chua's and Mr Ren's responses suggest that Mr Ren was, in essence, laying the groundwork for Mr Chua to say things he was seeking to surreptitiously record, but the entire flow of conversation is impossible to appreciate or understand in the absence of badly needed context. Why is one party (*ie*, Mr Chua) agreeing to terms that are detrimental to him in the absence of any coercion or promise by a third party? In my mind, having regard to those realities, I find it to be quite inexplicable for Mr Chua to have agreed to any such arrangement *sua sponte*. Seen in the round, the extract of the recording that Mr Ren put forth plainly lacks the clarity and nuance necessary to determine the true nature of the interaction – even taken at face value, it is immediately obvious that there was every chance that this was an intentionally incomplete and misleading piece of evidence.

(b) Indeed, even taking the extract at its absolute highest (*ie*, even if I ignore the context and read the extracts adduced literally), it is not even clear to me that the audio recording actually tells me anything of evidential value. In particular, in the audio recording, Mr Chua makes the point that even if the money is passed to Mr Ren, that "once [Mr Ren has] solved the problem, [he] can *return the money* to [*Mr Chua*]" [emphasis added].[198] The fact that the money had to be returned to Mr

198 OC 468 Mr Ren AEIC, at p 121 (Extract of audio transcript for audio recording 20200804-3 between Mr Chua and Mr Ren).

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> Chua (after the resolution of "the problem", whatever this might be) plainly suggests that whatever moneys he was promising Mr Ren was not, in fact, for the payment of a debt, but in the form of the extension of a loan. Again, it is impossible to know for a fact whether such an interpretation is correct purely on a reading of the "the relevant part" of the telephone conversations provided since the extracts were entirely bereft of context, but even if I am forced to read the produced recording completely devoid of any context (as Mr Ren urges me to), the simple point is that the audio footage would be of little relevance as it has no context and is therefore entirely non-probative as evidence.

104 Given the concerns I had with the clear lack of context underlying "the relevant parts" of the telephone conversations adduced in evidence, during a case conference on 7 October 2024, I directed for a soft copy of the full audio recording to be disclosed to the Defendants,[199] and on the first day of the trial (*ie*, 12 November 2024), I directed the parties to tender to the court a translated transcript of the full audio recording.[200] I then clarified my directions on the second day of the trial (*ie*, 14 November 2024) as counsel for the Claimants revealed that they had misunderstood such directions.[201] Apparently, counsel for the Claimants understood my directions on 7 October 2024 to mean I wanted the Claimants to serve the audio recording of the *extracts* initially reproduced in Mr Ren's affidavit and not the *full recording* – a direction that would have been of no value since the utility of an out-of-context audio recording would be as limited as the utility of the transcripts for an out-of-context recording.[202] As

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199 7 October 2024 Minute Sheet, at p 8.

200 12 November 2024 NEs, at p 11 line 4–p 12 line 22.

201 14 November 2024 NEs, at p 76 line 6–p 79 line 11.

202 14 November 2024 NEs, at p 76 lines 6–12.

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explained earlier, I made these directions on the premise that it would otherwise be impossible to know what weight to give to the recording without the context needed to make meaning of what was being said, and the context in which it is said. It is not in dispute that my directions at the case conference were initially not complied with,[203] and Mr Ren handed the full approximately three-hour worth recordings to his lawyers halfway through trial (*ie*, on 15 November 2024),[204] and the translation of the transcripts were only completed a few days after. I note that even these did not constitute the complete set of audio recordings as, during cross-examination, Ren hinted at the existence of a further audio recording of a phone call between himself and Mr Chua that took place on 5 August 2020.[205]

105 When one views the transcript of the conversations that were eventually disclosed in full, quite a different picture emerges than the one that Mr Ren had sought to portray by way of recourse to "the relevant parts", *ie*, the extracts he placed in his affidavit. The full recording was, in fact, replete with Mr Chua making repeated assertions that the Loan was to the company and therefore did not attract personal liability, and that Mr Ren's actions (of demanding that he take personal responsibility) contradicted Mr Chua's understanding of what had been agreed on at the time. The essence of Mr Chua's understanding as set out in the full recording is best encapsulated when he said the following: "My bottom line is that *the company will bear these debts, and the company will repay these debts*" [emphasis added].[206] To further illustrate the unambiguous

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203 14 November 2024 NEs, at p 77 lines 7–10.

204 21 November 2024 NEs, at p 27 lines 13–18.

205 22 November 2024 NEs, at p 23 line 15–p 24 line 7; DCS, at [118].

206 Translated Audio Transcript for Audio Recording 20200803 ("3 August 2020 Audio Transcript"), at p 92 timestamp 1:28:18.

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tenor of the full conversations, I extract just some of Mr Chua's responses during the conversation as found in the *full* transcript:

> I don't think it's a matter of being excessive or not, but rather a matter of repaying the money borrowed by the company today, but it cannot become a personal debt. This is my understanding. That's how I understood it three years ago.[207]
>
> … I don't want anyone to bear [the debt]. I want this company to bear it. Then this company will make money and return it all. This is my understanding. This is also my insistence.[208]
>
> … For me, it's just that [Homing] owes the borrower money and must repay it. The company must earn it back and repay it.[209]

106 In fact, it would even seem that Mr Ren appreciated (and presumably agreed with) Mr Chua's understanding of the situation, as he insisted that moving forward, if the Loan was to be "renewed" (which was presumably an allusion to the Loan being extended), either Mr Chua or Mr Ren should sign something in their personal capacity as a guarantor, a proposal that Mr Chua unequivocally rejected.[210] As Mr Chua stated in response to such demands in the full recording, quite tellingly, "I know you want a guarantee, but the only guarantee I can give you is that these companies must work hard to make this money back".[211]

107 It therefore appears clear that what Mr Ren initially placed before the court in his affidavit were specific extracts of the recording taken out of context. Far from supporting Mr Ren's narrative, the recordings, seen in the round, very much detract from it. Given that it was Mr Ren who made surreptitious

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207 3 August 2020 Audio Transcript, at p 76 timestamp 1:09:14.

208 3 August 2020 Audio Transcript, at p 78 timestamp 1:10:50.

209 3 August 2020 Audio Transcript, at p 79 timestamp 1:12:44.

210 3 August 2020 Audio Transcript, at p 56 timestamp 51:39–p 61 timestamp 53:44

211 3 August 2020 Audio Transcript, at pp 69–70 timestamp 1:00:51.

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recordings of the conversation without Mr Chua's knowledge, Mr Ren could therefore actively steer the conversation unfairly in a way that advantages him (see *Shenzhen Kenouxin Electronic Co Ltd v Heliyanto and others* [2016] SGHC 139, at [74]). The fact that the recording still nonetheless yielded no useful evidence in Mr Ren's favour only further supports Mdm Lee's and Mr Chua's defence that there was no common understanding of there being an implied term in Mr Ren's favour. Indeed, at the risk of reiteration, Mr Chua, in the recordings, took especial pains to make the point *repeatedly* that it was not his understanding that when they signed the agreement, either Mdm Lee or Mr Chua would be taking any personal responsibility for the payment of the Loan (akin to a guarantee).[212]

108 The upshot of the above analysis is that it is clear that Mr Ren was actively painting an inaccurate picture of the phone conversations that were had between himself and Mr Chua. It is not believable that Mr Ren genuinely accepts that the extracts he initially included in evidence is even remotely a fair reflection of the substance of the conversations had, since the parts he had initially disclosed, *ie*, "the relevant part", painted a misleading caricature of what the discussions in fact involved.

109 I parenthetically note, as Mdm Lee and Mr Chua have,[213] that I am puzzled as to why counsel for the Claimants did not enquire with Mr Ren on the availability of the full recordings before trial to assess its significance in the case, and whether it should be made subject to discovery, or to be disclosed to the court. I disagree with the Claimants that this is an "embarrassing" or

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212 3 August 2020 Audio Transcript, at pp 28–32, 37–38; Translated Audio Transcript for Audio Recording 20200804 ("4 August 2020 Audio Transcript"), at p 13; DCS, at [51].

213 DCS, at [117].

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"dishonest" allegation by Mdm Lee and Mr Chua, for I struggle to understand what further evidence the Defendants could have, or ought to have produced, as counsel for the Claimants insist.[214] Looking at the extract presented by Mr Ren in his affidavit (which is, as I indicated earlier, set out in Annex B to this judgment in full), it must have been in counsel's contemplation that what was being offered by Mr Ren was an extract that was completely devoid of context. To be clear, what I mean is that the full context could have, at the time, potentially supported Mr Ren's position (which then means it would have been in their client's interest to have the full recording placed before the court), or it may have detracted from Mr Ren's position (which means it would probably have to be disclosed to the other side as part of discovery). Either way, it was plain as day that there should have been some follow-up and it would have been foolhardy to just take Mr Ren's word at face value, as the extracted portions he provided made little sense and was so devoid of context as to be useless as evidence. In this case, it was clear that the full transcripts would have painted a far more nuanced picture of the situation that Mr Ren was seeking to portray, though what that nuance was would only have been fully appreciated once one had gone through the full recording. On this point, it is no excuse for counsel to put the ball in the client's court and to blithely assume what is being declared by him as being complete, and to simply not ask questions. As Prof Jeffrey Pinsler rightly noted in his treatise *Legal Profession (Professional Conduct) Rules 2015: A Commentary* (Academy Publishing, 2nd Ed, 2022), at 10.015:

> The lawyer must inform his client as early as possible of the duty to disclose documents in Court proceedings and that he must not destroy or conceal potentially disclosable documents. The lawyer must carefully control the discovery process so that all disclosure obligations are met. *His duties include reviewing documents disclosed by the client and to pro-actively consider whether any relevant documents may have been omitted.* If he has any reasonable grounds to believe that there are more

[214] CRS, at [12], [16].

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> discoverable documents yet to be disclosed, *he must take the necessary steps to secure them …*
>
> [emphasis added]

110 That counsel has a proactive duty to do so arises from how the discovery process seeks to ensure that relevant evidence is provided to the other side with a view to reducing surprises at trial. As the Court of Appeal observed in *Teo Wai Cheong v Crédit Industriel el Commercial and another appeal* [2013] 3 SLR 573, at [41]:

> Discovery is a fundamental rule in our system of litigation. In the plain language of Sir John Donaldson MR in *Davies v Eli Lilly & Co and Others* [1987] 1 WLR 428 ("*Eli Lilly*") at 431, litigation is conducted 'cards face up on the table'. There are several reasons for this cardinal principle of litigation. The broad rationale of any system of discovery is said to be the just and efficient disposal of litigation … *The just and efficient disposal of litigation can only be achieved by ensuring that parties disclose the relevant evidence before any hearing of the matter, thus allowing counsel and the parties to evaluate the strength of their respective cases, clarify the issues between them, reduce surprises at the trial and encourage settlement …* Such a philosophy recognises that although our system remains an adversarial one, it is not one that condones a litigant winning on 'tactical considerations' alone…
>
> [emphasis added]

111 Counsel for the Claimants contend that they were never in receipt of the full three-hour long audio recording until after the third day of the trial.[215] This appears to have been prompted solely by my request for a translated copy of the transcripts on the first day of the trial, given how my specific directions for full disclosure on 7 October 2024 to the other side appear to have been ignored (see [104] above). I found this to be rather unfortunate as, for the reasons I have provided earlier, it would have been obvious to any reasonable lawyer that the extract was so bereft of context that what has been put before the court would

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[215] 21 November 2024 NEs, at p 4 line 18–p 5 line 4, p 27 lines 13–18.

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have little value unless it was situated within the context of the broader conversation that the parties had. This was not a case in which counsel was informed that such evidence has been deleted, such that the extract provided serves as the *best evidence available*, but simply a case where it seems that obvious, important and relevant evidence had simply been ignored.

112 This is problematic not only from an ethical perspective, but also from a court efficiency perspective. The facts of this case unfortunately bear it out. I do not accept Mr Ren's contention that "there had been no late disclosure" of the full audio recordings from his perspective because these recordings were purportedly not relevant to the present proceedings.[216] Although I accept that counsel for the Defendants could have alerted the Claimants upon discovering their failure to produce the full audio recordings,[217] it is ultimately the Claimants who have failed to comply with my directions since 7 October 2024 and delayed disclosure of the full three-hour long conversation. As a result, the case was adjourned mid-trial for a day and a half to have the necessary translated transcript prepared (as the telephone conversations were entirely in Mandarin), and for counsel for the Defendants to become sufficiently *au fait* with the transcripts in order to cross-examine Mr Ren on them. This was done halfway through cross-examining Mr Ren, which meant that counsel for the Defendants were potentially prejudiced, or at least hampered, by the lack of access to the full recording when they undertook cross-examination at the outset. This was an unfortunate series of events and again, I reiterate that it speaks poorly of a solicitor's approach to discovery (and indeed, to understanding their own client's evidence) in this case. I also note that even such an act of eventual disclosure amounted to a delayed response to my concerns, since I had

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216 CRS, at [10].

217 14 November 2024 NEs, at p 78 lines 21–24; CRS, at [11].

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articulated these directions (for the release of the full audio recordings to the other side) to counsel for the Claimants pre-trial on 7 October 2024.

113 In any event, even if I were to accept that the import of the conversation was exactly as has been suggested by Mr Ren (which seems distinctively unlikely once one understands the full context of the discussion), the agreement to resolve the matter would not have been binding in any event since the proposal appears to be about future conduct by all of the parties, and presumably would have to be subject to further documentation being signed by all parties. In this regard, I note that Mr Chua could not have, in any event, promised a transfer of $210,000 from Homing to Mr Ren as he could not, on his own, decide matters for Homing. Even if Mr Chua's promise was of any legal value, such a promise could not have formed a binding agreement since the absence of any consideration on the part of Mr Ren would not have satisfied the requirement for sufficient consideration, which requires there to be some value in the eyes of the law: see *Sunny Metal & Engineering Pte Ltd v Ng Khim Ming Eric (practising under the name and style of W P Architects)* [2007] 1 SLR(R) 853, at [30]; Phang (2022), at [04.026].

114 For completeness, I note that to the extent the point is that the conversations are being relied upon to suggest that the conversations in August 2020, in and of themselves, amount to a *new agreement* on the part of Mr Chua to be personally liable for, and to guarantee, Mr Ren's loan to Homing (rather than just, as Mr Ren asserts, to serve as nothing more than additional evidence to support a finding that there was an implied term in the Agreement),[218] such an agreement would not be enforceable in any event. This is because under s 6(*b*) of the Civil Law Act 1909, any such agreement on the part of Mr Chua

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218 OC 468 Mr Ren AEIC, at [63].

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to "answer for the debt, default or miscarriage" of a third party is required to be in writing and signed by the party in question (in this case, Mr Chua) (see also *Ho Soo Fong v Ng Mr Chuan Hwa and others* [2010] SGHC 176, at [42]–[43]). It is clear that an oral promise of this nature – let alone an oral promise in such vague terms as to be impossible to fully discern its contours – would simply not suffice under law to warrant the ascribing of legal liability or responsibility. Although to be fair, this does not appear to be the import of Mr Ren's case.

115 More broadly, in assessing the weight to be given to Mr Ren's evidence as a whole, I am constrained to note that he was not the most credible of witnesses. Quite apart from his apparent action of seemingly shielding from view obviously relevant audio evidence as I have explained at length above, I observe a marked shift from the evidence Mr Ren provided in his affidavit to his oral evidence on the stand. In particular, Mr Ren's evidence in court appeared to be so slanted that it was difficult to accord it any credit. In his oral testimony, Mr Ren adopted conspiratorial stances on almost anything that Mdm Lee and Mr Chua did over the course of Homing's life. Examples of such instances are as follows:

(a) On a broad level, Mr Ren took the stance that the entire business of Homing constituted an elaborate hoax, a co-ordinated ruse of sorts that Mdm Lee and Mr Chua engineered from the time Homing was set up in order to defraud him of his money.[219] To use his own words on the stand:[220]

> … The two of them should actually -- have cheated me ever since the beginning through this joint venture and I only came to realise of this, in August 2020, that this was all a scam. The two of them promised to come into

[219] 14 November 2024 NEs, at p 34 lines 12–14.

[220] 15 November 2024 NEs, at p 50 line 24–p 51 line 7.

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> the joint venture by bringing in management experience and IP, but it was all fabricated. It was all an elaborate fraudulent business scam by the both of them. They have cheated me of my $1 million investment. …

(b) Mr Ren also suggested that Mdm Lee "destroyed all the evidence" and was in the habit of "using company funds to resolve her personal issues".[221] No evidence was proffered in support of this.

(c) Mr Ren suggested that the financial reports and documents sent by Mdm Lee every few months could not be relied on as these documents could be inauthentic.[222] Mr Ren suggests this in spite of having no evidence to support such an assertion,[223] and in spite of having sent numerous messages over time explicitly acknowledging the hard work of Mdm Lee and the team when he was sent those documents.[224] I also note that Goldciti had not raised any concerns regarding the authenticity of Homing's financial documents after conducting its financial review.[225]

(d) Mr Ren rejected the idea that Mdm Lee sought his advice from time to time, despite concomitantly accepting that he had in fact given "advice and suggestions relating to the company" from time to time.[226]

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221 15 November 2024 NEs, at p 18 lines 2–13, p 24 lines 2–4.

222 14 November 2024 NEs, at p 10 lines 15–23.

223 14 November 2024 NEs, at p 52 line 16–p 53 line 4, p 55 line 17–p 56 line 3; DCS, at [76].

224 OC 468 Mdm Lee AEIC, at pp 116–117 (Original screenshots and translation of WhatsApp group chat conversations between Mr Ren, Mr Chua and Ms Huang between 28 March 2020 and 2 October 2020).

225 DCS, at [76].

226 14 November 2024 NEs, at p 25 lines 5–8.

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Mr Ren then proceeded to insist that he had only given "suggestions", and not "advice",[227] as if the two possessed any appreciable difference.

(e) Mr Ren claimed Mr Chua gave "his personal guarantee for the entire project … and that's why [Mr Ren] decided to venture into this business".[228]

116 To be sure, any of the singularly improbable claims made by Mr Ren as summarised in the preceding paragraph may find *some* plausibility within a specific context, but when woven together within a wider tapestry of similarly far-fetched and baseless assertions, the credibility of Mr Ren's entire account begins to unravel.

117 In the premises, I see little basis to imply a term, which imposes a duty on Mdm Lee and Mr Chua to procure the return of the Loan by Homing, into the Agreement. I also reject any suggestion that there was any term (whether express or implied) in the Agreement that Mdm Lee and Mr Chua would be exposed to personal liability, whether by way of a guarantee or otherwise, for the return of the Loan.

118 Given that there is no implied term as contended by Mr Ren, OC 468 must fail. Nonetheless, even if such an implied term were to exist, I agree with the Mdm Lee and Mr Chua that damages have not been proven.[229] It does not follow that a breach of the alleged implied term would mean that the corporate veil should be lifted such that Mdm Lee and Mr Chua are suddenly liable for the *full* amount of the Loan. As was clarified by this court in *Youprint*

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227 14 November 2024 NEs, at p 25 line 5–p 26 line 10.

228 22 November 2024 NEs, at p 1 line 25–p 2 line 9.

229 DRS, at [21].

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Productions Pte Ltd v Mak Sook Ling [2023] 3 SLR 1130, for the recovery of substantial damages, the claimant must prove its loss (at [5]):

> The innocent party is always entitled to claim damages as of right for loss resulting from breach of contract: see *RDC Concrete Pte Ltd v Sato Kogyo (S) Pte Ltd and another appeal* [2007] 4 SLR(R) 413 at [40]; *Denka Advantech Pte Ltd and another v Seraya Energy Pte Ltd and another and other appeals* [2021] 1 SLR 631 at [60]. Breaches of contract are actionable without proof of damage, but recovery of substantial damages requires proof of such loss: *The Law of Contract in Singapore* vol 2 (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2nd Ed, 2022) at para 20.073. If the claimant fails to prove either the fact of damage or the quantum of its loss, only nominal damages may be awarded: *Biofuel Industries Pte Ltd v V8 Environmental Pte Ltd and another appeal* [2018] 2 SLR 199 ("Biofuel") (at [44]).

119 To recover the full amount of the Loan, Mr Ren thus has to prove the value of his claim. In this regard, Mr Ren has done no such thing – no evidence has been led to show how the value of the claim Mr Ren has before and after the purported breach is any different, and he does not provide any other meaningful basis for the computation of damages. To put this point in context – if Homing had no money to pay back the debt in full but Mdm Lee and Mr Chua had taken steps for Homing to return the Loan, Mr Ren would presumably only be able to get a small fraction of what he was in fact owed. This is assuming any such direction to return the Loan was legal, and in compliance with the IRDA, to begin with, and there may very well be forceful public policy reasons as to why this may not be so.[230] In that sense, any damages, if at all, would likely be significantly tempered by these overlapping realities. Despite this obvious point, Mr Ren has instead taken the untenable position that the damages that flow from such breach is the entire sum of the Loan that was initially due to him. I highlight this only in the interest of comprehensiveness, if only because

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230 DCS, at [70].

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the nature of the circumstances is such that I do not find that an implied term even exists.

No implied duties on Mdm Lee pursuant to Clause 5.1

120 I next turn to Mr Ren's alternative claim that, by virtue of Clause 5.1 of the Agreement, Mdm Lee has an implied duty to act honestly and in good faith, to manage the affairs of the company with due care, skill and diligence, to avoid any conflict of interest, and to not make improper use of her position to seek an advantage for herself or to cause detriment to the company. With respect, the cause of action is based on a *non sequitur* in that while those duties clearly exist as a matter of law and cannot be seriously disputed, it does not mean those duties can arise out of implied terms in agreements amongst shareholders or creditors such that those duties are *owed* to specific shareholders or creditors, as opposed to being owed to the *company* as a composite entity. I explain.

121 To commence analysis, there can be no quibble with the general proposition that directors must act in the best interests of the company. On a broad level, all directors have a duty to act honestly and in good faith, manage the affairs of the company with due care, skill and diligence, avoid any conflict of interest, and not make improper use of one's position to seek an advantage for himself or herself or to cause detriment to the company. Indeed, s 157(1) and s 157(2) of the Companies Act 1967 (2020 Rev Ed) (the "Companies Act 1967") statutorily enshrine some of these basic duties, and these duties are understood to be generally non-excludable. Failure to adhere to those duties constitutes a criminal offence and would result in the disgorgement of any profits obtained. Connected to this is the idea that every director is clothed with the same duties, whatever their background experiences and ability may be: see *BIT Baltic Investment & Trading Pte Ltd (in compulsory liquidation) v Wee See*

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Boon [2023] 1 SLR 1648 at [43]. This would apply to Mdm Lee, and indeed, every other director of companies in Singapore, as a matter of law. The desire to read it into the Agreement as an implied term by virtue of Clause 5.1 therefore does precious little more, since the statutory and common law duties she owes to Homing would mean that she would never be in a position to "conduct herself in a manner opposed to [Homing's] interests" as Mr Ren alleges,[231] and there is simply no need to engage in the fiction of trying to artificially pigeonhole such duties into agreements struck on behalf of a company. In any event, trying to force such duties into Clause 5.1 is a plain case of trying to fit a square peg into a round hole, in so far as it is clear that Clause 5.1 is merely a general administrative clause that speaks to the fact that Mdm Lee would have day-to-day charge of Homing, and nothing else.

122 Why then would Mr Ren insist that the court should find this to be an implied term of Clause 5.1 of the Agreement? In my mind, it would appear that Mr Ren is suggesting this is so in order to try and contend that the duty to the company to act honestly and in good faith is owed *specifically* to him and therefore is actionable by him as opposed to the company, by virtue of the Agreement. But with respect, that cannot be correct since, as I explained earlier, the duties under s 157 of the Companies Act 1967 to the company are non-delegable and mandatory (see *Walter Woon on Company Law* (Tan Cheng Han gen ed) (Sweet & Maxwell, 3rd Ed, 2009) ("Walter Woon (2009)"), at [8.7]). It must follow then that the duties are, by definition, *always* owed to the company and cannot be superseded, or otherwise modified, by any duty owed to a third party. Since this must be so, then it would follow that any breach of duty of fidelity to the company must be the subject of an action *by the company*, as opposed to an action *by a specific creditor*. Indeed, the Court of Appeal made

231 CCS, at [91].

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that precise point in *Liquidators of Progen Engineering Pte Ltd v Progen Holdings Ltd* [2010] 4 SLR 1089 ("*Progen Engineering Pte Ltd v Progen Holdings Ltd*"), at [52], in which it noted as follows:

> … it is only right that directors ought to be accountable to creditors for the decisions they make when the company is, or perilously close to being, insolvent. We add, parenthetically, that this fiduciary duty is strictly speaking owed *to the company*; *there is no duty owed directly to creditors*. In other words, individual creditors cannot, without the assistance of liquidators, directly recover from the directors for such breaches of duty (see *Yukong Line Ltd of Korea v Rendsburg Investments Corporation of Liberia (No 2)* [1998] 1 WLR 294; and more recently, *Re Pantone 485 Ltd, Miller v Bain* [2002] 1 BCLC 266). ***If creditors were allowed to recover directly, it would contravene the collective procedure of insolvency and open a back door for some of them to work around the pari passu rule.*** Allowing creditors *and* the company to directly recover from directors might also lead to double recovery …
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> [emphasis in original in italics; emphasis added in bold italics]

123 The point is this. On a conceptual level, even when a company is on the brink of bankruptcy, or otherwise technically insolvent, there are no freestanding duties to creditors *per se*, but "the existing fiduciary duty to act in the best interests of the company is merely adjusted to require the interests of creditors (as a class) to be considered". (see Jared Foong, "The Law on Creditors' Interest and Directors' Fiduciary Duties in Singapore", *Singapore Law Gazette*, April 2024 <https://lawgazette.com.sg/feature/the-law-on-creditors-interests-and-directors-fiduciary-duties-in-singapore/> (accessed 12 March 2025)). Put another way, it is the chameleonic nature of a director's duty to a company that can morph and change colour according to its context, but this, in no way, is suggestive of any freestanding (actionable) duties to creditors suddenly arising from the ashes of an insolvent company. The Court of Appeal recently reiterated in *Foo Kian Beng* that the duty to consider the interests of

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creditors when a company is financially parlous is not owed directly to creditors as follows (at [60]):

> … we reiterate that the [duty to consider the interests of the creditors (the "Creditor Duty")] is a fiduciary duty that directors owe to the *company*. ***This duty is not one that directors owe directly to creditors*** ([*Liquidators of Progen Engineering Pte Ltd v Progen Holdings Ltd* [2010] 4 SLR 1089] at [52]) ***and creditors therefore cannot sue directors for breach of the Creditor Duty*** (see [*BTI 2014 LLC v Sequana SA and others* [2022] UKSC 25 ("*Sequana*")] at [11], [77] and [267]). Rather, ***the proper plaintiff in an action for breach of the Creditor Duty is presumptively the company*** (see *Ascend Field Pte Ltd and others v Tee Wee Sien and another appeal* [2020] 1 SLR 771 at [35]), and any financial award resulting from a successful action for breach of the duty inures for the benefit of the company, though it may in practical terms be subsequently distributable among the company's creditors (see *Sequana* at [267], *per* Lady Arden).
>
> [emphasis in original in italics; emphasis added in bold italics]

124 It follows from the logic of the argument above that I would respectfully depart from the conclusion of this court in *Federal Express Pacific Inc v Meglis Airfreight Pte Ltd* [1998] SGHC 417, in which it was suggested that fiduciary duties to the creditors (as a class) can be translated into a direct cause of action for individual creditors to commence suit against individual directors (at [18]–[22]). Not only is this conclusion in apparent contradiction to the conclusion of the Court of Appeal in *Progen Engineering Pte Ltd v Progen Holdings Ltd*, as discussed above, but as some other commentators observe, such a position appears to be at odds with the position taken by the wealth of Commonwealth jurisprudence suggesting otherwise, including in, for example, Australia (*Spies v The Queen* [2000] HCA 43, at [90]; see also the comments of Markovic J in *Australian Securities and Investment Commission v Bettles* (2023) 169 ACSR 244, at [433]) and the UK (see *Yukong Line Ltd of Korea v Rendsburg Investments Corporation of Liberia and others (No 2)* [1998] 1 WLR 294, at 312; and the more recent UK Supreme Court decision of *BTI 2004 LLC v*

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Sequana SA and others [2022] 3 WLR 709 (at [267], [276]–[277]) (see also Walter Woon (2009), at [8.28]).

125 Having sketched out the legal parameters, I turn back to the facts of this case. In my view, what Mr Ren is seeking to do, by way of suggesting that an implied term of fidelity to the company was owed specifically to him, is to get around the law requiring that actions involving breaches of director's duties to be the subject of actions by a company, as opposed to individual creditors. I fail to see how this is anything but an obvious attempt by Mr Ren to overcome this longstanding rule and to invite the court to introduce in law a freestanding duty owed to creditors. One would have imagined that if such a duty were even possible to be owed to creditors in theory (which I would have to confess, I have significant reservations to), it must be spelt out in explicit and unambiguous terms. For what it is worth, applying the framework set out in *Sembcorp Marine*, I fail to see how such a term could ever be meaningfully implied on these specific facts; on the contrary, as I explained in the preceding paragraphs, the suggestion that such an implied term exists would, in my mind, be difficult to reconcile with the law as I understand it, not to mention the impossibility of trying to subsume such implied duties into Clause 5.1 of the Agreement. However, even if such a duty could be meaningfully implied, it cannot be practically enforced by a creditor, for the reasons I have discussed above.

126 Having declined to imply duties owed by Mdm Lee to specific creditors, that itself would suffice to deal with the matter of the alternative claim. Nevertheless, for completeness, I will explain why, in any event, at least based on the evidence that was presented before me, I would not have found Mdm Lee to have breached these duties by entering into agreements with Goldciti and JS Gifts, or by hiring Fu.

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127 Regarding the agreements with JS Gifts, I make three points. First, even taking the June 2022 Letter at its highest, the question of whether Mdm Lee had breached any duties to *Luminaries* is simply not before me. If indeed she had breached such duties, the proper party to commence proceedings would be the liquidators, and not Mr Ren *qua* creditor of Homing.[232] The liquidators have elected not to do so – in fact, Ms Budiman indicated that the liquidators had not even concluded their investigations on matters involving Luminaries, which is the entity involved in the transactions with JS Gifts.[233]

128 Second, it is not clear to me that the June 2022 Letter and its accompanying annexures necessarily suggest (let alone prove) any breach of duty. As an example, in such correspondences, it would appear that the liquidators take issue with the fact that the security deposit was forfeited because of Luminaries' early exit from the tenancy despite there not being a clause in the contract expressly providing for this possibility.[234] That, however, begs the question: what is Mr Ren suggesting that a director in Mdm Lee's position should have done if it were no longer tenable to rent the premises to the conclusion of the tenancy's duration? Mr Ren cannot presumably be suggesting that Luminaries had the right to break a long-term tenancy without any form of penalty or compensation whatever since this is a proposition that appears entirely unrealistic. Some damages or compensation must surely flow, the only question then is on the specifics. If Mr Ren accepts that some form of penalty necessarily follows, it would seem that such a forfeiture appears on its face to be reasonable in the circumstances. However, I should underscore the fact that

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232 DCS, at [81].

233 25 November 2024 NEs, at p 121 lines 15–20; DCS, at [79].

234 OC 468 Mr Ren AEIC, at p 82 para 3(e)(i) (Letter from the Claimants to JS Gifts titled "Luminaries Holdings Pte. Ltd. (in creditors' voluntary liquidation) Claim against JS Gifts & Trading" dated 21 June 2022).

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that there was, in fact, no independent way to objectively verify this based on the limited evidence adduced by the parties for *these* proceedings. The simple point I make is that Mr Ren's allegation, in the absence of any evidence of what precisely transpired, is devoid of any factual context to make it possible for a court to meaningfully answer the question of whether any duties have been contravened.

129 Third, there were serious question marks raised at trial about the circumstances in which Mr Ren ended up being in possession of a copy of the June 2022 Letter. Given its contents, it is clear that the letter should have only been in the possession of the liquidators and JS Gifts. There is no reason why Mr Ren, or any other creditor for that matter, would be in possession of those documents. This is because the letter was not addressed to Mr Ren and he was not copied into it. When Mr Ren was cross-examined about how he obtained possession of the June 2022 Letter and its accompanying documents, Mr Ren testified that these were documents that his lawyers obtained for him from the liquidators.[235] It later transpired that this was, in fact, not true, in that Ms Budiman indicated no consent had been sought from the liquidators for the documents in question to be passed on to Mr Ren and that she did not know how he came to be in possession of such documents.[236] This then raises the obvious question of whether counsel for the Claimants, whilst acting for both Mr Ren and the liquidators, have potentially effectively blurred the lines in their representation of both liquidator and creditor, such that documents in the possession of one party are freely passed to the other for strategic purposes to be deployed to support collateral proceedings without bothering to obtain the requisite permissions and consents for the sharing of such information of the

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235 15 November 2024 NEs, at p 54 line 23–p 55 line 24.

236 25 November 2024 NEs, at pp 57 line 19–p 58 line 6.

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company. This then raises further difficult questions (hinted to already at [50] above) about whether, in substance, Mr Ren was the primary party driving the entirety of the litigation before me despite counsel ostensibly acting for the liquidators as well. I will come back to this point again later on.

130 In any event, all of this is a storm in a teacup since counsel for the Claimants did not confront Mdm Lee on the stand at all about the matters involving JS Gifts for the purposes of OC 468, presumably because by that point of time, the question of *how* Mr Ren had obtained the documents when the liquidators had not provided their consent to such documents being handed to Mr Ren had been put into sharp relief. On the stand, to the extent Mr Ren's point is that Mdm Lee breached her implied duties through her dealings with JS Gifts, no suggestion of any wrongdoing was alleged of her. The closing submissions also conveniently avoid making any reference to the matter of the transaction involving JS Gifts altogether. One can only assume that Mr Ren, and counsel, realising that questions were being asked about how Mr Ren ended up being in possession of documents he should not be in possession of, and having no acceptable response, decided to jettison the point altogether.

131 Regarding the agreement with Goldciti for OC 468, even if Mdm Lee owed implied duties to Mr Ren directly, I would not have found that Mdm Lee breached these implied duties. For the reasons I have given at length earlier, it was reasonable for Mdm Lee to have sought restructuring advice for Homing in the face of the statutory demand served by Mr Ren.

132 Regarding the hiring of Mdm Fu, even if Mdm Lee owed implied duties to Mr Ren directly, I similarly would not have found a breach of these implied duties. For one, there is insufficient evidence before me to determine whether Mdm Fu's employment arrangements constitute a sham employment intended

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to contravene Singapore's labour laws. On one hand, Mr Ren relies on his e-mail exchanges with Mdm Lee for the details of Mdm Fu's employment arrangements, including how "[Mdm] Fu Shaoli doesn't actually work".[237] On the other hand, Mdm Lee claims that her version of events is the "real unrebutted or un-rebuttable evidence", which is that Mdm Fu had done work for Luminaries both remotely and in Singapore, in the form of "communicating with the Chinese counterparts, coming out with proposals, and conceptualising related events".[238] Additionally, whatever the legality of the arrangements in question, I am not convinced that Mdm Lee entered into this hiring arrangement to benefit herself or at the expense of Mr Ren or Homing, considering how the documentary evidence before me clearly shows that Mdm Lee was open with Mr Ren about the arrangements being made. This can be seen from how Mdm Lee took pains to explain the reasons for employing Mdm Fu (at times through Ms Huang and at other times, to Mr Ren directly), and to take on Mr Ren's feedback on the same.[239] There was therefore no evidential basis for Mr Ren to contend that such conduct "demonstrates a tendency to priories [*sic*] her personal interests instead of acting in the best interests of [Homing]".[240] Indeed, it speaks volumes that Mr Ren is conspicuously silent about *how* Mdm Lee could have benefitted *personally* (as opposed to *benefiting Homing*) from Mdm Fu's employment.

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237 OC 468 Mr Ren Affidavit for Translation, at p 11 (e-mail thread between Mdm Lee and Ms Huang titled "Cooperation with Changsheng Film and Television Culture Media, Xi'an, China" dated 15 May 2020).

238 DCS, at [108]; 9 January 2025 NEs, at p 32 lines 14–16, p 33 lines 11–13.

239 OC 468 Mr Ren Affidavit for Translation, at pp 8–13, 20–21 (e-mail thread between Mdm Lee and Ms Huang titled "Cooperation with Changsheng Film and Television Culture Media, Xi'an, China" between 14 to 20 May 2020; Translated WhatsApp chat messages between Mr Ren and Mdm Lee between 16 May and 30 July 2020).

240 CCS, at [99].

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133 For completeness, I would note that a fair amount of the time in court was also spent with parties quibbling over whether Mr Chua had in fact divested his ownership in Homing in 2018 by signing a share transfer form, in which Mr Chua transferred his shares to Mdm Lee. The context of the dispute is as follows – as part of his defence and to show that he was not involved in management at all, Mr Chua testified in his affidavit that he had transferred his shares to Mdm Lee in 2018, enclosing a share transfer agreement evidencing the same.[241] Mr Chua claims that he had to transfer his shares to Mdm Lee at the time as "it [was] best for [him] not to hold any shares" in Homing since he would be joining Mediacorp, presumably in order to avoid any conflict of interest with his new role (at the time) at Mediacorp.[242] In response to this, Mr Ren contends that the share transfer agreement was only signed much later – sometime in 2020, and not in 2018. Mr Ren also contends that if the agreement was signed in 2018, Mr Chua and Mdm Lee would have contravened Clause 6.2 of the Agreement which indicates that the "transfer of all or part of the shares in the joint investment between Joint Investors *shall proceed upon notice to the other Joint Investors*" [emphasis added].[243]

134 I agree with Mr Chua and Mdm Lee that the matter of whether the share transfer form was signed in 2018 or much later was a red herring.[244] Whether the share transfer agreement was signed in 2018 or in 2020 was of little relevance to the question of liability in either matter before me. The issue of the proper interpretation of the Agreement in OC 468, and the question of whether the transaction with Goldciti was a sham in OC 226, are both matters that bear

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241 OC 468 Mr Chua AEIC, at [21], pp 23–24 (Original and translated copy of share transfer agreement dated 28 February 2018).

242 9 January 2025 NEs, at p 65 lines 12–15, p 66 lines 14–17, p 67 lines 15–18.

243 CRS, at [29].

244 DCS, at [123].

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little connection to the question of whether Mr Chua was a shareholder of Homing post-February 2018.

135 Nevertheless, for what it is worth, I find that the share transfer agreement was, in all likelihood, signed in 2018, and that Mr Chua and Mdm Lee had intentionally kept Mr Ren in the dark, causing him to believe that Mr Chua continued to be a shareholder in Homing.

(a) In coming to this conclusion, I placed weight on the evidence of Mr Derek Liow ("Mr Liow"), who was a witness to the signing of the share transfer agreement, as I found him to be a truthful, independent witness. In cross-examination, Mr Liow corroborated Mr Chua's and Mdm Lee's accounts about the share transfer agreement having been signed in 2018.[245] I saw no reason for Mr Liow to embellish his evidence – indeed, he was no longer associated with Homing by the time he gave evidence,[246] and the fact that Mr Chua trusts Mr Liow does not detract from Mr Liow's credibility as a witness in these proceedings.[247]

(b) On Mr Chua's evidence, he testified that it simply "didn't cross [his] mind that [they] should have to inform [Mr Ren]",[248] but this was hard to understand because Mr Chua continued to be involved in conversations with Ms Huang and Mr Ren about the financial outcomes of Homing until 2020.[249] Indeed, Mr Chua appeared to paint a picture of

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245 10 January 2025 NEs, at p 22 line 24–p 23 line 5, p 26 line 6–p 27 line 3.

246 10 January 2025 NEs, at p 18 line 22–p 20 line 8.

247 3 August 2020 Audio Transcript, at pp 65–66 timestamp 56:49; CRS, at [30].

248 9 January 2025 NEs, at p 67 lines 19–20.

249 OC 468 Mdm Lee AEIC, at pp 115–117 (Original screenshots and translation of WhatsApp group chat conversations between Mr Ren, Mr Chua and Ms Huang

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his continued involvement in some of these communications, even discussing the financial performance of Homing and its subsidiaries with Mr Ren,[250] which would have given the perception that he was still invested in those outcomes, especially when seen in the context of assertions made over messages sent involving Mr Ren, in which he made observations such as "we fully support the efforts and sacrifices of [Homing's management team]".[251] The picture painted therefore is one in which Mr Ren appears to have been led, by way of omission of material facts, to wrongly assume that Mr Chua was still a shareholder, and very much invested, in Homing.

(c) Mdm Lee's evidence is even more telling, with her conceding that she was not entirely honest with Mr Ren about the fact that Mr Chua was no longer a shareholder since 2018 but her view was that this was nothing more than "a white lie".[252] Why such a "white lie" even needed to be peddled, and what precisely it was intended to achieve, is left entirely unexplained.

136 It would be observed that I have hitherto not made any reference to the evidence of Ms Huang. That is because her evidence has little relevance to the material issues before me. Her role appears to have been limited largely to serving as a nominee for Mr Ren and to follow up with him for any of the affairs of the Homing Group. It is therefore unnecessary for me to expand on her

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between 28 January 2020 and 2 October 2020); 9 January 2025 NEs, at p 51 lines 16–19.

250 3 August 2020 Audio Transcript, at p 5 timestamp 03:20, p 7 timestamp 04:11; 9 January 2025 NEs, at p 81 lines 10–22.

251 OC 468 Mdm Lee AEIC, at p 116 (Original screenshot and translation of WhatsApp group chat conversation between Mr Ren, Mr Chua and Ms Huang on 28 March 2020).

252 9 January 2025 NEs, at p 14 lines 1–3.

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evidence, or to dissect it, in any great detail. I would however note that, at times, she came across as being somewhat defensive and it seemed that she was prepared to use the court process as a pulpit to advance her own talking points on behalf of Mr Ren.[253] Be that as it may, I need not make any specific findings on this, given that her evidence was tangential to the issues at hand, and it would not have made much of a difference to the eventual outcome.

137 Finally, I note that during the course of proceedings, there were hints at allegations that Mdm Lee and Mr Chua had breached Clause 5.2 by failing to put decisions relating to the "major affairs" of Homing to a vote. One such "major affair" is alleged to be Mdm Lee's decision to engage Goldciti, which Mdm Lee decided on without Mr Ren and Mr Chua having a say. I agree with Mr Ren that, on the face of it, Mdm Lee's actions appear to have been in breach of Clause 5.2 of the Agreement, in that the decision to hire Goldciti could arguably be said to be a decision relating to the "major affairs of" Homing. Nonetheless, the case before me is not whether Mdm Lee had breached any duty to Mr Ren to follow certain protocols found within the Agreement, but whether Mdm Lee had breached the implied term to procure the return of the Loan or her alleged implied duties under Clause 5.1. The question of whether Clause 5.2 was breached is therefore beside the point. I would further observe that the contention that Mdm Lee's failure to abide by the protocol in Clause 5.2 was "a deliberate act to bypass oversight and accountability" possesses an obvious air of artificiality to it as it would have been perverse for Mdm Lee to consult Mr Ren regarding the engagement of Goldciti for restructuring advice since Mr Ren's insistence for immediate payment of the Loan was the very catalyst for her actions.[254]

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253 22 November 2024 NEs, at p 48 lines 3–13.

254 8 January 2025 NEs, at p 70 lines 9–13.

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138 For the reasons set out above, I dismiss OC 468.

139 As a final footnote to the discussion on OC 468, I should highlight that it would seem to me that the dispute in this case arose in part because the Agreement, on its face, was not well-drafted. The Agreement may be long on language but it is surprisingly short of clauses that add value to, or that concretise the parties' rights and obligations in, the Agreement. Many clauses appear to proffer feel-good platitudes that add nothing to its legal contours. As an example, an agreement to agree as to what happens at the conclusion of the Agreement (as set out in Clause 8.1) is, with respect, no agreement at all (see *Sundercan Ltd and another v Salzman Anthony David* [2010] SGHC 92, at [25], citing *Walford v Miles* [1992] 2 AC 128). It does not guide the parties as to what happens to the ongoing contractual relationship at the end of the Agreement if the parties are not *ad idem* on how best to move forward. Other illustrative problematic clauses include Clause 9.1, which makes the self-evident point that the parties are at liberty to supplement the Agreement, and the interpretative problems surrounding Clause 3.4, which of course, has been canvassed at some length above.

140 Notwithstanding the fact that the Agreement may not have been a well-drafted contract, it nonetheless remains valid as a matter of law. Our courts do not insist on contracts being comprehensive, having utmost precision or certainty, or otherwise being exhaustive in terms of obligations and responsibilities before it will uphold the bargain that has been struck by the parties; instead, all that is required is that the basic or essential terms are agreed upon. For that reason, one commentator quite rightly observed that the circumstances in which contracts would be struck down for uncertainty would be "rare": see Phang (2022), at [03.208]. As Wright J quite famously noted in *Lever Brothers Ltd and others v Bell and another* [1931] 1 KB 577 (at 563),

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"[i]t is important to uphold the binding force of contracts so far as possible, especially in commercial matters". Those observations apply with some force on the facts of this case.

141 I only point this out because the many ambiguities inherent in the Agreement speak to the utility of legal advice in ensuring that agreements, especially those involving multiple stakeholders, carefully delineate the many facets of a business. It has been said that a written contract aids the parties' understanding of a formal legal relationship *inter partes* in three discrete, if inter-related ways: (a) it promotes certainty; (b) it typically provides for a cautionary effect (as it allows those entering into such a written agreement to pause and think about whether it reflects the parties' agreed bargain); and (c) it provides a protective function: see Phang (2022), at [08.003]. These ideals are not meaningfully advanced at all where the clauses of an agreement are so broadly drafted and in vague terms as to provide little certainty to the parties, or where their precise import is difficult to discern as a result of ostensibly inconsistent clauses across any such agreement. Indeed, particularly badly written contracts are, at times, potentially even more problematic than having no written contract at all, as the former may end up crystallising distinct understandings of the agreement across the parties and may, in that sense, only serve to amplify inconsistencies (or raise questions) across specific contractual stipulations. The present case appears, unfortunately, to be one such instance.

Coda – representation of both creditor and liquidator

142 As was alluded to earlier, some aspects of the Claimants' case are somewhat concerning. These include the circumstances surrounding the crafting of Ms Budiman's affidavit, about why the case suggesting the Goldciti Transaction was a sham endured even after its sole protagonist (*ie*,

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Ms Budiman) appeared to distance herself from such a case, about whether and how documents in the possession of Ms Budiman ended up being in the hands of Mr Ren without her consent being obtained, and (admittedly to a much lesser extent in the context of the present discussion) about how there appears to be selective reliance by Mr Ren on extracts of a surreptitious taped conversation, the specifics of which competent counsel ought to have probed more fully.

143 All of this ties in to a point I feel compelled to highlight about the dangers of counsel acting for multiple parties in a way where their independence and ability to act dispassionately and properly for all parties can potentially be compromised. The broad duty of solicitors in the face of potential conflict of interest is best encapsulated by Sundaresh Menon CJ's observations in *Mahidon Nichiar bte Mohd Ali and others v Dawood Sultan Kamaldin* [2015] 5 SLR 62 (at [158]):

> … In every case, the solicitor is obliged to be vigilant to the possibility of a conflict of interest, and *do all that is necessary to ensure that no client is disadvantaged by the fact of his concurrent representation of clients with divergent and potentially conflicting interests*. This will invariably be a matter of diligence, common sense and basic judgment.
>
> [emphasis added]

144 In this case, the same firm, and the same set of counsel, is acting for both the liquidators and Mr Ren. Mdm Lee has expressed some misgivings about that from the outset, given the history she personally had with one specific counsel acting for the Claimants in both cases.[255]

145 In order to understand why this is so, it is important to delve into what transpired in the bankruptcy proceedings involving Mdm Lee. For context, on

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255 OC 468 Mdm Lee AEIC, at [45]–[46].

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29 October 2020, Mdm Lee filed a disciplinary complaint with the Law Society arising from the actions of Mr Zheng Shengyang, Harry ("Mr Zheng"), who was, and remains, one of the counsel for Mr Ren.[256] In the lead-up to OSB 10 (see [15] above), on 7 October 2020, Mr Zheng had instructed a process server to post a statutory demand from Mr Ren to Mdm Lee on the main door of the latter's HDB flat.[257] On 19 January 2022, a Disciplinary Tribunal of the Law Society found Mr Zheng guilty of misconduct unbefitting an advocate and solicitor under s 83(2)(*h*) of the Legal Profession Act 1966 ("LPA") for such actions.[258] While the Disciplinary Tribunal declined to mete out disciplinary sanctions as it found that no cause of sufficient gravity existed, they nonetheless reprimanded Mr Zheng for his actions pursuant to s 93(*b*)(ii) of the LPA.[259] The Disciplinary Tribunal, in its report ("DT Report"), noted that while Mr Zheng "did not intentionally cause embarrassment…or intentionally indulge in unfair conduct", the act of posting the statutory demand would have the effect of putting "unfair pressure" on Mdm Lee and represented "a drastic measure and using such a measure without thought brings discredit to the profession" (DT Report, at [37], [33], [40]). Subsequent to such reprimand, sometime after March 2022, Mr Zheng was appointed by the liquidators to represent Homing, and the liquidators then commenced OC 226 against Mdm Lee and Goldciti.

146 Mdm Lee has raised concerns about the fact that the very same counsel she had filed a disciplinary complaint against, and one who had been

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256 OC 468 CBOD, at p 208 (Law Society Disciplinary Tribunal Report for DT/17/2021 dated 19 January 2022); OC 468 Mdm Lee AEIC, at [45].

257 OC 468 CBOD, at p 207 (Law Society Disciplinary Tribunal Report for DT/17/2021 dated 19 January 2022).

258 OC 468 CBOD, at pp 223–224 (Law Society Disciplinary Tribunal Report for DT/17/2021 dated 19 January 2022).

259 OC 468 CBOD, at pp 224–225 (Law Society Disciplinary Tribunal Report for DT/17/2021 dated 19 January 2022).

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reprimanded for his actions, was subsequently hired by the liquidators to pursue claims against her. I have some sympathy for Mdm Lee's concerns. Indeed, at the case conference prior to the commencement of this trial, I raised those reservations to Mr Zheng in the presence of all the parties.[260] Mr Zheng stated in response that he, and his firm, had considered the matter and took the view that there is no conflict of interest.[261] In any event, he explained his "co-counsel" would be taking charge of the proceedings before me and that he "stepped back as the lead counsel" as a result.[262]

147 To be fair, Mr Zheng did in fact take a back seat and did not appear physically for any part of the substantive hearings before me, though I note he remains on record, and continues to be listed as a solicitor for the Claimants in the closing submissions. Nonetheless, it is not clear to me that how this was dealt with, or that his decision to act for the Claimants in both OC 226 and OC 468, was appropriate or satisfactory.

148 It is one thing for the same set of solicitors to represent both primary creditors and liquidators in proceedings such as those where the provable debts are largely undisputed (see *In re Schuppan (a bankrupt)* [1996] 2 All ER 664, at 668). I can understand why, in such circumstances, this arrangement may potentially make sense, even if it does feel to me that one needs to be quite cautious in doing so as it can pose somewhat of an ethical quagmire. It is quite another situation altogether when the solicitor in question had previously acted for the primary creditor in collateral proceedings against individual directors *before the liquidators appointed him*, and to then subsequently act for *both* the

260 7 October 2024 Minute Sheet, at p 5.

261 7 October 2024 Minute Sheet, at pp 5–6.

262 7 October 2024 Minute Sheet, at pp 5–6.

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creditor and the liquidators in their multitude of proceedings against the very same directors, having been sanctioned as a result of a legitimate complaint about his conduct against one of these directors in prior actions. At some point, the line between one and the other blurs to the point of being non-existent, and questions come to the fore about whether the proceedings are independently being brought by the liquidators for the benefit of the company, or whether the liquidators' claims are influenced by grievances that the underlying creditor has against other directors, or indeed, grievances of the solicitor against an individual who filed a complaint against him resulting in a reprimand.

149 Putting on a "co-counsel" from his own firm (one who I might add, from the documentation available, was hitherto already assisting Mr Zheng for the entirety of the matter from when he was the partner in charge of the matter)[263] and sitting on the sidelines for the purposes of trial does not resolve the conflict since the underlying questions would still remain live, and equally relevant, in that setting. The danger that such co-counsel's views would be very much coloured by Mr Zheng's perception of the case would, in my view, remain (see *Ho Kon Kim v Betsy Lim Gek Kim* [2001] SGHC 75, at [63]).

150 It is especially curious how Mr Zheng decided that there were no optical issues arising from the disciplinary proceedings just because the Disciplinary Tribunal found that Mr Zheng did not act *intentionally* to cause embarrassment to Mdm Lee. While true, that is, in my view, besides the point. The fact that he had acted for a creditor against an individual director in a way that was assessed by his professional peers as bringing discredit to the profession, and was subsequently instructed to start proceedings on behalf of the liquidators of the

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263 OC 468 Mr Ren AEIC, at p 84 (Letter from the Claimants to JS Gifts titled "Luminaries Holdings Pte. Ltd. (in creditors' voluntary liquidation) Claim against JS Gifts & Trading" dated 21 June 2022).

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company that his client was a creditor of against that very same director on the same factual premise of the issues he had previously been reprimanded for, makes the entire optics of the position imprudent at best, objectionable at worst. In any event, I am not entirely convinced that his reading of the DT Report in any way insulates such actions from criticism, since the upshot of the Law Society ruling was that he had in fact wrongly publicised the matter of the action that Mr Ren was taking against Mdm Lee.

151 Even if I accept that he acted for both clients without malicious intent, it would have been clear that the circumstances were such that a real perception of the blurring of the lines, to the point where it may be imprudent to subsequently act for the liquidator, would have arisen. Even if Mr Zheng were genuinely attempting to act independently, it would be hard to see how, if at all, anyone who appreciated such background could confidently assume that his ability to remain independent would not be questioned. It is in that context that I can understand Mdm Lee's legitimate reservations about the independence of Mr Zheng in this entire exercise. The many unanswered questions in this case about how Mr Ren got possession of the documents of the liquidators ostensibly from counsel without the liquidators' consent, about how Ms Budiman was apparently not shown some relevant documents before affirming her affidavit for OC 226, about how OC 226 endures despite Ms Budiman's many concessions on the stand, and about how Ms Budiman's affidavit appears to have been crafted, only reinforce those concerns.

152 I need not say any more about this since, in my view, this does not have significant implications on my decision to dismiss both OC 226 and OC 468 on the merits. I only make these observations to underscore the point that in the legal profession, the perception of impartiality is as crucial as its reality. Trust in the integrity of lawyers and the justice system depends not only on the

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absence of an actual conflict of interest, but also on ensuring that no appearance of one exists.

Conclusion

153 For the above reasons, I am dismissing both OC 468 and OC 226 in their entirety.

154 If costs are not otherwise agreed, the parties are to file submissions on costs, limited to no more than eight pages each, within two weeks of the issuance of this judgment.

Mohamed Faizal
Judicial Commissioner

Zheng Shengyang Harry, Kang Hui Lin Jasmin
(Kelvin Chia Partnership) for the claimants;
Salem Ibrahim, Rebecca Yeo, Yap Zhan Ming
(Salem Ibrahim LLC) (instructed) for the defendants in OC 468,
Muthu Kumaran s/o Muthu Santhana Krishnan
(Kumaran Law) for the defendants.

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Annex A

A.1 Annex A has been referred to at [10] of this judgment. It contains the material terms of the Agreement between the parties, which is the subject of the claim for a return of the Loan in OC 468, as follows:

> Party A: Ren Xin Wu … (hereinafter referred to as Party A)
>
> Party B: Chua Kim Kang … (hereinafter referred to as Party B)
>
> Party C: Lee Kuan Fung … (hereinafter referred to as Party C)
>
> Each of the abovementioned Joint Investors (hereinafter referred to as "Joint Investors") have, upon amicable negotiations, and in accordance with the laws and regulations of Republic of Singapore, reached an agreement on the following cooperation intent:
>
> …
>
> 3.2. Investment Methods and Number of Shares Held
>
> a) Party A shall invest SGD$10,000 (Ten thousand Singapore Dollars) on 02 June 2017 into [Homing] and shall hold 35% of the shares in [Homing], equivalent to 3500 shares. (Shares to be held by [Ms Huang] on behalf of Party A; [Ms Huang] and [Mr Ren] shall enter into a separate nominee share agreement);
>
> b) Party B shall commit to management and intellectual property (IP), and shall hold 35% of the shares in [Homing], equivalent to 3500 shares. (Shares to be held by [Mdm Lee] on behalf of Party B; [Mdm Lee] and [Mr Chua] shall enter into a separate nominee share agreement);
>
> c) Party C shall commit to management and IP, and shall hold 30% of the shares in [Homing], equivalent to 3000 shares.
>
> 3.4. Funds for Investment
>
> a) Notwithstanding the abovementioned investment, Party A shall invest an additional SGD$990,000 … which shall be deposited into the [Homing] account … as the operational funds for the company.
>
> b) The operational funds shall be loaned by [Mr Ren] to [Homing] on a no guarantee, interest-free basis for a duration of three (3) years. Three (3) months before the loan reaches maturity, the Joint Investors shall negotiate whether to extend the loan under the same conditions, or reach a separate

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agreement regarding the method for fund management, or convert the loan into equity for the lender in the form of a convertible loan.

…

4. Profit distribution and loss allocation

4.1. The Joint Investors shall distribute profits and allocate losses in accordance with the ratio [*sic*] shares held by them.

4.2. The shares and accruals arising therefrom resulting from the investment by the Joint Investors, shall be the joint property of the Joint Investors, held in proportion to the ratio of shares held by each Joint Investor.

4.3. Upon transfer of their shares in [Homing], each Joint Investor shall have the right to acquire property in accordance with the ratio of shares each of them holds.

5. Execution of Affairs

5.1. The Joint Investors entrusts [*sic*] Party C to perform the daily operations of the joint investment on behalf of all the Joint Investors, including but not limited to:

a) During the initial incorporation of [Homing], exercising and fulfilling their rights and obligations as founders of [Homing];

b) After the establishment of [Homing], exercising their rights as shareholders of [Homing] and fulfilling their related obligations;

c) Accumulating the interest accrued from the joint investment, and distributing it in accordance with this agreement.

5.2. Any decisions related to the major affairs of [Homing], and any development decisions, shall be put to a vote, taking the decision of the majority vote. Party A, B and C shall each hold 1 vote.

Party A: Ren Xin Wu – 1 vote (Nominee shall vote on behalf of Party A, in accordance with the instructions of Party A)

Party B: Chua Chim Kang – 1 vote (Nominee shall vote on behalf of Party B, in accordance with the instructions of Party B)

Party C: Lee Kuan Feng – 1 vote

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Major affairs affecting [Homing] shall include, but are not limited to:

a) Company management structure;

b) Removal and appointment of directors;

c) Amendment of Articles of Incorporation;

d) Financial income, including interest which the company may distribute proportionally (such as dividends);

e) Any other new investment projects;

f) Expansion of operational scale or range;

g) Liquidating of the company and distribution of property to all investors.

5.3. The other investors shall have the right to inspect the execution of daily operations. Party C is obliged to provide operational and financial updates of the joint investment to the other Joint Investors.

5.4. The income generated by the joint investment executed by Party C shall belong to all the Joint Investors, while any losses or civil liabilities arising therefrom shall be borne by the same.

5.5. During the execution of operations by Party C, Party C shall be liable for any losses incurred by the other Joint Investors as a consequence of Party C not following the terms of this agreement.

5.6. The Joint Investors may raise objections with regards to Party C's execution of the joint investment's operation. When the objection is raised, the aforementioned operation shall be put on hold. In the event of any dispute, the Joint Investors shall come to a common decision.

…

8. Validity of the Agreement

8.1. This agreement shall be valid for three (3) years from the date of incorporation of [Homing]. After three (3) years but three (3) months before the expiration of the agreement, the Joint Investors shall jointly negotiate to decide whether to continue or terminate their cooperation.

8.2. In the event that the Joint Investors come to an agreement to continue their cooperation, the Joint Investors may extend this agreement or enter into a separate agreement.

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8.3. In the event the Joint Investors come to an agreement to terminate their cooperation, the Joint Investors shall distribute or allocate any accruals arising from their investment according to the ratio of shares held, including but not limited to capital, assets and debts.

9. Others

9.1. Matters not covered in this agreement shall be covered in a supplementary agreement entered into by the Joint Investors upon negotiating and reaching a decision.

9.2. The termination or invalidation of any terms within this agreement shall not affect the validity of other terms in this agreement.

9.3. This agreement shall come into effect when all Joint Investors have signed and affixed their stamps. This agreement is made in triplicate, with each Joint Investor holding 1 copy.

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Annex B

A.2 Annex B has been referred to at [102] and [109] of this judgment. It contains the translated transcript of the "relevant part" of the telephone conversations between Mr Chua and Mr Ren on 3 and 4 August 2020, which was exhibited in Mr Ren's OC 468 AEIC. The translated transcript, reproduced in full, is as follows:

Mr Chua:	So, if there is still trust between us, my suggestion is... Firstly, transfer this $210,000 within these two days as soon as possible. Secondly, transfer 100% of these shares to Kuan Fung. Thirdly, get the company to draw up a contract for $975,000 plus interest.
Mr Ren:	Huh?
Mr Chua:	Pay it back however way you can. This is my suggestion.
Mr Ren:	It's not $975,000. After repaying $210,000, the remaining amount should be $765,000.
Mr Chua:	Alright, so it is easier to meet the target. Since you say that I am the party concerned, but I am also everyone's friend...
Mr Ren:	Yes.
Mr Chua:	Let me put this thing together. If this thing has to be repaid for one year, two years, three years or even forever,
Mr Ren:	Brother, you...
Mr Chua:	As long as this company is not bankrupt, it has to be repaid.
Mr Ren:	With regards to our good intention, I believe that you are not that kind of person who runs away when faced with problems.
Mr Chua:	Yes.
Mr Ren:	If you were this kind of person, I would have been wrong about you.

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Mr Ren: Right now, under the status quo, let's talk about…well, let's say…a solution in the sense that we will have relatively no trouble in the future.

Mr Chua: Right, I agree. I agree that we should not go looking for trouble.

Mr Ren: In this sense, I… I am showing a kind attitude. You have also responded kindly. We are brothers, and should oversee (Mdm Lee) Kuan Feng to ensure that the task can be completed. There's nothing wrong with that, right? In this case, you will make more money. What do you think? If (you feel) you have treated me, your brother, badly before, you can give me a little bit more now. I wouldn't refuse, right?

Mr Chua: I am the cause of this incident. Had I not introduced (Mdm Lee) Kuan Feng, she would not have encountered these things. So I will bear the guarantee in its entirety, OK? I will bear it. One million. I can bear a million, really.

Mr Ren: This… You… You… Now that you say it, I really think I met the right person. In view of our brotherhood, this will truly be able to…

Mr Chua: Really.

Mr Ren: Originally this agreement…

Mr Chua: Right, I don't want to say…

Mr Ren: The agreement is essentially about the relationship of the money owed, right?

Mr Chua: Correct

Mr Ren: With regard to the money owed, you just have to repay as much as possible. Even if you can't repay the 990,000, you can just repay as much money as you have, right? Then, you would have repaid however much you could have out of the 990,000 and the balance of your debt would then be the arrears minus the repayment, right?

Mr Chua: Exactly

Mr Ren: As for the rest, we can discuss it later. There shouldn't be any problem with that, right?

Mr Chua: Yes, but… the basis of this discussion, I want to reach a little bit of a consensus with you first…

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Mr Ren: For this, don't set…

Mr Chua: That is, this one million…

Mr Ren: You can do this without setting this precondition, can't you? Bro. You… You, you are a big shot. Why do you want to be like this? You take…

Mr Chua: I'm not a big shot. In the face of money, I'm just a small fry.

Mr Ren: You, you, why do you want to do this? Why set the remission of this money to me as a precondition? You, do you think this is appropriate?

Mr Chua: I, I, I am an educated person. I don't know anything. I will remortgage my house/flat with the bank today. I will remit all the money first. Then let's talk about it later, OK? Once you have solved the problem, you can return the money to me. Okay? I'll do this right away. Give me three hours, OK?

Mr Ren: I…I… I don't understand what you mean.

Mr Chua: Your focus is on this one million, and my house should also be worth a million. I'll remortgage with the bank and wire-transfer the money, one million, to you. Let's talk on this basis.

Mr Ren: Bro, did I ask you for this? I, did I ask you to do this?

Mr Chua: Your focus is on this money so I will settle the money issue first.

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