IN THE SINGAPORE INTERNATIONAL COMMERCIAL COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC(I) 20

In the matter of Originating Application No 21 of 2025

Between

SH (BVI) LTD

… *Claimant*

And

STEELE SVA HOLDINGS, LLC

… 1st *Defendant*

And

SONEVA HOLDINGS PTE LTD

… 2nd *Defendant*

JUDGMENT

[Companies — Oppression — Minority Shareholders]
[Companies — Oppression — Appropriate relief]

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This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

SH (BVI) Ltd
v
Steele SVA Holdings, LLC and another

[2026] SGHC(I) 20

Singapore International Commercial Court — Originating Application No 21 of 2025
Anselmo Reyes IJ
29 May, 2–3 June, 19 August 2026

17 September 2026 Judgment reserved.

Anselmo Reyes IJ:

Introduction

1 Conventional private equity models rest on a straightforward premise. The investor offers capital and efficiency within a finite horizon. The founder and existing shareholders provide experience, branding and relationships that give the asset its value. These arrangements work as long as interests align, but begin to fray when assets underperform or trust breaks down. Often, investors seek majority control in an attempt to steer the company towards a more desirable trajectory. The minority shareholder is then left to ask whether the levers of corporate governance are being exercised in the interests of the company as a whole, or in the interests of one shareholder alone. This case questions: where does legitimate majority control end, and commercially unfair conduct begin.

2 The dispute is between the minority and majority shareholders of Soneva Holdings Pte Ltd ("SHPL"), a Singapore incorporated holding company. SHPL is the holding company of a group of companies owning and operating luxury resorts in the Maldives, including Soneva Fushi, Soneva Jani and Soneva Secret. I refer to SHPL and its subsidiaries collectively as the "Group".

3 The claimant, SH (BVI) Ltd ("SH BVI"), is a company incorporated in the British Virgin Islands. It is the vehicle through which Mr Sonashah Shivdasani ("Mr Shivdasani"), the founder of the Soneva brand, holds his interest in SHPL. The first defendant, Steele SVA Holdings, LLC ("Steele"), is an investment vehicle incorporated in the Cayman Islands and jointly owned by KSL Capital Partners ("KSL"), a private equity fund, and GIC Private Limited, a Singapore sovereign wealth fund. Steele is currently the majority shareholder of SHPL. The second defendant is SHPL itself.

4 SH BVI and Steele are currently the principal shareholders of SHPL. SH BVI holds approximately 24.8% of SHPL's ordinary shares, while Steele holds approximately 74.9%. Mr Bruce Bromley, the former interim CEO of SHPL ("Mr Bromley"), holds the remaining shares, representing approximately 0.3%.

5 SHPL is joined as a defendant because the relief sought concerns the conduct of its affairs and the validity or effect of securities issued by it. It takes a neutral position. It accepts that the real dispute is between SH BVI and Steele, and that it will abide by whatever orders the court makes.

6 Currently, the relationship between the parties is governed by the Amended and Restated Constitution of SHPL, and the Further Amended and Restated Shareholders' Agreement, both of which are dated 23 May 2025 (the

"2025 Constitution" and "2025 SHA" respectively). These instruments were executed alongside a negotiated settlement deed which was concluded on 17 May 2025 (the "Settlement Deed"), following a two-day mediation between the parties.

7 Upon entering into the Settlement Deed, the parties contemplated an exit from their investments in SHPL by 15 November 2026.

8 At the heart of this dispute is a class of securities known as the "Class H Debt Securities", issued by SHPL to Steele in August 2025. The terms of the Class H Securities include, among others, (a) an accrued coupon at a rate of 18% per annum, accruing daily and compounding annually; and (b) a "Mandatory Redemption Amount" of two times the value of the Class H Debt Securities held and the accrued coupons on such Class H Debt Securities, upon the occurrence of a "Mandatory Redemption Event" (which includes an exit from the investment in SHPL via a "Marketed Sale").

9 These proceedings are brought by SH BVI under s 216 of the Companies Act 1967 (2020 Rev Ed) ("CA"). The crux of the case is whether the conduct of SHPL's affairs, in particular, the issuance of the Class H Debt Securities, was commercially unfair or oppressive to SH BVI as a minority shareholder. If so, what relief is appropriate?

The facts

10 The Soneva business was founded by Mr Shivdasani some 35 years ago. In November 2019, Steele invested US$106 million in SHPL as a passive minority holder of convertible securities. Over the years, Steele further provided multiple rounds of funding via subscription to various tranches of securities issued by SHPL (known as Class B, E, F and G Debt Securities). To date, Steele

has invested approximately US$225.6 million into SHPL (assuming the Class H Debt Securities have been paid out by Steele in full).

Prior disputes between the parties

11 The relationship between the parties began to deteriorate in 2024, when Steele became concerned about Mr Shivdasani's management of the Group. The parties give different accounts for the deterioration.

SHPL's account

12 According to SH BVI, the deterioration was a result of Mr Shivdasani's decision not to sell SHPL to a third party in 2024, which angered Steele as it could not exit from its investment at the time.

Steele's account

13 According to Steele, concerns grew in mid-2024 about cost overruns for a new resort project, Soneva Secret. After pressing for access to the Group's books and records and for an audit of the Soneva Secret project, Steele discovered that the project exceeded the original budget of US$47 million by over US$15 million. Further, over US$5 million of expenditures could not be accounted for.

14 Concerns were precipitated by a board meeting on 30 October 2024, where Mr Shivdasani allegedly admitted to inadequate supervision of the Group's funds under his watch, and that he could not account for the missing funds, or rule out embezzlement. Steele also says it learned around this time that Mr Shivdasani had failed to disclose that he was an undischarged bankrupt in Thailand since July 2020. This was significant because, as an undischarged

bankrupt, Mr Shivdasani would be prohibited under Singapore law from acting as a director or being involved in the management of SHPL and the Group.

15 Shortly after the 30 October 2024 board meeting, Mr Shivdasani abruptly resigned as a director of SHPL, its subsidiaries, and from his full-time executive positions in the Group, purportedly due to ill-health. Steele says his explanation was false, and the true reason was that Mr Shivdasani's undisclosed bankruptcy status disqualified him from holding those positions. Steele says that Mr Shivdasani structured his resignation to avoid triggering a "Founder Voluntary Departure" event under the Shareholders' Agreement dated 27 May 2024 (the "2024 SHA") (the version prior to the 2025 SHA). The occurrence of a Founder Voluntary Departure would have allowed Steele to take control of SHPL and disapply rights that Mr Shivdasani would have otherwise held as founder.

Prior proceedings

16 The acrimony between the parties led to two prior proceedings before the Singapore International Commercial Court (the "prior SICC proceedings").

(a) In December 2024, Steele initiated SIC/OA 25/2024 to appoint valuers to determine the market value of SHPL, applying the conditions for valuation set out in the 2024 SHA. The objective was to ascertain the value at which Steele's debt securities would be converted into ordinary equity, since Steele was "forced to take action to try and obtain control of the Group in order to protect its investment".

(b) In January 2025, while SIC/OA 25/2024 was underway, Steele initiated SIC/OA 1/2025 alleging, among others, that a Founder Voluntary Departure had occurred under the 2024 SHA upon Mr

Shivdasani's resignation. A successful application would have given Steele substantial control of SHPL.

Conversion of the Investor's Security Debts into ordinary shares

17 The valuation of SHPL was completed on 1 May 2025. On 5 May 2025, Steele converted its convertible debt instruments into ordinary shares, and became the majority shareholder of SHPL with a 74.9% stake.

The Settlement Deed

18 On 17 May 2025, after a two-day mediation, the Settlement Deed was concluded, under which Mr Shivdasani agreed to cease any and all involvement in the Group's business and SH BVI agreed to relinquish its veto rights in respect of various matters. This ceding of control by SH BVI is reflected in several features of the Settlement Deed:

(a) Under clauses 2(a)(i) and 2(a)(vii), Steele was entitled to appoint a majority of the board of directors (that is, five out of seven directors), and to appoint the chairman of the board at its sole and exclusive discretion.

(b) Under clause 2(a)(viii), a simple majority of the board of directors suffices to pass a resolution in writing circulated among all directors. This contrasts with the position under the 2024 SHA, where a resolution in writing required the signature of an "A Director" (that is, an SH BVI appointed director).

(c) Under clause 2(a)(xi), Steele had the right to effect a Marketed Sale and to exercise a "Drag-Along Right" (the right to sell the entire business, including SH BVI's interests, to a third party), without being restricted by SH BVI's rights to veto certain businesses that the Group's companies can transact.

(d) Under clause 2(a)(x), SH BVI's right to veto several reserved matters under clause 3.6(a) of the 2024 SHA was removed.

19 In their submissions, SH BVI and Steele emphasise the settlement's commercial premise, but characterise the settlement's result differently. SH BVI says that the settlement involved a fundamental compromise. SH BVI ceded its control of SHPL to Steele, but retained safeguards to ensure that, up to the point where it exits from its investment in SHPL, SH BVI would receive its portion of the net sale proceeds attributable to its ordinary shares, distributed on a *pro rata* and *pari passu* basis. SH BVI says those protections were intended to prevent Steele from using its new control to alter the economics of an exit in its own favour.

20 In contrast, Steele says that the settlement was intended to allow it to take control of the Group, stabilise the business, and prepare the business for a Marketed Sale without intervention from SH BVI. Steele also says that, under the Settlement Deed, Mr Shivdasani agreed to cease all involvement in the business and the Group, and in return SH BVI and Mr Shivdasani received benefits under the settlement, including economic entitlements, waivers of amounts they owed to SHPL and releases of claims from Steele against them in respect of matters alleged in the prior SICC proceedings.

21 Following the conclusion of the Settlement Deed, SHPL's board of directors comprised four "B Directors" (that is, directors appointed by Steele), two A directors (appointed by SH BVI), and one independent resident director.

The 2025 SHA

22 Parties entered into the 2025 SHA dated 23 May 2025 to give effect to the Settlement Deed. I outline the salient aspects of the 2025 SHA.

23 Under clause 3.4(j), a resolution in writing circulated to all directors and signed by a simple majority of the board is as valid and effectual as a resolution passed at a meeting of the board duly convened and held.

24 Clause 3.8 sets out certain businesses which SHPL and the Group cannot transact (defined as "Founder Authority Matters") without a board resolution approving the same, passed by a simple majority including at least one A Director. After the Settlement Deed, this clause was qualified to the effect that none of the Founder Authority Matters would restrict: (i) any proposed issuance of debt securities; (ii) any "Emergency Funding"; and (iii) Steele's rights to effect a Marketed Sale of SHPL. The relevant portion of the clause states:

> Notwithstanding the above, none of the Founder Authority Matters shall restrict the exercise and implementation of … any Proposed Issuance in accordance with **Clause 8**, … any Emergency Funding (including the provision thereof and, where applicable, the allotment and issuance of Emergency Funding Debt Securities) as contemplated in **Clause 4.2**, [Steele]'s and/or [SHPL]'s rights under this Agreement in connection with a Marketed Sale and/or a transaction pursuant to the exercise by [Steele] of its Drag-Along Right as contemplated in **Clause 7.6** (including the distribution of sale proceeds to shareholders of [SHPL] in accordance with this Agreement).
>
> [emphasis in original]

25 A principal feature of the parties' dispute concerns Emergency Funding, which is a mechanism for Steele to provide additional funding to the Group to address liquidity needs. The relevant provision is clause 4.2 of the 2025 SHA.

26 Under clause 4.2(a)(i), one situation in which Emergency Funding could be provided is where there is a "Liquidity Need", which is defined to include: (i) a breach or reasonably expected breach of a payment obligation of any member of the Group; (ii) a requirement to provide funding for any Group member's capital expenditure commitments in respect of the Soneva resorts; and (iii) and a shortfall in liquidity in respect of any of the Soneva resorts.

27 Clause 4.2(a) provides a mechanism by which Steele, acting reasonably, in good faith and in consultation with the board, may assess the nature of the need for Emergency Funding, determine the appropriate level of funding required, send a written notice to SHPL and the board of such funding needs, and concurrently issue an "Emergency Funding Request" on behalf of SHPL to its shareholders. Where Emergency Funding is provided as a loan or debt security, the stipulated annual interest rate is 15%. The relevant portion of clause 4.2(a) reads:

> … [Steele] shall, acting reasonably and in good faith and in consultation with the Board, assess the nature of the Emergency Funding Need, determine the appropriate level of Emergency Funding required to cure or avoid such Emergency Funding Need and send a written notice to [SHPL] and the Board of such funding needs, and concurrently issue on behalf of [SHPL] to the Shareholders an appropriate funding request in writing, which shall set out: (i) the circumstances giving rise to such Emergency Funding Need; (ii) the amount of the Emergency Funding; (iii) the requested funding date; and (iv) the terms of the loan, or if a loan is not permitted by any then in-place Debt Facilities, Relevant Securities with terms substantially similar to the Class B Debt Securities (the "**Emergency Funding Debt Securities**") save that the annual coupon rate of the Emergency Funding Debt Securities shall be fifteen percent (15%) (in each case, which terms shall be consistent with the terms set out in **Clause 4.2(c)**) and attach reasonable evidence of such cash need (an "**Emergency Funding Request**").
>
> [emphasis in original]

28 After the 2025 SHA's execution, the B Directors procured SHPL to approve further loans from Steele under the Emergency Funding provisions on two occasions, in May and June 2025.

29 Under clause 9.2(a)(ii) of the 2025 SHA, Steele has the unilateral right to cause SHPL to effect a Marketed Sale at its sole discretion. However, as will be further discussed, parties expressly agreed to use all reasonable efforts to exit from their investments in SHPL by 15 November 2026.

Issuance of the Class H Debt Securities

30 On 3 August 2025, SHPL issued a notice of proposed issuance of Class H Debt Securities (the "Class H Notice") to Steele and SH BVI. In this notice, SHPL proposed to issue up to 14,775,768 Class H Debt Securities for an aggregate consideration of up to US$37 million, with the proceeds to be used for such purposes as the board may permit, on the terms of the subscription agreement attached to the notice (the "Class H SSA").

31 SH BVI says that neither it nor the A Directors received prior notice before 3 August 2025 that there was any intention to issue a new class of debt securities. Nor was any notice given as to how the Class H SSA was prepared and agreed upon.

32 Steele counters that the Class H Notice was issued in compliance with clause 8 of the SHA, which entitled SH BVI to exercise its pre-emptive rights to subscribe for its *pro rata* share by giving three-days' notice to SHPL of its intention to do so. Steele emphasised that Mr Shivdasani had agreed to this specific three-day pre-emption timeframe three months earlier, when the 2025 SHA was entered into.

33 The key terms of the Class H Debt Securities as summarised in the Class H Notice included the following:

(a) The Class H Debt Securities would rank senior in priority to any shareholder loans, the existing debt securities held by Steele, and the holders of all other classes of shares in SHPL.

(b) They would accrue coupons at a rate of 18% per annum, accruing daily and compounding annually.

(c) SHPL could redeem them at any time by payment of the subscription price plus all accrued coupons.

(d) If the board reasonably determines that a party had breached its obligations under the Class H SSA, that party would no longer be permitted to provide funding, and SHPL could redeem such party's Class H Debt Securities at a discounted consideration equal to 82% of the subscription price, excluding all accrued coupons.

(e) Upon the occurrence of a Mandatory Redemption Event, SHPL shall redeem all of the Class H Debt Securities (to the extent they have not yet been redeemed) by paying each holder thereof the Mandatory Redemption Amount, this being two times the outstanding principal and accrued coupons. A Mandatory Redemption Event is defined in Schedule 1 clause 7(b) of the Class H SSA as "any Exit Event, Liquidation Event, Marketed Sale and/or exercise by [Steele] of its Redemption Option or Drag-Along Right" (that is, when Steele exits its investment in the Group through, among others, the sale of its investment).

34 On 3 August 2025 the B Directors also passed a directors' resolution for a proposed issuance ("DRPI"). The DRPI approved the undertaking of a fundraising round whereby SHPL would issue Class H Debt Securities as stated in the Class H Notice ("Fundraising Round"), authorised SHPL to enter into the fundraising documents including the Class H SSA, and noted that SHPL would amend its 2025 Constitution to provide for the rights, benefits and entitlements of the Class H Debt Securities in a restated constitution.

35 The DRPI was signed by Steele's B Directors alone. It provided that the Class H Fundraising Round would comprise an initial subscription of 4,792,141 Class H Debt Securities ("Initial Subscription Securities"), followed by the possibility of further issuances at the SHPL directors' sole discretion from time to time, provided that the aggregate number of Class H Debt Securities issued under the Fundraising Round would not exceed 14,775,768.

36 Thereafter, SHPL, through its B Directors, sent Steele and SH BVI a notice of a proposed members' resolution in relation to, among others, the allotment and issuance of the Class H Debt Securities and the adoption of the 2025 Constitution. On 4 August 2025, the members' resolution was executed and signed by Steele alone.

37 SH BVI did not exercise its pre-emption rights within the three-day period stipulated in the Class H Notice. On 6 August 2025, an A Director wrote to SHPL on behalf of SH BVI stating that SH BVI did not have the resources to subscribe to the proposed issuance and raising concerns as to why further debt could not instead be taken on in the form of Emergency Funding.

38 On 6 August 2025, Steele entered into the Class H SSA with SHPL and notified SHPL of its election to subscribe for all of the Initial Subscription

Securities. The B Directors passed another directors' resolution on 6 August 2025, resolving that 4,792,141 Class H Debt Securities be allotted and issued to Steele at US$2.5041 per Class H Debt Security for an aggregate consideration of US$12 million. It was further resolved that each Class H Debt Security allotted to Steele would have the rights and restrictions set out in the SHPL Constitution, rank *pari passu* with all other issued Class H Debt Securities, and be credited as fully paid up.

39 Although the Class H fundraising contemplated the issuance of up to US$37 million of Class H Debt Securities, only the initial tranche of US$12 million was drawn down on 6 August 2025. A further US$5 million was drawn down eight months later on 2 April 2026. Steele claims in its closing submissions that a further US$4 million was drawn down on 29 June 2026 (a few weeks after the substantive court hearing on 3 June 2026).

Aftermath of the Class H Debt Securities issuance

40 On the same day the debt securities were issued, SH BVI queried the B Directors as well as Mr Neil Gallagher, then CEO of SHPL ("Mr Gallagher"), as to the commercial justification for a further US$37 million to be injected into SHPL. SH BVI additionally questioned the commercial rationale for raising capital through Class H Debt Securities rather than Emergency Funding.

41 On 11 August 2025, SHPL responded that the Group needed significant capital because of numerous ongoing issues arising from the prior mismanagement of the Group.

42 Thereafter, rounds of solicitor's letters were exchanged between the parties, with SH BVI alleging oppressive conduct and Steele alleging mismanagement by SH BVI.

43 The exchanges came to a head on 9 September 2025, when Steele refused to rescind the Class H SSA and declined SH BVI's proposal for mediation. SH BVI then initiated these proceedings.

Applicable legal principles

44 The principles applicable to cases of minority oppression are well-settled. Section 216(1) of the CA provides relief to a shareholder where the affairs of the company are being conducted, or the powers of the directors are being exercised, in a manner that is: (i) oppressive; (ii) in disregard of the shareholder's interests; (iii) unfairly discriminatory; or (iv) otherwise prejudicial to the member. These four limbs are not applied disjunctively. Rather, they are aspects of a single compound inquiry: whether the conduct being complained of is commercially unfair (see *Over & Over Ltd v Bonvests Holdings Ltd* [2010] 2 SLR 776 ("*Over & Over*") at [81] as cited in *Leong Chee Kin v Ideal Design Studio Pte Ltd* [2018] 4 SLR 331 ("*Leong Chee Kin*") at [46]). The court is concerned with conduct that constitutes "a visible departure from the standards of fair dealing and a violation of the conditions of fair play which a shareholder is entitled to expect" (*Re Kong Thai Sawmill (Miri) Sdn Bhd* [1978] 2 MLJ 227 as cited in *Over & Over* at [77]).

45 The assessment of commercial unfairness proceeds by way of a two-step inquiry, as articulated in *DyStar Global Holdings (Singapore) Pte Ltd v Kiri Industries Ltd* [2018] 5 SLR 193 ("*Kiri Industries (SICC)*") at [114]. The court must:

(a) first identify the legitimate expectations of the minority shareholder; and

(b) then determine whether the conduct complained of has departed from those expectations to such an extent as to be commercially unfair.

A single act, as well as a course of conduct, can establish oppression (see *Over & Over* at [74]).

46 The legitimate expectations of a shareholder are primarily derived from the legal rights and obligations set out in the company's constitutional documents and any shareholders' agreement. In the special case of a quasi-partnership company, there may be expectations arising out of understandings between shareholders which are not found in such formal documents (see *Kiri Industries (SICC)* at [115], citing *Over & Over* at [78]). However, where the parties are sophisticated commercial entities who have dealt with each other at arm's length and have comprehensively regulated their relationship through detailed contractual documents, legitimate expectations are unlikely to arise beyond what the parties have expressly agreed (see *Kiri Industries (SICC)* at [130], citing *Ng Sing King v PSA International Pte Ltd* [2005] 2 SLR(R) 56 at [95]). Legitimate expectations may nonetheless also arise from the general law, including the fiduciary duties owed by directors to act in the best interests of the company as a whole and not merely in the interests of the majority shareholder who appointed them (see *Kiri Industries (SICC)* at [120]).

47 This is not a case involving a quasi-partnership. The relationship between SH BVI and Steele was, from the outset, a commercial arm's length investment relationship between sophisticated parties, each represented by legal counsel. Their rights and obligations were comprehensively set out in a series of negotiated agreements, culminating in the Settlement Deed, the 2025 SHA and the 2025 Constitution. There is accordingly no basis to import informal understandings or personal expectations of participation that might arise in a

quasi-partnership context. The legitimate expectations of SH BVI must be assessed by reference to what the parties expressly agreed, read in light of the general law.

A summary of the parties' cases

48 The parties' cases can be summarised as follows.

49 SH BVI argues that it had three legitimate expectations as a minority shareholder of SHPL:

(a) The B Directors would exercise their board powers *bona fide* in the interests of SHPL as a whole, and not as instruments of Steele. This includes acting in accordance with the 2025 SHA and not for the ulterior motive of advancing Steele's commercial interests alone ("LE 1").

(b) Any further injection of capital into SHPL in the form of debt to address a liquidity need of the kind cited for the Class H Debt Securities would be made through the Emergency Funding mechanism under clause 4.2 of the 2025 SHA, at the agreed rate of 15% per annum without any exit multiplier ("LE 2").

(c) SH BVI would be given reasonable notice of, and the opportunity to participate meaningfully in, the governance of SHPL including decisions affecting all shareholders and relating to the injection of fresh capital ("LE 3").

50 SH BVI argues that each of these legitimate expectations was breached.

(a) SH BVI claims that LE 1 was breached in several respects.

(i) The issuance of the Class H Debt Securities was a "related party arrangement" between Steele and SHPL within the ambit of clause 3.8(e) of the 2025 SHA, which required the affirmative vote of at least one A Director. But that was never obtained.

(ii) The terms of the Class H Debt Securities themselves were extortionate, designed to extract value from SHPL for Steele's benefit, rather than to serve the genuine financing needs of the Group. SH BVI relies on the fact that the Class H Debt Securities have an 18% coupon rate which compounds annually, a 2x exit multiplier, with senior ranking priority over all existing debt securities and ordinary shares.

(iii) The Class H Debt Securities were structured deliberately to prevent SH BVI from subscribing to its share thereof. SH BVI complains that the Class H SSA contains a poison pill clause, which puts it at risk of having any of its Class H Debt Securities being redeemed at only 82% of the principal amount, without interest or the 2x multiplier. SH BVI further says that the Class H SSA places transfer restrictions only on SH BVI, which prevents it from raising financing by assigning, novating or otherwise encumbering its rights in the Class H Debt Securities.

(b) On LE 2, SH BVI claims by that by issuing the Class H Debt Securities, Steele bypassed the Emergency Funding mechanism under clause 4.2 of the 2025 SHA.

(c) On LE 3, SH BVI claims that it was completely excluded from the deliberations leading up to the issuance of the Class H Debt

Securities. The B Directors approved the issuance without any prior notice to SH BVI or the A Directors, without any disclosure of the capital need or proposed terms, and without any discussion at the board level. SH BVI was presented with the Class H Notice as a *fait accompli* on a Sunday, with a three-day window to respond.

51 SH BVI thus seeks the following reliefs:

(a) A declaration that the issuance of the Class H Debt Securities, and all documents executed and resolutions passed to effect the issuance, be declared void.

(b) An order that Steele purchases SH BVI's shareholding in SHPL, without a discount for lack of control or marketability, based on the average of the valuations of SHPL as at 31 March 2025 prepared by PricewaterhouseCoopers LLP ("PwC") and Horwath HTL ("Horwath").

(c) Along with the share buyout, an order that Mr Shivdasani's Founder Villa at the Soneva Fushi resort ("Founder Villa") be purchased at fair market value. SH BVI says that continued co-existence at the resort would be untenable given the deeply acrimonious relationship between the parties.

(d) In the alternative, an order that the sums disbursed pursuant to the Class H SSA be treated as loans to SHPL at an interest rate of 15% per annum pursuant to clause 4.2 of the 2025 SHA.

52 Steele claims there is no oppression, and responds as follows:

(a) The legitimate expectations of the parties are exhaustively set out in the 2025 SHA, which was negotiated at arm's length between sophisticated commercial parties with the benefit of legal representation. No legitimate expectations arise beyond those contractual documents.

(b) The Class H Debt Securities were issued in full compliance with clause 8 of the 2025 SHA, which expressly provides for the issue of debt securities by a simple majority board resolution without requiring the affirmative vote of an A Director. The issue was therefore not a Founder Authority Matter under clause 3.8(e), which applies only to related party arrangements and not to a proposed issue of securities governed by clause 8.

(c) The terms of the Class H Debt Securities, including the 18% coupon rate and the 2x exit multiplier, are consistent with private equity industry norms and commensurate with the risk profile of further investment into an underperforming business. Further, the Class H SSA was not designed to disincentivise SH BVI's subscription.

(d) The issuance of the Class H Debt Securities was commercially justifiable and *bona fide* in the interests of SHPL because there was a need for significant funding, and there was no viable source of third-party funding.

(e) LE 2 does not arise because there is no contractual requirement that funding must be provided exclusively through the Emergency Funding mechanism.

(f) SH BVI was not unfairly excluded. The Class H Notice complied with the procedure and shortened pre-emption timelines agreed in the 2025 SHA. SH BVI had the opportunity to subscribe but declined.

(g) There being no oppression, there is no basis to set aside the Class H Debt Securities issue, or to recharacterise it as Emergency Funding. Even if oppression is found, a buyout based on the March 2025 valuations is not the appropriate remedy. The valuations were prepared before the true state of the Group's finances was known, and are likely inflated. The appropriate remedy is to allow the parties to proceed towards a Marketed Sale as contractually agreed, with any financial prejudice to SH BVI addressed at the point of sale.

(h) Steele says there is no basis for an order that it purchases Mr Shivdasani's Founder Villa.

Issues to be determined

53 The following issues consequently arise:

(a) What, if any, were the legitimate expectations of SH BVI as a minority shareholder of SHPL?

(b) Did Steele act contrary to those expectations to such an extent that it has become commercially unfair towards SH BVI, in particular through the issuance of the Class H Debt Securities?

(c) If so, what is the appropriate relief?

LE 1

Whether SH BVI had the legitimate expectation that B Directors would exercise their board powers* bona fide *in the interests of SHPL as a whole

54 SH BVI grounds LE 1 on two sources. The first is the 2025 SHA and the 2025 Constitution, which together establish the governance framework for

SHPL and define the rights and obligations of the shareholders. The second is the general law, which imposes fiduciary duties on directors to act honestly, in good faith, and in the best interest of the company.

55 Directors undoubtedly owe fiduciary duties to act in the best interest of the company as a whole, and must not prefer the interests of one shareholder over another (*Kiri Industries (SICC)* at [119]; *Leong Chee Kin* at [65]; *Oversea-Chinese Banking Corp Ltd v Justlogin Pte Ltd* [2004] 2 SLR(R) 675 at [31]). A director who places himself in a position of actual conflict acts in breach of fiduciary duty (*Townsing Henry George v Jenton Overseas Investment Pte Ltd* [2007] 2 SLR(R) 597 at [64]). These principles were not contested by Steele. Mr Richard Andrew Weissmann ("Mr Weissmann", Steele's representative in these proceedings and a partner at KSL) accepted that the B Directors owed fiduciary duties to SHPL. Nothing in the 2025 SHA or the 2025 Constitution displaces these general law obligations.

56 Steele does not dispute that the B Directors owe fiduciary duties to SHPL and must act in its best interests. Steele's position is simply that the B Directors did not breach those duties in issuing the Class H Debt Securities.

57 LE 1 is established.

Whether LE 1 was breached

58 In issuing the Class H Debt Securities, SH BVI submits that Steele acted in breach of its obligations to act in SHPL's best interests in several aspects.

Whether the issuance of the Class H Debt Securities required the affirmative vote of at least one A Director

59 SH BVI contends that the issue of the Class H Debt Securities was a "related party arrangement" within the meaning of clause 3.8(e) of the 2025 SHA, and therefore required the affirmative vote of an A Director.

60 I note at the outset that this argument was advanced by SH BVI in its closing submissions as a freestanding legitimate expectation. SH BVI alleged that it had a legitimate expectation that B Directors would give effect to its veto right for related party arrangements. This differed from its original position, where this submission was subsumed within LE 1, rather than pleaded as a distinct and independent basis for oppression. I do not regard the question of whether the issue of the Class H Debt Securities required the affirmative vote of at least one A Director to be a standalone basis for oppression. Instead, I consider the related party arrangement argument to be, in substance, a specific instance of the wider inquiry under LE 1.

61 The relevant part of clause 3.8 of the 2025 SHA states:

> Without limiting the requirements under **Clause 3.6**, subject to **Clause 3.10** and the last sentence of this **Clause 3.8**, the Shareholders shall exercise their powers in [SHPL] to procure that [SHPL] *shall not, and [SHPL] hereby agrees that it shall not and shall procure that none of the Group Companies shall, transact any of the business described in this Clause 3.8 (the "**Founder Authority Matters**", and each, a "**Founder Authority Matter**") without a Board resolution approving the same passed by a simple majority including the affirmative votes to the Board resolution of at least one A Director acting in his or her sole discretion*
>
> …
>
> (e) any related party arrangement between [Steele] and/or its Affiliates (other than, if applicable, Group Company) on the one hand, and any Group Company, on the other hand, other than matters expressly contemplated under the Transaction Documents (including an exercise of the

> Investor's rights thereunder, including those under **Clause 4.1**). For the avoidance of doubt, this **Clause 3.8(e)** shall not apply to any transaction or arrangement with a Group Company that is entered into or otherwise benefiting all Shareholders and such transaction is entered into on terms which are negotiated on an arms' length basis.
>
> Notwithstanding the above, *none of the Founder Authority Matters shall restrict the exercise and implementation of any Investor Permitted Transfer, any Proposed Issuance in accordance with **Clause 8***, any Class A Buy-Back, any Exempted Issuance, any Emergency Funding (including the provision thereof and, where applicable, the allotment and issuance of Emergency Funding Debt Securities) as contemplated in **Clause 4.2**, [Steele]'s and/or [SHPL]'s rights under this Agreement in connection with a Marketed Sale and/or a transaction pursuant to the exercise by [Steele] of its Drag-Along Right as contemplated in **Clause 7.6** (including the distribution of sale proceeds to shareholders of the Company in accordance with this Agreement).
>
> [emphasis in original in bold; emphasis added in italics]

62 Thus, one of the Founder Authority Matters identified under the 2025 SHA is "any related party arrangement between [Steele] and/or its Affiliates (other than, if applicable, Group Company) on the one hand, and any Group Company, on the other hand". Clause 3.8 of the 2025 SHA provides that SHPL shall not engage in a Founder Authority Matter without the affirmative vote of at least one A Director acting in his or her sole discretion.

63 There is, however, a caveat in clause 3.8(e) whereby Founder Authority Matters shall not restrict "any Proposed Issuance in accordance with" clause 8. Clause 8 of the 2025 SHA in turn governs the issue of "Securities" by SHPL. In particular, clause 8(a) read with clause 3.6(a) of the 2025 SHA requires only an affirmative vote of a simple majority of the board, including at least one B Director, without any approval from an A Director:

> Without limiting any Negative Covenant Matter, the Shareholders hereby acknowledge that [SHPL] shall not allot or issue any Securities of any type or class (a "**Proposed**

> **Issuance**") to any person (the "**Proposed Recipient**") *unless the Proposed Issuance has been passed by the Affirmative Vote in accordance with **Clause 3.6***; provided that, for the avoidance of doubt, any Exempted Issuance shall not be subject to an Affirmative Vote or be subject to requirements in this **Clause 8**.
>
> [emphasis in original in bold; emphasis added in italics]

64 SH BVI argues that the Class H Debt Securities issue was a "related party arrangement" of the kind contemplated by clause 3.8(e). The transaction involved SHPL issuing debt securities to Steele, its majority shareholder and controlling investor, on terms conceived of and dictated by Steele, without any independent assessment by SHPL and without any arms' length negotiation. The underlying intent of clause 3.8(e) is to protect the minority shareholder in circumstances such as these, where the majority is self-dealing with the company.

65 SH BVI further argues that Steele cannot rely on the carve-out in clause 3.8(e) of the 2025 SHA because the Class H Debt Securities are not "Securities" within the meaning of clause 8 of the 2025 SHA. SH BVI points to the definition of "Securities" in Article 1 of the 2025 Constitution:

> … with respect to any person, such person's capital stock, membership interests, partnership interests, registered capital, joint venture or *other ownership interests (including, without limitation, in the case of [SHPL], Relevant Securities)* or any rights, options, warrants or *other securities that are directly or indirectly convertible into, or exercisable or exchangeable for, such capital stock, membership interests; partnership interests, registered capital, joint venture or other ownership interests* (whether or not such derivative securities are issued by such person).
>
> [emphasis added]

66 Contrary to being "directly or indirectly convertible into, or exercisable or exchangeable for … capital stock, membership interests; partnership interests, registered capital, joint venture or other ownership interests", the Class

H Debt Securities are "pure debt" instruments that do not carry conversion, exercise or exchange rights, and are redeemable for cash only. The label attached to the instrument cannot, in SH BVI's submission, determine whether the veto right is engaged. What matters is the nature of the transaction, and the Class H issue was, in substance, a related party financing arrangement between Steele and SHPL that required the affirmative vote of an A Director.

67 However, Article 1 of the 2025 Constitution also defines "Securities" as "with respect to any person, such person's capital stock, membership interests, partnership interests, registered capital, joint venture or other ownership interests (including, without limitation, in the case of the Company, *Relevant Securities*)" [emphasis added]. The definition of "Relevant Securities" in the 2025 Constitution is determinative. "Relevant Securities" is defined in Article 1 of the 2025 Constitution to mean "collectively, the Ordinary Shares, the Debt Securities, the Redeemable Class A Share and the Class H Debt Securities". The Class H Debt Securities are therefore expressly named as a category of "Relevant Securities", which in turn falls within the definition of "Securities" as an included subset of SHPL's capital stock and ownership interests.

68 It follows that the issue of the Class H Debt Securities was a Proposed Issuance governed by clause 8(a) of the 2025 SHA, and fell within the carve-out in clause 3.8. On a strict reading of the two documents, the issue was not a Founder Authority Matter requiring the affirmative vote of an A Director, and the board resolutions approving the issue were not passed in breach of clause 3.8(e). Parties are bound by the 2025 SHA and 2025 Constitution, and effect must be given to their terms as written.

69 I accept that the Class H Debt Securities operate as debt instruments. They carry no conversion, exercise or exchange rights of any kind, and are

redeemable only for cash. This is clear from the Class H SSA, which states unequivocally in clause 2 of Schedule 1 that:

> The Class H Debt Securities are non-assessable and non-convertible and non-exchangeable into any other class of shares or other Securities of [SHPL]. For clarity, the Class H Debt Securities shall in no event be considered 'Debt Securities' under, or for any purposes with respect to, the [2025 SHA] or the [2025 Constitution].

Also telling is clause 7 of Schedule 1, which sets out three situations under which the Class H Debt Securities may be redeemed and stipulates, in all three situations, that the redemption is to be made by payment of a certain price into Steele's bank account.

70 The Class H Debt Securities do not alter Steele's shareholding of SHPL, which remains governed by its ordinary shares. But the real question is the proper construction of the instruments that define the relationship between SH BVI and Steele, including the 2025 Constitution. A company's constitution is a contract between the shareholders and the company, as well as the shareholders among themselves: s 39(1) of the CA (see also *Ng Yew Nam v Loh Sin Hock Anthony* [2024] 4 SLR 759 at [32(b)]). Unless SH BVI successfully challenges the validity of the 2025 SHA and 2025 Constitution, the parties are bound by these agreements regardless of the economic substance of the Class H Debt Securities.

71 I therefore reject SH BVI's characterisation of the Class H Debt Securities issue as a "related party arrangement" which necessitates the consent of an A Director.

Whether there was a real commercial need for urgent funding

72 Steele argues that the Group was in acute financial distress when it took control in May 2025 due to prior mismanagement. The Class H Debt Securities were issued as a necessary and commercially justified response to a genuine and pressing liquidity crisis. Steele points to many features of the Group's financial position before the issue of the Class H Debt Securities. Salient highlights are as follows:

(a) The forecast of the Group's operating earnings before interest, taxes, depreciation and amortisation ("EBITDA") was initially US$29.2 million at the start of financial year 2025 ("FY2025") but had to be revised down to US$18 million after Steele took control of SHPL, to capture the Group's financial position more accurately.

(b) As at May 2025, the Group was in default of its loan agreement with Aareal Bank AG ("Aareal Bank") and owed more than US$120 million to major third-party lenders, with annual amortisation and interest payments of approximately US$20 million that could not be serviced from the Group's then-forecasted operating EBITDA.

(c) The Group also had over US$12 million in overdue trade payables, with certain suppliers threatening to discontinue supply.

(d) On 14 May 2025, Mr Bromley (previously the interim CEO of SHPL appointed by Mr Shivdasani and an A Director) estimated that the Group required approximately US$28.7 million in Emergency Funding for May and June 2025 alone.

(e) Steele provided a total of US$20 million in Emergency Funding in May and June 2025.

(f) From June to July 2025, technical consultants engaged by SHPL to assess the physical condition of the Soneva Jani and Soneva Fushi resorts uncovered critical infrastructure problems, including poor structural integrity and black mould issues in staff accommodation (costing US$5–6 million per building to fix) and inadequate wastewater treatment facilities (costing US$5 million to remediate). Additional costs of around US$1.2 million were incurred to address seagrass overgrowth at Soneva Jani that was harming the guest experience.

(g) On 11 June 2025, Mr Jeff Singleton ("Mr Singleton", a B Director) disseminated an Excel spreadsheet anticipating SHPL's cashflow needs for the period from June to September 2025. He estimated that funding of at least US$53.2 million for this period was required. Relying on this "high level, directional" analysis by Mr Singleton, Steele says that the US$37 million figure (which is the aggregate subscription amount of the Class H Debt Securities) was a genuine estimate of the Group's funding needs. After factoring in the US$20 million in Emergency Funding already provided, this left an anticipated shortfall of approximately US$33.2 million. Adding a further US$4 million to cover anticipated refinancing transaction costs would bring the shortfall to US$37 million.

73 SH BVI does not dispute that the Group had a need for funding. Rather, its case is that the need was overstated. It posits four responses as follows:

(a) Contrary to the picture painted by Steele, the Group was not in financial distress.

(i) Before Steele took control of SHPL, from January to April 2025, the Group's operating EBITDA was approximately

US$19.6 million, ahead of the budgeted US$17.9 million for the same period.

(ii) The CFO reports prepared by the Group's finance team confirmed a strong financial position throughout May to August 2025. The consolidated EBITDA for this period was US$5.7–8 million higher than the corresponding period in 2024.

(iii) Steele's downward revision of the Group's forecast EBITDA from US$29.2 million (at the start of FY2025) to US$18 million (at the time Steele took control of SHPL) was cited in a 26 November 2025 email from Mr Marc Ong of KSL ("Mr Ong") to Mr Weissmann. The email stated:

> **2025 EBITDA turnaround**
>
> - $29.2M EBITDA: Company's 2025 forecast based on Feb 2025 Board Deck
> - $18M EBITDA: Neil's initial view of 2025 shortly after we took control – *this references a verbal conversation we had with Neil*
>   - See attached my email from 14 Jun referencing this
> - $21.9M EBITDA: Our latest 9+3 forecast of the year. I.e. we've managed to turn the business around in a positive manner. This is after incurring $6.9M of hub costs, a large portion of which are associated with the new Dubai office we've had to set up
>
> [emphasis in original omitted; emphasis added in italics]

The email is telling in several aspects. First, the internal assessment of the Group's financial position was recognised by Steele to be a "2025 EBITDA turnaround". Second, the revised figure of US$18 million was derived from nothing more than a verbal conversation with Mr Neil Gallagher ("Mr Gallagher", the Group's CEO appointed by Steele after it took control), rather than from any financial analysis. Third, Steele acknowledges that the Group's EBITDA improved from US$18 million to US$21.9 million as at November 2025. Fourth, the email acknowledges that US$6.9 million of the costs incurred were "hub costs" associated with Steele's decision to establish new SHPL offices in Dubai, despite offices already existing in the Maldives.

(b) Mr Weissmann's evidence on the scale of the funding need was thin and largely unsubstantiated, him being unable in cross-examination to explain or verify the specific funding figures relied upon by Steele.

(c) Mr Shivdasani gave evidence that the mid-year dip in cash flow was a predictable, recurring feature of the Group's business as a "seasonal business":

> A: … Usually in December, we used to achieve an EBITDA of about 7 to 8 million, so we made – can I clarify, your Honour? …
>
> Court: Well, go on.
>
> A: … we're a very seasonal business and I used to tell our team that 80 days of the year – the reason I told my team that was that we had to really perform and be on 12 cylinders for 80 days of the year because we made all our profits over those days, and the rest of the year we were treading water.

(d) SH BVI points to the actual drawdown pattern as evidence that the urgency was exaggerated. Only US$12 million was drawn at the outset. No further sums were called upon until April 2026, some eight months later.

74 I am satisfied that the Group had a genuine need for capital in August 2025. The most compelling evidence pre-dates and is independent of Steele's own narrative.

75 Mr Bromley, who was the interim CEO appointed by Mr Shivdasani and who served as both CFO and an A Director, informed the B Directors in May 2025 that the Group required a large capital injection. Mr Bromley's email states:

> … I outline below an *emergency funding request for a total amount of US$28.7m to cover the months of May and June.* This differs from my previous request as the delays in funding some of the completions of the villas will impact on the receivables, so figure required is a gross amount and there will be some inflows to offset this, but not clear when they will come …
>
> [emphasis added]

76 SH BVI did not object when these needs were subsequently addressed via Emergency Funding provided in two tranches: US$5 million on 27 May 2025, and US$15 million on 18 June 2025.

77 Steele's evidence that the Group was in default of its Aareal bank loan and owed approximately US$120 million owed to major third-party lenders was unchallenged. The annual amortisation and interest payments of approximately US$20 million represented an unavoidable drain on the Group's liquidity in 2025 itself. Assume for the sake of argument that Mr Ong's EBITDA figure of US$18 million lacked any financial or analytical basis and rested on nothing more than a verbal conversation with Mr Gallegher. This would not detract from the Group's obvious financial strain. On SH BVI's most charitable estimate of the Group's EBITDA for FY2025 of US$29.2 million, the Group would have just a little less than US$10 million to meet its operational and capital

expenditure needs after accounting for the approximately US$20 million in annual debt service obligations to third-party lenders.

78 Such operational and capital expenditure needs would include approximately US$12 million in overdue trade payables as at May 2025. The evidence discloses that certain suppliers, including food suppliers at the resorts, were threatening to discontinue supply, while others were threatening legal action as a result of long-overdue payables. I accept that the operational urgency and capital expenditure needs were exacerbated by infrastructure deficiencies uncovered by SHPL's technical assessments in July 2025. In this regard, the text exchanges between Mr Weissmann and Mr Christopher Eddis ("Mr Eddis"), an A Director himself who toured the islands in March 2026, are illuminating:

> **[3/11/26, 8:04:39 AM] Richard Weissmann**: Thank you for making the trip to the Maldives and taking time to tour [Soneva Fushi Resorts] and [Soneva Jani Resorts] and understand the scope of what we need to tackle. With respect to the host accommodations, fire and life safety and waste water treatment, what pains me is that the company was spending money on all kinds of pet projects — online retail, medical tourism and new resort opportunities outside the Maldives — all the while neglecting critical infrastructure. In board meetings, we were told the investment in infrastructure was either not necessary or completed and we were selectively toured as to avoid seeing the issues …
>
> …
>
> **[3/11/26, 1:24:42 PM] Chris Eddis:** … Most surprising for me is that [Mr Shivdasani] appears still disbelieving that the Capex is needed (!) - don't know whether via ignorance of issues or disregard …
>
> …
>
> **[3/11/26, 1:27:09 PM] Chris Eddis:** Re capex I need to just replay toSS that I have now seen what I need to see, that the money is being spent due to urgent need and is being allocated judiciously and not being thrown at the issue and that, in case this is his narrative , there is no way this is an exercise being done with the express intention of punitive dilution (!)

79 The fact that significant infrastructural defects remained outstanding as late as March 2026, some seven months after the Class H Debt Securities were issued, reinforces the conclusion that the need for capital was real and not manufactured.

80 I am therefore satisfied that the Group had a genuine and pressing need for external financing in August 2025.

81 Nonetheless, although a company may have a need for additional capital, the financing of that need does not automatically preclude a finding of prejudice. *How* financing is provided by the majority is a paramount consideration. As Hoffmann J observed in *Re a Company (No 007623 of 1984)* [1986] BCLC 362 at 366–367, the fact that a board genuinely believed additional capital was required, does not necessarily mean that the transaction was carried out in a manner that was fair to the minority. In the context of raising capital by a rights issue, shareholders either invest more money in the company by subscribing to the rights issue, or let their shareholdings be diluted in value and voting power (see *The Wellness Group Pte Ltd v OSIM International Pte Ltd* [2016] 3 SLR 729 ("*TWG v OSIM*") at [185]). Even if the rights issue was not made with the dominant purpose of diluting the non-subscribing shareholders, the manner in which it was conducted may still be commercially unfair to the non-subscribing shareholder (*H8 Holdings v RIC Dormitory* [2024] SGHC 177 at [195]). The inquiry must go further to examine objectively whether the terms and structure of the financing operated unfairly. That inquiry encompasses not only the quantum of the financing and the terms on which it was extended, but also whether the majority explored alternative sources of financing before committing the company to the terms of the rights issue: *Over & Over* at [107] and [126]; *TWG v OSIM* at [186]. Where a majority shareholder provides financing on terms that are advantageous to itself, the failure to test the

market for alternatives is a relevant consideration in assessing whether the minority has been treated fairly.

82 The Class H Debt Securities carried an 18% per annum coupon, accruing daily and compounding annually, and ranked senior in priority to all shareholder loans and classes of shares in SHPL. Upon a Mandatory Redemption Event, such as a Marketed Sale, the holder would be entitled to receive a Mandatory Redemption Amount of two times the outstanding principal and all accrued coupons. Thus, the larger the subscription, the greater the Mandatory Redemption Amount that would be extracted from the Group on an exit, diminishing the value available to other stakeholders.

83 Against that backdrop, a crucial consideration must be the *extent* of financing that was needed. In other words, while the Group genuinely required funding, did it urgently need US$37 million?

84 I am not satisfied that the figure of US$37 million has been adequately justified.

85 Steele's primary evidence on the need for US$37 million turns on Mr Singleton's June 2025 estimate, which Steele itself characterises as a "high level, directional" snapshot of the Group's anticipated cashflow needs. I accept SH BVI's argument that no subsequent analysis refining or validating this estimate was produced. There were no cashflow models, no board papers, no independent financial assessments, and no contemporaneous records of deliberation by the B Directors as to how the figure of US$37 million was reached or why it was appropriate. Steele's case on quantum rests, in substance, on a single preliminary internal estimate that was never subjected to further scrutiny before the Class H Debt Securities were issued. Nor was I assisted by

Mr Weissmann's evidence. In cross-examination, he was unable to substantiate the specific funding gap figures. For instance:

> Q: I'm saying that if KSL and Soneva had disclosed all of those documents, then the court would have a much clearer picture of what the actual cash flow needs at the material time was. Do you agree?
>
> A: Disagree. You suppose that the documents exist. *I have no idea.* All I know is that the way we ran the business was mostly by conversation. It was in distress.
>
> [emphasis added]

86 Critically, the actual deployment of the funds is difficult to reconcile with the urgency in issuing the Class H Debt Securities to raise US$37 million. The initial drawdown of US$12 million was applied to specific identifiable payments, that is, approximately US$5 million in debt servicing, US$1 million in redundancy and consultancy payments, and US$6 million in aged payables. I accept these concrete, verifiable funding needs. Mr Shivdasani himself accepted under cross-examination that the initial drawdown of US$12 million addressed the Group's cashflow needs. The difficulty lies with the remaining US$25 million, which was structured as a line of credit available for future drawdown at the board's discretion. As at the date of the closing submissions, only a further US$9 million had been drawn in two tranches: US$5 million in April 2026 and US$4 million in June 2026 shortly after the last day of hearings before me. This left approximately US$16 million undeployed some 11 months after the Class H Debt Securities were issued.

87 Steele explains the restraint in its drawdown by reference to the availability of a Bank of Maldives ("BML") credit facility of US$5 million secured in October 2025, the deferral of certain capital expenditure items, and the Group's ability to manage US$6 million of its liquidity from operating

cashflows. But this explanation cuts against Steele's case. The Group could manage without drawing the remaining amount for nearly a year. It could do so by deferring expenditure and securing modest third-party financing. As a result, the case for committing to a US$37 million facility on the terms of the Class H Debt Securities in August 2025 is considerably weakened.

88 I accept that establishing a line of credit structure is commercially sensible, especially given the Group's financial vulnerability during the resorts' off-season. However, the question is not merely whether it was prudent to have reserves available, but whether the scale of the commitment, and the terms on which it was made, were proportionate to the Group's actual and reasonably anticipated needs at the time. The nature of the Class H Debt Securities is such that the greater the amount committed, the greater the potential extraction of value by Steele from SHPL on a Marketed Sale. A line of credit therefore represents not just a reserve, but a standing charge against the future proceeds of all shareholders. The weight of that sword of Damocles grows with every dollar committed.

89 I also have regard to the CFO reports for May to August 2025, prepared by the Group's finance team under Steele's new management, which illustrate a strengthening financial situation. The consolidated EBITDA for each of those months was running at approximately double the corresponding period in 2024. SHPL's total operating revenue was consistently outperforming the prior year by approximately US$7 to 8 million per month. The year-to-date operating EBITDA as at July 2025 was ahead of budget. These are not the metrics which one ordinarily associates with a business requiring US$37 million in emergency financing on distressed-asset terms.

90 I accept Steele's point that an improving EBITDA trajectory does not eliminate the need for funding entirely. A business can be improving operationally, while still facing acute liquidity pressures from legacy debt obligations, overdue payables, and deferred capital expenditure. The Aareal Bank default and the overdue trade payables were problems that required cash to address, and I have already found that they contributed to a need for capital.

91 But the improving financial trajectory bears on the question of quantum. Where a business is demonstrably recovering, the case for locking in a large discretionary facility on compounding terms is diminished. The line of credit structure meant that Steele was not just addressing a present or *imminent* liquidity shortfall, but was reserving the right to extract value from the Group up to US$37 million. It is therefore troubling that that ceiling was not anchored to a rigorous assessment of the Group's actual or reasonably anticipated needs. In circumstances where the Group's own finances were improving, and where the bulk of the facility remained undrawn for nearly a year, the commitment of US$37 million strikes me as less a measured response to a pressing need, but as a disproportionate encumbrance on the Group's future proceeds, to be borne by all shareholders.

92 Additionally, I find that Steele made no real attempt to secure alternative financing before issuing the Class H Debt Securities. If Steele had made genuine efforts to find alternative lenders before committing the Group to the Class H Debt Securities, it may well have been possible to meet the Group's funding needs at lower cost and on different terms. The absence of such effort makes it difficult for Steele to assert that US$37 million was necessary to address the Group's needs.

93 In support of the argument that alternative funding was available, SH BVI points to evidence that, by 10 March 2026, Steele was close to securing a refinancing of an Aareal Bank loan by First Abu Dhabi Bank ("FAB") for US$125 million. The refinancing arrangements were in its final stages with "approximately [two] months to close the refinancing". But I do not treat this as compelling evidence that equivalent financing was available in August 2025. Such arrangements were made *after* the Class H Debt Securities were issued. Factors such as market conditions or the Group's financial profile may have shifted in the intervening months, prompting FAB's engagement.

94 What I find more supportive of SH BVI's case is Steele's conduct *prior* to the issuance of the Class H Debt Securities. Steele was aware of more than 70 potential lenders before the issue, including institutions such as StepStone Group Real Estate LP ("StepStone") and King Street Capital Management, LP ("King Street") that previously offered financing to the Group. I am not satisfied that Steele sufficiently engaged these potential lenders. Steele's basis for saying that SHPL had difficulty in procuring funding from StepStone and King Street is that SH BVI's previous attempts to negotiate financing with them in 2023 were unproductive. But that does not mean that the outcome would have been equally unfavourable in 2025 after Steele gained control of the board. As I observed when Mr Shivdasani was cross-examined on the financing terms that KingStreet would have offered in 2025:

> Q: But everything you say demonstrates that it is still speculative what terms King Street would have offered if approached in 2025 –
>
> A: Well, why didn't they approach, though? If it was the most obvious one to approach, then we wouldn't have to be speculating about it, but – that's the point I'm trying to make, that's all. Just approach them. We know they're interested. There's huge interest. Both StepStone and King Street, they come on

> holiday, they love it. They invest in the Maldives. Just approach them …
>
> Court: I think stop there.
>
> A: I'm sorry. I'm speculating now, my apologies.
>
> Court: I think we have the point. *It was bound to be speculative because no one approached them, so we can only speculate.*
>
> [emphasis added]

95 It is true, as Steele submits, that what StepStone or King Street would have offered in terms of financing remains speculative. But that speculation is of Steele's own making. Had Steele approached these lenders before issuing the Class H Debt Securities, the Group might have secured financing at a lower quantum, on more favourable terms, or both.

96 To show that Steele made efforts to reach out to potential lenders, Steele adduced evidence of resumed negotiations with Aareal Bank on 14 July 2025 to restructure SHPL's existing loans and to obtain further funds. These efforts took place before the Class H Debt Securities were issued. However, the email correspondence among Aareal Bank, Mr Weissmann, and Mr Gallagher, indicate that these negotiations with Aareal Bank began even "before the changes in ownership structure and responsible directors took place" (*ie*, before May 2025). The negotiations concluded in November 2025 with Aareal Bank proposing funding of US$20 million. That was about three months after the Class H Notice was issued on 3 August 2025. In other words, substantial negotiations pre-dating Steele's takeover were concluded soon after the issue of Class H Debt Securities. This suggests that, at the time of the Class H issuance, Steele appreciated that a restructuring of the Aareal Bank loan and the prospect of fresh funds were imminent. Steele suggested that this funding option was not viable because Aareal Bank wanted its US$20 million loan to be cash-trapped to the Soneva Fushi and Soneva Jani resorts and not used for Soneva Secret, and

also wanted Steele to fork out US$20 million in equity. However, it is unclear why the cash trap would have been a dealbreaker when one of Steele's own justifications for the US$37 million is for costs flowing from Soneva Fushi's and Soneva Jani's operations (see above at [72(f)]).

97 Steele also asserted that it "spent four months from June 2025 to October 2025 working with BML to obtain an additional loan of US$5 million and refinance existing loans" and that this "small additional loan" was only granted because Steele's affiliate provided a corporate guarantee. As to whether further funding was sought from BML, Steele merely explains vaguely that "[a]t the start of August 2025, SHPL and [Steele] did not know if BML would advance funds to SHPL" by way of an additional loan. No elaboration as to *why* Steele was uncertain about the prospect of a further loan, nor evidence of the guarantee previously furnished by Steele's affiliate, was proffered. Consequently, it is difficult to take Steele's word that it explored alternative financing with BML.

98 Against this backdrop, the initial drawdown of only US$12 million from the Class H Debt Securities subscription is significant. If the Group's immediate needs amounted to no more than US$12 million and material refinancing from at least Aareal Bank was within reach, SHPL could have issued securities for a lesser amount pending the outcome of negotiations, instead of committing the Group to US$37 million which went largely undrawn for nearly a year. Consequently, I am not persuaded that US$37 million was a proportionate response to the Group's funding needs.

99 I accept Steele's submission that it was commercially sensible to establish a line of credit, as that creates the financial stability necessary to attract better-priced external financing. But the pertinent question is a narrower one: whether the financial need was so *urgent* such that there was no other choice

other than to commit to US$37 million of Class H Debt Securities in August 2025. The failure on Steele's part sufficiently to engage StepStone and King Street before the securities issue, together with the lack of evidence of attempts by Steele to seek alternative funding, undermine Steele's assertion that the issue of the Class H Debt Securities was the only or most proportionate response to the Group's funding needs.

100 For the foregoing reasons, I find that the Group had a genuine need for capital in August 2025, but the need was substantially more modest than for US$37 million.

Whether the terms of the Class H Debt Securities were extortionate

101 I turn to consider the terms of the Class H Debt Securities, and whether they were extortionate and designed to extract value from SHPL for Steele's benefit.

102 To recapitulate, the key terms are: (a) the 18% per annum coupon rate, accruing daily and compounding annually; (b) the 2x Mandatory Redemption Amount applied to the outstanding principal and all accrued coupons upon an exit event; and (c) the senior ranking of all the Class H Debt Securities over all the existing debt securities and ordinary shares (see above, [33]).

(1) The financial effect of the terms of the Class H Debt Securities

103 To appreciate the financial effect of the Class H Debt Securities issuance, SH BVI sets out the following table. I accept these figures, which represent the returns accruing to Steele under the Class H Debt Securities over a hypothetical three-year period, *assuming* for each year that the full US$37 million is drawn and the business is sold at the end of the year.

Year	Total Amount Accrued (US$)	Interest accumulated (US$)	Amount owing with 2x multiplier (US$)	Annualised internal rate of return (IRR)
1	43,660,000	6,660,000	87,320,000	136%
2	51,518,800	14,518,800	103,037,600	67%
3	60,792,184	23,792,184	121,584,368	48%

104 These figures are in stark contrast with those owed to Steele if the same capital had been advanced under the Emergency Funding mechanism at 15% per annum with no exit multiplier.

Year	Total Amount Accrued (US$)	Interest accumulated (US$)	IRR
1	42,550,000	5,550,000	15%
2	48,932,500	11,932,500	15%
3	56,272,375	19,272,375	15%

(2) Steele's justifications for the terms of the Class H Debt Securities

105 I consider the following five responses by Steele.

106 First, the 18% coupon rate and a 2x redemption multiplier under the Class H Debt Securities are consistent with the norms in the private equity market.

107 Second, the court should consider the previously issued Class G Debt Securities as the appropriate benchmark for the Class H Debt Securities. When SH BVI still controlled the board, SHPL issued the Class G Debt Securities in November 2023 and June 2024. These securities carry a base coupon rate of 20% which increases to 40% upon the occurrence of a "Payables Trigger Event". A "Payables Trigger Event" is defined in Schedule 1 of the 2025 SHA as:

> … any time after 31 December 2024 where then-outstanding payables of the Group to trade creditors … in an aggregate amount greater than USD$0 have remained outstanding for more than 60 consecutive days after 31 December 2024.

Mr Shivdasani personally negotiated these terms when SHPL needed urgent funding from Steele. When given the choice between a 40% interest rate and a 2x multiplier, Mr Shivdasani chose the 40% rate. The terms were then approved by the board which comprised a majority of A Directors.

108 Third, in January 2024, Mr Shivdasani caused a Group company, Soneva Management Private Limited ("SMPL"), to procure an advance on villa purchase payments from a villa purchaser that was in substance a loan. The advance carried an initial interest rate of 15% per annum that would escalate to 25% if handover of the villa was delayed ("SMPL Advance"). Shortly before Steele took control in May 2025, Mr Shivdasani's team further amended this arrangement to increase rates to 25% from February 2025 and then 30% if handover did not occur by July 2025, without board approval. Steele says Mr Shivdasnai's conduct demonstrates that rates at or above 18% are commercially sound when a business needs funds or when lenders face increasing risk over time.

109 Fourth, Steele's investors expect a minimum 20% IRR and a 2x return on invested capital, and that these expectations must be calibrated upward to reflect the heightened risk of injecting further capital into an underperforming business.

110 Last, SH BVI's IRR calculations are misleading because they isolate the Class H Debt Securities from Steele's total investment in SHPL. The return on the Class H Debt Securities must be viewed in the context of its overall investment in SHPL of approximately US$225.6 million (assuming that the Class H Debt Securities have been paid out by Steele in full). Steele argues that its IRR actually drops as a result of the Class H Debt Securities upon considering its overall investment. Further, its IRR increases only marginally under the Class H Debt Securities terms as compared to the Emergency Funding terms.

111 To illustrate, Steele prepared the following table which assumes: (a) that Steele funded the full US$37 million as of 11 August 2025; (b) that a sale as at 10 August 2028 is based on a hypothetical total enterprise value ("TEV") of US$403 million.

TEV (US$)	**Investor's IRR if US$37 million <u>not</u> funded at all**	**Investor's IRR if US$37 million funded through <u>Class H Debt Securities</u> on 11 August 2025**	**Investor's IRR if US$37 million funded through <u>Emergency Funding</u> on 11 August 2025**
403 million	4.41%	3.72%	2.79%
500 million	8.08%	7.29%	6.55%
600 million	11.10%	10.26%	9.66%

700 million	13.61%	12.76%	12.25%

(3) Analysis

(A) RELEVANCE OF STEELE'S OVERALL INVESTMENT IN SHPL

112 I do not consider Steele's overall investment in SHPL to be relevant in the determination of whether the terms of the Class H Debt Securities are extortionate.

113 There are two questions: (1) how the Class H Debt Securities affect Steele's overall portfolio return, and (2) what they do to the distribution of the exit proceeds as between Steele and SH BVI as shareholders of SHPL. The question whether SH BVI acted oppressively is concerned with the latter, not the former.

114 Even if the Class H Debt Securities only marginally improve Steele's overall IRR because Steele has capital at risk across all its investments in SHPL, their effect is to reduce the residual proceeds available to *all* ordinary shareholders upon exit. SH BVI, as an ordinary shareholder holding approximately 24.8% of SHPL, would receive a *pro rata* share only of whatever remains after the Class H obligations are discharged in full, including the 2x multiplier applied to compounded interest. The fact that Steele's overall IRR is relatively more modest would not diminish the impact of the Class H terms on SH BVI's share of exit proceeds.

115 The figures provided by Steele itself illustrate the point. At a US$403 million exit valuation, Steele's proceeds attributable to its ordinary shares would be:

(a) US$149.2 million if no Class H funding was provided; and

(b) US$58.1 million if Class H funding was provided.

116 From these figures, it is apparent that the Class H Debt Securities will absorb a substantial portion of the exit proceeds that might otherwise flow to ordinary shareholders. At a US$403 million exit valuation, Steele's proceeds attributable to its ordinary shares fall from approximately US$149.2 million to US$58.1 million: a reduction of approximately US$91 million. Steele argues that this reduction exceeds the approximately US$85 million it would receive on the Class H Debt Securities, and that it therefore has no incentive to inflate the Class H obligations. However, the relevant comparison is between what SH BVI would receive under the Class H scenario and what it would receive under the Emergency Funding scenario. That differential, flowing from the effects of the 2x multiplier applied to compounded interest at 18% per annum, will not be addressed by pointing to Steele's overall portfolio IRR. The fact that a majority shareholder suffers a greater absolute loss from its own extraction does not make the extraction fair to the minority.

(B) STRUCTURE OF THE CLASS H DEBT SECURITIES AND INDUSTRY NORMS

117 As a general proposition, courts should not readily second-guess commercial decisions made by directors. Judicial restraint in reviewing commercial decisions reflects the principle that "[u]ndue legal interference will dampen, if not stifle, the appetite for commercial risk and entrepreneurship" (*Vita Health Laboratories Pte Ltd v Pang Seng Meng* [2004] 4 SLR(R) 162 at [17]; see also *ECRC Land Pte Ltd v Wing On Ho Christopher* [2004] 1 SLR(R) 105 at [49]). But this presupposes that the commercial decisions were made in good faith in the best interest of the company *as a whole* (*Re Tri-Circle Investment Pte Ltd* [1993] 1 SLR(R) 441 at [40]). The principles underlying the

court's power to intervene in cases of minority oppression are engaged when a corporate decision is only commercially sound for the majority, but prejudicial for the minority in a way that departs from the standards of fair dealing.

118 On that footing, I find that the terms of the Class H Debt Securities themselves were extortionate and not commercially justifiable as a matter of fairness to SH BVI.

119 The combination of the 18% compounding coupon and the 2x multiplier produces returns that is qualitatively different from, and in excess of, a straightforward 2x return on invested capital. The Mandatory Redemption Amount is calculated as two times the outstanding principal and all accrued coupons. This means the 2x multiplier is applied not just to the US$37 million principal, but also to interest that has already been compounding at 18% per annum. Steele is therefore earning a 2x return on returns it has *already* earned. As the table above at [100] illustrates, if the business is sold at the end of year one, the amount owing to Steele would be approximately US$87.3 million on a principal of US$37 million, yielding an annualised IRR of 136%. On a three-year exit, the IRR remains approximately 48%, while the total amount owing (around US$121.5 million) would be around three times the original principal of US$37 million.

120 Steele says that, by debt equity norms, it should earn a minimum 20% IRR for its investors and a 2x return on their investment capital in a performing business. Since SHPL was an underperforming business, Steele would be entitled to expect a higher rate of return to justify the risk taken with its capital. However, the sole support for Steele's IRR benchmark of 20% was a KSL due diligence questionnaire dated January 2018, which recorded that Steele seeks a minimum 20% IRR and 2x return on invested capital. Thus, it appears that

Steele's benchmark, which supposedly represents debt equity norms, is merely Steele's own internal target. SH BVI contends that these figures do not represent a viable benchmark. I agree. I was not provided with any independent expert evidence or market data to establish that the figures reflect standard terms for shareholder loans in the hospitality or any comparable sector. Even if one accepts Steele's 20% IRR benchmark at face value, the Class H Debt Securities vastly exceed it. An IRR of 48% (on a three-year exit) is not only "modestly" above 20%. If the purpose of the Class H terms was to meet Steele's minimum return requirements, a rate calibrated to produce an IRR of slightly above 20% would have sufficed. Although a lender investing in a riskier asset may reasonably seek a higher return, I was also not provided with any figures or evidence to establish how much above 20% an IRR could justifiably be sought before it becomes unreasonable. The fact that the actual terms go well beyond Steele's own internal target of 20% (assuming for the sake of argument that 20% is an industry norm), suggests that they were not calibrated to meet a legitimate return threshold but to extract a maximum value upon exit.

(C) Class G Debt Securities and the SMPL Advance Benchmarks

121 The Class G Debt Securities are not an appropriate benchmark. The 40% rate under Class G was in effect a penalty rate, triggered upon a Payables Trigger Event. A penalty rate is designed to deter a particular adverse outcome. The parties entering into it typically expect that it will never need to be triggered. A penalty rate therefore cannot serve as evidence of a commercially reasonable baseline return, because it was never intended to represent a fair price for capital in ordinary circumstances. The 18% coupon and 2x multiplier under Class H Debt Securities, by contrast, are not penalty provisions. They are supposed to be baseline terms, applicable from their issuance in all circumstances, regardless of whether an adverse event occurs. Steele is

therefore comparing a guaranteed unconditional baseline return under the Class H Debt Securities to a worst-case contingent penalty under Class G Debt Securities.

122 The logic of penalty rates runs counter to Steele's argument. Penalty rates are set above a commercially reasonable baseline because they are meant to serve as a deterrent. The existence of a penalty rate above such a baseline confirms that the heightened rates require special justification rooted in conduct calling for punitive measures. Steele inverts this logic. It uses the penalty rate to justify the baseline, when the penalty rate in reality operates as a departure from it.

123 Steele contends that a Payables Trigger Event occurred on 8 April 2025 as there were outstanding payables of the Group to trade creditors which were outstanding for more than 60 consecutive days. On this basis, the 40% rate therefore applied to the Class G Debt Securities as at the time of the Settlement Deed, with the parties negotiating the rate down to 20% as part of their settlement. Steele argues that, because the penalty rate was triggered, it ceased to be speculative and instead became operative, capable of serving as a genuine market reference point. I do not accept this. The character of a penalty rate is determined at the time it is agreed, not by whether it is subsequently triggered. When the parties agreed to the 40% rate under Class G, they did so as a deterrent against a specific adverse outcome which they hoped to avoid. The fact that the adverse outcome materialised cannot retroactively make the penalty rate a commercially reasonable baseline return. It remains a rate set with a punitive purpose, calibrated to the risk of a specific default event rather than the fair market cost of capital. The subsequent triggering of the rate is consequently irrelevant on whether the rate can serve as a benchmark for a commercially reasonable baseline return on a financing instrument.

124 For similar reason, I reject Steele's reliance on the SMPL Advance as a market benchmark. That advance was a villa purchaser's advance payment on a specific construction obligation, not a general shareholder loan. The escalating interest rates of 25% and 30% were penalty rates triggered by a delayed handover of a villa, not baseline returns on a financing instrument.

125 Therefore, the benchmarks upon which Steele relies upon (the rates from the Class G Debt Securities and SMPL Advance) do not establish that the Class H terms were commercially reasonable. Instead, they suggest that rates of this magnitude are only ever contemplated as a response to default, not as a fair price for capital.

(4) Conclusion on the terms of the Class H Debt Securities

126 For the above reasons, I find that the terms of the Class H Debt Securities are extortionate, and not commercially justifiable as a matter of fairness to SH BVI.

Whether the Class H Debt Securities were structured deliberately to prevent SH BVI from subscribing

127 A theme which permeates Steele's submissions is that the Class H Debt Securities were equally offered to Steele and SH BVI. Having chosen not to participate, SH BVI should not now be heard to complain about the cards Steele holds.

128 Steele points to Mr Shivdasani's concession during cross-examination that, even if SH BVI had the funds available to subscribe to the Class H Debt Securities, he would have focussed on a new brand he wished to pursue – Sosei. The relevant portion of the transcript is as follows:

Q: I'm putting it to you, Mr Shivdasani, that the reason SHBVI chooses not to participate in class H is because it is saving its funds to pursue the Sosei brand and these other next-chapter plans. …

A: Yeah, I mean, I – there are various factors there. So, firstly, I disagree and I agree … I didn't feel there was an obligation for me to continue to fund a company that I had no control of by the people who were running it and controlling it absolutely hated me, and they even didn't ask for my opinion on anything even though I founded the business. So I felt they didn't like me, they didn't want me, they -- I don't know, just hated me. And I needed to get on with my new life and so, of course, I was going to allocate capital to the next chapter, working with people who I had an affinity to, and where we had a common purpose.

129 The highest that Steele can take this point is that Mr Shivdasani's concession indicates a lack of good faith in SH BVI's decision to not subscribe to the Class H Debt Securities. SH BVI had instead resolved to deploy its available capital to Sosei, regardless of the terms on offer. But the motive for SH BVI's decision not to subscribe and the fairness of the terms on which subscription was offered are separate matters. Even if SH BVI declined to subscribe on unreasonable grounds, that would not bear on whether the terms offered made subscription commercially unattractive or impractical for SH BVI in ways that did not apply to Steele. The formal availability of the right to subscribe does not cure the underlying unfairness.

130 SH BVI relies on two features of the Class H SSA which it argues unfairly disincentivised it from subscribing.

131 First, Schedule 1 clause 7(c) of the Class H SSA is a discounted redemption provision which provides that if the board reasonably determines that a party has breached its obligations under the Class H SSA, SHPL may

redeem that party's Class H Debt Securities at 82% of the subscription price, with all accrued coupons and the benefit of the 2x multiplier forfeited:

> If the Board determines (acting reasonably) that any Party (other than [SHPL]) has breached any of its obligations under this Agreement (including this Schedule 1) (such Party and, where such Party is a Founder Party, all Founder Parties, each (together with their permitted assigns and transferees) being, a "<u>Holder in Default</u>"), then [SHPL], if so determined by the Board in its sole and absolute discretion, may, subject to compliance with all applicable Laws, redeem part or all (as determined by the Board in its sole and absolute discretion) of any Class H Debt Securities held by such Holder in Default by paying … the holder thereof the Discounted Redemption Price for each such redeemed Class H Debt Security …
>
> [emphasis in original in underline]

SH BVI characterises this as a poison pill directed at it, since the board is controlled by Steele's nominee B Directors.

132 Clause 2.2 of the Class H SSA provides that the directors of SHPL may, in their sole discretion, issue further notices requiring each subscribing shareholder to subscribe for additional Class H Debt Securities up to the aggregate facility amount of US$37 million. SH BVI argues that it is exposed to an indeterminate future funding obligation, and that a failure to meet a further call could trigger the discounted redemption mechanism under Schedule 1 clause 7(c) of the Class H SSA. But I find that clause 2.2 of the Class H SSA is merely a feature of Steele's line of credit structure (see above, [87]). Allowing directors of SHPL to require shareholders to subscribe for additional Class H Debt Securities avoids the time and transaction costs of repeated separate issuances, while ensuring that capital is available as and when the Group requires it. Mr Shivdasani himself accepted at trial that this was a "normal, prudent approach" to managing a company's liquidity requirements. The fact that SH BVI would have been exposed to further calls does not by itself establish

that the structure was designed to deter subscription. The same obligation applied to Steele.

133 The discounted redemption provision in Schedule 1 clause 7(c) of the Class H SSA is symmetrical on its face. It applies to any subscriber found by the board to have breached its obligations, including Steele. Steele is correct that the provision does not, in terms, single out SH BVI.

134 I accept that the question of whether a term is oppressive cannot be answered by examining it in isolation, and regard must be had to the practical operation of the term in the context of the parties' relationship and the governance structure of SHPL. In that context, I agree with SH BVI that the discounted redemption provision would operate asymmetrically in practice. Steele's nominees control the board. The board would not, in the ordinary course, determine that Steele itself has breached its obligations under the Class H SSA. The provision therefore only carries real bite against SH BVI. A subscribing SH BVI would be placing itself at the risk of a default mechanism that only one side of the transaction could ever realistically trigger against the other.

135 Nevertheless, this asymmetry, standing alone, is insufficient to establish oppression. SH BVI's argument ultimately rests on the premise that Steele will invoke the provision against SH BVI or Mr Shivdasani in bad faith as a pretext to strip them of their returns. SH BVI has not adduced direct evidence of any such intention. The fact that Steele has, in the past, accused Mr Shivdasani of various breaches of the 2025 SHA does not, without more, establish that the B Directors will exercise the discounted redemption power in bad faith.

136 Therefore, I reject SH BVI's contention that Schedule 1 clause 7(c) of the Class H SSA, and clause 2.2 of the Class H SSA which might trigger it, were structured with the deliberate purpose of deterring SH BVI from subscribing, or of expropriating its returns if it did. The asymmetry I have identified is a matter of practical concern, but concern is not the same as oppression, given a lack of direct evidence establishing Steele's intention to cause SH BVI to breach both provisions.

137 Second, SH BVI points to an asymmetry in Schedule 1 clause 8 of the Class H SSA, which provides that only Steele is allowed to transfer or assign its Class H Debt Securities to any financial investor or institutional lender:

> *Save* (x) in connection with the consummation of the transactions contemplated under a Mandatory Redemption Event, (y) for a Permitted Transfer in accordance with and subject to the [2025 SHA], or (z) for *a Transfer, assignment or novation by [Steele] of any part or all of any of its Class H Debt Securities, and/or any of its rights and obligations thereto, to any financial investor or institutional lender* (it being agreed that the foregoing (x) through (z) shall each be permitted without requiring the prior written consent of [SHPL] or any other holder of Class H Debt Securities), *each holder of Class H Debt Securities shall not be permitted to directly or indirectly Transfer any Class H Debt Securities to any person.*
>
> [emphasis added]

138 SH BVI says the practical effect of this asymmetry is that SH BVI will not be in a position to pledge its Class H Debt Securities as collateral to obtain third-party financing to fund its subscription. Steele, as a private equity fund with access to institutional capital markets, could raise external financing to fund its subscription to the Class H Debt Securities by assigning or novating its rights to a lender. SH BVI, whose net worth is predominantly tied up in its shareholding in SHPL and which does not have significant liquid assets, has no equivalent avenue. The transfer restriction effectively forecloses a viable means by which SH BVI could have raised the funds necessary to subscribe.

139 Steele's response to this point is twofold. First, it says that the transfer restriction was a reasonable protective measure, given SH BVI's past conduct that could risk entangling SHPL with unknown third parties who may complicate and obstruct a Marketed Sale. In late 2024 and early 2025, SH BVI purportedly concealed a fixed share charge granted over its shares to Sagarmatha II Holding AG to secure a loan procured by Mr Shivdasani, in breach of the operative shareholders' agreement at the material time. Further, in November 2025, Steele discovered that Mr Shivdasani had proposed to Kiri Private Reserve ("Kiri") resort villa purchasers a scheme to transfer SH BVI's shares in SHPL into an escrow account for their benefit. This circumvented the terms of the 2025 SHA and the Amended and Restated Share Charge Agreement dated 25 May 2025 ("Share Charge Agreement") under which SH BVI had granted a share charge to Steele. Second, Steele says that SH BVI remained free to raise financing by other means, and that nothing in the Class H SSA prevented it from doing so.

140 I do not find Steele's responses persuasive. The concern about SH BVI's past conduct could conceivably justify restrictions on SH BVI's ability to transfer its ordinary shares in SHPL. But those concerns do not explain why SH BVI should be prevented from assigning its rights in Class H Debt Securities to a lender for the purpose of raising funds to subscribe to those securities. The Class H Debt Securities are not ordinary shares. A lender taking security over SH BVI's Class H Debt Securities would not acquire governance rights in SHPL, nor would it be in a position to obstruct a Marketed Sale. The connection between (1) Steele's concern that the SH BVI may transfer its rights in its ordinary shares and thereby post a threat to a Marketed Sale and (2) the restriction imposed on the Class H Debt Securities, is tenuous.

141 Steele's submission that SH BVI could still raise financing by other means ignores the reality that SH BVI's principal asset is its shareholding in SHPL. Following the Share Charge Agreement, SH BVI's full shareholding in SHPL is subject to a share charge in favour of Steele. Therefore, SH BVI's ability to raise external financing was already significantly constrained. The additional restriction on the transfer of Class H Debt Securities removed what might otherwise have been a viable avenue for SH BVI to participate in the issue.

142 More fundamentally, I consider that the asymmetry in Schedule 1 clause 8 of the Class H SSA to be a tipping point. It is difficult to identify a legitimate commercial rationale for conferring on Steele a right of assignment that is expressly denied to SH BVI. The right of assignment benefits Steele by giving it flexibility in how it funds its subscription. The corresponding restriction on SH BVI could have been achieved by a more targeted provision, such as a restriction on transfers to parties who are not bound by the 2025 SHA. The most natural inference is that the restriction was designed to ensure that SH BVI would be unable to subscribe, allowing Steele to take up the entirety of the Class H Debt Securities and the returns associated with them.

143 Therefore, I find that Schedule 1 clause 8 of the Class H SSA establishes that the Class H Debt Securities were structured to disincentivise SH BVI from subscribing.

Conclusion on whether LE 1 was breached

144 On balance, I find that LE 1 was breached. SH BVI had a legitimate expectation that the B Directors would exercise their board powers *bona fide* in the interests of SHPL as a whole. The issue of the Class H Debt Securities was

a departure from LE 1 because there was no commercial need for urgent funding of up to US$37 million on such extortionate and unfairly structured terms.

LE 2

Whether SH BVI had the legitimate expectation that financing would be provided via Emergency Funding

145 SH BVI submits that it had a legitimate expectation that any injection of capital into SHPL to address liquidity needs of the kind earmarked for the Class H Debt Securities should be made through Emergency Funding at the agreed rate of 15% per annum without any exit multiplier. Clause 4.2(a) of the 2025 SHA on the Emergency Funding mechanism stipulates:

> … [Steele] *shall*, acting reasonably and in good faith and in consultation with the Board, assess the nature of the Emergency Funding Need, determine the appropriate level of Emergency Funding required to cure or avoid such Emergency Funding Need and send a written notice to [SHPL] and the Board of such funding needs, and concurrently issue on behalf of [SHPL] to the Shareholders an appropriate funding request in writing, which shall set out: (i) the circumstances giving rise to such Emergency Funding Need; (ii) the amount of the Emergency Funding; (iii) the requested funding date; and (iv) the terms of the loan, or if a loan is not permitted by any then in-place Debt Facilities, Relevant Securities with terms substantially similar to the Class B Debt Securities (the "**Emergency Funding Debt Securities**") save that the *annual coupon rate of the Emergency Funding Debt Securities shall be fifteen percent* (15%) (in each case, which terms shall be consistent with the terms set out in **Clause 4.2(c)**) and attach reasonable evidence of such cash need (an "**Emergency Funding Request**").
>
> [emphasis in original in bold; emphasis added in italics]

146 The Emergency Funding mechanism was present in the previous 2024 SHA. Under clause 4.2 of the 2024 SHA, there was a list of events, defined as "Emergency Funding Need[s]," in which loans at a 15% coupon rate could be

provided by shareholders to SHPL. Under clause 4.2(a)(i) of the 2024 SHA, these needs included the situation where:

> (i) the Board or [Steele], acting reasonably and in good faith, determines that (A) a breach of a financial covenant under any Debt Facilities of any member of the Group has occurred or is reasonably likely to occur in the future or (B) a violation of Law has occurred or is reasonably likely to occur in the future …

147 The Emergency Funding mechanism was expanded in the 2025 SHA to include situations where there is a Liquidity Need. Under clause 4.2(a)(i) of the 2025 SHA, the Emergency Funding mechanism is engaged when:

> (i) the Board or [Steele], acting reasonably and in good faith, determines that (A) a breach of a financial covenant under any Debt Facilities of any member of the Group has occurred or is reasonably likely to occur in the future, (B) a violation of Law has occurred or is reasonably likely to occur in the future … *or (C) there is a Liquidity Need*"
>
> [emphasis added]

148 A Liquidity Need is in turn defined as follows under Schedule 1 of the 2025 SHA:

> means the occurrence (or reasonably likely occurrence) of any of the following events:
>
> (i) a breach or reasonably expected breach of a payment obligation of any member of the Group, including payment obligations owed to any trade creditors of the Group in respect of the Soneva Resorts (including the Soneva Secret Resort);
>
> (ii) a requirement to providing funding for any Group's member capital expenditure commitments in respect of the Soneva Resorts (including the Soneva Secret Resort);
>
> (iii) a requirement to provide funding for any Group Company's obligations contemplated under the Settlement Deed; or
>
> (iv) a shortfall in liquidity in respect of any of the Soneva Resorts (including the Soneva Secret Resort).

149 SH BVI says that the Emergency Funding mechanism was deliberately expanded under the 2025 SHA to cover all situations in which SHPL might

require more capital. SH BVI points to the express wording of clause 4.2(a) of the 2025 SHA which states that if Steele, acting reasonably and in good faith, considers that there is a Liquidity Need, Steele "shall" engage in the Emergency Funding mechanism by notifying SHPL and the board of such funding needs and concurrently issuing the Emergency Funding Request to the shareholders.

150 Apart from the express wording and context of clause 4.2 of the 2025 SHA, SH BVI argues that Steele's reliance on the Emergency Funding mechanism after the 2025 SHA, reinforces the existence of LE 2.

(a) On 27 May 2025, Steele procured SHPL to pass a directors' resolution to approve an Emergency Funding Request of US$5 million at the stipulated 15% annual coupon rate. The director's resolution on 27 May 2025 stated that the Emergency Funding was for the purposes of "certain current (and continuing) Liquidity Need, including … a shortfall of liquidity in respect of the Soneva Secret Resort".

(b) Less than a month later, on 18 June 2025, Steele procured a further shareholder loan of US$15 million to SHPL under the Emergency Funding mechanism, again at 15% per annum. The director's resolution on 18 June 2025 stated that "an Emergency Funding Need [was] triggered by the emergence of certain current (and continuing) Liquidity Need, including: a requirement to provide funding for (x) Group Company's obligations under the Settlement Deed and (y) various obligations, payables and interest accrued payable to lenders, in each case relating to the business operations and undertakings of the Soneva Resorts".

SH BVI says Steele's conduct in applying the Emergency Funding mechanism in these two instances constitutes a representation of the scope and application of the Emergency Funding mechanism, specifically that any further liquidity shortfall experienced by SHPL of the kind that had been addressed through the Emergency Funding mechanism would continue to be met in that manner. The upshot is that the Class H Debt Securities should not have been issued entirely outside the Emergency Funding mechanism, on terms unilaterally designed by Steele.

Whether Clause 4.2 of the 2025 SHA gives rise to LE 2

151 Steele argues that clause 4.2 of the 2025 SHA is permissive rather than mandatory. The provision creates an option, but not an obligation, to raise funds through the Emergency Funding mechanism. The 2025 SHA contains no funding priority in favour of Emergency Funding over other mechanisms such as the issuance of Debt Securities.

152 On a literal reading of clause 4.2 of the 2025 SHA, no terms prohibit the use of alternative funding mechanisms. The analysis, however, cannot end there.

153 Steele's argument rests on the proposition that it can bypass the Emergency Funding mechanism, and did not need to issue an Emergency Funding Request to raise funds for SHPL. If so, since under clause 4.2 of the 2025 SHA Steele assesses whether a Liquidity Need exists and initiates the Request, the logical conclusion would be that Steele retains a discretion to fund through alternative mechanisms by declining to recognise a Liquidity Need.

154 I reject this. Clause 4.2(a) of the 2025 SHA does not confer an unfettered discretion on Steele, as it requires Steele to act "reasonably and in good faith"

in assessing whether a Liquidity Need exists. Therefore, Steele cannot simply decline to recognise a Liquidity Need, if such a need *objectively* exists in the circumstances, to avoid triggering the Emergency Funding mechanism. I am fortified by the use of "shall" in clause 4.2(a) of the 2025 SHA. Once a Liquidity Need is objectively assessed to exist, Steele *shall* send a written notice to SHPL and the board of such need, triggering the issue of an Emergency Funding Request to shareholders and marking the start of the Emergency Funding mechanism.

155 On the facts, a Liquidity Need plainly existed. As explored above at [73], the Group had genuine and pressing needs for external financing in August 2025. These needs extended to satisfying "payment obligations owed to trade creditors of the Group" and "capital expenditure commitments in respect of the Soneva Resorts", and fell under the ambit of "a shortfall in liquidity in respect of any of the Soneva Resorts," which each constitute a Liquidity Need under Schedule 1 of the 2025 SHA.

156 The expanded scope of clause 4.2 of the 2025 SHA to cover any situation where there is a Liquidity Need, is significant. It is difficult to reconcile Steele's acceptance of the expansion, upon the conclusion of the 2025 SHA, with its present position that the Emergency Funding mechanism was merely one option among others. If Emergency Funding was no more than an option, it is difficult to discern a legitimate commercial purpose for the broadening of clause 4.2 to cover a wide range of liquidity needs.

157 Steele argues that clause 4.2(b) of the 2025 SHA preserves each shareholder's discretion whether to provide Emergency Funding, and argues that the mechanism is therefore optional. It states:

> (b) Upon receipt of an Emergency Funding Request from [Steele]:
>
> > (i) each Shareholder shall indicate in writing to the other Shareholder(s) within four (4) days of receipt of the Emergency Funding Request whether it is, in its sole discretion, willing to provide a pro rata portion equivalent to its Shareholder Ownership Percentage … of such Emergency Funding" …

158 I do not accept this argument. Clause 4.2(b) of the 2025 SHA is not a freestanding discretion to opt out of the Emergency Funding mechanism. It instead governs what happens *after* an Emergency Funding Request has been issued under clause 4.2(a) of the SHA. Its opening words: "[u]pon receipt of an Emergency Funding Request from [Steele]" make this explicit. The discretion that it preserves (namely, a shareholder's right not to participate in a *pro rata* share of the funding) only arises after an Emergency Funding Request has been made. It does not confer a discretion to bypass the requirement to issue a request if there is a Liquidity Need on a *bona fide* assessment. Steele is seeking to use a provision that presupposes the Emergency Funding mechanism has been invoked, as a basis for saying that the mechanism need not be invoked at all. That turns the structure of the Emergency Funding provisions on its head.

159 Steele's reliance on clause 4.2(b) of the 2025 SHA conflates two different matters. The clause addresses whether a shareholder must participate in an Emergency Funding round once a request has been issued. It does not address how Steele may structure its funding once it has decided to provide capital. The real question is thus whether, having chosen to fund, Steele can do so outside the Emergency Funding mechanism.

160 A difficulty arising from LE 2 is the tension between clauses 4.2 and 8 of the 2025 SHA. "Liquidity Need" under the 2025 SHA is broadly defined, covering any situation involving a cash shortfall or unmet payment obligation.

If clause 4.2 is engaged whenever there is a Liquidity Need, the Emergency Funding mechanism would apply in every instance when SHPL requires external financing. There would be little scope for the operation of clause 8 of the 2025 SHA which governs a proposed issue of securities.

161 In my view, the clauses complement (rather than compete) with each other. They operate at different levels. Clause 8 concerns the corporate governance underlying an issue of securities. Board approvals must be obtained before securities can be allotted. Clause 4.2, by contrast, concerns the terms on which shareholder debt financing must be structured when there is a Liquidity Need. Clause 8 answers the question of *who* must approve an issue of securities and *who* may subscribe to those securities once approved. Clause 4.2 answers the question of the financing *terms* that must be offered. Whereas Steele is not required to obtain board approval under clause 8, it must structure financing terms pursuant to clause 4.2 in an Emergency Funding situation.

162 Thus, clause 4.2 gives rise to a legitimate expectation that Steele would apply the Emergency Funding mechanism for the purposes covered by the Class H Debt Securities, which I have found to constitute a Liquidity Need.

Relevance of Steele's prior conduct in relying on the Emergency Funding mechanism in the 2025 SHA

163 I turn finally to Steele's prior conduct in invoking the Emergency Funding mechanism on 27 May 2025 and 18 June 2025. I do not find that, by itself, this conduct gives rise to LE 2. The legitimate expectation instead arises from a plain reading and from the structure of clause 4.2, as analysed above. Steele's prior conduct is simply corroboration of that conclusion. On both occasions, Steele proceeded on the basis of the existence of a Liquidity Need, in terms indistinguishable from those cited in connection with the Class H Debt

Securities. The identification of a Liquidity Need triggered the Emergency Funding mechanism so that funding was to be provided at an annual coupon rate of 15%.

164 Steele suggests that changed circumstances, specifically the uncovering of further instances of SH BVI's mismanagement contributing to the genuine need for funding, justified its departure from that practice when it came to the Class H Debt Securities. Assume, however, that the circumstances in August 2025 were not identical to those in May and June 2025. That would not assist Steele. The operative question is not whether circumstances had changed, but whether a Liquidity Need existed that the Class H Debt Securities were supposed to address. I have found that a Liquidity Need did exist. Once that threshold is crossed, clause 4.2 of the 2025 SHA is engaged, and the alleged changed circumstances do not justify a departure from the mechanism which the parties had agreed would govern such situation.

Conclusion on whether LE 2 existed

165 For the foregoing reasons, I find that LE 2 existed. SH BVI had a legitimate expectation that any liquidity injection into SHPL of the kind addressed by the Class H Debt Securities, would be structured through the Emergency Funding mechanism under clause 4.2, at the agreed rate of 15% per annum and without an exit multiplier.

Whether LE 2 was breached

166 By issuing the Class H Debt Securities outside the Emergency Funding mechanism, on terms carrying an annual compounding coupon rate of 18% and a 2x exit multiplier, Steele acted inconsistently with LE 2. The Class H Debt Securities were issued in circumstances that called for the Emergency Funding

mechanism to be engaged. Steele's failure to comply with that mechanism constituted a breach of LE 2.

LE 3

Whether SH BVI had a legitimate expectation of transparency and meaningful participation in SHPL's governance

167 SH BVI submits that it had a legitimate expectation that its appointed A Directors would be afforded genuine and meaningful participation in the governance of SHPL, including in decisions for the raising of capital. First, clause 3.1(a)(v) of the 2025 SHA confers on SH BVI the right to appoint A Directors to the board. The right implies that A Directors can participate in deliberations before decisions are made, not simply be notified of decisions already taken by the B Directors. Second, clause 12 of the 2025 SHA reinforces the expectation by granting each shareholder and its appointed directors full access to the books, records, financial statements and other information of SHPL, including information relating to the raising of fresh capital.

168 SH BVI draws parallels with *Kiri Industries (SICC)*. There Kiri Industries Ltd ("Kiri Industries") accepted a structure under which Zhejiang Longsheng Group Co, Ltd ("Longsheng") would hold majority control over DyStar Global Holdings (Singapore) Pte Ltd ("DyStar"), first as creditor and later, on conversion of convertible bonds, as majority shareholder. Kiri Industries, as minority shareholder, retained a contractual right under the relevant shareholders' agreement to nominate directors. The court in *Kiri Industries (SICC)* found that Kiri Industries' contractual right to appoint directors gave rise to an expectation that Kiri Industries and its directors would have their say on key decisions that DyStar made: at [119]–[120]. Longsheng, in concluding significant transactions without board approval and withholding

information from the minority directors, drained Kiri Industries' right to board representation of any practical content.

169 I accept these parallels. SH BVI similarly ceded majority control to Steele, while retaining a contractual right to appoint A Directors onto the board. As the court in *Kiri Industries (SICC)* observed, a minority shareholder's contractual right to appoint directors must be given meaningful content. That requires: (1) providing the minority directors with the information necessary to participate effectively in board decisions; and (2) the majority directors to discharge their fiduciary duties to the company instead of advancing the majority shareholder's interests (see *Kiri Industries (SICC)* at [119]). If the majority can ignore the minority directors, the minority's right to have seats on the board will ring hollow.

170 Clause 3.8 of the 2025 SHA carved out specific transactions, including a proposed issue of debt securities under clause 8 of the 2025 SHA, from SH BVI's veto rights. Steele argues that this carve-out reflects a deliberate allocation of decision-making authority, and that SH BVI cannot complain of being excluded from a process it contractually agreed would not be subject to its veto.

171 I do not accept this argument. Clause 3.8 of the 2025 SHA deals with outcomes. It removes SH BVI's ability to block, prevent or veto the implementation of a proposed issue of securities. It says nothing about the *process* by which such a decision is to be reached. The rights to participate meaningfully in board deliberations, receive relevant information, ask questions, and have one's views considered before a decision is finalised are distinct from the right to veto the outcome of those deliberations. A shareholder may be contractually precluded from preventing a particular decision, while still

retaining a legitimate expectation that it will be genuinely engaged in the process leading up to that decision. The absence of a veto right does not imply the non-existence of a right to participate in discussions.

172 I therefore find that LE 3 existed.

Whether LE 3 was breached

173 SH BVI argues that LE 3 was breached because SH BVI was denied a meaningful opportunity to participate in the decision to issue the Class H Debt Securities. SH BVI was excluded from any form of discussions about the how capital would be raised, and the quantum required by SHPL. The terms, structure and size of the Class H Debt Securities were unilaterally determined by Steele. SH BVI says that the Class H Notice, issued on a Sunday with a three-day response window, was a *fait accompli* because the B Directors had already passed the resolution approving the issue of the Class H Debt Securities and the terms were already settled.

174 Steele counters that LE 3 has not been breached because the board complied with all necessary procedural steps relating to the issue of the Class H Debt Securities:

(a) Under clause 8(a) of the 2025 SHA, a Proposed Issuance of Securities merely required a simple majority of the board (meaning that the approval of an A Director was not required).

(b) On 3 August 2025, a majority of the board comprising four B Directors signed the DRPI for the Class H Debt Securities. The resolution was then circulated to the entire board, including the A Directors, who had the opportunity to consider and decide whether to approve the resolution.

(c) On 3 August 2025, a member's resolution was issued by the board to all shareholders for the creation of the Class H Debt Securities. The members' resolution acquired the requisite majority on 4 August 2025.

(d) Under clause 8(c) of the 2025 SHA, SHPL had to deliver a Notice of Proposed Issuance to each shareholder not less than 5 days before the issue of the securities. The Notice of Proposed Issuance had to detail the size and terms of the relevant securities and the consideration to be received by SHPL for the same. This was complied with on 3 August 2025, when SHPL delivered the Notice of Proposed Issuance containing the necessary details and informed SH BVI of its entitlement to subscribe for a *pro rata* share.

(e) Under clause 8(d) of the 2025 SHA, a shareholder had to give written notice to SHPL specifying the number of securities for which it wanted to subscribe, within three days following the delivery of a Notice of Proposed Issuance. Failing the requisite notice, the shareholder is deemed to have waived its pre-emption rights to subscribe to the relevant securities. By 6 August 2025, SH BVI had not issued any written notice.

(f) On 6 August 2025, the Class H SSA was executed.

175 I am unable to accept Steele's argument. Whether the prescribed procedural steps have formally been followed is distinct from the question whether SH BVI was afforded meaningful participation in the deliberation and decision-making preceding the issuance. A person may act within one's legal rights, yet still act in a manner that is commercially unfair (*Leong Chee Kin* at

[48]). Compliance with the mechanics of clause 8 does not address whether the A Directors had a genuine opportunity to engage with the decision *before* it is made. Clause 8 does not permit the majority to exclude the minority from deliberations leading up to a Proposed Issuance. To the contrary, SH BVI had a legitimate expectation of meaningful engagement on decisions of this sort.

176 The evidence establishes that the decision to issue the Class H Debt Securities was made before SH BVI had any opportunity to participate in the deliberations. The terms, structure and quantum of the Class H Debt Securities had been determined by Steele and the B Directors prior to the issue of Notice of Proposed Issuance on 3 August 2025. By the time SH BVI received the Notice of Proposed Issuance, the DRPI had been signed by the four B Directors and the terms were fully settled. There is no evidence that the A Directors were consulted at any stage of the process. When Mr Weissmann was cross-examined on whether the terms of the Class H Debt Securities should have been explained to SH BVI, he answered in the negative:

> Q: And do you agree that given the size of the financing involved, it would be important to explain to the other shareholders what the terms are so that they can meaningfully consider it?
>
> A: No.
>
> Q: There's no need to explain?
>
> A: No.

In these circumstances, the Notice of Proposed Issuance was hardly an invitation to participate meaningfully in a decision, but a notification of a decision already taken.

177 Thus, LE 3 was breached.

Conclusion on whether Steele acted unfairly

178 I conclude that Steele acted in a commercially unfair manner and, accordingly, SH BVI succeeds in its claim under s 216 of the CA. The issue of the Class H Debt Securities was a departure from the standards of fair dealing that SH BVI was entitled to expect as a minority shareholder. The B Directors failed to act *bona fide* in the interests of SHPL as a whole, bypassed the Emergency Funding mechanism that the parties had agreed would govern precisely this kind of capital needs, and excluded SH BVI from meaningful participation in the deliberations leading up to the issue. The breaches flow from Steele's conduct in using its majority control to structure a financing arrangement on terms that were extortionate, disproportionate to the Group's genuine funding needs, and designed to maximise Steele's extraction of value upon exit at the expense of the minority.

The appropriate relief to be ordered

179 The court's power to grant relief in a minority oppression claim is found in s 216(2) of the CA, which provides:

> (2) If on such application the Court is of the opinion that either of such grounds is established the Court may, with a view to bringing to an end or remedying the matters complained of, make such order as it thinks fit and, without limiting the foregoing, the order may —
>
> > (a) direct or prohibit any act or cancel or vary any transaction or resolution;
> >
> > (b) regulate the conduct of the affairs of the company in future;
> >
> > (c) authorise civil proceedings to be brought in the name of or on behalf of the company by such person or persons and on such terms as the Court may direct;
> >
> > (d) provide for the purchase of the shares or debentures of the company by other members or holders of debentures of the company or by the company itself;

> (e) in the case of a purchase of shares by the company provide for a reduction accordingly of the company's capital; or
>
> (f) provide that the company be wound up.

180 The court's objective in granting relief is to bring an end the matters complained of. In practice, the buy-out order has emerged as one of the most commonly sought remedies (see *Liew Kit Fah v Koh Keng Chew* [2020] 1 SLR 275 at [1]; *Kiri Industries (SICC)* at [275]–[277]). This is unsurprising. Resorting to a minority oppression suit is symptomatic of an irreparable breakdown of the trust and goodwill that once underpinned the parties' association. Accordingly, measures short of a clean separation risk leaving underlying tensions unresolved, with the spectre of further disputes looming over the company's future. However, the court must have regard to the totality of the circumstances of the parties' relationship, including the existing contractual framework governing their relationship. Where parties have themselves agreed on an exit mechanism, the court should be slow to override that mechanism, unless it has been so corrupted by the majority's conduct as to be incapable of delivering a fair outcome for the minority.

Parties' positions

181 SH BVI seeks a buy-out order for Steele to purchase its 24.8% ordinary shareholding in SHPL, assessed by referenced to the average of independent valuations conducted by PwC and Horwath on 31 March 2025 (see above, [52(b)]), yielding a buyout price of US$70.8 million. SH BVI contends that the commercial relationship between the parties has clearly broken down beyond repair. Since the start of these proceedings, Steele has consistently demonstrated hostility towards Mr Shivdasani and SH BVI – pursuing arbitration to claim rights over Mr Shivdasani's new brand (Sosei), refusing to facilitate a genuine sale of SH BVI's shares to a prospective purchaser, and rejecting outright a good

faith offer to buy out Steele's own investment. In these circumstances, leaving SH BVI at the mercy of Steele, which controls the timing and terms of any exit from SHPL, would not put a stop to the oppression.

182 Alternatively, SH BVI seeks an *en bloc* sale order of SHPL within one year, to be conducted by an independent sale agent appointed by consent, with no further issues of the Class H Debt Securities permitted while that process is underway.

183 Additionally, SH BVI requests that the court direct SHPL to purchase Mr Shivdasani's interest in the Founder Villa at a fair value (said to be US$10 million with an appropriate discount for early purchase), to ensure a full clean break between parties.

184 Steele resists a buy-out order on two grounds. First, it contends that it cannot fund a buy-out, having exhausted the capital allocated to its SHPL investment when subscribing to the Class H Debt Securities. Second, a buy-out would be inconsistent with the structure and intention of the settlement on 17 May 2025, which contemplated an exit by way of a Marketed Sale at a time to be determined by Steele. Steele submits that, if any remedy is to be granted, it should be tailored to the specific unfairness found. It suggests that the court could offer SH BVI a renewed opportunity to participate in the Class H Debt Securities on terms that address any unfairness, or alternatively, vary the economic terms of the Class H instrument, with the Class G Debt Securities providing an appropriate baseline.

Analysis

185 The relationship between SH BVI and Steele has deteriorated to a point beyond return. The history of their acrimonious litigation reveals as much.

186 But I am not persuaded that a buy-out is the appropriate remedy in this case. This is because the parties have themselves agreed in the 2025 SHA on a mechanism for concluding their relationship.

187 Clause 9.1(b) of the 2025 SHA obliges the parties to use all reasonable endeavours to consummate an "Exit Event" from SHPL by the "Exit Date". The relevant paragraphs of clause 9.1 are as follows:

> **9.1 Exit Event**
>
> (a) An Exit Event means the occurrence of any of the following:
>
> > (i) a sale (in a single or a series of transactions) of the entire Ordinary Shares, Security Equivalents and other Shareholder Interests in [SHPL] held by [Steele] at a consideration at least equivalent to the Mandatory Coupon Top-up Amount;
> >
> > (ii) a Qualified IPO;
> >
> > (iii) a sale (in a single or a series of transactions) of the entire securities (i.e., Ordinary Shares, Debt Securities and other Security Equivalents) and other Shareholder Interests in [SHPL]; or
> >
> > (iv) a sale (in a single or a series of transactions) of all or substantially all of the assets held by the Group,
> >
> > (each, an "**Exit Event**").
>
> (b) [SHPL], the Founder Shareholder and the other Founder Parties *shall use all reasonable endeavours to consummate an Exit Event by the Exit Date*. For the avoidance of doubt, this **Clause 9.1(b)** shall not affect any of the rights of [Steele] under this Agreement or the Constitution, including in respect of any matters requiring an Affirmative Vote.
>
> [emphasis in original in bold; emphasis added in italics]

188 Under Schedule 1 of the 2025 SHA, the Exit Date is defined as "the date that is the seventh … anniversary of the First Debt Securities Subscription Date", being 15 November 2019. Therefore, notwithstanding that Steele has a unilateral right under Clause 9.2(a)(ii) of the 2025 SHA to effect a Marketed Sale at a time of its choosing, Steele and SH BVI are both obliged to "use all

reasonable endeavours" to exit their investments in SHPL by 15 November 2026.

189 I do not think that I should override an exit mechanism that has been in place since the 17 May 2025 settlement, especially when that mechanism, if properly enforced and supplemented by the orders I make below, is capable of untying the knot between the parties on the terms they agreed. I am mindful that the oppression against SH BVI hinges on the issue of the Class H Debt Securities. The key to remedying the oppression in this case therefore lies not in displacing the agreed exit mechanism, but in correcting any unfairness introduced into it. The issue of Class H Debt Securities skewed the economics of exit in Steele's favour and at SH BVI's expense. The appropriate relief would address that unfairness, while holding both parties to the exit framework they both accepted. The orders that I make below are directed at rectifying the terms of the Class H Debt Securities to restore a fair economic balance between the parties, and ensuring that the Marketed Sale process is conducted in a manner that is independent and timely, with a view to achieving an exit by the agreed Exit Date of 15 November 2026.

190 Given my finding that the terms of the Class H Debt Securities are extortionate, I vary the Class H Debt Securities such that they would have a coupon rate of 15% compounding annually. This is the rate the parties themselves agreed would apply, under Clause 4.2 of the 2025 SHA, where shareholder financing is extended. Since Steele unfairly departed from that mechanism, it is appropriate to hold Steele to the rate to which Steele would have been bound if Steele had acted as it should have. I am further satisfied that the 2x multiplier must be removed. It was not a feature of the Emergency Funding mechanism, was not negotiated with SH BVI, and inflated Steele's returns at SH BVI's expense. Its removal is necessary to remedy the oppression.

For the avoidance of doubt, the priority ranking of the Class H Debt Securities relative to the ordinary shares of SHPL shall remain as agreed in the 2025 SHA, save that the economic terms applicable are accordingly varied.

191 Upon the conclusion of the Settlement Deed, Steele and SH BVI expressly agreed to act in good faith and use all reasonable efforts to move towards a shared exit by 15 November 2026. However, it appears from Steele's reply closing submissions that it does not intend to adhere to the 15 November 2026 Exit Date. That risks leaving SH BVI locked into an investment against its wishes in violation of the 2025 SHA and 2025 Constitution. It is necessary to ensure that the contractually agreed exit mechanism operates as it was intended. I therefore order that:

> (a) Steele shall procure SHPL to commence a Marketed Sale process, within the meaning of the 2025 SHA, by 15 November 2026, unless Steele applies to this court in the interim and satisfies the court that circumstances render commencement by 15 November 2026 impracticable. In that situation, the court will fix a revised commencement date that is reasonable to all parties.
>
> (b) Steele shall provide SH BVI's A Director(s) with monthly reports on the progress of the Marketed Sale process, including the identity of any sales agent appointed, the status of any marketing or due diligence process, and any relevant developments affecting the timeline for completion.

192 I further order that, from the date of this judgment until completion of the Marketed Sale process, SHPL shall not issue any further debt securities, instruments, or financing arrangements on terms similar to the Class H Debt Securities, including in particular any instrument carrying an interest rate in

excess of the Emergency Funding rate or an exit multiplier applied to principal and accrued interest.

193 I decline to grant any order in relation to Mr Shivdasani's Founder Villa. I agree with Steele that this relief bears no nexus to Steele's oppressive conduct, which is limited to the issue of the Class H Debt Securities.

Conclusion

194 I allow SH BVI's claim for minority oppression under s 216 of the CA. However, instead of the buy-out order sought by SH BVI, I order a variation of the terms of the Class H Debt Securities, and order that Steele procure SHPL to commence a Marketed Sale process, within the meaning of the 2025 SHA, by 15 November 2026.

195 I shall hear parties on costs.

Anselmo Reyes
International Judge

Abraham Vergis SC, Asiyah Arif, Arthur Chin, Joshua Ng, Amar Pandey (Providence Law Asia LLC) and Hari Veluri (Collyer Law LLC) for the claimant;
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Siraj Omar SC, Allister Tan, Larisa Cheng and Chong Kai Sheng (Siraj Omar LLC) for the second defendant.