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

[2026] SGHCR 33

Bankruptcy No 832 of 2026

Between

Deepak Mishra

… *Claimant*

And

(1) Rashmi Bothra
(2) Jason Alexander Karadachi (as private trustee in bankruptcy of Rajesh Bothra)
(3) Callisto Ventures Limited
(4) Somsakd Srikuruwan
(5) United Overseas Bank Ltd

… *Non-parties*

Bankruptcy No 835 of 2026

Between

Nimisha Pandey

… *Claimant*

And

(1) Rashmi Bothra
(2) Jason Alexander Karadachi (as private trustee in bankruptcy of Rajesh Bothra)
(3) Callisto Ventures Limited

… *Non-parties*

GROUNDS OF DECISION

[Insolvency Law — Bankruptcy — Trustee in bankruptcy]

TABLE OF CONTENTS

INTRODUCTION 1

BACKGROUND 2

THE DEBTORS' APPLICATIONS 2

THE NON-PARTIES 3

The RB-PT *6*

Callisto *8*

Mr Somsakd *11*

DIRECTIONS GIVEN IN CONNECTION WITH THE NON-PARTIES' PARTICIPATION AT THE HEARING OF THESE APPLICATIONS 12

THE POSITIONS OF THE DEBTORS AND NON-PARTIES WITH RESPECT TO THE NOMINEES 16

DECISION 25

THE ANALYTICAL FRAMEWORK 25

THERE ARE NO DISQUALIFYING CONSIDERATIONS OF INDEPENDENCE OR SKILL ASSOCIATED WITH THE VARIOUS NOMINEES PUT FORWARD............28

Independence or perceived independence...*29*

(1) No issues of actual or perceived independence are raised in connection with the Ironwood Nominee, the Perun Nominee and the KPMG Nominees on the ground that they were nominated by parties who may be investigated by the Debtors' PTIBs...30

(2) The GAPL Claim does not place the KPMG Nominees in a position of conflict of interest 38

(3) No issues of actual or perceived independence are raised in connection with the A&M Nominees on the ground of their role in deciding how to further defend OC 28, if appointed as the Debtors' PTIBs 39

Skill and competence *40*

Creditors' preferences are a neutral factor in this case but their objection to the appointment of the Ironwood Nominee is significant 43

The appointment of the A&M Nomninees as the Debtors' PTIBs best serves the creditors' interests 46

Appointing the nominee of a party whose views are independent best serves the creditors' interests *46*

Appointing a nominee who is better equipped to administer the bankruptcy estate best serves the creditors' interests *50*

The appointment of the A&M Nominees best serves the creditors' interests *51*

CONCLUSION 56

ANNEX: 1

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.

Re Deepak Mishra (Rashmi Bothra and others, non-parties) and another matter

[2026] SGHCR 33

General Division of the High Court — Bankruptcy Nos 832 and 835 of 2026
AR Perry Peh
19, 26 June 2026

14 August 2026

AR Perry Peh:

Introduction

1 HC/B 832/2026 ("B 832") and HC/B 835/2026 ("B 835") (collectively, the "Applications") are debtor's bankruptcy applications brought by Mr Deepak Mishra ("Mr Mishra") and Ms Nimisha Pandey ("Ms Pandey") (collectively, the "Debtors"). Based on the Debtors' supporting affidavits and the statements of affairs, it is not in dispute that a bankruptcy order should be made because: (a) the conditions in s 310 and s 311 of the Insolvency, Restructuring and Dissolution Act 2018 ("the IRDA") are satisfied; and (b) the Debtors are unable to pay their debts. The only contested issue was the identity of the licensed insolvency practitioner who is to be appointed as the private trustee-in-bankruptcy ("PTIB") of the Debtors' bankruptcy estate. In this regard, the Debtors as well as the non-parties who appeared at the hearing of these Applications have each put forward their own nominee for the role of PTIB.

2 Pursuant to s 36(1) of the IRDA, all PTIB appointments are subject to the court's discretion (see Re *Lim Oon Kuin and other matters* [2025] 3 SLR 1431 ("*Lim Oon Kuin*") at [8]). It is established law that the court considers three factors when deciding between competing PTIB nominees: (a) the preferences of majority creditors; (b) their independence or perceived independence; and (c) their skill and expertise (see *Lim Oon Kuin*). As I will explain below, of the PTIB nominees put forward in this case, none of them lacked skill or independence, and the preferences of the creditors appearing at the hearing of these Applications was also not of a unanimous nature such that any one of the nominees had distinctly more creditor support than others. The issue of who should be appointed as the Debtors' PTIBs therefore required the court to exercise its discretion in choosing between these nominees, in circumstances where none of them were disqualified from consideration for that role and where the preferences of majority creditors were largely neutral. As I explain below, the overarching consideration in this exercise is what best serves the creditors' interests as a whole. With that in mind, I appointed the nominees put forward by the second non-party as the Debtors' PTIBs. The third and fourth non-parties in B 832 and the third non-party in B 835, whose nominee was not appointed as the Debtors' PTIBs, have appealed against my decision.[1] These full grounds are intended to supersede the brief reasons that I had provided to parties when I delivered my decision on 26 June 2026.

Background

The Debtors' Applications

3 The Debtors are husband and wife. The debt which the Debtors have identified as the principal ground of their insolvency is a judgment debt ("the

1 HC/RA 172/2026 and HC/RA 173/2026.

Judgment Debt") payable by them to Mrs Rashmi Bothra ("Mrs Bothra") pursuant to HC/OC 593/2023 ("OC 593"). The Debtors had commenced OC 593 against Mrs Bothra, who in turn pursued a counterclaim against the Debtors. The Debtors failed in their claims, but Mrs Bothra succeeded in her counterclaim. The Judgment Debt stands at approximately US$80,648.482.16 which the Debtors stated they are unable to repay, and based on the papers filed in support of these Applications, the Debtors' total liabilities far exceed their assets.[2] Mr Mishra stated that he has total liabilities of S$300,297,900.40 (of which S$122,989,280 is owed to secured creditors and S$177,308,620.40 is owed to unsecured creditors) and total assets of S$51,467,199.96,[3] while Ms Pandey stated that she has total liabilities of S$243,966,008.65 (of which S$140,921,443 is owed to secured creditors and S$103,044,565.65 is owed to unsecured creditors) and total assets of S$1,072,977.27.[4] In these Applications, the Debtors seek the appointment of one Mr Lam Zi Yang, who is a licensed insolvency practitioner at Ironwood Advisory VI Pte Ltd ("the Ironwood Nominee"), as their PTIBs.[5]

The non-parties

4 In the lead up to the first hearing of these Applications, the following non-parties, whom the Debtors had also identified as their creditors in their statements of affairs, gave notice of their intention to appear and to oppose the appointment of the Ironwood Nominee as the Debtors' PTIBs, though all of

---

2 1st affidavit of Deepak Mishra ("DM-1") at para 14; 1st affidavit of Nimisha Pandey ("NP-1") at para 14.

3 Deepak Mishra's statement of affairs ("DP-SOA") at p 12.

4 Nimisha Pandey's statement of affairs ("NP-SOA") at p 9.

5 DM-1 at para 17; NP-1 at para 17.

them did not object to the Debtors being adjudged bankrupt. These non-parties are:

(a) Mrs Bothra,[6] who has nominated two licensed insolvency practitioners from KPMG Services Pte Ltd ("the KPMG Nominees") as the Debtors' PTIBs.[7] Mrs Bothra is identified in the Debtors' statements of affairs as an unsecured creditor for the Judgment Debt, which stands at around S$103,044,565.65 as at 6 March 2026.[8]

(b) Mr Jason Aleksander Karadachi, who is the PTIB of the bankruptcy estate of Mr Rajesh Bothra ("Mr Bothra") ("the RB-PT").[9] The RB-PT has commenced proceedings in HC/OC 28/2025 ("OC 28") against both Debtors, which involve claims of approximately S$10,842,874.32, and it is identified in the Debtors' statements of affairs as a contingent creditor on this ground.[10] The RB-PT has nominated two licensed insolvency practitioners from Alvaraz & Marsal (SE Asia) Pte Ltd ("the A&M Nominees") as the Debtors' PTIBs.

(c) Callisto Ventures Limited ("Callisto"),[11] which is identified in the Debtors' statements of affairs as a secured creditor and is said to hold "[s]hareholding in [c]ompanies" as security.[12] The debt owed to

---

6 1st non-party in HC/B 832/2026 ("B 832") and HC/B 835/2026 ("B 835") ("1NP").

7 Letter from Rajah & Tann Singapore LLP dated 1 April 2026.

8 DP-SOA at p 20; NP-SOA at p 14.

9 2nd non-party in B 832 and B 835 ("2NP").

10 DP-SOA at p 21; NP-SOA at p 15; 2NP's written submissions at para 34.

11 3rd non-party in B 832 and B 835 ("3NP").

12 DP-SOA at p 19; NP-SOA at p14.

Callisto, less the estimated value of the security, is estimated at S$116,477,298.

(d) Mr Somsakd Srikuruwan ("Mr Somsakd"),[13] who is identified in Mr Mishra's statements of affairs as an unsecured creditor to whom Mr Mishra is said to owe S$74,264,054.75 pursuant to a personal guarantee.[14] Callisto and Mr Somsakd, who are represented by the same set of solicitors in these proceedings, have nominated Mr Alton Poon of Perun Consultants Pte Ltd ("the Perun Nominee") as the Debtors' PTIBs.

(e) United Overseas Bank Ltd ("UOB"),[15] which is identified in Mr Mishra's statement of affairs as a secured creditor and is said to hold a Singapore property as security. The debt owed to UOB, less the estimated value of the property, is estimated at S$2,244,038.[16] UOB has indicated that it supports the appointment of the KPMG Nominees as the Debtors' PTIBs.

5 In an affidavit filed by Mrs Bothra, she stated that Dickson Capital Pte Ltd ("Dickson Capital"), which is identified in Mr Mishra's statement of affairs as a secured creditor, also supported the appointment of the KPMG Nominees as the Debtors' PTIBs.[17] The debt owed to Dickson Capital, less the estimated value of the security held (a motor vehicle), is estimated at $182,939.[18]

---

13 4th non-party in B 832 ("4NP").

14 DP-SOA at p 20.

15 5th non-party in B 832 ("5NP").

16 DP-SOA at p 19.

17 1st affidavit of Rashmi Bothra ("RB-1") at para 11.

18 DP-SOA at p 19.

6 I elaborate further on the positions of the RB-PT, Callisto and Mr Somsakd, whose relationship to the Debtors is relevant to issues discussed later in these grounds.

The RB-PT

7 The RB-PT is the claimant in OC 28, which is brought against four defendants, the first and second of whom are Mr Mishra and Ms Pandey. The claim in OC 28 is brought in respect of 14 disposals of assets and/or cash by Mr Bothra to the defendants (*ie*, including the Debtors) between July 2019 and February 2021 (*ie*, in the period before Mr Bothra was adjudged bankrupt on 25 February 2021). The RB-PT pleads in OC 28 that these disposals were undervalue transactions, unfair preferences, unauthorised dispositions of Mr Bothra's property, transfers or conveyances which should be held void and of no effect and/or were sham transactions.[19] The RB-PT also pleads that these disposals were done on Mr Mishra's suggestion with the intention of concealing Mr Bothra's assets from his creditors.[20]

8 Of the alleged disposals, the following are of relevance in these Applications because it is undisputed that the subject of these disposals is the same "[s]hareholding in [c]ompanies" that Mr Mishra and Ms Pandey had pledged to Callisto as security:[21]

(a) Mr Mishra is said to have taken a transfer of the following shareholdings in four Thailand incorporated companies from Mr Bothra on or around 7 July 2020 for the purpose of concealing Mr Bothra's

19 2NP's written submissions at para 9.

20 2NP's written submissions at para 62.

21 1st affidavit of Ganapati Balgi ("GB-1") at paras 35 and 37.

assets from his creditors: (i) a 24.5% shareholding in Sukhumvit Soi 11 Company Limited ("SK11"); (ii) a 24.5% shareholding in Fulcrum Height Company Limited ("Fulcrum Height"); (iii) a 24.5% shareholding in Fulcrum Hotel & Resort Company Limited ("Fulcrum H&R"); (iv) a 24.5% shareholding in Fulcrum Development Company Limited ("Fulcrum Development").[22] Where appropriate, I will refer to SK 11, Fulcrum Heigh, Fulcrum H&R and Fulcrum Development collectively as "the Thai Companies".

(b) Mr Mishra is said to have taken a transfer of the following shareholdings in two Switzerland incorporated companies from Mr Bothra on or around 16 July 2019 for the same purpose of concealing Mr Bothra's assets from his creditors: (i) a 50% shareholding in Hotel du Parc Paden AG ("HDP"); (ii) a 50% shareholding in Benu Holding AG ("Benu").[23]

(c) Ms Pandey is said to have taken a transfer of shares in the following companies from Mr Bothra for the same purpose of concealing Mr Bothra's assets from his creditors: (i) a 100% shareholding in London Real Estate and Consultancy Limited ("LREC"), a company incorporated in the British Virgin Islands; (ii) a 50% shareholding in HDP; and (iii) a 50% shareholding in Benu. The transfer of the Benu and HDP shareholding is said to have taken place on or around 28 January 2021,[24] whereas the transfer of the LREC

---

22 Statement of Claim in HC/OC 28/2025 ("SOC in OC 28") at para 18 (1st affidavit of Jason Alexander Karadachi ("JAK-1") at p 64).

23 SOC in OC 28 at paras 32 and 36 (JAK-1 at pp 73 and 75).

24 SOC in OC 28 at paras 32 and 36 (JAK-1 at pp 73 and 75).

shareholding is said to have taken place on or around 26 February 2021.[25]

9 On 30 June 2025, the RB-PT obtained an order for summary judgment of its claims in OC 28 in respect of the transfer of shares in LREC, HDP and Benu to Ms Pandey ("the Summary Judgment Order"), while the proceedings against Mr Mishra remain ongoing.[26]

Callisto

10 Callisto stated that it is a secured creditor of the Debtors by virtue of guarantee agreements which it had entered with Mr Mishra ("the Callisto-DM Guarantee") and Ms Pandey ("the Callisto-NP Guarantee") (collectively, "the Callisto Guarantees") on 22 June 2023.[27] As part of the Callisto Guarantees, Mr Mishra and Ms Pandey also pledged shares which they owned in their own name in various companies as security ("the Pledged Shares").[28] The background to the Callisto Guarantees and the Pledged Shares is as follows:

(a) Callisto is a 49% shareholder of In One Oce Augusta Co Ltd (previously known as Callisto Holdings Co Ltd) ("CHCL"). The remaining shares in CHCL are held by One Oak Holdings Co Ltd ("OOH") (50.99%) and one Ms Navraj Khandpurskal (0.01%).[29] The shareholders of OOH were One Oak Realtor Co Ltd ("OOR") (50.99%), Mr Mishra (49%) and Ms Pandey (1 out of all total issued and paid-up

25 SOC in OC 28 at paras 29–30 (JAK-1 at pp 70–71).

26 2NP's written submissions at para 12.

27 GB-1 at para 40.

28 GB-1 at paras 31–38.

29 GB-1 at para 26.

shares).[30] Callisto further stated that Mr Mishra is the "ultimate beneficial owner" of OOH (despite being only a 49% shareholder) given that OOR was also ultimately controlled by Mr Mishra through the chain of shareholdings in various companies that eventually held the shares in OOR.[31] In his reply affidavit filed in these proceedings, Mr Mishra did not directly respond to the last point, but he does not dispute being the owner of 49% of the shares in OOH.[32]

(b) CHCL is in the business of real estate.[33] Callisto, which was keen to invest in CHCL's business, first provided capital injections (pursuant to which it became a 49% shareholder) and also entered into several debenture agreements from June 2017 onwards.[34]

(c) Sometime in June 2023, CHCL informed Callisto that it required additional funding for its business. At that time, significant sums remained due and owing under the previous debentures (US$7,572,808). As such, Callisto was of the view that security had to be provided in respect of the sums disbursed and the sums to be disbursed in the future.[35]

(d) Mr Mishra and Ms Pandey therefore agreed to provide personal guarantees to Callisto secure the repayment of the sums disbursed under

30 GB-1 at para 29.

31 GB-1 at para 30.

32 3rd affidavit of Deepak Mishra ("DM-3") at para 81.

33 GB-1 at para 10.

34 GB-1 at paras 11–18.

35 GB-1 at para 25.

the debentures (*ie*, the Callisto Guarantees)[36] and they also agreed to pledge certain shares which they held in their own names to further secure the repayment of the sums due (*ie*, the Pledged Shares).[37]

(e) The Pledged Shares consisted of Mr Mishra's and Ms Pandey's respective shareholdings in the companies which the RB-PT claims in OC 28 had been transferred by Mr Bothra to Mr Mishra and Ms Pandey for the purposes of concealing Mr Bothra's assets from his creditors.[38]

11 Callisto did not dispute that the Pledged Shares form the subject matter of the RB-PT's claim in OC 28 (see [10(e)] above), and further, it also did not appear to dispute the fact that Mr Mishra's shares in the Thai Companies (which form part of the Pledged Shares) were subsequently transferred to Callisto, and a charge in favour of Callisto has also been registered over Ms Pandey's shares in LREC (which also forms part of the Pledged Shares).[39] However, Callisto highlighted that the Pledged Shares were part of a *bona fide* arrangement for the purposes of securing the sums owed by CHCL to Callisto.[40] Callisto further stated that it has no knowledge as to whether Mr Bothra had disposed of the shareholdings in these companies as a means to put them out of reach of his creditors, and in any event, this has no bearing on the validity of the security provided by Mr Mishra and Ms Pandey, and in the circumstances, Callisto is a *bona fide* creditor of both Debtors in the sum of US$100,740,541.[41]

---

36 GB-1 at paras 34 and 36.

37 GB-1 at paras 35 and 37.

38 GB-1 at paras 32–33 and 37–38.

39 GB-1 at paras 46–49; 3NP's written submissions at para 65.

40 GB-1 at para 50.

41 GB-1 at paras 52–53.

Mr Somsakd

12 Mr Somsakd stated that he is an unsecured creditor of Ms Mishra by virtue of various guarantees which Mr Mishra had provided to him in consideration for financing extended by entities procured by Mr Somsakd, in connection with hospitality and real estate projects associated with Mr Mishra. The background is as follows:

(a) According to Mr Somsakd, he is in the business of real estate development and investment in Thailand, and sometime in or around early 2021, Mr Mishra approached him for financial assistance and support in relation to various real estate and hospitality development projects in Thailand which were being undertaken by Mr Mishra and/or companies associated with him.[42] As such, between October and November 2021 and later in June 2022, he arranged for his "family-owned companies" to enter into several debenture subscription agreements to extend the financing requested by Mr Mishra.[43]

(b) In mid-2023, Mr Mishra requested for further financing. However, at that time, because significant sums remained due and owing under the previous debentures, Mr Somsakd required assurance from Mr Mishra "personally" that those sums would be repaid.[44]

(c) As such, in June 2023, Mr Mishra entered into various guarantees under which he guaranteed Mr Somsakd the payment of sums owing under the previous debentures ("the 2023 Somsakd

42 1st affidavit of Somsakd Srikuruwan ("SS-1") at para 10.

43 SS-1 at paras 12 and 16.

44 SS-1 at para 20.

Guarantees").[45] A similar guarantee was entered in or around late 2024 ("the 2024 Somsakd Guarantee") in connection with further financing under a debenture subscription agreement between Clio Capital Ltd ("Clio") and One Oak Kamala Phuket Co Ltd ("OOKPCL") ("the Clio-OOKPCL Debenture").[46] Clio is an investor that Mr Somsakd had arranged to provide financing to OOKPCL.[47]

(d) By virtue of Mr Mishra's bankruptcy application in B 832, the outstanding obligations in the 2023 Somsakd Guarantees and the 2024 Somsakd Guarantee (collectively, "the Somsakd Guarantees") have become immediately due and payable, and the total sum owing is estimated to be US$58,927,733.33.[48]

Directions given in connection with the non-parties' participation at the hearing of these Applications

13 Prior to the first hearing of these Applications on 16 April 2026, solicitors for Mrs Bothra, the RB-PT and UOB filed Notices of Intention to Appear at Hearing of Bankruptcy Application (in Form PIR-6 of the Insolvency, Restructuring and Dissolution (Personal Insolvency) Rules 2020 ("Personal Insolvency Rules")) ("NITA"), indicating that they intend to appear at the hearing and oppose the Applications. On the other hand, solicitors for Callisto and Mr Somsakd filed Notices of Appointment of Solicitor in the respective case files. As mentioned earlier, all these non-parties had been identified as creditors in the Debtors' statements of affairs.

45 SS-1 at para 21.

46 SS-1 at paras 27–30.

47 SS-1 at para 30.

48 SS-1 at paras 40–41.

14 There is no dispute that the Debtors' various creditors (as identified in their statements of affairs) are persons "who may be affected by the order or other relief sought" in these Applications for the purposes of r 14(2)(*a*) of the Insolvency, Restructuring and Dissolution (Personal Insolvency Rules) 2020 ("Personal Insolvency Rules") (see Re *Then Feng* [2022] SGHCR 1 ("*Then Feng*") at [9]; Re *Ho Sally (Chan Pik Sun, non-party) and other matters* [2025] SGHCR 6 ("*Ho Sally*") at [13]), since these creditors obviously have an interest in the Debtors' bankruptcies and in the identity of the licensed insolvency practitioner to be appointed as PTIBs, which is central to the bankruptcy administration process. Thus, pursuant to r 14(2)(*b*) of the Personal Insolvency Rules, which empowers the court to direct that all persons who stood to be affected by the order or relief in a bankruptcy application be served with the papers or be notified of the proceedings (see *Then Feng* at [11]), I directed the Debtors' counsel to serve copies of the Originating Application, supporting affidavit and statement of affairs for both Applications on all parties who are identified as secured creditors and unsecured creditors in the Debtors' statements of affairs and who have not been served and/or notified of these Applications, by one of the methods of ordinary service listed under O 7 r 3 of the Rules of Court 2021. In my view, this was necessary given the apparent interest of the Debtors' various creditors in these Applications, as shown by the participation of the non-parties prior to the first hearing. The Debtors' counsel rightly did not object to the right of these non-parties to be heard in these Applications and I further note that counsel did not raise any issues of practical difficulties in complying with my directions on service.

15 As mentioned above, solicitors for Mrs Bothra, the RB-PT and UOB filed NITAs to give notice of their intention to appear at the hearing of these Applications and be heard. I note that the procedure for filing a NITA by a

creditor who intends to appear at the hearing of a bankruptcy application is provided for in r 88 of the Personal Insolvency Rules and is in fact intended for creditor's bankruptcy applications (see Division 4, Part 7 of the Personal Insolvency Rules) and Division 5, Part 7 of the Personal Insolvency Rules which concerns debtors' bankruptcy applications contain no equivalent provision. That said, I see no reason why this procedure could not be similarly followed in the context of a debtor's bankruptcy application for the purpose of allowing an *identified* creditor of the debtor to give formal notice of its intention to appear at the hearing of the debtor's bankruptcy application and be heard. The rationale underlying the NITA – so that that the creditor gives sufficient notice to other interested parties of its intention to appear at the hearing of the bankruptcy application and be heard – is engaged whenever a creditor intends to participate in the bankruptcy application, *regardless* of whether the bankruptcy application was brought by a creditor or a debtor. Rule 19 of the Personal Insolvency Rules states that, at the hearing of a bankruptcy application, the court may "give any direction as to the proceedings to be taken that the Court thinks fit, including directions for the publication of notices and the making of any inquiry". In my view, directions coming within the scope of r 19 would include those pertaining to the appearance of interested persons in the bankruptcy application where there is no specific provision made for the same in the Personal Insolvency Rules. Therefore, not only did I agree that the filings of the NITA by Mrs Bothra, the RB-PT and UOB were *correct*, I also directed the Debtors' counsel to inform the creditors who were served with the papers in the Application to file a NITA to formally give notice of their intention to appear and be heard (if they wished to do so), and that Callisto and Mr Somsakd's solicitors similarly file a NITA.

16 For completeness, I did not consider it necessary for the non-parties to file applications for permission to intervene in order for them to appear at the hearing of these Applications and be heard (*cf Ho Sally* at [8]). The Debtors' statements of affairs have identified these non-parties as creditors and in the circumstances there is no dispute that these non-parties are persons "who may be affected by the order or other relief sought" (*per* r 14(2)(*a*) of the Personal Insolvency Rules) and accordingly there is also no dispute as to their standing to appear at the hearing of these Applications and be heard on the issues raised, such as the issue of the identity of the licensed insolvency practitioner to be appointed as the Debtors' PTIBs. In my view, in the context of a debtor's bankruptcy application, a non-party seeking to appear and be heard should only be required to file an application for permission to intervene where the debtor disputes the non-party's *standing* to do so, such as if the non-party had in fact *not* been identified as a creditor in the debtor's statement of affairs but nonetheless wishes to be heard. Where the non-party has been *identified* as a creditor in the debtor's statement of affairs and thus there is no dispute that the non-party comes within the scope of persons "who may be affected by the order or other relief sought" in the bankruptcy application under r 14(2)(*a*) of the Personal Insolvency Rules, requiring an application for permission to intervene would put a non-party creditor further out of pocket where it already has little prospects of recovering its debts and even if costs were eventually ordered against the debtor, that only unnecessarily burdens the debtor's bankruptcy estate and reduces the available assets for distribution among creditors.

17 In the event, no other creditors of the Debtors filed NITAs, and the non-parties who participated at the hearing of the Applications were limited to those listed above (at [4]).

The positions of the Debtors and non-parties with respect to the nominees

18 From the summary above, there were four sets of licensed insolvency practitioners put forward as nominees for the role of the Debtors' PTIBs: (a) the Ironwood Nominee, put forward by the Debtors; (b) the KPMG Nominees, put forward by Mrs Bothra; (c) the A&M Nominees, put forward by the RB-PT; and (d) the Perun Nominee, put forward by Callisto and Mr Somsakd. I briefly summarise the position which the Debtors and non-parties have taken with respect to each of these nominees.

19 All the non-parties objected to the appointment of **the Ironwood Nominee**.[49] The submissions made in support of the objections are as follows:

(a) The RB-PT submitted that, as a general principle, the Debtors should not be allowed to appoint their own PTIBs because, given the various suspicious transactions which the Debtors have been involved in, an independent PTIB should be appointed to thoroughly investigate their affairs.[50] Two specific points were highlighted:

(i) As pleaded by the RB-PT in OC 28, the Debtors were involved in the dissipation of Mr Bothra's assets after he was declared bankrupt to put those assets out of reach of Mr Bothra's creditors.[51]

(ii) The Debtors have dissipated various assets which are the subject matter of the claim in OC 28, such as the following:

---

49 1NP's written submissions at para 50; 2NP's written submissions at para 60; 3NP's written submissions at para 28; 4NP's written submissions at para 21.

50 2NP's written submissions at para 60.

51 2NP's written submissions at para 61.

(A) Recent shareholding searches show that Mr Mishra has transferred his shares in the Thai Companies (see [8(a)] above) to Callisto within the last two years.[52] Also within the last two years, Mr Mishra has transferred his shareholdings in several other entities (including OOH and OOR) to Callisto.[53]

(B) After the Summary Judgment Order (see [9] above) was granted in June 2025, on 21 October 2025, a charge was registered in respect of the entirety of Ms Pandey's shareholding in LREC in favour of Callisto.[54]

(iii) In evidence given by the Debtors in examination of enforcement respondent proceedings in OC 593 ("the EER Proceedings"), the Debtors have admitted to making large cash transfers out of the bank accounts of Fulcrum Advisory Pte Ltd ("FAPL") for the purposes of paying their personal debts and/or associates.[55] One of the claims in OC 28 is made in respect of a 50% shareholding in FAPL which Mr Bothra is said to have transferred to Mr Mishra also for the purposes of putting his assets out of reach of Mr Bothra's creditors.[56] The RB-PT submitted that the Debtors' evidence in the EER Proceedings

52 2NP's written submissions at para 65(2).

53 2NP's written submissions at para 72(2).

54 2NP's written submissions at para 65(3).

55 JAK-1 at para 63.

56 JAK-1 at para 55(1).

show that they have taken steps to diminish the value of the FAPL shares which the RB-PT is claiming in OC 28.[57]

(b) Both the RB-PT and Mrs Bothra submitted that the Ironwood Nominee lacks the requisite skill and expertise to act as the Debtors' PTIBs.[58] Given the size of the Debtors' declared estate as well as the different jurisdictions in which the Debtors' assets are apparently located, it would be necessary that thorough investigations be conducted in multiple jurisdictions. However, based on the curriculum vitae ("CV") of the Ironwood Nominee, it does not appear that he has prior experience handling insolvency engagements in jurisdictions outside Singapore and furthermore, the firm in which the Ironwood Nominee practises may also lack the institutional capability to facilitate cross-border investigations.

(c) In particular, the RB-PT highlighted that the CV of the Ironwood Nominee suggests that he has no prior experience as a PTIB, which raises questions as to whether he may be able to effectively administer the Debtors' bankruptcy estate, which is not straightforward to begin with.[59] This was a point also highlighted by Callisto and Mr Somsakd, who questioned the suitability of the Ironwood Nominee on the ground that he operates from a firm which was only established recently and does not have any track record of being involved in bankruptcies, let alone bankruptcies of the scale and complexity in the present case.[60]

---

57 JAK-1 at para 64.

58 1NP's written submissions at para 16; 2NP's written submissions at paras 84-89.

59 2NP's written submissions at para 88.

60 3NP's written submissions at para 38.

20 Mrs Bothra, the RB-PT and UOB objected to the appointment of **the Perun Nominee**,[61] while the Debtors stated that they took no position regarding the Perun Nominee.[62] The submissions made in support of the objections are as follows:

(a) Mrs Bothra submitted that the evidence shows significant connections between Callisto and Mr Somsakd (on the one hand) with the Debtors (on the other) and so there are serious doubts as to their status as the purported majority creditors of the Debtors (by virtue of the sums which the Debtors allegedly owe Callisto and in the case of Mr Mishra, the sum which he allegedly owes Mr Somsakd), and consequently, less weight, if not, no weight, should be accorded to their choice of nominee. In particular, Mrs Bothra highlighted the following:

(i) There is evidence showing that Callisto is connected to the Debtors. Callisto's Register of Members dated 20 May 2026 shows that it is currently owned by funds, such as Fylakas Capital Ltd ("Fylakas"), Pious Capital Ltd ("Pious") and Appollo Fund Limited ("Appollo"). The bank statement of Lucky Maple Investments Ltd ("LMI"), which was adduced as evidence in proceedings in OC 593, shows that LMI had investments in Pious, Fylakas and Appolo.[63] In OC 593, LMI was found to be one of the entities which the Debtors "beneficially owned and/or controlled" (see *Deepak Mishra and*

61 1NP's written submissions at para 50; 2NP's written submissions at para 106.

62 Applicants' written submissions at para 48.

63 2nd affidavit of Deepak Mishra in HC/OC 593/2023 at pp 147–151; 1NP's written submissions at para 45(d).

another v Rashmi Bothra [2025] SGHC 170 ("the OC 593 Judgment") at [5] and [7(g)]).

(ii) There is similarly evidence showing that Mr Somsakd is related to the Debtors. For instance, Mr Somsakd is a director of CHCL, in which Mr Mishra indirectly holds a 49% shareholding through OOH, which suggests that Mr Mishra and Mr Somsakd are related and jointly managed and/or controlled CHCL.[64] Mr Somsakd is also a director of various entities like OOH and OOR in which Mr Mishra previously held shares but which Mr Mishra has since transferred to Callisto.[65]

(b) Both Mrs Bothra and the RB-PT submitted that Callisto and Mr Somsakd are involved in suspicious transactions with the Debtors which would have to be thoroughly investigated, and so it is necessary that an *independent* insolvency practitioner who is *not* nominated by Callisto and Mr Somsakd be appointed as the Debtors' PTIBs.

(i) The Debtors' PTIBs will have to investigate Callisto regarding the transfer of Mr Mishra's shares in the Thai Companies to Callisto and the charge over the LREC shares granted in favour of Callisto by Ms Pandey.[66] Although Callisto has sought to justify these transfers on the basis of the Pledged Shares, this explanation is unsatisfactory because it is trite that until an event of default has taken place, shares pledged only confer a security interest but not legal title to the shares, and

64 1NP's written submissions at para 45(a).

65 2NP's written submissions at para 72(2).

66 2NP's written submissions at paras 72(1) and 75–76.

Callisto has not provided evidence as to the events of default which have occurred under the Callisto Guarantees that would warrant an outright transfer of the relevant shares.[67]

(ii) As Mr Somsakd is a director and shareholder of the companies in which Mr Mishra has since transferred his shareholdings to Callisto, Mr Somsakd's involvement in these transfers would require further investigation by the Debtors' PTIBs.[68]

(iii) The Callisto Guarantees were executed by one Mr Nayan Agarwal ("Mr Agarwal"), who is known to be a close associate of Mr Mishra and who assists Mr Mrishra with the management of companies like HDP. Investigations would therefore have to be conducted to determine if the Callisto Guarantees were entered into at arms' length.[69] For one of the debenture agreements secured by the Somsakd Guarantees, Mr Agarwal had signed on behalf of the *lender*.[70]

(iv) The OOKPCL Debenture and the corresponding personal guarantee provided by Mr Mishra to Mr Somsakd (*ie*, the 2024 Somsakd Guarantee") was a particularly suspicious transaction. The OOKPCL Debenture was for a significantly higher amount (US$50m) as compared to the previous debentures (which collectively only amounted to around US$8.9m). The underlying

67 2NP's written submissions at para 77.

68 1NP's written submissions at para 45(b); 2NP's written submissions at para 72(2).

69 1NP's written submissions at para 45(c).

70 SS-1 at p 76.

documents showed that 2024 Somsakd Guarantee was entered on 15 November 2024, but yet the OOKPCL Debenture was dated 29 July 2025,[71] and it is highly unusual for Mr Mishra to provide a guarantee for the OOKPCL Debenture at a time when that debenture did not even exist. The timing of the OOKPCL Debenture is also of some significance – it was first entered for a principal sum of US$20m in July 2025 (one month before Mrs Bothra obtained judgment in OC 593 against the Debtors) and later increased to US$50m by way of two addenda entered in September 2025 (*ie*, after judgment was obtained by Mrs Bothra against the Debtors in OC 593).

(v) Curiously, the Callisto Guarantees and the Somsakd Guarantees were all entered on the same date and notarised before the same notary public.[72]

(c) Both Mrs Bothra and the RB-PT also raised questions as to the skill and expertise of the Perun Nominee. Although the CV of the Perun Nominee shows that he has held various appointments as liquidator or provisional liquidator, it is unclear whether he has experience as a PTIB and/or whether he has experience administering bankruptcy estates of a comparable scale to those of the Debtors. Given the likely complexity in the administration of the Debtors' bankruptcy estates, it is necessary that the appointed PTIBs have sufficient experience and expertise.[73] Moreover, the firm of the Perun Nominee does not appear to have offices in the various jurisdictions in which the Debtors' assets are located,

---

71 SS-1 at pp 148 and 162.

72 1NP's written submissions at para 45(e).

73 1NP's written submissions at paras 92–94; 2NP's written submissions at para 17.

which is a point of significance as the Debtors' PTIB will have to conduct investigations and asset tracing in these jurisdictions.[74]

21 The Debtors, Callisto and Mr Somsakd objected to the appointment of **the KPMG Nominees**,[75] while the RB-PT stated that they support the appointment of the KPMG Nominees in the alternative.[76] The submissions made in support of the objections are as follows:

(a) The Debtors submitted that there is a long history of acrimony between the Debtors (on the one hand) and the Bothras (on the other) arising from the long-running commercial disputes between them. Given the "bad blood" between the two families, it is difficult to see how a PTIB nominated by Mrs Bothra will serve the interests of the Debtors as bankrupts.[77]

(b) The Debtors submitted that, as the proceedings in OC 593 show, the Bothras and the Debtors have significant historical dealings with each other, and so it is likely that the Debtors' PTIBs will have to investigate these historical transactions to determine whether there are any voidable transactions under the IRDA. Since Mrs Bothra may be tainted by findings made in respect of these historical transactions, there

---

74 2NP's written submissions at para 17.

75 Applicants' written submissions at para 64; 3NP's written submissions at para 37; 4NP's written submissions at para 31.

76 2NP's written submissions at para 106.

77 Applicants' written submissions at para 37.

is a real risk of actual or perceived conflict of interest for the KPMG Nominees.[78] This was a point echoed by Callisto and Mr Somsakd.[79]

(c) The Debtors also submitted that Greenfield Advisory Pte Ltd ("GAPL"), which is a company in which Mr Mishra holds a 95% shareholding, has a claim against Mrs Bothra for the quantification of damages arising from a freezing injunction which was obtained by Mrs Bothra in OC 593 and later varied and discharged. The practical reality is that the Debtors' PTIBs will eventually seek to control GAPL and determine whether to proceed with the quantification of damages claim against Mrs Bothra ("the GAPL Claim"), and in these circumstances, the KPMG Nominee may find themselves in a potential conflict of interest in having to decide whether to pursue the GAPL Claim against Mrs Bothra.[80]

22 Finally, the Debtors, Callisto and Mr Somsakd objected to the appointment of **the A&M Nominees**,[81] while Mrs Bothra stated that she supports the appointment of the A&M Nominees in the alternative.[82] The key ground of the objection is the RB-PT's involvement in OC 28. The Debtors submitted that, if the A&M Nominees were appointed and the RB-PT obtains leave to continue the proceedings in OC 28 against the Debtors, it would be for the A&M Nominees to decide whether to continue to defend the claims in OC 28, and in this context they might have to make decisions which may be

78 Applicants' written submissions at para 38.

79 3NP's written submissions at para 37(a).

80 Applicants' written submissions at para 39.

81 Applicants' written submissions at para 64; 3NP's written submissions at para 37; 4NP's written submissions at para 31.

82 1NP's written submissions at para 50.

potentially adverse to RB-PT's interests.[83] Callisto and Mr Somsakd also submitted that, given that the Debtors' PTIBs would have to assess how to defend OC 28 after being appointed, the appointment of a nominee put forward by the claimant in OC 28 presents a reasonable basis to contend that there is a perceived lack of independence on the part of the A&M Nominees.[84]

Decision

23 For the reasons explained below, I was of the view that the A&M Nominees should be appointed as the Debtors' PTIBs. I will address the various points raised in the parties' submissions in the course of my reasons below.

The analytical framework

24 The foundational principles on how the court should choose between competing nominees for PTIB is relatively well settled following the High Court's decision in *Lim Oon Kuin* ([2] above). In that decision, it was held that, where a choice had to be made by the court between competing nominees, the following factors are considered: (a) the majority creditors' preferences; (b) the independence or perceived independence of the nominees; and (c) the nominees' skill and expertise (see *Lim Oon Kuin* at [11]–[12]). Since the bankruptcy regime is not only directed at securing the repayment of the bankrupt's debts but also at giving the bankrupt a chance at a fresh start, the PTIB has a duty to account for the bankrupt's private interests. Therefore, in the personal insolvency context, creditors' preferences do not attract the same weight as it otherwise would in the corporate insolvency context. With this in mind, *other* factors – besides those relating to the preferences of majority

83 Applicants' written submissions at para 43.

84 3NP's written submissions at para 37(b).

creditors – may well feature more prominently in the court's assessment, such as a nominee's skill and independence. For example, it would not be in the interests of the bankrupt for a nominee who is not proficient at managing estates in bankruptcy or who has demonstrated himself to be biased (and hence lacks independence) *vis-à-vis* the bankrupt to be appointed as PTIB (see *Lim Oon Kuin* at [15]).

25 In my view, the factors of (a) the independence or perceived independence of the nominees and (b) the nominees' skill and expertise can be seen as *qualifying* the weight that is be given to the majority creditors' preferences. For example, if a nominee is shown to be lacking in either or both of the areas of independence or skill, then he or she is necessarily disqualified from consideration for appointment as the debtor's PTIB, even if there was extensive creditor support for that nominee's appointment. Thus, where competing nominees for PTIB are presented for the court's decision, the starting point of the analysis should focus on whether any of them are deemed unsuitable by virtue of these "disqualifying considerations" (see *Lim Oon Kuin* at [34]).

26 Where none of the nominees are subject to disqualifying considerations, the choice of nominee turns on what best serves the creditors' interests as a whole. This is because the principal purpose of the bankruptcy process is to put the affairs of the bankrupt in order and for the bankrupt's assets to be realised in an orderly manner and fairly distributed among his creditors in as efficient, expeditious and cost-effective a manner after payment of secured and preferential debts (see generally, *Wang Aifeng v Sunmax Global Capital Fund 1 Pte Ltd and another* [2023] 3 SLR 1604 ("*Wang Aifeng*") at [29]; *Ong Jane Rebecca v Lim Lie Hoa* [2023] 5 SLR 656 at [13]; Re *Rasmachayana Sulistyo (alias Chang Whe Ming),* ex parte *The Hongkong and Shanghai Banking Corp Ltd and other appeals* [2005] 1 SLR(R) 483 ("*Rasmachayana*") at [25]; *Smedley*

v Brittain [2008] BIPR 219 at [26]). Of course, the bankruptcy regime is equally directed at rehabilitating the bankrupt's credit and giving the bankrupt a chance at a fresh start (see *Lim Oon Kuin* at [14]; *Haotanto Anna Vanessa v Fang Chin Wen Ted* [2023] 3 SLR 1155 at [15]) but these are *incidents* of its principal purpose, since it is only through the effective realisation of a bankrupt's assets and its fair distribution to creditors that the debtor can obtain a proper discharge of all of his or her previous liabilities (see, for example, Re *Medora Xerxes Jamshid (in his capacity as the private trustee in bankruptcy of Tan Han Meng) (Planar One & Associates Pte Ltd (in liquidation), non-party)* [2024] 5 SLR 1006 at [47]–[48]), where the court considered the rehabilitative object of bankruptcy law as justifying an expansive reading of the scope of provable debts in bankruptcy). Thus, where there are *several* suitable and qualified nominees available and the court is required to exercise its discretion to appoint one of them to act as the debtor's PTIB, given the principal purpose of the bankruptcy process, the overarching consideration is what is in the best interests of *all* the creditors interested in the bankruptcy (see Re *Wong Wah* [2004] HKCU 33 ("*Wong Wah*") at [21]).

27 The answer to the question of what best serves the creditors' interests in the bankruptcy is *generally* aligned with the preferences of the majority creditors, which therefore would ordinarily assume "primary importance" where the majority creditors' preferred nominee is unaffected by disqualifying considerations relating to independence or skill (see *Lim Oon Kuin* at [34]), However, that is not necessarily the case, since the preferences or views of majority creditors are *not* necessarily determinative (see *Lim Oon Kuin* at [36]). There can be other considerations, specific to the circumstances of each case, which can have a bearing on what best serves the creditors' interests as a whole.

The present case engages some of these considerations, which I will come to later (see [56] below).

28 That said, significant weight ought to be accorded to creditors' views or preferences where they are "extensive or unified", such as where a supermajority of the debtor's creditors have expressed a preference for who should be appointed as the PTIB (see *Lim Oon Kuin* at [36]). Such an approach is commonsensical and practical because if the court appoints a particular nominee in disregard of the preferences of the supermajority creditors, legislation allows for the removal of that nominee with a special resolution passed at a creditors' meeting (see r 13(4) of the Insolvency, Restructuring and Dissolution (Bankruptcy) Regulations 2020; s 273(1) of the IRDA defines a "special resolution" as a resolution passed by a majority in number and at least three-fourths in value of voting creditors), and the appointment of such a nominee by the court would ultimately be an "exercise in futility" (see *Lim Oon Kuin* at [37]; *Ho Sally* ([14] above) at [48]). As a matter of principle, the court should also not exercise its discretion to appoint such a nominee, since it would likely result in "value-destroying satellite litigation" by the supermajority creditors who will almost certainly take steps to remove that nominee (see *Petroships Investment Pte Ltd v Wealthplus Pte Ltd (in members' voluntary liquidation) (Koh Brothers Building & Civil Engineering Contractor (Pte) Ltd and another, interveners) and another matter* [2018] 3 SLR 687 ("*Petroships*") at [151]) and this clearly does not serve the creditors' interests as a whole.

There are no disqualifying considerations of independence or skill associated with the various nominees put forward

29 With the above framework in mind, the first issue to be considered by the court in deciding between the competing nominees put forward is whether

they attract any disqualifying considerations, *ie*, (a) whether they lack independence or are perceived as such, and (b) whether they lack skill and expertise. The court should obviously not appoint a nominee who attracts any of these disqualifying considerations since these are factors which would ordinarily justify the *removal* of an existing PTIB.

30 For the reasons below, I was of the view that none of the nominees put forward by the Debtors and non-parties attract any of these disqualifying considerations.

Independence or perceived independence

31 The requirement pertaining to the independence of a PTIB nominee has been considered quite extensively in our case law. This is said to encompass two aspects: (a) first, the nominee must in fact be independent; and (b) secondly, the nominee must also be reasonably perceived to be independent (see *Lim Oon Kuin* ([2] above) at [16]–[17]; *Ho Sally* ([14] above) at [31(a)]). The independence of a nominee would be compromised where he is "exposed to a position of potential *conflicts* of interest, whether this consists of a conflict between his duties as PTIB and his own interests, or a conflict between the duties of PTIB and [his] other existing duties arising from other relationships, offices or posts held by him" [emphasis in italics in original, emphasis in underline added] (see *Ho Sally* at [31(b)]; see also *Lim Oon Kuin* at [16]). Besides conflicts of interests, another ground by which the independence of a PTIB would be compromised is where his conduct gives rise to a perception, on reasonable grounds, that he lacks impartiality (see *Ho Sally* at [31(c)]). Impartiality may be shown where the PTIB has demonstrated himself to be biased against the bankrupt or biased in favour of certain of the bankrupt's

creditors (see *Lim Oon Kuin* at [15]; see, although in the context of liquidators, *Petroships* ([28] above) at [147]).

32 The requirement that a PTIB be independent (and be perceived as such) can be explained with reference to the role the PTIB serves in the bankruptcy administration process – that is, to navigate the conflicting interests of the different parties involved and take positions which ensure *equality* between creditors and fairness to debtors (see *Ho Sally* at [18]) and ultimately secure a "fair and judicious outcome" for *all* parties involved in the bankruptcy (see Re *See Chuen Lim, Alvin (alias Shu Quanlin, Alvin) (Kanthosamy Rajendran, non-party)* [2026] SGHCR 23 ("*Shu Quanlin*") at [1]). Only an *independent* PTIB can properly discharge this role, and it is also in the public interest that a holder of the PTIB's office be *seen* to be independent, to ensure public confidence in a PTIB-administered bankruptcy regime (see Re *Lamb; Ex parte Registrar in Bankruptcy* (1984) 55 ALR 578 at 584).

(1) No issues of actual or perceived independence are raised in connection with the Ironwood Nominee, the Perun Nominee and the KPMG Nominees on the ground that they were nominated by parties who may be investigated by the Debtors' PTIBs

33 The appointment of the Ironwood Nominee, the Perun Nominee and the KPMG Nominees have been primarily challenged on the ground that investigations may have to be conducted by the Debtors' PTIBs against the Debtors, Callisto/Mr Somsakd and Mrs Bothra (*ie*, the respective nominating parties) and in these circumstances, it is necessary to ensure that an insolvency practitioner who is *not* nominated by them be appointed as PTIBs so that *independent* investigations can be carried out. It is common ground that none of the objecting parties have put forward any evidence showing or suggesting: (a) *any* association between the nominees and their respective nominating

parties; or (b) that the nominees have a personal interest which is aligned with that of the nominating party in connection with the investigations that the Debtors' PTIBs may have to carry out and/or claims which the Debtors' PTIBs may pursue as a result of those investigations.[85] Thus, the gist of the objecting parties' submission is that these nominees would not be able to act *independently*, or be *perceived as lacking independence*, by virtue of the identity of the party who had nominated them, because these nominating parties themselves had interests which are adverse to the investigations which the PTIBs may undertake and/or the claims which the PTIBs may pursue in their administration of the Debtors' bankruptcy estate. I do not agree with this submission as a matter of principle, and I do not think it discloses a valid challenge to the independence or perceived independence of a PTIB nominee.

34 It is necessary to appreciate the broader legislative context pertaining to the appointment of PTIBs. The administration of a bankrupt's estate was traditionally undertaken by the Official Assignee ("OA") but pursuant to recent legislative amendments aimed at reducing the usage of public resources involved in private debt recovery, licensed insolvency practitioners now undertake that role as PTIBs (see generally, *Shu Quanlin* at [1]; Singapore Parl Debates; Vol 95, Sitting No 79; 9 January 2023 (Edwin Tong Chun Fai, Minister for Culture, Community and Youth and Second Minister for Law)). A PTIB is an officer of the court and he or she has "all the … duties of the [OA] in relation to the conduct of the bankrupt … and the administration of the bankrupt's estate" (see s 39 of the IRDA). The IRDA sets out the criteria for persons who are eligible to be appointed as PTIB, and besides the requirement that he/she possesses the requisite *professional qualifications* (see s 50 of the IRDA), an

85 DM-3 at para 49; RB-1 at paras 16–18; JAK-1 at paras 52 and 74.

insolvency practitioner may be *refused* a licence on the ground that he or she is "not a fit and proper person", and to that end, relevant considerations include whether he or she had previously been convicted in Singapore or elsewhere of any offence involving fraud, dishonesty or moral turpitude, and/or whether he or she had a judgment entered against him or her in civil proceedings which involved a finding of fraud, dishonesty or breach of fiduciary duty (see ss 51(5) and 51(8) of the IRDA). Under the IRDA, the conduct of a PTIB is also regulated by the OA (see s 42 of the IRDA) and a licensed insolvency practitioner can only commence acting as a PTIB after providing security to the OA for the faithful performance of all duties and requirements imposed by the IRDA (see s 38 of the IRDA).

35 The legislative framework therefore puts in place criteria to ensure that only persons who are eligible *both* as a matter of *professional qualifications* and *character* can act as PTIBs. If appointed, the legislation also holds them to high standards of conduct, and sanctions are also in place to ensure that they discharge their duties in accordance with the required standards. The PTIB-administered bankruptcy regime under the IRDA therefore presupposes as a starting point that *licensed* insolvency practitioners who accept nominations as PTIBs are *capable of* acting independently in discharging their functions (and would so act) *irrespective* of who had nominated them and further, their status as an officer of the court also lends foundation to their *perceived* independence. Therefore, our courts have emphasised that "serious evidence" is needed to sustain a challenge to the independence of an insolvency practitioner who assumes a statutory appointment under the IRDA (see, for example, Re *X Diamond Capital Pte Ltd (Metech International Ltd, non-party)* [2024] 3 SLR 1228 at [50]; see also *PT Bank Negara Indonesia (Persero) TBK, Singapore Branch v Farooq Ahmad Mann (in his capacity as judicial manager) and*

another and other matters [2024] 3 SLR 1199 at [57]), a point which equally applies to PTIBs.

36 It would be contrary to the legislative starting point if the *independence* (perceived or actual) of a PTIB nominee could be challenged simply on the grounds of the *identity* of their nominating party *and* the fact that the nominating party had an interest adverse to the investigations which the PTIB may have to undertake and/or claims which the PTIB may pursue as a result of those investigations, without evidence of how the nominee is *personally connected or associated* with these investigations or claims, or how the nominee has a *personal interest* in these matters, such that the nominee would struggle to discharge his or her duties as PTIB independently or be perceived as unable to do so, if appointed (see also *Ho Sally* at [32] and [44]). In essence, to challenge the actual or perceived independence of nominated PTIBs, the disqualifying considerations or circumstances relied upon must affect them *personally* in their capacity as "individual nominees" (see *Lim Oon Kuin* at [38]) and cogent evidence must be adduced to that effect. Any lesser approach would make it all too easy for debtors and/or creditors to make attempts to *disqualify* PTIB nominees simply by virtue of the party who had nominated them, which cannot be countenanced in a PTIB-administered bankruptcy regime like that under the IRDA.

37 I accept that there is authority which suggests that the appointment of an insolvency practitioner as an office holder (*eg*, a liquidator) can be challenged on the ground that he or she was the *choice* of a person whose interests are adverse to investigations which the liquidator may be required to undertake and/or claims which the liquidator may have to pursue on behalf of the company (see, for example, Re *Power Builders (Surrey) Ltd* [2009] 1 BCLC 250 (*"Power Builders*") at [31]; Re *Pan Sutong, a bankrupt* [2024] 1 HKC 217 at [71(3)].

The oft-cited legal proposition which supports this view was stated by Maddocks J in *Fielding v Seery and another* [2004] BCC 315 ("*Fielding*") (at [32]):

> (4) A liquidator should not be a person *nor be the choice of a person* who has a duty or purpose which conflicts with the duties of the liquidator …
>
> (5) More specifically the liquidator should *not be the nominee of a person*: (a) against whom the company has hostile or conflicting claims …; or (b) *whose conduct in relation to the affairs of the company is under investigation* …
>
> [emphasis added]

38 In the present context, I do not think this lends support to the view that the actual or perceived independence *of a PTIB nominee* can be challenged solely on the ground that he or she is the *choice or nominee of a person* whose conduct is or may come under investigation and/or against whom adverse claims may be made by the bankrupt's estate. I say so for two reasons. First, such a view is inconsistent with the approach taken by the court in *Lim Oon Kuin*, which is binding on me, and which I respectfully think is the correct approach on this issue. In that case, the debtors had consented to judgment in respect of claims which implicated them in dishonest conduct, and the court accepted that the debtors' PTIBs would have to investigate their affairs. However, the court did not consider the debtors' PTIBs as being disqualified on grounds of lack of actual or perceived independence, though I accept that the non-parties in that case did not object to the debtors' nominees on ground of lack of independence (see *Lim Oon Kuin* at [36]). In *Ho Sally* (at [44]), the High Court Registry considered this aspect of the decision in *Lim Oon Kuin* and expressed the view that any attempt by the non-parties in that case to challenge the independence of the debtors' nominees would likely have been unsuccessful, because it was a "free-standing" objection based on "the mere fact that the nominees had been put forward by the debtors". Therefore, *Lim Oon Kuin* is authority for the view

that the actual or perceived independence of a PTIB nominee *cannot* be challenged solely on the ground that he or she was nominated by a party whose affairs may require investigation by the PTIB and/or against whom claims may be made by the PTIB.

39 For the reasons stated in the previous paragraph, I also disagree with the RB-PT's submission that the Debtors are precluded from appointing their own PTIBs as a matter of principle (see [19] above). The fact that the Debtors *themselves* are liable to investigation does not mean that their nominated PTIBs would struggle to conduct those investigations independently, since that is something which they are duty-bound to do, unless "serious evidence" is adduced showing otherwise. Similarly, I disagree with the Debtors' submission that the appointment of the KPMG Nominees would prejudice them because of the fact that they were nominated by Mrs Bothra, who has a long and acrimonious relationship with the Debtors (see [21(a)] above). Any acrimony in the relationship between the Debtors and Mrs Bothra does not mean that Mrs Bothra's nominee would fail to consider the Debtors' private interests in administering the Debtors' bankruptcies, something which they are duty-bound to do if they were appointed as PTIBs, unless (again) "serious evidence" is adduced showing otherwise.

40 Secondly, the relevant cases cited in *Fielding* as authority for the proposition stated in the extract above (at [37]) all involved a scenario where the liquidator in question had a *personal interest* in the investigations and claims which the appointed liquidator would have to undertake and/or pursue, and it was for that reason that the actual or perceived independence of the liquidator was considered to be compromised. Put another way, those cases did not involve a scenario where the liquidator was found to lack independence or was

perceived as lacking independence solely by virtue of who had nominated him. To explain:

(a) In Re *Corbenstoke Ltd (No 2)* [1990] BCLC 60 (cited in support of the proposition at sub-para (4) of the extract), a liquidator was removed on grounds of conflict between his duties as liquidator and his *personal interest*, because he was both a creditor of the company and a former director of that company;

(b) In *Re Charterland Goldfields* (1906) 26 TLR 132 (cited in support of the proposition at sub-para (4) and (5) of the extract), a liquidator was removed for lack of independence because he had intimate business connections with several of the company's directors whose dealings with the company required investigation, and in that context, the liquidator's prior connections with the company directors provided grounds to suggest that his interests were aligned with those of the directors, or at least be perceived as such.

(c) In *Re City & County Investment Co* (1877) 25 WR 342 (cited in support of the proposition at sub-para (4) and (5) of the extract), one Brown Jansen & Co ("BJC") had agreed to take over the assets and liabilities of a company (which was to be wound up) on the condition that, among other things, one "Price", who was BJC's agent, be appointed as liquidator. A dispute subsequently arose as to whether BJC was required under this agreement to indemnify the shareholders of the company against the company's debts (this issue might have arisen because this case pre-dated the UK House of Lords' decision in *Salomon v A Salomon Co Ltd* [1897] AC 22, which established the principle of separate legal personality in company law). It was held that Price had

> to be removed as liquidator because he was confronted with antagonistic interests as he was both "the agent and nominee" of BJC and also a liquidator of the company. In respect of any investigation carried out into to the shareholders' dispute, Price's role as an agent meant that he personally owed duties to BJC which conflicted with his duties to the company as liquidator.

41 I accept that there have been some cases in the corporate insolvency context which applied the proposition in *Fielding* and a liquidator was found unsuitable solely by virtue of who the nominating party was and the fact that the nominating party may potentially come under investigation by the liquidator (see, for example, *Power Builders* ([37] above) at [31]; Re *S Simon & Company Ltd* [2013] EWHC 3480 (Ch) at [69]; *In the matter of Inspirato Fund No 2 PCC Limited* [2022] Gib LR 191 at [29]). However, I think a better explanation for the liquidator's unsuitability in these cases is not that he or she lacks independence (or can be perceived as such), but that the appointment would *not* be in the interests of the creditors as a whole where alternative nominees are available. I will elaborate on this point later (at [57]).

42 For the reasons above, I reject the objections raised to the appointment of the Ironwood Nominee, the Perun Nominee and/or the KPMG Nominees which, as explained, is premised primarily on the ground that they were nominated by parties against whom the Debtors' PTIBs may have to carry out investigations and/or pursue claims as a result of the investigations conducted. In the absence of any suggestion (as well as cogent supporting evidence) that these nominees are personally associated with the respective nominating parties and/or have a personal interest in these investigations or claims that is aligned with that of the nominating party, such an objection does not disclose a valid challenge to the independence or perceived independence of these nominees.

(2) The GAPL Claim does not place the KPMG Nominees in a position of conflict of interest

43 The Debtors also submitted that the KPMG Nominees, if appointed as the Debtors' PTIBs, may find themselves to be in a position of conflict of interest by virtue of decisions which they may be required to make regarding the GAPL Claim (see [21(c)] above) against Mrs Bothra, who had nominated them. I do not agree. I understand the Debtors' point here to be that the PTIB's duties in pursuing the GAPL Claim on behalf of Mr Mishra's bankruptcy estate will run contrary to any duties owed by the PTIB to Mrs Bothra. However, the Debtors' PTIBs will not owe any duties to Mrs Bothra specifically by virtue of the fact that they were nominated by her (see generally, Michael Murray and Jason Harris, *Keay's Insolvency: Personal and Corporate Law and Practice* (10th Ed, Lawbook Co, 2018) ("*Keay's Insolvency*") at para 2.225). In respect of the pursuit of the GAPL Claim (and in the administration of Mr Mishra's bankruptcy), the PTIB's duties are owed to Mr Mishra's creditors as a whole, of whom Mrs Bothra is part. In fact, if the pursuit of the GAPL Claim stood to recover assets as part of Mr Mishra's estate, it was fully consistent with the interests of Mr Mishra's creditors (and any duties owed to them) for that claim to be fully pursued to the extent that it is beneficial to the bankruptcy estate. Thus, there is no conflict of interest (actual or perceived) by virtue of the GAPL Claim which serves to disqualify the KPMG Nominees.

44 As such, it is not necessary for me to consider further Mrs Bothra's submissions regarding the viability of the GAPL Claim.[86] It suffices for me to say that the GAPL Claim does not *directly* form part of Mr Mishra's bankruptcy

[86] 1NP's written submissions at paras 28.

estate since the right vindicated is that of GAPL's, which is an entity distinct from its shareholders, like Mr Mishra (see also [66] below).

(3) No issues of actual or perceived independence are raised in connection with the A&M Nominees on the ground of their role in deciding how to further defend OC 28, if appointed as the Debtors' PTIBs

45 The Debtors, Callisto and Mr Somsakd have challenged the appointment of the A&M Nominees on the ground that they lack independence (or would be perceived as such) because, if appointed, they would have to make decisions on how to continue to defend the claims in OC 28, which may be adverse to the interests of the party who had nominated them, *ie*, the RB-PT. In deciding how to further defend OC 28, the Debtors' PTIBs only owe duties to the creditors and/or the Debtors in their official capacity as PTIB and their conduct in this regard is also subject to the IRDA and review by the court (see, for example, *Zhang Hong En Jonathan v Private Trustee in Bankruptcy of Zhang Hong'En Jonathan* [2021] 4 SLR 139 at [12]).[87] A complaint of lack of independence can only be made if the Debtors' PTIBs are personally interested in the claims in OC 28 *or* if they are duty-bound to consider the RB-PT's interests in respect of decisions made regarding OC 28, which runs counter to the duties which they owe as the Debtors' PTIBs. Neither of that is shown here. First, the Debtors, Callisto and Mr Somsakd have not made any suggestion or adduced evidence showing that the A&M Nominees have any connection or association with the RB-PT apart from the fact that the latter had nominated them as PTIBs or that the A&M Nominees' interests with respect to the claim in OC 28 were aligned with those of the RB-PT. Secondly, the Debtors' PTIBs owe no duties to the RB-PT in respect of any decisions to be made regarding the proceedings in OC 28. Any duty owed by the Debtors' PTIBs to the RB-PT is limited to their

[87] 2NP's written submissions at para 105.

duty to take into account the creditors' interests in the administration of the bankruptcies. As such, I do not find that the A&M Nominees lack independence (or would be perceived as such) by virtue of the reasons cited by the Debtors, Callisto and Mr Somsakd.

Skill and competence

46 In *Lim Oon Kuin* ([2] above) (at [41]), the court considered that it was not necessary to engage in a "granular comparison" of the relative qualifications of the different PTIB nominees in that case, and that this was *not* a significant factor which swung the balance, because:

> … all of the nominees put forward by both the claimants and the non-parties were sufficiently skilled and experienced. All of them were licensed insolvency practitioners in accordance with s 37(*a*) of the IRDA, and had significant experience as appointed insolvency practitioners or experience relevant to the administration of insolvent estates.

47 In deciding between competing PTIB nominees, I think a nominee's skill and expertise is relevant in two aspects. First, it is relevant as a disqualifying consideration, in that a nominee who *lacks* the requisite skill and expertise to administer bankrupts' estates would be found *unsuitable* to act as a PTIB. In this sense, the underlying consideration is to ensure that a bankrupt and his or her creditors would not be prejudiced by the appointment of a PTIB who is not proficient in managing estates in bankruptcy (see *Lim Oon Kuin* at [15]). Secondly, a nominee's skill and expertise can also provide reason for the court to prefer one nominee over the other as PTIB, on the ground that he or she is *more suitable* than the other nominees to act as the bankrupt's PTIB, in light of his or her skill and expertise and the specific circumstances of the case. In this sense, the underlying consideration is to ensure that the nominee chosen to act as PTIB among several competing nominees will best serve the creditors'

interests as a whole. I will elaborate on the second point later (at [62]), and for now, I consider a nominee's skill and expertise in terms of a disqualifying consideration.

48 Where the PTIB nominees are all *licensed* insolvency practitioners under the IRDA, the court would generally eschew "granular comparisons" of their relative qualifications in the analysis of their skill and competence as a disqualifying consideration (see *Lim Oon Kuin* at [41]; see also in the context of a corporate insolvency, *Duncan, Cameron Lindsay and others v AmazingTech Pte Ltd (under interim judicial management) and another matter* [2025] SGHC 195 ("*Duncan, Cameron Lindsay*") at [33]). Again, the rationale of this approach can be explained with reference to the legislative framework of the PTIB-administered bankruptcy regime under the IRDA. As mentioned, the IRDA puts in place criteria to ensure that only those insolvency practitioners who are eligible *both* as a matter of *professional qualifications* and *character* can act as PTIBs (see [35] above). Where the legislation has already deemed all licensed insolvency practitioners eligible to act as PTIBs, it would be inconsistent for the court to then undertake a granular analysis of their relative qualifications and then rely on that to conclude that one or more of the nominees put forward are *unsuitable* to act as PTIBs. Of course, it is open to a party to persuade the court that a nominee, despite being a licensed insolvency practitioner, is not proficient in administering bankrupts' estates and thus should not be appointed as a PTIB, but that party would have to put forward very cogent reasons and supporting evidence.

49 In this case, the RB-PT and Mrs Bothra submitted that the Ironwood Nominee and the Perun Nominee have no prior experience acting as PTIBs and further their respective insolvency practices lack the international or regional network which the firms of the KPMG Nominees or the A&M Nominees have

and that would render these nominees unsuitable to administer the Debtors' bankruptcy estates, which are of a significant scale and also consist of assets in multiple jurisdictions. Both submissions are *factually correct* in that the CV of the Ironwood Nominee and Perun Nominee do show that they have limited experience as PTIBs (the Ironwood Nominee does not appear to have undertaken previous appointments as PTIBs though he has been appointed as a nominee in a few individual voluntary arrangements,[88] while the Perun Nominee's previous appointments were generally in the corporate insolvency field)[89] and further the firm in which they practise also does not appear to have an international or regional network of offices unlike that of the KPMG Nominees or the A&M Nominees. However, I do not think these issues disqualify the Ironwood Nominee and the Perun Nominee from consideration as the Debtors' PTIBs. In terms of professional qualifications, the requirement put in place by the IRDA is that only *licensed* insolvency practitioners can act as PTIBs; the IRDA does not require that they must have previous experience acting as PTIBs or that their insolvency practices must be commensurate in scale with the size of the bankruptcy estate in order to act as PTIB for a particular bankrupt. It would be inconsistent with the legislative framework in the IRDA for the court to find certain nominees *unsuitable* to act as PTIBs on the ground that they lack previous experience in administering bankrupts' estates or that their insolvency practices are of insufficient scale having regard to the size of the bankrupt's estate, where these are not requirements prescribed in the IRDA in the first place. However, I accept that the points raised by the RB-PT and Mrs Bothra are relevant as grounds for the court to prefer the other nominees *over* the Ironwood Nominee and the Perun Nominee, because they

88 DM-1 at pp 171–172.

89 GB-1 at pp 251–252.

show that the other nominees are better placed to administer the Debtors' bankruptcy estate and so their appointment will better serve the creditors' interests as a whole. I will return to this point later (at [68]).

Creditors' preferences are a neutral factor in this case but their objection to the appointment of the Ironwood Nominee is significant

50 In the absence of disqualifying considerations, the next step is to consider what the creditors' preferences are, which would ordinarily assume "primary importance" (see *Lim Oon Kuin* ([2] above) at [34]).

51 In this case, I do not think the creditors' preferences distinctly identified one nominee as more suitable than the others because none of them were distinctly supported by a *supermajority* of creditors, even if I took into account the fact that the KPMG Nominees and the A&M Nominees were supported in the alternative by the RB-PT and Mrs Bothra respectively. I illustrate this using the table in the Annex below, which is prepared using the information set out in the Debtors' statements of affairs.

52 Based on the table, in terms of debt value, Callisto and Mr Somsakd collectively are the *largest* creditors of Mr Mishra, and Callisto is also the largest creditor of Ms Pandey. However, that is neither here nor there because they are not *supermajority* creditors by debt value (falling short of the 75% threshold), and further, the appointment of the Perun Nominee (nominated by them) is also objected to by creditors whose debt value is substantial (in the case of Mr Mishra, this is objected to by creditors who hold 39% of his debts, and in the case of Ms Pandey, this is objected to by creditors who hold 47% of her debts).

53 However, a significant consideration here is the fact that the appointment of the Ironwood Nominee is unsupported by *all* the non-parties and based on the Debtors' statements of affairs, these non-parties clearly constitute a supermajority of all the Debtors' creditors by debt value. In these circumstances, the appointment of the Ironwood Nominee would be an exercise in futility as the non-parties (as a supermajority of the creditors) are permitted under legislation to take steps to remove the Ironwood Nominee (see [28] above). Thus, even though the Ironwood Nominee is not disqualified on grounds of lack of independence or skill, his appointment as the Debtors' PTIBs would result in "value-destroying satellite litigation" for his removal and that will *not* serve the creditors' interests as a whole (see [28] above).

54 Both Mrs Bothra and the RB-PT submitted that lesser weight should be accorded to the views of Callisto and Mr Somsakd, as these creditors are *related* to the Debtors (see [20(a)] above). This point does not arise for decision given my views earlier that the creditors' preferences in this case (*ie*, including those of Callisto and Mr Somsakd) do not distinctly identify one nominee as more suitable than others for appointment as the Debtors' PTIBs. However, I accept that where there are suitable and qualified alternative nominees available for appointment as PTIB, the court would *not* prefer the nominee of a party who is related to the debtor and where it could be shown that that party has a personal interest in the bankruptcy administration beyond its interests as a creditor seeking to obtain repayment of its debts out of the bankrupt's estate. In this sense, the nominee of the related creditor is not preferred because its appointment would not serve creditors' interests and *not* because the views of the related creditor are to be discounted. I will elaborate on this point later (at [60]).

55 The RB-PT also submitted that the views of secured creditors as to the preferred nominee should be discounted or given less weight because these creditors are entitled to proceed against their security, which is unaffected by the appointment of the PTIB. In support of this submission, the RB-PT cited Re *Demaglass Holdings Ltd* [2001] 2 BCLC 633 ("*Demaglass*") (at 639), in which the court held that, when considering the views of the creditors on whether a company is to be wound up, little (if any) weight is given to the views of secured creditors because these creditors are protected in any event, at least to the value of their security, and generally, they have no interest in whether the company is wound up or not. I do not agree with the RB-PT's submission, and I do not think the views of secured creditors as to the preferred PTIB nominee should be given less weight or treated any differently from the views of unsecured creditors. The issue of whether a person should be declared bankrupt (or in the analogous context of corporate insolvency, whether a company should be wound up) is conceptually distinct from the issue of who should be appointed as PTIB (or who should be appointed as liquidator). The former issue concerns the debtor's inability to pay his debts and whether he should be prevented from pursuing further commercial activity for the protection of the public at large (see *Rasmachayana* ([26] above) at [25]) and to the extent that secured creditors have recourse against their security to satisfy their debts even if the debtor has no means of repayment, they have a lesser interest in that issue as compared to creditors with unsecured debts. On the other hand, the latter issue raises the question of who should be tasked with the official responsibility of administering the bankruptcy process, and all persons with an interest in the debtor's bankruptcy estate (*ie*, secured and unsecured creditors alike) ought to have an equal say.

The appointment of the A&M Nomninees as the Debtors' PTIBs best serves the creditors' interests

56 Where the creditors' preferences are neither here nor there (as in this case), the court will have to exercise its discretion to choose one nominee over others as the debtor's PTIB. The overarching consideration in the court's exercise of discretion is what best serves the creditors' interests in the bankruptcy, and in this case, there are two considerations which had a bearing on that issue, and which led me to conclude that the A&M Nominees should be preferred over the other nominees and be appointed as the Debtors' PTIBs.

Appointing the nominee of a party whose views are independent best serves the creditors' interests

57 Based on case law, where the bankrupt's affairs are likely to require *investigation* by the appointed PTIB *and* other suitable and qualified nominees are available, it is recognised that it would *not* serve the creditors' interests for the bankrupt's own nominee to be appointed as PTIB, even where the bankrupt's own nominee is unaffected by any disqualifying considerations relating to independence or skill. In *Lim Oon Kuin* ([2] above), the court was faced with deciding between two sets of nominees, both of whom did not attract any disqualifying considerations relating to independence or skill – the debtors' own nominees and another set of nominees from the non-parties. There was no issue taken with the lack of independence or skill of the debtors' own nominees. While the court did not go so far to accept the non-parties' submission that it would be *improper* for the debtors (whose conduct was likely subject to investigation) to appoint their own nominees as PTIB, the court recognised that it would not be consistent with the creditors' interests for such a nominee to be appointed as PTIB, especially where there were other suitable nominees available for appointment (see *Lim Oon Kuin* at [38]):

> Additionally, the creditors had valid reasons for their steadfast opposition to the claimants' nominees. Ordinarily, a blanket opposition to any potential nominee proposed by the debtor, without even considering the identity or the qualifications of that nominee, might raise questions of whether such opposition was in good faith. Here, the creditors did not take issue with the skill or independence of the Claimants' Nominees. They were not objecting to Mr Tam or Ms Oon as individual nominees, but to the propriety of the debtors nominating the PTIB to begin with, considering the underlying fraud the debtors had perpetrated against their creditors. The claimants had consented to judgment against them, albeit without admission of liability, in respect of claims that implicated them in dishonest conduct. *I agreed with the non-parties that the PTIBs would have to investigate the assets of the claimants, and that in all the circumstances, the creditor's interests would not be seen to be fulfilled by PTIBs nominated by the claimants themselves if there was (as here) an objection made to them together with the proffered availability of other suitable nominees.*
>
> [emphasis added]

58 Earlier, I considered the proposition in *Fielding* (see [37] above), which states that an insolvency practitioner can be found unsuitable for appointment as liquidator where he or she is the choice of a party whose conduct is likely to be investigated by the appointed liquidator and/or against whom claims are likely to be brought by the company. An example in which this proposition was applied is *Power Builders* ([37] above) – this concerned a company which undergone voluntary liquidation initiated by its sole director, and before the court was an application by the director for an order that the vote of one "PE Ltd" be disallowed at a creditor's meeting that was intended to vote on who should be appointed as the company's liquidators. At that meeting, both PE Ltd and the company's other creditors voted for two other persons to be the company's liquidators and consequently the director's own nominee was not appointed. The court dismissed the application on the ground that the creditors' nominee would still have been appointed even if PE Ltd's vote was eliminated. The court further held that it would be wrong for the director's *choice* of

liquidator to be appointed, because *the director* had a purpose which conflicted with the liquidator's duties (namely, to minimise his own liabilities for the debt of the company and to defend his own conduct vis-à-vis the company) and *the director* was also a person against whom the company has hostile claims and whose conduct in relation to the affairs of the company is under investigation (at [31]).

59 I have earlier explained why I do not think the proposition in *Fielding* lends support for the view that a nominee's appointment as PTIB can be challenged solely on the ground that he or she was the choice of a person whose interests are adverse to the investigations that the PTIB may have to undertake and/or claims which the PTIB may have to pursue (see [40] above). In my view, in the personal insolvency context, the proposition in *Fielding* is better rationalised in the following terms – where there are *other* suitable and qualified nominees available for appointment as PTIB, it would best serve the creditors' interests as a whole for the court to appoint the nominee of a party who has no personal interest in the bankruptcy administration process beyond its interest as a creditor seeking to obtain the repayment of its debts out of the bankrupt's estate. This is because, where the bankruptcy is administered by the nominee of a party with a personal interest in the bankruptcy administration process exceeding that of a creditor seeking repayment of its debts, the other creditors may view the work done by the PTIB with cynicism even if no *reasonable* complaint can be maintained about the independence or skill of the PTIB (see, although in a different context, Re *Ziceram Ltd (in liquidation)* [2010] 1 BCLC 751 at [25(5)]). The creditors' *subjective* distrust of the PTIB is inimical to an efficient, expeditious and cost-effective bankruptcy administration process as it stands to be side-tracked into "value-destroying satellite litigation" by creditors

challenging the PTIB's "every act or omission or seeking to remove or replace him" (see, although in a different context, *Petroships* ([28] above) at [151]).

60 Having the bankruptcy administered by the nominee of a party whose interests in the bankruptcy are entirely coincident with those of the bankrupt's general body of creditors strengthens the perception that an independent investigation would be carried into the debtor's affairs (see, albeit in a different context, *Korea Asset Management Corp v Daeweoo Singapore Pte Ltd (in liquidation)* [2004] 1 SLR(R) 671 at [57]) and avoids the satellite disputes that might ensue where the creditors view the PTIB and its decisions with distrust. The point here does not concern the independence or perceived independence of the PTIB nominee (which will not be in issue where no disqualifying consideration has been demonstrated on this ground) but rather, it concerns the appointment of a nominee that will be most conducive to the bankruptcy administration process and therefore best serves the creditors' interests as a whole.

61 A debtor obviously has a personal interest in the bankruptcy administration process since his or her affairs would ordinarily require investigation by the PTIB and therefore the appointment of the debtor's nominee would *generally* not be seen as fulfilling the creditors' interests, where alternative nominees are available (see [57] above). A party whose conduct may be investigated by the PTIB by virtue of previous transactions or dealings with the bankrupt would similarly have a personal interest in the bankruptcy administration process that goes beyond the interests of a creditor seeking repayment of its debts, and the appointment of its nominee would similarly not serve the creditors' interests, for the reasons explained earlier. The nominee of a party who is related to the debtor can also be challenged on this ground, provided that it can be shown that that party, like the debtor, has a personal

interest in the bankruptcy administration process which goes beyond the interests of a creditor seeking repayment of its debts. In this regard, it is not necessary to lay down exhaustively the circumstances in which a party could be found to be related to a debtor for this purpose, and the test is whether the relation relied upon goes to show that that party has a personal interest in the bankruptcy administration process exceeding that of a creditor seeking repayment of its debts.

Appointing a nominee who is better equipped to administer the bankruptcy estate best serves the creditors' interests

62 As I have explained earlier, a nominee's skill and expertise can be relevant in two aspects – first, a nominee who *lacks* the requisite skill and expertise to administer bankrupts' estates would be found *unsuitable* to act as a PTIB and thus be disqualified from consideration for appointment as PTIB; secondly, it can also provide reason for the court to prefer one nominee over the other as PTIB, on the ground that he or she is *more suitable* than the other nominees to act as the bankrupt's PTIB (see [47] above). One scenario in which the nominee's skill and expertise can render him more suitable than other nominees is where it shows that he or she will be *better placed* than other nominees to administer the bankruptcy in question. This is because it will better serve creditors' interests for the court to prefer a nominee whose appointment can result in savings in the time and costs of investigation of the bankrupt's affairs (see *Wong Wah* ([26] above) at [21(d)]). Therefore, in the corporate insolvency context, the court has preferred the appointment of liquidators who have familiarity with the company's affairs through their previous appointments as the company's insolvency office holders, which would provide a good foundation for the remaining work to be undertaken as liquidator and ensure

time and costs savings in the liquidation process (see, for example, *Duncan, Cameron Lindsay* at [57]–[59]; Re *Frisken* [2020] FCA 98 at [13] and [23]).

The appointment of the A&M Nominees best serves the creditors' interests

63 With the above in mind, I now explain why I considered that the appointment of the A&M Nominees best serves the creditors' interests as a whole.

64 In this case, the appointment of the Debtors' nominee (*ie*, the Ironwood Nominee) would not serve the creditors' interests because the Debtors obviously have a personal interest in the bankruptcy administration process as their affairs require investigation by the PTIBs. I accept the RB-PT's submission that based on evidence of shareholding searches, within the last two years, Mr Mishra has transferred his shares in the Thai Companies as well as other companies like OOH and OOR to Callisto, and Ms Pandey had also granted a charge over her LREC shares to Callisto (see [19(a)(ii)] above). The RB-PT has pointed out that the Debtors' alleged involvement in the transfer of Mr Bothra's assets to put them out of reach of his creditors,[90] as well as recent dissipations of assets from FAPL which the Debtors allegedly admitted to in the EER Proceedings in OC 593,[91] are further reasons to show why their conduct require independent investigation and hence they should not be permitted to appoint their own PTIBs. I did not place much weight on this submission since these disposals did not concern the Debtors' own assets, and the PTIBs would only be required to investigate assets and transactions forming part of the Debtors' bankruptcy estate. To demonstrate that the appointment of the

90 2NP's written submissions at para 62.

91 2NP's written submissions at para 67.

Debtors' nominee would not serve the creditors' interests, the key is to show that they have a personal interest in the bankruptcy administration process by virtue of investigations which the PTIB would have to undertake into their estate, and I do not think it would suffice to make good this submission based on generalised points, such as transactions which do not concern the Debtors' bankruptcy estate.

65 As for Callisto and Mr Somsakd, based on the evidence, I accept that they have a personal interest in the Debtors' bankruptcy administration process beyond the interest of a creditor seeking repayment of its debts out of the bankrupt's estate, and for this reason, the appointment of their nominee (*ie*, the Perun Nominee) would not serve the creditors' interests:

(a) For Callisto, it had taken a transfer of the shares of the Thai Companies and of entities like OOH and OOR from Mr Mishra, and it had also been granted a charge over the LREC shares by Ms Pandey. These are transactions which obviously require investigation by the Debtors' PTIBs, and Callisto obviously also has an interest in these investigations, the outcome of which has a direct impact on the validity of the underlying transactions. Further, there is evidence showing that Callisto is related to the Debtors, in the sense that the Debtors held interests in Callisto – as Mrs Bothra's counsel pointed out in submissions, Callisto is owned by funds in which LMI (the Debtors' corporate entity) had investments (see [20(a)(i)] above). Callisto therefore can be regarded as having a personal interest in the bankruptcy administration process that is aligned with the Debtors.

(b) For Mr Somsakd, Mrs Bothra's counsel correctly pointed out that there were several suspicious features associated with the Somsakd

Guarantees. In particular, the 2024 Somsakd Guarantee (provided for the OOKPCL Debenture) was entered even before that debenture existed, and the principal sum of that debenture and guarantee was increased by $30m in September 2025, two months after judgment was obtained against the Debtors in OC 593 (see [20(b)(iv)] above). The Debtors' PTIBs would obviously have to investigate whether the 2024 Somsakd Guarantee (in whole or in part) is a *bona fide* transaction, and Mr Somsakd obviously has an interest in that investigation, the outcome of which has a direct impact on his standing as Mr Mishra's creditor. However, I do not go so far to accept Mrs Bothra's submission that Mr Somsakd is related to the Debtors because he was a director of entities in which Mr Mishra had ownership interests – this mere connection did not suggest that Mr Somsakd's interests in the bankruptcy administration were aligned with those of Mr Mishra.

66 As for Mrs Bothra, it is common ground that there is a long history of commercial dealings between the Debtors and the Bothras. As the High Court found in the OC 593 Judgment (see [20(a)(i)] above), the Debtors became friends with Mr Bothra and Mrs Bothra in 2012, and between 2011 and 2012, the Debtors and Mrs Bothra began to have mutual dealings with each other in their own personal names and/or using corporate entities which they beneficially owned or controlled or which they instructed payment be made to – that gave rise to 287 transactions under a "Running Account", which was the subject matter of the claim in OC 593 (see OC 593 Judgment at [6]; *Deepak Mishra and another v Rashmi Bothra* [2026] SGHC(A) 17 at [5]–[6]). Mrs Bothra and Ms Pandey had also incorporated a company as equal shareholders for the purposes of holding certain investment property, and at some points in time, Mr Bothra and Mr Mishra were the directors of that company (see *Rashmi*

Bothra v SuntecCity Thirty Pte Ltd and others [2023] 2 SLR 535 at [5]–[6]). I accept that there is no material before me identifying any particular transaction between Mrs Bothra and the Debtors that would require investigation by the Debtors' PTIB, but the evidence does confirm that there is a significant number of historical transactions between Mrs Bothra, and the possibility that some of these transactions may potentially be the subject of investigations by the PTIB cannot be ruled out. Mrs Bothra would obviously have an interest in these investigations, which stand to affect her rights and/or liabilities *vis-à-vis* the Debtors' bankruptcy estate. Thus, I find that Mrs Bothra too has a personal interest in the Debtors' bankruptcy administration process that goes beyond the interest of a creditor seeking repayment of its debts from the bankrupt's estate. For completeness, I do not think the GAPL Claim (see [21(c)] above) is a relevant consideration in this regard – that is a claim pursued by *GAPL*, and even if the Debtors' PTIBs do obtain control over GAPL (as the Debtors submitted), GAPL is a distinct legal entity from its shareholders,[92] and it is *GAPL's management and/or its liquidators (if any are appointed)*, as opposed to the Debtors' PTIBs, who would have to make a decision on how that claim is to be pursued. The GAPL Claim therefore does not raise any possibility of the Debtors' PTIBs pursuing claims directly against Mrs Bothra.

67 On the other hand, there is no indication that the Debtors' PTIBs may have to undertake investigations and/or pursue claims against the RB-PT. Of course, Mr Bothra, like Mrs Bothra, will likely have a long history of transactions and dealings with the Debtors which may require investigation (for example, in OC 593, the High Court found that Mrs Bothra had left the handling of all transactions under the Running Account to Mr Bothra: see OC 593

92 1NP's written submissions at para 28.

Judgment at [6]), but the critical distinction here is that Mr Bothra's bankruptcy estate has been taken over by a PTIB who is expected and duty-bound to administer Mr Bothra's affairs and deal with investigations or potential claims against Mr Bothra's bankruptcy estate in accordance with the standards of conduct expected of an officer of the court. Further, the RB-PT's interest in the Debtors' bankruptcy administration process is also coincident with that of a creditor seeking repayment of its debts, since its primary objective will be to ensure that the Debtors' bankruptcy is efficiently administered so that there remains sufficient assets available for distribution from the bankruptcy estate to satisfy any judgment it eventually obtains in OC 28. The status and position of the RB-PT *vis-à-vis* the Debtors' bankruptcy administration means that the Debtors' creditors as a whole are least likely to view the work done by its nominee (*ie*, the A&M Nominees) with cynicism or hold them in distrust, and hence it best serves the creditors' interests as a whole for the RB-PT's nominee be appointed as the Debtors' PTIBs.

68 It would be recalled that Mrs Bothra and the RB-PT submitted that their respective nominees are more suitable to act as the Debtors' PTIBs given their vast experience in acting as PTIBs for bankrupts, and further, that they practise in an insolvency practice with the institutional capability to undertake investigations into the Debtors' assets which are located in various jurisdictions. I accept that this is a point which would better equip these nominees to administer the Debtors' bankruptcy estate, which is of a significant scale and involves assets held in various jurisdictions outside of Singapore, and therefore allow for costs and time savings in the bankruptcy administration process. This is a further reason supporting my conclusion that the appointment of the A&M Nominees best serves the creditors' interests.

Conclusion

69 For the reasons explained above, I granted the bankruptcy orders sought by the Debtors and appointed the A&M Nominees as the joint and several private trustees of the Debtors' bankruptcy estate.

70 At the hearing where I delivered my decision, the RB-PT sought costs on the ground that they had succeeded in having their nominee appointed as the Debtors' PTIBs. For completeness, none of the other non-parties sought costs. I declined to grant any costs in favour of the RB-PT. In my view, unless the Debtors had unreasonably resisted the participation of the non-parties and/or the submissions which the non-parties made on issues of interest to them, the Debtors should not have to bear the non-parties' costs, including those of the RB-PT. Further, all of the non-parties here had an interest in the Debtors' bankruptcy administration, and they were equally entitled to make submissions on who should be appointed as the PTIB. While the RB-PT did manage to have its nominee appointed as PTIB, I would not characterise that as a "success" for the purposes of determining the incidence of costs because that is not so much an outcome which was obtained to the exclusion of the Debtors' and other non-parties interests (as is ordinarily the case where one party prevails against the other in adversarial proceedings), but an outcome which the court considered to be most conducive to the Debtors' bankruptcy administration process and which best served the creditors' interests as a whole.

71 In closing, I record my appreciation to counsel for the Debtors and the non-parties for their helpful submissions which were of much assistance to the court.

Perry Peh
Assistant Registrar

Koh Junxiang and Ng Pi Wei (Clasis LLC) for the claimants in Bankruptcy No 832 of 2026 ("B 832") and Bankruptcy No 835 of 2026 ("B 835");
Ho Zi Wei, Ashwin Menon and Han Xin Yi (Rajah & Tann Singapore LLP) for the 1st non-party in B 832 and B 835;
Alexander Yeo and Yeoh Tze Ning (Allen & Gledhill LLP) for the 2nd non-party in B 832 and B 835;
Rezvana Fairouse d/o Mazhardeen (NLC Law Asia LLC) and Avinash Narayanan (Foo & Quek LLC) (instructed) for the 3rd non-party in B 832 and B 835;
Rezvana Fairouse d/o Mazhardeen (NLC Law Asia LLC) and Avinash Narayanan (Foo & Quek LLC) (instructed) for the 4th non-party in B 832;
Teri Cheng and Ian Choo (Drew & Napier LLC) for the 5th non-party in B 832.

Annex:

Nominee	Supporting creditor	Estimated debt value (S$)	Mr Mishra			Ms Pandey		
			Total debt value of supporting creditors (S$)	Percentage of Mr Mishra's liabilities (%)	Total percentage of Mr Mishra's liabilities (%)	Total debt value of supporting creditors (S$)	Percentage of Ms Pandey's liabilities (%)	Total percentage of Ms Pandey's total liabilities (%)
The KPMG Nominees	Mrs Bothra	103,044,565.65	116,131,477.97	34%	39%	113,887,439.97	42%	47%
	The RB-PT	10,842,874.32		4%			4%	
	UOB	2,244,038.00		1%			Not applicable	
The Ironwood Nominee	Callisto	116,477,298.00	190,741,352.75	39%	64%	116,477,298.00	48%	48%
	Mr Somsakd	74,264,054.75		25%			Not applicable	
The A&M	Mrs Bothra	103,044,565.65	113,887,439.97	34%	38%	113,887,439.97	42%	47%

Nominees	The RB-PT	10,842,874.32		4%			4%	