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

[2026] SGHC 205

Originating Claim No 821 of 2023

Between

Shenning Heritage Capital
VCC

… *Claimant*

And

(1) David Hiah
(2) Hiah Moh Watt
(3) Li Ee Yan
(4) Ark Capital Holdings Ltd
(5) B.W.C.G Pte Ltd

… *Defendants*

JUDGMENT

[Trusts — *Quistclose* trusts]
[Trusts — Recipient liability]
[Equity — Dishonest assistance — Knowledge of irregular shortcomings]
[Equity — Fiduciary relationships — When arising — *Ad hoc* fiduciary duties]
[Equity — Knowing receipt — Knowledge subsequent to transaction in question]
[Tort — Conspiracy — Unlawful means conspiracy — Combination]
[Tort — Conspiracy — Unlawful means conspiracy — Whether unlawful means made out]

Version No 1: 01 Oct 2026 (16:08 hrs)

TABLE OF CONTENTS

INTRODUCTION **1**

FACTS **2**

THE PARTIES 2

SHENNING HERITAGE'S INVESTMENT WITH ARK CAPITAL 3

Initial investment and execution of Term Sheet *3*

Transfer of investment funds *8*

Discovery of irregularities *13*

The 31 October 2023 Meeting *14*

Events subsequent to the 31 October 2023 Meeting *17*

The 6 November 2023 Meeting *20*

PROCEDURAL HISTORY 23

Filing and eventual service of OC 821 ..... *23*

Default judgments and enforcement proceedings against Ark Capital and BWCG *24*

Summary judgment against David *25*

Calling David as a witness *28*

THE PARTIES' CASES **29**

THE CLAIMANT'S CASE 29

As against David, Ark Capital and BWCG *29*

As against Mr Hiah *30*

As against Ms Li *31*

The unlawful conspiracy claim *31*

MR HIAH'S DEFENCE 32

Version No 1: 01 Oct 2026 (16:08 hrs)

MS LI'S DEFENCE 33

ISSUES TO BE DETERMINED 34

PRELIMINARY ISSUE: EFFECT OF JUDGMENTS OBTAINED 35

DISHONEST ASSISTANCE AND KNOWING RECEIPT 40

EXISTENCE OF TRUST OR FIDUCIARY DUTY 41

Quistclose trust *42*

Ad hoc fiduciary duties *49*

KNOWLEDGE AND/OR DISHONESTY 51

As against Mr Hiah *51*

As against Ms Li *63*

(1) Receipt of US$12,000 65

(2) IBKR and POSB Accounts 74

UNLAWFUL MEANS CONSPIRACY 78

COMBINATION 79

Mr Hiah's alleged involvement *79*

Ms Li's alleged involvement *81*

UNLAWFUL MEANS 84

No unjust factor for unjust enrichment *86*

CONCLUSION 87

Version No 1: 01 Oct 2026 (16:08 hrs)

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.

Shenning Heritage Capital VCC
v
Hiah David and others

[2026] SGHC 205

General Division of the High Court — Originating Claim No 821 of 2023
Sushil Nair JCA
23–27, 30 and 31 March, 1, 2 and 9 April 2026

1 October 2026 Judgment reserved.

Sushil Nair JCA:

Introduction

1 The Claimant, Shenning Heritage Capital VCC ("Shenning Heritage"), invested US$2.55 million with the fourth defendant, Ark Capital Holdings Ltd ("Ark Capital"), for the stated purpose of pursuing a foreign-exchange trading strategy. The investment was not deployed as represented, and fabricated statements were later provided to the Claimant. The principal wrongdoers are no longer before the court, judgments having been entered against them. The question which remains for my determination is whether the second and third defendants, Mr Hiah Moh Watt ("Mr Hiah") and Ms Li Ee Yan ("Ms Li"), are legally implicated in any wrongdoing. In this regard, the Claimant mounts claims in dishonest assistance and knowing receipt against Mr Hiah and Ms Li, as well as a claim in unlawful means conspiracy against all the defendants save for Ark Capital.

2 Having considered the parties' submissions, I dismiss these claims in their entirety. First, the Claimant has not established its pleaded case that Ark Capital held the moneys sent by the Claimant on trust. Second, even if the requisite trust or fiduciary duty had existed, the evidence does not establish dishonesty or the necessary knowledge on the part of either Mr Hiah or Ms Li. Third, the evidence also does not establish any agreement or combination involving them for the purposes of the conspiracy claim. I elaborate on my reasons below.

Facts

The parties

3 The Claimant is a Variable Capital Company incorporated in Singapore. The Claimant operates a number of sub-funds under it, one of which is Kingdom Fund. The Claimant is in turn managed by Shenning Investments Pte Ltd ("Shenning Investments").[1]

4 The Claimant, through Kingdom Fund, invested with Ark Capital, a company incorporated in the British Virgin Islands.[2] The first defendant, Mr David Hiah ("David"), is a director and 40% shareholder of Ark Capital. The second defendant, Mr Hiah, is David's father.[3] He was registered as a director and 60% shareholder of Ark Capital at all material times,[4] although how

---

1 Affidavit of Evidence-in-Chief of Lee Yong Wei dated 6 August 2025 ("LYW") at paras 4–5 and Tab 1, pp 26–28.

2 Affidavit of Evidence-in-Chief of Ng Chee Yuen dated 6 August 2025 ("NCY") at para 16 and Tab 4, p 96.

3 Affidavit of Evidence-in-Chief of David Hiah dated 26 March 2026 ("DH") at para 2.

4 LYW at Tab 2, p 30.

Version No 1: 01 Oct 2026 (16:08 hrs)

he came to be reflected as such is a matter of dispute. Mr Hiah had worked in the insurance industry for more than 18 years.[5]

5 The third defendant, Ms Li, is David's former wife. She had filed for divorce on 3 November 2023.[6] Interim judgment was granted on 19 December 2023 by consent,[7] and final judgment was obtained on 22 March 2024.[8] She works at a global investment banking and asset management firm.[9]

6 The fifth defendant, BWCG Pte Ltd ("BWCG"), is a company incorporated in Singapore.[10] Based on David's evidence, BWCG represented itself as being involved in the trading of commodities.[11]

Shenning Heritage's investment with Ark Capital

Initial investment and execution of Term Sheet

7 David first got to know Mr Ng Chee Yuen ("Mr Ng"), a director of Shenning Heritage and the Chief Executive Officer of Shenning Investments,[12] in 2018.[13] David and Ms Li met Mr Ng and his wife, Ms Stephanie Kwee-Ng

---

5 Transcript of 27 March 2026, p 16 at lines 16–20.

6 Affidavit of Evidence-in-Chief of Li Ee Yan dated 1 July 2025 ("LEY-1") at para 132.

7 LEY-1 at Tab 44, pp 230–231.

8 LEY-1 at para 7 and Tab 44, p 232.

9 Transcript of 2 April 2026, p 33 at lines 12–24.

10 Statement of Claim dated 19 April 2024 ("SOC") at [7].

11 Affidavit of David Hiah dated 19 October 2024 ("DH-2") at Tab 7, p 149.

12 LYW at Tab 1, p 27; NCY at para 12.

13 DH at para 3.

Version No 1: 01 Oct 2026 (16:08 hrs)

("Ms Kwee-Ng"), in December 2018.[14] Ms Kwee-Ng is also an employee of Shenning Investments.[15]

8 Sometime in 2019, David sought Mr Ng's involvement in an event through which Shenning Heritage could raise funds for one of its projects from potential investors.[16] Mr Ng hosted a dinner on or around 6 November 2019, which David and Ms Li both attended.[17] There is some dispute as to how David was introduced to guests at the dinner and David's association with the Claimant at this point.[18]

9 Between the end of 2019 and February 2020, David exchanged correspondence with Mr Ng and the Claimant on a foreign exchange trading fund, and provided details of Ark Capital and his foreign exchange trading strategy ("FX Strategy").[19] In one set of slides, Mr Hiah and David's mother were identified as the "Founding Partners" of Ark Capital, which was designated as a "Multi-Family Office".[20] David explained that Ark Capital is only an intermediary fund manager. The management of the fund was delegated to JP Fund Services SA ("JPFS").[21] JPFS in turn used a broker in Australia, Charterprime Pty Ltd ("Charterprime"), for the purposes of executing the FX

---

14 LEY-1 at para 38.

15 Affidavit of Evidence-in-Chief of Stephanie Meisha Kwee-Ng dated 6 August 2025 ("SMK") at para 1.

16 LEY at para 40; SMK at para 14.

17 DH-2 at para 16; LEY at para 41.

18 DH-2 at para 16 and Tab 3; 5th Affidavit of Ng Chee Yuen dated 12 November 2024 ("NCY-5") at paras 14–15 and Tab 2.

19 SMK at para 16 and Tab 4.

20 NCY at Tab 6, p 101.

21 NCY at para 23.

Version No 1: 01 Oct 2026 (16:08 hrs)

Strategy.[22] The Claimant agreed to invest with Ark Capital sometime towards the end of 2021.[23]

10 Part of the communication at that time revolved around the identity of the counterparty with whom Kingdom Fund would make the investment. A difficulty arose because David had been issued a prohibition order by the Monetary Authority of Singapore ("MAS"). This meant that David could not act as a director or become a substantial shareholder of any financial advisory firm for a period of seven years from 14 May 2018.[24] As a result of this complication, on 21 November 2021, David proposed to Mr Lee Yong Wei ("Mr Lee"), another employee of Shenning Investments and one of Shenning Heritage's directors at the material time, that the investment be made "through a SG-registered company with [Mr Hiah] as the sole director & shareholder".[25] However, Mr Lee replied that Mr Hiah could be added as a director and shareholder of Ark Capital instead. Mr Lee confirmed subsequently on 22 November 2021, after conferring with Mr Ng, that the Claimant would "prefer to invest via [Mr Hiah] in the BVI company [*ie*, Ark Capital]".[26]

11 The initial subscription for US$750,000 was transferred to Ark Capital's LEN24 account on 24 December 2021.[27] Ark Capital sent Shenning Heritage a Term Sheet outlining the terms and conditions of the investment proposals dated 27 December 2021 ("Term Sheet").[28] This draft Term Sheet

---

22 NCY at para 27.

23 NCY at para 11.

24 LEY at Tab 49, pp 246–248.

25 DH at p 9.

26 DH at p 10.

27 SOC at [15] and NCY at Tab 7, pp 108–109.

28 NCY at para 11.

Version No 1: 01 Oct 2026 (16:08 hrs)

purported to bear Mr Hiah's signature in his capacity as a director of Ark Capital.[29] The Term Sheet was executed by Mr Lee on behalf of Kingdom Fund.

12 Under clause 1 of the Term Sheet, Kingdom Fund invested a total sum of US$2.55 million with Ark Capital. The material sections of clause 1 are reproduced as follows:[30]

> 1. Principal Terms and Conditions
>
> …
>
> | | |
> |---|---|
> | Currency: | USD |
> | Investment Capital: | 750 000 |
> | Distribution Dates: | 27TH JULY 2022
27TH JANUARY 2023 |
>
> …
>
> | | |
> |---|---|
> | Custodian Bank: | NATIONAL AUSTRALIA BANK LIMITED (SYDNEY)
680 GEORGE STREET, LEVEL 15
NSW 2000, SYDNEY, AUSTRALIA |
> | Settlement Agent: | LEN24 GMBH (FRANKFURT)
75173 WEIHERSTRAßE 31, PFORZHIEM, GERMANY |
> | Settlement Agent Bank: | REVOLUT LTD
1 CANADA SQUARE, LEVEL 39
E14-5AB, LONDON, UNITED KINGDOM |
>
> …
>
> | | |
> |---|---|
> | Financial Covenant: | The Company undertakes to provide a Projected, Non-Compounded Annual Return of between Eight Percent (8 % p.a.) |

[29] NCY at Tab 7, p 107.

[30] NCY at Tab 7, pp 103–104.

Version No 1: 01 Oct 2026 (16:08 hrs)

	to Twelve Percent (12 % p.a.), net of Performance Fees, on Investment Capital from the thirteenth (13th) month onwards- Based on 8 % p.a.: USD 60 000 Based on 12 % p.a.: USD 90 000
Performance-Based Fees:	The Company [*ie*, Ark Capital] receives a performance-based fee ("Performance Fees"), equals to Twenty Percent (20%) of Profits on Investment Capital at the end of such year.

13 Additionally, the Term Sheet also contained other clauses concerning the standard of care and the operating arrangements:[31]

> 2. Confidentiality and Standard of Care
>
> …
>
> The Company shall, in carrying out its obligation under this Term Sheet, act honestly, in good faith and in the best interest of the Investor and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent Company would exercise in similar circumstances.
>
> …
>
> 4. Operating Agreement
>
> …
>
> A capital account is maintained for each investor. The initial value of the investor's capital account is equal to the dollar amount of the investor's initial investment with the Company. Thereafter, each investor's capital account balance is increased or decreased by the amount of its trading profits, capital redemption and/or distribution, unless otherwise requested. Investors are given the right to have multiple capital accounts at their sole and absolute discretion.

[31] NCY at Tab 7, pp 104–105.

Version No 1: 01 Oct 2026 (16:08 hrs)

Transfer of investment funds

14 Pursuant to the Term Sheet, the Claimant was instructed to transfer the subscription funds to Ark Capital's settlement agent, *ie*, LEN24 Bank ("LEN24"), via a bank account with Revolut Ltd (London) ("LEN24 Account").[32]

15 Kingdom Fund's investment with Ark Capital was carried out between December 2021 and April 2022 for an aggregate of US$2.55 million in six tranches. The funds were transferred to Ark Capital's LEN24 Account on the following dates:[33]

(a) US$750,000 transferred on 24 December 2021;

(b) US$200,000 transferred on 6 January 2022;

(c) US$200,000 transferred on 16 February 2022;

(d) US$600,000 transferred on 25 February 2022;

(e) US$350,000 transferred on 22 April 2022; and

(f) US$450,000 transferred on 26 April 2022.

(collectively, the "Investment Moneys")

16 The additional subscriptions were also accompanied by contracts which incorporated the same terms and conditions as the Term Sheet, and appeared to bear Mr Hiah and Mr Lee's signatures for Ark Capital and Kingdom Fund

---

32 LYW at para 12; SMK at para 19.

33 SMK at para 21 and Tab 7, pp 62–71; Affidavit of Ng Chee Yuen dated 16 September 2024 ("NCY-4") at Tab 14, pp 368–387.

Version No 1: 01 Oct 2026 (16:08 hrs)

respectively ("Additional Subscription Agreements").[34] The Claimant understood that Ark Capital would forward these funds received to its broker, Charterprime, to be traded by JPFS under a power of attorney to be executed by Ark Capital.[35]

17 Ark Capital, through David, would issue email confirmations acknowledging receipt of Kingdom Fund's funds after each transfer. These emails included supporting documents purportedly from LEN24 Bank and Charterprime.[36] David also forwarded what appeared to be performance statements and fact sheets bearing the logos of Charterprime and its custodian bank, National Australia Bank Ltd (Sydney) ("NAB"), as evidence of trading activity using the Investment Moneys.[37] These statements also reflected certain "sub-accounts" with Charterprime, which David explained belonged to the Claimant under the main account that Ark Capital had with Charterprime ("Charterprime Sub-Accounts").[38] From 3 February 2022 to 13 September 2022, David provided Shenning Heritage with these monthly statements via email, together with commentary on the investments undertaken, their performance and prevailing market conditions.[39]

18 On 19 August 2022, Ms Elaine Tan of Shenning Investments wrote to David to query the delay in distribution of the Investment Moneys and returns thereon from Ark Capital to Kingdom Fund, and asked for supporting

---

34 SMK at para 20 and Tab 7, pp 62–71.

35 SMK at para 22 and Tab 9.

36 SMK at para 23 and Tab 10, pp 86–98.

37 SMK at para 24 and Tab 11, p 84.

38 SMK at para 25.

39 SMK at paras 26–29 and Tabs 11 and 13.

Version No 1: 01 Oct 2026 (16:08 hrs)

documents from the bank or third parties.[40] David provided his correspondence with LEN24's compliance department, which indicated that LEN24 had issues as to account ownership and had suspended Ark Capital's account with LEN24. The correspondence further indicated that David had been attempting to liaise with LEN24's compliance department since May 2022 to restore access. In the same email in reply to the Claimant, David sought the Claimant's assistance to explain how it and Kingdom Fund were related, but remained separate legal entities. To resolve this issue, the Claimant produced a letter dated 24 August 2022 which sought to explain the relationship between Shenning Heritage, Kingdom Fund and Ark Capital, and their knowledge of the change in shareholding and directorship of Ark Capital.[41] This letter was forwarded by David to LEN24 on 25 August 2022.[42]

19 As LEN24 appeared unresponsive, David then proposed to open accounts at other banks to link to Charterprime, *eg*, with UOB or NAB, so as to resolve the issue with the suspended bank account and resume distribution of the Investment Moneys and returns.[43] The Claimant agreed with this proposal by email on 11 September 2022.[44] David also proposed other alternatives, including for Ark Capital to set up an Indonesian subsidiary and open an account denominated in US$ for the subsidiary.[45]

20 On 15 September 2022, Mr Andy McIntyre ("Mr McIntyre") of LEN24 replied to Shenning Heritage's letter to inform that Ark Capital's account with

---

40 LYW at Tab 14, p 136.

41 LYW at para 27 and Tab 15, pp 167–168.

42 LYW at para 27 and Tab 15, p 166.

43 LYW at para 28 and Tab 16, p 201.

44 LYW at Tab 16, p 200.

45 NCY at Tab 1, p 64.

Version No 1: 01 Oct 2026 (16:08 hrs)

LEN24 was cancelled, and David's application for a new account with LEN24 was received but subject to LEN24's custodial partners' approval.[46] Mr McIntyre also explained that as Kingdom Fund was not the owner of the cancelled account, it was unable to influence the outcome of the process.[47]

21 On 4 October 2022, Kingdom Fund wrote to David attaching a letter dated 30 September 2022 ("30 September 2022 Letter"), in which Kingdom Fund requested Ark Capital to send documentary evidence of the suspension of the Ark Capital account with LEN24, and to return the Investment Moneys together with the returns of US$140,091.74. Kingdom Fund further stated that a monthly rate of 0.91% would be levied on all the outstanding unpaid dues to compensate it for the missed trading returns since 1 September 2022 ("Default Fee"), together with a late payment fee of 1.5% per month on all outstanding amounts if full payment was not received by 30 November 2022 ("Late Payment Fee").[48] David was asked to sign an acknowledgement page annexed to the 30 September 2022 Letter. However, David enquired if it should be "[his] dad to sign this letter since his name is on the subscription agreement", and a revised execution page was sent with Mr Hiah's name, which was subsequently returned with Mr Hiah's signature apparently affixed.[49]

22 At a meeting on 11 October 2022, the parties negotiated an arrangement under which the amounts owed by Ark Capital, including the Default Fee and Late Payment Fee, which Ark Capital accepted liability for, would be repaid in three tranches between November 2022 and March 2023. David suggested that

---

46 NCY at Tab 1, p 65.

47 LYW at para 29 and Tab 17, p 206.

48 LYW at para 30 and Tab 18, p 213.

49 LYW at Tab 18, pp 209–210, 215.

Version No 1: 01 Oct 2026 (16:08 hrs)

"[Mr Hiah] will draft a letter sent over to Kingdom Fund to say that as the shareholder of Ark Capital, he will be buying our Ark Investments".[50] This arrangement was subsequently captured in a buyout letter dated 26 October 2022 from Ark Capital ("Buyout Letter"), which was sent to Kingdom Fund from David's email on 7 November 2022.[51]

23 Notwithstanding the Buyout Letter, David informed Kingdom Fund that his various attempts to secure funds to repay Kingdom Fund were unsuccessful.[52] In or around January or February 2023, David informed the Claimant that he had signed a deal from which he might be able to obtain a significant commission and would use the commission received (in Indonesian rupiah) to repay Kingdom Fund.[53] This did not come to fruition, and David claimed that there were various issues which prevented him from making repayment to Kingdom Fund.[54]

24 On 3 May 2023, David wrote to LEN24 warning that he would be lodging official complaints to the relevant authorities. Despite this, there was ostensibly no response from LEN24.[55]

25 This impasse lasted until June 2023, when Kingdom Fund requested evidence from Ark Capital that its funds were still safe in Charterprime. David reverted with various statements for the Charterprime Sub-Accounts, including a "client's summary" for each Sub-Account which reflected, amongst others,

---

50 NCY-5 at Tab 6, p 156.

51 LYW at para 31 and Tab 19, pp 218–221.

52 LYW at para 32.

53 LYW at para 33 and Tab 20, pp 223–242.

54 LYW at paras 34–35.

55 LYW at para 36 and Tab 21, pp 244–246.

Version No 1: 01 Oct 2026 (16:08 hrs)

the purported balance and profits of each Sub-Account from January 2022 to December 2022.[56] This was followed by a similar email from David attaching statements and a client's summary for the Charterprime Sub-Accounts for January 2022 to June 2023, together with a letter from Ark Capital titled "Monthly Returns" showing the purported monthly net return and account balance for all six Charterprime Sub-Accounts ("Ark Capital Monthly Returns Letter").[57] The Ark Capital Monthly Returns Letter purported to contain Mr Hiah's signature. Similar Ark Capital Monthly Returns Letters continued to be sent until October 2023.[58]

Discovery of irregularities

26 At around the same time, in April 2023, Shenning Investments started another fund, and it sought to make further investments in the FX Strategy with JPFS due to its reported good performance.[59] David introduced JPFS directly to Shenning Investments, and Shenning Investments established direct contact with JPFS for the first time.[60]

27 From September to October 2023, Kingdom Fund repeatedly chased David for updates on its funds and investments. David gave the explanation that although Kingdom Fund's funds were with Charterprime, access to Ark Capital's account with Charterprime was restricted due to "AML issues" relating to LEN24.[61] Kingdom Fund also urged David to go to Australia directly

---

56 LYW at para 37, Tab 22.

57 LYW at para 38 and Tab 23.

58 LYW at Tab 24.

59 NCY at para 50.

60 NCY at para 50.

61 NCY at para 50.

Version No 1: 01 Oct 2026 (16:08 hrs)

to meet with representatives from Charterprime and arrange for the return of funds, but David continued to demur and gave various reasons against making the trip. He also claimed that his contact at Charterprime had left and he had no other point of contact.[62] Shenning Heritage then filed a police report against LEN24 on 26 September 2023.[63]

28 Finally, in October 2023, Kingdom Fund decided to explore options to recover the funds itself. On 17 October 2023, Mr Ng from Shenning Heritage spoke to Mr Mikkel Thorup ("Mr Thorup"), an investment professional with JPFS, without David's presence.[64] Mr Ng was shocked to learn that Mr Thorup had never dealt with any of the funds from Kingdom Fund and had no knowledge of any of the alleged Charterprime Sub-Accounts. When Mr Thorup was shown the statements sent by Ark Capital to Kingdom Fund, he commented that they did not resemble official Charterprime statements, and that it was odd for any official statement from Charterprime to refer to NAB at the top of their statement.[65] Finally, Mr Thorup also explained that he only ever traded two accounts involving Ark Capital with Charterprime, and those account numbers did not match the account numbers for the purported Charterprime Sub-Accounts as reflected in the statements provided by David.[66]

The 31 October 2023 Meeting

29 Prompted by this discovery, Mr Ng arranged for a meeting with David in the Claimant's office. On 31 October 2023 at around 1.30pm, David attended

---

62 NCY at para 51.

63 Agreed Chronology of Events at p 4.

64 NCY at para 52.

65 NCY at para 52; LYW at para 43; SMK at para 37.

66 NCY at paras 52–53.

Version No 1: 01 Oct 2026 (16:08 hrs)

a meeting with Mr Ng, Mr Lee and Shenning Heritage's solicitor, Mr Nawaz Kamil ("Mr Kamil") (the "31 October 2023 Meeting").

30 At the 31 October 2023 Meeting, David was asked about Kingdom Fund's moneys, and he was informed that Kingdom Fund was aware that the purported Charterprime Sub-Accounts did not exist.[67] David confessed that he created the Charterprime Statements himself and then emailed these false documents to Kingdom Fund in the form of the Ark Capital Monthly Returns Letters.[68] He also admitted that the Investment Moneys were not with Charterprime.[69] While David claimed that he had other assets worth close to US$6 million, he said that he believed that the moneys were with LEN24, but that LEN24 had locked his account and so he was unable to access them.[70] David also indicated that he was willing to put up his personal assets with Kingdom Fund to make up for the missing funds.[71]

31 Following these admissions, David promised that he would assist Kingdom Fund in recovering its funds, and that he would be personally responsible for such losses.[72] Kingdom Fund then prepared the following documents for David to execute:

(a) a deed of personal undertaking and personal guarantee dated 31 October 2023, where David agreed to provide Kingdom Fund with "a personal undertaking and guarantee as to all obligations, liabilities,

---

67 NCY at Tab 28, pp 446–448.

68 NCY at Tab 28, p 544.

69 NCY at Tab 28, pp 503–506.

70 NCY at Tab 28, pp 453–456.

71 NCY at Tab 28, pp 516–517.

72 NCY at Tab 28, p 517.

Version No 1: 01 Oct 2026 (16:08 hrs)

debts, whether presently owing or in the future, which arise under" the Term Sheet and the Additional Subscription Agreements ("David Personal Undertaking");[73]

(b) a power of attorney from David dated 31 October 2023 in general terms ("David POA");[74]

(c) a power of attorney from Ark Capital dated 31 October 2023 granting powers in similarly general terms, save for an express reference to the Term Sheet and the Additional Subscription Agreements ("Ark Capital POA");[75] and

(d) a statutory declaration dated 31 October 2023 setting out various statements David had made during the 31 October 2023 Meeting ("31 October SD"), including that:[76]

(i) the statements sent to Kingdom Fund were not created by Charterprime, but by David, and that the trades were copied from some other account and pasted into the statements;

(ii) the Investment Moneys totalling US$2.55 million were never transferred to Charterprime; and

(iii) David had never previously informed Kingdom Fund of this until 31 October 2023 and believed that LEN24 had stolen the Investment Moneys.

---

73 NCY at Tab 29, pp 583–584.

74 NCY at Tab 29, pp 585–587.

75 NCY at Tab 29, pp 588–590.

76 NCY at Tab 29, p 591.

Version No 1: 01 Oct 2026 (16:08 hrs)

32 David was also informed that his father, Mr Hiah, would need to execute similar documents as a director of Ark Capital.[77] David initially offered to take the documents home for Mr Hiah to sign them, but this proposal was rejected by Mr Kamil.[78] Instead, another meeting was arranged for the next day during which Mr Hiah would attend at Shenning Heritage's office and execute the documents.

Events subsequent to the 31 October 2023 Meeting

33 On the night of 31 October 2023, David visited Mr Hiah at Mr Hiah's home to request that he visit Shenning Heritage's office the next day. David confessed to Mr Hiah that Mr Hiah was listed as Ark Capital's director and shareholder without Mr Hiah's knowledge or consent.[79] After returning home, David also informed Ms Li about his issue with the Claimant and that he had signed the David Personal Undertaking and the David POA.[80] Ms Li was upset with David and had complained earlier in the evening that David had missed picking up their daughter at the last minute.[81] David also admitted to Ms Li that Mr Hiah was asked to attend at Shenning Heritage's office as he had used Mr Hiah's electronic signature to execute Ark Capital's agreements.[82]

34 On 1 November 2023, Mr Hiah attended at Shenning Heritage's office together with David, and met with Mr Lee and Ms Kwee-Ng

---

77 NCY at Tab 28, pp 572–575.

78 NCY at Tab 28, pp 564–565.

79 Affidavit of Evidence-in-Chief of Hiah Moh Watt dated 27 February 2025 ("HMW") at paras 3–4; Transcript of 30 March 2026, p 20 at lines 11–13 and p 30 at line 29 to p 31 at line 3.

80 LEY-1 at paras 88–94.

81 LEY-1 at Tab 53, p 264.

82 LEY-1 at paras 95–96.

Version No 1: 01 Oct 2026 (16:08 hrs)

("1 November 2023 Meeting").[83] At this meeting, Mr Hiah signed a power of attorney in the presence of a Commissioner for Oaths granting similar powers to Kingdom Fund and the Claimant as the David POA ("Mr Hiah POA").[84] However, Mr Hiah did not sign the prepared undertaking and personal guarantee, as he expressed concerns about the potential impact of signing such documents on his work in the insurance industry, and indicated that he wished to seek further advice. These other documents were never signed by Mr Hiah.

35 On 2 November 2023, David volunteered certain personal items, including his Rolex Daytona watch and two Hermes leather bags that he had bought for his wife.[85]

36 On 3 November 2023, David met again with Ms Kwee-Ng and Mr Lee in Shenning Heritage's office ("3 November 2023 Meeting"). During this meeting, parties dialled Charterprime's main line, and Mr Ng and Ms Kwee-Ng spoke to Charterprime's operations manager, Mr Jackson Toal ("Mr Toal"). Ms Kwee-Ng and Mr Lee explained that they were physically present with David, and that David was unable to access his Charterprime accounts online. Mr Toal then sent new passwords for the Charterprime accounts under David's name to David's email account. David forwarded these passwords to Mr Lee on 4 November 2023.[86]

37 Ms Kwee-Ng and Mr Lee accessed David's Charterprime accounts under Ark Capital using the passwords, and discovered that there were no such accounts of Kingdom Fund which David claimed that the Investment Moneys

---

83 LYW at para 48.

84 LYW at Tab 27.

85 NCY at para 60.

86 LYW at Tab 28.

Version No 1: 01 Oct 2026 (16:08 hrs)

were in. Further, on or around 6 March 2023, David had transferred US$238,835.38 from two Charterprime accounts into a LEN24 account hitherto unknown to Kingdom Fund. It was also discovered that David's Charterprime accounts under Ark Capital had almost no funds in them.[87]

38 On 4 November 2023, David met with Ms Kwee-Ng and Mr Lee at a consignment shop. David brought his Rolex Daytona watch and two Hermes bags. David claimed that the two Hermes bags were gifts to Ms Li and she volunteered to allow for them to be sold to assist David.[88] Ms Li's messages to David on 4 November 2023 in this regard were in the following terms:[89]

> I have 1-2 Hermes leather bracelet from u. Maybe Monday u can also bring also [*sic*].
>
> Don't tell them now.
>
> [image omitted]
>
> Resale value is usd 12k
>
> […] But it's ok, At least can [be] part of the recovery process

39 These items were valued and handed over to Ms Kwee-Ng with the intention of selling them to recover funds. An email with photos of the two Hermes bags attached was sent by David to Mr Lee and Mr Ng to record this arrangement.[90] The Rolex Daytona watch was subsequently sold for S$20,000, and the two Hermes bags for S$9,000 and S$4,800 respectively. The proceeds were deposited into Kingdom Fund's account.[91]

---

87 LYW at para 51 and Tab 29.

88 SMK at paras 49–50.

89 LEY-1 at para 107 and Tab 54, p 266.

90 SMK at Tab 18, pp 188–189.

91 SMK at para 50.

Version No 1: 01 Oct 2026 (16:08 hrs)

The 6 November 2023 Meeting

40 On 6 November 2023, David attended another meeting at Shenning Heritage's office with Mr Lee and Ms Kwee-Ng (the "6 November 2023 Meeting"). At this meeting, David signed agreements to allow Kingdom Fund to access his personal account with Interactive Brokers ("IBKR Account"), his personal POSB account ("David POSB Account") and his personal Maybank account. The login details to these accounts were provided to Kingdom Fund ("Access Agreement").[92] David also granted consent for Kingdom Fund to access his mobile phone and laptop, including his email account, Dropbox and Ark Capital's email accounts, and for forensic imaging of his devices to be done.[93] A statutory declaration to this effect was executed by David "for the purposes of recovering [David's] personal assets towards the liabilities which [he] owe[s] to Kingdom Fund".[94] Mr Lee and Ms Kwee-Ng reviewed the information on David's laptop and mobile phone, and extracted certain pieces of information.[95]

41 During Mr Lee and Ms Kwee-Ng's review of David's accounts, they were unable to locate any email between David, Ark Capital and BWCG. From the examination of the information contained in David's devices, as well as from logging into his accounts, the Claimant surmised that the following transfers took place from Ark Capital's LEN24 Account:[96]

---

92 SMK at para 52–54 and Tab 19, p 191.

93 SMK at para 55.

94 SMK at para 55 and Tab 20, p 194.

95 SMK at paras 55–56.

96 NCY-4 at para 76.

Version No 1: 01 Oct 2026 (16:08 hrs)

Date	Amount	Destination
27 December 2021	US$750,000	BWCG
8 January 2022	US$35,000	David's UOB account
13 January 2022	US$150,000	BWCG
13 January 2022	US$27,000	David's UOB account
21 February 2022	US$82,073.30	Mr Lau Shen Rong
24 February 2022	US$250,000	BWCG
28 February 2022	US$350,000	BWCG
1 March 2022	US$12,000	Ms Li
26 April 2022	US$30,000	Mr Wee Yi En Jonathan
26 April 2022	US$22,000	Mr Hiah
Total		US$1,708,073.30

42 It was subsequently discovered, after Mr Hiah had provided his bank statements, that although the bank statement from LEN24 reflected a transfer to Mr Hiah's bank account on 26 April 2022, no money was received by him.[97]

43 Based on screenshots of WhatsApp conversations between David and Mr Wong, it appeared that David had been actively arranging for payments out of the Charterprime accounts to his mother's account.[98]

---

97 HMW at para 9 and Appendix B; 2nd Defendant's Closing Written Submissions dated 25 June 2026 ("2Df CS") at [86]; Transcript of 26 March 2026, p 9 at lines 23–30.

98 NCY-5 at para 13 and Tab 1.

Version No 1: 01 Oct 2026 (16:08 hrs)

44 During the 6 November 2023 Meeting, David informed Ms Li that he had surrendered control of the IBKR Account and bank accounts, together with his devices.[99] Ms Li then requested to go to Shenning Heritage's office to explain that the stocks in the IBKR Account in fact belonged to her.[100] However, David replied that "[Mr Ng] says not today."[101]

45 After the 6 November 2023 Meeting, Kingdom Fund effected a transfer of S$110,605 from the IBKR Account to the David POSB Account.[102] However, David later changed the password to the David POSB Account and prevented Kingdom Fund from transferring this sum to itself.[103]

46 On or around 7 November 2023, David handed over his phone and laptop to the forensic imaging professional engaged by Shenning Heritage, but the forensic imaging was not successfully completed. David then agreed on the following day to allow Ms Kwee-Ng to take photos of relevant WhatsApp messages from his phone. Ms Kwee-Ng took photos of David's communications with his wife, and any messages containing references to Ark Capital and LEN24.[104] After about 30 to 45 minutes, David's phone was returned to him, and Shenning Heritage's IT manager also performed a backup of David's laptop which included his email accounts, and the contents of his Dropbox.[105]

---

99 LEY-1 at para 99.

100 LEY-1 at para 100 and Tab 43.

101 LEY-1 at Tab 43.

102 NCY at Tab 1, p 78.

103 SMK at para 56.

104 SMK at para 58; Transcript of 26 March 2026, p 45 at line 23 to p 46 at line 23.

105 SMK at para 58.

Version No 1: 01 Oct 2026 (16:08 hrs)

47 On 9 November 2023, the Claimant wrote to David to demand the S$110,605 which was transferred from the IBKR Account to the David POSB Account. On 13 November 2023, David replied via email to say that he had signed the Access Agreement "under unfair circumstances", and that the money in the IBKR Account belonged to Ms Li.[106]

48 Finally, on 15 November 2023, the Claimant sent another letter of demand to David to reject the allegations made by David in his email and demand that David immediately contact the Claimant to arrange for a meeting.[107]

Procedural history

49 The present proceedings have been protracted. Numerous summons and applications were made, and judgments have been granted against some of the defendants. I thus briefly set out the procedural history and highlight some of the procedural steps in so far as I deem them relevant to these proceedings.

Filing and eventual service of OC 821

50 HC/OC 821/2023 ("OC 821") was first filed on 28 November 2023 with an Endorsement of Claim, together with a summons for a freezing injunction against David, Mr Hiah, Ark Capital and BWCG, and for service out of jurisdiction against Ark Capital. The application for a freezing injunction was heard and dismissed by a Judge on 30 November 2023. The Claimant applied for and obtained leave for substituted service against David and Mr Hiah, together with leave for service out of jurisdiction against Ark Capital.

---

106 NCY at para 59.

107 NCY-4 at Tab 29, pp 525–527.

Version No 1: 01 Oct 2026 (16:08 hrs)

51 Shenning Heritage effected service of OC 821 with no corresponding statement of claim on Ms Li on 8 December 2023 via her solicitors, and parties engaged in without prejudice negotiations with a view to settling the claim against Ms Li. After a round of cross-applications by the Claimant and Ms Li, OC 821 was renewed for service and the time for service of the Claimant's statement of claim on David, Mr Hiah and Ms Li was extended until 19 April 2024 *vide* HC/ORC 1809/2024. The Statement of Claim ("SOC") was filed on 19 April 2024. Mr Hiah and Ms Li filed their respective Defences on 9 May 2024, and David filed his Defence on 15 May 2024.

Default judgments and enforcement proceedings against Ark Capital and BWCG

52 An application was taken out against Ark Capital on 14 May 2024 for judgment for failing to file a notice of intention to contest or not contest, and judgment in default was entered on 14 May 2024 *vide* HC/JUD 173/2024. A similar application was taken out against BWCG for its failure to file its defence, and judgment in default for US$1,500,000 was entered on 7 June 2024 *vide* HC/JUD 211/2024.

53 After the default judgments were entered, Shenning Heritage commenced examination of enforcement respondent proceedings against David, as the sole director of Ark Capital in HC/SUM 1930/2024, and against Mr Wong Yuen Soon ("Mr Wong") as the sole director of BWCG in HC/SUM 2201/2024.

54 Subsequently, on 29 October 2024, BWCG applied in HC/SUM 3173/2024 for the default judgment against it to be set aside, together with a stay of enforcement of the default judgment in HC/SUM 3107/2024. These applications were dismissed on 28 January 2025. It transpired over the

Version No 1: 01 Oct 2026 (16:08 hrs)

course of proceedings that Mr Wong had been disqualified from acting as a director since 20 November 2024, and court directions were repeatedly disregarded. The learned AR found that the explanations proffered by Mr Wong as to why BWCG received funds from Ark Capital were unsatisfactory, and his evidence supporting the assertion that BWCG had returned the funds received to Ark Capital was similarly suspect. The AR also observed that during the more than four months between the default judgment and the setting aside application, Mr Wong had continually assured Mr Ng that BWCG would pay the judgment debt.[108]

Summary judgment against David

55 On 14 September 2024, the Claimant applied for summary judgment in HC/SUM 2659/2024 against David for US$3,304,929.63 and an order that David declare and surrender all his assets, including any cash held in David's IBKR Account and all shares he holds in Ark Capital ("Summary Judgment Application").

56 In David's affidavit dated 19 October 2024 resisting the Summary Judgment Application, he made several factual assertions:

(a) First, he said that he was pressured by the Claimant and Mr Kamil into signing various documents, including the 31 October SD, and that there were representations made by Mr Ng that the Claimant would not seek to enforce the David Personal Undertaking.[109]

---

108 Minute Sheet of 28 January 2025 at p 5.

109 DH-2 at para 8.

Version No 1: 01 Oct 2026 (16:08 hrs)

(b) Second, he contested the accuracy of the transcript produced by the Claimant for the 31 October 2023 Meeting.[110]

(c) Third, he said that the Claimant was actually or constructively aware that the funds transferred to Ark Capital's LEN24 Account were in that account and had not been transferred to Charterprime, as he "had not communicated to the Claimant that the funds had been transferred".[111]

(d) Fourth, he claimed that he did not tell the Claimant that continued the attempts by Ark Capital to get funds were unsuccessful, and neither did he request for a 12-month extension to raise the funds. On his account, it was the Claimant who wanted David to open an account for Ark Capital in Indonesia so that the commission from the deal (at [23] above) could eventually be transferred to the Claimant.[112]

(e) Fifth, while he admitted to transferring US$238,835.38 from the account of Ark Global Holding Pte Ltd (another entity controlled by David) with Charterprime to two LEN24 accounts controlled by BWCG, David claimed that this was at the suggestion of BWCG, which represented that they would be able to procure the onward transfer of these funds to the Claimant's DBS account. Further, David claimed that because BWCG had failed to do this, he believed that the sum had been converted by BWCG, and he stated that he had made police reports against BWCG.[113]

---

110 DH-2 at paras 9–11 and 64.

111 DH-2 at para 28.

112 DH-2 at paras 35–37.

113 DH-2 at para 51.

Version No 1: 01 Oct 2026 (16:08 hrs)

(f) Sixth, he claimed that while the IBKR Account bore his name, the moneys in the IBKR Account belonged to Ms Li.[114]

57 After a further round of affidavits that, among other things, addressed issues arising out of the meeting on 11 October 2022 (see [22] above),[115] the learned AR granted the Summary Judgment Application on 10 January 2025. The AR was satisfied that the Claimant had established a *prima facie* claim in contract in respect of the David Personal Undertaking and the David POA, and that David had failed to raise triable issues.[116] In particular, the AR found that:

(a) David's assertion that the recording did not capture a representation from the Claimant's representative, to the effect that the Claimant would not seek to enforce the David Personal Undertaking, was an "incredible" one.[117]

(b) David's case was not clearly particularised, and the alleged representation appeared to have been a "mere afterthought".[118]

(c) As to the alleged pressure asserted by the Claimant's representatives or Mr Kamil, this was not borne out by the transcript, nor were the means by which such undue influence or duress was allegedly exerted particularised in David's pleadings.[119]

---

114 DH-2 at para 60.

115 NCY-5 at para 25.

116 Transcript of 10 January 2025 at p 19.

117 Transcript of 10 January 2025 at p 20.

118 Transcript of 10 January 2025 at p 22.

119 Transcript of 10 January 2025 at p 23.

Version No 1: 01 Oct 2026 (16:08 hrs)

58 Thus, summary judgment was granted as against David in the sum of US$3,304,929.63 together with pre-judgment interest and costs.[120]

Calling David as a witness

59 As the matter progressed, a further issue arose as to David giving evidence at the trial of this action. The Claimant had initially indicated that it would be calling David as a witness and seeking dispensation of the filing of an affidavit of evidence-in-chief ("AEIC").[121] However, this was not pursued, and none of the parties indicated that they would be calling David as a witness prior to the commencement of trial. Notwithstanding this, Mr Hiah, who was then unrepresented, made an application for leave to call David as his witness at the start of trial.[122] I directed that Mr Hiah was to produce a written statement of the matters to be dealt with by David, should I allow David to be called as a witness, and this was produced on the morning of the second day of trial ("Statement").[123] I allowed the application as there would be no significant prejudice to the Claimant for David to deal with the issues specified in the Statement, since the issues substantially followed the position taken in Mr Hiah's AEIC. I also allowed the Claimant and Ms Li the opportunity to cross-examine David in relation to the case against Ms Li. Directions were given for David to file an AEIC limited to the issues set out in the Statement.

60 The foregoing procedural history leads to the result that only the Claimant's claims against Mr Hiah and Ms Li arose for my determination after

---

120 HC/ORC 437/2025.

121 Minute Sheet of 9 September 2025.

122 Transcript of 23 March 2026 at p 29, line 26 to p 32 line 14.

123 Transcript of 24 March 2026 at p 1, lines 5–8; Exhibit 2DB- 2.

Version No 1: 01 Oct 2026 (16:08 hrs)

trial, although I shall go on to address the effect of the summary and default judgments obtained against the other defendants.

The parties' cases

61 As the Claimant relies on multiple different causes of action against each of the defendants, it would be helpful to set out in some detail the Claimant's case against each of the defendants, as well as the defences raised by Mr Hiah and Ms Li.

The Claimant's case

As against David, Ark Capital and BWCG

62 The Claimant mounts a myriad of claims against David, Ark Capital and BWCG in its SOC. These include:

> (a) that fraudulent misrepresentations were made by David and Ark Capital in the form of performance statements and fact sheets reflecting trades being done using Kingdom Fund's Investment Moneys between 6 April 2022 and 13 September 2022, to the effect that (i) the funds which Kingdom Fund had transferred to Ark Capital were invested using the FX Strategy in accordance with the terms of the Term Sheet and the Additional Subscription Agreements, (ii) the investments were profitable, and (iii) the Investment Moneys were safe and being held by Charterprime;[124]

---

124 SOC at [20]–[28].

Version No 1: 01 Oct 2026 (16:08 hrs)

(b) that Ark Capital was contractually obliged to pay a sum of US$3,304,929.63 pursuant to the Term Sheet, the Additional Subscription Agreements and the Buyout Letter; and[125]

(c) that David was liable for the same sum pursuant to the David Personal Undertaking executed by him.[126]

63 Additionally, the Claimant also submits that Ark Capital held Kingdom Fund's moneys on trust for the benefit of Kingdom Fund, and that its transfers to the other defendants were in breach of this trust.[127]

As against Mr Hiah

64 The Claimant initially pursued a claim in knowing receipt for a sum of US$22,000 against Mr Hiah, which was a purported transfer from Ark Capital's LEN24 Account to Mr Hiah's DBS account on 26 April 2022,[128] but this claim was later abandoned during trial.[129] As such, at the conclusion of trial, the Claimant's case against Mr Hiah was for dishonest assistance in Ark Capital's breach of trust.[130]

65 The Claimant says that Mr Hiah, as a director of Ark Capital, knew or ought to have known that Kingdom Fund's moneys were to be invested under the Term Sheet and Additional Subscription Agreements. By providing his personal bank account to receive Kingdom Fund's moneys, the Claimant claims

---

125 SOC at [62].

126 SOC at [63].

127 SOC at [66]–[67].

128 SOC at [56(g)] and [70(b)].

129 Transcript of 1 April 2026, p 130, lines 9–15.

130 SOC at [69].

Version No 1: 01 Oct 2026 (16:08 hrs)

that Mr Hiah had dishonestly assisted in the disposal of the moneys into his personal bank account.[131]

As against Ms Li

66 The Claimant similarly pursued a claim for US$12,000 against Ms Li, being another purported transfer from Ark Capital's LEN24 Account to Ms Li's DBS account on 1 March 2022. The Claimant mounted claims in dishonest assistance and knowing receipt against Ms Li for providing her personal bank account to receive Kingdom Fund's moneys. The argument was similar to that against Mr Hiah, save that she was not a director of Ark Capital and therefore there was no basis for her to receive funds from Ark Capital. The pleaded dishonesty is that as David's wife, Ms Li had knowledge of David and Ark Capital's dealings with the Claimant and therefore knew or ought to have known that Kingdom Fund's moneys were meant for investment purposes under the Term Sheet and the Additional Subscription Agreements.[132]

The unlawful conspiracy claim

67 Finally, the Claimant also mounted a claim in unlawful means conspiracy. The Claimant averred that there was an agreement between David, Mr Hiah, Ms Li and BWCG to (a) forge documents to give the Claimant the impression that moneys were being invested according to the FX Strategy; (b) channel the moneys to their respective bank accounts; and (c) assist with the receipt and dissipation of the funds from the Claimant, which were unlawful acts done with the intent of causing loss to the Claimant.[133] The Claimant relied

131 SOC at [69(b)].

132 SOC at [68(c)] and [69(c)].

133 SOC at [64].

Version No 1: 01 Oct 2026 (16:08 hrs)

on David and Mr Hiah's alleged breaches of custodial and non-custodial fiduciary duties, breaches of other duties of a fiduciary nature, and breaches of their duty of skill, care and diligence, by virtue of their positions as directors of Ark Capital, together with the alleged dishonest assistance, knowing receipt and unjust enrichment on the part of each of David, Mr Hiah, Ms Li and BWCG, as being the unlawful means in question.[134]

68 However, as I had pointed out and as was accepted by counsel for the Claimant, the conspiracy claim could not be pursued against Ms Li in so far as it related to an existing agreement "since the time of the investment".[135] This is because there was clearly no evidence of any involvement by Ms Li in 2021.[136] In the words of counsel for the Claimant, there was "[n]othing to tie her to the beginning."[137] Counsel for the Claimant had also accepted that even if there was a conspiracy, Mr Hiah and Ms Li were not a part of that conspiracy "from the start".[138]

Mr Hiah's defence

69 Mr Hiah's defence is a simple one. He argues that he was not a knowing participant in the affairs of Ark Capital, nor did he know about his purported appointment as director and majority shareholder of Ark Capital until right before the 1 November 2023 Meeting.[139] David has confessed that Mr Hiah's signatures on the Ark Capital documents, save for the Mr Hiah POA executed

---

134 SOC at [65].

135 SOC at [64]; Transcript of 23 March 2026, p 28 at line 4 to p 29 at line 20.

136 LEY at paras 44–46.

137 Transcript of 23 March 2026, p 29 at line 19.

138 Minute Sheet of 26 January 2026 at p 3.

139 2Df CS at [4]–[6].

Version No 1: 01 Oct 2026 (16:08 hrs)

during the 1 November 2023 Meeting itself, were all forged or printed by David without his knowledge.[140] Therefore, Mr Hiah remained in complete ignorance of the affairs of Ark Capital, or David's dealings with LEN24, Charterprime, Kingdom Fund or Shenning Heritage until the night of 31 October 2023 when David spoke to him in his home.[141] Further, his case is that he understood the execution of the Mr Hiah POA in Shenning Heritage's office during the 1 November 2023 Meeting as granting authority to deal with LEN24 in order to recover moneys, and not as an acknowledgement of personal financial liability.[142] As such, he could not be involved in any alleged conspiracy, nor did he possess the requisite knowledge and intention for dishonest assistance.[143] Finally, if he did not know about his appointment as director of Ark Capital, then no fiduciary duty can arise between him and Ark Capital.[144]

Ms Li's defence

70 Ms Li's defence is founded on a similar basis in that she had minimal knowledge of the arrangement between David, Ark Capital and the Claimant beyond what little was shared with her by David.[145] While she admits that a sum of US$12,000 was transferred to her account on or around 1 March 2022, she says that this transfer was pursuant to an arrangement between her and David to conduct swaps of foreign currency between themselves so as to save on bank foreign exchange charges ("Forex-Swap Arrangement"). Pursuant to this Forex-

---

140 2nd Defendant's Defence dated 9 May 2024 ("2Df Defence") at [4]–[5]; 2Df CS at [13]–[17].

141 2Df Defence at [7]; 2Df CS at [18]–[20].

142 2Df Defence at [8]; 2Df CS at [23].

143 2Df CS at [95] and [98]–[99].

144 2Df CS at [100]–[103].

145 3rd Defendant's Closing Written Submissions dated 23 June 2026 ("3Df CS") at [66]–[72].

Version No 1: 01 Oct 2026 (16:08 hrs)

Swap Arrangement, she had correspondingly transferred S$16,000 to David on 4 March 2022.[146] Ms Li also argued that the Claimant could not prove that this sum was beneficially owned or traceable to property beneficially owned by it.[147]

71 Further, in relation to the IBKR account in David's name, Ms Li's account is that (a) both she and David had contributed to the account on the understanding that the funds therein would be used for their daughter's education; (b) there was an understanding between parties as to who owns which stock position; and (c) David had liquidated all his stock positions by February 2023, with the result that the remaining stock positions in David's IBKR account belonged to her exclusively.[148]

Issues to be determined

72 As can be surmised from [62]–[68] above, the Claimant's causes of action against the remaining defendants, *ie*, Mr Hiah and Ms Li (who, for convenience, I shall refer to collectively as the "Defendants"), lie essentially in knowing receipt, dishonest assistance and the tort of unlawful means conspiracy.

73 Thus, following from the parties' respective cases, the following issues arose for my determination:

(a) what is the effect of the judgments obtained against the first, fourth and fifth defendants;

---

146 3rd Defendant's Defence dated 9 May 2024 ("3Df Defence") at [56].

147 3Df CS at [37]–[39].

148 3Df Defence at [59].

Version No 1: 01 Oct 2026 (16:08 hrs)

(b) whether Mr Hiah and/or Ms Li are liable for dishonest assistance;

(c) whether Mr Hiah and/or Ms Li are liable for knowing receipt; and

(d) in light of the answers to the above, whether Mr Hiah and Ms Li are liable for the tort of conspiracy by unlawful means.

Preliminary issue: Effect of judgments obtained

74 The Claimant raises as a preliminary point that any allegations made or evidence given by David which relate to matters which have already been determined by the court against him should not be treated as issues requiring determination from trial as a result of the judgment against him, together with Ark Capital and BWCG.[149] It says, on this basis, that "there was no evidence from the other Defendants […] to challenge the pleaded facts on the conspiracy claim against these other Defendants."[150] Mr Hiah, however, takes the position that any effect of *res judicata* or estoppel can only operate between the parties to a default judgment and their privies. He relies on *Neptune Capital Group v Sunmax Global Capital Fund 1 Pte Ltd* [2016] 4 SLR 1177 ("*Neptune Capital*") for the proposition that a default judgment is not evidence of the facts pleaded against a co-defendant who actively defends the claim, still less as conclusive proof of them.[151]

149 Claimant's Closing Submissions dated 25 June 2026 ("C CS") at [7].

150 C CS at [150].

151 2nd Defendant's Reply Closing Submissions dated 16 July 2026 ("2Df RCS") at [9]–[10].

Version No 1: 01 Oct 2026 (16:08 hrs)

75 It is generally true that cause of action estoppel, issue estoppel and the "extended" doctrine of *res judicata* all require an identity of parties: *The Royal Bank of Scotland NV v TT International Ltd* [2015] 5 SLR 1104 at [101]–[102]. This requirement is the necessary corollary to the rule that judgments *in personam* only determine the rights and liabilities of parties *inter se* such that only parties or privies to such judgments *in personam* can benefit from their preclusionary effect: *Gonzalo Gil White v Oro Negro Drilling Pte Ltd* [2024] 1 SLR 307 at [101].

76 This is the first hurdle for any claim for *res judicata*, and the Claimant fails to surmount it. The Claimant did not argue that the Defendants were privies of David, Ark Capital or BWCG. Even if it was assumed that Mr Hiah was a director of Ark Capital at the relevant time, the company is a separate legal entity from the director and any attempt at shedding this distinction ought to have been pleaded: *Nagase Singapore Pte Ltd v Ching Kai Huat* [2008] 1 SLR(R) 80 at [13]. In any event, for reasons which I shall elaborate on below, I do not think an attempt at identifying Mr Hiah with Ark Capital can succeed on the evidence. Therefore, I agree with Mr Hiah that no *res judicata* can apply as against the Defendants, in so far as the default judgments were only entered as against Ark Capital and BWCG, summary judgment was entered against David personally, and the Defendants did not participate in those proceedings.

77 Further, issue estoppel arises only when the following requirements are met (*Turf Club Auto Emporium Pte Ltd v Yeo Boong Hua* [2017] 2 SLR 12 at [87]):

(a) a final and conclusive judgment on the merits;

(b) that judgment must be by a court of competent jurisdiction;

Version No 1: 01 Oct 2026 (16:08 hrs)

(c) there is identity between the parties to the two actions that are being compared; and

(d) there is an identity of subject matter in the two proceedings.

78 Although a default judgment can give rise to both *res judicata* and issue estoppel, it is necessary to determine with complete precision what has been decided, and to do so having regard to the history of the litigation: *Hii Yii Ann v Tiong Thai King* [2024] SGHC(I) 21 ("*Hii Yii Ann*") at [61]. A judgment given due to the default of parties could create a situation of *res judicata* if it "determined an issue which, when formulated, necessarily and with complete precision determined the rights of the parties": *Neptune Capital* at [50]. The question in *Neptune Capital* was whether a default judgment obtained due to a breach of an unless order was capable of giving rise to *res judicata*, and specifically whether a default judgment could amount to a judgment on the merits. The Court considered the statement of claim as well as the defence and counterclaim filed, and determined that the language of the default judgment obtained dealt with and settled the claim, thus giving rise to *res judicata*: *Neptune Capital* at [51]–[55]. It is hence necessary to scrutinise the default judgment carefully in order to see precisely what was decided, having regard to the history of the litigation in some detail: *Syed Ahmad Jamal Alsagoff v Harun bin Syed Hussain Aljunied* [2011] 2 SLR 661 at [38] and [44].

79 It is apposite to note that the default judgments against both Ark Capital and BWCG were obtained prior to the filing of any defence. As such, unlike the situation in *Neptune Capital*, there was no pleading filed by the respective defendants before default judgments were obtained. Further, in the present case, the wording of the default judgments themselves is broad and refers only to the

Version No 1: 01 Oct 2026 (16:08 hrs)

fact that "[n]o Defence having been filed" by BWCG,[152] and "[n]o notice of intention to contest or not contest having been filed" by Ark Capital.[153] It is thus unclear, on the face of the judgments, whether any issue on the merits had been decided.

80 I proceed to more closely examine the history of the litigation and the pleadings. In so far as the claim was against Ark Capital, the causes of action are breach of contract, fraudulent misrepresentation and breach of trust. Ark Capital's liability under these causes of action would not necessarily implicate either Ms Li or Mr Hiah. As for BWCG, the pleaded claim as against it was in dishonest assistance, knowing receipt and conspiracy. I note that an attempt to set aside the default judgment was rejected after arguments and evidence was presented by BWCG. However, BWCG's liability does not automatically establish liability against the Defendants either, whether in conspiracy or otherwise. Although once a conspiracy is proven, each co-conspirator is jointly and severally liable (*National Bank of Oman SAOG Dubai Branch v Bikash Dhamala* [2021] 3 SLR 943 at [50]), a successful claim in conspiracy does not mean that liability of each of the alleged co-conspirators is automatically established: *The "Dolphina"* [2012] 1 SLR 992 at [282]. In any event, I do not read the default judgment entered against BWCG to necessarily establish its liability in conspiracy, since the claims for dishonest assistance and knowing receipt would render it liable for US$1,500,000, whereas if liability for conspiracy is established, the quantum of damages awarded may well be a different sum. Thus, upon closer examination, even beyond the fact that there is no identity of parties, the default judgments also do not determine "an issue which, when formulated, necessarily and with complete precision determined

152 HC/JUD 211/2024.

153 HC/JUD 173/2024.

Version No 1: 01 Oct 2026 (16:08 hrs)

the rights of" the Defendants so as to give rise to issue estoppel: *Neptune Capital* at [50].

81 Turning to consider the summary judgment entered against David personally, I similarly find that it cannot have the effect of foreclosing any evidence from David as to the Defendants' liability for the alleged conspiracy. The AR, in entering summary judgment, had made clear the remit of the summary judgment:[154]

> Multiple causes of action have been pleaded as against the first defendant, including but not limited to that of unlawful means conspiracy and dishonest assistance. However, the claimant's present application is *founded primarily on the terms of a personal undertaking and guarantee that was signed by the first defendant* (the "Undertaking") as well as a *power of attorney executed by the first defendant* (the "POA"). To that extent, only the question of the enforceability of the Undertaking is key here. *Whether other factual disputes may be raised in respect of the other claims is apart from the point and not relevant for my consideration.*
>
> [emphases added]

82 The above makes clear that there was no finding on any of the other causes of action against David in the summary judgment, including any alleged breach of trust. The summary judgment does not preclude David from giving evidence in relation to the claims in dishonest assistance, knowing receipt or conspiracy. To the extent that the Claimant seeks to weaponise the summary and default judgments and forestall any arguments on the facts, it bears highlighting the caution extolled by Megarry VC in *Gleeson v J Wippell & Co Ltd* [1977] 1 WLR 510 at 516 (cited in *Hii Yii Ann* at [46]):

> … Even if one leaves on one side collusive proceedings and friendly defendants, it would be wrong to enable a plaintiff to select the frailest of a number of possible defendants, and then to use the victory against him not merely in terrorem of other

---

154 Transcript of 10 January 2025 at p 11.

Version No 1: 01 Oct 2026 (16:08 hrs)

> and more stalwart possible defendants, but as a decisive weapon against them.

83 Thus, the judgments against David, Ark Capital and BWCG granted in the Claimant's favour, in light of the Defendants' respective cases, have little impact on my present determination. Neither do they preclude any challenge by the Defendants to the Claimant's case in relation to the claim in conspiracy.

Dishonest assistance and knowing receipt

84 I turn next to the claims in dishonest assistance and/or knowing receipt against the Defendants. The requisite elements for a claim in dishonest assistance have been set out comprehensively in *Esben Finance Ltd v Wong Hou-Lianq Neil* [2022] 1 SLR 136 ("*Esben Finance (CA)*") at [255]:

(a) there has been a disposal of the claimant's assets in breach of trust or fiduciary duty;

(b) in which the defendant has assisted or which he has procured;

(c) the defendant has acted dishonestly; and

(d) there was resulting loss to the claimant.

85 The requisite elements of a claim in knowing receipt are also set out in *Esben Finance (CA)* at [256]:

(a) a disposal of the plaintiff's assets in breach of fiduciary duty;

(b) the beneficial receipt by the defendant of assets which are traceable as representing the assets of the plaintiff; and

(c) knowledge on the part of the defendant that the assets received are traceable to a breach of fiduciary duty.

Version No 1: 01 Oct 2026 (16:08 hrs)

86 Having set out the elements of the two causes of action, it is apparent that they share some common elements. Both dishonest assistance and knowing receipt would require the existence of some fiduciary duty, as well as an enquiry into the defendant's state of mind, *ie*, whether he knows that the assets received are traceable or whether he possessed the requisite element of dishonesty. It is to these two common questions that I now turn.

Existence of trust or fiduciary duty

87 The existence of a trust or some other basis for a fiduciary duty is a fundamental requirement for claims in both dishonest assistance as well as knowing receipt: *Aljunied-Hougang Town Council v Lim Swee Lian Sylvia* [2019] SGHC 241 at [450]–[451] and [631]. The Claimant's claims in dishonest assistance and knowing receipt are both premised upon the alleged breach of trust by Ark Capital in relation to the Investment Moneys,[155] which it says were held on trust by Ark Capital.[156] As Mr Lee rightly conceded during cross-examination, there is no express mention of a trust in the Term Sheet or the Additional Subscription Agreements.[157] The Claimant argues that the Investment Moneys were held by Ark Capital on a *Quistclose* trust, as the Term Sheet provided for the specific use of the Investment Moneys and the specific and limited role of Ark Capital as an intermediary between the Claimant and Charterprime.[158]

---

155 SOC at [68]–[69].

156 SOC at [56].

157 Transcript of 24 March 2025, p 29 at line 23 to p 30 at line 14.

158 C CS at [91]–[94].

Version No 1: 01 Oct 2026 (16:08 hrs)

Quistclose trust

88 For a *Quistclose* trust to arise, there must be the twin certainties of subject matter and object, and the object must be stated with sufficient clarity for a court to determine if it is still capable of being carried out or if the money has been misapplied: *Envy Asset Management Pte Ltd v CH Biovest Pte Ltd* [2024] SGHC 46 ("*Envy Asset Management*") at [46(b)]. Additionally, for an express *Quistclose* trust, the settlor-donor must intend to constitute the recipient as a trustee, and confer a power or duty on the recipient-trustee to apply the money exclusively in accordance with the stated purpose: *Envy Asset Management* at [46(c)]. Alternatively, for a resulting *Quistclose* trust, the donor must have a lack of intention to part with the entire beneficial interest in the transferred money. The recipient must not have free disposal of the money and must be under a power or duty to apply the money exclusively in accordance with the stated purpose: *Envy Asset Management* at [46(d)]. The key ingredient of a *Quistclose* trust is that a donor "transfers money to a recipient for a specified purpose" (*Envy Asset Management* at [46]), but a *Quistclose* trust does not arise simply because money is paid for a particular purpose: *Attorney-General v Aljunied-Hougang-Punggol East Town Council* [2015] 4 SLR 474 at [120]. Even though the purpose need not be precisely defined, it must be expressed "sufficiently clearly for a court to be able to say of any application of the money that it does or does not fall within the terms of the power given": *Underhill and Hayton: Law of Trusts and Trustees* (Charles Mitchell *et al* eds) (LexisNexis, 20th Ed, 2022) at para 27.6. Further, while there is no strict need for segregation to infer the necessary intention for a *Quistclose* trust to arise, there exists a relatively high evidential burden to prove that segregation was at least contemplated: *Wei Ho-Hung v Lyu Jun* [2022] 2 SLR 1066 at [43].

Version No 1: 01 Oct 2026 (16:08 hrs)

89 Mr Hiah argues that the requisite features of a *Quistclose* trust are absent on the present facts. Beyond the absence of an express reference to the existence of a trust anywhere in the contractual documents, the Term Sheet, in providing for a promised fixed band of return, is more emblematic of a debtor-creditor relationship than of one where the investor retains the beneficial interest in the very moneys advanced.[159] There was no requirement of segregation of the Claimant's moneys, no requirement of a separate client account and no restriction on Ark Capital's free disposal of the funds pending deployment.[160] He goes on to argue that an obligation to invest the assets or to act honestly, in good faith and with reasonable care, also does not evince a mutual intention for the Claimant to retain beneficial ownership.[161] Finally, that the Charterprime Sub-Accounts were purportedly created cannot retrospectively constitute the mutual intention of the parties at the time of transfer.[162]

90 For reasons which I elaborate on below, I agree with Mr Hiah's argument and find that there is no trust, whether *Quistclose* or otherwise, over the Investment Moneys held by Ark Capital as trustee.

91 In determining whether there was a *Quistclose* trust over the Investment Moneys, the natural first port of call would be the wording of the Term Sheet pursuant to which the Investment Moneys were transferred to Ark Capital. As conceded by the Claimant, there is no express reference to a trust, and neither is there any reference to a trust being created in the Additional Subscription Agreements, the exhibited contemporaneous correspondence between Kingdom

159 2Df RCS at [28(a)].

160 2Df RCS at [28(b)].

161 2Df RCS at [28(c)].

162 2Df RCS at [28(d)].

Version No 1: 01 Oct 2026 (16:08 hrs)

Fund and David, or the subsequent documents and correspondence exchanged concerning the purported investment. At clause 3 of the Term Sheet, the objective of Ark Capital is stated to be "achiev[ing] Capital Appreciation of the Investment Capital in the Account through active trading of G10-Currencies through their related Financial Securities and Obligations".[163] Clause 3 of the Term Sheet also states that Ark Capital "employs various strategies which include long-term and short-term trading strategies among G10-Currencies Markets and using 'short' positions in an attempt to profit from price declines of assets."[164]

92 At first blush, these provisions appear to be "particular purposes" from which a *Quistclose* trust may arise. Nevertheless, a closer examination reveals the opposite. Even as the Term Sheet seeks to define the "trading strategy" to be adopted, Ark Capital also has the additional discretion under clause 3 of the Term Sheet to deviate from the stated methodology of investment by "keeping all, or a portion of, [Kingdom Fund's] holdings in less volatile cash equivalents from time to time." There is no accompanying definition as to what may constitute "related Financial Securities and Obligations" or "long-term and short-term trading strategies". The purpose so formulated is not sufficiently clear to serve as a yardstick by which the court can measure compliance. There is thus little basis for the court to determine whether a particular application of the Investment Moneys by Ark Capital would have fallen outside of the stated purpose. This is unlike where the money was stipulated to be only for paying a dividend to the recipient's shareholders (*Barclays Bank Ltd v Quistclose Investments Ltd* [1970] AC 567 at 569), or to be applied solely for the acquisition of property and no other purpose (*Twinsectra Ltd v Yardley*

163 NCY at Tab 7, p 105.

164 NCY at Tab 7, p 105.

Version No 1: 01 Oct 2026 (16:08 hrs)

[2002] 2 AC 164 at [16]). The Court in *Envy Asset Management* found that a restriction similar to the present instance, *ie*, for amounts provided by an investor to be applied "solely for investment in LME Nickel Grade Metal", was "much too vague to have constituted the basis of a specific and exclusive purpose behind the payment": *Envy Asset Management* at [51].

93 The Claimant's case appears to go slightly further in its closing submissions in arguing for a narrower purpose, *ie*, for Ark Capital to "receive the funds from the Claimant and then immediately transfer the moneys to Charterprime."[165] I accept that David had likely represented that the Investment Moneys may be sent on to Charterprime to be managed by JPFS as part of the FX Strategy, including through the execution of a Limited Power of Attorney by Ark Capital in favour of JPFS for Charterprime dated 15 December 2021.[166] However, even as parties may have contemplated that Ark Capital was to transfer the Investment Moneys onwards to Charterprime to be managed by JPFS, it must also be appreciated that the express wording of clause 3 only obliges Ark Capital to "invest the assets of the Account". If it had been intended from the beginning that Ark Capital could only send the Investment Moneys to Charterprime to be managed by JPFS, it is curious why this understanding was not captured in the Term Sheet or the subsequent Additional Subscription Agreements. Further, the communications before the execution of the Term Sheet do not indicate that parties contemplated such a restriction. The introductory material sent by David to Mr Ng on 31 January 2020 only introduced Ark Capital in broad terms, including a reference to the use of a

---

165 C CS at [94]; Claimant's Reply Closing Submissions dated 16 July 2026 ("C RCS") at [35(c)].

166 NCY at Tab 11, pp 130–132.

Version No 1: 01 Oct 2026 (16:08 hrs)

"Global Multi-Asset Day-Trading Strategy".[167] Likewise, in the WhatsApp chatgroup titled "ARK Cap-Chee Yuen" between David and Mr Ng, wherein David shared information about the returns achieved by Ark Capital from April 2018 to April 2020, David made no mention of either Charterprime or JPFS.[168] There is little to suggest that there was such a restriction on Ark Capital's disposition of the Investment Moneys, which would be a crucial factor in the finding of a *Quistclose* trust: *Toh Eng Tiah v Jiang Angelina* [2020] SGHC 65 at [142]–[145]. Taking into consideration the language used in the contractual documents, any representation by David that the Investment Moneys would be moved to Charterprime could equally have been understood merely as an indication of how Ark Capital intended to invest the Investment Moneys, and not an agreement to narrow Ark Capital's broad discretion provided for under the Term Sheet. Therefore, I do not think this argument can remedy the uncertainty as to the purpose of any alleged *Quistclose* trust.

94 A further difficulty is that there is nothing to suggest that Kingdom Fund and Ark Capital intended for the Investment Moneys to be segregated. Although the Term Sheet refers to a "capital account" or an "Account" being maintained for Kingdom Fund, there is no further explanation as to what these accounts were and whether they would be separate either from other accounts presumably held by other investors with Ark Capital, or from Ark Capital's own assets. The description of a "capital account" at clause 4 of the Term Sheet also does not necessarily entail segregation of the accounts from one another. Such an arrangement could be akin to accounts maintained by a bank for its depositors, where there is no necessary obligation to keep the assets represented by the account balances distinct. In such a situation, the bank is not a trustee of the

167 NCY at Tab 6, p 101.

168 DH-2 at Tab 2.

Version No 1: 01 Oct 2026 (16:08 hrs)

depositor but a debtor: *Damayanti Kantilal Doshi v Indian Bank* [1998] 3 SLR(R) 851 at [12]. Although the Term Sheet and the Additional Subscription Agreements reference the account numbers of the Charterprime Sub-Accounts, their significance was not explained in the contractual documents themselves. These account numbers may well have been intended or understood by parties at the time of transfer to be for Ark Capital's own record-keeping. The reference to a "Custodian Bank" and "Settlement Agent", without any accompanying definition or explanation of these terms, similarly sheds little light on parties' intentions. Again, following *Envy Asset Management* at [52], I find that there was no clear mutual intention for the Investment Moneys to be segregated from Ark Capital's general fund.

95 The Claimant points to the existence of contractual duties of good faith, to exercise reasonable care, diligence and skill, and to act in the best interests of the Claimant, as evidence that parties had intended there to be a trust. While an express trustee owes a fiduciary duty to perform the trust honestly and in good faith for the benefit of the beneficiaries of the trust (*Credit Suisse Trust Limited v Bidzina Ivanishvili* [2024] 2 SLR 164 at [39]), a duty of good faith can also be expressly created in contract (*HSBC Institutional Trust Services (Singapore) Ltd v Toshin Development Singapore Pte Ltd* [2012] 4 SLR 738 at [37]–[45]). A duty to exercise reasonable care, diligence and skill can equally be provided for contractually without implying the existence of a trust: *Sunny Metal & Engineering Pte Ltd v Ng Khim Ming Eric* [2007] 1 SLR(R) 853 at [31]–[32]. Thus, the fact that these duties were provided for under the Term Sheet is at best neutral in evidencing parties' intentions as to whether to part with the whole of the Claimant's beneficial interest in the Investment Moneys, and as to whether there was a trust.

Version No 1: 01 Oct 2026 (16:08 hrs)

96 I would finally observe that the existence of a *Quistclose* trust would make little commercial sense on the Claimant's own case. The Claimant first takes the position that Ark Capital had given an undertaking as to investment returns via the Term Sheet.[169] In its own letter imposing the steep Default Fee of 0.91% per month, the Claimant stated that the Default Fee was to "compensate for the missed trading returns for the period".[170] If this was indeed the arrangement between parties, Ark Capital would have been guaranteeing something which it had little control over, *ie*, the returns on assets supposedly held on trust to be invested in a specific manner. Having said this, I note that the Claimant's position that there was such an undertaking may not be correct in view of the disclaimer at clause 5 of the Term Sheet that "there are neither assurances nor guarantees of any profits to the Investors".[171] As this aspect of the Claimant's case does not arise for my determination, I make no finding on whether there was a contractually guaranteed rate of return, nor do I place much weight on this point.

97 For all these reasons, I conclude that the Investment Moneys are not subject to a trust of which Ark Capital was a trustee, whether *Quistclose* or otherwise. As such, this cannot form the basis of a breach of trust or any fiduciary duty owed by Ark Capital (*Acute Result Holdings Ltd v CGS-CIMB Securities (Singapore) Pte Ltd* [2023] 5 SLR 406 at [119]), and the Claimant's claims in dishonest assistance and knowing receipt as pleaded fail to meet this threshold requirement.

---

169 SOC at [12].

170 LYW at Tab 18, p 213.

171 NCY at Tab 7, p 106.

Version No 1: 01 Oct 2026 (16:08 hrs)

Ad hoc *fiduciary duties*

98 For completeness, I am cognisant that there are other possible bases of fiduciary duty, including an *ad hoc* fiduciary duty. Nevertheless, the general rule is that parties are bound by their pleadings and that the court is precluded from deciding on a matter that the parties have not put into issue: *V Nithia v Buthmanaban s/o Vaithilingam* [2015] 5 SLR 1422 ("*V Nithia*") at [39]. The Claimant does not plead or argue the existence of an *ad hoc* fiduciary duty but only relies on the existence of a trust. I am therefore left without the benefit of counsel's submissions on this point. I find that, while there may be some overlap, the factors pointing to the existence of an *ad hoc* fiduciary duty as adopted in *Celeste Yeo Xueli v Sin David* [2025] SGHC 166 ("*Celeste Yeo*") at [30] remain yet distinct from those relevant to the existence of a *Quistclose* trust (see [88] above). Going on to decide this point, when the material facts pointing to the existence of *ad hoc* fiduciary duties were not fully pleaded, may cause the defendant undue prejudice: *How Weng Fan v Sengkang Town Council* [2023] 2 SLR 235 at [29(b)]. Consequently, I go no further than the pleaded case, save to make the following general observations.

99 First, I begin with the precept that the court should proceed with special caution when urged to make a finding that *ad hoc* fiduciary duties have arisen in commercial contexts, where parties deal at arm's length and choose to govern their legal relationship by contract: *Celeste Yeo* at [32]. Where parties have entered into a contract, the terms of the contract have primacy in assessing the putative fiduciary's power to affect the putative beneficiary's legal interests, and any *ad hoc* fiduciary duty which may be superimposed on their relationship will have to conform to the terms of their contract: *Ok Tedi Fly River Development Foundation Ltd v Ok Tedi Mining Ltd* [2023] 3 SLR 155 at [87]. There remains a fundamental distinction between a contractual duty of fidelity

Version No 1: 01 Oct 2026 (16:08 hrs)

and a fiduciary duty: *Re Medora Xerxes Jamshid* [2024] 5 SLR 1006 at [64]–[69]. The fact that a person has assumed responsibility giving rise to duties in contract or tort to act to protect the interests of another is not sufficient in itself to give rise to a fiduciary duty: *Hopcraft v Close Brothers Ltd* [2026] AC 877 at [106]. Without taking a definitive view, I express my doubts as to whether a contractual obligation of good faith and best interests so broadly phrased can have the effect of subjugating the interests of the obligor to the interests of the obligee: *Tahnoon Pasha v Hill, Avere Mark* [2026] SGHC 36 at [61]–[64]. This would be unlike the situation of a fiduciary duty, where the fiduciary is obliged to subjugate all other interests, including his own, in the discharge of the fiduciary duty: *Celeste Yeo* at [31]. Of course, there are situations, albeit unusual, where two commercial parties using similar contractual language, in light of the facts and context of the particular case, intended for the existence of fiduciary duties (see *eg*, *CNA v CNB* [2023] 5 SLR 1 at [142]–[146]), but this must fall to be considered within the specific facts and context.

100 Further, in so far as Ark Capital would have a share of the profits generated under the Term Sheet, it did not equally share in any losses which may be incurred. This is another indicium that it was unlikely that an *ad hoc* fiduciary duty arose: *Kelly, Patrick Michael v Clicks2customers Pte Ltd* [2023] 3 SLR 431 at [39].

101 Finally, the Claimant alluded to David's breach of fiduciary duty as an (unpleaded) basis for the claim in dishonest assistance in its reply closing submissions.[172] However, the relevant breach relied on cannot be any breach of fiduciary duties owed to Ark Capital by David or Mr Hiah as directors, since a claim in dishonest assistance is a type of accessorial liability and there must be

[172] See the header immediately preceding C RCS at [17].

Version No 1: 01 Oct 2026 (16:08 hrs)

"a breach of duty by a person in a fiduciary relationship *with the plaintiff*" [emphasis added]: *Foo Jee Boo v Foo Jhee Tuang* [2016] SGHC 260 at [195]. The Claimant has made no case as to how David or Mr Hiah owed fiduciary duties directly to the Claimant.

Knowledge and/or dishonesty

102 The conclusion at [97] above is sufficient to dispose of the claims in dishonest assistance and knowing receipt. Nevertheless, the parties had, in cross-examination and submissions, extensively addressed whether the Defendants had acted dishonestly or had any knowledge of the alleged breach of trust. It is to this issue that I now turn. For clarity, I proceed to consider Mr Hiah and Ms Li's respective positions separately.

As against Mr Hiah

103 To recapitulate, only the claim in dishonest assistance is being pursued against Mr Hiah, and the question is thus whether the requisite element of dishonesty is made out.

104 In order to establish such dishonesty, Mr Hiah must be shown to have had "knowledge of the irregular shortcomings of the transaction that ordinary honest people would consider it to be a breach of standards of honest conduct if he failed to adequately query them": *George Raymond Zage III v Ho Chi Kwong* [2010] 2 SLR 589 ("*George Raymond Zage*") at [22]. This can be either actual knowledge, or the wilful ignorance of knowledge, and the alleged assistor does not need to know exactly what is going on so long as he suspects that something dishonest might be going on: *Yong Kheng Leong v Panweld Trading Pte Ltd* [2013] 1 SLR 173 at [81].

Version No 1: 01 Oct 2026 (16:08 hrs)

105 Mr Hiah's defence is a simple and complete one: he knew nothing about the dealings between David, Ark Capital and the Claimant. His signatures on all the documents were forged or printed by David without his knowledge. The Claimant disputes this by relying on the signatures themselves,[173] together with the factual assertion that Mr Hiah did not raise the point about the forged signature at any time before or during the 1 November 2023 Meeting.[174] It says that this, coupled with Mr Hiah's execution of the Mr Hiah POA during the meeting and the failure to exhibit any communications between Mr Hiah and David after the 1 November 2023 Meeting, leads to the inference that Mr Hiah's pleaded defence is not genuine.[175]

106 To be fair to the Claimant, an assertion of this sort involving corroborative evidence between a father and son should naturally be viewed with scepticism. I also found the evidence given by the Claimant's witnesses, *ie*, Mr Lee, Mr Ng and Ms Kwee-Ng, to be perfectly candid. The Claimant had reasons to be concerned. However, the difficulty with the Claimant's case is that it can go no further than scepticism. Apart from the signatures, there was no evidence of any correspondence or interaction between the Claimant's representatives and Mr Hiah. In fact, the evidence of both Mr Lee and Ms Kwee-Ng was that the 1 November 2023 Meeting was the first time the Claimant's representatives had met or communicated directly with Mr Hiah.[176] Throughout the period from 2018 up until after the Claimant discovered the irregularities, the Claimant dealt only with David.

---

173 C CS at [134]–[135].

174 C CS at [61]–[62].

175 C CS at [68]–[74].

176 Transcript of 26 March 2026, p 70 at lines 10–12; Transcript of 23 March 2026, p 40 at line 22 to p 41 at line 2; Transcript of 24 March 2026, p 38 at lines 6–11.

Version No 1: 01 Oct 2026 (16:08 hrs)

107 Considering the inception of the relationship between the Claimant and Ark Capital, I do not think the Claimant itself thought that Mr Hiah would be actively involved. If the Claimant genuinely treated Mr Hiah as a director of Ark Capital who was actively involved in its operations, it is then curious that the Claimant accepted David handling the contractual documents and correspondence alone.[177] In particular, the draft 30 September 2022 Letter was expressly stated to be "signed by Hiah Moh Watt", but the Claimant accepted David's reply which enclosed a signed copy bearing Mr Hiah's signature.[178] Further, the only emails before me which were copied to Mr Hiah's personal email were in relation to Mr Hiah's insurance business.[179] Conversely, the WhatsApp messages exchanged between David and Mr Lee on 21 and 22 November 2021 fortify David's position that there was some understanding for Mr Hiah to be added only in a nominal capacity:[180]

[David]:	Hi Chee Yuen & Yongwei, further to our conversation, just wanted to ask if it is possible to go through a SG-registered company *with my father as the sole director* & shareholder ?
[David]:	Reason being the banks will take quite a while (at least 90days) to approve the addition of Director & Shareholder especially it's a BVI-Caymen entity
[Mr Lee]:	How will this be related to Ark Capital?
[Mr Lee]:	Is it a registered financial company regulated by MAS?
[Mr Lee]:	Why not *just add your father as a SH and director* of Ark Capital?
[David]:	I spoke to Chee Yuen and we prefer to *invest via your father* in the BVI company

177 Transcript of 24 March 2026, p 40 at line 26 to p 41 at line 21.

178 LYW at Tab 18, p 209.

179 Agreed Bundle of Documents at p 145.

180 DH at Tab 1.

Version No 1: 01 Oct 2026 (16:08 hrs)

[emphases added]

108 It is then difficult to say, on the Claimant's evidence, that Mr Hiah must have been aware of his appointment or his execution of the various documents. The only way Mr Hiah could have found out was if David kept him informed of all the developments. If the signatures were forged or printed without Mr Hiah's knowledge, then there is no evidence of Mr Hiah's involvement at all.

109 In fact, the Claimant itself appeared to harbour suspicions that Mr Hiah was kept in the dark by the time of the 31 October 2023 Meeting, and these suspicions were confirmed by David. I reproduce the following extract from the transcript of the 31 October 2023 Meeting:[181]

Nawaz:	And this as your father. Is your father aware of all of this? Or you have just used him as a puppet?
David:	He's aware that I'm having troubles with Len24, and he's aware that I'm actually […] working to resolve it.
Nawaz:	But. Okay, but is he a director that knows anything about Ark capital and any of.
David:	He doesnt. [*sic*] […] He basically just helped me out.
Nawaz:	You *just use this name right to so that you have somebody else*.
David:	*Yeah*. […] So that is so that hopefully Ark capital can open bank accounts is for everything.

[emphases added]

110 This exchange makes clear that the Claimant was concerned about Mr Hiah's level of knowledge (or lack thereof) of the transactions between Ark

[181] NCY at Tab 28, pp 557–558.

Version No 1: 01 Oct 2026 (16:08 hrs)

Capital and itself. This was the genesis of the 1 November 2023 Meeting and why Mr Hiah was asked to attend at the Claimant's office personally to execute the prepared documents:[182]

> Yong Wei: And the one for his father did [*sic*]. He asked his father to come to the office as well. Or do we?
>
> Nawaz: I mean, David, I think that will be better. Right. Because […] this is not the kind of document that we want a situation where you take back home, we don't know what happens. Can you please request the father to come down and address this issue now?

111 The above makes clear that the Claimant was content to deal exclusively with David, and treated Mr Hiah at best as a nominee director with no involvement in the affairs of Ark Capital. The Claimant itself grew suspicious that Mr Hiah was not aware of the serious state of affairs and wished to ensure that Mr Hiah was apprised of the matter and signed the documents prepared for the 1 November 2023 Meeting personally. Both David's response and the Claimant's reaction in the exchange set out at [109]–[110] above are consistent with Mr Hiah's case that he had no knowledge of any of the affairs of Ark Capital and that David had forged all his signatures on the Ark Capital documents.

112 For completeness, Mr Hiah confirmed at trial that his case goes further than this, *ie*, that the Claimant had instructed David to forge his signature.[183] Mr Hiah made a police report which alleged the Claimant's involvement in David's forgery, and this was provided to the Court over the course of trial.[184] In my view, that serious allegation is wholly devoid of any reasonable factual

---

182 NCY at Tab 28, p 564.

183 Transcript of 30 March 2026, p 39 at line 28 to p 40 at line 3.

184 Exhibit 2DB-4; Transcript of 30 March 2026, p 37 at line 19 to p 40 at line 21.

Version No 1: 01 Oct 2026 (16:08 hrs)

basis. Mr Hiah could not have known of any such instructions firsthand. The exhibited correspondence between David and Mr Lee only demonstrated that Mr Lee had suggested that Mr Hiah could be included as a shareholder and director of Ark Capital; there was no suggestion of printing Mr Hiah's signature without his knowledge and consent.[185] The former is of a completely different nature to the latter.

113 I turn now to Mr Hiah's reaction at and after the 1 November 2023 Meeting. The Claimant's argument is essentially that Mr Hiah's reaction was unlike someone who was kept in the dark and only recently found out about his signatures being forged.[186] However, viewing the evidence in its totality, I do not see anything unreasonable about Mr Hiah's reaction, or that it undermined his case that he did not know much, if anything, about Ark Capital. I turn to address each aspect of the Claimant's case in this regard.

114 First, the Claimant says that if it was true that Mr Hiah did not know he was a director and that his signature was forged, it is reasonable to expect that he would inform the Claimant at the 1 November 2023 Meeting. The Claimant's evidence is that Mr Hiah failed to do so,[187] and did not even ask for a copy of the documents that allegedly bore his forged signatures when preparing his defence.[188] In this regard, I begin by acknowledging that Mr Hiah's case was inconsistent. Mr Hiah had initially taken the position that, at the 1 November 2023 Meeting, he was shown the execution page of the Term Sheet bearing his signature, and he informed the Claimant that he did not sign that

185 DH at Tab 1, pp 9–10.

186 C CS at [49], [77] and [79].

187 C CS at [50].

188 C CS at [52].

Version No 1: 01 Oct 2026 (16:08 hrs)

document.[189] Mr Hiah later changed his testimony and conceded that he did not ask the Claimant about the forgeries, although he could have done so.[190] Mr Hiah also accepted that while he claimed David to have forged his signature on "all related documents",[191] he did not ask for a copy of these documents bearing his allegedly forged signatures before preparing his defence.[192] However, even on the assumption that Mr Hiah did not raise the issue with the Claimant about his forged signatures during the 1 November 2023 Meeting, this reaction is explainable. After all, Mr Hiah's account is not that he found out about the forgeries at the 1 November 2023 Meeting itself, but the night before.[193] David's evidence is also that he had not presented the entire picture to Mr Hiah,[194] but only that Mr Hiah was made a director and majority shareholder of Ark Capital, money in Ark Capital's name was stuck with LEN24, and Mr Hiah's signature was required on the power of attorney to be executed in the Claimant's office the next day so as to assist David.[195] Mr Hiah may well have come to terms with the state of affairs as presented by David by the time of the 1 November 2023 Meeting, and understood that his cooperation was needed to assist David and the Claimant.

115 It is also important to bear in mind the particular relationship between Mr Hiah and David as father and son. The evidence demonstrates that Mr Hiah

---

189 Transcript of 27 March 2026, p 47 at line 30 to p 48 at line 19.

190 Transcript of 27 March 2026, p 83 at lines 11 to p 84 at line 17; Transcript of 30 March 2023, p 36 at line 29 to p 37 at line 5.

191 2Df's Defence at [8].

192 Transcript of 30 March 2026, p 5 at line 11 to p 7 at line 19.

193 2Df Defence at [8]; Transcript of 27 March 2026, p 45 at line 25 to p 46 at line 13.

194 Transcript of 2 April 2026, p 16 at lines 2–21.

195 Transcript of 1 April 2026, p 40 at line 26 to p 43 at line 7; Transcript of 2 April 2026, p 18 at line 11 to p 19 at line 12.

Version No 1: 01 Oct 2026 (16:08 hrs)

has consistently supported David through his previous ordeals and challenges. Although David could not sell insurance products directly as a result of his prohibition order, Mr Hiah sought to appoint David as a nominee for several insurance companies.[196] Further, although David was never officially appointed as a nominee agent,[197] Mr Hiah allowed David to refer clients in exchange for some part of the commission.[198] What is more, Mr Hiah also gave David a monthly allowance to assist him with his living expenses.[199] This was all despite Mr Hiah knowing that David had been dishonest in forging clients' signatures which resulted in the prohibition order being imposed against him.[200] As such, considering this state of relationship between father and son, there is nothing unusual about Mr Hiah agreeing to assist David once more even as Mr Hiah may have been "very angry" with David.[201]

116 Second, the Claimant argues that Mr Hiah attended the 1 November 2023 Meeting "in his capacity as the Director" of Ark Capital, and executed the Mr Hiah POA without any objection.[202] It is true that, on the corporate secretarial documents, Mr Hiah was reflected as Ark Capital's director. However, I fail to see how Mr Hiah can be said to have attended the meeting "in his capacity as the Director", if this is to mean that Mr Hiah had accepted his status as Ark Capital's director or that it contradicted Mr Hiah's

196 Transcript of 27 March 2026, p 12 at line 10 to p 14 at line 6.

197 Transcript of 27 March 2026, p 23 at lines 4–6.

198 Transcript of 27 March 2026, p 24 at line 4 to p 25 at line 14.

199 Transcript of 27 March 2026, p 25 at lines 19–23; Transcript of 1 April 2026, p 85 at lines 24–30.

200 Transcript of 27 March 2026, p 20 at line 29 to p 21 at line 3.

201 Transcript of 27 March 2026, p 46 at lines 12–13; Transcript of 30 March 2026, p 20 at lines 27–32.

202 C CS at [56]–[57].

Version No 1: 01 Oct 2026 (16:08 hrs)

defence. The Mr Hiah POA is silent as to any mention of Ark Capital or Mr Hiah's position as a director, and was given in his personal capacity.[203] The execution of the Mr Hiah POA does not detract from Mr Hiah's defence that he did not know of Ark Capital's affairs, including his appointment as a director and shareholder. The fact remains that Mr Hiah did not sign anything attesting to his position as a director of Ark Capital. Further, Mr Hiah had indicated that he wished to consider the draft personal undertaking and statutory declaration further but was not allowed to bring these documents home after the meeting.[204] The Claimant's argument in this regard is putting the metaphorical cart before the horse.

117 The Claimant's third complaint is that Mr Hiah had failed to inform it of his position that the signatures were all forged until the filing of his defence on 9 May 2024.[205] In so far as the Claimant is urging the court to draw an inference that Mr Hiah's defence is an afterthought, the case that such an inference should be drawn is not a strong one. From Mr Hiah's perspective, the execution of his POA would have effectively resolved the matter and provided the Claimant with any authority it thought necessary to pursue recovery. Further, there were without prejudice discussions between the Claimant, Mr Hiah and Ms Li.[206] In any event, Mr Hiah made clear his position by filing his defence. Thus, I would be very slow to speculate as to the reason for Mr Hiah not informing the Claimant earlier that he believed David to have forged his signatures.

---

203 NCY at Tab 30.

204 Transcript of 27 March 2026, p 58 at lines 4–19; Transcript of 24 March 2026, p 41 at line 22 to p 42 at line 15.

205 C CS at [61].

206 Decision of AR Perry Peh in HC/SUM 598/2024 and HC/SUM 599/2024 dated 28 April 2024.

Version No 1: 01 Oct 2026 (16:08 hrs)

118 Fourth, the Claimant refers to a letter drafted by Prolegis LLC, acting on behalf of Mr Hiah and Ms Li, where Mr Hiah had purportedly referred to himself as a director of Ark Capital in letters to Ark Capital's investors. While Mr Hiah's evidence that he never engaged Prolegis LLC is manifestly incorrect in the face of the warrant to act dated 7 November 2023,[207] the contents of the letter must be more closely examined. I reproduce the relevant parts of Prolegis LLC's letter dated 10 November 2023 for reference:[208]

> … [Mr Hiah and Ms Li] have *no knowledge of the facts and/or circumstances* surrounding your client's transfer of the USD 135,000 and/or the alleged losses suffered thereafter. They categorically state that they at no time received any of the USD 135,000 that your client invested in BWCG. These were [David's] own business matters which he *did not involve them in*. While Mr Hiah Moh Watt was a director of Ark Capital Holding Limited ("**ACHL**"), he *took a backseat in ACHL's management, which was wholly performed by Mr David Hiah.*
>
> [emphasis in bold in original, emphases added in underline and italics]

119 I do not think much weight can be placed on the letter's assertion that Mr Hiah was Ark Capital's director to draw an inference that Mr Hiah was aware of his directorship prior to 31 October 2023. I begin by pointing out that this letter postdates the 1 November 2023 Meeting, where the Claimant says it had explained to Mr Hiah that it thought he was a director of Ark Capital.[209] The important point is that, although Mr Hiah was reflected as a director of Ark Capital, this was as a result of David's fraudulent actions. I thus do not think this can independently establish that Mr Hiah had thought, at any point before 31 October 2023, that he was Ark Capital's director. The substance of the letter

---

207 Exhibit C-5.

208 LEY-1 at Tab 48, pp 243–244.

209 Transcript of 24 March 2026, p 45 at lines 14–25.

Version No 1: 01 Oct 2026 (16:08 hrs)

is also consistent with the crux of Mr Hiah's case – that he was simply not aware of the operations of Ark Capital.

120 Finally, the Claimant points out that Mr Hiah's case on the use of his digital signature had shifted during trial. While Mr Hiah's initial evidence was that he never created a digital signature for himself in the course of his insurance business,[210] Mr Hiah later admitted that David had access to his digital signature with Mr Hiah's knowledge and consent.[211] The Claimant's argument is thus that Mr Hiah, having granted such consent, cannot credibly maintain that every document produced in David's commercial dealings and bearing that signature was forged without his authority.[212] With respect, I cannot agree.

121 In my view, Mr Hiah had been entirely forthright in his testimony on this point. Mr Hiah's evidence was that he had asked David for help to renew his insurance licence sometime in 2019, and it was for this purpose that David created Mr Hiah's digital signature.[213] Allowing David to use Mr Hiah's digital signature for one purpose does not mean that David could use Mr Hiah's signature for any other purpose. Neither does the failure to prevent or restrict David's access to the digital signature render David's actions any less fraudulent or transmute Mr Hiah's ignorance into consent or authority. The point, as Mr Hiah put it, is that he "did not ask [David] to do this".[214]

122 I deal quickly with the Claimant's suggestion during trial that the Defence filed by David had conceded the fact that Mr Hiah was Ark Capital's

---

210 Transcript of 30 March 2026, p 8 at lines 11–15.

211 Transcript of 30 March 2026, p 8 at lines 29–31.

212 C CS at [64].

213 Transcript of 30 March 2026, p 8 at lines 24–28.

214 Transcript of 30 March 2026, p 8 at lines 19–20.

Version No 1: 01 Oct 2026 (16:08 hrs)

director.[215] David, in his Defence, had stated that "it is admitted that the 2nd Defendant […] is currently a director and 60% shareholder of Ark Capital".[216] My view is that this point is of little import. First, David claiming that Mr Hiah is a director of Ark Capital does not have any direct bearing on what Mr Hiah knew or understood. More critically, though the corporate secretarial documents reflected Mr Hiah as a director, it was precisely because of David's actions that Mr Hiah would have come to be reflected as a director in the corporate secretarial documents. It is fallacious to argue that simply because Mr Hiah was reflected as a director of Ark Capital, he must have knowledge of Ark Capital's affairs, or that he even consented to becoming Ark Capital's director. The question to be answered is not what is reflected on the corporate secretarial documents, but what knowledge Mr Hiah had of any irregular shortcoming. The evidence bears out Mr Hiah's account that he knew little, if anything, about Ark Capital's affairs up until 31 October 2023, and consequently could not have had knowledge of any putative shortcomings or irregularities. My observation at [76] above that Mr Hiah cannot be identified with Ark Capital is for this same reason.

123 It flows from the above that the evidence falls short of establishing any dishonesty on the part of Mr Hiah. The legal and evidentiary burden in establishing the requisite dishonesty remains with the plaintiff: *Banque Nationale de Paris v Hew Keong Chan Gary* [2000] 3 SLR(R) 686 ("*Banque Nationale de Paris*") at [69]. Far from knowledge of any irregularity or shortcomings, Mr Hiah simply had no awareness of the business of Ark Capital up to 31 October 2023. The Claimant has not pointed to anything which dents

---

215 Transcript of 1 April 2026, p 93 at line 22 to p 95 at line 7; Transcript of 2 April 2026, p 6 at line 27 to p 8 at 10.

216 1st Defendant's Defence dated 14 May 2024 at [D(4)].

Version No 1: 01 Oct 2026 (16:08 hrs)

the credibility of David's express admission that he had forged or printed without Mr Hiah's consent his signatures on all of Ark Capital's documents,[217] and its own conduct demonstrates that it had harboured suspicions of this exact possibility. The alleged deficiencies in Mr Hiah's conduct that the Claimant complains of must also be viewed in their proper context: a 75-year-old father who was willing to help his son despite his wrongdoings. Consequently, I find that the requisite element of dishonesty is not made out.

124 For completeness, the Claimant's case against Mr Hiah must fail for yet another critical reason. Having accepted that Mr Hiah did not receive the US$22,000, it is not clear to me what the assistance is said to have been offered by Mr Hiah or what damage the Claimant has suffered as a result of Mr Hiah's actions. Although the Claimant makes the additional argument in closing that the assistance was Mr Hiah's signing of Ark Capital documents,[218] this is not its pleaded case.[219] Even if I went on to consider this argument, which I do not think I need to do, the Claimant is, for the reasons above, far from making good its assertion that Mr Hiah knowingly signed the Ark Capital documents. In my view, Mr Hiah was an unfortunate bystander who was dragged into the suit as a result of David's fraud, and the father cannot be made to pay for the sins of the son.

As against Ms Li

125 Before considering the case against Ms Li, it bears highlighting that the requirements in so far as they relate to Ms Li's knowledge differ between dishonest assistance and knowing receipt. The latter is focused on the state of

---

217 HMW at p 7.

218 C CS at [135].

219 SOC at [68(b)].

Version No 1: 01 Oct 2026 (16:08 hrs)

knowledge which makes it "unconscionable for [the recipient] to retain the benefit of the receipt": *George Raymond Zage* at [23], citing *Bank of Credit and Commerce International (Overseas) Ltd v Akindele* [2001] Ch 437 at 455E. Similar to dishonest assistance, actual knowledge is not required, especially when there are "circumstances in a particular transaction that are so unusual, or so contrary to accepted commercial practice, that it would be unconscionable to allow a defendant to retain the benefit of receipt": *George Raymond Zage* at [32].

126 The Claimant, in its reply closing submissions, confined its case against Ms Li to the following:[220]

(a) Ms Li received US$12,000 from Ark Capital's LEN24 Account in or around 1 March 2022, four days after the Claimant's deposit of US$600,000 into the same account. No legitimate commercial explanation exists for such a transfer to Ms Li.

(b) Ms Li's conduct in actively taking steps to frustrate the Claimant's recovery of David's "committed" assets, after David acknowledged liability and committed his IBKR and POSB Accounts to the Claimant, constitutes active dishonest assistance.

127 I must again point out the deficiency in the Claimant's pleadings. The claims in both dishonest assistance and knowing receipt, as formulated in its SOC, are premised only on the use of Ms Li's "personal bank account to receive Kingdom Fund's monies".[221] The factual allegations relating to [126(b)] above were not pleaded. However, they were addressed at trial. Ms Li gave evidence

220 C RCS at [29].

221 SOC at [68(c)] and [69(c)].

Version No 1: 01 Oct 2026 (16:08 hrs)

on them, was cross-examined on them, and addressed them in her submissions. As such, it is not a case where Ms Li had been taken by surprise or would be irreparably prejudiced by my consideration of these unpleaded allegations, and I thought it appropriate to depart from the general rule to consider these claims in greater detail: *V Nithia* at [40]. Nevertheless, for reasons which shall be apparent, I likewise find little merit in the Claimant's claims.

128 I proceed to consider the two allegations at [126(a)] and [126(b)] in turn.

(1) Receipt of US$12,000

129 Although Ms Li accepts that she did receive US$12,000 on 2 March 2022, she offers a benign explanation, *ie*, that her receipt was as a part of the longstanding Forex-Swap Arrangement between her and David. Her case is that the US$12,000 was received in exchange for S$16,000, which was remitted to David's HSBC account in return.[222] This was consistent with the prior practice of forex-swaps between herself and David.

130 I am inclined to accept Ms Li's evidence as to the existence of the Forex-Swap Arrangement. Ms Li had provided evidence of her WhatsApp messages which unequivocally demonstrate the existence of an arrangement to exchange foreign currencies to avoid paying fees levied by banks. I reproduce a particularly instructive instance on 9 January 2017:[223]

> [David]: As DBS "institutional" client, they r asking for 88pips and I feel they r already eating my lunch
>
> [Ms Li]: Yes. V high
>
> [Ms Li]: U still want to exch usd w gs?

222 3Df Defence at [56].

223 LEY-1 at Tab 4.

Version No 1: 01 Oct 2026 (16:08 hrs)

> [Ms Li]: Lol
>
> [David]: Yup

131 Yet another instance in which there was clear evidence of an intention to exchange foreign currency between themselves was on 12 March 2021:[224]

> [David]: I'm dropping the USD10k cheque for you
>
> [Ms Li]: Based on bberg [*sic*] rate is 1.3457
>
> [David]: 5k equivalent
>
> [Ms Li]: I jux [*sic*] transferred SGD 6728 to […]

To contextualise this exchange, US$5,000 would be equal to S$6728.5 applying the rate of US$1 : S$1.3457.

132 Ms Li also provided a rather comprehensive list of the previous swaps between herself and David.[225] The Claimant pointed to several alleged inconsistencies or deficiencies in Ms Li's list of previous swaps. For example, Ms Li did not produce a corresponding bank record to evidence her receipt of a further US$10,000, whereas she sent around HK$116,941.55 (roughly equivalent to US$15,000) to David and only received US$5,000 from David.[226] Another instance was where Ms Li had transferred S$6,850, but David deposited a cheque for US$5,000 only a week later.[227] However, I do not fault Ms Li for these minor discrepancies and gaps in her evidence. This was, after all, an informal arrangement between husband and wife which had begun in 2017. The fact that these forex-swaps were also interspersed with inter-spousal

---

224 LEY-1 at Tab 19.

225 3rd Defendant's Further and Better Particulars of the Defence dated 9 May 2024 at [1.1.1].

226 LEY-1 at para 16(f); Transcript of 2 April 2026, p 145 at line 21 to p 146 at line 29.

227 LEY-1 at para 16(j); Transcript of 2 April 2026, p 147 at line 4 to p 148 at line 19.

Version No 1: 01 Oct 2026 (16:08 hrs)

transfers for day-to-day expenses is nothing out of the ordinary.[228] What remains clear is that Ms Li and David had an established practice of exchanging foreign currency for Singapore dollars between themselves.

133 Turning to the receipt of US$12,000 in question, the Claimant highlights that in the WhatsApp messages that David sent to Ms Li on 1 March 2022, David had attached a transaction statement which shows that the funds were transferred from the LEN24 Account to Ms Li's account. In particular, the transaction statement reads that the LEN24 Account was a "Corporate Account USD", and the account number was that of Ark Capital's LEN24 Account.[229] Given that Ms Li already had suspicions about LEN24,[230] the Claimant says that this should have put Ms Li on notice that the funds being transferred did not belong to David. Ms Li, however, claims that she did not open or review the contents of the transaction statement as it was a "routine USD-to-SGD" transaction.[231] Further, and somewhat curiously, the bank statement produced for Ark Capital's LEN24 Account did not record this transaction.[232]

134 I agree with the Claimant that the bank statement for Ark Capital's LEN24 Account does not assist Ms Li, since she does not dispute that she had received the funds.[233] What is crucial is whether this money was received with the knowledge that the authority to give was tainted: *George Raymond Zage* at [33]. On the present facts, I do not think Ms Li had such knowledge.

---

228 Transcript of 2 April 2026, p 148 at line 31 to p 150 at line 8.

229 C CS at [103]–[105].

230 C CS at [108].

231 LEY-1 at para 19.

232 LEY-1 at Tab 24.

233 3Df Defence at [68]–[69].

Version No 1: 01 Oct 2026 (16:08 hrs)

135 First, the expectation on the recipient must be tempered by "the exigencies and the customary practices of the situation in which he works": *George Raymond Zage* at [39]. Having established that there was a standing practice of the Forex-Swap Arrangement between David and Ms Li, who were still husband and wife at the relevant time, what is reasonable for Ms Li to have done, and what she would have appreciated from the sending of the LEN24 transaction statement, must then necessarily be seen in that broader context.

136 Second, even if I do not accept Ms Li's account that she did not open the attached transaction statement until after the present action was commenced,[234] it is a different enquiry as to whether Ms Li had notice of any impropriety in the transaction. Unlike the so-called "Agency Cheque Cases", which involve the improper drawing of cheques and where the recipients of funds clearly know that the payment is being made by an agent using the funds of the principal, *ie*, from the details of the account to be drawn upon as reflected on the cheque (see *eg*, *George Raymond Zage* at [12] and [49]), the transaction statement did not clearly state that the LEN24 Account was being held for another, or that the moneys being transferred belonged to a third party. A brief scan of the transaction statement, as Ms Li was likely to have carried out, would not have raised any metaphorical red flags as to the source of funds. After all, Ms Li was aware that David operated Ark Capital,[235] and that Ark Capital had opened a bank account with LEN24.[236] To the best of Ms Li's knowledge, David was the only person managing Ark Capital and may well have been the sole shareholder and director. Even if Ms Li had been generally aware of compliance

234 LEY-1 at para 19.

235 LEY-1 at paras 50–51.

236 LEY-1 at paras 75–76.

Version No 1: 01 Oct 2026 (16:08 hrs)

procedures and the need to comply with anti-money laundering regulations,[237] this awareness cannot be said to have extended so far as to cover transactions between a husband and wife under an established practice such as to require her perpetual vigilance for any transaction. This is particularly so when the transaction would have appeared to Ms Li as something purely personal, as a part of the Forex-Swap Arrangement.

137 Finally, the Claimant says that Ms Li's state of mind must be considered in the context of her knowledge that the Claimant had invested with Ark Capital by the end of 2022. It says before March 2022, Ms Li was informed that compliance clearance for LEN24 had been obtained for the Claimant's investment. She had expressed her concerns about LEN24's legitimacy, and she knew that David was operating a foreign exchange investment business through Ark Capital using LEN24 accounts, whereby external investors had placed funds with Ark Capital through LEN24.[238]

138 I accept that the recipient's knowledge of facts that would put a reasonable person on inquiry might amount to unconscionable conduct: *MacMillan Inc v Bishopsgate Investment Trust Plc (No 3)* [1995] 1 WLR 978 at 1000. However, the Claimant could not point me to anything which suggests that Ms Li's knowledge of the dealings between Ark Capital and the Claimant was of such detail that she was aware of the particulars of the Term Sheet, the subsequent agreements, and that a sum of US$2.55 million was invested with Ark Capital.[239] What must be established is that Ms Li knew that the US$12,000 was traceable to a breach of fiduciary duty. In this regard, a general suspicion

---

237 Transcript of 26 March 2026, p 52 at lines 27–30; Transcript of 2 April 2026, p 112 at line 3 to p 115 at line 25.

238 C CS at [124].

239 Transcript of 26 March 2026, p 67 at lines 1–18.

Version No 1: 01 Oct 2026 (16:08 hrs)

as to the credibility or propriety of the parties involved (*ie*, LEN24 or David), and not of the particular transaction in question, is insufficient: *Abou-Rahmah v Abacha* [2007] 1 All ER (Comm) 827 at [72]. If Ark Capital was operating under ordinary circumstances, it would be expected to generate some revenue, part of which may be due to David as salary, director's fees or dividends. In fact, David had informed Ms Li sometime in 2021 that he was expecting to receive an introduction fee.[240] Even later, on 5 January 2023, Ms Li was of the view that she "[didn't] think [David] took the money".[241] The standing Forex-Swap Arrangement was also a sound reason as to why Ms Li would receive US$12,000 from David, and she carried out her end of the Arrangement by sending David S$16,000. There is thus plainly nothing which took place before March 2022 which would put a reasonable person in Ms Li's position on inquiry as to whether the source of funds for that particular forex-swap was traceable to a breach of trust, or some other breach of fiduciary duty.

139 The Claimant also argues that knowledge acquired subsequent to the transaction can render the retention unconscionable, and cites *Rajabali Jumabhoy v Ameerali R Jumabhoy* [1998] 2 SLR(R) 434 ("*Rajabali Jumabhoy*") at [108]–[109] for this proposition.[242] However, this case does not stand for such a proposition. In fact, the case of *In Re Montagu's Settlement Trusts* [1987] Ch 264 ("*Re Montagu's Settlement*"), discussed at [109] of *Rajabali Jumabhoy*, stands for the obverse. As noted in *Rajabali Jumabhoy* at [110], the alleged recipient in *Re Montagu's Settlement* was not liable for knowing receipt as "the [recipient] did not have any knowledge of the resettlement such that when he received and dealt with the chattels he knew that

---

240 LEY-1 at para 52; Transcript of 1 April 2026, p 75 at line 5 to p 76 at line 29.

241 LEY-1 at Tab 65, p 305.

242 C CS at [125].

Version No 1: 01 Oct 2026 (16:08 hrs)

the release of the chattels to him was in breach of trust" and that "[e]ven if he had once known of the relevant terms of the settlement, there was nothing to suggest that he remembered them when he received the chattels". In fact, Megarry VC in *Re Montagu's Settlement* at 285 went on to expressly hold that "[t]he question must be determined by what knowledge the [recipient] had *at the time of the transfer*, and not by his state of knowledge at any previous time" [emphasis added].

140 The learned authors of *Snell's Equity* (John McGhee & Steven Elliot gen eds) (Sweet & Maxwell, 34th ed, 2020) ("*Snell's Equity*") at para 30-072 formulated the requirement in this way: that "the defendant must be at fault *when* he receives the trust property" [emphasis added]. The relevant knowledge for the purposes of a knowing receipt claim is ascertained at the time of the alleged receipt of trust property, not by reference to his state of knowledge before or after that time. The question of subsequently acquired knowledge is only relevant to any *subsequent* dealing with the alleged trust property received. I reproduce the instructive disambiguation proposed by Brightman J in *Karak Rubber Co Ltd v Burden (No 2)* [1972] 1 All ER 1210 at 1234–1235:

> It is convenient to make an initial distinction between (i) a person who is a constructive trustee because (although not nominated as a trustee) he has received trust property with actual or constructive notice that it is trust property transferred in breach of trust, or because (not being a bona fide purchaser for value without notice) he *acquires notice subsequent to such receipt and then deals with the property in a manner inconsistent with the trust*, and (ii) a person who has not received and become chargeable with trust property in that manner but whom equity nevertheless fixes with liability as a constructive trustee on account of assistance which he has rendered to a breach of trust. …
>
> [emphasis added]

141 Thus, as to Ms Li's receipt of US$12,000, only her knowledge as of 2 March 2022 is relevant. Even if I were to consider Ms Li's subsequent transfer

Version No 1: 01 Oct 2026 (16:08 hrs)

of S$16,000 to David's personal HSBC account as a dealing with the trust assets, only her knowledge as of 4 March 2022, *ie*, the date of the subsequent transfer, would be relevant. Nothing suggests her knowledge had altered materially between those two dates.

142 The Claimant's final salvo is that an inference can be drawn from her decision to offer the two Hermes bags to the Claimant on 4 November 2023,[243] or her search of the term "criminal breach of trust" on 2 November 2023,[244] as to her state of knowledge. However, dishonesty cannot be judged with the benefit of hindsight: *Banque Nationale de Paris* at [174]. Any inference to be drawn would, at most, relate to her state of mind in or after October 2023. I fail to see how this would be relevant to her knowledge of any impropriety in March 2022. It also bears noting that the receipt of the US$12,000 on 2 March 2022 was before Ms Li was informed that the LEN24 Account was frozen,[245] and also before she started receiving phone calls from other disgruntled investors.[246] The earliest evidence of Ms Li being aware of the issues with LEN24 was 7 March 2023,[247] which is about one year after she had transferred the S$16,000 to David on 4 March 2022. None of this necessarily meant that by 4 March 2022, Ms Li knew that the US$12,000 from Ark Capital's LEN24 Account was an amount that had been deposited into that account in breach of fiduciary duty. As I had concluded at [138] above, what Ms Li knew at the time of the forex-swap transaction did not render her receipt, or any subsequent dealing with the US$12,000 and its rough equivalent in Singapore dollars, unconscionable.

---

243 LEY-1 at Tab 54; SOC at [52].

244 LEY-1 at Tab 71, pp 324–326.

245 LEY-1 at paras 78–79.

246 LEY-1 at paras 115–118.

247 LEY-1 at para 83.

Version No 1: 01 Oct 2026 (16:08 hrs)

143 Ms Li puts forth another difficulty with the Claimant's case, in that there is insufficient evidence to establish that the US$12,000 received is traceable to, or represents the Claimant's assets. The statement tying Ark Capital's LEN24 Account to the US$12,000 received by her is not obtained from LEN24 itself but discovered during the forensic examination of David's laptop. As such, its provenance and contents are suspect, and any reliance on it falls foul of the rule against hearsay.[248]

144 I recognise that the question of tracing is a crucial element which the Claimant must establish. Having paid moneys into Ark Capital's LEN24 Account which was a mixed account, the Claimant cannot trace into any withdrawal from that account at common law: *Lipkin Gorman (a firm) v Karpnale Ltd* [1991] 2 AC 548 at 572. As to tracing in equity, there are "[f]ormalised rules of identification [used] to resolve the evidential uncertainty": *Snell's Equity* at para 30-056. As the Claimant has argued,[249] a presumption can arise in favour of the innocent trust claimant, where the assets in the original account have been dissipated, that trust assets were used to acquire another asset which still survives and can be traced into: *Snell's Equity* at para 30-057. However, such evidential presumptions arise only where the recipient is deemed a wrongdoer. My findings that (a) there is no trust or fiduciary duty which was breached, and (b) that Ms Li did not possess the requisite knowledge as to make her retention unconscionable, mean it is strictly unnecessary for me to deal with this point.

---

248 3Df CS at [43]–[44].

249 C RCS at [35(h)].

Version No 1: 01 Oct 2026 (16:08 hrs)

(2) IBKR and POSB Accounts

145 I now address this final aspect of the Claimant's case. The Claimant, in contending that Ms Li had acted dishonestly and frustrated its recovery against David, presumes that the assets and moneys in the IBKR Account did not belong to Ms Li. I cannot accept this premise.

146 In my judgment, despite the IBKR Account being held in David's name, the shares and assets held therein belonged beneficially to Ms Li. The evidence substantiates Ms Li's position that she and David both used the IBKR Account to invest in stocks, and had a clear understanding of their respective ownership of the stock positions. Their correspondence clearly shows that some stock positions belonged to Ms Li, and *vice versa*.

147 I set out a few illustrative examples of this clear understanding which predated any dispute between David and the Claimant. First, on 27 July 2021, the following WhatsApp messages were exchanged:[250]

[forwarded from Ms Li]:	If I have executed *my* AMD trade
[David]:	Executed
[Ms Li]:	Ok. Thx

[emphasis added]

148 Another instance was on 1 December 2021, where Ms Li sent David the following WhatsApp messages:[251]

[Ms Li]:	I think *ur dis* [*ie*, Disney] is sold but not *my splunk*
[Ms Li]:	[…] splunk is damn weak

[emphases added]

---

250 LEY-1 at Tab 27, p 193.

251 LEY-1 at Tab 32, p 204.

Version No 1: 01 Oct 2026 (16:08 hrs)

149 This arrangement is further confirmed when, on 26 September 2023, David sent screenshots of the portfolio summary page of the IBKR Account to Ms Li together with the caption: "Your IB balance in my name".[252] This was, in effect, the recognition of a trust in favour of Ms Li for the remaining assets in the IBKR Account. This also serves to corroborate Ms Li's account that David had been selling his stock positions,[253] and had liquidated all of his stock positions in the IBKR Account by September 2023.[254] Thus, I do not see anything to suggest that Ms Li's interest in and ownership of certain assets in the IBKR Account was a ploy to frustrate recovery and enforcement efforts by the Claimant. Her state of mind cannot amount to dishonesty by any measure.

150 The Claimant also seeks to impugn David and Ms Li's divorce as a strategic move to hinder the asset recovery process.[255] To put this submission in context, Ms Li had filed for divorce against David on 3 November 2023.[256] The Interim Judgment dated 19 December 2023 obtained by consent provided that "all holdings held in [the IBKR Account] under [David's] sole name belong to [Ms Li] solely. [Ms Li] and [David] further agree that all current and future holdings held in said account shall be used for the Child's education, medical and general living expenses" and that "all monies standing to the credit of [the David POSB Account] held in [David's] sole name shall be used for the Child's education, medical and general expenses."[257]

---

252 LEY-1 at Tab 40, p 222.

253 LEY-1 at paras 28(g)–28(o).

254 LEY-1 at paras 28(p) and 33.

255 Claimant's Reply to 3Df Defence dated 25 July 2024 at [3].

256 LEY-1 at para 132.

257 LEY-1 at Tab 44, pp 230–231.

Version No 1: 01 Oct 2026 (16:08 hrs)

151 I acknowledge the timing of the divorce petition may have been inopportune, given that it occurred simultaneously with David's difficulties with the Claimant and the Claimant's discovery of David's fraud. This gave the Claimant legitimate concerns that the divorce proceedings were being used to sequester assets. The messages sent by Ms Li to David between September and November 2023 could not have abated its concerns. These include Ms Li's message to her friend on 27 September 2023 that she was planning to meet a divorce lawyer to "get this sort[ed]" and "ring fence [her] asset[s]",[258] and her suggestion to David on 2 November 2023 that they "will need to separate on paper lah [*sic*]".[259] It is also true that the relationship between Ms Li and David during and post-divorce, perhaps atypical of a divorced couple, remained cordial.

152 Notwithstanding all these points, I am unable to share in the Claimant's cynicism as to the motivations of Ms Li. My assessment of the evidence is that Ms Li offered a frank account of her marital woes, which was supported by the contemporaneous evidence. Ms Li had indicated her desire for divorce as early as 2021.[260] Further, Ms Li's WhatsApp messages to her friend dating back to 2021 bore out her account of her unhappiness with David. Ms Li expressed her dissatisfaction with David's failings and his repeated dishonesty.[261] She had attempted to seek help to salvage the marriage.[262] Ms Li had been subject to harassment by other disgruntled investors as a result of David's actions.[263] Ms Li

---

258 LEY-1 at Tab 70, p 322.

259 LEY-1 at Tab 71.

260 LEY-1 at para 126 and Tab 57, p 276.

261 LEY-1 at para 130 and Tab 65.

262 LEY-1 at para 129 and Tab 63.

263 LEY-1 at paras 114–119 and 130.

Version No 1: 01 Oct 2026 (16:08 hrs)

was also facing her own personal ordeals.[264] Ms Li's evidence was that, despite all of her unhappiness, and out of consideration for their daughter's welfare and David's fragile emotional state in 2023, she agreed to hold off the divorce.[265] In my assessment, it was entirely possible that the facts which came to light as a result of the 31 October 2023 Meeting, or at least what was shared by David with Ms Li, had been the tipping point for Ms Li to decide that she could wait no longer.[266]

153 More importantly, from Ms Li's perspective, the assets and moneys in the IBKR Account were hers. By September 2023, Ms Li was aware, through the correspondence received from other alleged creditors of David and/or Ark Capital,[267] that she could become the target of legal proceedings or other ramifications for what was essentially David's conduct. It is perfectly legitimate for Ms Li to take action to protect her own interests and assets by "getting this sort[ed]" and ring-fencing her assets.[268] In fact, she had attempted to do so by asking David for an opportunity to speak to the Claimant directly after the 6 November 2023 Meeting about her interest and ownership of the stocks in the IBKR Account, but this was refused.[269]

154 As for Ms Li and David's apparent lack of acrimony post-divorce, I accept Ms Li's explanation that she and David had made a commitment to remain friendly for the sake of their young daughter, and to avoid alienating

---

264 LEY-1 at paras 122–123

265 LEY-1 at para 123–125.

266 LEY-1 at para 130.

267 LEY-1 at para 115 and Tab 46; SMK at Tab 23.

268 LEY-1 at paras 106(c)(i)–106(c)(ii).

269 LEY-1 at para 100 and Tab 43 at p 228.

Version No 1: 01 Oct 2026 (16:08 hrs)

David post-divorce.[270] Thus, in light of the foregoing explanations offered by Ms Li, I did not find anything censurable about Ms Li's conduct during this period viewed against the welter of challenges she was facing.

155 The conclusion of the foregoing discussion is that the claims in both dishonest assistance and knowing receipt against Ms Li must fail, not only because the Claimant has failed to plead and prove a breach of fiduciary duty owed to it, but also that there is no evidence of anything which would render her actions dishonest or unconscionable.

Unlawful means conspiracy

156 The law on the tort of conspiracy by unlawful means is well-settled. The Court of Appeal in *EFT Holdings, Inc v Marinteknik Shipbuilders (S) Pte Ltd* [2014] 1 SLR 860 ("*EFT Holdings*") at [112] has affirmed that to establish the tort of unlawful means conspiracy, the claimant must show:

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

(b) the alleged conspirators had the intention to cause damage or injury to the claimant by those acts;

(c) the acts were unlawful;

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

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

---

270 LEY-1 at para 111.

Version No 1: 01 Oct 2026 (16:08 hrs)

157 As such, the Claimant must prove that there was a combination and that the acts complained of were carried out in furtherance of an agreement. On the facts, I find that the Claimant fails to do so.

Combination

158 The element of combination refers to the need for the Claimant to prove "an agreement, combination, understanding, or concert to injure, involving two or more persons": *Clerk & Lindsell on Torts* (Andrew Tettenborn gen ed) (Sweet & Maxwell, 24th ed, 2023) at para 23–103. The nature of a claim in conspiracy means that there will seldom be direct evidence as to the existence of such a combination, nor is direct evidence necessary: *EFT Holdings* at [113]. It is possible for combination to be inferred from the surrounding circumstances and the acts of the alleged conspirators: *EFT Holdings* at [114]. However, parties to the alleged conspiracy must be "sufficiently aware of the surrounding circumstances and share the object for it properly to be said that they were acting in concert at the time of the acts complained of": *EFT Holdings* at [113], citing *Kuwait Oil Tanker Co SAK v Al Bader (No 3)* [2000] 2 All ER (Comm) 271 at [111].

Mr Hiah's alleged involvement

159 The Claimant says that Mr Hiah and David combined in the operation of Ark Capital as a vehicle for a "fraudulent investment scheme."[271] The Claimant urges the court to draw the necessary inference as to Mr Hiah's involvement in the alleged conspiracy to injure on the following bases:[272]

(a) Mr Hiah was a director;

---

271 C CS at [149].

272 C RCS at [16(b)].

Version No 1: 01 Oct 2026 (16:08 hrs)

(b) Mr Hiah's signature appears on multiple documents which gave the scheme legitimacy;

(c) Mr Hiah accepted that David had access to his digital signature with his knowledge and consent;

(d) Mr Hiah's subsequent conduct when the fraud was exposed; and

(e) the close personal and professional relationship between Mr Hiah and David.

160 I have already dealt with all of these contentions in answering the question of whether Mr Hiah possessed any dishonest intention at [103] to [124] above, and I reject the attempt to draw any inference from [159(a)]–[159(d)] above.

161 Each alleged conspirator must have acted or taken some step to further a common design: Gary Chan, *The Law of Torts in Singapore*, (Academy Publishing, 2nd ed, 2017) at para 15.054. It bears recapitulating that the Claimant's case in conspiracy includes the assertion that Mr Hiah was involved in an agreement to forge documents which were sent to the Claimant and to channel the Investment Moneys to the other defendants.[273] To my mind, nothing suggests that Mr Hiah knew of David's misdeeds, much less joined in or agreed with them with the intention to harm the Claimant. By all accounts, Mr Hiah was not even aware of the Claimant's business until 31 October 2023. In fact, the Claimant's assertion that Mr Hiah had received US$22,000 was disproven by Mr Hiah's evidence in the form of his bank statements.[274] Having concluded that the Claimant has not established that Mr Hiah signed or authorised the Ark

273 SOC at [64(b)]; C CS at [149].

274 HMW at Appendix B.

Version No 1: 01 Oct 2026 (16:08 hrs)

Capital documents, and that he had little, if any, idea as to the arrangement between David, Ark Capital and the Claimant, it necessarily follows that Mr Hiah could not have been part of any agreement or understanding to injure the Claimant or have taken any step in furtherance of such an agreement.

162 Although the standard of proof remains that of a balance of probabilities (*Swiss Butchery Pte Ltd v Huber Ernst* [2010] 3 SLR 813 at [17]), cogent evidence commensurate with the seriousness of an allegation of conspiracy is required: *Ong Han Ling v American International Assurance Co Ltd* [2018] 5 SLR 549 at [10]. The only remaining basis for me to draw an inference as to Mr Hiah's involvement is the relationship between David and Mr Hiah as father and son. This is plainly unsafe and falls well short of the cogent evidence required.

Ms Li's alleged involvement

163 I accept that the Claimant's concession that Ms Li could not have been involved at the beginning of the conspiracy (at [68] above) is not fatal to its case, as it is not necessary for all the alleged conspirators to have joined the scheme at the same time or know what the others have agreed to: *New Ping Ping Pauline v Eng's Noodles House Pte Ltd* [2021] 4 SLR 1317 at [60]. The case that remains, however, cannot substantiate the existence of any agreement or combination on Ms Li's part.

164 The Claimant relies on largely the same factual assertions as its case on Ms Li's dishonesty and knowledge of the alleged breach of trust:[275]

[275] C CS at [159]–[160].

Version No 1: 01 Oct 2026 (16:08 hrs)

(a) that Ms Li had numerous conversations spanning from December 2021 until at least early November 2023 relating to the Claimant's Investment Moneys placed with Ark Capital;

(b) that Ms Li had concerns on the legitimacy of LEN24 since end 2021, and was told that Ark Capital's LEN24 Account was frozen;

(c) that Ms Li actively allowed her personal bank account to receive US$12,000 from Ark Capital without any inquiry, and retained the benefit thereof even after the end of 2022 when she definitely knew that the Claimant's Investment Moneys were in Ark Capital's LEN24 Account; and

(d) that Ms Li actively assisted David to dissipate S$130,078.99 out of David's assets when she was aware that David had committed the IBKR Account to the Claimant,[276] which had the direct effect of the Claimant suffering this loss.

165 Again, in light of my findings at [129]–[155] above, I reject the Claimant's submissions. I accepted Ms Li's explanation of the Forex-Swap Arrangement in relation to the receipt of US$12,000 and subsequent transfer of S$16,000. David was in no position to allow the Claimant to recover against assets which did not belong to him. Thus, no inference of any agreement to injure the Claimant can be drawn from Ms Li's attempt to protect what she rightfully understood as her own assets in the IBKR Account from the Claimant.

166 In so far as the Claimant seeks to suggest that Ms Li's knowledge, by 2023, of David's mishandling of third parties' funds "should have raised

[276] C RCS at [28(iii)(b)].

Version No 1: 01 Oct 2026 (16:08 hrs)

alarm",[277] I agree with Ms Li that this is not the same as knowledge of David's misconduct vis-à-vis the Claimant.[278] It is still further removed from an inference that Ms Li agreed and joined in the alleged plan to defalcate the Investment Moneys. It is telling that Ms Li had, after 6 November 2023, encouraged David to surrender himself to the police.[279] If Ms Li had agreed and coordinated with David to frustrate the Claimant's recovery, there would be no reason for her to urge David to come clean to the police. Further, her act of volunteering two Hermes bags is inconsistent with the purported intention of preventing the Claimant from recovering funds. Therefore, I decline to draw any inference that either Mr Hiah or Ms Li was party to any agreement, combination, understanding, or concert to injure the Claimant, whether separately or together.

167 I make a final broad observation as to the Claimant's case in conspiracy. The Claimant only suggests that transfers of US$22,000 and US$12,000 took place to Mr Hiah and Ms Li respectively. In contrast, the Investment Moneys total US$2.55 million. If there was truly an agreement between David and the Defendants to "place the assets beyond the Claimant's recovery" or to retain the assets for the Defendants personally,[280] it raises the question of why the alleged dissipations were for comparatively much smaller and isolated sums. This is also not a case where the Claimant is limited in its evidence and has to attempt to piece the transactions together. It had access to David's phone, and a forensic copy of his laptop and Dropbox. Its own finding was that BWCG was the recipient of the bulk of the sums allegedly transferred out of Ark Capital's

277 C CS at [98(k)].

278 3rd Defendant's Reply Closing Submissions dated 16 July 2026 at [7]–[8].

279 LEY-1 at para 101 and Tab 43.

280 C CS at [28(iii)(d)].

Version No 1: 01 Oct 2026 (16:08 hrs)

LEN24 Account, to the tune of US$1.5 million (see [41] above). Since the Claimant has already obtained and is in the process of enforcing the default judgment against BWCG, BWCG's liability for conspiracy does not arise for my consideration, and I say no more on this.

168 The evidence is therefore insufficient to establish that either Mr Hiah or Ms Li knew of, assented to, or took any step in furtherance of a common design to injure the Claimant. Familial association, receipt of comparatively isolated transfers, and conduct after the fraud was uncovered do not, whether individually or cumulatively, establish the necessary combination.

169 In light of my finding that no combination involving Mr Hiah or Ms Li has been established, it is unnecessary to decide whether the conduct of David, Ark Capital or BWCG constituted actionable unlawful means. Consequently, in the absence of a combination or agreement between Mr Hiah, Ms Li and those who actually defrauded the Claimant, the claim in unlawful means conspiracy against the Defendants is doomed to fail.

Unlawful means

170 For completeness, and in view of the parties' arguments on this point, I say something about the Claimant's case with reference to the requirement for unlawful means. In *Beckkett Pte Ltd v Deutsche Bank AG* [2009] 3 SLR(R) 452 at [120], the Court of Appeal took an expansive view of the requirement of unlawfulness, holding that "the element of unlawfulness covers both a criminal act or means, as well as an intentional act that is tortious". This view was cited with approval in the later Court of Appeal decision in *EFT Holdings* at [91], although no definitive view was taken on whether "unlawful means" are confined to actionable civil wrongs.

Version No 1: 01 Oct 2026 (16:08 hrs)

171 To recapitulate, the Claimant says the following constituted unlawful means. In relation to Mr Hiah, the alleged unlawful means consisted of:[281]

(a) David's fabrication of Charterprime statements in breach of his fiduciary duties as director of Ark Capital; and

(b) Ark Capital's breach of the alleged *Quistclose* trust on which the Claimant's Investment Moneys were held.

172 In relation to Ms Li, the alleged unlawful means consisted of:[282]

(a) David's breach of fiduciary duty in causing trust funds to be paid out to Ms Li and subsequently back to himself; and

(b) David's breach of an undertaking to maintain the assets in his IBKR Account and POSB Account for the Claimant's benefit (presumably arising from the statutory declaration dated 6 November 2023) and his deliberate transfer of those assets to a third party to place them beyond the reach of enforcement.

173 I repeat my conclusion above that there was no *Quistclose* trust, or any *ad hoc* fiduciary duty outside of a trust. Therefore, the alleged unlawful means at [171(a)], [171(b)] or [172(a)] above do not even amount to any actionable civil wrong.

174 In relation to [172(b)] above, although my finding above was in relation to Ms Li's state of mind, I was also of the view that there was an agreement as to which assets in the IBKR Account belonged to David and Ms Li respectively. I make no finding as to whether the statutory declaration dated 6 November

281 C CCS at [149].

282 C CCS at [163] and [165].

Version No 1: 01 Oct 2026 (16:08 hrs)

2023 created any obligation or whether any such obligation had been breached. However, in so far as the alleged unlawful means is a breach of contract, I would agree with the observations of Phillips LJ in *Racing Partnership Ltd v Done Bros (Cash Betting) Ltd* [2021] 2 WLR 469 at [171] that:

> ... The interplay between unlawful means conspiracy and inducing breach of contract (where knowledge of an unlawful breach of contract is an essential element) may merit further examination in a suitable case, but I am *not convinced that many cases in which a defendant induces a breach of contract, but without knowing that he is doing so, would be capable of being re-formulated as an unlawful means conspiracy*.
>
> [emphasis added]

175 Without foreclosing the issue, it has not been demonstrated on the evidence before me that David or Ms Li knew that removing the Claimant's access to the IBKR Account and the David POSB Account was unlawful or a breach of the statutory declaration dated 6 November 2023, since, on Ms Li's evidence, the assets contained therein belonged to Ms Li. Therefore, none of these allegations can satisfy the requisite element of unlawfulness.

176 What remains on the Claimant's pleadings are the allegations as to dishonest assistance and knowing receipt on the part of David, Mr Hiah, Ms Li and BWCG.[283] However, since there was no trust over the Investment Moneys nor any fiduciary duty owed by Ark Capital to the Claimant, these also cannot be good grounds to satisfy this element of the tort of unlawful means conspiracy.

No unjust factor for unjust enrichment

177 The final basis for establishing unlawful means in the Claimant's pleadings is unjust enrichment on the part of each of David, Mr Hiah, Ms Li and

---

283 SOC at [65(c)] and [65(d)].

Version No 1: 01 Oct 2026 (16:08 hrs)

BWCG.[284] The law of unjust enrichment requires that the Claimant pleads and proves a recognised unjust factor: *Thong Soon Seng v Magnus Energy Group Ltd* [2023] SGHC 5 at [61] citing *Wee Chiaw Sek Anna v Ng Li-Ann Genevieve* [2013] 3 SLR 801 at [129]–[134].

178 Unfortunately for the Claimant, its SOC, beyond a passing reference to "[u]njust enrichment on the part of each of the 1st, 2nd, 3rd and 5th Defendants", is bereft of any particulars as to the alleged unjust enrichment as an actionable wrong. In fact, the Claimant, somewhat curiously, seems to accept that an unjust factor is necessary when it submits that "a mere lack of consent or want of authority does not, without more, constitute the required unjust factor".[285] It then argues that the "alleged Forex Swap does not provide a credible explanation" for Ms Li's retention of the US$12,000,[286] but it does not go on to say what is the established unjust factor it is relying on. The consequence of this failure is that the Claimant has not made out any unjust enrichment and cannot rely on it as a basis to support a claim in unlawful means conspiracy.

179 Therefore, the Claimant fails to establish the requirement of unlawfulness for a claim in the tort of unlawful means conspiracy, in addition to its failure to prove combination on the part of the Defendants.

Conclusion

180 The present claim arises from the fallout of a classic case of fraud, where the protagonists of such fraud were found ineffectual as targets of litigation and effective avenues of recourse. The Claimant is understandably frustrated and

---

284 SOC at [65(e)].

285 C RCS at [28(iv)(a)].

286 C RCS at [28(iv)(a)].

Version No 1: 01 Oct 2026 (16:08 hrs)

anxious to secure recovery for itself and its stakeholders, and, as I had observed at [106] and [150]–[154] above, it is entitled to its suspicions about the involvement of those who were ostensibly close to David. In my judgment, the evidence placed before the court means that these suspicions must remain suspicions. The evidence does not support a finding of dishonesty or impropriety on the part of either Mr Hiah or Ms Li. Neither does the evidence show a wider conspiracy against the Claimant which Mr Hiah and Ms Li not only knew about, but actively participated in.

181 To summarise my conclusions, I found that the claims in dishonest assistance and knowing receipt must fail because: (a) there was no trust over the Investment Moneys as pleaded; (b) Mr Hiah was not dishonest as all his signatures on the Ark Capital documents were placed without his knowledge or consent and he had no awareness of the arrangement between Ark Capital and the Claimant until 31 October 2023; (c) Ms Li was not dishonest as her receipt of US$12,000 was explained by the Forex-Swap Arrangement, and what she knew about Ark Capital and the Claimant did not show a departure from ordinary standards of honest conduct or render it unconscionable. The unlawful means conspiracy claim must similarly fail as there was no combination between David, Mr Hiah and Ms Li to injure the Claimant.

182 For the above reasons, I find that none of the Claimant's claims against the second and third defendants succeeds. The claims against the second and third defendants are therefore dismissed.

Version No 1: 01 Oct 2026 (16:08 hrs)

183 The parties are to file their submissions on costs for OC 821, limited to ten pages, within 14 days from the date of release of this judgment.

Sushil Nair
Justice of the Court of Appeal

Mohamed Nawaz Kamil and Rajagopal Muralitharan (TLC Law Advocates LLC) for the claimant;
Derek Kang Yu Hsien (Cairnhill Law LLC) for the first and third defendants;
Tang Jin Sheng (WhiteFern LLC) for the second defendant;
The fourth and fifth defendants absent and unrepresented.

Version No 1: 01 Oct 2026 (16:08 hrs)