NEUTRAL CITATION NUMBER: [2026] CIGC (FSD) 70

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 108 of 2022 (DDJ)

IN THE MATTER OF THE COMPANIES ACT (2026 REVISION)

AND IN THE MATTER OF GLOBAL CORD BLOOD CORPORATION (IN PROVISIONAL LIQUIDATION)

Before:	The Hon. Justice David Doyle
Appearances:	Matthew Collings KC instructed by Ian Huskisson and Amanda Minto of Travers Thorp Alberga on behalf of Magnum Opus International (PTC) Limited Andrew Ayres KC instructed by Jamie McGee of Nelsons Legal on behalf of Blue Ocean Structure Investment Company Limited
Heard:	28 July 2026
Draft Judgment circulated:	11 August 2026
Judgment delivered:	17 August 2026

Determination of a summons to strike out a summons on grounds of lack of standing and/or authority and/or that it is an abuse of the process of the court

JUDGMENT

Introduction

1. As long ago as 5 May 2022, Blue Ocean Structure Investment Company Limited (the "Petitioner") presented a petition dated 3 May 2022 (the "Petition") for the winding up of Global Cord Blood Corporation (the "Company"). It also presented a summons for directions dated 22 May 2022. The proceedings were assigned to Kawaley J and upon his retirement as a first instance judge in the Cayman Islands they were reassigned to me in September 2025.

2. It is stated on behalf of the Petitioner that a directions order was agreed shortly before a hearing due to be held on 20 June 2022 but, for some reason that has not been adequately explained to me, was not sealed and the attorneys do not appear to have chased court administration in that respect, if indeed they produced a draft consent order to the court for approval, signing and sealing. Unusually, a copy of any proposed directions order or an agreed draft is not included in the bundle. It is further stated that one of the directions agreed was that the Petition be treated as an *inter partes* proceeding between the Petitioner and the Company.

3. The Petition was amended on 22 September 2022. The Petition has yet to be heard and the Petitioner does not appear to be enthusiastic about taking steps to bring it on for hearing. That is one of the many unusual aspects of this case. On closer examination of the evidence it can be seen that the delay is explained by the great efforts being made by alleged bad actors to frustrate the attempts by Cayman court appointed officers to secure control of the Company's assets.

4. Indicative of the difficult, time and cost consuming nature of the obstacles, certain bad actors have sought to place in the way of the joint provisional liquidators of the Company (appointed by the Grand Court nearly 4 years ago now) are the comments of the Appeal Committee of the Hong Kong Court of Final Appeal when giving reasons for the dismissal of an application for leave to appeal by some of the bad actors [2026] HKCFA 8 at [2] "… the background involves complex corporate structures and disputed transactions".

5. On 22 September 2022, Margot MacInnis, John Royle and Chow Tsz Nga Georgia were appointed joint provisional liquidators (“JPLs”) of the Company. In their case summary dated 23 April 2026 at paragraph 51 they say that they continue to investigate the affairs of the Company and their overriding priority is to secure control of subsidiaries in the People’s Republic of China (“PRC”) and to protect and recover the Company’s assets for the benefit of the stakeholders.

6. Nearly 4 years after the presentation of the Petition (with such delay not being explained) and after much water had flowed under the bridge (including numerous Orders and judgments from Kawaley J) Magnum Opus International (PTC) Limited (“Magnum”) now belatedly seek to join the proceedings, and the Petitioner seeks to challenge Magnum’s standing and authority to do so, by way of a strike out application. The Petitioner says that Magnum’s belated challenge is an abuse of the process of the court.

7. By order made on 5 May 2026 (and not so far as I am aware the subject of an appeal), I ordered that the Petitioner’s summons dated and filed on 31 March 2026 (the “Petitioner’s Summons”), which seeks amongst other relief a determination in respect of Magnum’s lack of standing and/or authority and/or abuse of process, be listed to be heard at 10 am on 28 July 2026.

8. Prior to the hearing, I had considered the 4 hearing bundles, the skeleton arguments and the two bundles of authorities. On 28 July 2026 I heard oral submissions from Mr Andrew Ayres KC on behalf of the Petitioner and Matthew Collings KC on behalf of Magnum. I am grateful to counsel for their assistance to the court. On 28 July 2026 I reserved judgment, which I now deliver.

<u>The Petitioner’s Summons</u>

9. The Petitioner’s Summons seeks in effect an order that the summons of Magnum dated 27 January 2026 be struck out or dismissed on various grounds including:

   (1) Magnum’s lack of standing and/or lack of authority; and/or

   (2) As an abuse of the process of the court.

The evidence in support of the Petitioner's Summons

Wang 5

10. The Petitioner's Summons is supported by the fifth affirmation of Siqi Wang ("Wang 5") affirmed in Hong Kong on 8 April 2026. Mr Wang gives an office address in the PRC.

Bad actors

11. Mr Wang says that the term "bad actors" is a convenient shorthand to describe those he says are responsible for defrauding the Company and also continue to disrupt the work of the JPLs. Mr Wang says that the main bad actor is Kam Yuen ("Kam") along with his wife, Zheng Ting Tina ("Tina"), and their associate Chen Bing Chuen ("Albert").

12. Kawaley J in his judgment delivered on 22 September 2022 at [22] stated:

> "So there clearly is a risk of mismanagement flowing from the fact that the best available evidence strongly suggests that the Chief Financial Officer [footnote [5] – He is also an executive director] of the Company has misled the Court and put before the Court a false bank statement pivotal to the matters that the Court was adjudicating at the 13-15 July 2022 hearing."

13. Albert was the Chief Financial Officer. At [80], Kawaley J referred to an exhibit to "Fourth Albert" and said it was very difficult to avoid the conclusion that such document (a bank statement) which resulted in Kawaley J's "29 July 2022 Judgment was in fact a forged document", although he felt it was not strictly necessary for him to make a positive finding to that effect.

14. I should also note that Kawaley J in a subsequent judgment in these proceedings delivered on 31 March 2023 at [1(l)] referred to his judgment delivered on 22 September 2022 and stated:

> "I found that credible evidence had been adduced by the Petitioner to the effect that evidence adduced by the Company through its Chief Financial Officer (an executive director and principal deponent) in the form of a bank statement showing the sale proceeds for the Cellenkos Transaction being deposited into one of the bank accounts had been materially false."

15. Kawaley J adds at [1(m)] that in the 22 September 2022 Judgment he also found that the Petitioner "has a seriously arguable case – and at this stage it is almost an irresistible case – for setting aside the Order I made … on the grounds of fraud." Kawaley J added:

> "This was because the Company's evidence that it had been paid US$664 million on 29 April 2022 and supposedly issued the new shares on 4 May 2022 as consideration for Phase 1 of the Cellenkos Transaction was pivotal to my decision to continue my 15 June 2022 injunction restraining implementation of the EGM Resolutions. This evidence and the lack of any rebuttal from the Company constituted grounds for serious concern about the risk of mismanagement in the Company's affairs."

Judgment of Linda Chan J in Hong Kong

16. Following their appointment, the JPLs have had to deal with difficulties created by the bad actors in this case. On 19, 20 and 22 September 2023, Linda Chan J presided over a preliminary issues trial in Hong Kong and delivered judgment on 8 February 2024. The JPLs argued that since their appointment they have been the only persons with proper authority to take control and manage all the direct and indirect subsidiaries of the Company including what were referred to as the HK Subsidiaries. There was also reference to the Mainland Subsidiaries. Linda Chan J at [4] stated that the issue as to who has proper authority to act for the HK Subsidiaries (and hence the Mainland Subsidiaries) "depends entirely on whether the "Impugned Documents" (as defined in §52 below) were back-dated and therefore void or whether they were made by the directors in breach of fiduciary duties and therefore voidable". The trial on the preliminary issues concerned the validity of the Impugned Documents.

17. At [10] the Judge referred to the founder of Golden Meditech Holdings Limited being Kam. Amongst the other parties were Tina and Albert, who was described as being appointed as a director and Chief Financial Officer of Global Cord Blood Corporation since 2009. From [22] onwards there is reference to what is defined as the Cellenkos Transaction.

18. In section C of the judgment the Judge helpfully sets out her assessment of the witnesses. Chow Tsz Nga Georgia ("Ms Chow"), one of the JPLs, gave evidence for the Plaintiff and the Judge was

plainly impressed by her. The Judge at [65] accepted Ms Chow's evidence in full and where it differed from that of Tina and Albert she preferred Ms Chow's evidence.

19. In respect of Tina's evidence, at [81] the Judge stated that it seemed to her that "Tina's evidence on the 1st Transfer Documents and the 1st Assignment Resolutions is plagued with inconsistencies and is unreliable. In particular, I reject Tina's evidence that the 1st Transfer Documents and the 1st Appointment Resolutions were signed by her in late August 2022 which I find to be untrue." At [82] the Judge added: "I also find that Tina's evidence that she signed the Jiachenhong Resolutions before her resignation as director of North HK on 13 September 2022 to be false … It also affects the general credibility of her evidence."

20. In respect of Albert at [86] the Judge states:

> "In my view, Albert is not a truthful witness and his evidence regarding the date when he signed the resolutions approving the 1st Transfers and the 1st Appointment Resolution in relation to South HK and FFL is unreliable for the reasons advanced by Ms Sit …".

21. The Judge at [86] also rejected Albert's evidence that the relevant resolutions were signed by him in the week of 5 September 2022.

22. Ms Sit had described various aspects of Albert's evidence as "clearly incredible" for various reasons. Ms Sit also submitted that Albert was "highly evasive and defective in his answers" and gave a number of examples. The Judge at [85] found that Albert's counsel did "not advance any submissions to contradict the criticisms made by Ms Sit."

23. At [88] the Judge found that "the Impugned Documents were only created on or after 29 September 2022" (i.e. after the date of the appointment of the JPLs).

24. At [111] the Judge finds that Tina and Albert had already been removed as directors of the HK Subsidiaries by 24 September 2022 and they had no authority to act on behalf of the HK Subsidiaries on or after 29 September 2022 and the relevant documents signed by them "are void for want of authority".

25. At [112] the Judge found that the relevant documents "are void and of no legal effect".

26. In the alternative, even if the relevant documents were signed on 12 or 13 September 2022, at [118] the Judge records that Tina and Albert approved the relevant documents "which had the effect of giving away the HK Subsidiaries for nominal consideration. This was *prima facie* a use of their powers as directors for an improper purpose and constituted a misappropriation of the Plaintiff's assets. The burden is on Tina and Albert to justify giving away the HK Subsidiaries for US$4". At [121], the Judge held that Tina and Albert "have failed to discharge the burden".

27. At [126(6)(b)], the Judge records that Albert's evidence was that he had been asked to sign the relevant documents "at the request of Kam according to his instructions".

28. At [128], the Judge finds that the relevant documents "were procured by Tina and Albert in breach of their fiduciary duties as directors of the Plaintiffs". At [129] the Judge held that even if, contrary to her view, the relevant documents were created and signed before 13 September 2022, "they are voidable as against the Plaintiffs and should be set aside."

29. At [131], the Judge held that "on the evidence before the court, it is clear that CISIL [China In Shine Investment Limited] and MS [Ms Sonoe Muramatsu] were nominees of Kam…".

30. At [134], the Judge held that Tina and Albert were procured by Kam to sign the Impugned Documents.

31. At [146], the Judge stated that it was appropriate to order costs on the higher indemnity basis scale because of "the serious nature of the conduct on the part of Tina, Albert … which involved backdating of the Impugned Documents … the evidence given by Tina, Albert … all of which the court finds to be incredible and unreliable; and … the breach of fiduciary duties on the part of Tina and Albert …".

Judgment of the Hong Kong Court of Appeal

32. Albert and Tina appealed to the Hong Kong Court of Appeal. The appeal was heard on 28 November 2024, and the court delivered a judgment dismissing the appeal on 21 May 2025.

33. At [49], the Court of Appeal did not accept the complaint that the Judge erred in making findings on matters outside the scope of the Preliminary Issues. At [91], the Court of Appeal noted that "[O]n the evidence before the court, Tina plainly had a very close personal and business relationship

with Kam … The suggestion that Tina had no motive to assist Kam to take control of the HK Subsidiaries is unrealistic". The Court of Appeal recorded at [12] that "Tina apparently has an intimate personal relationship with Kam, and has 2 children with him". At [108], the Court of Appeal refers to matters "which amply justified the Judge's view that Albert was not a truthful witness". At [115], the Court of Appeal concluded:

> "In all, Tina and Albert's challenges to the findings of fact made by the Judge are all rejected."

34. At [116], it is recorded that "none of the grounds of appeal raised by Tina, Albert and PIML has merit. Their appeals are dismissed."

35. Albert and Tina applied to the Court of Appeal for leave to appeal to the Court of Final Appeal. The written submissions were received in June and July 2025 and a judgment was delivered dismissing the application on 3 September 2025. The Court of Appeal concluded at [23] as follows:

> "In all, we are not satisfied that leave to appeal should be granted to Tina or Albert, because the questions raised by them do not arise from the CA Judgment, or are not of great general or public importance, or are not reasonably arguable."

36. At [24] the Court of Appeal, in accordance with its well-settled practice, deferred the "or otherwise" limb in section 22(1)(b) of the Hong Kong Court of Final Appeal Ordinance to the Appeal Committee of the Court of Final Appeal.

The judgment of the Appeal Committee of the Hong Kong Court of Final Appeal

37. Undeterred, Tina and Albert applied for leave directly from the Court of Final Appeal.

38. The application was heard and determined on 28 January 2026 with reasons being provided on 12 February 2026 neutral citation [2026] HKCFA 8. At [1], the Appeal Committee (Justices Ribeiro, Fok and Lam) recorded that they were "generally in agreement" with the judgments of Linda Chan J [2024] HKCFI 481 and Chow JA writing for the Court of Appeal [2025] HKCA 326.

39. At [6], they noted that on one side of the dispute is Kam. At [7], reference is made to Tina and Albert who are said to be "associated with Kam". At [10], they record that Yuan Ya Fei, of

Sanpower Group Co Ltd (PRC) and Nanjing Ying Peng Hui Kang Medical Industry Investment Partnership (PRC) is on the other side of the dispute.

40. At [35], they found the complaint that Linda Chan J had wrongly made findings which strayed beyond the scope of the preliminary issues as "wholly unfounded".

41. The Appeal Committee noted Linda Chan's rejection of the credibility of Tina and Albert.

42. At [43], they found Linda Chan J's findings relating to the central issue of backdating "unimpeachable".

43. At [49], the Appeal Committee found that Linda Chan J, for the detailed reasons she gave, was "fully entitled to conclude that it was impossible to find that the transfers purportedly effected by the Impugned Documents were in the interests of GCBC …".

44. The Appeal Committee at [52] noted that they dismissed the application for leave with costs because "fundamentally … none of the applicants' points are reasonably arguable."

Further difficulties in Hong Kong

45. Mr Wang says that although the JPLs were successful in the Hong Kong Court of First Instance, and there was no stay of Linda Chan J's judgment, the JPLs were still unable to take control of the subsidiaries in the PRC. He says that this is because in order to apply to the PRC Courts to change the authorised representative of a PRC entity, the JPLs require (1) the HK companies registry records to be notarised by a China Appointing Attesting Officer; and (2) for an entity called China Legal Service (Hong Kong) Limited ("CLS") to seal the notarised documents and transmit them to the PRC Courts. Mr Wang says that Kam coerced CLS into refusing to seal and transmit the documents. Mr Wang adds that CLS "obliged by refusing to do so ostensibly due to the ongoing Hong Kong proceedings." Mr Wang says that Magnum filed the Magnum Summons just hours after the Court of Final Appeal dismissed the application for leave to appeal in Hong Kong. Mr Wang says that the only possible reason for the sudden filing of the Magnum Summons and the inclusion of a request for a strike out order on 27 January 2026 is that "Kam needed to provide CLS with something else on which it could rely to refuse to seal and transmit the documents. A summons seeking only joinder would be insufficient; however, a summons seeking strike out of the Petition would enable CLS to claim that if the strike out was successful then the JPLs would no longer be

in control of the Company". It is difficult to accept that as a justifiable reason as looking at the issue through Cayman common law eyes the appointment of the JPLs and their authority remains valid unless and until the order appointing them is discharged and they have not been discharged and the Magnum Summons does not even seek their discharge. Be that as it may, it is clear that Kam and his puppets continue to seek to prevent the JPLs getting control of the Company's subsidiaries in the best interests of all relevant stakeholders.

46. At paragraph 97 of Wang 5, it is stated that "Kam clearly has substantial influence in this area" and his apparent connections and influence over CLS are stated. Mr Wang does not paint a pretty picture of Mr Kam and his puppets.

Criticism of Magnum's position

47. At paragraph 114 of Wang 5, it is stated that "Magnum Opus is not in any way seeking to act in the best interests of the shareholders" and gives an example of a letter dated 10 June 2025 from TTA to Campbells and copied to Nelsons Legal. Magnum criticises steps taken by the JPLs to gain control of the subsidiaries in Hong Kong. I agree that Magnum's criticism seems on its face bizarre particularly as it primarily takes issue with the fact that the JPLs obtained the relief on an *ex parte* basis. Mr Wang says that the criticism would be explicable if it was coming from Kam but "[T]he criticism cannot be explained on any basis consistent with Magnum Opus acting with a desire to promote the interest of the Company's shareholders."

48. Campbells responded on 13 June 2025, drawing to TTA's attention that TTA's client (Magnum) had been dissolved and the fact that TTA was in breach of its warranty of authority. Campbells stated:

> "2. It is a matter of public record that the very individuals who are primarily responsible for the fraud which has been committed on the Company are individuals who sit behind Magnum ("Magnum's Principals"). Or to put it another way, Magnum's Principals are the individuals who have stolen considerable sums of money from the Company and who fraudulently transferred away the shares in the Company's indirect subsidiaries (the "Subsidiaries") depriving the Company of its only real asset of value.

3. The JPLs are currently engaged in litigation against Magnum's Principals (and their related entities) in Hong Kong and the PRC with a view to re-constituting the Subsidiaries. The JPLs have recently obtained a number of favorable judgements, and the net is closing in around Magnum's Principals. Indeed, the timing of your letter is telling and conspicuous.

4. It is in the best interests of the Company that the JPLs remain in office until such time as that litigation is complete. No doubt that is known to Magnum's Principals.

5. The complaints you raise about the JPLs obtaining s.42 rectification in Hong Kong are baffling. As best we can tell, at its heart the complaint is that the JPLs have taken steps which are clearly in the best interests of the Company's shareholders, bringing them one step closer to securing the Subsidiaries, but they should not have taken them. Merely to state such a proposition reveals its absurdity. Any rational and objective shareholder of the Company would be delighted with the steps the JPLs have taken. That Magnum seeks to complain about those steps and to criticize the JPLs serves only to demonstrate the true interests your letter seeks to serve: those of Magnum's Principals.

6. Finally, you take issue with the funding that the JPLs have secured, suggesting that they lacked the power to do so. Again, that is just wrong. See paragraph 7d of the Amended Appointment Order.

We have not dealt with each and every issue raised in your letter. Given what we have said above you will no doubt agree that it is simply not necessary for us to do so (although we reserve the right to do so in the event that proves necessary). Your letter is nothing more than a desperate attempt by Magnum's Principals, via Magnum, to seek to further disrupt the JPLs' efforts to re-constitute the Subsidiaries for their own collateral purposes and, ultimately, to seek to avoid being held to account for their actions. The JPLs do not intend to waste further time and costs in dealing with your letter and its vexatious allegations."

49. TTA, with its tail between its legs, responded on Friday, 13 June 2025 as follows:

> "Thank you for your letter and for pointing out the issue with this company's status in the BVI. In the circumstances we withdraw our two letters and apologise unreservedly to you and those in copy for the oversight."

50. Magnum has filed no evidence explaining the position it adopted in correspondence or contradicting the evidence of Mr Wang.

51. At paragraph 160 of Wang 5, it is stated:

> "Ms Wong attempts to convey the impression in Wong 1 that Magnum Opus is independent from the bad actors and that she is the controller. As can be seen from the above, this is false. Magnum Opus has always been under the control of Kam and Albert, and Albert and Tina were beneficiaries. Albert is the sole shareholder and director of Mag Ops, which in turn is the sole shareholder of Magnum Opus. A copy of Mag Ops' 2025 Annual Return confirming Albert's status as director and sole member is exhibited at pages 1642-1659/WS-5. 13D #4 (see 1251-1258/WS-5) confirms that Mag Ops is the sole shareholder and a director of Magnum Opus."

52. Magnum chose not to file any evidence in response. Mr Wang's evidence is therefore unchallenged by any responsive evidence from Ms Wong despite the serious criticisms of her evidence and Mr Wang's evidence of Magnum's control by the main alleged bad actors in this case, outlined in Wang 5.

53. Mr Wang makes reference to an order of Kawaley J dated 30 July 2024, and filed on 7 August 2024 (the "July 2024 Order"). TTA represented PAGAC III Holding VII Limited ("PAG") who sought to be heard on a summons presented by the JPLs in respect of their fees. Mr Wang says in effect that the July 2024 Order required an entity wishing to evidence their standing as a contributory to file evidence but such evidence would have to address the issue of standing and detail and disclose any and all affiliations with the parties listed at Annexure B to the July 2024 Order (the "JPLs' Bad Actors List") and detail and disclose the parties who have a beneficial interest in any shares they hold in the Company. Mr Wang said PAG went quiet and did not pursue its application after the July 2024 Order was made. Mr Wang adds that Magnum has deliberately filed evidence failing to address the JPLs' Bad Actors List or make any attempt to disclose Magnum's connection to the bad actors. I stress that Magnum have filed no evidence seeking to rebut Mr Wang's evidence that Magnum is connected with and controlled by the main alleged bad actors in this case.

54. Mr Wang says at paragraph 22 that "Wise Wealth Consultants Limited … of which Ms Wong is the sole director and is in turn a corporate director of Magnum Opus are all named on the Bad Actor List. "

55. In Section B3 of Wang 5, the establishment of the Magnum Opus International Trust ("MOI Trust") in 2014 is briefly mentioned. It is stated that on 15 December 2014, the Company, as Settlor, entered into a Deed of Settlement (the "Trust Deed") with Magnum as Trustee to establish the MOI Trust. At paragraph 40, Mr Wang says that he will deal with the MOI Trust "and how Magnum Opus is connected to the bad actors, in particular Kam, Tina and Albert, in more detail at Section G below."

56. In Section G of Wang 5, the position of Magnum is indeed dealt with in more detail.

57. Mr Wang refers to various provisions of the Trust Deed and highlights that it is executed by Tina on behalf of the Settlor and her signature is witnessed by Albert. Reference is made to clause 9 and at paragraph 135.4 Mr Wang says:

> "… absent any extension of the Trust Period, the beneficial interest in RSUs transferred irrevocably to the Company on 15 December 2024 and are no longer held subject to the terms of the Trust save insofar as the RSUs are held on bare trust for the Company."

58. At paragraph 138, Mr Wang says that notable among the connected beneficiaries of the Trust Deed are Albert and Tina.

59. Mr Wang justifiably complains that Ms Wong has not addressed the termination of the Trust Deed issue and the fact that the RSUs are held on bare trust for the Company as residuary beneficiary. At paragraph 154, Mr Wang says that it is apparent to him "… that the Magnum Opus Summons was filed without any analysis or thought being given to the actual content of the Deed, consistent with its purpose of interference in the Petition by the bad actors." Mr Wang says at paragraph 159, that the termination of the Trust in December 2024 is consistent with the fact that when TTA initially wrote to the Petitioner and the JPLs in June 2025 Magnum was in fact struck off.

60. At paragraph 160, Mr Wang says that Ms Wong attempted in Wong 1 (which I define below) to convey the false impression that Magnum is independent from the bad actors and that she is the controller. Mr Wang in effect says that in reality Magnum has always been under the control of

Kam and Albert, and Albert and Tina were beneficiaries. He adds that Albert is the sole shareholder and director of Mag Ops Limited which in turn is the sole shareholder of Magnum.

61. I have read all that Mr Wang has had to write in respect of the Trust Deed, the various public announcements, filings, annual reports and the correspondence.

Mr Wang's conclusions

62. Mr Wang says that for the reasons provided he believes that Magnum is being used as a vehicle by the bad actors to interfere with the conduct of the provisional liquidation and the Petition and that:

(1) Magnum did not possess any authority to file the Magnum Summons or to instruct attorneys to seek the relief sought and certainly does not possess any continuing authority to do so;

(2) Magnum should be obliged to file evidence disclosing its and the connection of its beneficial owners with those people who have been and continue to this day to defraud the Company and misappropriate its assets;

(3) Magnum is owned and controlled by, and acting in accordance with the instructions of, the primary perpetrators of the massive (and ongoing) fraud on the Company. Those persons have been found to have falsified evidence in the Grand Court and to have falsified documents and acted in deliberate and dishonest breach of their fiduciary duties to the Company by the Hong Kong Court of First Instance, Court of Appeal and Court of Final Appeal. The Magnum Summons has been filed for wholly improper purposes connected to the continued perpetration of the fraud and is therefore an abuse of process.

Rudd 3

63. For the sake of completeness, I should add that I have also considered the second affirmation of Jennifer Rudd affirmed on 23 April 2026, which simply exhibits what are described as "true copies" of certain correspondence.

No evidence filed in opposition to the Petitioner's Summons

64. Magnum has filed no evidence in opposition to the Petitioner's Summons.

The Magnum Summons

65. In a summons (the "Magnum Summons") filed by Magnum and dated and sealed 27 January 2026 (which is not presently before the court) Magnum seeks an order that the Petitioner issue a summons for directions pursuant to Order 3, rule 11 of the Companies Winding Up Rules ("CWR") and that the Company be treated as the subject-matter of the proceeding and the proceeding be treated as an *inter partes* proceeding between the Petitioner and Magnum as members of the Company. Magnum also seeks that it be joined as a respondent and once joined that the Petition be struck out or dismissed.

The evidence in support of the Magnum Summons

Wong 1

66. The Magnum Summons is, as I say, dated and sealed 27 January 2026. Somewhat unusually and irregularly, the affirmation ("Wong 1") in support was affirmed a few months before that date. It was affirmed on 15 October 2025 in Australia by Wong Wai Kwan ("Ms Wong") who gives an office address in Hong Kong and describes herself as the sole director of Wise Wealth Consultants Limited which she says is a corporate director of Magnum. She says she makes her affirmation "in support of Magnum Opus' Summons herein." The summons at the date of her affirmation had not been dated, filed or sealed. At paragraph 5, she says that Magnum "is the legal owner of 6,608,137 shares in" the Company and adds "its shareholding arises in its capacity as trustee for a share incentive scheme for executives and employees of the Company and its subsidiaries which was established by a Deed of Settlement dated 15 December 2014". Amongst exhibit WWK-1 is the Trust Deed but not the Rules. Ms Wong does not say when Magnum became a shareholder. She does not refer to a share certificate. No extract from the register of members of the Company has been brought to the court's attention. She adds that "the principal relief which Magnum Opus seeks at this stage is simply to be joined as a respondent to the Amended Petition" (paragraph 10).

67. Ms Wong, in Wong 1, at paragraph 7, refers to correspondence which she says "traverses the issues which arise" and makes reference to a chronology compiled by Magnum's attorneys. At paragraph 9, she says that on behalf of Magnum she seeks "the relief sought in the Summons so that proceedings on the Amended Petition are regularised and progress can be made in the litigation." The Petitioner says that the purpose of Magnum's belated intervention is simply to try and prevent the JPLs taking control of subsidiaries in the PRC for the benefit of all stakeholders. At paragraph 10, Ms Wong refers to the JPLs Reports to the Court.

Wong 2

68. Ms Wong in an affirmation affirmed on 7 April 2026 ("Wong 2"), again in Australia, refers at paragraph 2, to her assertion that Magnum "is the legal owner of 6,608,137 shares in the Company and is registered as such". She makes no reference to her failure to refer to the fact that the Trust Period had expired in Wong 1. The director of a corporate director acting as a trustee should be aware of the trust period of the relevant trust, and its terms and any relevant rules.

69. Ms Wong in Wong 2 exhibits what she describes as "a true copy of the Rules of the RSU Scheme" (the "Rules").

70. Ms Wong does not deny that the Trust Period expired in December 2024. She does not, for example, exhibit a deed extending the Trust Period.

71. At paragraph 3 of Wong 2, it is stated that the shareholding arises from Magnum "having been the trustee of The Magnum Opus International Trust ("the Trust") which was established to facilitate the Company's restricted share unit ("RSU") scheme, an employee incentive scheme". She adds that an RSU was a contingent right to receive a share in the Company and the Trust Deed was duly established pursuant to the Scheme. She says there were 14 participants in the Scheme who held RSUs and for whom Magnum held shares. At paragraph 6, she refers to a total of 7,080,000 shares held by Magnum and names the employees with numbers next to their names presumably being their allocated share entitlement.

72. She says that the "RSUs came to fruition and the shares vested in the employees" (paragraph 6). At paragraph 7, she says that the vesting of the RSUs was duly recorded in the Company's Form 20-F SEC filing. She does not say that shares were transferred to all 14 employees.

73. Ms Wong, at paragraph 8, says that immediately after vesting Magnum continued to hold the shares as trustee on behalf of the 14 employees and adds "This further trust arrangement was agreed by the employees and acknowledged by them: at pages 46-59 of my exhibit are true copies of their 14 acknowledgements." Those acknowledgements were all dated 28 March 2018 (i.e. within the Trust Period). They are in identical form. They refer to the Trust Deed dated 15 December 2014.

74. The penultimate paragraph of what Ms Wong describes as the acknowledgement reads:

> "I have also been informed by the Committee that you will hold the CCBC [China Cord Blood Corporation] Shares on my behalf as a Beneficiary subject to the terms and condition (sic) of the Trust Deed until further instructions from the Committee."

75. Ms Wong, at paragraph 9, adds that two employees "took the entirety of their shares, and another employee [unnamed] took some [no number specified] of his shares." At paragraph 10, Ms Wong refers to a scrip dividend of 58,775 shares which says was distributed pro rata and she lists the 12 "remaining employee beneficiaries" with numbers and amounts of shares next to their names which she says "amounts to 6,608,137 shares which Magnum Opus holds as trustee for these 12 beneficiaries." At paragraph 11, she asserts that the beneficiaries "are all aware of and agree with the present action being taken by Magnum Opus" but attaches no independent evidence to support that assertion and Magnum has filed no evidence from the 12 remaining employee beneficiaries confirming the position.

76. Ms Wong does exhibit what she describes as "letters from two other shareholders in the Company which are supportive of the action being taken by Magnum Opus." (paragraph 13)

77. The first letter is stated to be from Open Door Investment Management Ltd ("Open Door") and is dated 13 March 2026. Open Door says, on behalf of Open Door Greater China Master Fund Limited, "which own the shares in the Company, which are held in custody by Deutsche Bank New York" that it is aware that Magnum is "the Trustee of certain employee shares" and "has applied to be joined". It is stated "Open Door writes to confirm that it supports Magnum Opus' application". The number of shares held or its percentage of the overall shares issued is not specified.

78. The second letter is stated to be from PAG and is dated 19 March 2026. It claims to be a shareholder but again no number or percentage is stated. The letter is substantively in the same terms of the Open Door letter. I note that PAG appears at paragraph 101 of JPLs' Bad Actors List.

79. I note from paragraph 29 of the Procedural History to the Petitioner's skeleton argument dated 23 April 2026 ("Procedural History") that it is stated that in 2024 the JPLs sought approval of their fees and four shareholders attempted to intervene, Oasis Investments II Master Fund Limited ("Oasis"), IsZo Capital Ltd ("IsZo"), Open Door and PAG. Magnum did not.

80. At paragraph 30 of the Procedural History, it is stated that Oasis and IsZO were both significant shareholders and could establish standing. It is added that Oasis supports the Petitioner. IsZo also supported the Petition: however, they sold their shares to Oasis in 2025.

81. At paragraph 31 of the Procedural History, it is stated that Open Door could never clearly explain how they allegedly acquired their shares (0.15%). PAG were represented by TTA. The fees application was adjourned to 9 October 2024, having been part heard on 30 July 2024. Directions were given to the effect that Open Door and PAG disclose any and all affiliations to the JPLs' Bad Actors List. PAG did not again attempt to intervene.

82. At paragraph 35 of the Procedural History, it is recorded that on 7 October 2024 Kawaley J determined that Open Door did not have standing as it had not established that it was a shareholder.

83. At paragraph 14 of Wong 2, Ms Wong refers to further *inter partes* correspondence and adds that "the JPLs have produced two further reports."

84. I have, in fairness, read all that Ms Wong has had to write in her first and second affirmations, although strictly speaking they are not before the court in respect of the Petitioner's Summons. Magnum has filed no evidence in respect of the Petitioner's Summons. Again, somewhat unusually Magnum expressly stated that it had no intention of serving any evidence in answer to the Petitioner's Summons and it did not do so. At paragraph 2.2 of Magnum's skeleton argument dated 23 April 2026, it is stated that Magnum "does not intend to serve any evidence in answer in response of the Petitioner's Summons". It is another curious feature of this case that the evidence in Wang 5 has not been disputed by Magnum by way of evidence in opposition to the Petitioner's Summons.

<u>The Trust Deed</u>

85. The Trust Deed is exhibited at WWK-1 and is some 18 pages long. The Company is specified as the Settlor and Magnum, stated to be a Company incorporated in the British Virgin Islands with a

correspondence address in Hong Kong, is specified as Trustee. The Trust Deed "is established to facilitate the Company's RSU Scheme [defined as the restricted share unit scheme of the Company adopted by a shareholder's resolution passed on 18 February 2011, and subsequently amended on 21 August 2014] to recognize and reward, through awards of Restricted Share Units (RSUs) which may eventually vest as shares in the Company, the contribution of the executives and employees of the Company and its subsidiaries (hereinafter referred to collectively as "the Group") to the growth and development of the Group, thereby offering long-term incentives for their continued performance."

86. In Clause 1 (xiv), "Residual Beneficiary" means the person specified in Schedule Five. Schedule Five specifies the Company. In Clause 1 (xv), "Rules" means the Rules of the RSU Scheme from time to time relating to the Company. In Clause 1 (xx), "Trust Period" is defined as "the 10-year period from the date hereof, or such other period as agreed in writing between the Settlor and the Trustee." The "date hereof" is 15 December 2014. There is no evidence that the period was extended by written agreement between the Settlor and the Trustee.

87. Under Clause 2, the proper law is the law of Hong Kong. Clause 3 contains the declaration of trust of the original and any additional property.

88. Under Clause 7, the Trustee holds the capital and income of the Trust Fund upon trust in favour or for the benefit of all or such one or more Beneficiaries subject to the Rules and in accordance with instructions provided by the Company or the Committee (namely such committee delegated with power and authority of the Company to administer the RSU Scheme) by any deed or deeds revocable during the Trust Period or irrevocable and executed during the Trust Period as the Trustee shall appoint.

89. Clause 8(a) provides that until and subject to and in default of any appointment under Clause 7 the Trustee shall pay and apply the income of the Trust Fund to or for the benefit of the Beneficiaries (or the Residual Beneficiary in the event there being no Beneficiary eligible or capable or entitled under the Trust Deed) exclusive of the other or others of them as shall for the time being be in existence and in such shares and if more than one in such manner according to the Rules and instructions provided by the Company or the Committee.

90. Clause 9 concerns "Ultimate Default Trusts" and provides that if the capital and income of the Trust Fund is not wholly disposed of it "shall be held in trust for the Residual Beneficiary".

The Rules

91. The Rules are exhibited to Wong 2 affirmed on 7 April 2026.

92. Section 1 concerns definitions and interpretations. In paragraph 1.1 "Award" is defined as an award of RSUs granted to a Participant pursuant to the Scheme. "Company Nominee" is defined as any nominee or trust designated by the Company as the holding vehicle for Shares, to be held for and on behalf of the eligible Participants (as a class) from time to time. "Grantee" is defined as any Participant as specifically identified in any Notice of Grant who accepts a Grant in accordance with the terms of the Scheme.

93. Section 2 concerns purpose, duration and administration of the Scheme. Paragraph 2.4 states that (subject to paragraph 12) the Scheme shall be valid and effective for a period of 10 years commencing on the Adoption Date (18 February 2011) after which period no further Awards shall be offered or granted "but the provisions of this Scheme shall remain in full force and effect in all other respects."

94. Section 9 of the Rules is entitled "Share Capital". Paragraph 9.1 provides that the RSUs do not carry any right to vote at general meetings of the Company, or any dividend, transfer or other rights (including those arising on the liquidation of the Company). Paragraph 9.2 provides that no Grantee shall enjoy any of the rights of a Shareholder by virtue of the grant of an RSU pursuant to the Scheme, unless and until the shares underlying the RSU are actually transferred to the Grantee.

95. Paragraph 9.3 expressly provides that notwithstanding anything in the Scheme to the contrary, and regardless of whether any relevant RSUs have vested, the Company Nominee "shall take instructions from the Board in relation to any and all rights (including but not limited to voting, dividend, transfer and other rights) it may have as a Shareholder of any and all the Shares held by it, so long as such Shares have not been transferred to any Grantee."

96. Section 12 concerns termination. Clause 12.1 provides that the Company by ordinary resolution in general meeting or the Board may at any time terminate the Scheme "and in such event, no further RSUs may be granted but in all other respect the provisions of this Scheme shall remain in full force and effect in respect of RSUs which are granted during the life of this Scheme and which remain unvested immediately prior to the termination of the operation of this Scheme."

97. Clause 13.10 provides that the Scheme and all RSUs granted under it "shall be governed by and construed in accordance with the laws of the Cayman Islands."

Standing, authority, joinder and abuse of process

98. Having considered the relevant evidence, I now turn to the main issues presently before the court.

99. On standing, authority, joinder and abuse of process the main issues appear to be:

(1) Is Magnum a shareholder?

(2) If it is does it satisfy the "sufficient interest" limb for joinder?

(3) Does Magnum have authority to progress the Magnum Summons?

(4) Is it an abuse of process for Magnum to progress the Magnum Summons?

Law

100. I have considered the relevant law on standing, authority, joinder and abuse.

Standing and joinder

101. Magnum, in its skeleton argument, referred to *Re China Shanshui Cement Group Ltd* 2021 (1) CILR 253 (albeit with "cf" before the reference i.e. compare) and Section C6 of the Financial Services Division ("FSD") Guide. The FSD Guide C6 concerns "Contributories Petitions". C6.2 concerns characterisation of the proceedings. There are references to shareholders.

102. *China Shanshui* concerned a case where alleged misconduct of certain other shareholders was central to the winding up petition on the just and equitable ground and whether those other shareholders should be joined as respondents to the petition. Joinder (as additional respondents) could be justified where alternative relief including an order that shareholders purchase the petitioner's shares was sought so as to ensure such shareholders were bound by the court's order.

It might also be justified where the petitioner claimed that shareholders were implicated in the misconduct alleged in the petition. In *China Shanshui*, it was held that the alleged misconduct of entities defined as CNBM and ACC was central to the re-amended petition and in the circumstances the petitioner (Tianrui (International) Holding Co Ltd) was entitled to join them and it was appropriate that they be made parties to the proceedings. In the circumstances of that case, the delay in making the joinder application was not grounds for dismissing the application.

103. At [31], Segal J delivered his judgment on 27 January 2021 and referred to O.3, r.12(1)(a) and (b) of the CWR and Section C6 of the FSD Guide and at [32] to CWR O.24, r.8(2) and the costs consequences of characterisation. At [33], Segal J conducted a masterful analysis in respect of joinder and characterisation of proceedings. At [34] onwards, Segal J deals with the characterisation issue.

104. On 31 March 2023, in these very proceedings, Kawaley J delivered his judgment in respect of an application by an entity described as GMSCL in the judgment. The Petitioner claimed that GMSCL lacked standing.

105. At [2], Kawaley J referred to the summons dated 18 January 2023 from GMSCL seeking that the Petition be struck out or stayed. At [3], Kawaley J commented that on its face the application was "a surprising one which at first blush appeared to be, as the Petitioner complained, an attempt by the 'Kam camp' to make a desperate last-ditch attempt to prevent the EGM Resolutions being deployed to change control of the Company's Board." The Petitioner contended that GMSCL lacked standing to intervene so on 1 February 2023, Kawaley J directed that "the GMSCL standing issue should be determined first". At [4], Kawaley J stated "By the end of the hearing, it was clear that GMCSL was not entitled to be formally joined as a party …".

106. At [6], Kawaley J noted that "GMSCL's proposed intervention is based on its rights as a creditor of Sanpower Group Co., Ltd." At [10], Kawaley J referred to the following issues:

> "(a) who has standing to be joined as a party in relation to a contributory's just and equitable winding-up in the broadest terms;
>
> (b) whether a party with standing in the broad sense must further demonstrate sufficient interest to seek relief in relation to a claim derived from statute;
>
> (c) whether the Applicant had sufficient interest to be granted discretionary permission to intervene in the exercise of the Court's inherent jurisdiction."

107. At [11], Kawaley J felt bound to accept that "only contributories have standing to be formally joined as parties to a just and equitable winding-up petition presented by a contributory."

108. At [17], Kawaley J added "even a contributory does not have an automatic right to be joined as a party to a contributory's petition even though basic jurisdictional standing to order joinder exists."

109. Kawaley J at [18] stated that it was "necessary to view the "sufficient interest" requirement not by reference to the narrow or idiosyncratic interests of an individual creditor or contributory seeking joinder but by reference to the wider interests of the stakeholders as a whole." Kawaley J referred to [33(n)] of Segal J's judgment in *China Shanshui*.

110. Kawaley J at [19] stated "even where a party has standing to be joined to just and equitable winding-up proceedings in the broad sense, the Court still has to decide whether their joinder is appropriate or justified depending on the nature of the proceedings and the role the additional party may potentially play in them… parties with *prima facie* standing to seek relief also had to show sufficient interest to be permitted to do so in the Cayman Islands".

111. At [22], Kawaley J left the door open to joinder if in the proceedings the court was "required to adjudicate issues of law and fact which directly engage third party rights (e.g. where findings of misconduct on the part of directors are likely to be made)", but on the facts of the case before him found that "GMSCL lacks standing to seek the relief sought in its Summons and no need to consider whether it has sufficient interest properly arises."

112. Kawaley J's comments in respect of the interests of third parties (including directors) resonate with the comments of Segal J in *Uphold Ltd* (Unreported, FSD Cause No 134 of 2022 (NSJ), judgment delivered on 25 April 2024) at [173] to [175].

113. Kawaley J in his 31 March 2023 judgment nevertheless (in case he was wrong in his primary finding that the fact that GMSCL was not a contributory was dispositive of the standing issue) went on from [23] onwards to consider the court's inherent jurisdiction to allow a party with "sufficient interest" to be heard. He accepted that the court's inherent jurisdiction is "broad and flexible" but not "unlimited and unconstrained by either relevant legal principles and/or common sense." Kawaley J also referred to the need to have regard to the extent (if any) of the proposed intervenor's ability "to potentially facilitate the just disposition of the relevant proceedings."

114. Kawaley J at [28] found that "GMSCL lacks standing to intervene in the present proceedings with a view to seeking the relief set out in the GM Summons, or any similar relief" and his "provisional view" was that the GM Summons should be dismissed with costs against GMSCL to be taxed if not agreed on the indemnity basis. The Petitioner had not applied for a strike out on that occasion.

Authority

115. Counsel did not address me in any meaningful detail on the law on authority and no case law on this point was brought to my attention. I accept, as a matter of general principle, that if an entity seeks to bring and progress proceedings that it must have authority to do so. If it is prohibited by contractual or equitable considerations from doing so, to permit such proceedings to continue would *prima facie* amount to an abuse of process which should be stopped by the court under its inherent jurisdiction which I shall refer to briefly below.

116. There are examples in the law reports where lawyers have instituted legal proceedings without proper authority. A relatively recent example of that is the judgment of Admiralty Registrar Davison, sitting in the English High Court King's Bench Division, Business and Property Courts of England and Wales, Admiralty Court, in *Dan Van Minh v Da Guang Tankers (Private) Ltd (in liquidation)* [2026] EWHC 793 (Admiralty). At [13] of the judgment the relevant legal principles are outlined as including:

(1) Solicitors who issue proceedings thereby warrant that they have authority to do so;

(2) As a matter of public policy, it is an abuse of the process of the court for solicitors to issue proceedings in the name of a person who has not given them authority to do so. If they do not in fact have such authority, they are in breach of warranty and may be liable for the costs of such proceedings.

117. The Petitioner's Summons in this case referred to the lack of Magnum's "standing and/or authority" to seek the relief sought in the Magnum Summons. The point in respect of authority is directed at Magnum rather than at its attorneys. I shall return to this point in the determination section of this judgment.

Abuse of process

118. Again, counsel did not address me in any meaningful detail on the law on abuse of process and no case law on the point was brought to my attention. The principles are, however, well established.

119. In *Arnage v Walkers* (FSD unreported judgment delivered on 28 October 2022) at [7(4)] I referred to an important principle in respect of courts guarding against abuse of process:

> "… the courts have an inherent power to strike out proceedings as an abuse of process and this well-established power is one "*which any court of justice must possess to prevent misuse of its procedure in a way which, although not inconsistent with the literal application of its procedural rules, would nevertheless be manifestly unfair to a party to litigation before it, or would otherwise bring the administration of justice into disrepute among right-thinking people"* (*Hunter v Chief Constable of West Midlands Police* [1982] AC 529 and 536 per Lord Diplock)".

120. This principle was not disturbed by the subsequent appeal [2025] CICA (Civ) 17.

<u>The Petitioner's arguments on standing, authority, joinder and abuse</u>

121. On the standing issue, the Petitioner says at page 39 of its 23 page skeleton argument (with cross-references to tab number and pages helpfully included) that its evidence should "be found to establish that Magnum Opus lacks the requisite standing to bring the MO Summons because the Trust has expired. The change of tack in Wong 2 as to the basis for Magnum Opus' shareholding must also fail."

122. The Petitioner says that Ms Wong in Wong 2 now asserts that the trust fund vested in certain officers or directors of the Company but that it nevertheless continues to be held upon the terms of the MOI Trust as set out in the ongoing Trust Deed.

123. The Petitioner suggests that the implication appears to be that despite the Trust Period having expired, Magnum continues to hold the trust fund on trust for those who have a vested interest. If this is the implication, the Petitioner says that it is both legally and factually incorrect.

124. A vested interest may be defeasible or indefeasible (Lewin on Trusts, 20th Ed, 1-049). A vested interest that is subject to an overriding power of appointment can and will be defeated by the exercise of that power (Lewin on Trusts, 20th Ed, 1-051). Ms Wong has provided no evidence to

suggest that valid powers of appointment were exercised so as to vest the interest on the beneficiaries absolutely and indefeasibly. No written instrument evidencing the exercise of the power of appointment has been produced. The letters from the beneficiaries confirm that the shares were held subject to the terms of the Trust Deed. Even presuming the appointment to have been absolute and indefeasible, freed from the overriding dispositive powers contained in the Trust Deed, the shares would from that point have been held on bare trust by Magnum (or on terms separately agreed) and not on the terms of the MOI Trust, being a special trust.

125. Such an indefeasible vesting would also be entirely inconsistent with Wong 1 in which she states that Magnum holds the shares on the MOI Trust which is a discretionary trust containing substantial dispositive powers. The Trust Deed contains a substantial number of overriding powers that would be capable of defeating the vested interest. If it was intended that the interest be vested indefensibly and absolutely then the trust would have been converted to a bare trust or would have been resettled on a new trust (Lewin on Trusts, 20th Ed, 3-064). A bare trustee is a mere passive repository for the beneficial owner, having no duties other than a duty to transfer the property to the beneficial owner or as he directs (Lewin on Trusts, 20th Ed, 1-028).

126. The Petitioner in its skeleton argument adds that, as the alleged vesting that occurred in 2018 purported to vest the entirety of the MOI Trust fund to the beneficiaries now disclosed in Wong 2 (but not previously disclosed in Wong 1) there are only two possibilities (1) the MOI Trust was in fact exhausted and re-settled on new trusts for the specific beneficiaries (Lewin on Trusts, 20th Ed, 3-061 – 3.064) – although this would have required a very clear written instrument indicating the intended exercise of the power of appointment or (2) the shares defeasibly vested in the beneficiaries subject to the terms of the Trust Deed.

127. The Petitioner says that the defeasibility of any vested interest in the MOI Trust by exercise of an overriding power of appointment may have been academic, save that the expiry of the Trust Period of the MOI Trust and the terms of the Trust Deed provide that on the vesting date (being the end of the Trust Period), the shares revert to the Settlor (being the Company). That power to vest the trust property in the Settlor upon the termination of the trust is an imperative power (Lewin on Trusts, 20th Ed, 28-023) and an overriding dispositive power that survives the Trust Period (per the terms of the Trust Deed itself and common law (see Lewin on Trusts, 20th Ed, 28-023 and 29-085). The donee is under an obligation to exercise it, and the court will see that the substance of that obligation is fulfilled, even if it does so late. The dispositive powers contained in the Trust Deed are,

obviously, temporally confined so as to only be exercisable during the term of the trust – if a power is limited in point of time, it cannot be exercised after that time (Lewin on Trusts, 20th Ed, 29-087).

128. The Petitioner says that, on any proper analysis, Magnum holds the shares on bare trust for the Settlor (i.e. the Company). The Company, via the JPLs has called for the shares to be transferred to it. Magnum refused to comply with that direction and is therefore in breach of trust both in failing to transfer the shares to the Company and in pursuing the Magnum Summons in breach of the Company's wishes.

129. The Petitioner, in its skeleton argument adds that even if that analysis is wrong and Magnum continues to hold the shares on the terms of the expired Trust Deed, clause 9.3 of the Rules (1) provides that the beneficiaries have no shareholder rights in respect of the shares until the shares are transferred to them and (2) prohibits Magnum from exercising any shareholder rights without Board approval. This must include instructing attorneys and filing the Magnum Summons, which seeks to intervene in the Petition in its capacity as a registered member to "protect, and protect the value of, this trust property" (Wong 2, paragraph 11). Yet no approval has been sought and, in fact, the Board has demanded that Magnum withdraw the Magnum Summons.

130. The Petitioner says that Magnum, in whatever capacity it purports to be acting, has also failed to provide any evidence to satisfy the second "sufficient interest" limb of the test for joinder.

131. The Petitioner says that Magnum falls well short of the required standard for joinder. Its evidence does not explain why it seeks to intervene almost four years after the Petition was presented, nor does it identify any legitimate interest of the Company or its shareholders that would be advanced by the relief sought in the Magnum Summons.

132. The Petitioner says that the interests of the Company's legitimate shareholders are already more than adequately represented in the proceedings by the Petitioner, which holds approximately 65.4% of the Company's shares, Oasis which holds approximately 15% and the other minority shareholders who have provided evidence in support of the Petitioner. There is therefore no representation gap requiring Magnum's participation.

133. The Petitioner says that Magnum has not demonstrated (or even sought to explain) that its intervention would advance the interests of the Company's shareholders, let alone that it is necessary to ensure those interests are properly represented.

134. The Petitioner adds that Magnum's evidence fails to provide any reasons why the Petitioner should now, four years after it was presented, suddenly be classified as a shareholder dispute between the Petitioner and Magnum. The Petitioner says that this is indisputably not a shareholder dispute. The Petitioner says "it is a case of fraud committed by the very persons who now control and sit behind Magnum Opus" (paragraph 52(a) of the Petitioner's skeleton argument dated 21 July 2026).

135. The Petitioner says that the only possible rationale for Magnum seeking the relief it seeks is to obstruct the JPLs in finally taking control of the PRC subsidiaries of the Company, and the only person who benefits from that outcome is Kam.

136. The Petitioner adds that Magnum has not provided in its evidence any reasons why Magnum would want to act as a contradictor in a Petition where Kawaley J at [25] of his judgment delivered on 8 September 2023 made certain adverse comments against the "former management". The Petitioner says the reason for the failure to explain is obvious – Magnum is controlled by those same persons.

137. The Petitioner says that Magnum is controlled by Albert, acting in the interests of Kam and misusing court procedures by filing applications without anything that could reasonably be considered genuine supporting evidence.

138. At paragraph 2.2 of the Petitioner's Summons, the Petitioner says that the Magnum Summons should be struck out as it is an abuse of the process of the court.

139. In his oral submissions, Mr Ayres stressed the following points, amongst others:

(1) It is plain and obvious that the Magnum Summons should be struck out on the standing or authority points. The Magnum Summons is hopeless and bound to fail for 4 principal reasons: (a) Rule 9.3 (b) the terms of the Trust Deed itself (c) Magnum has no sufficient interest (d) Magnum has no relevant interest to protect and there is no basis to reclassify the winding up proceedings as a shareholder dispute between the Petitioner and Magnum;

(2) Magnum has filed no evidence to suggest that what is stated in Wang 5 is not true. It is unanswered. The Magnum Summons is being pursued for an abusive purpose, namely to seek to thwart the ability of the JPLs to take control of the PRC subsidiaries.

Magnum's arguments on standing, authority, joinder and abuse

140. Magnum says that it is a shareholder and adds at paragraph 3.2 of its 11-page skeleton argument that there can be no *prima facie* objection to the joinder of a significant shareholder who wishes to be joined, especially where the petition is otherwise undefended and cites "cf. Re China Shanshui Cement Group Ltd [2021 (1) CILR 253] and section C6 of the FSD Guide". Unfortunately, the skeleton argument of Magnum contained no tab references to the authorities bundles or the hearing bundles when documents or authorities were referred to. That was unhelpful in my preparation. Skeleton arguments should contain the necessary cross-references to the documents in the bundles placed before the court. Subsequent to the hearing I received an updated copy of Magnum's skeleton argument with some references duly inserted, and I am grateful to the attorneys for the belated production of that document.

141. At paragraph 2.6, Magnum says that there is no longer (and has not been since November 2023) a contradictor in respect of the Petition. The Petitioner appointed a new board, and the new board appointed the litigation steering committee. At paragraph 2.7, Magnum says that the Petition thus became an *ex parte* procedure in which no progress has been made. At paragraph 2.8, Magnum add that the situation is that "the board of the company has abdicated its responsibilities in favour of provisional liquidation."

142. At paragraph 3.3, Magnum asserts that it is well settled that a majority shareholder may not present or pursue a winding up petition because such a shareholder can control the company by appointing a board of its own choosing in a general meeting. Magnum cites *Re Legal Costs Negotiators Ltd* [1999] 2 BCLC 171. This was a decision of the Court of Appeal of England and Wales in respect of an unfair prejudice petition under section 459 of the English Companies Act 1985 in which Mr Collings appeared for the unsuccessful appellants. As counsel you tend to remember the cases you lose, just as a judge at first instance tends to remember the judgments that are reversed by the Court of Appeal. Magnum accepts that the principle in that case does not apply if the majority shareholder cannot, in practice, exercise democratic control, but it says such exception does not apply in the present case because it maintains that the Petitioner has had full control since November 2023.

143. At paragraph 3.4, Magnum says that the complaints are spent and the Petitioner cannot seriously want the Company wound up.

144. Magnum asserts (without having filed any rebuttal evidence to Wang 5) at paragraph 3.6 of its skeleton argument that it is not a wrongdoer or controlled by wrongdoers or associated with wrongdoers. At paragraph 3.7, it adds that the allegation is not accepted but it says in any event it makes no difference:

> "The petition formerly had two contradictors: the former board and the old LSC. The Petitioner says that these former contradictors were wrongdoers, but that did not prevent them from being contradictors. Now that there are no contradictors, there needs to be one – and it would not be inconsistent or inappropriate for the new contradictor also to be an alleged wrongdoer."

145. Magnum at paragraph 3.14 says that the "shares vested in the employees, which is a matter of public record as explained in the Applicant's [Magnum's] lawyers' letter dated 27 November 2025". The letter dated 27 November 2025 put the position as follows:

> "As to the vesting of RSUs we refer to page 94 of the 2018 Annual Report/Form 20-F filed with the U.S. Securities and Exchange Commission which confirms that all outstanding RSUs were fully vested during the fiscal year ended 31 March 2018 (copy attached). At present we understand there are 12 beneficiaries of the RSU scheme and all of their RSUs have vested. In these circumstances we fail to see how the Company can be said to own our client and how the existence of the RSU scheme in any way impedes our client, acting by its board, from seeking to be joined to the proceedings in order to protect its interest as a shareholder of interest."

146. Wong 2 further addresses this issue, and refers to Magnum's continuing trusteeship, and confirms that "all the beneficiaries are aware of and agree with the present action being taken."

147. On the Authority issue, Magnum at paragraph 3.15 says that "This point must be based upon the standing issue and is therefore not correct."

148. Magnum in effect denies any abuse of process.

149. Magnum submits that the Magnum Summons should be allowed to proceed as it is uncontroversial for a significant shareholder to be joined to a just and equitable winding up petition if it wishes to be, and *a fortiori* in the present case where the Petition is otherwise proceeding *ex parte* with no

opposition and no progress having been made or even being contemplated. Magnum adds that the Petitioner has admitted that the Petition is now solely for the purposes of maintaining a provisional liquidation. Magnum say that this "has not been sanctioned by the court, and could not be" (paragraph 5.3 of Magnum's skeleton argument).

150. Magnum concludes its concise skeleton argument at paragraph 5.4 by stating that "a petition by a majority shareholder who can control the company is both incompetent and unnecessary and should not be permitted to proceed any longer".

151. In his oral submissions, Mr Collings stressed the following points, amongst others:

(1) the conditions in section 104(2) of the Companies Act are no longer satisfied;

(2) the majority shareholder (the Petitioner) controls the board and the board should not abrogate its responsibilities to the JPLs;

(3) Magnum is a registered shareholder and should be joined as there is presently no contradictor to the Petition;

(4) Magnum has a sufficient interest;

(5) the issue of authority and instructions to the trustee is not plain and obvious (see Lewin on Trusts, 20th Ed, at 1-039);

(6) even if Magnum is a bad actor, so what? Albert's involvement is not a secret;

(7) the lack of progress of the Petition should be a serious concern;

(8) there is nothing in the Petitioner's Rule 9.3 arguments. In any event, the position is not plain and obvious and the Magnum Summons should not be struck out on this basis.

<u>Determination</u>

152. I now turn to my determination of the Petitioner's Summons. I remind myself that the Petitioner's Summons is an application for a strike out. The position must be plain and obvious before a court can strike out.

Standing and joinder

Magnum is a registered shareholder

153. In respect of the standing and joinder issues it is in my judgment relatively clear that Magnum has formal standing in that it is a registered shareholder. That much appears common ground and the evidence is to that effect.

154. In a case summary prepared on behalf of Magnum by TTA and dated 10 February 2026 it is stated that Magnum "holds approximately 5% of the shares in the Company". It is added that Magnum: "seeks an order that it be joined as a party in any event and, if it is joined, that the Amended Petition be struck out on the basis that Blue Ocean hold the majority of the shares in, and has control of the Company and may not therefore pursue its Amended Petition. This would also result in the discharge of the JPLs."

155. On 2 March 2026, the Petitioner's attorneys (Nelsons) wrote to TTA pointing out that the trust referenced by Ms Wong had expired and asking for an urgent explanation.

156. TTA responded by letter dated 19 March 2026 indicating that the correct position was set out in their letter to Nelsons dated 27 November 2025. In the letter dated 19 March 2026 they put the position as follows:

> "The shares which Magnum Opus held on trust for the benefit of Global Cord's employees were duly vested in those employees during the fiscal year ended 31 March 2018 (the employees thereby becoming entitled to them), twelve of whom decided to leave their shares on trust with Magnum Opus.
>
> Magnum Opus is under an obligation to protect, and to protect the value of, that trust property, and the beneficial owners of the shares in Global Cord of which Magnum Opus is the legal and registered owner agree with the action which Magnum is taking...We will be producing a further Affirmation from Ms Wong addressing the vesting of the shares, and the trust upon which Magnum Opus now holds those shares on behalf of the twelve employees."

157. The Procedural History states at paragraph 4:

> "At that time [no time is identified but at para 1 there is reference to the date 28 April 2022 but para 3 contains no date], approximately 29.7% of the Company's shares were held by Cede & Co (e.g. the Depository Trust) and listed on the NYSE (the "Listed Shareholders"). The only other registered shareholder of any substance was Magnum Opus International (PTC) Limited ("Magnum Opus") as trustee of the Magnum Opus International Trust (the "MO Trust"), who held approximately 5.4% of the Company's shares as part of the Company's employee incentive scheme (the "MO Shares"). Magnum Opus was (and is) controlled by Chen Bing Chuen Albert ("Albert"), who was the CFO and other Executive Director together with Tina. Therefore, the MO Shares were obviously aligned with the Former Board and would not have supported the Petitioner."

158. The Petitioner says that Magnum filed the Magnum Summons in its purported capacity as trustee of the MOI Trust established by the Trust Deed. In fact, the Magnum Summons on its face did not state in what capacity Magnum had filed the Magnum Summons. It did however, at paragraph 3, seek an order that "the proceeding be treated as an *inter partes* proceeding between Blue Ocean and Magnum Opus as members of the Company". It appears that Magnum was relying on its capacity as a member of the Company.

159. Although there was much argument on the issue as to who Magnum holds the shares on behalf of, it appeared relatively clear that Magnum was a registered shareholder.

Magnum does not however have any "sufficient interest"

160. On the evidence before the court, it is however plain and obvious that Magnum does not have any "sufficient interest" that would enable it to be properly joined. It has filed no evidence in opposition to the Petitioner's Summons and even if the court has regard to the evidence it has filed in support of the Magnum Summons such is woefully silent on "sufficient interest". In Wong 1, it is stated that Magnum is the legal owner of a number of shares in the Company but nowhere does Ms Wong assert that Magnum has a "sufficient interest" or say why it should be joined or how that would promote the wider interests of the shareholders as a whole other than asserting at paragraph 9 that the relief is being sought "so that proceedings on the Amended Petition are regularised and progress can be made in the litigation". Paragraph 5 of the Magnum Summons, in the event that Magnum

is joined, seeks that the Amended Petition be struck out or dismissed. So the "progress" envisaged by Magnum is the termination of the proceedings. It is difficult to see how that would be in the best interests of the shareholders. It would simply prevent control being taken of the PRC subsidiaries. That is not in the best interests of the shareholders. It would advance the interests of the principal wrongdoers.

161. Wong 2 contains no details as to what "sufficient interest" Magnum has and how its joinder would advance the wider interests of the shareholders as a whole. She simply says at paragraph 11 that "Obviously, Magnum Opus has to protect, and protect the value of, this trust property."

162. The TTA letter of 27 November 2025, takes the matter no further to support a "sufficient interest". It simply reveals that Magnum is simply seeking to advance its own narrow interests. It openly admits that Magnum is "seeking to be joined in order to protect its interests as a shareholder."

163. Without any evidence to support the submission, Mr Collings sought to argue in effect that Magnum has a sufficient interest because any winding up order would be value destructive and affect the value of Magnum's shares. If that were right then every shareholder would have a sufficient interest.

164. Furthermore, neither the Petition nor the Amended Petition claimed any relief whatsoever against Magnum nor did they portray Magnum as a wrongdoer or central to the wrongdoing of others.

165. I think Magnum's least weak point was that in the absence of Magnum being joined there will be no one to oppose the Amended Petition. The Petitioner's case (unopposed by any evidence from Magnum) is in effect that the main bad actors are hiding behind Magnum. They are using Magnum as a vehicle to disrupt the work of the JPLs. In short, Kam, Tina and Albert are using Magnum as a front. Albert is a shareholder of the Company or at least has control over a shareholder in the Company in addition to Magnum. Serious allegations are made against Albert in the Amended Petition and he can break cover and apply to be joined if he so wishes as indeed could any of the directors against whom serious allegations are made. The fact that others choose not to apply to be joined cannot give Magnum a sufficient interest to justify its joinder.

166. It is plain and obvious that the evidence in respect of Magnum's "sufficient interest" is woefully lacking and on this basis alone the Magnum Summons should be struck out.

167. But that is not the only ground upon which I strike out the Magnum Summons.

168. I also strike it out on the following grounds.

<u>Abuse of process – "lack of authority"; specific instructions to withdraw</u>

169. Mr Ayres in effect submitted that in view of paragraph 9.3 of the Rules and Campbell's letter of 7 March 2026 that Magnum had no "authority" to progress the Magnum Summons and it would be an abuse of process for the Magnum Summons to be permitted to proceed.

170. In response to that powerful submission Mr Collings sought, with all the superficial ingenuity he could muster, to advance three points. Firstly, although even he accepted that the evidence in support was "poor", he said that the shares were not only vested but they were also transferred to the employees who then transferred them back on a totally new trust not pursuant to the Trust Deed or Rules. Secondly, as the 10 year trust period has expired, the Trust Deed is spent and so are the Rules. The Rules stand or fall with the Trust Deed, so in any event the Rules are no longer applicable and cannot be relied upon. Thirdly, a point he described as "nit-picking". He referred to the wording of paragraph 9.3 of the Rules and the reference to "the Board" and submitted the Board have not given any instructions to Magnum. The instruction came from attorneys acting for the JPLs.

171. In addition to being extremely unattractive, these are all bad points.

172. In respect of the first point there is simply no evidence to support it. The evidence is not just "poor" or "thin". It is non-existent. In fairness, I should add that Mr Collings referred to the Minutes of the meetings of the Compensation Committee and the Board of Directors of the Company on 28 March 2018 and described these pieces of evidence as "as good as I get on transfer". Frankly, they go nowhere near evidencing transfer and the type of new trust arrangement Mr Collings referred to. It is a classic superficially ingenious invention of counsel without the evidence to support it. His clients' evidence simply did not support his submission. On closer inspection, it is another hopeless point. In Wong 1 there is no reference to this completely new trust arrangement. Wong 2 does not mention the transfer out and transfer back of the shares. Counsel has plucked this idea out of thin air. There is absolutely no substance to it. Vesting of the RSUs, but no transfer, is referred to at paragraph 7 in Wong 2. It is true that Wong 2 at paragraph 8 makes vague reference to a

"further trust arrangement" but that reference must be considered in the context of the entirety of paragraph 8:

> "Immediately after vesting Magnum Opus continued to hold the shares as trustees on behalf of the 14 employees listed above. This further trust arrangement was agreed by the employees and acknowledged them: at pages 46-59 of my exhibit are true copies of their 14 acknowledgements."

173. No evidence from the signatories of the "14 acknowledgements" has been filed. The letters are all dated 28 March 2018 and all in the same standard form. They are directed to Magnum "as Trustee of the Magnum Opus International Trust". They are purportedly signed by individuals who identify themselves as "Beneficiary of the Magnum Opus International Trust" and the penultimate paragraph revealingly reads:

> "I have also been informed by the Committee that you will hold the CCBC Share on my behalf as a Beneficiary subject to the terms and condition (sic) of the Trust Deed until further instructions from the Committee."

174. The "Trust Deed" is defined earlier as "the Trust which is established by the Deed of Settlement made on 15 December 2014 ("Trust Deed") between CCBC as the Settlor and yourself as the trustee, of which I am one of the Beneficiaries."

175. CCBC is China Cord Blood Corporation which subsequently changed its name to Global Cord Blood Corporation, the Company.

176. The shares were plainly not held by a trustee under a completely new trust.

177. Despite the robust force with which it was delivered, Mr Collings' submission on the transfer out and in and a new trust being established was hopeless, and plainly and obviously wrong.

178. Mr Collings' second submission that as the Trust Deed is spent so are the Rules was equally hopeless and plainly and obviously wrong. Paragraph 7 of the Trust Deed provides in effect that the Trustee should hold the trust fund in favour of the Beneficiaries "subject to the Rules". Paragraph 2.4 of the Rules provide that subject to paragraph 12 (which gives power for early termination – not relevant in this case):

> "this Scheme [defined as this restricted share unit scheme in its present form or as amended from time to time in accordance with the provisions hereto] shall be valid and effective for a period of 10 years commencing on the Adoption Date [defined as 18 February 2011] (the Term), after which period no further Award shall be offered or granted <u>but the provisions of this Scheme shall remain in full force and effect in all other respects</u>. Awards granted during the life of this Scheme shall continue to be valid in accordance with their terms of grant after the end of the Term." (my underlining)

179. The short point is that Rule 9.3 remains in full force and effect notwithstanding the expiration of the Trust Period or the expiration of 10 years from the Adoption Date.

180. Mr Collings least weak point on this Rule 9.3 issue concerned the word "Board", but that point on proper examination is also a plainly hopeless one.

181. Rule 9.3 refers to the need for the Trustee, regardless of whether any of the relevant RSUs have vested, to "take instructions from the Board in relation to any and all rights (including but not limited to voting, dividend, transfer and other rights) it may have as a Shareholder of any and all Shares held by it so long as such Shares have not been transferred to any Grantee". Grantee is defined as including any participant [in turn defined as directors and employees] as specifically identified in any Notice of Grant who accepts a Grant in accordance with the terms of the Scheme. Board is defined as the board of directors from time to time or a duly authorised committee of the Board or such other committee as the Board may authorise. There is no evidence that the shares have been transferred to the 12 entities referred to in Wong 2. Indeed, the evidence is that Magnum still hold them as registered legal holder.

182. By letter dated 7 March 2026, Campbells LLP acting for the JPLs wrote to TTA (acting for Magnum) stating that the Trust Period of the Trust had ended (and did so in December 2024). They say:

> "As a consequence, the Trust's assets – including the shares of the Company – vested in the Residual Beneficiary as from that time. The Residual Beneficiary is the Company. Your client now therefore holds these shares merely as a bare trustee for the Company.
>
> The Company, through the Joint Provisional Liquidators, instructs your client to withdraw the [Magnum] Summons, and to do so immediately."

183. I should state that it is clear on the evidence that at the expiration of the Trust Period in default of appointment and if and so far as not wholly disposed of for any reason, the capital and income of the Trust Fund is held pursuant to clause 9 of the Trust Deed in trust for the Residual Beneficiary namely the Company.

184. The Campbells letter makes no reference to Rule 9.3 of the Rules (presumably because they only became available when exhibited to Wong 2 which was affirmed on 7 April 2026) and does not expressly refer to the Board. The position of the JPLs on behalf of the Company and the Board who absent the order appointing the JPLs would be managing the affairs of the Company is, however, crystal clear. Magnum has no authority to progress the Magnum Summons. There is a specific instruction from the JPLs (who on appointment stepped into the shoes of the Board) to Magnum (the Trustee) in respect of Magnum's rights as a shareholder in the Company. Magnum has been specifically instructed to withdraw the Magnum Summons.

185. Does it matter for the purposes of Rule 9.3 of the Rules that the instructions were provided by the JPLs rather than the Board? I think not.

186. It is trite law (see for example *Re Union Accident Insurance Co Ltd* [1972] 1 WLR 640, [1972] 1 ALL ER 1105, an authority very briefly touched upon by Mr Collings in submissions during the hearing) that, subject to the terms of the order, when provisional liquidators are appointed they assume the powers of the Board subject to certain residuary powers such as the power of the directors to instruct lawyers to appeal the order appointing the provisional liquidators.

187. Let us drill into this point in a little more detail. Plowman J in *Union Accident* dismissed a motion by the company asking for the discharge of its provisional liquidator and a question of costs arose. Plowman J at page 641 in a reserved judgment stated:

> "The respondents' submission was that the appointment of a provisional liquidator automatically put an end to the authority of the company's director's to instruct solicitors and counsel to represent it and that the solicitors purporting to act its behalf were therefore liable to pay the respondents' costs personally. It is of course well settled that on a winding up the board of directors of a company becomes functus officio and its powers are assumed by the liquidator. My attention was drawn to *In re Mawcon Ltd* [1969] 1 W.L.R. 78, where Pennycuick J. stated in effect that the appointment of a provisional liquidator had the same

FSD2022-0108 2026-08-17

> result. No doubt that is so, but it is common ground that notwithstanding the appointment of the provisional liquidator, the board has some residuary powers, for example it can unquestionably instruct solicitors and counsel to oppose the current petition and, if a winding-up order is made, to appeal against the order."

188. Plowman J thought it was helpful to test the matter by considering the other side of the coin, namely to inquire whether the power which the board is said to have lost is one which can be said to have been assumed by the liquidators. If the answer is that it cannot, that may be a good reason for saying the board still retains it. In the case before Plowman J in the English winter of 1971, it was plain that the power to instruct lawyers to discharge the provisional liquidator was not a power that it would be appropriate for the provisional liquidator himself to exercise such power. In the case before me in the Cayman summer of 2026, the power of the Board on behalf of the Company to exercise the power in Rule 9.3 of the Rules to give instructions to Magnum as trustee as to its rights as shareholder can plainly be exercised by the JPLs. Moreover, those powers would include, subject to the express terms of the Order appointing the JPLs, power to instruct Magnum to withdraw the Magnum Summons. It seeks to advance its summons on the basis that it is a shareholder and such involves its rights as a shareholder.

189. For the sake of completeness, I should briefly refer to *Mawcon* at page 92. Pennycuick J felt that it was not appropriate for the judge to have made a provision that "the directors of the company be at liberty to continue the business of the company until June 28, 1961" upon certain undertakings by them. He stated:

> "This order was not in the appropriate terms. Upon the appointment of a provisional liquidator the powers of the directors to act as such are determined and they could not be revived as long as the provisional liquidator remained in office."

Pennycuick J, however, concluded that the court could in effect obtain the same result by using its power under section 263 of the Companies Act 1948 of England and Wales.

190. In the Cayman Islands, the powers of directors and of provisional liquidators are normally the subject of express provision in the court order appointing the provisional liquidators especially in case of "light touch" appointments.

191. In the case presently before the court, Kawaley J, who felt that it was “difficult to imagine a stronger case for appointing provisional liquidators than the present situation” ([27] of his judgment delivered on 22 September 2022) granted the JPLs “full fat” powers. Let us now turn to the express terms of the order made on 22 September 2022 (the “JPL Appointment Order”) which I was also taken to during the hearing.

192. Paragraph 3 of the JPL Appointment Order provided:

> “The JPLs have the power to act jointly and severally in their capacity as provisional liquidators of the Company and have the power to conduct the ordinary, day-to-day business operations of the Company.”

193. In effect, the JPLs are stepping into the shoes of the Board as directors to conduct the operations of the Company. Indeed, Magnum, in effect, recognises this at paragraph 2.8 of its skeleton argument where it asserts that “the board of the company has abdicated its responsibilities in favour of provisional liquidators”.

194. TTA, on behalf of Magnum, in its letter to Campbells dated 10 June 2025 recognised that “A company is to be managed by its board, not provisional liquidators (at considerable expense) – unless there are circumstances justifying provisional liquidation”. TTA was recognising there that a company is managed by the provisional liquidators in place of the board upon the appointment of the provisional liquidators.

195. Under paragraph 4 of the JPL Appointment Order, the JPLs are directed to take steps for the protection and preservation of the value of the Company’s assets, rights and/or property of every description whether held by the Company, its subsidiaries or any other person.

196. Under paragraph 6 of the JPL Appointment Order, amongst other powers, the JPLs are authorised to exercise the “power to do all acts and execute, in the name and on behalf of the Company, all deeds, receipts and other documents and for that purpose to use, where necessary, the Company seal” (paragraph 6(b)). And if that were not enough under paragraph 6(d) “The power to do all other things incidental to the exercise of their powers.”

197. There is reference in the Campbells’ letter dated 13 June 2025 to “paragraph 7d of the Amended Appointment Order”. Counsel did not address me on any Amended Appointment Order and I could

not find it amongst the voluminous papers filed with the court. It does not appear to be listed in the indexes. I assume that if it exists, nothing in it impacts upon the provisions of the JPL Appointment Order I have referred to in this judgment. Upon circulation of an advance draft of this judgment, in accordance with Grand Court Practice Direction No.1/2004, a copy of an amended order dated 20 February 2023 was brought to the court's attention. Nothing in it impacted upon the determinations contained in this judgment.

198. The JPLs plainly have the power on behalf of the Board to issue Magnum, the Trustee, an instruction pursuant to Rule 9.3. To accept Mr Collings' argument would be to give him an unjustified victory of form over substance. It would waste a great deal of cost and time. The view of the JPLs is clear. Magnum should have withdrawn its summons. I do not think I should delay these proceedings further by adjourning to give the JPLs the opportunity to write another letter. Magnum should have withdrawn the Magnum Summons. There was, in substance, a clear lawful instruction to it to withdraw the Magnum Summons. The JPLs on their appointment stepped into the shoes of the Board. Their instruction is an instruction from the Board. Moreover, although this is a separate issue from the Rule 9.3 issue, the Company is the Residual Beneficiary and the Trustee should have acted on its direction.

199. Paragraph 8(e) of the JPL Appointment Order gives the JPLs the "power to do all things as may be necessary or expedient for the protection or recovery of the Company's property at law and in equity …". And under paragraph 8(j) "The power to carry on the business of the Company."

200. Paragraph 9 of the JPL Appointment Order provides:

> "The powers of the Company's Board of Directors are hereby suspended, save insofar as the JPLs may restore any powers of the directors of the Company in writing as the JPLs in their absolute discretion shall see fit having determined that the exercise of such power is necessary to give effect to this Order."

201. At common law and under the JPL Appointment Order, the powers of the Board of Directors were suspended. Under the JPL Appointment Order, the JPLs were given power to restore powers to the directors if they saw fit to do so. The JPLs have not seen fit to restore any powers to the Board of Directors. It is for the JPLs to exercise such powers as they manage the business of the Company. The JPLs have, through their attorneys, instructed Magnum to withdraw the Summons. The failure of Magnum to act in accordance with that instruction is in the circumstances of this case an abuse

of process. It would be a plain and obvious abuse of process to permit the Magnum Summons to proceed. I strike it out on this ground too.

202. During my deliberations, I wondered whether this was a point that should have been taken by the JPLs rather than by the Petitioner. The JPLs were represented in court during the hearing by an attorney although no formal appearance was entered. However, if the Petitioner was taking this fundamental point and the JPLs disagreed it is obvious that their attorney would have stood up, entered a formal appearance and disassociated the JPLs from it. That eventuality was so unlikely that I dismiss it.

203. There was before the court evidence that the JPLs' attorneys had written to the attorneys acting for Magnum instructing them to withdraw the Magnum Summons. The Petitioner was entitled to use that evidence in support of its arguments on lack of authority and abuse. Nothing apart from delay and cost would have been achieved if the court had insisted that the JPLs must take this point themselves by way of formal application. Nothing would be gained apart from further delay and cost if I had insisted on receipt of an affidavit exhibiting a letter from the JPLs expressly referring to Rule 9.3 and stating that they are exercising the powers of the Board. That would be worse than "nit-picking". It would be an affront to reality and would be an unjustifiable triumph of form over substance.

204. As is sometimes the practice adopted by those seeking to defeat strike out applications, Mr Collings, during his oral submissions endeavoured to overcomplicate matters perhaps in the vain hope that the court would conclude that it was not a plain and obvious case for a strike out.

205. One is reminded, in a completely different context, of the wise words of Lord Leggatt in *Potanin v Potanina* [2024] UKSC 3; [2024] AC 1063 at [94] and the problems with expressions such as "killer points" and "knock-out blows". At [95] Lord Leggatt stated:

> "Judges must be astute to distinguish as best they can between cases of what might be called genuine complexity, where issues are raised which can only fairly be resolved after a trial, and attempts to create an appearance of complexity, for example by the service of voluminous evidence and the presentation of arguments that do not actually withstand scrutiny. But to work out that there is no serious issue to be tried is itself an exercise which can require some time."

206. In this case, Magnum did not file "voluminous" evidence. Indeed it tactically chose to file no evidence in response to the Petitioner's Summons and the evidence it filed in support of its own summons can at best be described as "thin" or "woefully inadequate". Nor did Magnum choose to file a detailed complex over-lengthy skeleton argument. On the contrary, it filed a short and tightly worded 11-page skeleton argument in which, again no doubt for tactical reasons, it attempted to keep its powder relatively dry. During his oral submissions, Mr Collings, however, tried his best to inject some complexity by way of fresh submissions (not foreshadowed in Magnum's skeleton argument). In my judgment, that was an attempt to "create an appearance of complexity" (to use Lord Leggatt's words). On close examination, which took some time, it is plain that Magnum, although it kept its powder dry in its skeleton argument, has been firing blanks in its oral submissions.

207. I refer to one example in this case where Magnum has sought to create an appearance of complexity. Mr Collings referred to the direction from the Company (the Residual Beneficiary) to Magnum (the Trustee) and submitted that Magnum had not been asked to convey the trust property to the Company and if Magnum had received such a request it would resist it. Mr Collings, in effect, submitted that this point could not be dealt with in the present strike out context but must be dealt with in a separate trust action to be commenced by the Company and which would be opposed by Magnum. Mr Collings spent some time taking me through extracts from Lewin on Trusts 20th Edition, including paragraph 1-039 and suggesting in effect that this is not a plain and obvious case and the Company should commence a separate trust action. Mr Collings, relying on paragraph 1-039 of Lewin, submitted that it was doubtful how far a trustee is bound to give effect to directions given by an absolute beneficiary other than a direction to transfer the trust property to him or as he directs. Mr Collings submitted that the beneficiary in the case of a trust of land, though absolutely entitled, is not able to give the trustee binding administrative directions. Mr Collings stressed that the position in the case of shares in a company and other assets is less clear. Mr Collings referred to apparently conflicting authorities in England, New Zealand, Hong Kong and Australia. Lewin at 1-039 states:

> "It is however, doubtful how far, <u>in the absence of express provision</u>, a trustee is bound to give effect to directions given by an absolute beneficiary, other than a direction to transfer trust property to him or as he directs". (my underlining)

208. In our case, there is an express provision requiring Magnum as Trustee to act on the instructions of the Board of the Company in the Rules. These instructions have been given. Magnum has been clearly instructed to withdraw the Magnum Summons. Magnum has declined to withdraw the Magnum Summons. To proceed with the Magnum Summons in such circumstances would be an abuse of process.

209. Lewin at 1-039 states that Romer J considered that there was no doubt that a bare trustee must vote shares at a meeting of the company in accordance with directions by the beneficial owner and cites in support "*Kirby v Wilkins* [1929] 2 Ch 444 at 454; and see Re *Castiglione's Will Trusts* [1958] Ch 549 at 558".

210. In the *Kirby* case, Romer J at page 454 stated:

> "Where a shareholder holds shares as a bare trustee for a third person, he is no doubt obliged to exercise his voting power in a way that the cestui que trust desires, but unless and until the cestui que trust has indicated his wish as to the way in which the voting power should be exercised, there is no reason why the nominee should not exercise the voting power vested in him as a trustee. He holds that voting power upon trust, but, unless and until the cestui que trust intervenes, he must exercise it according to his discretion in the best interests of his cestui que trust. Now here I do not know that the company ever actually intervened, either through its board of directors, or by means of the general meeting of its shareholders in the sense of giving any direction to Mr. Wilkins as to how he should vote in respect of these shares, and that being so, unless and until he received any such direction, he was in my opinion justified in voting in respect of them as his conscience dictated in the interests of the company. In point of fact, Mr. Wilkins says that he does not intend in future to exercise this voting power except as he may be from time to time directed, and having regard to the very great difference of opinion which apparently exists in this company between one class of shareholder and another, I think he is very wise in coming to that conclusion."

211. In the *Castiglione* case, Danckwerts J applied *Kirby* and the principles laid down by Romer J.

212. The principles are clear. In the case before this court, Magnum was obliged to act on the instructions and directions of the Company. Its failure to do so and to continue to seek to pursue the Magnum Summons is an abuse of process.

213. In my judgment, no separate trust action is necessary. That would be a further waste of time and money and would play into the hands of the bad actors and their strategy of frustrating and delaying for as long as possible the JPLs getting access to the PRC subsidiaries perhaps in the hope that the funders and the JPLs will give up and the wrongdoers would be successful in their wrongdoing.

214. In my judgment, once you take time to strip away the unnecessary complications put before the court on behalf of Magnum, the position is quite simple and crystal clear. It really is plain and obvious that Magnum should have acted on the Company's instructions and withdrawn the Magnum Summons. It really is plain and obvious that Magnum has no "sufficient interest" to be joined. It really is plain and obvious that to permit the Magnum Summons to proceed, despite the specific instruction to withdraw, would be an abuse of process.

215. There is also a further reason for striking out the Magnum Summons as an abuse of process, which I now turn to.

<u>Abuse of process – improper purpose</u>

Magnum is a front for the main bad actors

216. The Petitioner also submits that it is plain and obvious that the progression of the Magnum Summons would be an abuse of process because it is being used by bad actors to disrupt and obstruct the JPLs in getting control of the PRC subsidiaries. Mr Ayres submitted that Magnum is not acting for a proper purpose. Magnum is merely a vehicle for someone else's purpose and is not pursuing any legitimate interest. Mr Ayres adds that in seeking to shut down the JPLs, Magnum's purpose is contrary to the interests of the Company's shareholders and instead squarely aligned with the interests of the bad actors responsible for the very misconduct which gave rise to the Petition. He submits that the court should see clearly what is occurring, namely the existence of the Magnum Summons and its request for the strike out of the Petition, is a fact which Kam seeks to use to thwart the lawful progress of the JPLs in seeking to take control of the Company's assets in the PRC. Kam is delaying the sealing and transmission of documents by CLS for their use in the PRC Courts. Mr Ayres said that the unchallenged evidence in Wang 5 establishes that:

(1) The central role of Kam, Albert and Tina in the "Cellenkos Transaction", a fraudulent scheme designed to benefit Kam and asset strip the Company;

(2) Albert is the actual controller and owner of Magnum and that Magnum has always been under the control of Kam and Albert, and that Albert and Tina were beneficiaries of the Trust;

(3) Albert was found to have misled the Grand Court of Cayman by putting a falsified bank statement before it in order to prevent changes to the Company's board of directors (upon which he sat as a director with Tina as chairperson);

(4) Albert and Tina were in a scheme to steal the Company's main operating subsidiaries and transfer them to Kam. The JPLs were forced to bring proceedings against *inter alia* Albert and Tina in Hong Kong, in which they were both cross-examined and both found to be untruthful witnesses acting in breach of their fiduciary duties to the Company's subsidiaries;

(5) There has been ongoing coercion by Kam to prevent the JPLs from changing the respective representatives of the Company's PRC operating subsidiaries and thereby take control of them;

(6) Kam's failed attempt to have an entity he controls called Golden Meditech (Shanghai) Company Limited apply for the Petition to be struck out or stayed was refused for lack of standing and found to be part of Kam's improper scheme to prevent the Company's board being changed;

(7) Open Door's attempt to intervene in the Petition was refused.

217. The Petitioner says that Open Door is associated with Kam and by letter dated 13 March 2025 it has confirmed that "it supports" the Magnum Summons.

218. Mr Ayres submits that the principles in *Wiszniewski v Central Manchester HA* [1998] P.I.Q.R. 324 (as applied in *AHAB v Saad Investment Company Limited (in official liquidation)* 2018 (3) CILR 1; and at [2021] (2) CILR 704 at [408]) apply and inferences should be drawn from the failure of Magnum, without any explanation, to give material evidence on the issues in the Petitioner's Summons. The burden is, of course, on the Petitioner to satisfy the Court that its summons should be granted. It is also right that the court should have regard to the evidence before it and when the

Petitioner's evidence is unanswered, where answers could reasonably be expected and there is no or no credible explanation given for the absence of such evidence, reasonable inferences can be drawn.

219. I have no hesitation in finding on the evidence before the court that Albert is behind Magnum and that the current belated intervention by Magnum forms part of a broader pattern of attempts by entities associated with Kam, including Albert, to frustrate the JPLs' efforts to recover and preserve the Company's assets for the benefit of all relevant stakeholders. I agree with Mr Ayres that the Magnum Summons could be struck out as an abuse on this basis alone.

Summary

220. I strike out the Magnum Summons on three main grounds:

(1) Magnum plainly does not have a "sufficient interest" to be joined;

(2) Magnum has been validly instructed to withdraw the Magnum Summons and it is an abuse of process to allow the Magnum Summons to proceed;

(3) The Magnum Summons is plainly being pursued for an improper purpose and it is an abuse of process to allow the Magnum Summons to proceed.

Conclusion

221. For these reasons I grant the substantive relief claimed in the Petitioner's Summons and strike out the Magnum Summons.

Costs

222. I am minded to do so with costs against Magnum on the indemnity basis but if this is not agreed then I am content to consider concise (no more than 5 pages) written submissions to be filed before 3pm on 18 September 2026 and I am minded to deal with any disputed costs issues on the papers without the need for a further hearing.

The Future

223. I express the hope that CLS will in the future not permit Kam and his bad actor associates to manipulate the due legal process any further. I make it crystal clear that there are now no legal proceedings in the Cayman Islands challenging the existence or the authority of the JPLs to act on behalf of the Company.

224. I hope that CLS will now assist the JPLs in their legitimate endeavours to obtain control of the PRC subsidiaries for the benefit of all the legitimate stakeholders of the Company and to bring the wrongdoers to justice.

Order

225. The attorneys should prepare a draft order (agreed as to form and content) reflecting the determinations contained in this judgment and email it to my PA before 3pm on Monday, 17 August 2026.

226. I am grateful to the attorneys for their continuing assistance to the court.

David Doyle

____

The Hon. Justice David Doyle

Judge of the Grand Court