Neutral Citation Number: [2026] CIGC (FSD) 49

Cause No: FSD 2026-0005 (JAJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

BETWEEN:

HAN VISION HOLDINGS LIMITED

Plaintiff

-and-

RAFFLES INTERIOR LIMITED

Defendant

Appearances:	**Ms Blair Leahy KC of counsel instructed by Mr Jordie Fienberg of Campbells LLP for the Plaintiff**
	Mr Tom Lowe KC of counsel instructed by Mr Erik Bodden and Mr Jordan McErlean of Conyers Dill & Pearman LLP for the Defendant
Before:	**The Honourable Justice Jalil Asif**
Heard:	**17 April 2026**
Judgment:	**23 June 2026**

Company law—construction of the articles of association—limitations on power of directors to postpone general meetings—whether directors' postponements of extraordinary general meeting were valid—whether directors or chairman of general meeting have power to prevent member from voting or not to count votes cast

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JUDGMENT

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A. Introduction

1. This case concerns a power struggle between the Plaintiff, which is the majority owner of the Defendant company following a share purchase on 29 July 2025, and the Defendant's board of directors, who assert concerns about the conduct and probity of the ultimate beneficial owner of the Plaintiff, Mr Zheng Nenghuan. Following the Plaintiff's purchase of a majority interest in the Defendant, Mr Zheng was appointed as the Defendant's chairman and as an executive director on 10 September 2025. In this judgment, I use the term "the Directors" to refer to the current directors of the Defendant other than Mr Zheng. The main protagonist on the Directors' side is Mr Ding Hing Hui, who has been a long-standing director of the Defendant and who previously had a financial interest in the Defendant until the Plaintiff's share purchase in July 2025, when he and a number of the Directors sold the shares in the Defendant that they beneficially owned through corporate vehicles.

2. The power struggle has primarily taken the form of three disputes between the Plaintiff and the Directors.

   2.1 Mr Zheng and the Directors disagreed about an investment that Mr Zheng proposed the Defendant should pursue. As a result, on 21 November 2025, the Plaintiff requisitioned an extraordinary general meeting of the Defendant's members to consider resolutions to remove the Directors and to replace them with the Plaintiff's nominees. The meeting was originally called by the Directors for 20 January 2026. However, on 19 January 2026 the Directors postponed the extraordinary general meeting. Mr Zheng complains that the Directors had no power to do so or exercised any power that they did have for improper purposes.

   2.2 A sub-committee of the Directors has pursued an investigation since December 2025 into Mr Zheng's conduct regarding the investment opportunity, apparently in response to the requisition of the extraordinary general meeting. Mr Zheng objects to the investigation. There is a further dispute between the parties as to the extent to which Mr Zheng has cooperated with it.

   2.3 Mr Zheng, through the Plaintiff, challenges the Directors' resolution passed on 9 January 2026 to proceed with a share issue and placement by the Defendant, ostensibly for capital raising purposes. The Plaintiff argues this would have the effect of diluting the Plaintiff's majority shareholding and removing or reducing the Plaintiff's overall voting control and hence would potentially affect the Plaintiff's ability to obtain the passing of the resolutions sought at the extraordinary general meeting. The Plaintiff asserts that this was the Directors' real intention in approving the share issue.

3. The issues raised by the Plaintiff and addressed in this reserved judgment are:

3.1 whether the Plaintiff should have leave to amend its writ in terms of the draft amended writ annexed to the re-amended summons dated 7 April 2026;

3.2 whether the Directors had power to postpone the extraordinary general meeting requisitioned by the Plaintiff, which they have purported to exercise twice so far;

3.3 if the Directors had such power, whether they exercised it for proper purposes, as they contend, or for improper purposes, as the Plaintiff argues;

3.4 whether the Directors have power to postpone the Defendant's annual general meeting for 2026 to a date after 30 June 2026;

3.5 whether the Defendant should be restrained from taking any steps at the extraordinary general meeting and annual general meeting to prevent the Plaintiff's resolutions from being put to a vote, to prevent the Plaintiff from voting on the resolutions or to prevent the Plaintiff's votes from being counted;

3.6 whether the Defendant should be required to disclose to the Plaintiff a copy of an interim report prepared by DLA Piper regarding Mr Zheng and referred to in Mr Ding's evidence;

3.7 whether to order an expedited trial of any issues that remain unresolved as a result of this judgment.

4. In addition, the Defendant seeks an order that the Plaintiff make a payment on account of the Defendant's costs of the Plaintiff's application for the interim injunction, which I discharged following the return date hearing on 4 February 2026.

5. I heard oral argument on 17 April 2026, when the parties were represented by Ms Blair Leahy KC instructed by Mr Jordie Fienberg of Campbells LLP and Mr Tom Lowe KC instructed by Mr Erik Bodden and Mr Jordan McErlean of Conyers Dill & Pearman LLP, and I now return to this matter to give my reserved judgment on the various matters before the court.

B. Summary of the parties' positions

6. In summary, the Plaintiff's argument is that Article 58 of the Defendant's Articles of Association requires that an extraordinary general meeting is held within two months of the date of its requisition. The Plaintiff says that the Directors have breached that requirement by postponing the extraordinary general meeting twice and acted *ultra vires*, with the result that their resolutions to do so are void. The Plaintiff therefore invites me to order that the Defendant must proceed to hold the extraordinary general meeting as soon as reasonably possible. The Plaintiff argues in the alternative that, if the Directors did have power to postpone the extraordinary general meeting for more than two months, then the Directors' decisions to do so were not made for proper purposes and are invalid for that reason.

7. As to the annual general meeting, the Plaintiff contends that the Articles are clear that the annual general meeting for 2026 must be held by no later than 30 June 2026. It is concerned that the Directors may seek to postpone the annual general meeting as well, having regard to their previous conduct and stated intentions in relation to the extraordinary general meeting. The Plaintiff therefore seeks an order that the Directors must hold the annual general meeting by 30 June 2026.

8. The Plaintiff complains that the Directors have indicated that they do not intend to permit the Plaintiff to vote on the resolutions at the extraordinary general meeting or will not count the Plaintiff's votes on the basis that the Directors believe the Plaintiff is subject to a conflict of interest. The Plaintiff seeks an order that the Directors and the chairman of the meeting must allow the Plaintiff to vote on the resolutions and must count the Plaintiff's votes.

9. DLA Piper have apparently prepared an interim report dated 16 March 2026 addressing the Directors' concerns about Mr Zheng's probity and conduct. Mr Ding refers to it in his third affirmation affirmed on 27 March 2026. The Plaintiff relies on GCR O.24, r.10 to demand production of a copy of the interim report.

10. The Defendant makes a number of complaints about the procedural approach taken by the Plaintiff, and objects that the Plaintiff is seeking a summary determination of contested factual issues, without proper pleadings, discovery or cross-examination. The Defendant therefore invites me to refuse to grant any of the relief sought by the Plaintiff for that preliminary reason.

11. As to the substance of the Plaintiff's complaints, the Defendant's responses are:

11.1 Article 64E of the Defendant's Articles of Association gives the Defendant's directors a broad power to postpone any members' meeting, which overrides Article 58.

11.2 The Directors exercised their power to postpone the extraordinary general meeting for a proper purpose or, at least, the Plaintiff cannot show to the standard necessary that the dominant purpose for their decisions to postpone the meeting was an improper one.

11.3 The Defendant resists disclosure of DLA Piper's report on the basis that it is a privileged document and that privilege has not been lost or waived.

12. Finally, the Defendant asserts that it has incurred costs of US $486,860 in the period from 10 January 2026 to 16 March 2026 in response to the Plaintiff's application for an interim injunction, which it describes as *"entirely reasonable"*. It seeks a payment on account of 50% of this figure, namely US $243,430.

C. <u>Relevant factual and procedural background</u>

13. The Plaintiff bought its majority shareholding in the Defendant on 29 July 2025 for HK $33.6 million. On 10 September 2025, Mr Zheng was appointed chairman and an executive director of the Defendant. In early November 2025, a dispute arose between Mr Zheng and the Directors regarding

an investment transaction that Mr Zheng wished the Defendant to enter into. This dispute appears to have been the trigger for the complete breakdown in the relationship between Mr Zheng and the Directors and for the current disputes before the Grand Court. The background to the dispute is described in more detail in my first judgment in this matter: ***Han Vision Holdings Ltd v Raffles Interior Ltd*** [2026] CIGC (FSD) 11 and I do not repeat it here.

14. On 21 November 2025, the Plaintiff requisitioned an extraordinary general meeting to consider resolutions to remove the Directors and to replace them with five named new directors. The Defendant did not promptly act upon the requisition, apparently because the Directors were uncertain whether they should do so. On 5 December 2025, the Hong Kong Stock Exchange ("HKSE"), where the Defendant's shares are listed, wrote to the Defendant's Hong Kong solicitors drawing their attention to Article 58 of the Defendant's Articles of Association, which addresses the ability of members to requisition an extraordinary general meeting and provides that an extraordinary general meeting shall be held within two months of deposit of the requisition.

15. On 5 January 2026, the Defendant published a notice convening the extraordinary general meeting for 20 January 2026. The date fixed for the extraordinary general meeting was one day short of two months from the date of the requisition, and 5 January 2026 was the last date on which the Directors could give valid notice to the members for an extraordinary general meeting on that date. In a circular to members published the same day, the Directors indicated that they considered that the Plaintiff should not be permitted to vote on the resolutions to be considered at the extraordinary general meeting on the ground that the Plaintiff had a conflict of interest due to its control by Mr Zheng. The Directors stated:

> *"The Board considers the resolutions proposed at the EGM is retaliatory measures by Mr Zheng Nenghuan [...]*
>
> *Based on the above, [...] the Board considers the sole objective of the Requisition Notice (especially in relation to resolutions 1-4) is to disrupt and discontinue the ongoing investigation conducted by the Independent Board Committee against Mr Zheng Nenghuan (the controller of the Requesting Shareholder). Hence, Mr Zheng Nenghuan who owns and controls the Requesting Shareholder has clear conflict of interest in these resolutions and is required from the Board's perspective to abstain from voting under resolutions 1-4."*

16. On Friday 9 January 2026, the Directors held a board meeting at which they resolved, against Mr Zheng's opposition, to approve the issue and placement of up to 200 million new shares in the Defendant. The Plaintiff issued its writ and *ex parte* summons in the Grand Court the same day seeking an interim injunction to restrain the Defendant from proceeding with the share issue and placement.

17. On Saturday 10 January 2026, I heard the Plaintiff's application for an interim injunction. The application was made *ex parte* on short notice to the Defendant on the ground that it was urgent to restrain the share issue and placement from taking place in Hong Kong as soon as the morning of Monday 12 January 2026. The Defendant did not attend the hearing but indicated that at the *inter partes* hearing it would contest the continuation of any injunction that was ordered. I granted the interim injunction following confirmation on Sunday 11 January 2026 that the Plaintiff would give an undertaking to adjourn the extraordinary general meeting due to take place on 20 January 2026 to a date after 20 February 2026, by which time I anticipated that the *inter partes* hearing should have been listed and heard. I considered that that undertaking was necessary to hold the ring until the *inter partes* hearing of the summons; otherwise, if the extraordinary general meeting were to go ahead on 20 January 2026 as planned, the Plaintiff would be likely to achieve the removal of the Directors without them having had the opportunity to be heard as to why their decisions regarding the share issue and placement were valid, and why the share issue and the potential dilution of the Plaintiff's shareholding should proceed.

18. On 13 January 2026, following service on the Defendant of the interim injunction order, the Directors called a board meeting for 19 January 2026 to consider postponing the extraordinary general meeting from 20 January 2026 to 20 March 2026. The Plaintiff's attorneys complained about the propriety of the Directors' intended action in light of the terms of the injunction order but were rebuffed by the Directors.

19. The board meeting proceeded on 19 January 2026, and the Directors resolved to postpone the extraordinary general meeting from 20 January 2026 to 20 March 2026 against Mr Zheng's opposition. The Directors' justification for this was said to be that they considered the board required

additional time to prepare some unidentified materials for the Defendant's members ahead of the extraordinary general meeting.

20. On 22 January 2026, Campbells LLP, acting for the Plaintiff, wrote seeking undertakings that the Directors would not further postpone the extraordinary general meeting after 20 March 2026 without permission of the court. In addition, in light of the circular published by the Defendant on 5 January 2026, they sought undertakings that the Directors would put all of the Plaintiff's resolutions to a vote at the extraordinary general meeting and would count all of the Plaintiff's votes on those resolutions. Campbells indicated that they intended to raise the Directors' conduct with the court at the return date hearing and to seek ancillary orders if the Directors failed to give the requested undertakings.

21. On 27 January 2026, Conyers Dill & Pearman LLP, acting for the Defendant, responded asserting that the Directors were entitled to postpone the extraordinary general meeting pursuant to the Defendant's Articles of Association. They rejected the Plaintiff's request for undertakings regarding any future postponement of the extraordinary general meeting and also regarding the conduct of the extraordinary general meeting and the counting of the Plaintiff's votes.

22. On 3 February 2026, the day before the return date on the injunction, the Plaintiff circulated a draft amended summons seeking additional relief reflecting what the Plaintiff had asked the Defendant to provide voluntarily and which the Defendant had refused, namely:

> *"5. Absent the leave of the Court (which the Defendant must apply for on at least 3 clear business days' notice to the Plaintiff):*
>
> *(a) The Defendant (acting by its directors) must not take any steps to postpone or adjourn the EGM called for 20 March 2026;*
>
> *(b) The Defendant (acting by its directors or the chair of the EGM called for 20 March 2026) must not take any steps to prevent the Plaintiff from attending the EGM or voting at the EGM;*
>
> *(c) The Defendant (acting by the Chair of the EGM called for 20 March 2026) shall count all votes cast by the Plaintiff (in respect of each fully paid up share held by the Plaintiff) on every resolution voted on at the EGM."*

23. At the *inter partes* return date hearing on 4 February 2026, the Defendant objected to the Plaintiff seeking the additional relief in paragraph 5 of the amended summons. The Defendant asserted that

paragraph 5 raised a whole range of new issues regarding the Directors' exercise of their discretion to adjourn the extraordinary general meeting under the Defendant's Articles of Association. Mr Lowe, appearing for the Defendant, argued that, notwithstanding that those issues had been the subject of correspondence, the Defendant had not had sufficient time to prepare and file evidence and was not ready to deal with paragraph 5 of the amended summons at the hearing. In addition, Mr Lowe said that, in any event, the court should not conclude that the Directors would exercise their power to postpone the extraordinary general meeting improperly and should therefore refrain from making any order.

24. I was unimpressed by the Defendant's stated unpreparedness to deal with paragraph 5 of the Plaintiff's amended summons given the correspondence between the parties addressing those issues since 13 January 2026. Nevertheless, I felt constrained to accede to the Defendant's complaint that it would be unfair to hear the Plaintiff's application without the Defendant having the opportunity to put evidence before the court and the court hearing full argument. I therefore adjourned that aspect of the Plaintiff's amended summons for hearing on 17 April 2026, as well as the Defendant's application for a payment on account of the costs it had incurred in responding to the injunction application, in respect of which the Defendant had not filed or served any supporting evidence.

25. I handed down my reserved judgment on 16 February 2026: ***Han Vision Holdings Ltd v Raffles Interior Ltd*** [2026] CIGC (FSD) 11. I declined to continue the injunction on the ground that, if I did so, the injunction would be likely to be dispositive of the action because the extraordinary general meeting would proceed and there was a substantial prospect that the Plaintiff would be able to remove the Directors and stifle the Defendant's opposition to the Plaintiff's claim as a result. I accepted the Defendant's argument that, in those circumstances, the Plaintiff needed to satisfy the court that the Directors had exercised their power to issue new shares for an improper purpose to the summary judgment standard and had not done so.

26. On 4 March 2026, I heard the Plaintiff's application for leave to appeal against the discharge of the injunction and associated relief. I gave an extempore judgment at the time, circulated a perfected draft of the judgment for corrections on 12 March 2026, and handed down the finalised judgment

on 16 March 2026: *Han Vision Holdings Ltd v Raffles Interior Ltd (No.2)* [2026] CIGC (FSD) 18. I said at paragraphs 12 and 13:

> *"12. Finally, of relevance at this stage, Ms Leahy seeks that I request or impose some kind of undertaking on the Defendant company not to adjourn the EGM, which is currently fixed for 20 March 2026. I am not willing to do that at this stage. It is inappropriate to try to do that on the hoof without any proper application or evidence on either side, and I will therefore not require any undertaking from the Defendant company in that regard.*
>
> *13. However, it goes without saying, but I will say it anyway, that if it turns out at the hearing on 17 April 2026 that there has been an arguably improper further exercise of the directors' power to adjourn that EGM, then I fully anticipate that Ms Leahy will make submissions to that effect, and I may well make adverse findings against the Defendant's directors as a consequence, depending on the arguments and available evidence at that time. It seems to me that it is worth flagging that as something which, if the EGM does not go ahead on 20 March 2026, then I am sure will be an issue in contention on 17 April 2026."*

27. At 9.00 pm on 15 March 2026 (Singapore time), after my draft judgment was circulated to the parties but before it was handed down, Mr Ding notified the Directors and Mr Zheng of a board meeting to be held on 19 March 2026. The Plaintiff says this was almost the last possible time that would allow adequate notice of the meeting to be given. The board meeting took place at 6.00 pm on 19 March 2026 (Singapore time). The Directors resolved to postpone the extraordinary general meeting from 20 March 2026 to 18 September 2026. Mr Zheng opposed that decision and complains about the way that the meeting was conducted by the Directors. After 10:00 pm on 19 March 2026 (Singapore time), the Defendant published notice of the postponement of the extraordinary general meeting. The Plaintiff says that the very late postponement of the extraordinary general meeting resulted in a wasted trip for many of the Defendant's members and/or their representatives, who had travelled to Singapore to attend and vote on the resolutions at the extraordinary general meeting.

28. On 7 April 2026, the Plaintiff circulated an unsealed re-amended summons. The re-amended summons deleted the claim for relief concerning the extraordinary general meeting in paragraph 5 of the amended summons that I have set out earlier in this judgment, which had become otiose as a result of the Directors' action to postpone the extraordinary general meeting for a second time. The re-amended summons substituted applications for relief in the following terms:

> *"4A. Declarations that:*
>
> *(1) the EGM requisitioned by the Plaintiff under Article 58 of the Defendant's Articles of Association ("the Requisitioned Meeting") pursuant to its first requisition notice dated 21 November 2025 and its second requisition notice dated 22 December*

2025 should have been held by no later than 21 January alternative 22 February 2026;

(2) the resolution purportedly passed at the meeting of the board of directors of the Defendant on 19 January 2026 ("19 January Meeting") to postpone the Requisitioned Meeting to 20 March 2026 was void and of no effect;

(3) the resolution purportedly passed at the meeting of the board of directors of the Defendant on 19 March 2026 ("19 March Meeting") to further postpone the Requisitioned Meeting was void and of no effect,

4B. In the alternative to the relief sought in paragraphs 4A above:

(1) a declaration that the directors of the Defendant acted in breach of their fiduciary duties by approving the resolutions to postpone the Requisitioned Meeting at the 19 January Meeting and/or at the 19 March Meeting; and

(2) orders setting aside the resolutions passed at the 9 January Meeting and the 19 March Meeting to postpone the Requisitioned Meeting.

4C. An order that the Defendant do by 22 April 2026 give notice to its shareholders that the Requisitioned Meeting will be held within 14 days from the date of such notice to consider and to approve the resolutions proposed by the Plaintiff in its requisition notice.

4D. An order that the Defendant do, in accordance with Article 56 of the Defendant's Articles of Association, hold an annual general meeting by no later than 30 June 2026 ("the AGM").

4E. An order that the Company (acting by its directors and/or the chair of the Requisitioned Meeting or the AGM as the case may be) be restrained from:

(1) Delaying, adjourning, postponing, blocking, preventing or otherwise interfering with the convening, holding or the conduct of the Requisitioned Meeting or the AGM;

(2) Delaying, adjourning, postponing, blocking, preventing or otherwise interfering with the consideration and/or resolution of any of the agenda set out in the Plaintiff's requisition notice; and

(3) Blocking, preventing, interfering with and/or rejecting, not admitting and/or disallowing any vote(s) cast at the Requisitioned Meeting or the AGM by the Plaintiff and/or any authorised representative(s) of the Plaintiff and/or any proxy appointed by the Plaintiff.

4F. An order that the Company do forthwith produce to the Plaintiff a copy of the Interim Report of DLA Piper dated 16 March 2026 referred to in the Third Affirmation of Ding Hing Hui pursuant to GCR Order 24, Rule 10 and/or the Court's inherent jurisdiction.

4G. An order that the Plaintiff have leave to amend the Writ dated 9 January 2026 in the form of the draft Amended Writ appended to this Re-Amended Summons.

4G. Further or alternatively to the relief sought above, an order for an expedited trial of any matter raised by the Writ (as amended with leave) which is not determined at the hearing on 17 April 2026."

The Plaintiff served the sealed re-amended summons on 13 April 2026, shortly before the hearing on 17 April 2026.

D. <u>The parties' arguments</u>

D.1 The Plaintiff's submissions

29. Ms Leahy, who appears for the Plaintiff, says that the proposed amendments to the writ reflect developments in the case since the Plaintiff commenced the proceedings and address complaints made by the Defendant about the content of writ. She says that leave to amend should ordinarily be given provided that there is no prejudice to the other party. She submits that the prejudice complained of by the Defendant does not arise as a result of the amendment to the writ, but is relevant, if at all, to the different question whether the court should grant final relief at this stage, as sought by the re-amended summons and based on the amended writ. That separate question is to be determined by reference to whether the court is satisfied that it is fair to consider granting final relief at this stage of the proceedings and involves consideration of whether the court has all the material necessary and appropriate properly to determine the issues in question.

30. On the substance of the dispute, Ms Leahy starts uncontroversially with the proposition that a company's Articles of Association are treated as a contract between the members and are enforceable by the members against each other and also against the company in question. She says that the court will enforce the articles by injunction to restrain a breach or by a declaration of invalidity. However, she accepts Mr Lowe's point that the court will not entertain a complaint about an irregularity in the internal management of a company that is capable of cure by the majority of the members passing an ordinary resolution: see *Hollington on Shareholders' Rights* (10th edition, 2023) at § 4.26. In this regard, Article 165 of the Defendant's Articles of Association requires any amendment etc of the Articles to be approved by special resolution of the members in general meeting. The result of this is that a breach of the Defendant's Articles is not capable of ratification by simple majority vote and requires a special resolution, since it effectively involves a *pro tem* variation of the Articles. Moreover, as the Plaintiff is the Defendant's majority shareholder, it has an effective veto over the passing of any ordinary or special resolution and can therefore prevent any such ratification of the Directors' actions.

31. Ms Leahy submits that the members of a company are its owners. The members' rights and interests are defined by their shares, with decisions taken democratically by the members by specified majority votes from time to time. General meetings of the members give the members control over the composition of the board of directors and the opportunity to influence the direction of the company more generally. The company's articles of association will usually vest the day-to-day management of the company in the directors, as is the case for the Defendant by virtue of Article 101(1). The directors are under a fiduciary duty to promote the collective interest of the members.

32. Article 83(5) of the Defendant's Articles of Association gives the members power to remove and replace directors by ordinary resolution, on which the members can vote at a general meeting. This power to control the identity of the directors is supported by Article 58, which empowers the members to requisition an extraordinary general meeting if they meet certain threshold requirements. Article 58 requires that an extraordinary general meeting requisitioned by the members *"shall be held within two (2) months after the deposit"* of the requisition with the directors, which Ms Leahy says means *"must be held"* in light of Article 2(2).

33. Ms Leahy says that the directors have no power to postpone a general meeting properly convened unless the Articles expressly authorise them to do so: see *Smith v Paringa Mines Ltd* [1906] 2 Ch 193, in which the directors had purported to postpone an annual general meeting where the articles were silent on whether they had power to do so. Kekewich J said at 197:

> *"I entirely agree with the opinion given by counsel that it was not competent for the board to postpone the meeting. The articles provide for the adjournment of a general meeting in certain events, but they contain no provision for postponement. It is said that the directors must be able to postpone the meeting because they may fix the time and place at which the meeting is to be held; but in my opinion that is not so."*

Ms Leahy accepts that, in this case, Article 64E of the Defendant's Articles apparently provides such a power. However, she contends that on a proper construction of the Defendant's Articles of Association, Article 64E does not override Article 58, with the result that the Defendant must still comply with the requirement in Article 58 for the extraordinary general meeting to be held within two months of its being requisitioned.

34. Accordingly, Ms Leahy submits that the Directors were required to hold the extraordinary general meeting on or before 20 January 2026 and had no power to postpone it beyond that date, with the result that the Directors' resolutions of 19 January and 19 March 2026 to postpone the extraordinary general meeting are *ultra vires*, and are therefore void and of no effect. Ms Leahy says that the meeting should be held forthwith to prevent further frustration of the members' fundamental right to determine the constitution of the Defendant's board of directors. She adds that, absent Court intervention, the most recent postponement by the Directors will result in the extraordinary general meeting being held approximately ten months after it was first requisitioned, and even that timeframe assumes there will not be a third attempt by the Directors to delay holding the meeting.

35. In the alternative, Ms Leahy submits that, if the Directors had power to postpone the extraordinary general meeting beyond the two-month period specified in Article 58, then that power is impliedly limited to postponement for procedural reasons and not for substantive ones, with the result that the Directors did not exercise their postponement power for a proper purpose. To support this argument, Ms Leahy relies on the Australian case of Pinnacle VRB Ltd v Ronay Investments Pty Ltd (2000) 35 ACSR 240, where certain members of a company had requisitioned a meeting pursuant to section 249D of the Australian Corporations Act 2001 and, in parallel, other members had called their own meeting pursuant to section 249F of the same Act. The company's articles gave the directors power to postpone a members' meeting for up to 21 days and did not limit the reasons for postponement. The directors postponed the first meeting called by the members pursuant to section 249F, and moved the venue of the second meeting, so that the two meetings could be held one immediately after the other at the same location. However, some of the members attended at the time and place originally scheduled for the first meeting nonetheless and purported to pass resolutions appointing additional directors of the company. The company challenged this by application to the court. Beach J upheld the directors' power to postpone the first meeting. He said at paragraph 41:

> *"41. In my opinion article 12.5 could be said to be procedural in nature in that it simply gives the directors of a company the power to ensure that a general meeting of a company called by minority shareholders, as is clearly the situation in the present case, is held at a time and place convenient to the majority of the members of the company. Indeed, s.249R specifically provides that a meeting of a company's members must be held at a reasonable time and place. Of course,*

> *the power to postpone must be exercised bona fide, and for the benefit of the members not the benefit of the directors."*

36. Ms Leahy argues that the Directors need to justify the first postponement of the extraordinary general meeting because, if they cannot, then the Directors' second postponement of the extraordinary general meeting must fall. She says that they cannot do so, and that this should be the end of the matter. She adds, however, that in any event, the Directors' supposed reasons for the second postponement of the extraordinary general meeting provide no proper justification for that action. She says that, on the contrary, the matters relied upon by the Directors are precisely the sort of issues which could and should have been raised with the members at the general meeting for them to take into account when deciding whether they wanted to vote in favour of the resolutions to replace the Directors.

37. Ms Leahy contends that the Directors' stated reasons for postponing the extraordinary general meeting for the second time were not procedural but were substantive, and therefore are not valid reasons for the exercise of their limited power of postponement: the Directors said that the resolutions sought by the Plaintiff to be passed would deprive the Directors of the time they need to resist the Plaintiff's appeal against my discharge of the interim injunction, to complete the share issue and placement and to complete further investigations into Mr Zheng. The Directors say that the result of the extraordinary general meeting going ahead and the resolutions proposed by the Plaintiff being passed will be that the Directors will be replaced by the Plaintiff's nominees, who will not continue the Directors' plans and the investigation into Mr Zheng, and that this will not be in the interests of the Defendant's members and other stakeholders.

38. Ms Leahy submits that it is not for the Directors to try to determine what is in the best interests of the Defendant in the face of a clear desire by the majority of the Defendant's members to pursue a particular course of action. She refers to the statements of King CJ in ***Paringa Mining and Exploration Co plc v North Flinders Mines Ltd*** (1988) 14 ACLR 587, which I set out later in this judgment. Ms Leahy contends that however well-intentioned the Directors' motives, the Directors are not entitled to use a procedural postponement device in the Articles to frustrate the members' fundamental right to determine the composition of the Defendant's board of directors.

39. Ms Leahy says that a number of the Defendant's members had travelled to Singapore for the extraordinary general meeting due to be held on 20 March 2026 or had given proxies for the meeting and intended to vote in favour of the Plaintiff's proposed resolutions, such that more than 76% of the members would have voted in favour of the Plaintiff's resolutions. Ms Leahy complains that, in the circumstances, the Directors are seeking to implement their plans against the wishes of a majority of the Defendant's members. She says that this is not a proper exercise of the Directors' powers and fails to respect the constitutional distinction between the directors and the members or to recognise that the Defendant's interests are necessarily aligned with the interests of the majority of its members.

40. Further, Ms Leahy seeks to challenge the validity of the Directors' stated reasons for postponing the extraordinary general meeting, which she contends are entirely contrived. In support of this argument, Ms Leahy advances the following criticisms of the Directors and the following arguments:

40.1 Ms Leahy says that the Directors did not give any cogent explanation for the first postponement of the extraordinary general meeting. Their assertion that they needed time to prepare additional materials to be put before the members makes no sense because at no time since they had fixed the extraordinary general meeting had the Directors said that any materials should be provided to members in advance. She says that the Directors have not provided any explanation of what materials they say should have been prepared and provided, and at no time since 19 January 2026, including in the lead up to the postponed extraordinary general meeting due to take place on 20 March 2026, did the Directors refer again to the unspecified materials and neither did they take any steps to prepare or distribute such materials to the members.

40.2 Ms Leahy criticises the cash flow projections recently produced by the Directors to support their position that the share issue was needed to raise capital. She says that they are thoroughly unreliable and are an attempt at an *ex post facto* justification for the Directors' assertions in January 2026 about the Defendant's liquidity position. Ms Leahy's position is that, in any event, it is clear that the Defendant has sufficient projected revenue to continue operating into the third quarter of 2026, substantially undermining the Directors' assertions in January 2026 and thereafter that the Defendant is in dire financial straits such that the share issue and placement need to take place as a matter of urgency.

40.3 She attacks the Directors for the timing of the board meeting on 19 March 2026 and the notice of it that was given. She says the notice was given very late on a Sunday night (after 9:00 pm), at the latest possible opportunity to propose a board meeting while still providing the bare minimum of three clear business days' notice as required by the injunction order. Further, she complains that by scheduling the board meeting for 6:00 pm on the day before the extraordinary general meeting due to take place at 9:00 am the following day, the Directors ensured that there would be no practical opportunity for the Plaintiff or any other shareholder to challenge any decision taken at the board meeting to postpone the members' meeting. Ms Leahy says that this is the same strategy that the Directors deployed in respect of the board meeting called on 19 January 2026 when they postponed the extraordinary general meeting due to take place on 20 January 2026. The Plaintiff's case is that this is a deliberate strategy of the Directors to frustrate the Plaintiff's rights.

40.4 Ms Leahy complains that the Directors conducted the board meeting by Zoom on 19 March 2026 in a manner so as to exclude Mr Zheng from the discussion or to override him, including by: (a) conducting the meeting in English despite knowing that Mr Zheng does not have strong English language skills and refusing his request that the meeting be conducted in Mandarin Chinese despite all Directors speaking that language; (b) refusing to allow Mr Zheng to read from a speaking note he had prepared before the meeting and instead insisting on proceeding directly to a vote, and suspending the meeting when Mr Zheng sought to continue to read his note; and (c) not allowing Mr Zheng to speak before the vote, indicating that Mr Zheng could speak at the end of the meeting but then all leaving the meeting before Mr Zheng had done so and in any event removing any value from the opportunity to speak because the Directors had already voted to postpone the extraordinary general meeting without hearing what Mr Zheng had to say.

40.5 Ms Leahy says that the court should draw the inference that, even before the board meeting on 19 January 2026, the Directors did not intend to proceed with the extraordinary general meeting. She relies on the failure of the Directors to take the practical steps necessary for the meeting to go ahead, including failing to instruct Tricor Investor Services Ltd, the registrar and share information agent responsible for monitoring, administering and counting votes at general meetings, to travel to Singapore from Hong Kong for the meeting, despite Tricor following up with the Directors for instructions.

41. In response to the Directors' argument that if the Plaintiff is granted relief then it is a foregone conclusion that they will be replaced and that both the investigation into Mr Zheng and the share issue and placement will be halted, Ms Leahy says the Directors are right on the first point, but they cannot and the court should not prejudge what the new directors may do, bearing in mind the new directors' fiduciary duties to the Defendant. In addition, she says that the HKSE will be fully able to continue or carry out any investigation into Mr Zheng that it considers to be appropriate. Ms Leahy adds that the new directors will be able to address the question of any necessary capital raising, which it will be in the Plaintiff's interests to support in order to protect its substantial investment in the Defendant.

42. As regards the Defendant's annual general meeting, Ms Leahy relies on Article 56 of the Defendant's Articles, which requires that an annual general meeting is held in each year within six months of the end of the Defendant's financial year, unless a longer period would not infringe the listing rules applicable to the Defendant. It is common ground in this case that the Defendant's financial year end is 31 December. Rule 13.46(2)(b) of the HKSE Listing Rules requires a foreign issuer (such as the Defendant) to lay its annual financial statements before its members at its annual general meeting within 6 months after the end of the financial year. Accordingly, the Defendant's annual general meeting should take place by no later than 30 June in each year.

43. Ms Leahy points out that the Directors' argument that they need to remain in office to complete the investigation into Mr Zheng fails to recognise that all of the Directors, except for Mr Ding, are due to retire by rotation at the next annual general meeting or will have reached the end of their term. She relies upon this as another factor to attack the Directors' position.

44. Ms Leahy does not accept that the DLA Piper interim report is *prima facie* privileged but argues that, even if it is, the Defendant has waived any privilege as a result of deploying it in the proceedings. She refers me to the statement in *Documentary Evidence (15th edition)* by Charles Hollander KC at paragraph 23-09 to that effect. In this regard, the requirement is not just that the party has referred to the document, but that they must have referred to or relied upon the contents of the document: see *Documentary Evidence* at paragraph 23-15.

45. Ms Leahy submits that the Directors rely on the content of the DLA Piper interim report to provide their justification for continuing the investigation into Mr Zheng and, as a result, postponing the extraordinary general meeting. She says that the content of the interim report was published by the Directors in an announcement on the HKSE on 16 March 2026, it is summarised in the written resolutions of the sub-committee conducting the investigation of Mr Zheng, and a copy must have been provided to Mr Ding, who is not a member of the subcommittee but who has referenced the interim report in his third affirmation. Ms Leahy argues that any privilege in the interim report must have been lost as a result.

46. Ms Leahy adds that the attempt by Mr Ding in his affirmation to preserve any privilege by making non-waiver assertions is ineffective. For support for this proposition, she relies on paragraph 23-11 in *Documentary Evidence.*

D.2 The Defendant's submissions

47. Mr Lowe complained in his skeleton argument that the Plaintiff's proposed amendments to the writ go beyond updates to account for recent events and seek to introduce entirely new causes of action, such as that the Directors have acted in breach of their fiduciary duties. However, in his oral submissions, Mr Lowe clarified that the Defendant does not object to the amendments to the writ *per se*, and that the Defendant's complaint is that the remedies now sought based on the amendments are inappropriate at an interlocutory stage.

48. Turning to the question of the proper construction of the Articles of Association, Mr Lowe refers me to the statements of principle in *Arnold v Britton* [2015] UKSC 36, *Ennismore Fund Management v*

__Fenris Consulting__ [2016] UKPC 9 and *__In re Global-IP Cayman Bronzelink Holdings Ltd__* [2021] 1 CILR 228 regarding the approach to be taken by the court.

49. Mr Lowe submits that Article 64E of the Defendant's Articles of Association gives the Directors *"absolute discretion"* to postpone a meeting to another date, time and/or place when it is *"inappropriate, impracticable, unreasonable or undesirable for any reason"* for the meeting to proceed as planned. Mr Lowe points out that there is no stated limit on the length of postponement permissible. In the circumstances, Mr Lowe says that the breadth of the Directors' power to postpone under Article 64E is constrained only by the need that they exercise that power for a proper purpose: provided the Directors believe that they are exercising their power for a proper purpose, they cannot be challenged.

50. Mr Lowe says it is uncontroversial that directors owe a duty to exercise their powers for proper purposes: see *__Eclairs Group Ltd v JKX Oil & Gas plc__* [2015] UKSC 71 and, in the Cayman Islands, *__Tianrui v Shanshui__* [2024] UKPC 36. Mr Lowe contends that the Directors postponed the extraordinary general meeting for proper purposes: on the first occasion because the Directors considered it appropriate to prepare materials for the members to consider when voting; and, on the second occasion, to allow time for the investigation into Mr Zheng to be completed and to cater for the Defendant's difficulties in completing its audit. Relying on *__Cayne v Global Natural Resources plc__* [1984] 1 All ER 225, *__NWL Ltd v Woods__* [1979] 1 WLR 1294 and on my previous judgment in this matter refusing to continue the injunction, *__Han Vision Holdings Ltd v Raffles Interior Ltd__* [2026] CIGC (FSD) 11, Mr Lowe says that the Plaintiff must prove to the summary judgment standard that the Directors' dominant purpose, i.e. a substantial purpose if not the primary purpose, in postponing the extraordinary general meeting was an improper one, calculated to infringe the Plaintiff's rights. This is because, he says, if the extraordinary general meeting were to go ahead, all of the Directors would be removed and the matter would never proceed to a trial. Mr Lowe submits that the Plaintiff has no more than a speculative case and the Plaintiff does not reach the necessary high bar.

51. Separately, Mr Lowe complains that the Plaintiff, at an interlocutory stage of the proceedings, is seeking final, merits-based declarations as to the Directors' power to postpone the extraordinary

general meeting and the annual general meeting and injunctions. He says that determining the relief sought would require the Court to resolve contested issues of fact that are wholly unsuitable for summary determination at an interlocutory stage, in particular, as to the Directors' purposes and state of mind. He says that to do so requires disclosure and cross examination of the witnesses.

52. In relation to the annual general meeting, Mr Lowe says that the six-month period for calling the annual general meeting is not mandatory because the wording of Article 56 implies a power to fix the meeting for a later date if the listing rules allow it. Mr Lowe submits that Article 64E applies to any meeting of the members, and so it applies with equal force to the annual general meeting. He then repeats the point that the Plaintiff must show that the Directors would be acting for improper purposes in considering postponing the annual general meeting, and that the Plaintiff cannot do so on a summary basis.

53. The Plaintiff's request for orders requiring the Directors take certain steps are in the nature of mandatory interlocutory injunctions, Mr Lowe reminds me that I should have regard to the guidance in *National Commercial Bank Jamaica Ltd v Olint Corp* [2009] UKPC 16 and *Zhikun v XiO GP Ltd* (unreported, Mangatal J, 09/06/17) at [101], and should consider:

53.1 whether damages would be an adequate remedy for the Plaintiff if I refuse relief and would the Defendant be able to pay such damages;

53.2 if not, whether damages would be an adequate remedy for the Defendant and would the Plaintiff be able to pay pursuant to its undertaking as to damages;

53.3 if this is doubtful, then I should consider the balance of convenience; and

53.4 if the considerations appear to be evenly balanced then I should seek to preserve the *status quo* and to cause the least irremediable prejudice to one party or the other.

54. Mr Lowe says that the balance of convenience is firmly in favour of allowing the investigation into Mr Zheng to be completed and that I should refuse to grant the Plaintiff any form of injunctive relief.

55. In addition, Mr Lowe complains that making orders as to how the extraordinary general meeting or the annual general meeting should be conducted would involve the court in interfering with the internal management of the Defendant, which he says would be contrary to authority.

56. Mr Lowe does not dispute that Mr Ding makes reference to the DLA Piper interim report in his third affirmation. However, he says that the DLA Piper report is plainly privileged, there has been no waiver of privilege, and its disclosure would prejudice the investigation into Mr Zheng. He invites me to dismiss the Plaintiff's application to be provided with a copy of the interim report.

57. Finally, in relation to the Defendant's application for a payment on account of its costs of the injunction application, in his skeleton argument Mr Lowe relies on the evidence the Defendant has now filed to support its claim. Mr Lowe directs my attention to the guidance to be obtained from ***Al Sadik v Investcorp Bank*** [2019] 2 CILR 585 (Kawaley J) and ***Scully Royalty Limited v Raiffeisen Bank International AG*** [2022] 1 CILR 572 (Court of Appeal), derived from the judgment of Jacob J in the English case of ***Mars UK Ltd v Teknowledge Ltd*** [1999] EWHC 226 (Pat), to the effect that the starting assumption is that a payment on account should be made in order that the successful party is paid a contribution towards their costs as soon as possible, and the fact that time is needed to work out the total amount which may be due is not a good reason to delay ordering a payment on account.

58. In respect of the amount to be paid, Mr Lowe notes that the task of the court is to identify a reasonable estimate of what is likely to be awarded on a taxation, rather than the irreducible minimum. Mr Lowe says that the Defendant's claimed costs are US $486,860.35, which he says are a reasonable and conservative figure given *"the number of hearings, evidence and other matters"*. He invites me to order a payment on account of costs of 50% of the Defendant's incurred costs in the sum of US $243,430.18.

59. Neither Mr Lowe nor Ms Leahy addressed me in their oral submissions on the Defendant's application for a payment on account of its costs of the injunction application. However, in her skeleton argument, Ms Leahy challenges the application for a payment on account of costs on a number of different bases.

59.1 Ms Leahy accepts that there is an implicit presumption that a payment on account should be ordered but argues that the court's discretion is unfettered and that the circumstances may point against making such an order. Ms Leahy draws attention to the statements of Kawaley J in ***Al Sadik v Investcorp Bank B.S.C.*** [2019] 2 CILR 585 and Parker J in ***Neoma Manager (Mauritius Ltd)*** [2025] CIGC (FSD) 4 that the existence of an appeal in respect of the application giving rise to the application for a payment on account of costs may displace the assumption in favour of making an order or, at least, may result in a stay of any order for a payment on account pending the outcome of the appeal. Ms Leahy relies on the Plaintiff's appeal against my decision to discharge the injunction and says that, if the appeal were to be allowed, the costs order would also be likely to be set aside.

59.2 Ms Leahy notes that the Defendant's case is that it is facing a dire liquidity crisis and that, on that assumption, the court should not order a payment on account because there is real doubt that the Defendant would be able to repay Plaintiff if its appeal were to be successful and the costs order, and order for payment on account, were to be set aside.

59.3 On quantum, Ms Leahy complains that more than half of the fees claimed by the Defendant are for lawyers working in Conyers' Hong Kong office, who were not admitted as legal practitioners in the Cayman Islands until 1 April 2026. She says that their fees are therefore irrecoverable, and that the Defendant's reliance on the transitional provisions in relation to the implementation of the Legal Services Act in 2026 do not assist the Defendant on this point.

59.4 Finally, Ms Leahy complains that it is impossible to understand from the material provided by the Defendant how the costs have been incurred and to make sure that there has not been unnecessary duplication between fee earners.

In the circumstances, Ms Leahy suggests that any payment on account, if ordered, should be no more than US $60,000.

E. Discussion and decisions

E.1 Amendment of the writ

60. The general principle is that the court should allow amendments to writs and pleadings if the new matters alleged are fairly arguable, which is a low bar, so that the real questions in controversy can be determined, provided there is no injustice to the other party. There is usually no injustice if the other party can be compensated by costs.

61. In considering the proposed amendments to the writ sought by the Plaintiff in this case, it is important not to elide two different questions: (a) should the Plaintiff be allowed to amend the writ to advance in the proceedings generally and at trial the new claims that it wishes to put forward; and (b) should the Plaintiff be allowed to seek relief at this interlocutory hearing based on the claims sought to be added to the writ by amendment.

62. Dealing first with the question of amendment of the writ for the purpose of the proceedings generally, as I have indicated, Mr Lowe confirmed in his oral submissions that the Defendant no longer objects to the amendments to the writ. I consider that the Plaintiff's proposed amendments to the writ are all properly arguable and I should give the Plaintiff leave to make those amendments. I am satisfied that the Defendant can be adequately compensated in costs – indeed, I strongly suspect that there will not be any or any significant costs consequences in the action generally from the amendments.

63. The question whether the Plaintiff should be permitted to rely on the amended writ at this interlocutory stage to provide the foundation for the relief sought by its re-amended summons is a different question, which comes down to whether the adjourned hearing of the Plaintiff's application for relief can proceed fairly on that basis. In my judgment, it is not unfair to the Defendant to allow the Plaintiff to rely on the amended writ to support its claim for relief, in light of the history of this matter that I have already set out and the content of the evidence that the parties have each filed in respect of the adjourned hearing of the summons. Both sides have had a fair opportunity to adduce

evidence to support their respective positions and to formulate and present their arguments on the points intended to be raised, and they have each been able to do so.

64. I therefore give the Plaintiff leave to amend its writ in the terms of the draft annexed to the re-amended summons dated 7 April 2026 on the usual terms as to costs. I also permit the Plaintiff to rely on the amended writ to support the applications for relief specified in the re-amended summons.

E.2 Did the Directors have power to postpone the extraordinary general meeting on 19 January 2026 and on 19 March 2026?

65. Whether the Directors had power to postpone the extraordinary general meeting beyond 20 January 2026 depends on the proper construction of the Defendant's Articles of Association. Logically, the first question that I must consider is whether it is appropriate to determine this issue now, as Ms Leahy requests, or whether I should merely express a conclusion on an interlocutory basis or, possibly, decline to express any view at all, because the question should be determined at trial, having heard oral evidence and cross-examination of the witnesses, as Mr Lowe submits.

66. I have no doubt that this issue can properly be determined summarily now pursuant to GCR O.14A. I concluded in my first judgment in this case that the Plaintiff had failed to meet the summary judgment hurdle in relation to the Plaintiff's complaints about the Directors' exercise of their power to issue new shares because there were factual disputes as to the Directors' reasons for doing so that could only properly be determined at trial. That is unlike the current issue, which is whether the Directors have power to postpone the extraordinary general meeting. I consider this is apt for determination without a full trial because it involves a pure issue of construction of the Defendant's Articles of Association. There is no additional evidence required and no disputed factual issues that would necessitate cross-examination of witnesses for resolution. I have heard full argument on the point, and a decision now will finally determine the issue. It may also finally determine the entire cause or matter. It is therefore plainly within the scope of GCR O.14A and eminently suitable for summary determination.

67. Turning to the substance of this issue, there is no significant difference in the parties' positions as to the principles to be applied when construing contracts generally and articles of association in particular, drawing on *Arnold v Britton* [2015] UKSC 36, *Ennismore Fund Management v Fenris Consulting* [2016] UKPC 9 and *In re Global-IP Cayman Bronzelink Holdings Ltd* [2021] 1 CILR 228. In summary, and with appropriate modification to reflect the situation when dealing with articles of association of a company:

67.1 The court will identify the objective meaning of the article in question by reference to what a reasonable person, having the background knowledge which would have been available to the members who approved the articles, would have understood the members to have intended by the language they used, using an iterative process to check each suggested interpretation against the terms of the articles and its commercial consequences.

67.2 The meaning of the language used must be assessed in the light of the natural and ordinary meaning of the article, any other relevant provisions of the articles, the overall purpose of the article within the articles as a whole, the facts and circumstances known or assumed by the members at the time the articles were adopted, and commercial common sense, but disregarding the parties' subjective intentions.

67.3 When construing articles of association, the surrounding circumstances will have very limited relevance because they will not be known to persons who become members after the articles have been adopted, and the focus should instead be predominantly on the text of the articles and construing the articles in a way that gives them commercial efficacy.

68. The key provisions in issue in this case are in Articles 58 and 64E. Article 58 states:

> *"58. […] Any one or more Member(s) […] holding as at the date of deposit of the requisition not less than one-tenth of the voting rights, on a one vote per share basis, in the share capital of the Company shall at all times have the right, by written requisition to the Board or the Secretary of the Company, to require an extraordinary general meeting to be called by the Board for the transaction of any business specified in such requisition and add resolutions to the meeting agenda; and such meeting shall be held within two (2) months after the deposit of such requisition. If within twenty-one (21) days of such deposit the Board fails to proceed to convene such meeting the requisitionist(s) himself (themselves) may convene a physical meeting at only one location which will be the Principal Meeting Place, and all reasonable expenses incurred by the requisitionist(s) as a result of the failure of the Board to convene the meeting mentioned aforesaid shall be reimbursed to the requisitionist(s) by the Company."*

Article 2(2) clarifies that *"shall"* should be understood as being imperative, i.e. it means *"must"*:

> *"2.(2) In these Articles, unless there be something within the subject or context inconsistent with such construction: […]*
>
> *(d) the words:*
>
> *(i) 'may' shall be construed as permissive;*
>
> *(ii) 'shall' or 'will' shall be construed as imperative;"*

There is nothing in the subject matter or context of Article 58 that is inconsistent with construing *"shall"* as being imperative. Thus, the overall effect of Article 58, so far as relevant, is that: (a) members with not less than one tenth of the voting rights have the right *"at all times"* to requisition the directors to call an extraordinary general meeting; (b) the directors must convene an extraordinary general meeting that has been requisitioned by the members within 21 days, failing which the requisitioners may convene the meeting; and (c) such an extraordinary general meeting must be held within two months after the requisition is deposited with the directors.

69. On the other hand, Article 64E provides that:

> *"64E. If, after the sending of Notice of a general meeting but before the meeting is held […] the Directors, in their absolute discretion, consider that it is inappropriate, impracticable, unreasonable or undesirable for any reason to hold the general meeting on the date or at the time or place or by means of electronic facilities specified in the Notice calling the meeting, they may change or postpone the meeting to another date, time and/or place and/or change the electronic facilities and/or change the form of the meeting (a physical meeting, an electronic meeting or a hybrid meeting) without approval from the Members. Without prejudice to the generality of the foregoing, the Directors shall have the power to provide in every Notice calling a general meeting the circumstances in which a postponement of the relevant general meeting may occur automatically without further Notice, including without limitation where a number 8 or higher typhoon signal, black rainstorm warning or other similar event is in force at any time on the day of the meeting. […]"*

70. Neither of these two Articles is said to be subordinate to the other. Thus, there is an apparent conflict between the terms of Article 58, which requires that an extraordinary general meeting requisitioned by the members must take place within 2 months of the date of the requisition, and the apparently unfettered discretion given to the Defendant's directors by Article 64E to postpone a meeting of the members that has been called if the directors consider it inappropriate, impracticable, unreasonable or undesirable for any reason to hold the meeting at the scheduled time or place. The question of construction of the Defendant's Articles of Association raised is therefore which of Articles 58 and 64E takes precedence over the other, or how the apparent clash between them can be reconciled.

71. There is no ambiguity in the text of the two Articles, clarification of which would provide an answer to the question of which Article should take primacy. In my view, resolution of this clash within the Defendant's Articles requires consideration of the construction of the Defendant's Articles as a whole, the purpose and role of Articles 58 and 64E within the Articles as a whole and commercial common sense, rather than a detailed textual analysis of the particular words within the two Articles in question.

72. I consider that the answer to this question is provided by considering the constitutional nature of a company, which informs the purpose and role of these two articles and the commercial common-sense view as to their proper interpretation. The starting point, reflecting several centuries of company law, is that a company is owned by its members. It carries on its business for the benefit of the members. The directors' management powers are delegated to them by the members, usually by an express provision in the articles, and the members appoint the directors to manage the company on their behalf and for their benefit. The directors are the servants of the members, not their masters: the directors are subject to a fiduciary duty to exercise their powers for the collective benefit of the members overall. Where there are differences between the members, the directors must exercise their powers in the interests of the majority of the members. Lord Sumption encapsulated the constitutional principle in *Eclairs Group Ltd v JKX Oil & Gas plc* [2015] UKSC 71 at paragraphs 16 and 37:

> *"16. A company director differs from an express trustee in having no title to the company's assets. But he is unquestionably a fiduciary and has always been treated as a trustee for the company of his powers. Their exercise is limited to the purpose for which they were conferred.* ***One of the commonest applications of the principle in company law is to prevent the use of the directors' powers for the purpose of influencing the outcome of a general meeting.*** *This is not only an abuse of a power for a collateral purpose.* ***It also offends the constitutional distribution of powers between the different organs of the company, because it involves the use of the board's powers to control or influence a decision which the company's constitution assigns to the general body of shareholders.*** *[…]*
>
> *37. The second preliminary observation concerns the role of the proper purpose rule in the governance of companies. The rule that the fiduciary powers of directors may be exercised only for the purposes for which they were conferred is one of the main means by which equity enforces the proper conduct of directors.* ***It is also fundamental to the constitutional distinction between the respective domains of the board and the shareholders.*** *These considerations are particularly important when the company is in play between competing groups seeking to control or influence its affairs. […]"* (emphasis added)

73. The second fundamental point to bear in mind is that, because the members do not have day-to-day control of the management of the company, their ability to control the direction of the company and to replace the directors is exercised through their ability to participate in the annual general meeting and to requisition extraordinary general meetings of the members, and to vote on removal and replacement of the directors as necessary. It follows from the constitutional division of responsibilities within a company, in my judgment, that the articles of association must be read so as to protect and support the power of the members to control the directors through general meetings rather than to undermine or thwart that power. As observed by Cotton LJ in ***Isle of Wight Railway Co v Tahourdin*** (1883) 25 Ch. D. 320 (at 329):

> *"It is a very strong thing indeed to prevent shareholders from holding a meeting of the company, when such a meeting is the only way in which they can interfere, if the majority of them think that the course taken by the directors, in a matter which is intra vires of the directors, is not for the benefit of the company."*

The position seems to me to be even stronger where, as here, the Defendant's construction of the Articles would allow the will of the majority of the members to be frustrated or overridden by the directors.

74. Thirdly, Article 58 gives the directors 21 days to call an extraordinary general meeting following receipt of a members' requisition. If the directors fail to do so, the members are entitled to call an extraordinary general meeting themselves. This 21-day period is therefore mandatory in nature. It would be inconsistent if the two-month period for holding the extraordinary general meeting were not also mandatory and could be overridden by the directors by exercising their power in Article 64E.

75. Fourthly, the Defendant's Articles cater for any difficulty with the meeting proceeding on the date fixed within the two-month window and which requires an adjournment past the end of that period by giving the chairman of the meeting power to adjourn or to interrupt a meeting where there are practical difficulties and by giving the members power to agree or direct an adjournment, which they can exercise in their best interests. It is therefore not necessary to construe Article 64E as trumping Article 58 to avoid difficulties of this kind.

76. Fifthly, I have no doubt that, if a hypothetical member had been asked, when Article 64E was added to the Defendant's Articles, whether it was intended to take precedence over Article 58 with the result that the directors could postpone an extraordinary general meeting for as long as they wished and on as many occasions as they wished, and that the members would be practically unable to proceed with a requisitioned extraordinary general meeting if the directors were to do so, they would have answered emphatically that that was not the intention.

77. The decision in *Central Exchange Ltd v Rivkin Financial Services Ltd* [2004] FCA 1546, a case relied upon by Ms Leahy, is consistent with my conclusion. A member of the company holding just over 5% of its shares had called a general meeting pursuant to section 249F of the Australian Corporations Act 2001, which empowered 5% of the members to do so. The resolutions for consideration were to remove and replace the company's directors. The company's constitution gave the directors general power to postpone a members' meeting subject to two mandatory requirements of the Corporations Act, without limitation on the reasons for postponement. The directors resolved to postpone the meeting for just under 4 weeks to the date intended for the company's annual general meeting. In upholding the directors' postponement on grounds including that it was not reasonable to call two meetings within a short period of each other and there was no urgency requiring the meetings to take place earlier than the annual general meeting, Emmett J commented at paragraph 33:

> *"33. […] the circumstances in which it will be proper for the Board to postpone or change the place for a meeting called pursuant to s 249F, or to cancel such a meeting,* ***will be limited and such powers must, of necessity, be exercised extremely sparingly so as not to frustrate the right conferred by s 249F****. If the Directors change the place, as well as the time, they must have some justification for doing so. The Directors cannot arbitrarily postpone or change the place for the meeting. […]"* (emphasis added)

78. I accept Ms Leahy's submission that the judgment of the Supreme Court of South Australia in *Paringa Mining and Exploration Co plc v North Flinders Mines Ltd* (1988) 14 ACLR 587 provides a useful illustration of the approach of that court to a similar situation to that before me. Paringa, which owned just over 49% of the shares in North Flinders, requisitioned a members' meeting for the express purpose of removing certain of North Flinders' directors and to prevent an attempted takeover of Paringa by North Flinders. The first instance judge granted an injunction to restrain the meeting from going ahead. Paringa appealed. King CJ held, at 590-591:

> *"After careful consideration of the arguments which have been addressed, I have reached the conclusion that his Honour was wrong in his view of what constitutes the status quo in the circumstances. The action concerns an alleged abuse of power by the directors of North Flinders in taking the decisions to make the takeover offers and the rights issue which are impugned. The status quo has been preserved by the injunction granted by the Full Court which prevents the implementation of those decisions of the directors, pending the outcome of the litigation which challenges their right to take and implement those decisions.*
>
> *It seems to me that his Honour's order, having the effect as it does of preventing the shareholders of Paringa from exercising such rights as shareholders possess at general meetings to control the affairs of North Flinders and, in particular, to alter the composition of the board, does not protect or preserve the status quo but rather disturbs it in quite radical respects. The relevant status quo, as it seems to me, includes the right of the shareholders of North Flinders to vote at a lawfully convened general meeting on any business which is lawfully before it and, in the present circumstances, includes the right of shareholders of North Flinders to vote at the extraordinary general meeting which has been requisitioned on the business for which that meeting has been requisitioned, namely the proposed changes in the composition of the board. To deprive the shareholders of North Flinders, and in particular the controlling shareholder, Paringa, of that right, seems to me to be not a preservation of the status quo but rather a disturbance of it.*
>
> *The first ground upon which Mr Hulme QC, who appeared before us for North Flinders, supported the order which was made by his Honour, is that North Flinders have been restrained by injunction from implementing its takeover and rights issue decisions. […]* ***The argument assumes that it is a proper exercise of the powers of the directors to fix the meeting at the latest permissible time and to use the period so provided for the purpose of implementing decisions against the expressed wishes of the controlling shareholders. This is not the purpose, in my view, for which the two month period is allowed by the Code.***
>
> ***The controlling shareholder, or majority shareholders, are entitled to use their voting power to exercise such control of the company as is permitted to shareholders in general meetings. That power is exercised, of course, by means of a general meeting of the shareholders. A reasonable period of time is permitted after requisition to enable the meeting to be arranged, that is to say, to put in place the mechanism whereby the shareholders can exercise their power. The directors are, of course, free to exercise their powers during that interval, but the reality is that from the time a meeting is requisitioned for the purpose of replacing them, especially where it is requisitioned by a controlling shareholder, they are caretaker directors.*** *If they choose to make use of the interval to circumvent the known wishes of the controlling shareholder who seeks to replace them, they cannot complain, in my view, if circumstances supervene to prevent them from so doing.*
>
> *I know of no principle which requires the court to intervene to protect the directors' freedom to act in that way. The injunction against North Flinders was granted to preserve the status quo, pending a decision of the action.* ***If its incidental effect is to deprive the directors of time which they would otherwise have had to implement their plans against the wishes of the controlling shareholder, no wrong or injustice is thereby done to them, nor is there any infringement of their legal rights. Still less does the injunction cause any wrong or injustice to or infringe the legal rights of the company, the controlling shareholder of which is opposed to the implementation of the directors' plans."*** (emphasis added)

At page 592, King CJ continued:

> *"[…] In general the shareholders are entitled to exercise their powers at a general meeting without interference from or intervention by the court.*

> *I can see no sound ground upon which Paringa can be denied the general meeting which it has lawfully requisitioned. Paringa is presently engaged in costly litigation designed to prevent the present directors from pursuing a course of action which is contrary to Paringa's wishes. Paringa has the legal right, the impugned order aside, to exercise its voting power to install directors who may consider that it is in the interests of the company to abandon the course of action which has produced the litigation. If that ensues, the result might be the termination of the litigation.*
>
> *The deferral of the requisitioned meeting denies to Paringa the opportunity to exercise that legal right and forces it to pursue legal action to bring about a result which it might be able to bring about indirectly by the exercise of its legal right to elect directors at the general meeting. I can see no legal justification for putting Paringa in that position. Neither can I see any legal justification for depriving Paringa or any other shareholder of North Flinders of the opportunity to vote on the resolutions proposed in the notice of requisition."*

White J and O'Loughlin J agreed with King CJ. O'Loughlin J added at 593:

> *"For the respondents there was a 'cri de couer' that to allow this appeal would thwart the defence mounted in law by the defendants in the substantial action; the same defence, so it was argued, if mounted at a shareholders' meeting, would fail because of the voting strength of the appellant and its ability to force through a change in the composition of the board of directors of North Flinders.*
>
> *I am of the firm opinion that this is a well-known and regular occurrence in the corporate world. So long as the strict and formal requirements of the Code relating to the requisitioning, convening and conducting of meetings and the recording of voting at those meetings is adhered to, the history of company law requires this court to reaffirm the principle that shareholders, ignoring always the individual and group strengths of shareholders, control the destiny of their company."*

79. I therefore conclude that, as a matter of general principle, the power to postpone members' meetings given to the directors in Article 64E of the Defendant's Articles must be construed so as to be subject to Article 58, and not so as to enable the directors to postpone an extraordinary general meeting beyond the specified period of two months from the date of its requisition. To endorse Mr Lowe's construction of the Defendant's Articles to allow the directors to postpone any members' meeting in their absolute discretion would frustrate the constitutional protection of the members and would invert the proper distribution of power between the members and the directors, contrary to the basic nature of a company. Further, if Mr Lowe's submission were correct that, provided the directors have an honest belief that holding the members' meeting is *"inappropriate, impracticable, unreasonable or undesirable for any reason"*, they have an unchallengeable power to postpone a members' meeting in their "absolute discretion", that would allow the directors, who have no economic interest in the company arising from that role, to entrench their position and to take complete control of the company from the members, without the members having any ability to obtain recourse or to wrest

control of the company back from the directors. This would be contrary to the basic nature and purpose of a company and, in my view, must be wrong.

80. It follows from my conclusion on the construction of the Defendant's Articles of Association that the Directors did not have power on 19 January 2026 to postpone the extraordinary general meeting that was due to take place on 20 January 2026. In purporting to do so, the Directors were acting *ultra vires*, with the effect that their resolution is void. This defect could only conceivably be cured by a special resolution of the members ratifying the Directors' resolution. However, this will not happen in practice because the Plaintiff owns a majority of the Defendant's shares and will inevitably vote against any such ratification. The internal management rule therefore does not arise.

81. Secondly, the Directors' decision on 19 March 2026 to postpone the extraordinary general meeting from 20 March 2026 to 18 September 2026 was also *ultra vires* for the same reasons. In addition, the validity of this resolution is dependent on the Directors' first resolution to postpone the extraordinary general meeting being valid, which it was not. The second resolution fails for that reason too.

82. In the circumstances, the Directors must proceed to hold the extraordinary general meeting as soon as reasonably practicable and convenient for a majority of the Defendant's members and must proceed to consider and allow the members to vote on all of the resolutions requisitioned and included on the agenda for the extraordinary general meeting.

E.3 If the Directors had power to postpone the extraordinary general meeting, did they exercise that power for an improper purpose?

83. In light of my conclusion on the ability of the Directors to postpone the extraordinary general meeting, this issue is no longer live. Nevertheless, in case the matter is pursued before another tribunal, I briefly indicate my conclusions on this point. I consider that Article 64E is intended to give the Defendant's directors power to address procedural issues concerning the effective holding of a members' meeting, not to allow them to rely on substantive reasons for postponing the meeting. I reach that conclusion for the following reasons.

84. Article 64E is in a section of the Articles entitled *"Proceedings at General Meetings"*, containing Articles 61 to 65. Those Articles address various aspects of the procedural conduct of members' meetings. Amongst other things, they give the chairman of the meeting in question power to adjourn a meeting that has commenced if it is inquorate; to adjourn with the agreement of the members or at their direction; to interrupt a meeting if there is a technical problem with the facilities etc or if the meeting is disrupted by or by the threat of violence or unruly behaviour; and to allow the directors to provide for the automatic postponement of a members' meeting due to adverse weather warnings or conditions.

85. I consider that the intended availability of the power in Article 64E is coloured by its surrounding Articles, which all address procedural aspects of holding an effective members' meeting. In my view, the power in Article 64E is properly to be construed as being complementary to the powers in those Articles, with which it is grouped in a specific section of the Articles. Its purpose must be to give the directors broadly similar power to postpone a meeting that has not yet started to those powers available under the other Articles in this section to the chairman once a meeting has commenced, which are all procedural in nature.

86. However, I am not satisfied that *Pinnacle VRB Ltd v Ronay Investments Pty Ltd*, where Beach J refused to set aside the directors exercise of a postponement power, bears the weight that Ms Leahy seeks to give it to support that conclusion. First, the learned judge recorded that he was giving his judgment in short form and without detailed analysis to facilitate the members' meetings that were due to take place the day immediately following the hearing. I therefore do not have the benefit of a detailed exposition of the judge's reasoning. Secondly, the judgment concerned whether or not the directors had power to postpone the members' meeting, as they had sought to do, not the nature of their power to do so. In other words, Beach J was not concerned with whether the directors' power extended to postponement for substantive reasons rather than procedural ones, although he appears to have taken the view that the assertion that the directors had exercised their postponement power for procedural reasons made it more difficult for the members to challenge the directors. Nevertheless, I have reached the same conclusion by a different route.

87. I reject Mr Lowe's submission that the broader language of Article 64E indicates that it is intended to have a different function from the articles addressing adjournment or interruption of a members' meeting that has commenced. In my judgment, Article 64E is expressed in necessarily broader language because the circumstances that might justifiably create a procedural impediment to a members' meeting going ahead are likely to be significantly wider and more varied in the period leading up to the meeting than those that may arise during the course of the meeting. I agree with Ms Leahy's submission that the overall aim of all of these related provisions is to give the directors or the chairman of the meeting power to ensure that a members' meeting, usually called by a minority of the members if it is an extraordinary general meeting, is held at a time and place convenient to the majority of the members and that allows the members to deal effectively with its business.

88. If it were relevant, I consider that the reason relied on by the Directors to justify their first postponement of the extraordinary general meeting, namely to prepare materials for the members to consider at the extraordinary general meeting, would satisfy the limitation on the exercise of the postponement power to addressing procedural matters, but the Directors' reasons for the second postponement, which were substantive in nature, would not.

89. As regards the question whether the Directors exercised their postponement power in relation to the second postponement of the extraordinary general meeting for an improper purpose, I agree with Mr Lowe that this question is unsuitable for summary determination on the basis of contested affidavit evidence. Whilst a number of the Plaintiff's complaints regarding the Directors' conduct and motives appear to be cogent and to have real force, it is possible that the court might conclude that the Directors had a valid purpose for postponing the extraordinary general meeting as the dominant purpose or as at least one of their purposes, and that the valid purpose(s) alone justifies the Directors' decision. This issue is quintessentially one that can only properly be determined at trial, following cross-examination of the witnesses. However, in light of my decision on the construction of the Defendant's Articles, it does not arise.

E.4 Do the Directors have power to postpone the Defendant's annual general meeting for 2026 to a date after 30 June 2026?

90. The provisions regarding the holding of the Defendant's annual general meeting are set out in Articles 56 and 59:

> *"56. An annual general meeting of the Company shall be held for each financial year and such annual general meeting must be held within six (6) months after the end of the Company's financial year (unless a longer period would not infringe the rules of the Listing Rules, if any).*
>
> *[…]*
>
> *59. (1) An annual general meeting must be called by Notice of not less than twenty-one (21) days. All other general meetings (including an extraordinary general meeting) must be called by Notice of not less than fourteen (14) days. […]"*

91. Article 2(2) again has the effect that *"shall"* means *"must"* for the purposes of Article 56. As I have indicated in summarising the parties' arguments, Rule 13.46(2)(b) of the HKSE Listing Rules requires a foreign issuer, as is the Defendant, to lay its annual financial statements before its members at its annual general meeting within 6 months after the end of its financial year. The Defendant's financial year end is 31 December. Thus, the HKSE Listing Rules do not permit the Defendant's annual general meeting to be held later than six months after its financial year end, and the Defendant is therefore required to hold its annual general meeting by 30 June in each year.

92. Article 61(1) identifies that the following business should be transacted at the annual general meeting as ordinary business:

 92.1 the declaration and sanctioning of dividends;

 92.2 consideration and adoption of the accounts and balance sheet and the reports of the directors and auditors;

 92.3 the retirement and election of directors;

 92.4 the appointment of auditors and officers; and

 92.5 the fixing of the remuneration of the auditors, and approval of the directors' remuneration.

93. Also of relevance, Article 84 provides that at least one third of the directors shall retire at each annual general meeting and each director shall retire at least once every three years. Article 83 adds that a

director will hold office for the term determined by the members until their retirement in accordance with Article 84 or until their successor is elected or appointed. Article 83 provides that the directors may fill any casual vacancy or add directors, who will hold office until the next annual general meeting. All of these provisions are predicated on the assumption that an annual general meeting takes place.

94. I consider the same broad considerations that I have set out regarding extraordinary general meetings of the members apply with equal force, if not more weight, in relation to postponement of the annual general meeting. This is because of the nature of the business required to be transacted at the annual general meeting, and because the annual general meeting is often the only opportunity for the members to have any say regarding the actions of the directors and the direction of the company, and is highly likely to be the only opportunity for a member holding less than 10% of the shares in the Defendant to do so since they will not have sufficient voting power to requisition an extraordinary general meeting.

95. If Article 64E were to take precedence over Article 56, the Defendant's directors would have an unfettered discretion to postpone the annual general meeting on the ground that it would be *"inappropriate, impracticable, unreasonable or undesirable for any reason"* to proceed, and to do so for as long and on as many occasions as they wished. This would enable the directors to defer, potentially indefinitely, having to obtain the members' approval of the company's accounts, to deal with retirements and election of directors, including those appointed by the directors themselves to fill casual vacancies or by way of addition, and to obtain the members' approval of the directors' and auditors' remuneration. If the annual general meeting were postponed in this way, and thus was not commenced, the Articles terminating casual appointments and requiring retirement of the directors would not be triggered, and those directors would simply remain in office. Further, if Mr Lowe's submission as to the breadth of the directors' discretion were correct, it is very difficult to see how the members could ever successfully challenge such conduct by the directors. None of this makes any commercial sense.

96. For essentially the same reasons as I have already discussed in relation to postponement of extraordinary general meetings, with the additional features that I have identified in relation to annual general meetings, I conclude that the Defendant's directors do not have power to postpone any annual general meeting after 30 June in each year. The Directors should therefore ensure that the Defendant's annual general meeting takes place by 30 June 2026.

E.5 Can the Defendant prevent the Plaintiff's resolutions from being put to a vote, prevent the Plaintiff from voting on the resolutions or determine not to count the Plaintiff's votes on the basis of an alleged conflict of interest?

97. The Directors have indicated an intention to prevent the Plaintiff from participating in the extraordinary general meeting, from voting on the resolutions or from having its votes counted on the ground that it is subject to some kind of conflict of interest. By a letter to members from the Directors dated 5 January 2026, the Directors stated:

> *"The Board considers the resolutions proposed at the EGM is retaliatory measures by Mr. Zheng Nenghuan […]*
>
> *Based on the above, […] the Board considers the sole objective of the Requisition Notice (especially in relation to resolutions 1-4) is to disrupt and discontinue the ongoing investigation conducted by the Independent Board Committee against Mr. Zheng Nenghuan (the controller of the Requesting Shareholder). Hence, Mr. Zheng Nenghuan who owns and controls the Requesting Shareholder has clear conflict of interest in these resolutions and is required from the Board's perspective to abstain from voting under resolutions 1-4."*

98. On 22 January 2026, Campbells sought an undertaking from the Defendant that the Directors would put all of the resolutions requisitioned by the Plaintiff to a vote at the extraordinary general meeting and would count all votes cast by the Plaintiff on such resolutions. On 27 January 2026 Conyers responded somewhat cryptically:

> *"[…] the Company refuses to agree the requested undertakings. Amongst other things, consistent with the board's fiduciary obligations, the board cannot reasonably be expected to fetter its powers under the articles in the manner you propose, particularly given the on-going investigation against Mr Zheng and Mr. Zheng being entirely uncooperative in it."*

This was a *non sequitur*, since any votes would be cast by the Plaintiff, not by Mr Zheng. In addition, it ignores Article 73(2) which expressly records that all members have the right to vote at a general meeting, and it assumes that the Directors or the chairman of the meeting have some power to prevent a member from voting on a resolution. Mr Lowe did not draw my attention in argument to any such power in the Articles.

99. I do not consider that there is any valid basis for the Directors, or more accurately the chairman of the extraordinary general meeting, to prevent the Plaintiff from voting on the resolutions at the meeting. It is trite law that a member of a company does not owe any duty to the company or to other members. A member is entitled to vote on any resolution as it wishes in its own self-interest. It is also trite law that a company has separate legal personality from its shareholders. The Plaintiff is fully entitled to vote at the extraordinary general meeting and to do so however it wishes, notwithstanding the investigation into Mr Zheng, which is irrelevant to the Plaintiff's ability to vote on resolutions.

100. I am not confident that the Directors, or any of the Directors who may act as chairman of the extraordinary general meeting, will allow the Plaintiff to vote on the resolutions at the meeting and count those votes unless positively required to do so by the court. This is for the following reasons:

100.1 The content of the circular published by the Defendant on the instigation of the Directors on 5 January 2026 indicates the Directors' view that the Plaintiff should be disqualified from voting.

100.2 The content of Conyers' response dated 27 January 2026 to Campbells' requests for undertakings is consistent with the Directors' intention to assert that the Plaintiff is disqualified by the alleged conflict of interest arising from the investigation into Mr Zheng. Further, this letter indicates either that Conyers have not advised the Defendant of the Plaintiff's entitlement to vote at any general meeting, that it is fully entitled to vote in its own self-interest and that no question of a conflict of interest arises, or the Directors have ignored that advice.

100.3 The Directors' conduct in resolving to postpone the extraordinary general meeting for the second time on 19 March 2026 in the face of my extempore judgment delivered on 4 March 2026 and the perfected judgment dated 16 March 2026 demonstrates a disregard for the comments of the court.

100.4 Whilst Mr Lowe stated in court on 4 March and 17 April 2026 that the Defendant recognised that it could not postpone the annual general meeting after 30 June 2026, that has not been confirmed by the Defendant itself, so far as I am aware. The conduct of the Directors in relation to the second postponement of the extraordinary general meeting raises a question whether they will adhere to the concession expressed on their behalf by Mr Lowe.

101. Accordingly, I consider that it is appropriate to grant an injunction to restrain the Defendant, by its directors or otherwise, from preventing the resolutions proposed by the Plaintiff from being considered at the extraordinary general meeting, hindering the Plaintiff from voting on the resolutions proposed, and or from hindering or preventing the Plaintiff's votes on the resolutions from being counted. I do not consider that damages would be an adequate remedy for the Plaintiff if I were to refuse relief. I endorse the approach of the Supreme Court of South Australia in *Paringa Mining and Exploration Co plc v North Flinders Mines Ltd* that the status quo includes the Plaintiff's right to vote at the extraordinary general meeting, which has been lawfully requisitioned and properly called, on the business for which that meeting has been requisitioned and called, namely the proposed changes in the composition of the board. In my view, there is no proper basis to prevent the Plaintiff from exercising its right as shareholder in the Defendant to vote at the extraordinary general meeting and for its votes to be counted. I do not consider that the payment of damages to the Plaintiff by the Defendant would provide an adequate remedy for the interference with the Plaintiff's legal rights if I were not to make any order and the Defendant were to take the action proposed in its circular dated 5 January 2026 and apparently maintained as its position thereafter. The question of damages as regards the Defendant does not really arise, and I do not consider that any balance of convenience considerations arise either in these circumstances. I also bear in mind that the terms of the order that I intend to make merely require the Defendant, through the Directors, to comply with its obligations under the law and pursuant to the Defendant's Articles of Association.

102. In addition, it is quite possible that the Defendant's annual general meeting may be held before the extraordinary general meeting. In light of the Directors' stated position regarding the Plaintiff's ability to vote on changes to the directors and the Directors' conduct so far, I consider that there is a real risk that unless the court makes an order now, the Directors, or any of the Directors acting as

chairman of the annual general meeting, may seek to prevent the Plaintiff from voting on any resolutions at the annual general meeting regarding retirement, appointment or re-appointment of the Defendant's directors for the same reason of a purported conflict of interest affecting the Plaintiff. I therefore consider it necessary to make a further order in materially the same terms as in respect of the extraordinary general meeting but aimed at the annual general meeting.

E.6 Should the Directors be required to disclose to the Plaintiff a copy of DLA Piper's interim report?

103. DLA Piper were engaged by the Defendant to advise the independent board sub-committee appointed to investigate Mr Zheng. On or before 13 March 2026, DLA Piper provided their interim report to the independent board sub-committee presenting their interim findings on allegations against Mr Zheng of misconduct, potential fraud, conflict of interest and breach of fiduciary duty. These appear to be allegations made by the independent board sub-committee against Mr Zheng rather than by others. Mr Ding exhibits the independent board sub-committee's written resolution dated 13 March 2026, in which they noted DLA Piper's findings as follows:

> *"1.2 The IBC noted the interim findings set out in the Interim Report, which include, among other things, a finding by the Investigation Team that there are reasonable grounds to believe that Mr Zheng Nenghuan ("Mr Zheng"):*
>
> *(a) misrepresented the identity and independence of the seller in connection with the proposed HK$300 million acquisition (the "Acquisition");*
>
> *(b) executed the Sale and Purchase Agreement for the Acquisition without prior Board approval, in breach of company policy;*
>
> *(c) failed to disclose his personal interest in the transaction, including his status as ultimate beneficial owner of the seller;*
>
> *(d) made statements at the Board meeting on 5 November 2025 that were inconsistent with the documentary evidence and his subsequent confirmations;*
>
> *(e) unilaterally instructed a trading halt through his personal lawyers without Board consultation;*
>
> *(f) failed to disclose numerous PRC litigations involving himself, Ms Tang Judi, and their related entities during his Nomination Committee interview in September 2025; and*
>
> *(g) has persistently refused to cooperate with the Investigation Team despite multiple invitations, thereby depriving the IBC and the Company of his explanation and denying shareholders a full understanding of the matters under investigation.*
>
> *1.3 The IBC further noted that the Investigation Team's interim assessment that Mr Zheng's conduct demonstrated a pattern of misrepresentation, conflict of interest, and disregard for proper corporate governance that calls into serious question as to whether Mr Zheng remains fit and proper to continue his role in the management of the Company."*

104. The committee recommended that the Directors update the HKSE and issue a public announcement of the material interim findings:

> *"[…] to ensure that shareholders and the investing public are properly informed of matters that may have a significant impact on the Company and its governance […]"*

105. On 16 March 2026, the Defendant published a circular regarding the interim report via the HKSE. Mr Ding exhibits this as well. The circular presents the interim findings from DLA Piper's interim report on the allegations against Mr Zheng, which it describes as having been *"extracted"* from the report. It sets them out as follows:

> *"The interim findings under the Interim Report, subject to limitations contained in the Interim Report, are extracted as follows:*
>
> *(1) the Series of Events Involving Mr. Zheng potentially constitutes breach of director's fiduciary duties by Mr. Zheng, contravention in a number of Listing Rules by Mr. Zheng, and potential fraud committed by Mr. Zheng against the Company and its shareholders. In particular:*
>
> *(a) Breach of fiduciary duties: Mr. Zheng's execution of a HK$300 million self-dealing transaction without Board approval, his misrepresentation of the Seller as an 'independent third party' when Mr. Zheng himself was in fact the ultimate beneficial owner of the Seller, and his dismissal of legitimate legal concerns raised by other members of the Board, collectively demonstrate a failure to act in good faith in the best interests of the Company and a breach of his duty to avoid conflicts of interest.*
>
> *(b) Breach of the Listing Rules: Mr. Zheng's failure to disclose his multiple litigations, his historical designation as a 'dishonest person' subject to enforcement, and the bankruptcy of a company where he served as director, constitute potential breaches of, among others, the disclosure requirements under Rules 13.51(2)(k) and 13.51(2)(1) of the Listing Rules.*
>
> *(c) Potential fraud: The misrepresentation of the Seller's identity, the concealment of Mr. Zheng's beneficial ownership, the attempt to induce the Board to approve a HK$300 million self-dealing transaction, the suspicious timing of the SPA, and the trading halt on the same day Mr. Zheng received a margin call notice from Get Nice Securities, collectively give rise to reasonable grounds to believe that Mr. Zheng attempted to mislead or defraud the Board and the Company's shareholders.*
>
> *(2) Mr. Zheng cannot claim ignorance of his duties as a director of a listed company. The evidence demonstrates that Mr. Zheng was provided with training materials on directors' duties and the Listing Rules requirements, had continuous access to the Company's legal counsel, and has engaged at least 3 law firms of capital markets lawyers throughout the relevant period. Mr. Zheng's breaches were therefore committed with knowledge of the legal and regulatory framework governing his conduct as a Director; and*
>
> *(3) a further independent investigation must be conducted to protect the interests of the Company and its shareholders. […]"*

106. The circular then provides a summary of the recommendations as to further investigations to be pursued before setting out DLA Piper's conclusions:

> *"[…] the investigation agent provided the following interim assessment and conclusion on Mr. Zheng's conduct:*
>
> *(1) the investigation agent's interim view is that there are reasonable grounds to believe that Mr. Zheng attempted to mislead or defraud the Board members during the 5 November 2025 Board meeting;*
>
> *(2) the interim findings set out above demonstrate a pattern of conduct in which Mr. Zheng misrepresented the identity of the Seller, executed a transaction of extraordinary magnitude without Board approval, failed to disclose his personal interest in the Acquisition, and dismissed legitimate legal concerns raised by the Company's legal counsel. The cumulative effect of these actions is that Mr. Zheng sought to induce the Board to approve a HK$300 million transaction that would have resulted in the Company paying that sum to entities ultimately beneficially owned by Mr. Zheng himself;*
>
> *(3) the transcript evidence shows Mr. Zheng suggested the Acquisition was the very reason he became the majority shareholder of the Company raises the serious question of whether the entire sequence of events, from Mr. Zheng's acquisition of 510 million shares of the Company in July 2025, to his appointment as Chairman in September 2025, to the execution of the Sale and Purchase Agreement in November 2025, was planned from the outset as a means of transferring HK$300 million from the Company for Mr. Zheng's personal benefit; and*
>
> *(4) based on the above, it is also the investigation agent's interim view that Mr. Zheng's conduct demonstrates a pattern of misrepresentation, conflict of interest, and disregard for proper corporate governance that calls into serious question whether Mr. Zheng remains fit and proper to continue his role in the management of the Company."*

The circular concludes by summarising the response of the independent board sub-committee to the DLA Piper Interim report and proposed next steps.

107. Mr Ding addresses DLA Piper's interim report in the body of his affirmation. As is common, Mr Ding includes assertions in his affirmation that he does not intend to waive any privilege. However, I agree with the learned authors of *Documentary Evidence* that such non-waiver statements are ineffective. At paragraph 23-11 in *Documentary Evidence*, under the heading *"Non-waiver Statements"*, the authors explain that:

> *"23-11 […] waiver is an objective not subjective principle. It matters not whether a party intends to waive privilege in a particular document. In* Digicel *Morgan J pointed out that as waiver is judged objectively, the fact that a statement is made that a reference is not to be taken as a waiver does not prevent the court holding that as a matter of law the statement does constitute a waiver. It is common in a witness statement or elsewhere to state 'nothing in this is intended to waive privilege'. Is such a statement effective? The answer is no. Waiver is an objective doctrine and does not depend on the subjective intentions of a party. Once a witness statement or other document has been relied upon in court, the waiving party has had the benefit of the waiver and*

> *(save in circumstances where the court permits withdrawal of the witness statement) he is stuck with the consequences."*

The reference to ***Digicel*** is to ***Digicel (St Lucia) Ltd v Cable & Wireless plc*** [2009] EWHC 1437 (Ch).

108. Because the Plaintiff's application for disclosure pursuant to GCR O.24, r.10 is based upon Mr Ding's affirmation, it is necessary to set out what Mr Ding says at some length. The relevant passages start at paragraph 26 in his third affirmation:

> *"26. On 13 March 2026, the IBC passed a written resolution recording its careful consideration of the interim findings of DLA Piper Hong Kong (the "investigation Team"). The IBC noted that the Investigation Team had found reasonable grounds to believe that Mr Zheng had engaged in, among others, the following conduct:*
>
> *(a) misrepresented the identity and independence of the seller in connection with the proposed HK$300 million acquisition;*
>
> *(b) executed the Sale and Purchase Agreement for the Acquisition without prior Board approval, in breach of company policy;*
>
> *(c) failed to disclose his personal interest in the transaction, including his status as ultimate beneficial owner of the seller;*
>
> *(d) made statements at the Board meeting on 5 November 2025 that were inconsistent with the documentary evidence and his subsequent confirmations;*
>
> *(e) unilaterally instructed a trading halt through his personal lawyers without Board consultation;*
>
> *(f) failed to disclose numerous PRC litigations involving himself, Ms Tang Judi (his spouse), and their related entities during his Nomination Committee interview in September 2025; and*
>
> *(g) persistently refused to cooperate with the Investigation Team despite multiple invitations, thereby depriving the IBC and the Company of his explanation and denying shareholders a full understanding of the matters under investigation.*
>
> *27. The interim independent investigation report expressed the view that Mr Zheng's conduct demonstrated a pattern of misrepresentation, conflict of interest and disregard for proper corporate governance, which called into serious question whether he remained fit and proper to continue in a management role within the Company.*
>
> *28. In light of the interim findings, the IBC noted that there remains a clear need for the investigation to continue. […]"*

109. Mr Ding then relies on this material to justify the Directors' decision on 19 March 2026 to postpone the extraordinary general meeting due to take place the next day. He says at paragraph 31 onwards:

> *"31. In these circumstances, the Board considered that it was not in the interests of the Company to proceed with an EGM whose sole purpose was to remove the entire Board, at a time when an investigation into serious governance issues concerning the requisitioning shareholder (and its controller Mr Zheng) remained ongoing and incomplete. […]*

> *33. In that regard, the continued presence of independent directors who are free from any obligation to or influence by Mr Zheng for the time being is therefore necessary […] to safeguard this investigation process."*

110. Hollander in *Documentary Evidence* sets out a useful citation from the judgment of Gloster JA in the Court of Appeal of Bermuda in ***Ivanishvili v Credit Suisse*** [2020] 1 CA (Bda) 13 Civ 7 October 2020 at [54], where Gloster JA said:

> *"When deciding on the extent of a waiver, one should look at the nature of what has been revealed. This was a case concerning legal advice privilege, rather than litigation privilege. In that context it was said: is what has been revealed the substance of the advice, the content of the advice or merely the effect of the advice?*
>
> *The second relevant matter concerns the circumstances in which the disclosure has been made. Has the revealed matter been deployed to advance a party's case or has it simply been referred to in a way which falls short of reliance and deployment?"*

111. My conclusions on this issue are as follows:

111.1 I consider that the Defendant's publication of the extracted interim findings and of the detail of DLA Piper's conclusions in the circular on 16 March 2026, and the intention that must be attributed to the Defendant in doing so of putting into effect the sub-committee's desire *"[…] to ensure that shareholders and the investing public are properly informed of matters that may have a significant impact on the Company and its governance […]"*, had the result of destroying any confidentiality in the DLA Piper interim report, with the consequence that the interim report lost any privilege that it had. Privilege cannot exist in the absence of confidentiality.

111.2 Further, I consider that the sub-committee's written resolution and the circular published by the Defendant on 16 March 2026 both set out the substance or content of the DLA Piper interim report, rather than merely referencing the existence of it.

111.3 Although Mr Ding did not go into the detail of the content of the interim report in the body of his affirmation, he exhibited both the sub-committee written resolution and the circular, and he deployed the content of the interim report to support the Defendant's case as to why the Directors had considered it appropriate to postpone the extraordinary general meeting from 20 March 2026.

111.4 In those circumstances and given that there is no issue that the interim report is referred to by Mr Ding in his third affirmation, I consider that the Plaintiff is entitled to an order pursuant to GCR O.24, r.10 that the Defendant produce a copy of the DLA Piper interim report.

E.7 Should the court order an expedited trial of any unresolved issues?

112. Understandably, the parties did not address me on the question whether the trial of any remaining issues should be expedited, since this question was subject to my decisions on the various matters in issue at the hearing. In light of the conclusions I have reached, it may well be that the Plaintiff will not consider it necessary to pursue such relief. I will therefore give the parties the opportunity to take stock and to decide whether to seek an expedited trial and, if so and if that is opposed, I will hear further submissions.

E.8 Should the court order a payment on account of the Defendant's costs of the injunction application and, if so, in what sum?

113. The court retains a discretion whether to make an order for a payment on account of costs, notwithstanding the presumption in favour of doing so. I consider that, in principle, Ms Leahy is right to submit that the fact that an appeal is being pursued may provide a basis to persuade the court not to make such an order or, at least, to stay the order pending the outcome of the appeal.

114. In this case, I concluded that there was no merit in the appeal against my order discharging the interim injunction that I had previously granted and I refused the Plaintiff's application for leave to appeal. In the Court of Appeal, the Plaintiff has changed its position and has taken the stance that it does not need leave to pursue an appeal and can do so as of right, as I understand, because the hearing in question concerned the grant or refusal of an injunction. In the circumstances, the fact that the Plaintiff is pursuing its appeal weighs less heavily in the balance for the purposes of deciding whether or not to order a payment on account of costs than it otherwise would, because there is no indication from the Court of Appeal, through the grant of leave to appeal, that it considers the appeal may have some merit.

115. Whilst the Defendant has asserted that it is facing a liquidity crisis, the Plaintiff's own position is that it is not. I do not consider that the available evidence regarding the Defendant's liquidity shows that there is a substantial risk that the Defendant would be unlikely to be able to repay a payment on account of costs, if ordered and if the Plaintiff's appeal were to be successful.

116. I conclude that the well-established considerations in favour of ordering a payment on account of costs are not outweighed by the factors advanced by the Plaintiff to seek to persuade me not to do so in this case.

117. However, I have concerns about the quantum of the costs claimed by the Defendant. First, I think that Ms Leahy is right to challenge recoverability of the fees incurred by the staff in Conyers' Hong Kong office who were working on the matter but have not been admitted as attorneys in the Cayman Islands and whose fees therefore cannot be recovered under GCR O.62, r.18. I agree with Ms Leahy that the transitional provisions in relation to the implementation of the Legal Services Act in 2026 do not assist the Defendant on this point as they are aimed at the criminal offences created by the Act and not at the recoverability of costs. These fees, totalling some US $223,000, are more than half of the US $403,460 said to have been incurred by Conyers in total. For the purpose of assessing the appropriate payment on account of costs, I will treat them as irrecoverable.

118. Secondly, I do not accept the Defendant's position that the total fees it has incurred are *"entirely reasonable"* or that *"the number of hearings, evidence and other matters"* justify the quantum of the Defendant's fees. There have been four hearings in this matter so far: (a) the Plaintiff's *ex parte* on notice summons on 10 January 2026, which the Defendant did not attend; (b) the return date hearing on 4 February 2026; (c) the hearing on 4 March 2026 of the Plaintiff's application for leave to appeal, which ought not be included as part of the costs of the injunction application; and (d) the adjourned hearing on 17 April 2026 of the remainder of the relief sought by the Plaintiff, which did not concern the injunction and ought not be included as part of the costs of that application. Accordingly, the Defendant's fees in question for this application for a payment on account of costs are referable to one hearing in which the Defendant participated. It will be for the taxing officer to consider the

recoverability of the Defendant's fees in due course. For my part, I will simply say that they do not appear to be reasonable or proportionate overall.

119. Thirdly, and in any event, I consider that the fees incurred by the Defendant in respect of certain of the phases that it has adopted to categorise the work done appear to be very high and are likely to be subject to close scrutiny on taxation. The Defendant has broken down its fees incurred into six phases covering distinct time periods from 10 January to 16 March 2026. The Defendant has provided a broad description of the work done over each phase and has set out the fees incurred and time spent by each fee earner within that phase. I do not need to go into that level of detail for the purpose of this judgment, but I will set out the following summary of Conyers' fees, which omits disbursements of US $78,125 in respect of Mr Lowe's fees and other disbursements totalling some US $5,275.

Phase	**Period**	**Days**	**Cayman team**		**HK team**		**Total**	
			Hours	*Fees*	*Hours*	*Fees*	*Hours*	*Fees*
1	10/01/26 to 14/01/26	3	5.5	$5,075	19.8	$17,905	25.3	$22,980
2	14/01/26 to 27/01/26	13	82.5	$59,265	131.7	$98,266	214.1	$157,531
3	27/01/26 to 03/02/26	7	57.4	$44,780	40.5	$31,884	97.9	$76,664
4	04/02/26	1	21.9	$18,475	6.4	$5,856	28.3	$24,331
5	05/02/26 to 19/02/26	14	11.9	$8,900	23.4	$18,072	35.3	$26,972
6	19/02/26 to 16/03/26	25	55.2	$43,917	6.6	$51,065	61.8	$94,982
Totals			234.3	**$180,412**	228.3	**$223,048**	**462.6**	**$403,460**

120. Turning to the assessment of an appropriate sum by way of a payment on account of costs, I consider that the fees incurred in respect of phase 2, averaging some 16.5 hours per day over a 13-day period, are surprisingly high, even bearing in mind that the Defendant was responding to an application for an interim injunction. I will reduce these fees by about 50% as a conservative assessment of what is

likely to be recovered by the Defendant on a taxation of its costs of the injunction application, for the purpose of determining an appropriate payment on account of costs.

121. I consider that the fees incurred in respect of phase 5 are also very high. It does not appear to me that there is likely to have been much work, if any, that needed to be done in respect of the injunction application after the *inter partes* hearing on 4 February 2026, but the Defendant seeks to recover fees in respect of more than 35 hours work over this period. The narrative description of the work done suggests that the Defendant has failed to isolate work related to the injunction and has inappropriately sought to recover fees regarding other aspects of the conduct of the litigation more generally. My assessment is that about one third of these fees are likely properly to be attributable to the injunction and therefore to be treated for the purpose of a payment on account of costs as being likely to be recoverable on taxation.

122. Similarly, I do not understand why the Defendant seeks any significant fees in respect of phase 6, namely the period after I had handed down my judgment discharging the injunction. Nevertheless, the Defendant seeks nearly 62 hours of Conyers' time for this period. Again, the narrative description of the work encompassed by the fees claimed suggests that the Defendant has not isolated work related only to the injunction and has inappropriately included fees regarding the conduct of the litigation more generally. I conclude that none of these costs is likely to be recoverable on a taxation as costs of the injunction application, albeit they may qualify as costs of the action more generally.

123. Allowing for Mr Lowe's fees and the other disbursements that I have mentioned, my assessment is that an appropriate figure to order by way of a payment on account of the Defendant's costs of the injunction application is US $100,000.

F. <u>Disposal</u>

124. For the reasons that I have set out in this judgment, my conclusions are as follows:

124.1 The Plaintiff has leave to amend its writ in terms of the draft amended writ annexed to the re-amended summons dated 7 April 2026.

124.2 The Directors did not have power to postpone the extraordinary general meeting requisitioned by the Plaintiff beyond 20 January 2026; in doing so they acted *ultra vires* and their resolutions are void.

124.3 The Directors do not have power to postpone the Defendant's annual general meeting for 2026 to a date after 30 June 2026.

124.4 The Defendant should be restrained, by its directors or otherwise, from preventing the resolutions proposed by the Plaintiff from being considered at the Defendant's extraordinary general meeting, hindering or preventing the Plaintiff from voting on the resolutions proposed, and from hindering or preventing the Plaintiff's votes on the resolutions from being counted.

124.5 The Directors should further be restrained from taking any steps, by its directors or otherwise, from hindering or preventing the Plaintiff from voting on any resolutions at the Defendant's annual general meeting regarding retirement, appointment or re-appointment of the Defendant's directors and from hindering or preventing the Plaintiff's votes on such resolutions from being counted.

124.6 The Defendant shall disclose to the Plaintiff a copy of DLA Piper's interim report referred to in Mr Ding's third affirmation.

124.7 I will hear the parties further on whether it is appropriate to order an expedited trial of any issues that remain unresolved as a result of this judgment; and

124.8 I order that the Plaintiff shall make a payment on account of the Defendant's costs of the Plaintiff's application for an interim injunction in the sum of US $100,000. I do not stay that order pending the Plaintiff's appeal against my order dated 6 March 2026 discharging the interim injunction.

125. I will hear the parties further on the question of costs and any consequential matters.

Dated 23 June 2026

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THE HONOURABLE JUSTICE JALIL ASIF
JUDGE OF THE GRAND COURT