



In The Supreme Court of Bermuda

**CIVIL JURISDICTION
(COMMERCIAL COURT)
(WINDING UP)
2024 No: 120**

**IN THE MATTER OF LIU YONG LING FOUNDATION LIMITED AND IN THE
MATTER OF SECTIONS 111 AND 161 OF THE COMPANIES ACT 1981**

BETWEEN:

LIU KIE HUNG JOYCE

Petitioner

AND

LIU TSEE MING

1st Respondent

KIE HWIE JOE

2nd Respondent

LIU YONG LING FOUNDATION LIMITED

3rd Respondent

ESTATE REPRESENTATIVE OF LIU YONG LING, DECEASED

(Represented by LIU TSEE MING and LIU HENG LING)

4th Respondent

**JUDGMENT DEALING WITH THE SPECIFIC DISCLOSURE
SUMMONS AND THE MS CHU SUMMONS**

Date of Hearing:
Date of Judgment:

26 & 27 January 2026
11 February 2026

Introduction

1. On 26 and 27 January 2026 I heard two summonses issued by the First Respondent (**R1**), the Second Respondent (**R2**) (I refer to the First and Second Respondents together as **R1-R2**) and the Third Respondent, Liu Yong Ling Foundation Limited (the **Company or R3**).
2. The first summons was filed on 8 October 2025 and relates to an application for specific disclosure (the **Specific Disclosure Summons**). The second summons the (**Ms Chu Summons**) was filed on 29 October 2025 and relates to the filing of evidence by Ms Chu Kwan Yau Janice (**Ms Chu**). The summonses are issued in connection with the unfair prejudice petition (the **Petition**) presented by the Petitioner under the Companies Act 1981 in respect of the Company in which she seeks a share purchase order (that R1-R2 and/or the R3 or the Fourth Respondent purchase her shares in the Company at market value). The Court has previously given directions (by an order dated 30 August 2024) that the Petition proceedings be treated as a dispute between the Petitioner on the one hand and R1, R2 and the Fourth Respondent on the other as members of R3, so that R3 is not to an active respondent.
3. R1-R2 and R3 filed and served in support of the Specific Disclosure Summons the First Affidavit of Chan-Mi Lee (**Lee-1**) (sworn on 8 October 2025) who is an associate and attorney in the Litigation and Insolvency Department of Harneys Bermuda Limited, the law firm acting for R1-R2 and R3. R1 filed and served in support of the Ms Chu Summons his Third Affirmation (**R1-3**) (sworn on 31 October 2025) and his Fourth Affirmation (**R1-4**) (sworn on 22 December 2025). R2 filed her Second Affirmation (**R2-2**) (sworn on 7 November 2025).
4. At the hearing, Mr Henry Tucker of Harneys Bermuda Limited (**Harneys**) appeared for R1-R2 and R3 and Mr Alex Potts KC (with Mr Jonathan O'Mahoney of Conyers Dill and Pearman Limited (**Conyers**)) appeared for the Petitioner.

5. At the conclusion of the hearing I informed the parties of my decision on the Specific Disclosure Summons (briefly explained below) and that I would reserve judgment on the Ms Chu Summons (in particular because I had only been able to open and read the e-copies and had only received the hard copy of the hearing and authorities bundles on Friday 23 January 2026, shortly before the start of the hearing) and provide a note of my decision with my reasons as soon as I was able to do so. This judgment confirms my decision on the Specific Disclosure Summons and explains my decision on the Ms Chu Summons. A summary of that decision is contained in [72] below.

The Specific Disclosure Summons

6. In the Specific Disclosure Summons R1-R2 and R3 seek the following orders:
 - (a). that the Petitioner, within 14 days, make and file an affidavit stating whether she has (or has ever had) in her possession, custody or power: (i) the late Mr Liu Yong Ling's 2014 diary (the **2014 Diary**) and/or (b) the financial statements prepared between 2018 and 2022 (the **Generation Financial Statements**) of Generations Limited (**Generations**).
 - (b). and if the aforementioned documents or any of them has or have been but are not now in the Petitioner's possession, custody or power, that the Petitioner make and file an affidavit stating when she parted with the same and what has become of the same.
7. The draft order filed by R1-R2 and R3 at the beginning of the second day of the hearing revised the relief sought by R1-R2 and R3 and sought the following orders:

The Petitioner shall within 14 days from the date of this Order file and serve or procure the filing and service of the following documents:

- a. *the 2014 diary of the late Mr Liu Yong Ling and/or any copies or photos of it; and/or*
- b. *the 2018-2022 financial statements of Generations Limited, a company incorporated in Hong Kong, between 2018 and 2022 (together with, the 2014 diary, the **Documents**)*

- c. *If the Documents or any of them has or have been but are not now in the Petitioner's possession, custody or power, the Petitioner shall with 14 days from the date of this Order file an affidavit stating when she parted with the same and what has become of them.*

The Ms Chu Summons

8. In the Ms Chu Summons R1-R2 and R3 seek (pursuant to RSC O.29, r.1 and RSC O.38, r.3 and/or the Court's inherent jurisdiction) the following orders:

1. *that the Petitioner be prohibited from filing any witness statement from Ms Chu in these proceedings.*
2. *In the event that any witness statement(s) of Ms Chu are filed before the order sought is granted, such evidence shall be expunged from these proceedings.*
3. *within 14 days from the date of an order made on the Ms Chu Summons the Petitioner be required to file an affidavit:*
 - a. *providing details as to Ms Chu's dealings with the Petitioner between September 2020 and October 2025, including the circumstances in which Ms Chu was asked to appear as a witness for the Petitioner;*
 - b. *disclosing all documents and/or notes of information, including communications between the Respondents and their lawyers, that Ms Chu provided to the Petitioner and/or the Respondents' lawyers, as well as the dates on which each document was provided; and*
 - c. *producing all drafts of any intended witness statement(s) by Ms Chu which were prepared for the purpose of these proceedings; and*
- 4.. *The Petition be dismissed as an abuse of process pursuant to the Court's inherent jurisdiction.*

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9. In the draft order filed by R1-R2 and R3 at the beginning of the second day of the hearing (the **Draft Ms Chu Summons Order**):

1. *The Petitioner shall be prohibited from:-*
 - a. *filing or relying on any affidavit or witness statement from Chu Kwan Jau Janice (Ms Chu) in these proceedings.*
 - b. *contacting Ms Chu in connection with these proceedings.*

2. *The witness statement of Ms Chu dated 17 September 2025 exhibited at pages 43-57 of Joyce 7 be expunged from the record and the exhibit shall be refiled without the said statement. The same shall not be relied on it in the Proceedings;*
3. *Within 14 days from the date of this order, the Petitioner shall make an affidavit:*
 - a. *providing full details of Ms Chu's dealings with the Petitioner, her servants or agents between September 2020 and October 2025;*
 - b. *listing and producing all documents which Miss Chu either provided or disclosed to the Petitioner, her servants or agents*
 - c. *All drafts of any intended witness statement(s) by Ms Chu or notes of attendances on her save for the witness statement dated 17 September 2025, exhibited to Joyce 7.*
4. *Within 28 days from the date of the filing and service of the affidavit referred to in paragraph 3, the 1st to 3rd Respondent be at liberty to restore the Debarment Summons and seek a hearing date."*

10. The Petitioner has told R1-R2 and R3 that she intends to call Ms Chu as a witness at the trial. The Petitioner exhibited to her Seventh Affirmation (**P-7**) a witness statement of Ms Chu which was signed by Ms Chu and dated 17 September 2025 (the **Chu-WS**). Chu-WS has not been separately filed and exchanged with R1-R2 and R3. The Petitioner says that Chu-WS sets out the evidence that Ms Chu intends to give at the trial in these proceedings.

11. At the hearing Mr Tucker confirmed that the order sought in [1] of the Draft Ms Chu Summons Order was intended to be final and not interim relief. R1-R2 and R3 argued that they were entitled at this stage, in reliance on the evidence adduced in support of the Ms Chu Summons, to a final order prohibiting the Petitioner from relying in these proceedings (including at trial) on the evidence of Ms Chu or from making or having any further contact with her. Mr Tucker confirmed that to the extent that Chu-WS was to be treated as already having been filed and served in accordance with the directions given by this Court with respect to witness statements in the Petition proceedings, the relief sought by R1-R2 and R3 was an order that the exhibit to P7 be withdrawn and removed

from the Court file and that the Petitioner re-file the exhibit to P7 without and excluding Chu-WS.

The Petitioner's position and evidence

12. The Petitioner opposes both the Specific Disclosure Summons and the Ms Chu Summons. She filed and served in support of her opposition her Sixth Affirmation (**P-6**) (sworn on 17 October 2025), P7 (sworn on 3 December 2025) and the Second Affirmation of Mr Peter Kien Long Wat (**PKLW-2**). Mr Wat is a solicitor of the High Court of Hong Kong employed by Minter Ellison LP (often referred to as ME), the Petitioner's Hong Kong solicitors.

The Specific Disclosure Summons

13. As regards the 2014 Diary, R1-R2 and R3 submit that (a) it is relevant to the issues in dispute in and necessary for disposing fairly of the Petition and (b) since the Petitioner has already and previously caused an extract of that same diary to be disclosed and it was inherently improbable that she did not also have at least a copy of the whole or more parts of the 2014 Diary, she should be required to swear and file an affidavit confirming and explaining her position. The Petitioner has produced in discovery scanned copies of *all* of her Father's diaries from 2011 to 2018 (in full), save in respect of Father's 2014 diary, for which she claims to have only photographed a choice extract.
14. As regards the Generation Financial Statements, R1-R2 and R3 submit that (a) they are relevant to the issues in dispute in and necessary for disposing fairly of the matter and (b) the Generation Financial Statements are likely to be or have been in the Petitioner's possession, custody or power. This is because even if the Petitioner never received a copy while she was a director of Generation (as she claims), the Generation Financial Statements have been received by or are obtainable by the Petitioner's partner who is likely to have agreed to provide them to her. The Petitioner's husband is Mr John Williamson (**Mr Williamson**). In June 2020 he became the sole shareholder and sole director of Generation.

15. I decided, with respect to the application relating to the 2014 Diary, that the Petitioner should be ordered to file and serve, within 14 days, a further affidavit confirming the statement made by Conyers at [11] of their letter dated 19 September 2025 that she does not have any other scans, photos or reproductions of the 2014 Diary in her possession, custody or power. This was necessary to make explicit and clear what she had said at [13.4] of P-7. When she had done so, her evidence would clearly spell out and confirm that she did not have any other copies or scans of the 2014 Diary which she was required to discover.

16. I decided, with respect to the Generation Financial Statements, that R1-R2's and R3's application should be dismissed. I considered whether I should order the Petitioner to file and serve a further affidavit confirming that there is no understanding or arrangement with or standing consent given by Mr Williamson to the effect that he will provide to her Generation's documents on request and when needed by the Petitioner. But I concluded that it would be inappropriate to make such an order. There was an insufficient evidential basis for doing so. There was insufficient evidence to support the inference that such an arrangement or understanding existed or that such a consent had been given. There was no evidence of discussions between Mr Williamson and the Petitioner, importantly there was no evidence of the Petitioner having asked Mr Williamson to provide her with copies of such documents or of him having given the Petitioner any of Generation's documents. There was no history or pattern of him having done so. The documents from and of Generation which the Petitioner had discovered were documents which she had herself been entitled to see and obtain when she was a director/shareholder of Generation and related to that period. The fact that the Petitioner had confirmed that she intended to call Mr Williamson to give evidence did not support the inference of there being or there having been the requisite arrangement and understanding with him or consent from him.

The Ms Chu Summons

R1-R2 and R3's evidence and case in outline

17. As regards the Ms Chu Summons, R1-R2 and R3 assert that Ms Chu has removed and retained confidential documents in breach of duties of confidentiality owed by her to each

of them and, also in breach of those duties, disclosed confidential documents and information to the Petitioner for the purpose of assisting the Petitioner with the Petition proceedings and has prepared a witness statement which refers to and discloses confidential documents and information which the Petitioner seeks to put in evidence and rely on in these proceedings.

18. In addition, R1-R2 and R3 assert that not only has Ms Chu disclosed confidential documents and information to the Petitioner and sought to disclose them in her evidence in these proceedings but also that it is to be inferred that she has disclosed privileged information and documents to the Petitioner and used her knowledge of such information and documents and of privileged communications when preparing her written evidence.
19. R1-R2 assert that Ms Chu has an intimate and detailed knowledge of the legal advice given to R1-R2, of the documents prepared and commented on by R1-R2's legal advisers and of privileged communications between R1-R2 and their legal advisers, in each case for the purpose of and in relation to these proceedings. R1-R2 also assert that Ms Chu has given to the Petitioner copies of documents subject to their legal professional privilege which the Petitioner should not have seen and on which she cannot rely. R1-R2 argue that Ms Chu's knowledge of these matters means that any evidence she might give, including the evidence contained in Chu-WS, must be treated as prepared using and with the benefit of her knowledge of these privileged documents and communications so that the Court should order now that Ms Chu be prevented from giving evidence in these proceedings so as to protect and preserve R1-R2's absolute right to prevent disclosure of or use by the Petitioner of privileged material.
20. Ms Chu is a former finance executive associated with the group of companies (the **Group**) of which the Company is a part. She was employed by Elite Industrial Holdings Limited (**Elite**). Elite is one of the operating entities within this wider Group. It is a direct, wholly owned subsidiary of the Company, and functioned in practice as a vehicle through which the Group's day-to-day administrative and financial affairs were managed. Ms Chu was employed from April 2020 until 9 September 2022 as head of treasury. Thereafter she worked for R1's company, Elite Capital, between September 2022 and September 2023. On 1 September 2023 Ms Chu was re-employed by Elite once again as head of

treasury, but she subsequently decided to resign and finally left her employment on 25 July 2025.

21. R1-R2 and R3 say that during her time as an employee of Elite (and Elite Capital), Ms Chu was entrusted with sensitive administrative and legal tasks, including with respect to putative probate proceedings in Bermuda and with respect to receiving critical legal advice and information in relation to the proceedings in relation to the Petition. R1-R2 and R3 say that Ms Chu operated within a small internal circle of confidence which meant that from the date when the Petition was presented she was privy on a continuous basis to privileged legal advice, documents prepared by R1-R2's legal advisers and details of R1-R2's litigation strategy. Her task was to respond to advice by assisting with the collation of relevant information from records, taking instructions from lawyers, preparing discovery, assisting in the drafting of witness statements and attending at litigation calls and meetings.
22. R1's evidence regarding Ms Chu's role was as set out in R1-3 as follows (my underlining):

“10 Ms Chu was in a small circle of persons who was privy to confidential legal advice including litigation strategy. It was her role to collate information to be used in the proceedings as directed by the lawyers both orally and in writing, to respond to their demands both orally and in writing as well as to assist in giving Instructions to lawyers on matters relevant to the proceedings. In doing so she communicated internally.

11 It is not possible to know what information Ms Chu has wrongfully disclosed without this being fully disclosed. It is evident, as explained below, that just before she left her employment, Ms Chu downloaded documents deliberately to make them available to the Petitioner. She had no reason for copying documents so close to her departure unless this was to provide them to the Petitioner. One of my main concerns is that in preparation of leaving her employment, Ms Chu must have held discussions with the Petitioner herself possibly for some time beforehand. Ms Chu had a great deal of information that she could have given about the Respondents' strategy. It is not denied that private discussions between the Petitioner and Ms Chu occurred without Conyers present. I am extremely concerned that the Petitioner has now been made fully cognisant of the Respondents' strategy for the proceedings and of other privileged material. I believe this breach of our confidentiality fundamentally undermines the fairness of these proceedings.

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28. *Ms Chu was employed by Elite in April 2020 as a Treasurer. A copy of her employment agreement with Elite is exhibited at pages 34-42. While Ms Chu was employed as a Treasurer, her role was in fact significantly more involved than that and she served not only Elite, but also the Company, the Group and our family members, including my late Father, my Mother and myself. Her responsibilities included, amongst other things, reconciling accounts relating to Elite, the Company and the Group and also with respect to reviewing and assessing transactions relating to my Father's estate in order to assess the value of the same. In this role, she had access to all of the Group's accounts as well as personal accounts relating to my late Father. Ms Chu essentially was the 'right-hand' person to Uncle and me (In our capacity as co-executors of the estate) in relation to the administration of my Father's estate.*
29. *This role invariably meant that she was close to the centre of the dispute. She was privy to almost all dealings with lawyers for Elite, the Company, the Group as well as lawyers representing my Father's estate. Her help was needed to respond to advice and questions and to assist us in developing further instructions to the lawyers. She was authorised and tasked with that role by us. Indeed, Ms Chu was so closely involved with the legally privileged and sensitive matters that in November 2021, Uncle and I (in our capacity as co-executors of Father's estate} appointed her by instructing her to correspond with and provide instructions to Appleby in order to advance a prospective application for probate in Bermuda on behalf of Uncle and I as co-executors (appointed in Hong Kong) of my Father's estate. In this capacity Ms Chu received advice from individual lawyers at Appleby, and was copied in on correspondence with Appleby. I exhibit at pages 43-47 a copy of the engagement letter with Appleby dated 15 February 2022 marked for the attention of Ms Chu. In that engagement letter, Ms Chu is named as the billing contact person, and her corporate email address is the only which Appleby had and to which they sent emails.*
30. *Ms Chu was also deeply involved with, and copied into correspondences with Hong Kong lawyers in respect of various litigation and disputes, including specifically proceedings in Hong Kong, i.e. HCMP No. 2699 of 2024 which was commenced by me and Uncle (as co-executors of Father's estate} in relation to the interpretation of my late Father's will, and in particular whether the Petitioner is entitled to a specific landed property under the will, and HOVIP No. 632 of 2024 which are proceedings in the matter of my Father's estate commenced by Madam Tong Siu Au and others who are beneficiaries under my Father's will. A copy of the originating summonses in respect of each of HCMP No. 2699 of 2024 and HCMP No. 632 of 2024 are exhibited at pages 48-53 and 54- 59 respectively.*
31. *On 9 September 2022, Ms Chu's employment with Elite was terminated at the behest of the Petitioner because she perceived that she had been siding with me in relation to family and Group related disputes. ... Nevertheless, in light of Ms Chu's role and the work she was undertaking in relation to the aforementioned litigation issues, including with respect to the administration of my Father's estate I subsequently employed immediately after her*

termination of employment with Elite, through Elite Capital Investment Holdings Limited (Elite Capital), a private holding company which is wholly owned by me. At all times since her employment by Elite Capital, Ms Chu's salary was funded by me. This was pursuant to a written employment agreement between Ms Chu and Elite Capital. I have been unable to locate this and it may have been deleted from Elite Capital's internal system. Subject to further forensic investigation, I suspect Ms Chu may have deleted it herself. However, a copy of Ms Chu's Mandatory Provident Fund (MPF) contribution payment record shows her employment with Elite Capital

- 33 Ms Chu was re-employed by Elite on 1 September 2023 (and therefore left employment with Elite Capital immediately before). After she was re-employed, Elite procured her to sign its Computer Access, Usage and Data Policy which she did on 20 October 2023. Pursuant to that policy, Ms Chu was "prohibited from sending, transmitting or otherwise distributing proprietary Information, data, trade secrets or other confidential information belonging to the Employer/Company"
- 34 The information to which Ms Chu was privy was either commercially sensitive for the companies involved or private as regards myself, Mother, Uncle and Father's estate. She knew that we placed trust in her to keep information confidential for that reason. The access to lawyers that she had and the fact that she was copied in on all the advice from lawyers relative to these proceedings also only occurred because we had placed trust and confidence in her and because it was her role to assist us in the process of receiving, digesting and responding to legal advice. She had to collate information for that purpose.
- 35 Specifically in respect of these Proceedings, Ms Chu was involved from the very start. Shortly after the Proceedings were commenced by the Petitioner, I approached Harneys to act as Bermuda legal counsel to R1-R3. I asked Ms Chu to be part of the initial calls with lawyers from Harneys, and ensured she was copied into all correspondences with Harneys until, is July 2025, i.e. the date when her employment with Elite came to an end. During calls with lawyers of detailed legal advice and litigation strategy was discussed and shared with Ms Chu so that she could assist us in responding. At times the calls were also joined by the Respondents' Hong Kong lawyers as well as their senior counsel. Based on an internal review, Ms Chu attended at least 50 telephone and video calls, attended approximately 20 meetings, and was copied on over 500 emails with lawyers. These communications invariably contained details of case strategy and are, without question, legally privileged. In addition, Ms Chu has also been involved in several common Interest calls, meetings, and email exchanges between R1-R3 and R4.
- 36 Ms Chu was also involved in the preparation, and finalisation of the Respondents' defences, including being privy to legal advice received in relation to the same and our responses. She was closely Involved in the document review for the Respondents' disclosure, including legal advice received in relation to the same. She assisted in the preparation and review

of draft witness statements from me, Mother and Uncle as directed by our legal representatives and in response, to legal advice about the same.

37 *Apart from her involvement with the Group's legal affairs, litigation preparation and strategy, Ms Chu was also involved in the family's personal legal affairs, including for me and my Mother. I understand my Mother will file a separate affirmation in these Proceedings in that regard.*

38 *The circumstances surrounding Ms Chu's resignation were highly irregular. On 27 June 2025, she issued me with an ultimatum, demanding a three-year employment contract and threatening to resign from Elite if her demand was not met. I was shocked by the demand and her tone and refused. By this stage I had become concerned about poor performance in certain aspects of her job. I had become aware that she spoke negatively about colleagues behind their backs and environment within the office which created significant unease among employees. That same afternoon, Ms Chu tendered her resignation. Her last working day was 25 July 2025....*

39 *Due to my concerns about the Company and Group's privileged and confidential documents as well as those of my own, my Mother's and that of my Father's estate, I retained the assistance of Mr Micheal Cheung (Mr Cheung), a digital forensics expert who was formerly the Head of Digital Forensics and the Head of Cyber Intelligence with the Hong Kong Police Force. Mr Cheung was provided access to, and created an image of, the laptop previously used by Ms Chu and has produced a examination report on 26 October 2025 (the Forensics Report). A copy of the Forensics Report is exhibited at pages 93-163, together with a copy of the excel spreadsheets referred to therein. Based on the Forensics Report:*

(a) *The laptop contained 27,548 [files], of which 25,537 were recoverable and 2011 were deleted and cannot be recovered.*

(b) *312 documents were uploaded to a USB drive between 4 December 2022 and from his forensic analysis, and 25 July 2025 {i.e. her last day), with the vast majority of the documents (i.e. 188 documents) being uploaded during Ms Chu's notice period between 25 June 2025 and 25 July 2025. Amongst those documents uploaded to the USS drive in that period were: (i) court documents filed in these Proceedings and in proceedings ongoing in Hong Kong; (ii) correspondences between lawyers representing the Petitioner and me, my Mother, the Company and/or the Group and/or my Father's estate; (iii) Invoices sent from lawyers representing me, my Mother, the Company and/or the Group and/or my Father's estate; (iv) financial and accounting information relating to the Company and the Group; (v) financial accounting information relating to me, my Mother and my Father's estate; and (vi) identity documents and personal information relating to me, my mother and my Father's estate.*

(c) *70 emails were forwarded from Ms Chu's corporate email address ("janice.chu.elh@elitecorp.com") to her personal email address ("mszhu2002@yahoo.com.hk") between 27 June 2025 and 25 July*

2025. These emails contained sensitive and privileged materials, including: (i) Email correspondence chains between Harneys and me and other members of the legal team for me, Mother and the Company. This is evident by at least 8 emails containing the luggage tag used by Harneys in respect of this matter "[HARNEYS-GLOBAL.064155.0001]" with attachments including correspondences to and from Harneys and Conyers, and related legal advice, Invoices and working drafts of documents related to the Proceedings. (ii) Emails containing working drafts of witness statements In relation to the Proceedings, including a working draft of the witness statement for my Mother (iii) Email correspondence chains between legal advisors for me, my Mother, the Company and my Father's estate with attachments including correspondences between my lawyers and the Petitioner's Hong Kong lawyers and related legal advice, invoices and working drafts of documents. (iv) Financial documents and information relating to me, my Mother, the Company and Group and my Father's estate, including with respect to cashflow projections, reconciliation of funds invoices, and current account Information.

- 40 As is evident from the above, the documents misappropriated by Ms Chu were privileged and confidential and taken without authority and in breach of her fiduciary obligations to me, my Mother, the Company and the Group and my Father's estate. The unauthorised duplication, or forwarding on, of personal, sensitive or privileged information belonging to the Group or their senior personnel is a breach of the Group's policies. Without waiving privilege, legal advice is presently being sought, including the possibility of enforcing my rights, and that of my Mother, the Company, the Group and my Father's estate in criminal and civil proceedings against Ms Chu.
- 41 It is impossible to determine the full extent to which Ms Chu has misappropriated privileged information and documents. However, the volume and nature of what has already surfaced indicate that the breach was significant, and it is likely that further materials remain undiscovered. Ms Chu is clearly familiar with the documents in question, which are of a privileged nature. Her continued possession and use of these materials, alongside their use by the Petitioner and her lawyers, raises very serious concerns about whether my Mother and I can ever receive a fair and equitable hearing in these present Proceedings.
- 42 Based on the foregoing, it is apparent to me that Ms Chu is likely to have been corresponding with the Petitioner and her legal advisors in Hong Kong and Bermuda while still being employed at Elite and while having access to legally privileged and commercially sensitive information. The fact that the documents set out in PSL0D2 could only have originated from Ms Chu strongly indicates that the Petitioner's legal counsel has been in direct correspondence with Ms Chu for the purpose of obtaining a proof of evidence, as indicated in the lists of documents."

23. In her employment contract with the Company, dated 10 March 2020, signed on 1 April 2020 (**Employment Contract**) Ms Chu gave the following undertaking as to confidentiality at clause 13:

“(a) The Employee shall not at any time during the currency of his/her employment with the Company or after the termination thereof without limit in point of time:-

- i. make use of any confidential information as defined in Clause 13(c) hereof (“Confidential Information”) for his/her own purpose or for any purpose other than that of the Company or for the benefit of any person, firm, corporation, association or entity other than the Company;*
- ii. Divulge or communicate to any person, firm corporation, association, or other entity any Confidential Information except to those of the employees or officers of the Company whose province it is to know the same; or*
- iii. Cause any unauthorized disclosure of any Confidential Information.*

.....

(b) All notes, memoranda, letters, records, faxes, writing, plans and drawings made by the Employee and/or kept by the Company ... in relation to the business conducted by and/or concerning the dealings and/or affairs of the Company ... shall be and remain the property of the Company and shall be handed over by the Employee to the Company ... upon leaving the employment of the Company and the Employee shall not retain any copy thereof.”

(c). “Confidential Information” means all information and records relating to the dealings, organization, business, finance, transactions, design, know-how, product, ideas... or any other affairs of the Company (in whatever form held) ... save and except information which is in the public domain other than as a result of a breach of this Employment Contract.”

24. The Employment Contract stipulates that Ms Chu’s confidentiality obligations continue notwithstanding that she ceases to be employed by and after the termination of her employment with the Company.

25. The Company also had a data policy for the security of its digital and electronic records Ms Chu had signed this policy statement acknowledging confidentiality obligations, which made it clear downloading or deleting files was not permitted.

26. As R1’s evidence in R1-3 quoted above makes clear, R1-R2 and R3 assert that Ms Chu deleted Company documents, transferred and removed Company documents to a USB

stick and forwarded emails from her Company account to her personal email account. R1-R2 rely on the report dated 26 October 2025 (the ***Cheung Report***) obtained from Mr Michael Cheung who is said to be a digital forensics' expert. Mr Cheung examined Ms Chu's work laptop computer and concluded that 27,548 files were on the device (with 2,011 irrecoverably deleted); that 312 documents were uploaded to the USB stick between 4 December 2022 and 25 July 2025 (188 during the notice period 25 June – 25 July 2025) and that 70 emails were forwarded from her corporate account to a personal email address during her notice period. Mr Chueng prepared a schedule of the documents uploaded to the USB stick with brief details of each document. His summary identified letters to Minter Ellison, draft affirmations and witness statements, a list of questions apparently prepared by R1-R2's legal advisers and "*Counsel's follow-up questions.*" The emails sent to Ms Chu's personal email account included chains of emails tagged with a Harneys identifier indicating that they were prepared and sent by R1-R2's attorneys in connection with these proceedings.

27. R1 in R1-3 refers (at [12]) to the Petitioner's second supplemental list of documents filed on 18 September 2025 (the ***PSLOD2***). The following day, on 19 September 2025, Conyers wrote to Harneys listing the witnesses that the Petitioner to call to give evidence at trial. Conyers stated that the Petitioner intended to call Ms Chu to give evidence on the "*management of R3, administration of the Fourth Respondent and R1's influence over R2.*"
28. In R1-3, R1 states as follows (my underlining):

"14. The documents that comprise the list disclosed in the PSLOD2 are predominantly documents that are obviously only in the Petitioner's possession because they were provided to her by Ms Chu in breach of her duty of confidence to the Group and in violation of both legal advice and litigation privilege. They are confidential as they are private, sensitive documents which include personal banking information. I am advised and believe that certain of these documents are covered by legal advice privilege because they represent communications as between R1 [himself] and his [my] lawyers in which legal advice is communicated and responded to or by litigation privilege because documents formed part of the instructions to lawyers. These materials ought never to have been provided by Ms Chu to the Petitioner or her lawyers. It appears that the Petitioner deliberately waited [until] after filing PSLOD2 and the documents referred to therein before putting the Respondents on notice in their 19 September Letter that

she intended to call Ms Chu as a witness. This was presumably to prevent the Respondents from seeking appropriate relief in Hong Kong or Bermuda to prevent the very mischief that has now already occurred.

15. On 23 September 2025, Harneys, acting on behalf of R1-R3, wrote to Conyers (the 23 September Letter) to put the Petitioner on notice that "the documents that have been disclosed in the PSLOD2 appear to be documents which belong to the Company and the group, and which Ms Chu illegally stole from the Company." At this stage, Harneys had sought to identify what confidential and privileged information was shared and the extent to which Ms Chu has revealed R1-R3's legal strategy to the Petitioner and her lawyers. Harneys expressly reserved the right to apply to Court to disallow Ms Chu from filing evidence in the Proceedings

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17. On 3 October 2025, Harneys sent another letter to Conyers (the Harneys 3 October Letter) chasing for a substantive response to the issues raised by them in the 23 September Letter. In particular, the 3 October Letter requested details of the specific Issues which it was proposed Ms Chu would address in her evidence, confirmation that she has not shared legally privileged or commercially sensitive documents, materials or information with the Petitioner and her lawyers, noting that she owes a continuing obligation of confidentiality to Elite and the Company such that any unauthorised disclosure of legally privileged and/or confidential information or documents would be a serious breach of that obligation". Once again, Harneys reserved their right to apply to Court if necessary.

18. Only after the Harneys 3 October letter was sent did Conyers [send their letter of the same date] (the Conyers 5 October 3 Letter). The Conyers 3 October Letter stated merely that the Petitioner is entitled to call Ms Chu as there is no property in a witness and that "it is also trite that relevant evidence is admissible even if it has been stolen or otherwise unlawfully obtained." Messrs Conyers also stated that "the Petitioner was not aware of any materials or information provided by Ms. Chu that are subject to legal professional privilege" and that she "confirms that Ms. Chu has not given her information on R's legal strategy in these proceedings". Conyers also refused to provide any more detail on the matters which were to be covered by Ms Chu. In my view this response was wholly dismissive of the concerns raised by Harneys. It did not indicate what information and documents were shared, nor did it confirm whether legally privileged materials had been shared by Ms Chu with the Petitioner or her legal counsel in Hong Kong or Bermuda. It was also entirely dismissive of the extremely serious issue concerning the misappropriation of commercially sensitive information from the Company by Ms Chu, notwithstanding what appears to be a tacit admission by Conyers that they were aware that the information by the Petitioner appeared to have been stolen or otherwise unlawfully obtained.....

19. Harneys wrote to Conyers again on 10 October 2025 (the 10 October Letter) to express their significant concern on the dismissive response from Conyers and to reiterate again the close and intimate access that

Ms Chu had to R1-R3's legal advice and strategy and to highly sensitive and legally privileged matters. The 10 October Letter stated:

"Ms Chu has been intimately involved in the litigation that forms the basis of the Proceedings. She has attended nearly all meetings as between our clients and their Hong Kong and Bermuda lawyers as well as attended various meetings as between the 2nd Respondent and her lawyers on personal matters. Ms Chu has detailed knowledge of our clients' legal affairs, including our clients' case strategy with respect to the Proceedings and she has been copied on nearly all emails, correspondence and invoices as between our clients and their Bermuda and Hong Kong legal advisors. She has been involved at all stages of the litigation, including attending meetings with our clients' legal advisors and senior counsel. She has also been integral to the internal working group within the Company relating to the litigation, including with respect to identifying relevant documents for disclosure, and the preparation of our clients' witness statements. This was all knowledge, information and materials that she has only had access to as a result of her employment with the Company and the Group, and which the Petitioner only has in her possession, custody and power as a result of Ms Chu's breach of her duty of confidence to the Company."

- 20 The 10 October letter also made clear R1 and R2's position that given Ms Chu's close and intimate knowledge of the Respondents' legal strategy and access to privileged materials, (1) It is inappropriate for her to give evidence in the Proceedings and (2) the inherent fairness and integrity of the Proceedings appears to have been irretrievably tainted (3) by procuring the violation of privilege the proceedings have become an abuse of process.
- 21 Ms Chu cannot be treated as having divorced herself from the knowledge she had obtained in the many years during her employment by Elite and her involvement with the Company and the Respondents' legal affairs. Once privileged information is known, it cannot be unknown and any action that she takes that relate to the Proceedings and preparing evidence, will be (whether consciously or unconsciously) influenced by the knowledge that she has. The same goes for the Petitioner given that she will likely have spent significant amounts of time with Ms Chu. The Petitioner's lawyers will themselves have spent time with her when taking proof of evidence from her.

29. In R1-4, R1 responded to the Petitioner's evidence (which I discuss below) as to what documents and information had been disclosed to her by Ms Chu. R1 said this (my underlining):

"12 Joyce [the Petitioner] attempts to present the evidence taking process with Ms Chu in paragraphs 20 to 24 of Joyce 7 [P-7] as one undertaken cautiously in order to prevent privileged information from being shared. However, I do not accept this as reassuring. I do not see how the purported precautions

taken by Joyce and ME [Minter Ellison] (if indeed they were taken) could have been effective in reality.

- 13 Joyce alleges that she told Ms Chu "not to pass on any privileged material". I am surprised for it to be said that Joyce as a layperson and Ms Chu as another layperson relied on each other to identify privileged material. I do not see how Ms Chu could have separated in her mind her explanation of my alleged wrongdoings as they relate to these proceedings from the privileged information she had through her involvement in meetings with my and my Mother's legal team - I doubt Joyce appreciated the privilege issue at that time. There is also no written note nor detailed explanation of what was discussed at the meeting.
- 14 It is unexplained how Joyce knew she should not receive privileged material. I also doubt Ms Chu had the ability to identify what would constitute privileged material (especially if asked on the spot at that meeting given Joyce's claim that the meeting was a social one). There are no notes. These matters go to the heart of this Debarment Application, yet they are wholly absent from Joyce 7.
- 15 It is said that Ms Chu agreed to provide a witness statement on the basis that she "came to realise what I did was wrong". I find that surprising in the context of her resignation (paragraph 38 of [R1-3]). On 27 June 2025, Ms Chu demanded a three-year employment contract and threatened to resign from Elite Industrial if her demand was not met. When I rejected that demand, she resigned. It now transpires from paragraph 17 of Joyce 7 that having failed to secure the three-year contract from me, Ms Chu immediately met Winnie Wong (Joyce's assistant) on 2 July 2025 and swiftly turned to Joyce's camp and offered to allege wrongdoing against me for Joyce.
-
17. Joyce claims in paragraphs 21 and 22 that she had reminded Ms Chu in August 2025 (after three meetings with ME) to "refrain from sharing any materials that are or may be subject to privilege". I am not sure that I understand the purpose of this reminder given that by that stage Ms Chu had already provided privileged information to ME during their meetings. Joyce's decision to provide this "reminder" was too late an intervention.
- 18 Joyce identifies the documents allegedly provided by Ms Chu to Joyce in paragraph 24. Joyce does not explain whether she forwarded them to her lawyers assuming they were privilege-free, or whether she undertook her own review. If those were the only documents supplied by Ms Chu she undertook a deliberate and selective disclosure necessarily influenced by what she had gleaned from discussions between my lawyers during meetings. This can be compared with the full list of materials illegally taken by Ms Chu as identified in the Forensic Report provided in LTM-3, or the 312 documents she uploaded to a USB drive before her departure on 25 July 2025 (paragraph 39(b) of [R1-3]).

19 *As I am seeking to oppose the Petitioner adducing the witness statement of Ms Chu, I shall refrain from detailed comment on her draft statement exhibited at pages 43-57 of LKHJ-4. Without prejudice to my position, and without waiving privilege, and from a review of the draft witness statement, it is obvious that Ms Chu formed her testimony based on knowledge acquired from the confidential discussions between me and my lawyers.*

(a) *By way of example, the witness statement accused me of allegedly instructing her to identify Joyce's poor management (paragraphs 9 - 10) and "think about ways to criticise Joyce". The content here must certainly have been influenced by Ms Chu's knowledge that an important part of my and Mother's defence was to show Joyce's shortcoming as a director and seeks to suggest that I had sought to manufacture or come up with points outside of the decision making at the time that Joyce was removed.*

(b) *This is not the case, but the suggestion here would be to undermine arguments that will be raised in response to Joyce's claim. At paragraphs 15 and 29 of the witness statement regarding the CHK Property and Shenzhen Project respectively, Ms Chu provides tailored (and incorrect) criticism of my management of these matters knowing full well that that these issues would be key areas of disputes in the proceedings which me and my legal team have placed particular focus on.*"

Chu-WS

30. Chu-WS is a witness statement of and signed by Ms Chu dated 17 September 2025 (the ***Chu-WS***). It sets out the evidence that Ms Chu intends to give. The headings in the Chu-WS are as follows: the Liu Family and the Company; R1's retiring of Ms Chu and the Petitioner's former personal assistant (Jennifer) in September 2022; the Petitioner's removal from the board of the Company in June 2023; R2's transfer of her shares in the Company to R1 in March 2024; the forensic accounting exercise undertaken by the co-executors of Mr Liu's estate in December 2022 to June 2024; R1's acquisition of properties in Trafalgar Court in Tai Hing Road in Hong Kong; donations to the Customs and Excise Service Children's Education Trust Fund; further events following the removal of the Petitioner from the board of the Company; R2; Ms Chu's resignation from the Group in July 2025.

31. Under the first heading, Ms Chu deals with her qualifications (she is a trained accountant) and employment history including with Elite, her role in Elite including that she reported

to R1 and the Petitioner and how the Company and other Group companies were managed (including how the personal expenses of members of the family were “*run through the Group*” and how R2 terminated her employment with Elite on 9 September 2022.

32. Under the second heading, Ms Chu deals with how she was hired by R1 and joined Elite Capital and how she reported solely to R1 in this period up to July 2025. She explains that from September 2022 R1 asked her to “*think about ways to criticise*” the Petitioner and provides particulars of this. Ms Chu confirms that she overheard Jennifer’s discussions with R2 in circumstances where Jennifer had been instructed by R1 what to say.
33. Under the third heading, Ms Chu deals with the plans to convene a board meeting of the Company in June 2023 to remove the Petitioner and asserts that R1’s claim that this had been R2’s decision was wrong. Ms Chu asserts that it was R1 who initiated and actioned the removal of the Petitioner. Ms Chu says that she was aware from emails copied to her attaching draft documents sent to the boards that meetings of other Group companies had been held to remove the Petitioner at the instigation of R1. She notes that after the Petitioner’s removal R1 arranged for her (Ms Chu) to be rehired by Elite in October 2023. She acted as R1’s and R2’s personal financial assistant and managed E-Open Finance Limited’s finances (*E-Open*).
34. Under the fourth heading, Ms Chu says that R1 asked her to persuade R2 to transfer some shares in the Company to him for a nominal consideration, which she did. She says that R2 later told her that she regretted doing so.
35. Under the fifth heading, Ms Chu deals with the forensic accounting exercise initiated by R1 to examine the liabilities of Mr Liu’s estate to the Group. Ms Chu says that R1 did this in order to reduce the estate’s liabilities to the Group, to reduce the Group’s indebtedness to the Petitioner and delay the administration of the estate by R1 and his uncle. Ms Chu says that R1 instructed the Group’s finance team to reverse various transactions recorded in the Petitioner’s accounts with the Group so as to reduce the Group’s indebtedness to her.

36. Under the sixth heading, Ms Chu refers to R1's alleged acquisition in September 2024 for himself (via another company) of properties in Trafalgar Court in Tai Hing Road in Hong Kong using funds owned by E-Open. Ms Chu says that R1 arranged for these properties to be rented by Elite at a monthly rent of HKD300,000.
37. Under the seventh heading, Ms Chu refers to R1 obtaining a personal tax deduction for charitable donations made by members of the Group.
38. Under the eighth heading, Ms Chu says that since the Petitioner's removal from the board, R1 has dominated management of the Group and exercised control over what information employees are allowed to see. She says that R1 gave instructions for rental income owed to Group companies to be transferred to R2 and arranged for corporate funds of the Group to be used to pay his children's education fees and other expenses and also transferred to him.
39. Under the ninth heading, Ms Chu with the mental capacity of and her dealings with R2 as well as r1's relationship with R2. She says that funds had been transferred from the Group to R2 for the purpose of onward transfer to R1. She says that she was threatened by R1 if he thought that Ms Chu had told R2 too much.
40. Under the tenth heading, Ms Chu deals with the circumstances surrounding her resignation from Elite and the Group in July 2025. She says that R1 unfairly accused her of being a spy for and giving information to the Petitioner and that R1 had threatened to fire her as a result. But she had resigned first.

R1-R2's and R3's submissions

41. R1-R2 and R3 argue that the Chu-WS should be excluded since it was prepared by Ms Chu based on her knowledge of privileged communications between R1-R2 and R3 and their legal advisers and her knowledge of their legal advice and case preparation. It also discloses confidential information in breach of Ms Chu's duties of confidentiality to each of them.

42. Furthermore, all evidence from Ms Chu should be excluded in the Petition proceedings. Ms Chu is unable to give any evidence which would not directly or indirectly violate R1-R2's and R3's legal privilege because her knowledge of relevant events is too deeply interwoven with knowledge of confidential and privileged material and her evidence would consciously or unconsciously take advantage of this knowledge.
43. In addition, R1-R2 and R3 argue that the evidence shows that there is a real risk that the misconduct of the Petitioner and her advisers has compromised the integrity of the litigation process, and that the Petitioner should be required to give further evidence to confirm the position. R1-R2 and R3 assert that the Petitioner has procured a breach of confidence and violation of privilege with the result that she and her legal advisers have received privileged documents and information which gives them an unfair advantage in the Petition proceedings and prevents there being a fair trial of the Petition. In providing her narrative to the Petitioner and the Petitioner's legal advisers Ms Chu has almost certainly (and it is to be inferred that she has) disclosed key and privileged details of R1-R2's defence of the Petition which cannot be erased. The Petitioner's evidence that she and her legal advisers took reasonable and workable precautions to prevent the disclosure of privileged material and that they have not been told about or given documents relating to privileged matters, is not credible and should not be accepted.
44. In their skeleton submissions R1-R2 and R3 set out their case as follows (my underlining):
29. *The Petitioner's narrative of events is undermined by the factual chronology. Joyce [the Petitioner] states that she (with Ms Winnie Wong) first met Ms Chu on 28 July 2025, only three days after Ms Chu's last working day (25 July 2025). This near-immediate re-establishment of contact sits alongside the fact that Ms Chu had resigned only weeks earlier after issuing an ultimatum on 27 June 2025 and then leaving on 25 July 2025, following which (on Joyce's account) Ms Chu took the position that she had come to realise that Jimmy's conduct was "wrong" and agreed to be a witness.*
30. *The Petitioner further relies upon meetings between Ms Chu and her Hong Kong solicitors, ME, on 31 July 2025 (attended by Mr Wat, and with the Petitioner joining only that meeting), 2 September 2025 (attended by Ms Leung), and 17 September 2025 (finalisation/signing of the witness statement). By that point, however, the Respondents' complaint is that Ms Chu was already within the Respondents' "circle of confidence", having been*

deeply embedded in privileged communications, case preparation and strategy, including disclosure and draft witness statements.

31. The whole process between the 'spontaneous' meeting with Ms Chu and connecting her with her lawyers for the purposes of taking proof of evidence was less than one week. The acceleration of timing belies the reality that Joyce's outreach to Ms Chu went beyond being "curious about Ms Chu's reasons for departure". The only reasonable inference to draw is that Joyce had wilfully sought out Ms Chu precisely because she was known to or likely to have had access to privileged knowledge and documents.
32. Against that background, the Petitioner's assertion that she, as a layperson, told Ms Chu "not to pass on any privileged material" at the very first meeting on 28 July 2025 is not a sufficient safeguard, nor does it begin to address the real problem: that Ms Chu could not realistically "compartmentalise" (or purge from her memory) privileged knowledge obtained over years of involvement, such that any subsequent evidence-taking would be uncontaminated. This 'warning' demonstrates two things: a. Such warnings, if given, would only have been necessary if, before 28 July 2025, Joyce was indeed well aware of Ms Chu's involvement with matters relating to both the Hong Kong and Bermuda proceedings. b. The explanation is also plainly obfuscatory. If no lawyers were present how would the assembled laypersons on 28 July 2025 have understood what was meant by "privileged material" on the spot?
33. Moreover, on the Petitioner's own evidence, a further "reminder" not to share privileged materials was given only "on or about 14 August 2025", i.e., after the first ME meeting on 31 July 2025 and before the second one held on 2 September 2025⁴³. It is submitted that this only underscores how inadequate the supposed safeguards were: once the taking of evidence began, Ms Chu's prior exposure to the Respondents' privileged information was already embedded in her mind, and any suggestion that it could somehow be 'screened off' is unrealistic in the extreme. Critically, the Petitioner provides no contemporaneous notes of what was said or done at the 28 July 2025 meeting to allow the Court to test her narrative. At the very least, the speed with which Ms Chu moved from resigning her position with the Third Respondent to aligning herself with the Petitioner's camp calls for careful scrutiny by the Court when assessing (i) the reliability of the Petitioner's account; and (ii) whether the proceedings have been tainted.
34. The forensic report makes it clear that Ms Chu had, prior to the end of her employment, stolen and/or deleted significant amount of confidential and privileged material. It is not known to Jimmy [R1] and Mother [R2] why Ms Chu had decided to steal or delete those documents given that: a. Ms Chu had signed a data policy acknowledging confidentiality obligations, so she knew that such conduct was not permitted and b. doing so would result in a breach of Ms Chu's Employment Contract, which contained an explicit confidentiality clause at clause 13 of the Employment Contract.

35. When first made aware that the documents that had been misappropriated by Ms Chu were likely in breach of her obligations to the Company and likely a criminal offence, Conyers merely replied (in their letter dated 3 October 2025) to note that “it is also trite that relevant evidence is admissible even if it has been stolen or otherwise unlawfully obtained.” The dismissive approach to the matter, without any indication of investigating further, suggests that Joyce will certainly have had foreknowledge of the illegal means by which the documents from Ms Chu were obtained.
- (iv) *The insufficiency of safeguards to ensure that privileged material and/or information were not transmitted.*
36. The only safeguards which Joyce claims were taken to mitigate against the risk of privileged material passing to her from Ms Chu are: a. At the first meeting with Ms Chu, she had told her “not to pass any privileged material.” This would have been an impossible task given that no lawyers were present at the meeting to consider what information would constitute “privileged material”. It would be implausible for a lay person like Ms Chu to navigate, on the spot, her explanation of my alleged wrongdoings as they relate to these proceedings from the information she would have obtained by having been involved in meetings with the Respondents’ legal team – the latter would invariably affect the former. b. Joyce then claims that she had reminded Ms Chu in August 2025 (after three meetings with ME) to “refrain from sharing any materials that are or may be subject to privilege”. Such a reminder was pointless since if Ms Chu was going to have provided privileged information and materials to ME, she would already have done so by the time the warning was given.
37. It is telling that in the meetings between Ms Chu and ME (for which no meeting notes have been produced), ME never thought to ask Ms Chu to seek independent legal advice on the matter. Instead, ME proceeded on the assumption that it was entirely safe for Ms Chu to provide evidence.
38. *Even if “safeguards” were actually put in place, these would be largely performative and ineffective given Ms Chu’s inherent knowledge of the proceedings. Neither Joyce nor her legal team (nor indeed Ms Chu herself) have been able to safeguard against the use of embedded knowledge of the Respondents’ legal strategy and/or purge such knowledge when deciding which documents she should or should not provide to Joyce and her legal team.*
39. The inherent issues in trying to prevent the transmission of privileged material and/or knowledge while taking evidence from Ms Chu, who has had years of involvement with the Respondents, present themselves in the manner which the OLN video recordings were handled by ME: Two video recordings made at the office of Oldham, Li & Nie (OLN) on 22 May 2024 and 3 June 2024, and an associated “draft script.” These were created in the context of Mother obtaining legal assistance to place on record her position regarding the power of attorney and the transfer of shares to Jimmy, with a view to rebutting anticipated allegations of vulnerability and undue influence. The

Respondents submit that these recordings, together with the surrounding communications and draft script, are legally privileged and confidential.

40. Mother's evidence is that Ms Chu unlawfully retained copies of both recordings and passed them to Joyce and her legal representatives without authority, in breach of confidence. In particular, Mother's evidence is that OLN sent both videos to Ms Chu's personal email address (mszhu2002@yahoo.com.hk), not her work address, and that there was "no lawful basis" for that arrangement. The "only reasonable inference" to draw from this is that Ms Chu did so to facilitate misappropriation.
41. Joyce accepts that ME received the two OLN videos and draft script: Mr Wat (a very junior lawyer who was present with Ms Chu without any senior or partner supervision) confirms he received them from Joyce on 6 September 2025 and stopped reviewing them after the first few seconds out of caution and stopped reading the draft script after the first line. Joyce also asserts that Conyers have not viewed the videos and have had no contact with Ms Chu. The Respondents' complaint, however, cannot be answered by the bare assertion of caution: the receipt, and any review, of material which the Respondents say is privileged and was misappropriated goes directly to the integrity of the evidence-taking process and the fairness of the trial, especially in circumstances where Mother's evidence is that Ms Chu had no authority to possess, hold or disseminate that material at all .
42. Further, the Respondents rely on the fact that the correspondence from Conyers demonstrates familiarity with the privileged contents of the OLN recordings, notwithstanding their earlier statements suggesting no privileged material had been received. On the Respondents' case, this is a clear illustration of the wider taint: privileged and/or confidential material can be shown to have moved from the Respondents' confidential sphere into the Petitioner's camp, with the result that the Court cannot be confident that any resultant witness evidence (including Ms Chu's) is uncontaminated.
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104. Beyond the questionable selection of supporting witness to answer this application, the narrative presented by the Petitioner as to how Mr Chu came to become a witness in these proceedings is simply unbelievable for the reasons set out in paragraphs 24-48 herein. Taken in its full context, the most plausible explanation is that the Petitioner and her legal team had, from the beginning, planned to obtain information from Ms Chu which they hoped would strengthen the Petitioner's case, information they knew and/or should have known would likely be privileged. They had initially hoped that the Respondents would not have raised this issue, and when it was indeed raised, the Petitioner sought belatedly to conjure up an explanation of the conduct. It should be highlighted that neither the Petitioner nor Ms Chu have been forthcoming in providing their notes of discussion at those meetings to quell any suspicion. It is therefore unknown to the Respondents why Ms Chu agreed

to act as a witness for the Petitioner, including, for example, if there were any financial incentives provided to Ms Chu for doing so.

105. *Further, it is impossible for the Petitioner to deny that Ms Chu had stolen the documents identified in the Forensic Report. In that regard, it would also not have been practically viable for the Petitioner and/or her legal team to ensure that none of the information and/or documents presented to them would rely on privileged knowledge on the part of Ms Chu. Based on the Forensic Report, there were significantly more documents stolen by Ms Chu than what the Petitioner and her legal team purportedly state that they had received – either these documents were all provided to the Petitioner and/or her legal team, or Ms Chu had made selections as to what to provide to them using her prior knowledge of the Respondents' legal strategy.*

45. R1-R2 and R3 summarised their case in their skeleton submissions as follows:

43. *In summary:*

- a. *Ms Chu was in the circle of confidence that gave her access to privileged information. She plainly took and destroyed confidential and privileged material. She also plainly in fact supplied such material to Joyce and her attorneys;*
- b. *at the meeting on 28 July 2025, Ms Chu must have revealed what she knew and yet almost an entire unexplained week passed before lawyers were contacted;*
- c. *based on the Forensic Report and the affidavit evidence of the First Respondent, there were significantly more documents stolen by Ms Chu than she had an opportunity to describe to Joyce or Winnie. Since Ms Chu had no qualms sharing plainly privileged material (which she had obviously taken for this precise purpose), the proposition that she would have 'screened off' other confidential or privileged information when providing evidence to Joyce and her legal team is unrealistic;*
- d. *it is staggering that Joyce did not seek legal advice or even consult lawyers before engaging with Ms Chu. She plainly refrained from doing so, knowing that Ms Chu did have confidential privileged information, because she wanted to control the process; and*
- e. *Ms Chu has not been asked or was unwilling to give evidence to deny her violation of confidence, destruction and misappropriation of company documents.*

44. *The above facts and circumstances give rise to the adverse inferences that (a) Joyce knew that Ms Chu had access to confidential and privileged information; (b) as a result, Ms Chu knew exactly what to say in order to help Joyce advance her case and damage that of the Respondents; and (c) that is exactly what Ms Chu has set out to do not only by providing a witness*

statement but in doing so revealing the Respondents' strategy, strengths and weaknesses.

45. *The Respondents cannot particularise specific documents which were shared with the Petitioner or describe the confidential information which was passed on because the Petitioner has not given a full (or straightforward) account of what occurred. It is likely that the stolen documents have been provided to the Petitioner and/or that Ms Chu had used her knowledge of the Respondents' legal strategy to aid Joyce's case.*
46. *There is a clear risk, given the absence of a full explanation, of a broader misuse of the Respondents' privileged and/or confidential material. The result is that the fairness of the proceedings has been seriously undermined. The Court is asked to make the Order for an affidavit in the terms of the [Ms Chu] Summons to provide the Petitioner with a last opportunity to explain to the Court the true extent of her invasion of the Respondents' privileged and/or confidential information.*

The legal basis for and the nature of the injunctive relief sought

46. The Ms Chu Summons states, as I have noted, that relief is sought pursuant to RSC O.29, r.1 and RSC O.38, r.3 and/or the Court's inherent jurisdiction. RSC O.29, r.1 deals generally with the procedure for applying for injunctive relief while RSC O.38, r.3 deals with the Court's power to give directions as to how evidence of particular facts is to be given. They are procedural rules which do not deal with the legal basis for and grounds relied on to support the claim for injunctive relief.
47. R1-R2 and R3 rely, as I understand their case, on various different jurisdictions and grounds in support of their claim to an injunction.
48. First, they rely on the Court's power to grant injunctive relief to restrain another party to proceedings using and relying on the applicant's privileged documents and information relating to privileged communications. R1-R2 and R3 argue that Ms Chu's evidence in Chu-WS was prepared (and the Court should infer that it must have been prepared) using R1-R2 and R3's privileged material. They also argue that any other evidence she might give will be based on and use and is bound to be based on and use her knowledge of privileged documents and other communications. It is impossible to separate out that material from other evidence so that the whole of Chu-WS and all and any other evidence

that Ms Chu might in future give must be excluded to protect the privileged material. As is said at [94] of R1-R2 and R3's skeleton submissions:

“The level of access Ms Chu plainly had to privileged material including to the Respondents' legal strategy and plans for dealing with allegations in the Petition and the Respondents' counter allegations means she cannot be trusted to give evidence without revealing privileged material. Such material would be either driven by advice or the response to that advice. The Court is invited to make an order that she cannot give evidence.

49. R1-R2 (and R3) refer in their skeleton argument to the judgments of the English Court of Appeal in *Lord Ashburton v Pape* [1898] 1 QB 759 and *Goddard v Nationwide Building Society* [1987] 1 QB 670. *Lord Ashburton v Pape* established the right of a person whose privilege had been invaded to obtain an injunction against a third party in receipt of that information. In *Goddard v Nationwide Building Society* [1987] 1 QB 670 the English Court of Appeal had explained that the Court will normally restrain a person from disclosing or giving evidence of information in confidential or privileged material, including by giving evidence in proceedings. Nourse LJ said this: “[O]nce it is established that a case is governed by *Lord Ashburton v. Pape* there is no discretion in the court to refuse to exercise the equitable jurisdiction according to its view of the materiality of the communication, the justice of admitting or excluding it or the like. The injunction is granted in aid of the privilege which, unless and until it is waived, is absolute.”
50. Secondly, they rely on the Court's power to restrain another party to proceedings using and relying on evidence that has been obtained unlawfully. In particular, evidence obtained by an opponent from a third party where the third party's disclosure to the opponent, or the disclosure of the third party's evidence and its use in the proceedings, involved or would result in a breach of a duty of confidentiality owed by the third party to the applicant. They accept that in this second class of case while the Court has the power to exclude the evidence and to grant injunctive relief, the right of the party to whom the duties of confidentiality are owed to an injunction is not absolute. The Court must make a judgment on the facts of the case to determine whether on balance the unlawfully obtained evidence should be excluded. R1-R2 and R3 argue (at [93] of their skeleton submissions) that “*Even if the material was not privileged, in the present case, given the obvious intention to misuse the information the burden would be on the*

Petitioner to show why no injunction should not be ordered (see Bolkip v Prince Jeffri [1999] 2 AC 222).” They assert that the Petitioner’s conduct (misconduct) justifies the granting of an injunction. The evidence shows or it is to be inferred that she encouraged and induced Ms Chu to disclose confidential information in breach of her (Ms Chu’s) duties of confidentiality to R1-R2 and R3 at a time when and in circumstances where she must have known that the documents and information were bound to be subject to confidentiality and privilege protections.

51. R1-R2 and R3 acknowledged that where the disclosed material was the subject of legal professional privilege the Court was not concerned with any balancing exercise (see *ISTIL Group v Zahoor* [2003] 2 ER 252 at [89]-[[93] and *MacPherson v Wiseu* [2011] EWCA Civ 399 at [36]). However, where the disclosed material was merely protected by confidentiality the Court's jurisdiction to intervene on behalf of the beneficiary of an unqualified obligation of confidence (such as Ms Chu’s contractual duty) was based on the equitable protection of confidential information.
52. R1-R2 and R3 also maintain that there is a real risk that the extent of the disclosures of confidential and privilege information regarding their case and defence of the Petition is so extensive that it is no longer possible for there to be a fair trial and that subject to obtaining the further evidence and confirmations on oath they seek from the Petitioner they will press for an order that the Petition be struck out or dismissed. R1-R2 and R3 argue that the Court has a supervisory jurisdiction to ensure that there is a fair trial and that the trial is not undermined by impropriety.
53. Although R1-R2 and R3 did not as I understand it specifically put their case for an injunction on the basis of, or at least they did not refer to the relevant authorities dealing with, the wider inherent jurisdiction of the Court (see section VI in their skeleton which is headed “*Injunctions to Restrain Use of Confidential and Privileged Information*” and the authorities cited there) I would note that the need to protect the integrity of proceedings before the Court is also a basis for granting injunctive relief (see, for example, the judgment of Lord Reed PSC and Lord Briggs in the Supreme Court in *Abbasi v Newcastle upon Tyne Hospitals NHS Foundation Trust* [2025] 2 WLR 815 at [165]: *Turning next to the judgment of the Court of Appeal, we respectfully agree with the court’s conclusion that the High Court had inherent jurisdiction to grant the injunctions at*

the outset of the proceedings under its parens patriae powers, and could also make such orders as it considered necessary to protect the integrity of the proceedings themselves”).

54. In their skeleton submissions, R1-R2 and R3 said that they were only seeking an interlocutory injunction (see [88]). However, during the hearing, when I put this to Mr Tucker and discussed with him how he understood the Draft Ms Chu Summons Order working and taking effect (in particular the prohibition in [1] and the order in [2]), and my assumption that only interim relief was being sought, Mr Tucker explained that R1-R2 and R3 were seeking a final order that would prohibit Chu-WS being relied on and Ms Chu giving any further written evidence or oral evidence at the trial and generally in these proceedings.
55. Mr Tucker confirmed at the hearing that the further information sought in [3] of the Draft Ms Chu Summons Order was required to enable R1-R2 and R3 to decide whether to proceed with the application made at [4] of the Ms Chu Summons (*that the Petition be dismissed as an abuse of process pursuant to the Court's inherent jurisdiction*). R1-R2 and R3 wished the Court to adjourn and defer consideration of that application until after R1-R2 and R3 had had an opportunity to review the Petitioner's further evidence (particularly as regards the Petitioner's knowledge of Ms Chu's (alleged) wrongdoing and breaches of her duties of confidentiality and whether she encouraged or participated in that wrongdoing) and sought, at [4] of the Draft Ms Chu Summons Order, permission (within 28 days of the further affidavit being filed and served) to restore the Ms Chu Sommons and list a further hearing for the purpose of determining whether to dismiss the Petition. R1-R2 and R3 claim that the Petition has failed adequately to explain and give an account of her dealings with Ms Chu and that her account needs to be supplemented in material respects. R1-R2 and R3's position was summarised at [28] of their skeleton arguments as follows:

.... the evidence put forward by the Petitioner is deeply unsatisfactory and leaves material gaps in the Petitioner's account of what occurred and what safeguards, if any, were in fact implemented. In brief, not only is the entire narrative provided by the Petitioner regarding her and her legal team's meetings with Ms Chu unbelievable (on any objective view), but the steps taken to ensure that privileged materials are not disclosed by Ms Chu (if even possible once the evidence taking process was commenced) are woefully insufficient. These matters warrant further scrutiny by the Court.

The Petitioner's evidence and case in outline

56. In P7 the Petitioner responded to R1's (and R2's) evidence regarding her contacts with Ms Chu and the documents and information provided by Ms Chu. She said this (my underlining):

15. *Between September 2022 when Ms Chu's employment was terminated and until July 2025, I had limited dealings with or concerning Ms Chu. That is because between 22 September 2022 and 1 September 2023, she was Jimmy's employee. When Ms Chu was re-hired by Elite Industrial in September 2023, I had been wrongfully removed and was no longer perceived to have authority to instruct the Group's employees. Due to my contact with Jimmy [R1] and with the Group, on limited occasions I still had to deal with issues concerning Ms Chu or had contacts with her. I describe below those limited occasions so far as I remember:*

15.1. *On 19 January 2023, I complained to Jimmy that he re-hired Ms Chu in his personal capacity but allowed her to instruct the Group's bankers using Ms Chu's personal email address. My email dated 19 January 2023 and Jimmy's response dated 31 January 2023 are exhibited at pages 13 to 17;*

15.2. *On 23 July 2024, my Hong Kong lawyers MinterEllison LLP ("ME") asked Jimmy that all correspondence to me be directed to ME or Conyers (pages 18 to 21). Nonetheless, Ms Chu still contacted me directly by email in relation to Father's golf club membership. On 13 November 2024, ME reiterated to Jimmy not to contact me directly including through Ms Chu (pages 22 to 27);*

15.3. *Between 14 and 20 November 2024, Ms Chu and ME exchanged emails in relation to property viewing of the Chung Hom Kok Property, which is a property of the Group. Exhibited at pages 28 to 29 is the email chain between Ms Chu and ME on 14 and 20 November 2024; and*

15.4. *In around November or December 2024, Ms Chu contacted my personal assistant Ms Winnie Wong ("Winnie") about payment of the renewal fee of a licence plate owned by the Group. Exhibited at pages 30 to 34 is an email from Jimmy dated 3 December 2024 and at pages 35 to 36 is a letter from ME dated 9 December 2024 capturing this exchange between Ms Chu and Winnie. Re-establishment of Contact with Ms Chu in July 2025*

16. *As confirmed in its Points of Defence, the Company is taking (and should be taking) a neutral position in these proceedings. I am advised and verily believe that the Company's resources should not be expended on Jimmy's or Mother's defence of these proceedings. On 13 January 2025, R 1-R3 confirmed that they are "well aware" of this legal position. Jimmy and Mother also confirmed that the Company's funds were not used to fund legal*

costs incurred by them or for their benefit. On 6 February 2025, the Company confirmed that its funds were not used, and will not be used, to fund legal costs incurred by and/or for the benefit of Jimmy and Mother. The letters between Conyers and Harneys dated 6 January, 13 January, 22 January and 6 February 2025 are exhibited at pages 37 to 42. As Ms Chu was employed and her salaries were paid by Elite Industrial and these proceedings were brought against Jimmy and Mother in their personal capacities as shareholders of the Company, I had no reason to suspect that Jimmy and Mother would have involved Ms Chu in their personal defence of these proceedings.

17. *I learned from Winnie that on 2 July 2025, she had lunch with Ms Chu. During the lunch, Ms Chu told Winnie that she would be leaving Elite Industrial after July 2025. Winnie told me about Ms Chu's impending departure.*
18. *I was curious about Ms Chu's reasons for departure, but I refrained from contacting Ms Chu whilst she was still employed by Elite Industrial to avoid embarrassment in a professional setting.*
19. *I understand that on 25 July 2025, Ms Chu's employment with Elite Industrial came to an end.*
20. *On 28 July 2025, I was joined by Winnie to meet with Ms Chu. For reasons explained above, I had no reason to suspect that Ms Chu had in her possession privileged material concerning Jimmy's and Mother's defence of these proceedings. However, out of an abundance of caution, at the beginning of the meeting, I told Ms Chu not to pass on any privileged material. Ms Chu told me that through her dealings with Jimmy she had come to realise what Jimmy was doing was wrong and was prepared to speak up about Jimmy's wrongdoing. To that end, she agreed to give a witness statement in these proceedings.*
21. *To ensure that the process of taking the witness statement would be conducted properly, I arranged meetings between ME and Ms Chu during which Ms Chu's statement was taken. I understand that Mr Peter Kien Long Wat, a solicitor at ME, will file an affirmation to describe ME's three meetings with Ms Chu on 31 July 2025, 2 September 2025 and 17 September 2025. I joined the meeting on 31 July 2025 only.*
22. *On or about 14 August 2025, I reminded Ms Chu to refrain from sharing any materials that are or may be subject to privilege.*
23. *I understand that based on Ms Chu's account of events, ME prepared her witness statement with Conyers' input, and finalised it on 17 September 2025 with Ms Chu. Exhibited at pages 43 to 57 is Ms Chu's witness statement signed and dated 17 September 2025.*

24. All of the documents which Ms Chu has provided to me or to ME since we re-connected in July 2025 were disclosed under PSLOD2 save for the following exceptions:
- 24.1. *Statement of Mother dated 10 June 2023 (page 58), which is identical to item 11 of PSLOD2 save for a post it sticker on the face of the statement;*
- 24.2. *An invoice from Cosco International Travel (HK) Co., Ltd. dated 16 July 2024 in relation to flight tickets for my son Christian Hu (page 59), which is irrelevant to these proceedings;*
- 24.3. *A completion statement from Chow & Ho, Solicitors dated 23 January 2025 concerning a property at One Wanchai (page 60), which is not in dispute in these proceedings;*
- 24.4. *Two statements of account from K.M. Lai & Li dated 16 September 2024 in relation to the properties at Flat A and Flat 8 on 19/F of Trafalgar Court (pages 61 to 64), which contain similar information as the faxes from K.M. Lai & Li, disclosed as items 27 to 30 under PSLOD2; and*
- 24.5. *Two videos of Mother on 22 May 2024 and 3 June 2024 and a draft script.*
25. I filed PSLOD2 not only to disclose documents provided by Ms Chu, but also to discharge my ongoing disclosure obligation as regards documents that came into my possession, custody or power after I filed the PLOD and PSLOD.
26. I did not arrange any meetings for Ms Chu and Conyers. I have learned from Conyers and I verily believe that that they have not met with Ms Chu or had any contact with her. I also confirm that Conyers has not had access to the two videos and the draft script.
27. I told Ms Chu very clearly not to share any material that are or may be subject to privilege. I confirm that Ms Chu has not told me any material concerning legal strategy in these proceedings or other proceedings involving the Respondents. I verily believe that the materials that Ms Chu shared with me or ME are not privileged. To the extent that this Court finds any of them to be privileged, the receipt of such was inadvertent and such information is likely immaterial.

57. In PKLW-2 Mr Wat gave evidence as to his meetings and communications with Ms Chu. He said this (my underlining):

6. As of the date of this Affirmation, I have met with Ms Chu on only two occasions, 31 July 2025 and 17 September 2025, both for the purposes of taking Ms Chu's factual evidence for use in these proceedings.
7. At the start of my first meeting with Ms Chu on 31 July 2025, and without otherwise waiving any privilege over the substantive discussions during that meeting, I specifically asked Ms Chu not to disclose to the Petitioner or myself any documents or information concerning legal advice sought or received by any of the Respondents or to provide us with any documents prepared for use in proceedings between the Petitioner and the Respondents, should she have such documents or information in her possession.
8. A junior colleague of mine, Ms Leung Ching Hang Christie ("Ms Leung"), met with Ms Chu on 1 further occasion, namely 2 September 2025, also for the purposes of taking Ms Chu's factual evidence for use in these proceedings. Ms Leung was at the time a paralegal of ME (pending her admission as a solicitor in Hong Kong). Ms Leung has confirmed to me and I verily believe that at the start of her meeting with Ms Chu (without waiving privilege over the substantive discussions during that meeting) she specifically reminded Ms Chu not to disclose any documents or information concerning legal advice sought or received by any of the Respondents or any documents prepared for use in these proceedings, as I had instructed Ms Leung to do.
9. Mr Morrison has confirmed to me and I verily believe that he has never met Ms Chu.
10. Save for the caveat in paragraph 13 below, I have not received from Ms Chu (whether directly or indirectly, during the course of my 2 meetings with her or otherwise) any materials or information which are or could conceivably be subject to legal professional privilege vesting in any of the Respondents, whether because they amount to:
 - 10.1. Documents constituting or recording or information concerning legal advice the Respondents have sought or received from their various respective lawyers (whether in Bermuda, Hong Kong or elsewhere);
 - 10.2. Documents or information prepared or obtained by the Respondents for use in legal proceedings between the Petitioner and any of the Respondents (whether in Bermuda, Hong Kong or elsewhere); or
 - 10.3. Documents recording or information concerning the Respondents' legal strategy in their disputes with the Petitioner.
11. Mr Morrison and Ms Leung have confirmed to me and I verily believe that neither of them have received from Ms Chu (whether directly or indirectly) any materials which are or could conceivably be subject to legal professional privilege vesting in any of the Respondents.

12. Neither Mr Morrison, Ms Leung, nor I have had any communications with Ms Chu other than on a few discrete occasions before 2025 when Ms Chu was acting, or purporting to act, as an agent of the Respondents (see for example items 470 and 825 of the Petitioner's List of Documents, at pages 1 and 2-3 respectively).
13. *On 6 September 2025, I received from the Petitioner 2 videos of "interviews" which were conducted on 22 May 2024 and 3 June 2024 and a draft script. I stopped reviewing the videos after the first few seconds when it became apparent that a partner of Oldham, Li & Nie (a law firm in Hong Kong) introduced himself as an "interviewer" and I stopped reviewing the draft script following the first line where the same introduction is made, albeit I had no knowledge of Oldham, Li & Nie's involvement in this matter other than as the former solicitors for Madam Tong Siu Au, Mr Liu Chung Ming and Ms Liu Wai Ming (beneficiaries of the estate of the late Mr Liu Yong Ling who have brought proceedings against the 4th Respondent in Hong Kong). Having stopped watching the videos after the first few seconds out an abundance of caution, I do not consider that I am personally in a position to determine whether or not the 2 videos, or the draft script, are (or remain) legally privileged, on proper analysis, and I understand that this may become a matter for legal argument in due course.*

58. The Petitioner makes two preliminary procedural points. First, that Chu-WS has been filed in these proceedings and may be relied on by her at trial. It has been signed and dated and exhibited to P-7 and thereby filed and served in accordance with the Court's directions for the filing of witness statements. The Petitioner referred to the Consent Order for Directions dated 24 September 2025 (the **September 2025 Order**) pursuant to which the parties were ordered to file and exchange witness statements of fact by 31 October 2025, which were to stand as evidence in chief at trial, with the witnesses who had given the witness statements to attend the trial for cross-examination. R1-R2 were aware before consenting to that order that the Petitioner intended to call Ms Chu as a witness and had failed to object or propose a suitable provision in the order that require Ms Chu's evidence to be dealt with separately or differently from the Petitioner's other witnesses. Accordingly, R1-R2 must now show why despite their agreement to the terms of the Consent Order for Directions they are entitled to an order that the Petitioner is not entitled to rely on Chu-WS and that it must be removed from the Court file. Secondly, that R3 should not be an applicant in respect of the Ms Chu Summons since it seeks substantive relief in relation to the dispute between the Petitioner and R1-R2, which R3 must not participate and spend its funds on.

59. The Petitioner's main substantive arguments can be summarised as follows:

- (a). R1-R2 have failed to establish that the Petitioner should be prohibited from relying on Chu-WS or on calling Ms Chu as a witness at trial.
- (b). R1-R2 have not established that Chu W-S discloses or refers to privileged documents, information or communications.
- (c). R1-R2 have also not established that Chu W-S was prepared using or taking advantage of Ms Chu's knowledge of privileged communications between R1-R2 and their legal advisers including the advice given by or the litigation strategy discussed with or draft documents prepared by those legal advisers or the analysis of the merits (strengths and weaknesses) of R1-R2's case or the Petitioner's case or of issues arising or evidence adduced in the Petition proceedings.
- (d). the Petitioner has identified and disclosed all the documents given to her by Ms Chu and confirmed that, as far as she is aware, Ms Chu has not provided to her any privileged documents or disclosed to her privileged communications between R1-R2 and their legal advisers.
- (e). while it appears that Ms Chu was subject to duties of confidentiality owed to the Company, R1-R2 have not established that Ms Chu was in breach of those duties by disclosing documents and information to the Petitioner or in Chu W-S. Those duties, in particular the duties of confidentiality with respect to Confidential Information in the Employment Contract, are governed by Hong Kong law and R1-R2 had not sought permission to adduce expert evidence as to the applicable law including the availability of exceptions and defences to asserted breaches of the duties of confidentiality that applied or might apply in the present circumstances (where Ms Chu was in effect a whistleblower). Furthermore, R1-R2 had not commenced proceedings against Ms Chu to establish the scope and a breach of her duties of confidentiality. R1-R2 had also asserted but not established that Ms Chu was subject to separate duties of confidentiality owed to them or that Chu-WS gave rise to a breach of any such duties.

- (f). even if Chu-WS did disclose documents or information in breach of Ms Chu's duties of confidentiality that did not without more justify an order that Chu-WS be removed from the Court file at this stage and that the Petitioner be prevented from relying on it. The mere assertion by a party that relevant and otherwise admissible evidence from a witness (which Chu-WS was) had been obtained following an alleged breach of confidence by that witness did not ordinarily justify its exclusion by the Court (especially in circumstances where the alleged or asserted breach of confidence was disputed). R1-R2 would need to establish that the exclusion of Chu-WS was necessary to safeguard the fairness of the trial in the Petition, and they had clearly not done so on this application where the contents of Chu-WS clearly contained important, highly relevant and admissible evidence (that was damaging to R1-R2's case - which was why R1-R2 were so anxious to exclude it) and where the assertions made by R1-R2 as to the extent and nature of Ms Chu's knowledge and understanding of their case, litigation strategy and legal advice remained untested. The Petitioner argued that it was inherently unlikely that Ms Chu had disclosed or would be able to disclose any truly sensitive information that could or would damage or prejudice the ability of R1-R2 to defend themselves. The basis of their defence was made clear in their pleadings and the topics covered in Chu-WS were self-evidently relevant in light of the pleadings and responsive to the issues in dispute as disclosed therein. Ms Chu could work out what factual matters were relevant to the Petition proceedings and what evidence she could and should give without any reference to, or the need to refer to, any of R1-R2 and R3's privileged communications or the discussions she had participated in or documents she had read that had been prepared by or for R1-R3 and R3's legal advisers. Ms Chu had not needed to use and R1-R2 and R3 had not established that Ms Chu had in fact used any knowledge or information that she possessed regarding privileged communications in order to identify what evidence would be relevant and what evidence to give.
- (g). accordingly, R1-R2 have not established that it was necessary or justifiable to prevent the Petitioner filing and relying on Chu-WS at trial or other written or oral evidence she may give in the Petition proceedings. R1-R2 had not shown that it was necessary to exclude Ms Chu's evidence in order to safeguard the fairness of the trial. Ms Chu's evidence to date in Chu-WS was clearly untainted and prepared

without reference to any knowledge she had of R1-R2 and R3's privileged communications, evidence or litigation strategy and so was unobjectionable. It would be open to R1-R2 and R3 to object at trial to any answers that Ms Chu gave in cross-examination if they considered that the answers disclosed, revealed or made reference to privileged matters. It was premature for R1-R2 and R3 to object to further evidence that Ms Chu might file before seeing that evidence. It was not correct to say that Ms Chu could never give untainted evidence. If her evidence dealt with factual matters within her knowledge whose relevance could be seen by looking at the pleadings (and other evidence filed) and did not mention or reveal privileged communications (including privileged documents) there was no basis for excluding it.

(h). in addition, there was no need and it would be wrong for the Court to order that the Petitioner file a further affidavit setting out the information sought in the Ms Chu Summons and the Draft Ms Chu Summons Order. R1-R2 were seeking disclosure from the Petitioner of her proofing of Ms Chu as a witness and the preparation and drafting of her witness statement. The Petitioner argues that it is well established that such confidential communications are made for the dominant purpose of conducting the Petition proceedings are protected by the petitioner's litigation privilege which the Court can only override in very limited circumstances, and R1-R2 had not established that such circumstances exist.

60. The Petitioner submits that, on proper analysis, neither RSC O.29, r.1, nor RSC O.38, r.3 is properly engaged in (or relevant to) the determination of the Ms Chu Summons. Instead, what R1-R2 and R3 appear to be invoking, in their attempts to prevent evidence from being relied upon by the Petitioner in the Petition proceedings or at trial, is the Court's power to control the evidence that is admitted at trial in civil proceedings (including the suggested power of the Court to exclude evidence that would otherwise be admissible). Although the English CPR rule 32.1(2) does confer the power on the English Courts to exclude evidence that would otherwise be admissible, there was no direct equivalent of this rule in the RSC although the Petitioner accepted that it was theoretically possible, in an appropriate case, that the Court's inherent jurisdiction was flexible enough to achieve such a rare outcome, subject to the overriding objective and section 6(8) of the Bermuda Constitution.

61. The Petitioner accepted that if one party to litigation received information or documents that were genuinely privileged belonging to any of the other parties, then there was no difficulty. If the circumstances required, the Court could grant an injunction restraining the use (or misuse) of such information or documents, or requiring the return of such documents (citing as examples *Al Fayed v Commissioner of Police of the Metropolis* [2002] EWCA Civ 780 and *Istil Group Inc & Anor v Zahoor & Ors* [2003] EWHC 165 (Ch), per Lawrence Collins J (as he then was) at [74] and [89]-[93]).
62. Further, the Petitioner submits that the authorities make clear that an affidavit claiming privilege must, at the very least, be specific enough to show the deponent's analysis of the particular documents, or, in the case of litigation privilege, the specific purpose for which they were created (since litigation privilege requires that the relevant documents should have had, as their dominant purpose, the relevant litigation). Ordinarily, a Court would expect to receive a reasoned and considered witness statement or affidavit from a relevant qualified lawyer in support of a party's own claim for privilege.
63. The Petitioner says that the evidence adduced by the Petitioner rebuts R1-R2's assertions that the Petitioner had received documents or information that were subject to R1-R2's and R3's privilege and in the absence of cross-examination, which R1-R2 had not sought, that evidence could not be rejected or disbelieved. R1-R2 had not shown that any of the documents disclosed by the Petitioner in the list of documents in PSL0D2 were privileged. This could only be done by reference to each of the relevant documents. R1-R2 had made only general assertions about Ms Chu having been party to or heard or having read privileged communications without particularising precisely when and with whom Ms Chu had participated in privileged communications or precisely which documents or communications she had been privy to. It was particularly important for R1-R2 to show how the alleged privilege arose in relation to particular documents because where legal advice privilege was relied on in relation to communications between legal advisers and Ms Chu, R1-R2 would need to show that the test in *Three Rivers District Council v Bank of England (No 5)* [2003] QB 1556 was satisfied because Ms Chu had been authorised to receive legal advice. Nor had R1-R2 established that Chu-WS disclosed or made use of such privileged documents or information. There was

therefore no basis for an order that Chu-WS be excluded and that the Petitioner be prohibited from relying on it at trial on privilege grounds.

64. Further, R1-R2's evidence was insufficient to establish with sufficient particularity that Ms Chu had acted in breach of her duties of confidentiality when retaining or obtaining copies of documents and emails, that Chu-WS disclosed documents or information obtained in breach of her duties of confidentiality or that Ms Chu had passed confidential documents or information to the Petitioner in breach of those duties. R1-R2 had adopted a scattergun approach to the preparation and presentation of their evidence and had failed to identify which documents were said to be subject to which privilege or duties of confidentiality. There was uncertainty as to precisely what role Ms Chu, an employee performing a finance function, had assumed in respect of communications with legal advisers of R1-R2 and R3 and the evidence of Mr Cheung should be treated with caution and only given limited weight. He was not an independent expert with duties to the Court, and his analysis had not been tested by cross-examination. It was also arguable that some of the documents and information relating to the Company was not confidential against and prohibited from being disclosed to the Petitioner as another shareholder in the Company.
65. R1-R2 had sought to draw, and invited the Court to draw, adverse inferences as to Ms Chu's motives and conduct which could not properly be drawn based on the evidence adduced to date, in circumstances where R1-R2 had not even sought to establish and secure factual findings regarding such asserted breaches in proceedings against Ms Chu (in which Ms Chu would be given a proper opportunity to defend and explain herself). The Court was entitled to and should review R1-R2's evidence with a critical eye particularly where, as here, they had made serious allegations of dishonesty against Ms Chu and also probably against the Petitioner. There was no proper basis for any finding that the Petitioner had behaved improperly or knowingly received privileged information/documents or documents/information disclosed in breach of duties of confidentiality to R1-R2 or R3. The Petitioner had denied this (and had denied having any basis for believing that Ms Chu involved working with R1-R2 on matters relating to these proceedings and privy to privileged communications between them and their legal advisers) and once again her evidence in the absence of cross-examination could not be rejected or disbelieved. The Petitioner had disclosed to R1-R2 details of and confirmed

all the documents she had received from Ms Chu and had acted in an open, transparent and proper manner. Her evidence as regards privilege was supported by evidence from a qualified Hong Kong solicitor.

66. The Petitioner argues that even if the Court was satisfied that Chu-WS disclosed documents or information obtained by Ms Chu in breach of her duties of confidence, R1-R2 have failed to show that the high threshold for excluding evidence obtained unlawfully had been met. It was well-established that even unlawfully obtained evidence was ordinarily admissible in evidence. As was said in *Ras Al Khaimah Investment Authority v Azima* [2021] EWCA Civ 349 at [41]: “Cases of evidence procured by torture aside, the general rule of English law is that evidence is admissible if it is relevant to the matters in issue. If it is, it is admissible and the court is not concerned with how the evidence was obtained. Relevant evidence is admissible even if it has been stolen...”
67. The Petitioner says that she was and remains at liberty to speak to Ms Chu but accepts that she (the Petitioner) was not permitted to ask Ms Chu to provide documents and information which she knew were subject to duties of confidentiality and which if disclosed would result in a breach of those duties. She also accepts that it has always been and remains open to R1-R2 to remind Ms Chu of and to enforce her duties of confidentiality. However, R1-R2 (and R3) were not permitted to prevent the Petitioner from talking to and communicating with Ms Chu. The position was set out in the judgments of Mr Justice Christopher Clarke (as he then was) in *Porton Capital Technology Funds and another v 3M UK Holdings Limited and another* [2010] EWHC 114 (Comm) and *Versloot Dredging BV v HDI Gerling Industrie Versicherung Ag & Ors* [2013] EWHC 581 (Comm).
68. In *Porton Capital* Clarke J said this at [18]:

“... there is, as has been said countless times, no property in a witness. C sues D. C may approach and speak to an individual (call him W) employed or formerly employed by D to provide information and, if necessary, to give evidence on his behalf. W has a free choice as to whether or not to assist C, although he may be compellable to give evidence at trial. But he may not lawfully give to C, nor may C legitimately seek, information which W owes a duty to D to keep confidential and which it would be a breach of his duty to give to C. This rule is not without exception. If W is called to give evidence C may ask him any question relevant to the dispute, other than one which seeks to obtain information which is both

privileged and confidential, and, subject to any judicial discretion, he will be both entitled and bound to answer it.”

69. In *Versloot Dredging* Christopher Clarke J said at [22] that “*What a solicitor is not entitled to do, or indeed a party, is to order or instruct a witness or a potential witness not to attend an interview with the opposing solicitor or to tell him that he has no real choice in the matter, or to put pressure on him not to comply. Nor must he make it appear that the witness can only be interviewed if the solicitor or his principal consents.*”
70. The Petitioner submits that therefore the relief sought in [1.b] of the Draft Ms Chu Summons Order (that the Petitioner be prohibited from contacting Ms Chu in connection with these proceedings) was impermissible.
71. The Petitioner also argues that the Court should not permit R1-R2 and R3 to defer consideration of their application in [4] of the Ms Chu Summons for an order that the Petition be dismissed as an abuse of process pursuant to the Court’s inherent jurisdiction. It was impermissible for the Court to require the Petitioner to swear a further affidavit disclosing the information and matters set out in [3] of the Draft Ms Chu Summons Order because such information was privileged and the Petitioner’s privilege could not be overridden – at least without a finding of fraud or inequity which finding could not be made on the evidence adduced on this application and without the cross-examination of the Petitioner and the other witnesses. In those circumstances, the application in [4] of the Ms Chu Summons should be dismissed now.

Discussion and decision - Ms Chu Summons

A brief summary of my conclusions

72. I have concluded as follows:
 - (a). R1-R2 and R3 are entitled to an order (the ***Restraining Order***) that the Petitioner be prevented and restrained from relying on Chu-WS in these proceedings including at trial (save to the extent that the parties agree or the Court subsequently orders that identified parts of Chu-WS may be relied on since they do not disclose

confidential information whose disclosure would breach Ms Chu's duties of confidentiality).

- (b). the Petitioner is not to be treated as having yet filed and exchanged Chu-WS in accordance with [2] of the September 2025 Order but it is appropriate to order that Ch-WS be removed as an exhibit to P-7 and the most practicable way of achieving this is by directing that the whole exhibit to P-7 be removed from the file and that the Petitioner re-files and serves a new exhibit to P-7 without Chu-WS.
- (c). however, I am not satisfied that it is appropriate to make an order that Ms Chu be prevented from giving evidence at trial and that her evidence must be excluded. While Ms Chu may not disclose confidential information to the Petitioner or her legal advisers before trial where such disclosure would or is likely to be in breach of her duties of confidentiality to R1-R2 or R3, Ms Chu may do so when giving evidence at trial. While Ms Chu may not disclose privileged documents or information at trial I am not satisfied that R1-R3 and R3 have shown that it will be impossible or impracticable for her to give relevant and admissible factual evidence at trial that does not disclose or refer to such privileged materials or that she would be bound to use and rely on or exploit her knowledge of such privileged materials and of R1-R2's strategy for defending and thinking about the Petition so that allowing her to give evidence would be unfair to R1-R2 and prevent there being a fair trial.
- (d). nor am I am satisfied that it is appropriate to make an order prohibiting the Petitioner or her legal advisers from contacting Ms Chu in connection with these proceedings. It will be a matter for the Petitioner and her legal advisers to decide whether it is appropriate to have further discussions with Ms Chu. However, any such further discussions will need to be carefully regulated and the Petitioner should seek to agree a protocol setting out how any such interview should be conducted and who should be present and failing agreement seek a suitable order from this Court.
- (e). I am also not satisfied that it is appropriate to direct that the Petitioner file a further affidavit providing (a) full details of her dealings with Ms Chu between September

2020 and October 2025, (b) listing and producing all documents which Ms Chu has provided or disclosed to the Petitioner and (c) all drafts of any intended witness statements to be given by Ms Chu or notes of attendances on her (save for the Chu-WS). There are various reasons for this decision but the most important one is that the relief granted by the Restraining Order is a sufficient and proportionate protection and remedy for R1-R2 and R3 to prevent the Petitioner from taking advantage of having improperly obtained confidential information from Ms Chu as a witness before trial and properly and fairly balances the risk of prejudice to R1-R2 and R3 and the Petitioner. The further relief sought would in my view, in the circumstances, be oppressive and unnecessary to protect R1-R2 and R3. R1-R2 and R3's application for such further relief should be dismissed. As I understand the position of R1-R2 and R3, that will mean that their application in [4] of the Ms Chu Summons for an order that the Petition be dismissed as an abuse of process will also fall to be dismissed since they have accepted that without the further evidence they seek they are unable to succeed and make out their case of abuse of process.

- (f). I am satisfied that R3 is entitled and may properly join the applications for relief in the Ms Chu Summons in so far as that summons seeks relief to protect and relating to R3's rights with respect to its documents and communications protected by privilege and which are confidential and to seek a remedy in respect of a breach of duties of confidentiality owed to it. The fact that the Court has directed that R3 is not a party to the dispute being litigated in the Petition and therefore cannot spend corporate funds in supporting or opposing the Petition does not mean that R3 has given up its rights in respect of privilege and confidentiality and is disabled and prohibited from taking steps in the Petition proceedings to protect its rights. The fact that, as Mr Tucker confirmed, R3's costs of joining in the Ms Chu Summons are being paid for and indemnified by R1-and R2 removes any residual ground of objection to R3's participation. It seems to me that insofar as R3's participation not only protects its own rights but also assists R1 and R2 in their defence of the Petition, it is right that R3's costs be paid by them.

The No Disclosure Before Trial Rule and its application in the present case

73. The authorities establish that a potential witness (W) who owes a duty of confidentiality to the opposing party (B) is not free to discuss such matters with the other party (A) before and otherwise than at trial (the *No Disclosure Before Trial Rule*). In so far as W's evidence is subject to a duty of confidentiality from which W has not been released, then W's evidence can only be revealed at trial. The fact that W could at trial be compelled to reveal confidential information does not mean that he is entitled to do so before trial.
74. A and his attorneys may interview W before trial and obtain a witness statement from W but they must not seek or obtain confidential information or documents from W and the witness statement must not disclose or deal with such confidential information or documents. The result of the rule that a witness subject to continuing duties of confidentiality must not disclose confidential information or documents where such disclosure would be a breach of those duties means that those wishing to interview W can never be sure what W will say until the trial irrespective of the relevance or admissibility at trial of W's evidence. The interviewing attorney's ability (or inability) to hear W's evidence as to confidential matters pre-trial does not change just because the opponent in the litigation discloses (where he is obliged to) confidential information relating to a matter in issue in the proceedings to which W's evidence is relevant.
75. The analysis is clearly set out in the judgment of Mr Justice Christopher Clarke in *Porton Capital* as follows (my underlining) (I have quoted [18] already but it is with doing so again to set out the whole of the Learned Judge's analysis):

18. *Certain principles are well established. Firstly, there is, as has been said countless times, no property in a witness. C sues D. C may approach and speak to an individual (call him W) employed or formerly employed by D to provide information and, if necessary, to give evidence on his behalf. W has a free choice as to whether or not to assist C, although he may be compellable to give evidence at trial. But he may not lawfully give to C, nor may C legitimately seek, information which W owes a duty to D to keep confidential and which it would be a breach of his duty to give to C. This rule is not without exception. If W is called to give evidence C may ask him any question relevant to the dispute, other than one which seeks to obtain information which is both privileged and confidential, and, subject to any judicial discretion, he will be both entitled and bound to answer it.*

.....

20. *A litigant is bound by the Rules to make disclosure of relevant non privileged documents which fall within the confines of standard disclosure, although the court may vary that obligation. Generally speaking disclosure is required even if the documents are confidential. Such disclosure is not to be regarded as a waiver of confidentiality. The disclosing litigant loses his right to keep documents confidential because of the provisions of the Rules and subject to the protection that those Rules afford. A claimant may thus be able to see, by way of disclosure, documents which it would not otherwise be lawful for a servant or agent of the defendant to disclose to him. But under CPR 31.22 the claimant will be under an obligation not to use the documents otherwise than for the proper purposes of the action. Except [in limited circumstances].*

.....

23. *This question was, Mr Onions submits, considered in China National Petroleum v. Fenwick Elliott and Techint International [2002] EWHC 60 (Ch) upon which he placed particular reliance.....*

.....

29. *I cannot believe that the Vice Chancellor intended to lay down that disclosure released potential witnesses from their duty of confidentiality to the disclosing party so far as any information relating to the issues in the action was concerned – a principle which would have far reaching consequences and appears not to be reflected in any other authority or perceived by any legal author.....*

30. *Such a principle would enable one party to question his opponent's employees and confidential agents about anything which could plausibly be said to relate to something in dispute in the action. Whether the questions did so relate could be the subject of much debate and, even if they did, the answers might extend into matters that did not. Mr Onions, prompted by a suggestion of mine, proffered the proposal that the first order sought might have a proviso that information related to matters in dispute when it related to a matter on which the claimants relied or which adversely affected the case of either side or supported the defendants' case. But that could be the subject of equal if not greater debate. Whether or not the question or answer was illicit would not be likely to become known, unless the questioning took place in the presence of the disclosing party's solicitor, because it would be the subject of privilege. In the present case it is apparent that MWE do not intend to ask questions with S & S present.*

31. *Further it would seem illogical for any release from a duty of confidentiality to be dependent on disclosure having taken place. If the two individuals may be examined, free from any duty of confidentiality, on matters upon which the disclosed documents are silent, provided those matters are in issue, it is difficult to understand why such freedom can only be obtained once disclosure takes place.*

76. The effect of the decision in *Porton Capital* and the other relevant authorities is in my view well summarised by Mr Charles Hollander KC in *Documentary Evidence* (15th ed., 2024) explains the decision in and its consequences as follows (my underlining and emphasis):

30-13

Where A sues B and there is a prospective witness W who can give relevant evidence, but who owes a duty of confidentiality to A, B is free to call W to give evidence at trial and may ask him any question relevant to the dispute even if the answer would otherwise be confidential to A, and W is, subject to questions of privilege, obliged to answer such questions. In doing so W is not in breach of any obligation of confidence owed to A, nor is B liable for inducing such a breach. The obligation of a witness to answer relevant questions at a trial overrides the duty of confidence which would otherwise subsist. However, this does not mean that W is free to reveal to B before the trial matters that are confidential on the supposed basis that the answers would be relevant and admissible at trial. This was made clear by Christopher Clarke J in *Porton Capital Technology*.

The same judge took the position one stage further in *Versloot Dredging* in dealing with similar issues where the “no property in a witness” principle was relevant. The claimants wanted to interview a surveyor who had conducted surveys on the vessel and who had served a witness statement for the defendants putting in his reports. The defendants’ solicitors “instructed” him not to communicate with the claimants. The claimants sought an injunction to restrain the defendants from interfering with the witness. The judge referred to caselaw on when interference with a witness might involve the criminal offence of perverting the course of justice or contempt and referred to *Harmony Shipping* where, in relation to a handwriting expert who had unknowingly advised both sides on the same handwriting, Lord Denning MR had said there was no property in a witness. Christopher Clarke J continued:

“[T]he decision whether or not to cooperate with a party to whom no relevant contractual or fiduciary obligations are owed is that of the witness in question. Absent a subpoena or other compulsory process, a witness cannot be compelled to provide assistance and information. He may, all other things being equal, make his own choice. Second, the “no property in a witness” rule means that, in cases where no question of breach of confidence arises, a solicitor commits no impropriety simply because he seeks information and takes a statement from a witness, even though that witness has given a statement to the other side. He must not, of course, tamper with evidence or threaten or intimidate the witness or suborn him, but that is a different matter. Third, **the fact that witness could at trial be compelled to reveal confidential information does not mean that he is entitled to do so before trial. He is not.** Further, the confidentiality obligation does not cease following disclosure in accordance with the CPR. Fourth, neither before nor at trial is a witness entitled to reveal information which is legally privileged unless there has been a waiver, or unless one of the relevant exceptions

applies. Fifth, it cannot, as it seems to me, be a contempt of court for a party to whom obligations of confidence are owed, or who is the beneficiary of legal privilege, to tell a witness that he may not reveal information which is truly confidential or privileged.”

The judge then went on:

“Threats or promises made in order to persuade a witness to decline to be interviewed would be improper. But a solicitor for party A is entitled to raise legitimate concerns about questions of confidence and privilege, and indeed to tell a witness for party A, who may be about to be interviewed by the solicitor for party B, that he is not at liberty to break any confidence that he owes to party A or to reveal privilege information in respect of which party A alone can give a waiver. What a solicitor is not entitled to do, or indeed a party, is to order or instruct a witness or a potential witness not to attend an interview with the opposing solicitor or to tell him that he has no real choice in the matter, or to put pressure on him not to comply. Nor must he make it appear that the witness can only be interviewed if the solicitor or his principal consents.”

30-14

The judgment in *Porton* has been quoted in detail because what it says is not well understood. It is not at all uncommon for employees to be directed by their employer or his lawyers not to engage with the other party’s lawyers. Few will appreciate that this may well be improper, and perhaps a contempt.

Porton was considered in *Glenn v Watson*. The defendants wanted to interview and take a statement from a person who owed duties of confidentiality to the claimants, so on the face of it, *Porton* applied. However, in their Statement of Case the claimants had pleaded certain privileged documents. The defendants argued that this involved a waiver of privilege in those documents (or at least an intimation of an intention to waive privilege if the pleading was not amended), and it followed that there was a waiver of confidentiality which entitled the defendants to ask the witness about the matters which were the subject of the documentation notwithstanding the original confidentiality obligation. Nugee J was having none of this. By suing the defendants and by the terms of their pleading, the claimants came under an obligation to disclose the privileged material. In that sense it is a necessary consequence of suing that he lost or waives his confidentiality in the contents of the letter to the extent necessary for the purposes of the proceedings. That did not mean he lost all rights in relation to that because of the collateral undertaking on the other parties only to use the document for the purposes of the proceedings. Following *Porton*, even though such confidential matters have been referred to in disclosed documents and thereby have come into the possession of the other party, that does not entail the further consequence that a potential witness who owes a duty of confidentiality to the disclosing party is now free to talk about such matters to anybody he wishes to. Thus the claimants were not to be taken as having released the witness from any obligation not to talk about such matters before trial.

77. In the present case I accept (recognising and taking into account the fact that the Ms Chu Summons involves an interlocutory adjudication based on affidavit evidence only without cross examination and in this case without direct affidavit evidence from Ms Chu) R1-R2's and R3's submission that their evidence establishes a *prima facie* case that Ms Chu is in possession of a large number of confidential documents and information received from R3 and subject to a duty owed to R3 not to disclose such documents or information to third parties (without R3's consent).
78. I also accept that R1-R2's evidence establishes a *prima facie* case that Ms Chu is in possession of some confidential documents and information received from each of them as a result of her having worked for or assisted them (and Elite Capital) in relation to their personal and business affairs.
79. I accept that R1-R2's and R3's evidence establishes a *prima facie* case that Ms Chu has removed from the Company and retained confidential documents in breach of the Employment Contract.
80. I accept that R1-R2's and R3's evidence establishes a *prima facie* case that Ms Chu is in possession of R3's privileged documents and aware of privileged communications between R3 and its legal advisers relating to the Petition proceedings (albeit that R3 is required to remain neutral in the proceedings and not participate in the dispute between the Petitioner and R1-R2) and has removed from R3 and retained some privileged documents. R1-R2 and R3 said (see their skeleton submissions at [59]) that there is a dispute as to whether Ms Chu was involved merely in (passively) receiving advice from their attorneys or giving instructions to them and whether advice produced by R1-R2's and R3's legal advisers at her request or which was sent to her attracted legal advice privilege (and R1-R2 and R3 raised the issue of whether *Three Rivers DC v Governor and Company of the Bank of England (No 5)* [2003] QB 1556 was good law in Bermuda). However, it seems to me that this issue does not arise for determination on this application (and would require a good deal more argument before the Court was in a position to do so). It is sufficient that R1-R2's and R3's evidence shows a *prima facie* case that Ms Chu was in possession of and had read legal advice given by R1-R2's and R3's legal advisers and had participated in and understood and was aware of litigation planning and the

preparation of R1-R2's and R3's defence of the Petition and was in a position to disclose related documents and information to the Petitioner.

81. I accept that R1-R2's and R3's evidence establishes a *prima facie* case that Ms Chu is aware of privileged communications between R1-R2's legal advisers and R1-R2 relating to R1-R2's defence of the Petition.

82. However, I accept the Petitioner's submission that R1-R2 (and R3) have not established that Ms Chu has disclosed and that the Petitioner has received from Ms Chu privileged documents or information concerning privileged communications. She and her Hong Kong legal advisers have clearly denied on oath having done so and I am not satisfied that there is an adequate or proper basis for disregarding or disbelieving that evidence. I also note what Conyers said at [14] of their letter to Harneys dated 20 October 2025, namely that "*contrary to your unfounded allegations, we, our client and her Hong Kong lawyers have at all times been careful not to ask Ms Chu to share any materials or information which would possibly be subject to legal professional privilege vesting in any of R1 to R4 [subject to the caveat relating to the video recordings of R2]* and their confirmation that Ms Chu had not disclosed to Conyers, the Petitioner or her Hong Kong legal advisers any of the documents or information listed in that paragraph). It seems to me that the assurances and action taken in respect of the video recordings were sufficient and appropriate in the circumstances to avoid the disclosure of privileged material. I have also noted the points and matters relied on by R1-R2 and R3 in their submissions in support of their claim that the Petitioner's evidence is not credible (inherently incredible) and inconsistent but it seems to me that if R1-R2 and R3 wished to challenge the Petitioner's evidence, these points and matters should have been put to the Petitioner by way of cross-examination to test her evidence and give her an opportunity to respond to them. In the absence of such cross-examination and such an opportunity I do not consider that the Court may disbelieve the Petitioner's evidence on this issue.

83. I accept that R1-R2 and R3 have established a *prima facie* case (or that it is to be inferred) that the Petitioner was probably aware based on her knowledge of the role of Ms Chu in the Company and of the Company's affairs that at least some of the documents and information disclosed to her by Ms Chu were confidential and subject to duties of confidentiality owed at least to the Company. The Petitioner knew that Ms Chu was a

relatively senior employee with access to confidential documents and that her employment relationship with the Company restricted her ability to discuss the Company's affairs and disclose confidential information and documents. That is why the Petitioner was, by her own admission, cautious about meeting and having discussions with Ms Chu while she was still employed. The Petitioner does not say that she believed or understood that these confidentiality constraints came to an end when Ms Chu left the Company's employment and it would be hardly credible if she had said this. Furthermore, and importantly, the Petitioner has not denied being aware that the matters discussed with Ms Chu and the documents that Ms Chu disclosed were subject to such a duty of confidentiality.

84. I accept that R1-R2 and R3 have established a *prima facie* case that Chu-WS refers to and discloses at least some information relating to the affairs and business of R3 which is treated as Confidential Information in the Employment Contract and that such information was disclosed at least to the Petitioner's Hong Kong legal advisers in connection with the preparation of Chu-WS.
85. In these circumstances it follows that R1-R2 and R3 have established a *prima facie* case that Chu-WS was prepared and obtained in, and that the disclosure of Confidential Information within it involves, a breach of the No Disclosure Before Trial Rule.
86. It seems to me that the proper relief to grant is an order in the terms of the Restraining Order, that is an order that the Petitioner be prevented and restrained from relying on Chu-WS in these proceedings including at trial (save to the extent that the parties agree or the Court subsequently orders that identified parts of Chu-WS may be relied on since they do not disclose confidential information whose disclosure would breach Ms Chu's duties of confidentiality).
87. It does not seem to me that by exhibiting Chu-WS to P-7 (even though Chu-WS is signed and dated) the Petitioner is to be treated as having filed and exchanged Chu-WS in accordance with [2] of the September 2025 Order. Chu-WS is ready to be filed and exchanged and a copy has been shown and given to R1-R2 and R3 when P-7 was filed and served but has not itself yet been filed and exchanged. But it seems to me that the order should require that the copy of Chu-WS exhibited to P-7 be removed from the

Court file and that the easiest way of doing this to require the Petitioner to file and new version of P-7 omitting the Chu-WS from the exhibit and directing the Registry to remove the current version of P-7 from the file. The parties will need to consider and discuss whether any other consequential relief is needed for the purpose of removing Chu-WS from the files of the Petitioner and her legal advisers and anywhere else where it currently is held without R3's permission.

88. I am satisfied that it is appropriate to make the Restraining Order even though R3 has not yet issued proceedings against Ms Chu or sought to join her to the Ms Chu Summons and before a final determination of the scope of Ms Chu's Hong Kong law duty of confidentiality, the precise identification of which documents are covered by that duty and of which documents and matters have been disclosed by Ms Chu to the Petitioners. I have considered whether R3's (and R1-R2's) failure to establish a breach (and the absence of defences to a claim for breach) of the duty of confidentiality under the applicable law in proceedings to which Ms Chu is a party should preclude, as a matter of discretion, R3 from being granted the Restraining Order but it seems to me that, consistent with the relevant authorities, the Court is able to make a summary determination based on affidavit evidence and that it is sufficient that R3 has established a *prima facie* case of the existence and likely breach of a duty of confidentiality (in this case owed by Ms Chu to R3 and breached by her disclosures in the Chu-WS). I have sought to protect the position of both Ms Chu and the Petitioner by adding the qualification that if it is subsequently agreed or determined by the Court that certain parts of and matters discussed in Chu-WS are not covered by Ms Chu's duty of confidentiality or that their disclosure would not be a breach of that duty, then the Restraining Order does not preclude Ms Chu preparing and the Petitioner from filing a witness statement dealing with those aspects.
89. There is also no basis for making an order prohibiting the Petitioner or her legal advisers from contacting Ms Chu in connection with these proceedings. However, the Petitioner, as I have noted, may not discuss and obtain from Ms Chu confidential information (where such disclosure may give rise to a breach of Ms Chu's duty of confidentiality) and so any further discussions will need to be carefully regulated to avoid the possibility of this happening. In my view, the Petitioner should seek to agree a protocol setting out how

any such interview should be conducted and who should be present and failing agreement seek a suitable order from this Court.

90. To date, the Petitioner and her Hong Kong legal advisers appear to have failed to focus on (or possibly evaded) the serious implications of Ms Chu's (former) employment relationship with R3 (as well as R1-R2). The Petitioner's and Mr Wat's evidence ignore the confidentiality issue entirely. While Minter Ellison and the Petitioner appear to have made proper efforts to avoid Ms Chu disclosing privileged documents and information, they failed to take similar precautions (or at least have failed to disclose the steps and precautions they took) to ensure that there was no disclosure or discussion of confidential documents and information whose disclosure would or might give rise to a breach of Ms Chu's duties of confidentiality. It is noticeable that in two of the leading English cases on this issue (*Porton Capital* and *Glen & Another -v- Watson and Others* [2016] EWHC 3259 (Ch)) the legal advisers to the party wishing to obtain a witness statement and evidence from a witness subject to confidentiality duties first disclosed to the other side that they intended to speak to and obtain a witness statement from the witness and sought permission from them or the court before doing so. In *Porton Capital* the defendant's solicitors had confirmed to the solicitors for the claimant, who wished to obtain a witness statement and evidence from former employees of a subsidiary of the defendant, that the claimant's solicitors were free to contact any of the four individuals but that the defendant would not waive the confidentiality provisions and that the claimant should not encourage or assist any breach of them. In *Glen* the defendants, who wished to speak to a prospective witness who had played a significant role in the matters of which the claimants complained, first applied for a declaration that it would not be a breach of confidence to obtain evidence and information from the witness on specified topics for use in the proceedings. They accepted that the witness, *prima facie*, owed duties of confidentiality in relation to written and oral communications concerning the breakdown in relations between the first claimant and the witness but contended that the claimants had waived confidentiality by referring to the communications in their pleadings. In *Versloot Dredging* the defendant's solicitors sought to interview and proof the claimant's expert witness without first notifying the claimant solicitors but were unable to do so because the expert contacted the claimants' solicitors before agreeing to such a meeting. In view of a continuing disagreement on the issue, the claimants applied to the Court for an injunction requiring the defendants and their solicitors to withdraw their instruction

and/or request and/or encouragement to the expert witness not to talk to and/or provide evidence and/or information to the claimants' solicitors outside the presence of the defendants' solicitors, and to restrain them from inducing or encouraging the expert not to talk to or provide information and evidence to the claimants outside the presence of the defendants' solicitors, or in any way seeking to restrict or impede the claimants' access to the witness for the purpose of interviewing him and obtaining evidence and information from him.

R1-R2's and R3's application for a final order excluding Ms Chu's evidence

91. However, there is no justification for making an order that prevents the Petitioner from calling Ms Chu as a witness at the trial based on confidentiality. The fact that Ms Chu is in possession of and has confidential information does not prevent her from giving evidence at trial and referring to the confidential material when doing so (subject to the trial Judge determining that there is a proper basis for excluding evidence disclosing or based on the confidential information or documents).
92. I also do not consider that R1-R2 and R3 have established grounds justifying an order that Ms Chu be prevented from giving evidence at the trial based on privilege and unfairness grounds. This would be a very serious and draconian order to make that would adversely impact on the ability of the Petitioner to adduce admissible and relevant evidence at trial and requires clear and convincing evidence.
93. I do not consider that R1-R2 and R3 have shown that it would be impossible or impracticable for there to be a fair trial if Ms Chu is allowed to give evidence. I do not accept that they have established that it would be impossible or impracticable for Ms Chu to give any evidence without relying on or taking advance of what she knows about privileged communications between R1-R2 and R3 and their legal advisers. I can see that Ms Chu will need to be careful to focus on and only give evidence of relevant factual matters within her knowledge that do not relate to the legal advice obtained from and litigation preparation undertaken with R1-R2's and R3's legal advisers but I do not accept, based on the evidence adduced to date, that I can safely conclude that it will be impossible for her to do so. I do not accept that the Court should infer and conclude now, based solely on the affidavit evidence adduced on this application, that it will be

impossible or impracticable for Ms Chu to give evidence at the trial of relevant factual matters from her own experience without taking advantage of and thereby using (for the purpose of selecting what evidence to give and what to say) privileged material.

94. Chu-WS is a good example of the issues on which Ms Chu can give relevant and admissible evidence. In my view, Chu-WS does not refer to or and disclose privileged documents or information concerning privileged communications. I do not accept that it has been shown that Ms Chu used and was bound to have used her knowledge of privileged documents or information concerning privileged communications when and for the purpose of preparing Chu-WS. As the Petitioner submits, the pleadings and evidence adduced by the parties to date clearly identify relevant factual disputes and allows the Petitioner to identify the factual matters on which she wishes Ms Chu to give evidence and allows Ms Chu to focus on the facts of which she is aware and on which she can give evidence, without Ms Chu having to think about or refer to what R1-R2 and R3 have been advised or their assessment of the strengths and weaknesses of their case or their strategy for defending the Petition. Ms Chu may well be aware of what R1-R2 and R3 consider to be the weaknesses of their case and historic aspects of their trial preparation (she ceased to be employed and to have access to any such matters some six months ago) but she can still give relevant and probably important factual evidence without disclosing or using or relying on privileged matters.
95. R1-R2 and R3 argue (see [105] of their skeleton) that “*Based on the [Cheung] Report, there were significantly more documents stolen by Ms Chu than what the Petitioner and her legal team purportedly state that they had received – either these documents were all provided to the Petitioner and/or her legal team, or Ms Chu had made selections as to what to provide to them using her prior knowledge of the Respondents’ legal strategy.*” Since the Petitioner’s evidence is that she has only seen and been given by Ms Chu the limited number of documents she has identified, I accept that it is likely, based on the unchallenged commentary in the Cheung Report (but recognising that it is not a report prepared by an independent expert) that Ms Chu only provided the Petitioner with a selection of the documents she copied or transferred to herself. However, I do not accept that R1-R2 and R3 have shown that Ms Chu must have used her knowledge of privileged communications in order to select what documents to disclose. The Petitioner and her legal advisers may well have identified the factual issues that were relevant to and live

in the Petition proceedings based on the pleadings and the evidence adduced to date and asked Ms Chu to provide any non-privileged documents in her possession relating to these. I can see the force in R1-R2's and R3's scepticism regarding the ability of Ms Chu to be able to identify which documents were protected by privilege and to make the selection herself excluding privileged documents and note that the Petitioner and Mr Wat did not discuss or disclose how the selection exercise was undertaken. But it would be possible for the Petitioner's legal advisers to give Ms Chu a workable broad description of the type of documents to be excluded and there is a potentially justifiable basis for the Petitioner's (and Mr Wat's) reticence on these issues because evidence of the discussions with Ms Chu regarding the preparation of her evidence is *prima facie* protected by litigation privilege (a topic I discuss further below).

R1-R2 and R3's application for an order that the Petitioner swear a further affidavit

96. R1-R2 and R3 have also applied for an order requiring that the Petitioner swear a further affidavit providing (a) full details of her dealings with Ms Chu between September 2020 and October 2025, (b) listing and producing all documents which Ms Chu has provided or disclosed to the Petitioner and (c) all drafts of any intended witness statements to be given by Ms Chu or notes of attendances on her (save for the Chu-WS). This relief is sought, as I understand it, on the basis that R1-R2 and R3 say that the evidence adduced to date establishes a *prima facie* case of abuse and misconduct by the Petitioner which if verified and validated by further evidence would support a decision to strike-out or dismiss the Petition on the basis of abuse of process.
97. First, as regards (b) the Petitioner's evidence is that she has already provided to R1-R2 and R3 a full list of all the documents which Ms Chu has provided or disclosed to her and, as I understand it, has accepted that she is required to and will produce copies of these. Her evidence is clear and I do not see a basis on which it can be rejected or disbelieved.
98. As regards the grounds relied on by R1-R2 and R3 for the relief sought at (a) and (c), R1-R2 and R3 mainly, as I understood their position, relied on their case that the Petitioner's evidence to the effect that she had not been given any privileged documents or information was to be disbelieved and that the evidence of the disclosure of privileged

documents and information and of the improper manner in which the Petitioner had obtained them (by persuading or procuring Ms Chu to hand over the privileged materials and assisting Ms Chu in doing so and at least by failing to put in place proper arrangements to prevent the disclosure of privileged materials) established a *prima facie* case of abuse of process by the improper conduct of the proceedings (that if correct would prevent there being a fair trial). On this basis, the Court should order the production of a further affidavit to ensure that the Petitioner had given a full account of her evidence gathering relationship with Ms Chu and of what she had received and been told. Once this further evidence had been adduced, R1-R2 and R3 would decide whether and would be at liberty to restore the Ms Chu Summons and seek an order that the Petition be struck out.

99. However, I have not accepted R1-R2's and R3's submissions that the Petitioner's evidence relating to her receipt of privileged materials is, on this application, to be disbelieved or that they have shown that the Petitioner has received privileged documents or information. As I understand it, R1-R2 and R3 also argued that the relief sought at (a) and (c) was justified based on their claim that the evidence also established a *prima facie* case of a serious breach by Ms Chu of her duties of confidentiality and the receipt by the Petitioner of confidential documents and information knowing of those duties and of their likely breach. At 3d of their skeleton submissions R1-R2 and R3 formulate the fourth issue they identify as arising on the application as follows: "*Does [the Petitioner's] misuse of privileged and/or confidential material undermine the fairness of the trial or create a substantial risk of an unfair trial? If so, what is the appropriate and proportionate response to be adopted by the Court?*" (also see [92] and [93] of their skeleton submissions referred to above).
100. However, in their skeleton and oral submissions, R1-R2 and R3 did not develop this ground or cite any of the relevant cases (and there is extensive case law on this ground). In particular, they did not cite any of the authorities dealing with the proper approach to be adopted by the Court on an application to exclude evidence on the basis that it has been unlawfully obtained and when litigation privilege does not apply to documents prepared by, or records of communications between prospective witnesses and, a party's legal advisers. The important decision of the English Court of Appeal (and the judgment of Lord Justice Popplewell) in *Al Sadeq v Dechert LLP* [2024] 3 WLR 403 was included

in the authorities bundle but was not referred to in the skeleton submissions or in their oral submissions.

101. The Petitioner did refer in her skeleton argument (at [61]) to the *Al Sadeq* decision and the principle that privilege does not exist in respect of documents or communications that are part of a fraudulent or dishonest scheme or the subject of iniquity. Mr Potts argued that the evidence on this application was insufficient to establish that the iniquity ground was made out to justify an order requiring the Petitioner to disclose the documents produced (including notes of meetings) in connection with the discussions between the Petitioner's legal advisers and Ms Chu relating to her witness statement and evidence. The evidence did not establish wrongdoing by the Petitioner (or her legal advisers) and it would be wrong, in light of the Petitioner's and Mr Wat's affidavit evidence, to make a finding of iniquity on an interlocutory application without cross-examination.
102. It is worth briefly mentioning the applicable principles as explained by Lord Justice Popplewell in *Al Sadeq*. The following extracts from his judgment set out the key points (my underlining):

[t]he principle is not confined to fraudulent or criminal purposes, but extends to fraud or other equivalent underhand conduct which is in breach of a duty of good faith or contrary to public policy or the interests of justice... [55]

I have reached the conclusion that save in exceptional cases, the merits threshold for the iniquity exception is a balance of probabilities test: the existence of the iniquity must be more likely than not on the material available to the decision maker, whether that be the party or legal adviser determining whether to give or withhold disclosure, or the court on any application in which the issue arises; and that in an interlocutory context there is no distinction to be drawn between cases in which the iniquity is one of the issues in the proceedings and those where it is not. This, in my view, is what the cases speaking of a prima facie case have had in mind, and what is meant by a prima facie case in this context (whatever it may mean in other contexts). [63]

Consideration of whether the iniquity exception applies will usually have to take place without the decision maker being able to assess all the evidence which will subsequently be available on the issue. Where the iniquity is an issue in the proceedings, its existence or otherwise will only be determined at trial, often with the benefit of oral evidence. The party making the decision when giving disclosure, or more often in practice its legal adviser, has access to limited material; and often, so far as its opponent's case is concerned, no more than allegations in a statement

of case. The Court determining a disclosure application may have evidence of each party's case, but it will rarely be feasible or appropriate to conduct a mini trial on the issue for the purposes of disclosure. Where the iniquity is not an issue in the proceedings, it may sometimes be possible to try the issue of whether the iniquity exists for the purposes of disclosure in the proceedings, but case management considerations and the need to avoid satellite litigation are likely to render this very much the exception. Usually, the court will be in the same position as where it is an issue in the proceedings, namely having to assess such evidence as the parties put before the court for that purpose, without oral evidence on disputed issues. [70]

[this analysis is] subject to the proviso that there may exceptionally be cases which on their particular facts dictate that a balance of harm exercise may have a part to play, where such an exercise is possible. I cannot envisage any circumstances in which that exception will be applicable to a decision taken by a party or its lawyer when conducting disclosure, but it may possibly arise when a court is adjudicating on disclosure. I do not attempt to identify what those circumstances might be, and there are none in the current case. However, I do not wish to be understood as saying that a consideration of the balance of harm can never be relevant. I do, however, emphasise that it will only be in an exceptional case that it might do so, and that generally the answer is to be found in the application of a merits test of the balance of probabilities. [77]

103. Accordingly, it is clear that the Court can in an appropriate case make a finding of iniquity even at an interlocutory hearing without oral evidence (cross-examination). It would therefore be open to the Court on this application to form a view based on the affidavit evidence adduced. Further, it seems to me that it is at least strongly arguable that this evidence reaches the relevant threshold. It is strongly arguable that the Petitioner's conduct is of a type and kind that satisfies the iniquity test and the evidential burden has been met.

104. It is strongly arguable that the Petitioner's conduct can, as it seems to me, be characterised as underhand and contrary to the interests of justice. I have held that the evidence establishes that the Petitioner has improperly sought and obtained a pre-trial witness statement (evidence) of confidential documents and information from Ms Chu and that there is a *prima facie* case that the Petitioner knew that Ms Chu was bound by duties of confidentiality in relation to the documents and information that were discussed with and disclosed to her or her legal advisers and that their disclosure would, was likely to or that there was a real risk that it would give rise to a breach at least of Ms Chu's obligations to R3 and probably also to R1-R3 in relation at least to some of the documents and

information disclosed. The Petitioner's and Mr Wat's evidence reveals a complete and, in my view, at least as regards the Petitioner's legal advisers, unjustifiable failure to consider and address the confidentiality implications of Ms Chu being a former (and very recently departed) employee of at least R3 (and of her employer/employee or close working relationships with R1 - and Elite Capital - and R2).

105. However, in the circumstances, I have concluded that it would be inappropriate to grant the relief sought by R1-R2 and R3 in [3(a) and (c)] of the Draft Ms Chu Summons Order.
106. First, I have granted R1-R2 and R3's application that the evidence of Ms Chu in Chu-WS be excluded. This remedies and removes the prejudice to R1-R2 and R3 resulting from the conduct of the Petitioner and her Hong Kong solicitors in obtaining confidential information and evidence from Ms Chu in breach of her confidentiality duties in advance of trial (on the assumption and basis that Ms Chu has not disclosed confidential documents or information to the Petitioner or her legal advisers). R1-R2 and R3 will be protected, as I have discussed, if the Petitioner goes ahead and calls Ms Chu at trial by the trial Judge's control of the proceedings and ability to prevent questions being put to Ms Chu which will result in her disclosing confidential (or privileged) matters.
107. Secondly, the Petitioner has now identified and disclosed all the documents she received from Ms Chu and confirmed this on oath. The Petitioner has sought to be transparent and candid and give full details of what she received. Of course, on the basis that these documents are not privileged and are in the possession, custody or power of R1-R2 or R3 they will be discoverable in the Petition proceedings in any event.
108. Thirdly, even though the Court is able to make a finding of iniquity at an interlocutory hearing and without hearing oral evidence and cross-examination, I am reluctant to do so in the present case where the issue has not been fully aired and argued before and at the hearing and so the Petitioner has not been given a full opportunity to explain and defend herself (particularly where some uncertainties exist as to the terms meaning and effect of applicable law in the absence of expert evidence on Hong Kong law). It appears that the Petitioner's Hong Kong legal advisers thought that because evidence of confidential matters was not automatically excluded even where obtained unlawfully it was appropriate to interview and obtain information from a witness who was clearly subject

to and in all likelihood acting in breach duties of confidentiality in ignorance of the relevant case law (at least in England and Bermuda). But to date no full and proper explanation has been provided (although I note that Mr Tucker disclosed at the hearing that there was now a criminal investigation in Hong Kong). I note that the Petitioner's Bermuda legal advisers, Conyers, appear not to have been involved or given advice on the proofing, and obtaining a witness statement from, Ms Ch which may itself be significant.

109. Fourth, it remains open to R1-R2 and R3 to institute proceedings against Ms Chu and the Petitioner in relation to the asserted breaches of duties of confidentiality in which Ms Chu will have an opportunity to defend herself and the Petitioner will also be able to do so. The fact that R1-R2 and R3 have had the opportunity to commence such proceedings and establish the relevant facts and the breaches (and the absence of applicable defences) is a factor to be taken into account in deciding what relief should be granted to them in respect of the Ms Chu Summons.
110. I also consider that granting the relief sought at (a) would be oppressive and prejudicial to the Petitioner. The Petitioner would be required to disclose details of her dealings with Ms Chu starting some four years before the presentation of the Petition (presumably going beyond the scope of the Petitioner's obligations to give discovery).

Dated this 11th day of February 2026



HON. ASSISTANT MR JUSTICE NICK SEGAL
ASSISTANT JUSTICE OF THE SUPREME COURT