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

[2026] SGHC 34

Originating Claim No 926 of 2024 (Registrar's Appeals No 143, 144, 145, 146 and 147 of 2025)

Between

(1) Welton International Enterprises Pte Ltd
(2) Kito Investments Pte Ltd
(3) Abornes International Inc

… *Claimants*

And

(1) Averis Pte Ltd
(2) Interis AG
(3) Tong Chiew Kin
(4) Chuah Lay San
(5) Pang De-Chang, Aaron
(6) Christopher Andreas Niemack
(7) Felix Faeh
(8) Jahangir Mirabrorovich Usmanov

… *Defendants*

GROUNDS OF DECISION

[Civil Procedure — Stay of proceedings — Limited stay pending outcome of foreign proceedings]
[Civil Procedure — Service — Out of jurisdiction — Setting aside]
[Civil Procedure — Material non-disclosure — Setting aside]

[Conflict of Laws — Natural forum]

TABLE OF CONTENTS

Welton International Enterprises Pte Ltd and others
v
Averis Pte Ltd and others

[2026] SGHC 34

General Division of the High Court — Originating Claim No 926 of 2024
(Registrar's Appeals No 143, 144, 145, 146, 147 of 2025)
Sushil Sukumaran Nair JC
11 September 2025, 26 January 2026

11 February 2026

Sushil Nair JC:

Introduction

1 Almost 40 years ago, Lord Templeman in *Spiliada Maritime Corporation v Cansulex Ltd* [1987] AC 460 ("*Spiliada*") – the *locus classicus* on the question of when a stay would be granted on *forum non conveniens* grounds (*CIMB Bank Bhd v Dresdner Kleinwort Ltd* [2008] 4 SLR(R) 543 (*"Dresdner Kleinwort*") at [25]) – gave a salutary warning to Judges facing jurisdictional matters. His Lordship said (at 465F–G):

> In nearly every case [involving challenges to jurisdiction] evidence is on affidavit by witnesses of acknowledged probity. I hope that in future the judge will be allowed to study the evidence and refresh his memory of the speech of my noble and learned friend Lord Goff of Chieveley in this case in the quiet of his room without expense to the parties; that he will not be referred to other decisions on facts; and that submissions will be measured in hours and not days. An appeal should be rare and the appellate court should be slow to interfere.

2 The need for proportionality in jurisdictional disputes, and "the avoidance of mini-trials and the exercise of judicial restraint, in particular in complex cases", has been repeated in numerous cases subsequent to *Spiliada* (*Vedanta Resources plc v Lungowe* [2020] AC 1045 ("*Vedanta Resources*") at [9]). A rationale for this is that jurisdictional challenges can be used to "wear down a poorer party, or by a party with a weak case to prevent, or at least to discourage, a party with a strong case from enforcing its rights" (*VTB Capital plc v Nutritek International Corpn* [2013] 2 AC 337 ("*VTB Capital*") at [82]).

3 It is inappropriate to scrutinise the evidence with a magnifying glass at the jurisdictional stage; such efforts, and its associated costs, should be reserved for the trial. Put differently, there is "little point in going into much detail", and the court, in hearing jurisdictional objections, "can only form preliminary views on most of the relevant legal issues and cannot be anything like certain about which issues and what evidence will eventuate if the matter proceeds to trial" (*Vedanta Resources* at [83]).

4 These observations apply forcefully to substantial jurisdictional challenges like the present case, where the claimants appeal against the decisions of the learned Assistant Registrar Beverly Lim Kai Li ("AR") to:

(a) stay HC/OC 926/2024 ("OC 926") on the basis that Singapore is *forum non conveniens*;

(b) set aside the order, HC/ORC 6183/2024 ("ORC 6183"), granting permission to serve the second, sixth and eight defendants out of jurisdiction; and

(c) stay OC 926 on case management grounds pending final determination of proceedings in the Republic of the Marshall Islands ("RMI").

5 Having considered the parties' written and oral submissions, I dismissed the claimants' appeals in relation to [4(a)] and [4(b)] but allowed the appeal in relation to [4(c)]. I now set out the full grounds of my decision.

Facts

6 OC 926 is an action by the three claimants (collectively, "Claimants") – Welton International Enterprises Pte Ltd ("Welton"), Kito Investments Pte Ltd ("Kito"), and Abornes International Inc ("Abornes") – against the eight defendants. At its core, the Claimants' case is that the eighth defendant – Jahangir Usmanov ("Jahangir") – had, together with the other defendants, "orchestrated a scheme to siphon assets and funds out of the Claimants to Jahangir and/or entities beneficially owned and/or controlled by Jahangir",[1] thereby causing loss and/or damage to the Claimants.

Parties to the dispute

7 The Claimants are asset-holding companies that had been incorporated on the instructions of the late Mr Mirabror Usmanov ("Mirabror"), an Uzbekistan national who passed away on or around 15 March 2019. During the lifetime of Mirabror, Christoph Andreas Niemack ("Andreas") and Felix Faeh ("Felix"), the sixth and seventh defendants respectively, managed the business

[1] Claimants' Skeletal Submissions (Amendment No. 1) dated 18 September 2025 ("Claimants' Submissions") at para 15; Affidavit of Dinara Bakhtiyarovna Usmanova dated 25 November 2024 ("Claimants' 1st Affidavit") at para 9.

affairs of Mirabror through incorporating and administering asset-holding companies in various jurisdictions.[2]

8 Abornes was the holding company of Welton and Kito and was incorporated in the RMI on Mirabror's instructions to Andreas and Felix.[3] Welton and Kito are Singapore-incorporated companies and are wholly owned subsidiaries of Abornes. Prior to Mirabror's passing on or around 15 March 2019, Mirabror was the sole shareholder of Abornes, and therefore, the (indirect) owner and controller of Welton and Kito.[4]

9 The first defendant, Averis Pte Ltd ("Averis"), is a Singapore-incorporated company in the business of providing corporate management services. Andreas and Felix each hold 50% of the shares of Averis. Felix is also a director of Averis. The second defendant, Interis AG ("Interis"), is a company incorporated in Switzerland, also in the business of providing corporate management services. Andreas is a director of Interis, while Felix is a shareholder (though the amount of his shareholding is and remains unclear). The Claimants have also asserted that Felix had acted as Interis's "officer, employee, representative and/or agent", by dint of him using the email addresses faeh@averis.sg and faeh@interis.ch interchangeably in his communications with Abornes's shareholders after Mirabror's death.[5]

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2 Statement of Claim dated 25 November 2025 ("SOC") at para 18.

3 SOC at paras 3 and 16.

4 SOC at para 16.

5 SOC at paras 12 and 19.

The agreements between Mirabror, Averis and Interis

10 By way of separate agreements with Mirabror, Averis agreed to provide various corporate secretarial services to Welton and Kito respectively. These services included, amongst others, the appointment of local directors and the management of the companies' legal and financial affairs.[6] These two agreements, referred to hereinafter as the "Averis/Welton Agreement" and the "Averis/Kito Agreement", were entered into on 10 March 2012 and 7 August 2018 respectively.[7]

11 Like Averis, Interis entered into an agreement with Mirabror, under which Interis was engaged to provide corporate secretarial services in managing the legal and financial affairs of Abornes. This agreement, referred to as the "Interis/Abornes Agreement", was entered into on 2 November 2015. In fact, it was pursuant to this agreement that Abornes was incorporated. On or around 14 January 2019, Interis assigned the Interis/Abornes Agreement to Averis by way of an agreement of assignment ("Interis-Averis Assignment").[8] Averis therefore stepped into the shoes of Interis and assumed the latter's responsibilities to provide corporate secretarial services to Abornes.

12 Simultaneously, Abornes was managed by a company known as ALP Management Inc Majuro, Marshall Islands ("ALP") – a company also controlled and/or managed by Andreas and Felix.[9] ALP was, at least until 6 July 2021, the sole director, president, secretary and treasurer of Abornes.[10]

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6 SOC at paras 20–22.

7 SOC at paras 21–22.

8 SOC at para 25.

9 SOC at para 26.

10 SOC at paras 26 and 64–65.

The management of Welton and Kito

13 The third defendant, Tong Chiew Kin ("Tong"), was the sole director of Welton during the period of 31 March 2016 to 6 May 2024. Tong was also the sole director of Kito from 1 November 2023 to 25 November 2024. Both appointments were made by Averis pursuant to the Averis/Welton and Averis/Kito Agreements, under which Felix and Andreas – through Averis – could appoint directors onto the board of Kito and Welton.[11]

14 The fourth defendant, Chuah Lay San ("Chuah"), was a Singaporean citizen who was the sole director of Welton from 6 May 2024 to 25 November 2024. Chuah was appointed as director of Welton by Averis when Tong's appointment ceased.[12] Similarly, the fifth defendant, Pang De-Chang Aaron ("Pang") was the sole director of Kito from 31 January 2019 to 1 November 2023. Tong was appointed as director of Kito by Averis following the cessation of Pang's appointment as director.[13] At all material times, therefore, Welton and Kito had a single director.

15 While Tong, Chuah and Pang admit that they were directors of Welton and/or Kito in the aforementioned periods, they assert that they were at all material times mere nominee directors acting solely on the instructions of Averis. Specifically, the terms of their appointment were governed by "Nominee Director Agreements" entered into between each individual and Averis.[14] These agreements contained terms to the effect that: (a) Averis "acts

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11 SOC at para 24.

12 SOC at paras 42–43.

13 SOC at para 50.

14 Defence of Tong Chiew Kin dated 31 January 2025 ("Defence of 3rd Defendant") at para 8; Defence of Chuah Lay San dated 31 January 2025 ("Defence of 4th Defendant")

directly for and on behalf of the beneficial owner" of Welton and/or Kito; (b) Tong, Chuah and Pang may only act on behalf of Welton and/or Kito "in accordance with the written and verbal instructions of Averis at all times"; and (c) Tong, Chuah and Pang may only pledge, sell, assign or otherwise impair the assets of Welton and/or Kito on "the express instructions of Averis".[15]

The changes in the shareholding of Abornes

16 On or around 15 March 2019, Mirabror passed away intestate. By way of a consent agreement, his family members agreed to distribute Mirabror's shares in Abornes in the following proportions: (a) 62.5% to Usmanova Rumilya ("Rumilya"), Mirabror's wife; (b) 12.5% to Jahangir, Mirabror's son; (c) 12.5% to Usmanova Nargiza ("Nargiza"), Mirabror's daughter and Jahangir's sister; (d) 6.25% to Usmanova Dinara ("Dinara"), Mirabror's granddaughter; and (e) 6.25% to Usmanov Sanjar ("Sanjar"), Mirabror's grandson (collectively, "Heirs of Mirabror").[16] It is important to note that this consent agreement had been signed by all five beneficiaries, including Jahangir.[17] Presently, Jahangir disputes the validity of this agreement, and asserts that he had been "named as [his] father's sole heir in [his] father's written

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at para 9; Defence of Pang De-Chang, Aaron dated 31 January 2025 ("Defence of 5th Defendant") at para 10.

15 Defence of 3rd Defendant at para 8; Defence of 4th Defendant at para 9; Defence of 5th Defendant at para 10.

16 Affidavit of Dinara Bakhtiyarovna Usmanova dated 10 September 2025 ("Claimants' 6th Affidavit") at page 13; Reply Affidavit of Dinara Bakhtiyarovna Usmanova dated May 2025 ("Claimants' Reply Affidavit") at para 58; Claimants' Submissions at para 12.

17 Claimant's Reply Affidavit at Tab 3.

will and testament",[18] though there is no evidence to suggest that Jahangir had raised any protests against it when it was signed.[19]

17 Following the distribution of the shares in Abornes pursuant to the consent agreement, there were various transfers between the heirs *inter se* and the heirs and companies controlled by them:

(a) On 31 October 2019, Jahangir assigned his 12.5% shareholding in Abornes to Comina Ltd ("Comina"), a company incorporated in the Saint Vincent and Grenadines which is beneficially owned and controlled by Jahangir.[20]

(b) On 31 October 2019, Sanjar assigned his 6.25% shareholding in Abornes to Oriental Star LLC, a company incorporated in the United Arab Emirates which is beneficially owned and controlled by Sanjar.[21]

(c) On 4 August 2020, Nargiza transferred her 12.5% shareholding in Abornes to Rumilya. Likewise, on 5 November 2020, Dinara transferred her 6.25% shareholding to Rumilya. Consequently, Rumilya held 81.25% of the shares in Abornes from 5 November 2020 to 1 April 2022. On this last-mentioned date, Rumilya transferred her 81.25% shareholding to Dinara, her granddaughter.[22]

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18 Affidavit of Jahangir Mirabrorovich Usmanov dated 14 March 2025 ("Jahangir's 1st Affidavit") at para 17.

19 Claimants' 6th Affidavit at p 16; Claimant's Submissions at para 13.

20 Jahangir's 1st Affidavit at para 17 and pp 134–5; Claimants' 6th Affidavit at p 15.

21 Jahangir's 1st Affidavit at pp 134–5; Claimants' 6th Affidavit at p 16.

22 Jahangir's 1st Affidavit at pp 135–6.

18 Consequently, as of this date, the shareholding in Abornes is held in the following proportions: (a) 81.25% by Dinara; (b) 12.5% by Comina; and (c) 6.25% by Oriental Star LLC. It is not disputed that, as the majority shareholder of Abornes (which is in turn the sole shareholder of Welton and Kito), Dinara is the driving force behind the Claimants' present suit against the defendants.

Background to the dispute

Alleged misappropriation/dissipation of Welton's shares in Ezgu Niyat and Saxovat

19 In their Statement of Claim ("SOC"), the Claimants allege that Averis and Tong exercised their control and management over Welton to facilitate the misappropriation and/or dissipation of its assets. To explain, at the time of Mirabror's passing, Welton's most substantial asset lay in its shareholding in two Uzbekistan companies – Ezgu Niyat Ko'p Tarmoqli Tibbiyot Markzai ("Ezgu Niyat") and Saxovat-Sport-Servis ("Saxovat").[23] Specifically, Welton held 28% of the shares in Saxovat and 41.6% of the shares of Ezgu Niyat,[24] which are alleged to have a combined value of at least US$9–10m.[25]

20 Welton is no longer a shareholder of Ezgu Niyat and Saxovat. It is the Claimant's case that Welton's shares in Ezgu Niyat have been transferred to Dagnall Ltd ("Dagnall"), a company incorporated in the Saint Vincent and the Grenadines, for no consideration.[26] Dagnall is alleged to be a company that is controlled by Jahangir.[27] While there is no evidence of any direct transfer

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23 Claimants' Submissions at para 10.

24 SOC at para 30.

25 Claimant's Submissions at para 17(a).

26 SOC at para 32.

27 SOC at para 32; Claimants' 1st Affidavit at para 18.

between Welton and Dagnall, the latter's initial shareholding of 54.50% in Ezgu Niyat (when Welton was a shareholder) has increased to 93.30%, with the difference of 38.8% corresponding roughly to Welton's initial 41.6% stake in Ezgu Niyat.[28]

21 Similarly, Welton's 28% stake in Saxovat has allegedly been transferred without any consideration to various entities that are beneficially controlled and/or owned by Jahangir.[29] These entities are alleged to be Ardus LLC ("Ardus"), ILK Plyus and Universalint LLC ("Universalint"), all of which are companies incorporated in Uzbekistan. It should be prefaced, however, that there has been no change in ILK Plyus and Ardus's shareholding in Saxovat on the evidence that has been adduced by the Claimants. Strictly speaking, therefore, the recipient of Welton's 28% stake in Saxovat, if any, must be Universalint, and not ILK Plyus and/or Ardus.[30]

22 The Claimants have further alleged that the misappropriation and/or dissipation of Welton's shares in Saxovat have benefitted Jahangir, owing to his control and/or ownership of Ardus, ILK Plyus, Universalint and Dagnall. To elaborate:

(a) Jahangir holds 99.9% of the shares in Ardus.[31]

(b) Ardus holds 20% of the shares in ILK Plyus, with another 20% of the shares owned by Zarafashon LLC, a company

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28 Claimants' 1st Affidavit at Tabs 5 and 10.

29 SOC at para 33.

30 Claimants' 1st Affidavit at paras 16(c) and 17, Tabs 4 and 6.

31 Claimants' 1st Affidavit at paras 16(a), Tab 7.

incorporated in Uzbekistan. Ardus, in turn, owns 99.8% of the shares of Zarafashon LLC.[32]

(c) 100% of the shares in Universalint is owned by one Kukushkin Andrey Yevgenevich ("Kukushkin"), whom the Claimants allege is directly employed by Jahangir and acts on his instructions.[33]

(d) Dagnall, its two directors – Professional Directors Ltd and Professional Secretarial Ltd – and Comina have the same sole shareholder, Professional Nominee Ltd. All four of these entities also share the same registered address in Saint Vincent and the Grenadines.[34] Further:

(i) An authorised signatory for Professional Nominee Ltd is one Markus Hugelshofer ("Markus"), who is a lawyer that has been on record as representing the interests of Comina and Jahangir. Markus had signed the Annual Financial Returns of Dagnall for the year ending 31 December 2023 on behalf of Professional Directors Ltd and Professional Secretarial Ltd.[35]

(ii) Further, a shareholders' meeting for Dagnall had been held at a location in Zurich, Switzerland. An online search of this address shows that Markus is a tenant or proprietor at that address.[36]

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32 Claimants' 1st Affidavit at para 16(b), Tabs 8 and 11.

33 Claimants' 1st Affidavit at para 16(c).

34 Claimants' 1st Affidavit at paras 20(b)–20(c).

35 Claimants' 1st Affidavit at para 20(d).

36 Claimants' 1st Affidavit at para 20(e).

(iii) The Claimants assert that Dagnall is in fact managed by Markus through Professional Directors Ltd and Professional Secretarial Ltd, which are mere nominee directors. Further, they assert that Markus acts on the instructions of Jahangir, especially since Markus has been on record as representing Jahangir and/or Comina. Therefore, the Claimants argue that Jahangir is "the true and ultimate beneficial owner of Dagnall, which he holds through Markus and Markus's entities".[37]

23 In response, Felix (on behalf of Averis) and Tong have denied any wrongdoing on their part. Tong has asserted that Averis had instructed him to execute a power of attorney on behalf of Welton to appoint one Komola Sharipova as its attorney ("Welton POA").[38] The Welton POA granted Komola Sharipova ("Komola") wide-ranging powers to, *inter alia*, deal with Welton's shares in Ezgu Niyat and Saxovat.[39] This is corroborated by Felix and Averis, who assert that any disposal of Welton's shares in Ezgu Niyat and Saxovat was conducted by "Uzbekistan citizens and persons authorized under powers of attorney, whom we understand were acting on instructions which ultimately came from [Jahangir]".[40]

Alleged misappropriation/dissipation of Welton's receivables

24 The Claimants also asserted that Averis and Tong exercised their control and management over Welton to dissipate and/or misappropriate receivables in

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37 Claimants' 1st Affidavit at para 22(c).

38 Defence of 3rd Defendant at para 31(b).

39 Defence of 3rd Defendant at paras 31(b) and 87(d).

40 Affidavit of Felix Faeh dated 4 March 2025 ("Felix's 1st Affidavit") at para 38.

Welton's financial accounts.[41] Specifically, in or around 2020, Averis is said to have caused Tong to write off US$3,321,230 of receivables from the balance sheet of Welton without any basis and without any consideration.[42]

25 In contrast, Felix responded that the receivables were derived from the sale of two Uzbekistan entities named "Angren Shakar" and "Xorazm Shakar". This sale, Felix asserts, had been conducted in 2018 by "certain Uzbekistan citizens authorised under powers of attorney by [Mirabror] prior to his passing".[43] Subsequently, in or around 2024, Averis had been provided with information from "persons authorised under powers of attorney by [Mirabror] that in 2018, [that Mirabror] had donated the proceeds [of the sale] in respect of the mentioned receivables to his charitable foundation known as Ezgu Maqsad and transferred some of it to himself".[44]

26 Tong, on the other hand, stated that as nominee director, all of Welton's financial statements had been prepared by Averis, and that his role was limited to reviewing them.[45] As such, having been informed by Averis that certain receivables were deemed "uncollectible and should be written off as bad debts", Tong did not question the said information and proceeded to reflect the US$3,321,230 as written off for the financial year of 2020.[46]

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41 SOC at para 31(b).

42 SOC at para 80(7).

43 Felix's 1st Affidavit at paras 36] and 63; 1st and 7th Defendants' Written Submissions dated 4 September 2025 ("Submissions of Averis & Felix") at para 32.

44 Felix's 1st Affidavit at paras 36 and 63; Submissions of Averis & Felix at para 32–33.

45 Defence of 3rd Defendant at para 31(d).

46 Defence of 3rd Defendant at para 31(e).

Failure to Defend OC 3417

27 Between 2022 and 2023, Averis issued invoices to Welton, allegedly for fees due and owing in respect of corporate secretarial services provided to Welton under the Averis/Welton Agreement. The total sums due under the invoices was around US$22,866.36 ("Invoiced Sum").[47] It should be noted that despite Mirabror's death, Averis continued to provide services to Welton (and for that matter, Kito), apparently pursuant to the Agreement. This was because clause 2 of the Averis/Welton Agreement permitted Averis to bill its fees directly to Welton or Kito.[48]

28 The Claimants assert that Tong, as director of Welton at the relevant time, neglected or otherwise failed to ensure payment of the Invoiced Sum. Instead, on or around 1 April 2024, he signed a promissory note on Welton's behalf with Averis, under which Welton agreed to provide its shares in Saxovat and Ezgu Niyat as security for the Invoiced Sum.[49] Following the continued default of Welton to pay the Invoiced Sum, on 25 April 2024, Averis commenced MC/OC 3417/2024 in the Magistrates' Court against Welton, claiming for non-payment of the Invoiced Sum and breach of the promissory note ("OC 3417").[50]

29 Between 26 April 2024 and 6 May 2024, nothing was done to cause Welton to participate in OC 3417. On 6 May 2024, Tong ceased to be the director of Welton, and Chuah was appointed by Averis in his stead. Welton continued to do nothing despite having been served with OC 3417.

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47 SOC at para 35.

48 Certified Transcript of Hearing on 11 September 2025 ("Transcript"), p 91 lines 4–15.

49 SOC at para 37; Claimant's 1st Affidavit at Tab 42.

50 SOC at paras 38–40.

Consequently, on 4 June 2024, the Magistrates' Court granted default judgment against Welton for failing to file a Notice of Intention to Contest or Not Contest.[51]

30 In his defence, Tong argued that all invoices issued by Averis to Welton for services provided by the former would be paid only with the approval of Abornes *qua* beneficial owner of Welton.[52] As no approval had been given or forthcoming, coupled with the fact that he was not an authorised signatory of Welton's bank accounts, Tong was not in a position to cause Welton to pay the Invoiced Sum.[53] Tong has also stated that he signed the promissory note on Averis's instructions, in the genuine and honest belief that the promissory note was part of an arrangement between Averis and the beneficial owner of Welton (*ie*, Abornes) to settle the Invoiced Sum.[54]

31 Chuah argued that while he had been aware of the commencement of OC 3417 against Welton, he was not in a position to cause Welton to make payment on the invoice because he was not a signatory to Welton's bank accounts.[55] Additionally, all invoices issued by Averis to Welton for services provided by the latter would be paid only with the approval of Abornes *qua* beneficial owner of Welton. However, no approval had been given or was forthcoming at the relevant time.[56] Further, it was a term of Chuah's Nominee Director Agreement with Averis that, in the event of any legal claims against

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51 SOC at para 45.

52 Defence of 3rd Defendant at para 36(a).

53 Defence of 3rd Defendant at paras 36(b)–36(c).

54 Defence of 3rd Defendant at para 37.

55 Defence of 4th Defendant at para 44(a).

56 Defence of 4th Defendant at para 44(a).

Welton, Averis "shall take over [Chuah's] role in respect of the same".[57] While Chuah was permitted under the same term to use Welton's assets for the defence of claims against it, he was not bound to "if no assets [had been] made available to [him] for this purpose".[58] Given that no assets had been made available to him, Chuah was not in a position to defend OC 3417.[59]

Alleged misappropriation/dissipation of Kito's shares in Savdogar Bank

32 I turn now to the assets of Kito which are alleged to have been misappropriated/dissipated by the defendants. As at the time of Mirabror's death, Kito held 15.66% of the shares in Ezgu Niyat and 18.62% of the shares in Savdogar Bank, which are alleged to be worth approximately US$1.64m and US$2.85m respectively.[60] It is the Claimants' case that both of these assets had been misappropriated and/or dissipated pursuant to a concerted scheme. The first step in this purported scheme is alleged to have been taken by Pang on 9 January 2020, who as director of Kito caused a power of attorney to be issued to one Bokiev Shokir ("Bokiev") to represent Kito in relation to the acquisition or disposal of shares in "legal entities in Uzbekistan" ("Kito POA").[61] The Kito POA was in fact signed by Rumilya, Jahangir, Dinara and Sanjar.[62]

33 On or around 28 July 2020, Bokiev caused Kito to sell its entire stake in Savdogar Bank, a company listed on the Tashkent Stock Exchange, to Jahangir

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57 Defence of 4th Defendant at para 44(c).

58 Defence of 4th Defendant at para 44(c).

59 Defence of 4th Defendant at paras 44(c)–44(d).

60 SOC at paras 48–49 and 85(1).

61 Claimants' 1st Affidavit at para 85, Tab 39; SOC at para 51.

62 Felix's 1st Affidavit at para 43, Tab 9.

for a price of around US$1.17m (or 50 Uzbekistani Soums per share).[63] The Claimants allege that this sale was at an undervalue as the par value of the shares was 100 Soums per share, and transaction data from the Tashkent Stock Exchange showed that in the period between June and August 2020, the shares of Savdogar Bank had been trading at 173 to 180 Soums per share.[64] Subsequently, on or around 29 November 2021, Jahangir sold the Savdogar Bank shares at 120 Soums per share, being more than double the price at which he acquired the Savdogar Bank shares from Kito.[65]

34 Jahangir does not dispute that Kito's shares in Savdogar Bank had been sold to him, or that he had profited from their subsequent sale.[66] Instead, his defence lies in the assertion that Kito's shares had been transferred to him pursuant to the Kito POA, the existence of which was known to and, indeed, consented to by all the Heirs of Mirabror (including Dinara).[67] Further, sometime in July 2019 (*ie*, prior to the execution of the Kito POA), the Heirs of Mirabror had signed a power of attorney in favour of one Ravshan Ilkhomov, expressly authorising him to sell Kito's shares in Savdogar Bank at a minimum price of US$732,000.[68] On this basis, Jahangir additionally argued that the sale price of US$1.17m or 50 Soums per share was not at an undervalue, and that the Heirs of Mirabror had all along "consciously planned to withdraw from

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63 SOC at para [53]; Claimants' 1st Affidavit at para 27, Tab 23.

64 SOC at para 53; Claimants' 1st Affidavit at para 28, Tab 25.

65 SOC at para 54 ; Claimants' 1st Affidavit at para 29, pp 328–9.

66 Jahangir's 1st Affidavit at paras 44(c) and 78(b).

67 Jahangir's 1st Affidavit at para 78(c).

68 8th Defendant's Written Submissions dated 4 September 2025 ("Jahangir's Submissions") at para 35; Felix's 1st Affidavit at para 44; Jahangir's 1st Affidavit at para 78(c).

[Savdogar Bank]".[69] Lastly, it has also been asserted that it was Nargiza herself who had proposed to issue the Kito POA to Bokiev, an Uzbekistan national who is employed at the Samarkand Tea Packing Factory, which is in turn ultimately owned by Nargiza.[70] In light of these facts, Jahangir argued that there was no affirmative evidence indicating that Bokiev had, or would have, acted on his instructions to transfer the Savdogar shares to him at an undervalue.[71] In rebuttal to this, the Claimants pointed to the fact that, when questioned by, among others, Nargiza as to the alleged undervalue divestment of Kito's Savdogar Bank shares to Jahangir, Bokiev informed Nargiza that Jahangir forbade him from giving any information to her.[72]

35 In this respect, Averis and Pang have taken the position that they had merely been acting on the instructions of the heirs in executing the Kito POA in favour of Bokiev, and that whatever subsequently transpired was a matter between the heirs and Bokiev.[73]

Alleged misappropriation/dissipation of Kito's Shares in Ezgu Niyat

36 The Claimants also allege that, on or around 22 June 2020, Averis and Pang exercised their control and management over Kito to cause it to transfer all its shares in Ezgu Niyat to ILK Plyus for no consideration.[74] This transfer was carried out through a "deed of gift" executed and signed by Bokiev on

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69 Jahangir's Submissions at paras 34–35 and 66(d).

70 Claimants' 1st Affidavit at pp 327–8; Felix's 1st Affidavit at para 43.

71 Jahangir's Submissions at para 33(b).

72 Claimants' 1st Affidavit at para 87; SOC at para 55.

73 Felix's 1st Affidavit at paras 42–46; Defence of 5th Defendant at paras 51–56.

74 SOC at para 56; Claimants' 1st Affidavit at para 89.

behalf of Kito, ostensibly pursuant to the Kito POA.[75] Subsequently, the Defendants are alleged to have caused ILK Plyus to transfer its stake in Ezgu Niyat to Dagnall, resulting in Dagnall – a company controlled by Jahangir – being the 93.3% shareholder of Ezgu Niyat.[76]

37 The Claimants have also asserted that, sometime in 2020, Averis and Pang had exercised their control over Kito to write off around US$1.81m of receivables that were due and owing to Kito by one Ulidepan Holding AG ("Ulidepan") without there having been any reasonable basis for the same.[77] It has been alleged that Andreas is the sole director of Ulidepan, a company incorporated in Switzerland.[78] As a result of these actions, Kito reported losses of around S$6.03m in its statements for the financial year of 2020.[79]

The defendants' alleged scheme to financially paralyse the claimants

38 Sometime in early 2021, Nargiza, who at the material time was a majority shareholder of Abornes, became aware of what she perceived to be Jahangir's "attempts to unlawfully steal the assets of Abornes and its subsidiaries Welton and Kito with the help of the other Defendants".[80] Consequently, on or around 16 April 2021, in a bid to prevent any further harm to the Claimants, Nargiza wrote to Interis, ALP and Felix, requesting an annual shareholder meeting be called pursuant to the Business Corporations Act of the

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75 Claimants' 1st Affidavit at para 89, Tab 41; Felix's 1st Affidavit at para 62.

76 Claimants' 1st Affidavit at para 90.

77 SOC at paras 57(c) and 85(8); Claimants' 1st Affidavit at para 32.

78 SOC at paras 57(c) and 24(b).

79 SOC at para 59.

80 SOC at para 60; Claimants' 1st Affidavit at para 40.

RMI.[81] However, despite more than 13 months having elapsed since the last annual meeting of Abornes's shareholders, no meeting was called by Interis, ALP and/or Felix.[82] The Claimants allege that Interis, ALP and Felix had been acting on the instructions of Jahangir when they refused to call for the meeting.[83]

39 Subsequently, owing to the inaction of Interis, ALP and/or Felix, Nargiza proceeded to call for a "special meeting" of Abornes's shareholders on 28 April 2020.[84] The meeting was held on 6 July 2021, wherein the majority of Abornes's shareholders resolved to: (a) dismiss ALP from its position as the sole director, president, secretary and treasurer of Abornes; (b) appoint an independent individual, Ms Ingrid Vanessa Sucre Yunda ("Ingrid") as the sole director of Abornes; and (c) to appoint Ingrid as the president, secretary and treasurer of Abornes ("Resolutions").[85] Immediately after the meeting, Ingrid requested Andreas, Felix, Averis, Interis and ALP to, *inter alia*, hand over the books and records of Abornes over to her as the new director and officer of Abornes. Ingrid's request was not complied with despite the shareholders' resolutions in the 6 July 2021 meeting.[86]

40 On 25 April 2022, Dinara commenced proceedings against Abornes in the RMI by way of Civil Action No. 2022-00941 ("Civil Action 941"), seeking declaratory judgment to the effect that the Resolutions are valid and binding on Abornes and Abornes's shareholders, as well as Averis, Interis and ALP (and

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81 SOC at para 61; Claimants' 1st Affidavit at para 41.

82 SOC at para 61.

83 SOC at para 62.

84 Claimants' 1st Affidavit at para 41, Tab 31; SOC at para 63.

85 SOC at para 64; Jahangir's 1st Affidavit at para 21.

86 SOC at para 65.

their directors and officers).[87] Judgment was granted in favour of Dinara by the High Court of the RMI on 10 April 2024.[88] While Civil Action 941 had been ongoing, Jahangir, by way of an email dated 8 May 2022, warned Dinara that: (a) Civil Action 941 would "lead to a compete asset freeze and potential further investigative measures to examine the companies' activities throughout their existence, resulting in irreparable consequences for everyone"; and (b) he would "buy out all the shares of [Dinara's] Uzbek enterprises that do not belong to [Dinara]".[89]

41 On 9 May 2022, Felix informed the Heirs of Mirabror that the bank account of Abornes with Mirabaud Bank ("Mirabaud Account") had been frozen "due to ongoing legal proceedings" and that Mirabaud Bank "may decide to close the account".[90] Further, Felix informed the other shareholders of Abornes that he had been informed by Mirabaud Bank that "money transfers have been made from the bank account that are contrary to the interests of [Abornes]", and that the signatory rights of Ingrid *qua* director of Abornes had been "revoked to prevent further payments".[91]

42 It is the Claimants' case that, between 2022 and 2023, despite having knowledge of Abornes' bank account being frozen and that it would consequently be unable to make any payments, Interis and Averis continued to

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87 Jahangir's 1st Affidavit at paras 23–24, Tab 7.

88 Jahangir's 1st Affidavit at para 25.

89 Claimants' 1st Affidavit at paras 65–66, Tab 35; Jahangir's 1st Affidavit at paras 26–27; SOC at paras 68–69.

90 Claimants' 1st Affidavit at para 67, Tab 36; SOC at paras 68–69; Jahangir's 1st Affidavit at para 29.

91 Claimants' 1st Affidavit at para 67, Tab 36; SOC at para 69; Jahangir's 1st Affidavit at para 29.

invoice Abornes and Welton for services provided.[92] The quantum of these invoices rendered amounted to $22,866.36, and were the same invoices that Averis had relied upon in OC 3417 to obtain default judgment against Welton.[93] Subsequently, on or around 19 January 2023, Interis applied to the District Court of Zurich in Switzerland for an order to freeze the sums of US$206,653.45 and US$2,792.25 in Abornes's Mirabaud Account, on account of outstanding fees purportedly owed to Averis by Abornes, Welton and Kito. Andreas was the signatory of the application to the District Court of Zurich.[94] On or around 27 May 2023, a Deed of Arrest was issued by the District Court of Zurich, which had the effect of freezing the sums of US$206.653.45 and US$2,792.25 in Abornes's Mirabaud Account.[95] The Deed of Arrest was subsequently set aside by the District Court of Zurich, and Interis's appeal against the decision was dismissed.[96]

43 The Claimants allege that the foregoing events were part of a deliberately concocted scheme to "paralyse the Claimants financially by freezing Abornes'[s] bank account [with Mirabaud]".[97] Specifically, they allege that there was no legal basis for Abornes's bank account to have been frozen, or for Ingrid's signatory rights to the Mirabaud Account to have been revoked.[98] In this respect, the Claimants argued that Felix, Andreas, Averis, Interis and/or ALP had been acting on the instructions of Jahangir when they: (a) ignored the

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92 Claimants' 1st Affidavit at para 69.

93 SOC at para 76.

94 Claimants' 1st Affidavit at para 70; Jahangir's 1st Affidavit at para 31.

95 Claimants' 1st Affidavit at para 71.

96 Claimants' 1st Affidavit at para 71, Tab 3.

97 Claimants' 1st Affidavit at para 64.

98 SOC at para 70; Claimants' 1st Affidavit at para 73.

instructions of Nargiza to call for the "special meeting" of Abornes's shareholders; (b) caused Abornes's Mirabaud Account to be frozen; (c) caused Ingrid's signatory rights to the Mirabaud Account to be revoked; and (d) caused the Deed of Arrest to have been issued by the District Court of Zurich.[99] In addition, the Claimants have asserted that, by commencing two distinct suits in two separate jurisdictions on the same Invoiced Sum, Averis and Interis are abusing the processes of the Switzerland and/or the Singapore Courts.[100]

The claimants' claims

44 By virtue of the abovementioned facts, the Claimants make the following claims in their SOC against the defendants on either an individual or collective basis. In relation to the claims against Averis, it has been alleged that:

(a) Averis's alleged breach of the Averis/Welton Agreement: Averis breached its contractual duties under the Averis/Welton Agreement by: (i) appointing Tong and Chuah to the board of Welton for the purpose of misappropriating its assets; (ii) acting in concert with Tong to transfer Welton's shares in Ezgu Niyat and Saxovat to Dagnall, Universalint, ILK Plyus and/or Ardus; (iii) causing Tong to write off US$3,321,230 of receivables from the balance sheet of Welton without any justification; (iv) causing Tong to sign the promissory note on behalf of Welton in favour of Averis; and (v) commencing OC 3417 against Welton, knowing that Tong and Chuah would neglect or otherwise fail to cause Welton to defend itself.[101]

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99 Claimants' 1st Affidavit at paras 73–74; SOC at paras 62, 68 and 70.

100 SOC at para 76.

101 SOC at para 80.

(b) Averis's alleged breach of fiduciary duties owed to Welton: Averis owed fiduciary duties to Welton as it had been "engaged to act in the service of Welton's interests to the exclusion of its own interests".[102] In this regard, the Claimants argue that Averis breached its fiduciary duties to Welton by engaging in the acts enumerated above at [44(a)(i)]–[44(a)(v)], as well as by issuing invoices to Welton for services purportedly provided to it despite knowing that Welton could not pay the Invoiced Sum.[103]

(c) Averis's alleged breach of the Averis/Kito Agreement: Averis breached its contractual duties to Kito under the Averis/Kito Agreement by (i) appointing Pang as director of Kito to further interests other than Kito's; (ii) causing Kito to divest its shares in Savdogar Bank at an undervalue; (iii) acting in concert with Pang to cause Kito's shares in Ezgu Niyat to be transferred to Dagnall without any consideration or benefit to Kito; and (iv) causing Pang to write off US$1.81m of receivables owed to Kito by Ulidepan without any justification.[104]

(d) Averis's alleged breach of fiduciary duties owed to Kito: Averis owed fiduciary duties to Kito as it had been "engaged to act in the service of Welton's interest to the exclusion of its own interest".[105] In this regard, the Claimants argue that Averis

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102 SOC at para 89.

103 SOC at para 90.

104 SOC at para 85.

105 SOC at para 100.

breached its fiduciary duties to Kito by engaging in the acts enumerated above at [44(c)(i)]–[44(c)(iv)].[106]

45 In relation to the claims against Tong, the Claimants alleged that:

(a) Tong's alleged breach of fiduciary duties owed to Welton: Tong breached his fiduciary duties to Welton under the common law and the Companies Act 1967 (2020 Rev Ed) ("Companies Act") and/or were in breach of trust by (i) acting in concert with Averis to transfer Welton's shares in Ezgu Niyat and Saxovat to Dagnall, Universalint, ILK Plyus and/or Ardus; (ii) causing Welton to write off US$3,321,230 of receivables from the balance sheet of Welton despite having had no basis to do so; (iii) neglecting or otherwise failing to ensure the settlement of the Invoiced Sum both before and after signing the promissory note; (iv) signing the promissory note in favour of Averis; and (v) neglecting or otherwise failing to cause Welton to do anything to participate in OC 3417 or to otherwise defend Welton's interests, thereby causing default judgment to be entered against Welton in the Magistrates' Court.[107]

(b) Tong's alleged breach of s 160(1) of the Companies Act: Additionally, by signing the promissory note, Tong had entered into a transaction to dispose of the whole, or substantially the whole, of the company's undertaking or property. As no approval had been obtained from a general meeting of Welton's

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106 SOC at para 101.

107 SOC at para 90.

shareholders, it is alleged that Tong had breached s 160(1) of the Companies Act.[108]

46 In relation to the claims against Chuah, the Claimants have alleged that:

(a) Chuah's alleged breach of fiduciary duties owed to Welton: Chuah had breached his fiduciary duties to Welton under the common law and the Companies Act and/or were in breach of trust by: (i) neglecting or otherwise failing to ensure the settlement of the Invoiced Sum after signing the promissory note; and (ii) neglecting or otherwise failing to cause Welton to do anything to participate in OC 3417 or to otherwise defend Welton's interests, thereby causing default judgment to be entered against Welton in the Magistrates' Court.[109]

47 In relation to the claims against Pang, the Claimants have alleged that:

(a) Pang's alleged breach of fiduciary duties owed to Kito: Pang had breached his fiduciary duties to Kito under the common law and the Companies Act and/or was in breach of trust by: (i) issuing the Kito POA to Bokiev, as it granted Bokiev powers to dispose of Kito's assets for "free", which could not conceivably be in the interests of Kito; (ii) causing Kito to divest its shares in Savdogar Bank at an undervalue; (iii) acting in concert with Averis to cause Kito's shares in Ezgu Niyat to be transferred to Dagnall without any consideration and/or benefit to Kito; and (iv) writing off a sum of around US$1.81m of receivables owed to Kito by

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108 SOC at para 90(16).

109 SOC at para 90.

Ulidepan, despite there having been no justification for the write-off.[110]

(b) Pang's alleged breach of s 160(1) of the Companies Act 1967: Further, Pang's disposal, dissipation and/or writing off of Kito's stake in Ezgu Niyat and the roughly $1.81m of receivables constituted a disposal of the whole or substantially the whole of Kito's undertaking or property. As no approval had been obtained from a general meeting of Welton's shareholders, it is alleged that Tong had breached s 160(1) of the Companies Act.[111]

48 In relation to the claims against Jahangir, the Claimants have alleged that:

(a) Jahangir's alleged liability in knowing receipt in respect of Welton's assets: Jahangir is liable in knowing receipt as Dagnall, ILK Plyus, Universalint and/or Ardus – all of which are alleged to be entities controlled and/or beneficially owned by Jahangir – had received Welton's shares in Saxovat and Ezgu Niyat, which had been disposed (or had caused to be disposed) by Averis, Tong and Chuah in breach of their fiduciary duties to Welton. Further, Jahangir had known that the transfers of the Saxovat and Ezgu Niyat shares had been effected in breach of Averis's, Tong's and Chuah's fiduciary duties, thereby rendering it unconscionable for him to retain the benefit of the share transfers.[112]

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110 SOC at para 101.

111 SOC at para 90(16).

112 SOC at paras 91–92.

(b) Jahangir's alleged liability in knowing receipt in respect of Kito's assets: Jahangir is liable in knowing receipt, as Jahangir had personally received Kito's shares in Savdogar Bank, whilst ILK Plyus and Dagnall – which are entities allegedly controlled and/or beneficially owned by Jahangir – had received Kito's shares in Ezgu Niyat. The Saxovat and Ezgu Niyat shares, additionally, had been disposed (or caused to be disposed) by Averis and Pang in breach of their fiduciary duties to Kito. As Jahangir had known that the transfer of the Saxovat and Ezgu Niyat shares had been effected in breach of Averis's and Pang's fiduciary duties, it was unconscionable for him to retain the benefit of the share transfers.[113]

49 Last, but not least, the Claimants have alleged that all the defendants had conspired and combined together with the intent to injure the Claimants by lawful and/or unlawful means.[114] Specifically, the defendants are alleged to have conspired to transfer the assets of Welton and Kito to Jahangir and/or entities beneficially owned or controlled by him.[115] This claim in conspiracy has been pleaded as comprising of the following key components:[116]

(a) First, Averis, Tong and Chuah had, in breach of their fiduciary duties to Welton, dissipated Welton's stake in Saxovat and Ezgu Niyat. These shares had been transferred to entities beneficially owned and controlled by Jahangir. These transfers caused loss to

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113 SOC at paras 102–103.

114 SOC at para 109.

115 SOC at para 109.

116 SOC at para 110.

Abornes, who has been and remains as the sole shareholder of Welton.

(b) Second, Averis and Pang had, in breach of their fiduciary duties to Kito, dissipated Kito's shares in Ezgu Niyat and Savodgar Bank. These shares had been transferred to Jahangir personally or entities beneficially owned and controlled by Jahangir. These transfers caused loss to Abornes, who has been and remains as the sole shareholder of Kito.

(c) Third, in refusing to hold a meeting of Abornes's shareholders when a formal request had been made by Nargiza to Felix and Andreas *qua* representative and director of Interis respectively, Felix and Andreas had been acting in compliance with Jahangir's instructions. Similarly, when Andreas and Felix: (i) failed and/or refused to relinquish control over the management records of Abornes; (ii) caused Abornes's Mirabaud Account to be frozen; and (iii) caused Mirabaud Bank to revoke Ingrid's signatory rights, they had been acting in compliance with Jahangir's instructions and/or otherwise acting in combination with Jahangir.

(d) Fourth, as a result of the freezing of the Mirabaud Account, Abornes was unable to use its funds in the Mirabaud Account for payments relating to its operations, including making payments on invoices issued under the Interis/Abornes Agreement and the Averis/Welton Agreement. Despite knowing about this, Averis continued to invoice Abornes and Welton for services purportedly rendered. In this regard, the application for the Deed of Arrest made by Interis and Andreas (*qua* director of Interis)

to the District Court of Zurich had been made: (a) with the intention to injure the Claimants; or (b) to retrospectively conjure a legal basis for the freezing of the Mirabaud Account.

Procedural history

The proceedings in the Marshall Islands

50 The proceedings in the Singapore Courts were preceded by an earlier set of proceedings filed by Comina in the RMI. On 16 April 2024, Comina commenced Civil Action No. 2024-00526 ("Civil Action 526") against Abornes.[117] The background to this dispute stems from the fact that Abornes, on 21 August 2019, had authorised the issuance of 2,000 registered shares by amending its articles of incorporation. These registered shares had been issued to the Heirs of Mirabror in exchange for their shares for Abornes which had hitherto been held in bearer form.[118] The crux of Comina's claim in this respect is that Abornes had failed to comply with the recording requirements of the Business Corporation Act of the RMI ("BCA"), which requires corporations to, *inter alia*, maintain records of shareholders and beneficial owners of bearer shares.[119]

51 In Civil Action 526, Comina sought declaratory judgment on two counts:[120]

(a) First, declaratory judgment as to Comina's legal relations and rights relative to Abornes, including a determination of whether:

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117 Claimants' 6th Affidavit at p 9.

118 Claimants' 6th Affidavit at pp 14–5.

119 Claimants' 6th Affidavit, pp 17 and 21–22.

120 Claimants' 6th Affidavit at p 9.

(i) Abornes had been in compliance with the requirements of the BCA in relation to its original bearer shares; (ii) the original bearer shares had been invalidated by the BCA; (iii) any Abornes shares validly exist; and (iv) whether the beneficial ownership of Abornes "currently lies in an equitable claim for the estate or successors in interest of Mirabror" ("Count 1").

(b) Second, declaratory judgment that the purported transfer of 1,625 shares from Rumilya to Dinara is not valid and that Dinara does not own 1,625 shares of Abornes ("Count 2").

52 In response to Comina's filing of Civil Action 526, Abornes filed a motion to dismiss on 17 June 2024.[121] After a hearing of the motion, the High Court of the RMI issued an Order dismissing Count 2 on 20 November 2024.[122] Abornes then proceeded to file a motion for summary judgment in relation to Count 1 on 18 February 2025.[123]

53 On 4 September 2025, Chief Justice Carl B. Ingram of the High Court of the RMI granted Abornes's motion for summary judgment, dismissing Comina's remaining request for declaratory judgment under Count 1. In summary, the learned Chief Justice held:

(a) First, although there was no evidence of compliance with the recording requirements of the BCA, the bearer shares remained valid, especially since no steps had been taken to invalidate or cancel Abornes's shares pursuant to the BCA.[124] Put simply, non-

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121 Claimants' 6th Affidavit at p 9.

122 Claimants' 6th Affidavit at pp 9–10.

123 Claimants' 6th Affidavit at p 10.

124 Claimants' 6th Affidavit at pp 23 and 25

compliance with the recording requirements did not result in an automatic invalidation of shares. As such, Abornes's registered shares (which the bearer shares had been converted into) were valid.[125]

(b) Second, the Registrar of the Trust Company of the Marshall Islands ("TCMI") had issued certificates confirming that (a) Abornes had 2,000 registered shares; and (b) Abornes was in good standing and that its current shareholders were: (i) Dinara holding 81.25%; (ii) Comina holding 12.5%; and (iii) Oriental Star holding 6.25%. The BCA mandates for such certificates from the Registrar to be taken as "*prima facie* evidence of the facts stated therein and of the execution of such instruments".[126]

(c) Third, the RMI Courts had "neither subject-matter jurisdiction over the probate of Mirabror's estate nor, absent consent, personal jurisdiction over its successors".[127] As such, it did not decide the issue of whether the beneficial ownership of Abornes currently lay in "an equitable claim for the estate or successors of Mirabror".[128] Rather, this was a question reserved for the courts that have "subject matter jurisdiction over the probate of Mirabror's estate and have personal jurisdiction over Mirabror's successors".[129]

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125 Claimants' 6th Affidavit at p 25.

126 Claimants' 6th Affidavit at pp 24–5.

127 Claimants' 6th Affidavit at pp 25–6.

128 Claimants' 6th Affidavit at pp 25–6.

129 Claimants' 6th Affidavit at pp 25–6.

54 On 3 October 2025, Comina (through Jahangir) filed a notice of appeal against the judgment of Chief Justice Carl B. Ingram. The questions raised by the appeal relate mainly to whether the RMI Court had interpreted and applied various RMI legislation correctly in determining the validity of Abornes's shares.[130] The appeal remains underway in the Supreme Court of the RMI.

Decision below

55 Upon the Claimants' filing of their SOC, the Defendants took out various applications (either individually or collectively) to stay OC 926 on grounds of *forum non conveniens* and/or case management. As Interis, Andreas and Jahangir had been served the OC and SOC out of jurisdiction pursuant to the Court's order in ORC 6183, they applied to set aside ORC 6183 as well.

HC/RA 144/2025 & HC/RA 146/2025

56 On 4 March 2025, Averis filed HC/SUM 579/2025, applying to this Court for, amongst others, an order that the proceedings against Averis be stayed in their entirety on the grounds of *forum non conveniens*. Similarly, on 5 May 2025, Felix filed HC/SUM 1213/2025, applying to this Court for, amongst others, an order that the proceedings against him be stayed in their entirety on the grounds of *forum non conveniens*.[131]

57 On 15 July 2025, the AR granted both orders, holding that OC 926 be stayed in its entirety on the grounds of *forum non conveniens* as against Averis

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130 8th Defendant's Letter to Court dated 3 October 2025 at pp 3–5.

131 Both Averis and Felix sought, as their alternative prayer, a limited stay of OC 926 pending the resolution of proceedings in Civil Action 526. This prayer was granted by the AR "in addition" to the stay on *forum non conveniens* grounds, but will be discussed below together with Tong, Chuah and Pang's application for a limited stay under HC/SUM 808/2025 as the issues raised in both applications overlap substantially.

and Felix.[132] In relation to the stay on *forum non conveniens* grounds, the AR applied the principles governing the grant of the same as set out in *Spiliada*. Having done so, she concluded that Singapore was not the appropriate forum, and that Uzbekistan is "a clearly or distinctly more appropriate forum than Singapore".[133] First, applying stage one of the *Spiliada* test, the AR reasoned:

(a) Welton and Kito, despite being incorporated in Singapore, were merely "corporate vehicles wholly owned by [Abornes], which is incorporated in the Marshall Islands". While Averis had been incorporated in Singapore, it was simply a corporate service provider for Mirabror, who was an Uzbekistan citizen and resident. After his passing, instructions as to how Averis should manage the affairs of Welton and/or Kito came from heirs who were Uzbekistan citizens residing in Uzbekistan, the United Arab Emirates, Cyprus and/or Russia.[134]

(b) The assets which the Claimants allege to have been misappropriated were "shares of entities located in Uzbekistan". The instructions to dispose of these assets were given by Uzbekistan citizens and residents pursuant to powers of attorney. Further, these allegedly misappropriated assets had been received by Jahangir and/or entities controlled and/or beneficially owned by him, most of whom are resident or otherwise based in Uzbekistan.[135]

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132 Notes of Evidence dated 15 July 2025 ("NE") at p 11 lines 16–19.

133 NE at p 3 lines 12–14.

134 NEs at p 3 lines 16–29.

135 NE at p 3 line 30 to p 4 line 5.

(c) In relation to the rest of the parties, Dinara, who appears to be driving OC 926, is resident in the United Arab Emirates but also has a residence in Uzbekistan. Interis is incorporated in Switzerland. While Tong, Chuah and Pang are located in Singapore, they are mere nominee directors who had no power and control over the management of Welton and/or Kito. Instead, on the Claimants' own case, it was Andreas and Felix who could exercise operational control over the management and affairs of Welton and Kito. Given Andreas is resident in Switzerland and Felix is a citizen of Switzerland (with his residence being unknown), the personal connections of the parties point away from Singapore being the appropriate forum for the ventilation of OC 926.[136]

(d) In relation to the governing law of the tort, applying the substance test, the law of the tort would be Uzbekistan law.[137] In this regard, it appears that the AR was referring to the law governing the conspiracy claim.

(e) Further, the AR took into consideration the opinion of Ms Zulhumor Khudayberdieva ("Zulhumor"), Jahangir's expert on Uzbekistan law, to the effect that: (a) Uzbekistan courts have "exclusive jurisdiction to hear disputes relating to ownership of shares in Uzbekistan companies"; and (b) that there are "strong grounds for the Uzbekistan courts to refuse to recognise and enforce any Singapore judgment given such exclusive jurisdiction". This, the AR reasoned, would mean that the

136 NE at p 6 line 10 to p 7 line 2.

137 NE at p 4 lines 24–32.

Claimants' claim for knowing receipt would "fall under the Uzbekistan courts' exclusive jurisdiction". In doing so, the AR held that "issues as to the enforceability" of a potential Singapore judgment pointed towards Uzbekistan being the more appropriate forum for the ventilation of OC 926.[138]

(f) Next, the AR also accepted Zulhumor's opinion that: (i) the constitution of Ezgu Niyat mandates that OC 926 be brought in the Uzbekistan courts; and (ii) the constitutions of Ezgu Niyat and Saxovat mandate that the governing law of issues relating to the transfer of their shares is Uzbekistan law. The AR also accepted Zulhumor's opinion that although Welton and Kito are no longer shareholders of Ezgu Niyat and Saxovat, they remain bound by the word "participant" in the constitutions of Ezgu Niyat and Saxovat. This is because, as Zulhumor explained, Welton and Kito have previously been shareholders of the two companies and are claiming that their shares had been wrongly transferred.[139]

58 Turning then to stage two of the *Spiliada* test, the AR refused to hold that Dinara and/or the Claimants would be unable to have a fair trial in Uzbekistan despite the Claimants' allegations that: (a) Jahangir poses a threat to Dinara's safety; and (b) the integrity of court processes in Uzbekistan was compromised. On this basis, the AR held that Singapore was *forum non conveniens* for the resolution of OC 926 and ordered a stay of the same in its entirety as against Averis and Felix.[140]

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138 NE at p 5 lines 6–21.

139 NE at p 5 line 23 to p 6 line 8.

140 NEs at p 7 lines 4–12.

(1) Claimants' case

59 In HC/RA 144/2025 ("RA 144") and HC/RA 146/2025 ("RA 146"), the Claimants appealed against the decision of the AR to stay OC 926 on the basis that Singapore is *forum non conveniens*. First, the Claimants argued that Singapore is the more appropriate forum for OC 926 to be heard at stage one of the *Spiliada* test, on the basis that:

(a) The Averis/Welton and Averis/Kito Agreements contained exclusive jurisdiction clauses and choice of law clauses in favour of the Singapore Courts and Singapore law. Although none of the defendants – save for Averis – were a party to these agreements, the Claimants argued that they ought to be given weight at stage one of the *Spiliada* analysis as the wrongs alleged to have been committed by the defendants "took place during the provision of corporate services to Kito and Welton".[141]

(b) The existence of exclusive jurisdiction clauses in the corporate charters of Ezgu Niyat and Saxovat are "neutral factors" at best. Even though the Claimants' claims arose from, *inter alia*, the misappropriation of shares in these Uzbekistan entities, the Claimants' claims against the defendants were "*in personam* in nature" (*eg*, breaches of fiduciary duties, knowing receipt and conspiracy).[142] In this respect, the AR erred by focusing on the assets that had been siphoned (or their *situs*), instead of "the wrongful acts committed by the defendants".[143]

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141 Claimants' Submissions at paras 44(a)(i) and 45–57.

142 Claimants' Submissions at para 44(a)(ii).

143 Claimants' Submissions at para 70.

(c) The alleged wrongs were committed by the defendants against Welton and Kito which are companies incorporated in Singapore. Save for Dinara and Jahangir, the rest of the parties in OC 926 are not connected to Uzbekistan.[144]

(d) Averis's breach of the Welton/Averis and Kito/Averis Agreements took place in Singapore. Notwithstanding that the instructions may have originated from outside Singapore, the acts to dissipate the Claimants' assets in breach of these agreements had taken place in Singapore through Singaporean directors (namely, Tong, Chuah and Pang).[145]

(e) The Claimants' losses and damages have been suffered in Singapore. This was because the stolen assets were shares owned by Singapore companies held in Singapore.[146]

(f) The enforceability of a Singapore judgment in a foreign state is irrelevant at stage one of the *Spiliada* test. In this respect, the AR erred by "placing weight" on this as a connecting factor.[147]

(g) Lastly, the possibility of a transfer of OC 926 to the Singapore International Commercial Court ("SICC") is a factor that the Court is at liberty to consider in deciding whether to order a stay on *forum non conveniens* grounds. As the Claimants have a pending application in HC/SUM 3670/2024 ("SUM 3670") for OC 926 to be transferred to the SICC, this ought to have been a

144 Claimants' Submissions at para 44(a)(iii).

145 Claimants' Submissions at paras 60–65.

146 Claimants' Submissions at para 66.

147 Claimants' Submissions at paras 72–73.

factor considered by the AR in her decision on the natural forum.[148]

60 In addition, the Claimants also argued that the AR erred in refusing to find that there would be a real risk that the Claimants would be denied substantial justice in Uzbekistan under stage two of the *Spiliada* test.[149] Namely, the Claimants argued that there are "grave and genuine doubts" regarding their ability to obtain a fair and impartial hearing in Uzbekistan, particularly due to Jahangir's alleged "influence and conduct".[150] In support of this allegation, the Claimants pointed to:

(a) Jahangir's criminal conviction in Uzbekistan on 30 July 2024 under Art 183 of the Criminal Code of the Republic of Uzbekistan, where Jahangir had been found guilty of smashing the side windows of Dinara's Lexus car. Jahangir's actions were described by the Yunusabad District Court as amounting to "petty hooliganism, that is, deliberate disregard for the rules of conduct in society", and he was ordered to pay a fine.[151]

(b) An article published by Freedom House, an international organization, which reports that an Uzbekistan journalist, Ms Anora Sadikova, had been "threatened and eventually forced to remove a report on [an alleged] corruption scandal involving Jahangir".[152]

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148 Claimants' Submissions at paras 75–80.

149 Claimants' Submissions at para 81.

150 Claimants' Submissions at para 83–84.

151 Affidavit of Dinara Bakhtiyarovna Usmanova dated April 2025 ("Claimants' 5th Affidavit") at para 61, pp 41–43; Claimants' Submissions at para 86(a).

152 Claimants' Submissions at para 86(b).

61 On 4 March 2025, Jahangir filed HC/SUM 586/2025, applying to this Court to set aside ORC 6183 which granted the Claimants permission to serve Jahangir, Interis and Andreas out of jurisdiction. Similarly, on 5 May 2025, Interis and Andreas filed HC/SUM 1214/2025, applying to this Court to set aside ORC 6183 as well.

62 On 15 July 2025, the AR granted Jahangir, Interis and Andreas's applications to set aside ORC 6183. Preliminarily, the AR rejected their arguments that there was no serious question to be tried on the merits of the Claimants' case. Though the Claimants had no conclusive evidence with regards to their claims in conspiracy or knowing receipt, it was unnecessary for the Claimants to have such evidence at the jurisdictional stage, given that the Claimants had raised indirect evidence of the same.[153] In any case, even if the conspiracy claim, as pleaded in the SOC, were lacking particulars (which the AR did not agree with), "the claim in conspiracy only constitute[d] one part of the claim[s]" in OC 926.[154]

63 However, the AR proceeded to set aside ORC 6183. First, as Singapore was not the *forum conveniens* for the trial of OC 926, it followed that a crucial element required for the grant of service out under Order 8, Rule 1(1) of the Rules of Court 2021 – *viz*, that Singapore is "the appropriate court to hear the action" – was not satisfied (see paragraph 63(2)(b) of the Supreme Court Practice Directions 2021).[155]

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153 NE at p 8 lines 8–12.

154 NE at p 8 lines 12–16.

155 NE at p 8 lines 27–29.

64 Next, the AR held that the Claimants had failed to discharge their duty to provide full and frank disclosure of all material facts, namely: (a) the existence of Civil Action 526; (b) the exclusive jurisdiction clause in favour of the Uzbekistan Courts in the constitution of Ezgu Niyat; (c) the exclusive jurisdiction clause in favour of the Swiss Courts in the Interis/Abornes Agreement; and (d) the fact that the Uzbekistan Courts have exclusive jurisdiction to hear disputes relating to the ownership of shares in Uzbekistan companies.[156] Whilst the AR recognised that the Court has the discretion as to whether to set aside a service out order for non-compliance with the duty of full and frank disclosure, she proceeded to set aside ORC 6183 as Singapore had been found not to be the appropriate forum.[157]

(1) Claimants' case

65 In HC/RA 143/2025 ("RA 143") and HC/RA 147/2025 ("RA 147"), the Claimants appealed against the AR's decision to set aside ORC 6183 on the basis that Singapore is not the *forum conveniens* and that the Claimant had breached its duty of disclosure. First, in relation to the existence of Civil Action 526, the Claimants argued this was not a material fact as there were no overlapping issues between OC 926 and Civil Action 526.[158] Second, in relation to the existence of exclusive jurisdiction clauses in the constitution of Ezgu Niyat and the Interis/Abornes Agreement, the Claimants argued that this is "a neutral factor at best".[159] This, the Claimants argued, was because OC 926 concerned "the wrongful acts committed by the Defendants against the Claimants". It was neither "a shareholder dispute between the shareholders of

156 NE at p 8 lines 18–26.

157 NE at p 8 lines 26–29.

158 Claimants' Submissions at para 107(a).

159 Claimants' Submissions at para 107(b).

Ezgu Niyat", nor was it a claim founded directly on the Interis/Abornes Agreement for a breach of contract.[160] The clauses did not "oust the Singapore Court's jurisdiction to hear the said claims" and therefore were not "material facts" that ought to have been disclosed.[161]

HC/RA 145/2025

66 On 26 March 2025, Tong, Chuah and Pang filed HC/SUM 808/2025, applying to this Court for an order that OC 926 be stayed pending the final determination of Civil Action 526 by the Courts of the RMI (including any appeals therefrom). On 15 July 2025, the AR granted the order, holding that a case management stay was appropriate in the circumstances as Civil Action 526 "may determine" OC 926.[162] Namely, a possible outcome of Civil Action 526 was that Dinara – who is the driving force behind OC 926 – would no longer be the majority shareholder of Abornes.[163] Additionally, Civil Action 526 had been commenced before OC 926, and was therefore at a more advanced stage than OC 926 where jurisdiction is still being disputed.[164]

67 While the Claimants had adduced an expert opinion from Dr Klaus Dimigen ("Dimigen") to the effect that Civil Action 526 had no bearing on OC 926, the AR placed "little weight" on the opinion as Dr Dimigen had failed to disclose that he had acted for Dinara in Civil Action 941, and that he had been the Chairman of the shareholders' meeting for Abornes on July 2021 where Ingrid had been appointed in replacement of ALP as the sole director, president,

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160 Claimants' Submissions at paras 107(b)–107(c).

161 Claimants' Submissions at para 107(c).

162 NE at p 7 lines 14–16.

163 NE at p 7 lines 18–21.

164 NE at p 7 line 32 to p 8 line 3.

secretary and treasurer of Abornes.[165] Additionally, Dr Dimigen's reasoning was "hard to follow". While Dr Dimigen stated that it was "absolutely impossible" that the RMI Courts would render a decision on whether Abornes' shares were invalid since Comina would also lose its shares (and consequently, its standing to pursue Civil Action 526), this appeared to be "inconsistent with the decision of the [RMI] Court to let the matter proceed to trial".[166]

(1) Claimants' case

68 In HC/RA 145/2025, the Claimants appealed against the AR's decision to grant the case management stay. They said that it would be "premature" for this Court to even consider granting a case management stay at this stage, as there were no "separate legal proceedings giving rise to a real risk of overlapping issues".[167] This was because, in the main, Civil Action 526 was concerned with whether the conversion of Abornes's shares from bearer form to registered form had been validly conducted by the TCMI. This, the Claimants said, was "unrelated" to OC 926, which concerned "potential damages claims against directors and purported beneficial owners".[168] Hence, even if little weight were to be placed on Dr Dimigen's opinion, there was "no real or material overlap" between the issues to be determined in OC 926 and those in Civil Action 526, and consequently no grounds to stay OC 926 temporarily on a case management basis.[169]

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165 NE at p 7 lines 21–26; Affidavit of Klaus Dimigen dated 4 April 2025 ("Dimigen's Affidavit") at pp 21 and 26.

166 NE at p 7 lines 26–32.

167 Claimants' Submissions at para 44(c).

168 Claimants' Submissions at paras 111(b)–111(c).

169 Claimants' Submissions at paras 120–123.

69 In any case, on 20 November 2024, the RMI Court had dismissed Comina's prayer for declaratory judgment on Count 2 (*ie*, that the purported transfer of 1,625 shares of Abornes to Dinara is not valid and that Dinara does not own 1,625 shares in Abornes), on the basis that Comina lacked standing and had failed to join "indispensable parties".[170] Accordingly, the AR was wrong to have held that Civil Action 526 may potentially determine OC 926 by removing Dinara as the majority shareholder of Abornes.[171] There were neither any overlaps, nor any dependency, between Civil Action 526 or OC 926 that warrants the latter being stayed on case management grounds.

70 It should, however, be prefaced that a week before the hearing of these appeals, on 4 September 2025, the High Court of the RMI issued its decision in respect of Civil Action 526, dismissing Comina's prayer on Count 1. However, given that the case management stay ordered by the AR covered "any appeals arising" from Civil Action 526, the issue of whether this stay should be set aside remained a live issue before this Court. As noted above, Jahangir – who controls Comina – had confirmed to this Court that an appeal will be filed.

Issues to be determined

71 Based on the foregoing, the issues that arose in this appeal were:

(a) First, whether Singapore was *forum non conveniens* for the trial of OC 926, and a permanent stay should be granted in relation to the same.

(b) Second, whether ORC 6183 – which granted the Claimants permission to serve Interis, Andreas and Jahangir out of

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170 Claimants' Submissions at para 111(h); Dimigen's Affidavit at p 16.

171 Claimants' Submissions at para 126.

jurisdiction – should be set aside on the ground that: (i) Singapore was not *forum conveniens*; and/or (ii) the Claimants had failed to discharge their duty of full and frank disclosure.

(c) Third, whether a case management stay should be granted pending the determination of Comina's appeal against Civil Action 526 by the Supreme Court of the RMI.

Issue 1: Whether Singapore is the *Forum Conveniens*

Stage one of Spiliada

72 The legal principles governing applications for a stay on the ground of *forum non conveniens* as set out by Lord Goff in *Spiliada* are trite and proceeds in two broad stages. At the first stage, the burden is on the applicant to show that there is another forum which is "clearly or distinctly more appropriate than Singapore" for the trial of the dispute (*Ivanishvili, Bidzina v Credit Suisse Trust Ltd* [2020] 2 SLR 638 ("*Ivanishvili*") at [82], citing *Dresdner Kleinwort* at [26]). This behoves the Court to undertake an inquiry as to the connecting factors that link the dispute with the connecting jurisdictions, some of which are: (a) the personal connections of the parties and the witnesses; (b) the connections to the relevant events and transactions; (c) the applicable law to the dispute; (d) the existence of proceedings elsewhere; and (e) the "shape of the litigation", which is simply a "shorthand for the manner in which the claim and the defence have been pleaded" (*Ivanishvili* at [82]; *Rappo, Tania v Accent Delight International* [2017] 2 SLR 265 ("*Rappo Tania*") at [71]; *JIO Minerals FZC v Mineral Enterprises Ltd* [2011] 1 SLR 391 ("*JIO Minerals*") at [41]–[42]).

73 This non-exhaustive list of connecting factors follows from the broader definition of the "natural forum" – *viz*, that with which "the action has the most real and substantial connection" (*Spiliada* at 478A; *Dresdner Kleinwort* at [26]).

Needless to say, the weight and significance given to any individual connecting factor "varies in different cases and the ultimate appraisal ought to reflect the exigencies dictated by the factual matrix" (*Rickshaw Investments Ltd v Nicolai Baron von Uexkull* [2007] 1 SLR(R) 377 ("*Rickshaw Investments*") at [15], citing *Peter Rogers May v Pinder Lillian Gek Lian* [2006] 2 SLR(R) 381 at [20]). Ultimately, the aim of a Court tasked with identifying the natural forum is to ascertain whether any of the connections point towards a jurisdiction in which the case may be "tried more suitably for the interests of all the parties and for the ends of justice" (*Rappo Tania* at [72], citing *Spiliada* at 476C).

74 Before delving into the analysis of the natural forum proper, it is apt to say a word on the "burden of proof" in cases like the present. Strictly speaking, as the question of whether a given jurisdiction is *forum non conveniens* or *forum conveniens* is a question of law, the burden of showing that a given jurisdiction is the natural forum is not a "burden of proof".[172] Instead, the burden is one of *persuasion*, which entails "demonstrating the normative weight to be given to each connecting factor in light of all the circumstances of the case" (*Siemens AG v Holdrich Investment Ltd* [2010] 3 SLR 1007 ("*Holdrich Investment*") at [7]; Yeo Tiong Min SC, *Commercial Conflict of Laws* (Academy Publishing, 2023) ("*CCL"*) at para 4.002). This is to be distinguished from the burden that a party bears in proving the existence of a *fact* which is relied on to show that a given jurisdiction is the *forum non conveniens* or *forum conveniens*, which is properly termed as a "burden of proof". In such cases, the general rule that he who alleges must prove applies (*Holdrich Investment* at [6]).

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172 As such, the AR was incorrect when she referred to the "burden of proof" in establishing Singapore is (or is not) *forum non conveniens*: NE at p 3 lines 8–14.

75 Moving to the question of the incidence of this burden, in stay applications where a given defendant has been served in the jurisdiction, and it is the defendant who applies for a stay on *forum non conveniens* grounds, the burden of showing that there is a foreign forum that is clearly or more distinctly appropriate than Singapore lies on the defendant-applicant (*Rappo Tania* at [69]; *Rickshaw Investments* at [14]). In contrast, where a claimant seeks leave (on an *ex parte* basis) to serve a defendant out of jurisdiction under Order 8, Rule 1(1) of the Rules of Court 2021, the burden of showing that Singapore is the *forum conveniens* lies on the claimant-applicant (paragraph 63(2)(b) of the Supreme Court Practice Directions 2021). The claimant continues to retain that burden even at the *inter partes* stage, when the defendant – having been served – applies to the Singapore Court to set aside the order granting the claimant permission to serve the defendant out of jurisdiction (*Zoom Communications Ltd v Broadcast Solutions Pte Ltd* [2014] 4 SLR 500 ("*Broadcast Solutions*") at [75]). The rationale for this difference lies in the fact that jurisdiction is primarily territorial in nature, and hence there must be judicial caution in compelling "a foreigner, who owes no allegiance here, to the inconvenience and annoyance of being brought to contest his rights in this country" (*Spiliada* at 481C, citing *Société Générale de Paris v Dreyfus Brothers* (1885) 29 Ch D 239 at 242-243; *Holdrich Investment* at [7]; *Broadcast Solutions* at [72]).

76 Here, Averis and Felix are applying for a stay on *forum non conveniens* grounds, and thus, the burden is on them to satisfy this Court that there is another forum which is clearly more appropriate than Singapore to hear OC 926. In contrast, Interis, Andreas and Jahangir are applying to set aside permission granted to the Claimants to serve them out of jurisdiction. It follows that the Claimants retain the burden of showing that Singapore is the *forum conveniens* for the trial of OC 926. Whilst the difference in the incidence of the relevant burden should be borne in mind, the Court may, in such circumstances,

"consider the question in the round and ask which jurisdiction is the natural or most appropriate forum for the trial of the action" (*Halsbury's Laws of Singapore* vol 6(2) (LexisNexis, 2023) at para 75.097; *Broadcast Solutions* at [80]).

77 To recapitulate, the claims against Averis in these proceedings are that of breach of contract, breach of fiduciary duties and unlawful means conspiracy. The claims against Jahangir are in knowing receipt and unlawful means conspiracy. Finally, the claims against Interis, Andreas and Felix are in unlawful means conspiracy. Though Tong, Chuah and Pang do not challenge the existence or the exercise of the Court's jurisdiction over OC 926, their alleged breaches of fiduciary duties in causing Welton and Kito to transfer their assets to entities controlled by Jahangir are said to be part of the conspiracy against the Claimants. In such a case where multiple claims are advanced against multiple defendants, it is necessary to determine what the natural forum is "for each separate action" (Adeline Chong & Yip Man, *Singapore Private International Law: Commercial Issues and Practice* (Oxford University Press, 2023) ("Chong & Man") at para 3.141). The parties' submissions, which appear to amalgamate the various actions into a single composite analysis, have therefore been approached with a degree of caution.

The parties' connections

78 Turning first to the connections of the parties, these are determined not only at the time of litigation, but also at the time of the relevant events constituting the action (Chong & Man at para 3.156). Welton and Kito are companies incorporated in Singapore who, at the relevant time, had directors ordinarily resident in Singapore (*ie,* Tong, Chuah and Pang). Their parent company, Abornes, is a company incorporated in the RMI, while Dinara, who

is presently the majority shareholder of Abornes, is an Uzbekistan citizen residing in the United Arab Emirates. Tong, Chuah and Pang, who were the nominee directors of Welton and/or Kito at the relevant time, are Singaporean citizens who were (and are) resident in Singapore.

79 Against this, Interis is a company incorporated in Switzerland from where it appears to carry on its business. Further, Andreas and Felix are Swiss citizens residing in Switzerland.[173] While Averis is a company incorporated in Singapore, it is beneficially owned by Andreas and Felix, who are 50-50 shareholders. Jahangir, in contrast, is an Uzbekistan citizen who is resident in Uzbekistan. The connections of the parties, in this regard, do not point clearly towards a single forum. Indeed, it has been said that, in a cross-border dispute such as this, where the parties are resident in different jurisdictions, the parties' connections as a connecting factor is simply a neutral one (Chong & Man at para 3.156; *Cosmetic Care Asia Ltd v Sri Linarti Sasmito* [2021] SGHC 157 ("*Cosmetic Care*") at [129]–[131]). As such, I treated it as such and found it not to be a helpful connecting factor in the present case.

Location and compellability of witnesses

80 Generally, the physical location of witnesses has assumed a reduced significance in the *forum non conveniens* analysis, owing to the widespread adoption of communications technology that allows for witnesses to give evidence remotely (*eg*, video-link evidence) (*Lakshimi Anil Salgaocar v Jhaveri Darsan Jitendra* [2019] 2 SLR 372 ("*Lakshimi*") at [72]). Despite this, the courts have been willing to assume that it would "*typically* be easier to secure

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173 While Felix has a Singapore address, he has rented out his property located at that address: Transcript at p 26 lines 18–21; Affidavit of Dinara Bakhtiyarovna Usmanova dated 10 February 2025 ("Claimants' 3rd Affidavit") at para 18.

the evidence of witnesses in the jurisdiction where they are located" [emphasis in original] (*Ivanishvili* at [96]). Of course, the location (and compellability) of witnesses gains significance as a connecting factor in the *forum non conveniens* analysis where the case will turn on issues of fact, and where the relevant witnesses are not under the control of any of the parties to the suit (*Ivanishvili* at [84]; *Lakshimi* at [73]). Further, since it is the claimants who wish to pursue their claims in Singapore, the Court will not "usually be overly concerned with the availability of evidence for the [claimant's] case". Rather, the focus is on "the potential prejudice to the *defendant* in running its defence that is likely to be significant" [emphasis in original] (*Ivanishvili* at [86]).

81 It is likely that the resolution of the dispute in OC 926 will require the resolution of both questions of law and fact. Examples of questions of law that may arise are: (a) whether Averis did owe Welton and Kito fiduciary duties; (b) whether the Claimants can enforce the Welton/Averis and Kito/Averis Agreements against Averis despite the Claimants not being party to the agreements; and (c) whether Jahangir can be liable for knowing receipt despite the fact that it had been his companies and not himself, personally, which had received the shares.

82 On the other hand, there are also important questions of fact that must be resolved for the determination of OC 926. Specifically:

(a) For one, in relation to Welton's receivables that are alleged to have been written off without justification, Felix has alleged that Mirabror had previously signed resolutions for Welton to make transfers of proceeds received in respect of those receivables to Mirabror's charitable foundation, Ezgu Maqsad (see [25] above). Averis and Felix had been appraised of this information

by "persons authorized under powers of attorney by [Mirabror]".[174] Dinara does not admit to the existence of any such resolutions and puts Felix to strict proof thereof.[175]

(b) Additionally, it will also be necessary to determine if Bokiev and Komola – who are the donees of the Welton POA and the Kito POA respectively – were acting on the instructions of Jahangir when they caused Welton and Kito to dispose of their assets to the entities allegedly controlled by Jahangir (see [23], [32]–[33] and [36] above).

(c) Another important question of fact is whether the Heirs of Mirabror had *themselves* authorised the disposal of Welton's and Kito's assets. For example, Felix alleges that the heirs themselves "executed instructions and authorisations for the disposal of certain assets held under Welton and Kito" – the same assets that are alleged to have been misappropriated as part of the alleged conspiracy. [176] Dinara, however, denies this, arguing that she had "never given any instructions or authorizations, orally or in writing, for the disposal of any assets held under Welton or Kito".[177]

83 From the factual issues listed above, it is evident that cross-examination by the defendants of (a) the other heirs, such as Rumilya, Nargiza and Sanjar; (b) Bokiev and Komola; and (c) the other POA holders referred to by Felix in

174 Felix's 1st Affidavit at 36.

175 Claimants' 5th Affidavit at para 13(e).

176 Felix's 1st Affidavit at para 20.

177 Claimants' 5th Affidavit at para 13(c).

his affidavit will be necessary. Yet, given that these key non-party witnesses are resident in Uzbekistan (save for Nargiza, who is resident in Cyprus), they would not be compellable in Singapore.[178] Consequently, prejudice would be caused to the defendants if they were required to defend OC 926 in Singapore without the testimony of these key witnesses (*Ivanishvili* at [94]; *MAN Diesel & Turbo SE v IM Skaugen SE* [2020] 1 SLR 327 ("*IM Skaugen*") at [148]). While the defendants have not shown that the witnesses are unwilling to testify in Singapore, the fact that there are key witnesses who remain non-compellable is nonetheless a factor that militates against Singapore being the natural forum (*Sinopec International (Singapore) Pte Ltd v Bank of Communications Co Ltd* [2024] 3 SLR 476 ("*Sinopec International*") at [88]–[91]; *CCL* at para 4.035). This, therefore, is a factor that points towards Uzbekistan being the natural forum.

Applicable law

84 At the stage of jurisdiction, the Court is entitled to decide the stay application based on its *prima facie* view on the governing law (*Yeoh Poh San v Wong Siok Wan* [2002] SGHC 196 at [15]). The relevance of the governing law in the jurisdictional stage is that, where a claim is governed by a foreign *lex causae*, it would generally be more efficient and conducive to justice for the case to be tried in the forum whose law applies (*Rickshaw Investments* at [42]; *VTB Capital* at [46]). The weight to be accorded to the governing law as a connecting factor, naturally, depends on whether the material or dispositive issues arising out of a case are factual or legal in nature (*Cosmetic Care* at [73]; *Shen Sophie v Xia Wei Ping* [2023] 3 SLR 1092 ("*Sophie Shen*") at [124], [114]; Chong & Man at para 3.163).

178 Felix's 1st Affidavit at p 117; Submissions of Averis & Felix at para 39(a).

85 Turning then to the applicable law, it should be noted that the law governing the claims for breach of contract, breach of fiduciary duties, knowing receipt and unlawful means conspiracy may not necessarily be the same as the relevant choice of law rules are different. Hence, it is prudent to approach them sequentially, starting with the claims for breaches of fiduciary duty asserted by Welton and Kito against Tong, Chuah and Pang.

(1) Breach of fiduciary duties

86 Generally, it has been held that in determining the law governing a claim for breach of an equitable obligation, it is necessary to investigate the root source of that obligation to see if it arises from "a factual matrix where the legal foundation is premised on an independent established category such as contract or tort" (*Rickshaw Investments* at [81]). If this is answered in the affirmative, the choice of law rule for that established category will apply to the equitable claim (*Rickshaw Investments* at [81]; Chong & Man at para 9.22). In relation to a claim for breach of a director's fiduciary duty to a company, it has been held that the law of the place of incorporation of the company will be the governing law (*Focus Energy Ltd v Aye Aye Soe* [2009] 1 SLR(R) 1086 ("*Focus Energy*") at [31]–[33]). It follows that the claims made by Welton and Kito, both of which are incorporated in Singapore, against their directors – Tong, Chuah and Pang – are all governed by Singapore law.

(2) Breach of contract

87 Next, turning to Welton and Kito's claims against Averis for breach of the Averis/Welton and Averis/Kito Agreements respectively, these claims fall to be governed by Singapore law. This is because the Agreements contain an express choice of Singapore law as the law governing the contract. As a matter of law, where there is an express choice of law made by the parties to a contract,

it is "virtually conclusive of the proper law governing the law contract" (*Peh Teck Quee v Bayerische Landesbank Girozentrale* [1999] 3 SLR(R) 842 at [17]). There was some difficulty in this regard as Welton and Kito are not party to the Averis/Welton and Averis/Kito Agreements respectively. Nonetheless, I found that both questions as to: (a) Welton and Kito's standing to enforce these Agreements; and (b) the scope and content of Averis's obligations under these Agreements were governed by Singapore law. These questions raised issues as to privity of contract and contractual interpretation, which were clearly issues governed by the *lex contractus*.

88 In relation to Welton's and Kito's claims against Averis for breach of fiduciary duty, the Claimants' argument is that Averis owed Welton and Kito fiduciary duties as it had been "engaged to act in the service of Welton's interests to the exclusion of its own interests" under the Averis/Welton and the Averis/Kito Agreements (see [44(b)] and [44(d)] above). The juridical basis of the fiduciary duties alleged to be owed by Averis therefore finds its roots in the Averis/Welton and Averis/Kito Agreements. Accordingly, the governing law for Averis's claims for breach of fiduciary duties against Welton and Kito ought to be the same as that governing those particular contracts, which is Singapore law (*Rickshaw Investments* at [83]).

(3) Conspiracy

89 Turning next to the claim in conspiracy, it is trite law that the choice of law rule for tortious claims is the double actionability rule. This rule states that, for a tort to be actionable in Singapore, the alleged wrong must be actionable under both the *lex fori* and the *lex loci deliciti* (*JIO Minerals* at [88]; *Rickshaw Investments* at [53]). The *lex loci deliciti*, in turn, is determined by looking at the events constituting the tort and asking where, "in substance, the cause of

action arose" (*JIO Minerals* at [90]). The key factors to consider in applying this "substance test" to a claim in conspiracy are: (a) the identity, importance and location of the conspirators; (b) the locations where any agreements and combinations took place; (c) the nature and places of the concerted acts or means; (d) the location of the claimant; and (e) the places where the claimant suffered losses (*Sophie Shen* at [117]; *EFT Holdings, Inc v Marinteknik Shipbuilders (S) Pte Ltd* [2014] 1 SLR 860 at [53]).

90 Turning first to the location of the Claimants, the immediate claimants – Welton and Kito – are based in Singapore. When the shares of Ezgu Niyat, Saxovat and Savdogar Bank were misappropriated from Welton and Kito pursuant to the alleged conspiracy, Abornes suffered corresponding losses in the diminution of the value of its shares in Welton and Kito. Generally, in the absence of any evidence to the contrary, it can be assumed that "the damage for each distinct claim is suffered in the jurisdiction where the relevant entity is incorporated" (*IM Skaugen* at [78]; *Raffles Education Corp Ltd v Shantanu Prakash* [2020] SGHC 83 ("*Raffles Education*") at [67]). Here, the essential complaint of the Claimants is that the shares in the three Uzbekistan entities – Ezgu Niyat, Saxovat and Savdogar Bank – had been transferred out of the Singapore-incorporated Welton and Kito to Uzbekistan entities controlled by Jahangir for no or insufficient consideration. It follows, therefore, that the losses had been sustained by Welton and Kito in Singapore, and Abornes in the RMI.

91 In this regard, the defendants' reliance on *Christopher Yun Hian Chen v BHNV Online Ltd* [2020] SGHC 284 ("*Christopher Chen*") is misplaced.[179] In that case, the claimant had sued the six defendants, alleging that they had conspired to injure him by unlawful means. The essence of the claimant's

[179] Submissions of Averis & Felix at para 46.

complaint was that the defendants had acted in concert to, amongst others, manipulate his options trading activities and misappropriate his moneys, causing him to make various funds transfers totalling US$11.55m to the first defendant's Romanian bank accounts. These transfers were made for the purposes of binary options trading by the claimant on the first defendant's online trading platform. Subsequently, as a consequence of a series of bad trades by the claimant (which he alleged he had been induced into making by virtue of the second defendant's misrepresentations), he suffered heavy losses, reducing his account balance down to US$5.5m. This sum was subsequently frozen and seized by the Romanian authorities (*Christopher Chen* at [23]). A facet of his claim was that, owing to the second and third defendants' "cajoling", the claimant had liquidated his investments in LinkedIn shares to fund his investments in certain options. This, the claimant argued, had caused him losses to the tune of US$1.33m (*Christopher Chen* at [19]).

92 The first, fifth and sixth defendants proceeded to seek a declaration that the court had no jurisdiction over them and to set aside permission granted to the claimants serve them out of jurisdiction. In particular, they argued that the claimant ought not to have been given permission to serve them out of jurisdiction since the claimant had failed to establish a "good arguable case" on the jurisdictional gateway set out in the former Order 11, Rule 1(f)(ii) of the Rules of Court 2014 (*Christopher Chen* at [97]). This required the claimant to show, on the standard of a good arguable case, that *damage* had been suffered in Singapore and was caused by a tortious act or omission wherever occurring (*Christopher Chen* at [103]).

93 Chionh JC (as she then was) agreed with the defendants that the claimant had failed to establish a good arguable case on this gateway. Specifically, Chionh JC held that any losses in relation to the liquidation of the LinkedIn

shares "would appear to have been sustained in the United States" (*Christopher Chen* at [107]). Averis and Felix rely on this single statement to argue that the actual losses suffered by the Claimants had been sustained in Uzbekistan.[180] I found the defendants' arguments to be unpersuasive and rejected it accordingly. First, it is not immediately apparent what direct loss the disposal of LinkedIn shares had caused the claimant in that case. By selling the publicly listed shares on the exchange, the claimant in *Christopher Chen* had obtained precisely what his shares had been worth at the material time. Second, as Chionh JC subsequently held, the immediate and direct losses suffered by the claimant in *Christopher Chen*, *ie,* the US$11.55m transferred to the first defendant, would "more likely have occurred in Romania, where the [claimant's] moneys were frozen and allegedly misappropriated" (*Christopher Chen* at [107]).

94 Moving to the other factors listed at [89] above, on the Claimants' own case, the alleged conspiracy had been planned, orchestrated and implemented by Jahangir who was (and is) in Uzbekistan. He was, in that sense, the puppet master who pulled the strings from Uzbekistan by giving instructions to Andreas, Felix, Averis, Interis, Pang, Tong and Chuah, who in turn are alleged to have exercised their powers of management and control over Welton and Kito to cause them to transfer their shares to the Jahangir-controlled entities. Put differently, Jahangir's "instructions to the other defendants, in pursuance of the conspiracies, to perform acts which caused damage to the [Claimants] would have been likely given by him from [Uzbekistan]" (*Raffles Education* at [66]).

95 Additionally, the existence of the Welton and Kito POAs granted in favour of Bokiev and Komola (both of whom are Uzbekistan citizens presumably resident in Uzbekistan) is a crucial indicator that the place of the

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180 Submissions of Averis & Felix at para 46.

conspiracy is Uzbekistan. This is because Welton and Kito's shares in Ezgu Niyat, Saxovat and Savodgar Bank had been transferred to Jahangir himself, or the entities allegedly controlled by Jahangir, *pursuant* to those POAs. These POA holders, Bokiev and Komola, who are also Uzbekistan citizens resident in Uzbekistan, are also said to have acted on the instructions of Jahangir. Any combination or agreements between Jahangir and Bokiev and/or Komola, are therefore likely to have been hatched in Uzbekistan. Subsequent instructions to Averis, Interis, Tong, Pang and Chuah to execute and implement the variegated aspects of the conspiracy, would have emanated from Uzbekistan. It follows that the places of the concerted acts or means, as well as the locations where any agreement or combinations took place, would have been in Uzbekistan. The important players, as well as the mastermind of the purported conspiracy, are also located in Uzbekistan.

96 While it is true that the Claimants had suffered losses in Singapore, it should not be forgotten that the Claimants are ultimately asset-holding companies who are beneficially owned solely by the Heirs of Mirabror, who are all resident in Uzbekistan (save for Nargiza, who is resident in Cyprus).[181] In an economic and practical sense, therefore, the losses caused by the alleged conspiracy would thus have been suffered by the Uzbekistan-based heirs in Uzbekistan. The Heirs of Mirabror (save for Jahangir), who are (or were) based in Uzbekistan, are thus the ultimate victims of the alleged conspiracy.

97 In reasoning as such, I drew support from *Avonwick Holdings Ltd v Azitio Holdings Ltd* [2020] EWHC 1844 (Comm) ("*Avonwick Holdings*"). That was a very substantial judgment of Picken J which, very briefly, concerned

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[181] Felix's 1st Affidavit at p 117. While Dinara is presently resident in Dubai, she also has a residence in Uzbekistan: NEs at p 8 lines 18–20.

(amongst others) a Ukrainian metallurgical business called the Industrial Union of Donbass ("IUD"). IUD was controlled by three Ukrainian businessmen – Mr Vitaliy Gaiduk ("Gaiduk"), Mr Sergiy Taruta ("Taruta") and Mr Oleg Mkrtchan ("Mkrtchan"). Their interests in IUD were held by Castlerose Ltd (for Gaiduk), Muriel Ltd (for Mkrtchan) and Kairto Ltd (for Taruta). The shares in Castlerose Ltd, Muriel Ltd and Kairto Ltd were in turn held by Gaiduk, Mkrtchan and Taruta through their respective corporate vehicles, Avonwick, Azitio and Dargamo respectively. Amongst the various claims and counterclaims between the parties to the dispute was that of the "Avonwick Claim", where Avonwick (and its controller, Gaiduk) alleged that it had been induced by the misrepresentations of Taruta and Mkrtchan into disposing its shares in Castlerose Ltd (which in turn held a 33.84% stake in IUD) at a significant undervalue. The claim made by Avonwick (Gaiduk's vehicle) against Azitio (Mkrtchan's vehicle) was one in conspiracy which was alleged to have been orchestrated by Mkrtchan and Taruta in Ukraine.

98 What is important for our purposes is Picken J's reasoning in determining to which forum the alleged conspiracy was "manifestly more closely connected with" for the purposes of Art 4(3) of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations ("Rome II Regulation"), which is the EU Regulation governing choice of law for non-contractual obligations / delicts. The inquiry under Art 4(3) of the Rome II Regulation is similar to that undertaken pursuant to "substance test", as the essential focus in both inquiries is on identifying the forum to which the tort is more closely connected at the time of its commission. In holding the alleged conspiracy was manifestly more closely connected to Ukraine, an aspect of Picken J's reasoning was that "the ultimate victims of the alleged wrongdoing were Mr and Mrs Gaiduk in their capacity as the ultimate owners of the interest in IUD" (*Avonwick Holdings* at

[172]). Therefore, though one would ordinarily not be permitted to look through corporate structures owing to the principle of separate legal personality, Picken J's reasoning in *Avonwick Holdings* fortified my belief that it is permissible – in so far as these corporate structures are in place merely for the purpose of asset-holding – to look to the "ultimate victims" of a conspiracy in determining the place of the tort for the purposes of the substance test.

99 Moving onto the other relevant factors, I considered it relevant that the assets at the centre of the conspiracy – the shares in Ezgu Niyat, Saxovat and Savdogar Bank – were all shares in Uzbekistan-incorporated companies. The recipients of these shares – ILK Plyus, Universalint and Ardus – were also Uzbekistan-based companies, save for Dagnall which is a company incorporated in the Saint Vincent and the Grenadines. I found these facts to be relevant in the natural forum analysis since the Claimants were seeking proprietary relief in relation to these shares.[182] Whilst the Claimants subsequently clarified at the hearing that "their focus [was] really on *in personam* liquidated damages" as opposed to proprietary remedies,[183] this did not change the fact that the Claimants, in their SOC, were seeking proprietary remedies in relation to the shares. Consequently, these are valid considerations for this Court to consider in determining the place of the tort.

100 Looking at the events constituting the tort in the round, I found that the cause of action for conspiracy arose, in substance, in Uzbekistan. The governing law for the conspiracy claim is therefore Uzbekistan law.

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182 SOC at paras 111(7), 111(14) and 111(27).

183 Transcript at p 42 lines 16–22.

(4) Knowing receipt

101 The choice of law rule for claims in knowing receipt was considered in the case of *Thahir Kartika Ratna v PT Pertambangan Minyak dan Gas Bumi Negara (Pertamina)* [1994] 3 SLR(R) 312 ("*Thahir*"). There, Yong CJ endorsed Millett J's views in *El Ajou v Dollar Land Holdings plc* [1993] 3 All ER 717 (at 736), where Millett J (as his Lordship then was) held that a claim in knowing receipt is "the counterpart in equity of the common law action for money had and received. Both can be classified as receipt-based restitutionary claims". As such, the law governing claims for knowing receipt would be the law of the place of enrichment (*Thahir* at [47]).

102 In that case, General Thahir, who was found to be a fiduciary of the claimant-company, had received certain bribes which he had deposited into his joint account with his wife. After his death, the claimant made, amongst others, a claim in knowing receipt against the deposits in the joint account now held solely by his wife, on the basis that she was a constructive trustee who was liable to account to the claimant for the same. In holding that the knowing receipt claim was governed by Singapore law (since the joint account was based in Singapore), the Court of Appeal ("CA") did not distinguish between personal and proprietary claims in knowing receipt for the purposes of choice of law.

103 The outcome in *Thahir* should be contrasted with that in *Sophie Shen*, where the claimant sued the defendants over their alleged misappropriation of her share to the sale proceeds of a company incorporated in Samoa named "WWC". The claimant alleged to be the beneficial owner of around 70% of the shares in WWC by virtue of her US$1.2m capital injection into WWC. Unbeknownst to the claimant, WWC had been sold to a third party after the third defendant, a BVI-incorporated company, had taken over WWC's entire

shareholding. The sale proceeds were then deposited into its bank account with Overseas-Chinese Banking Corporation ("OCBC") in Singapore. One of the claimant's claims against the defendants was that the third defendant ("D3") owed her a fiduciary duty in respect of the sale proceeds, and that this duty had been breached by D3 depriving the claimant of her rights to the sale proceeds. The claimant argued that it would be unconscionable to allow D3 to retain the sale proceeds which had acquired in breach of D3's fiduciary duty (*Sophie Shen* at [14]).

104 Goh JC (as he then was) held that the claimant's claim to the moneys in the OCBC account represented "the traceable proceeds flowing from the property rights in the shares" of WWC (in which she asserted a beneficial interest). As this was a proprietary claim, in Goh JC's view, "the law governing the equitable ownership of the shares *ie*, the law of the incorporation of the company, [was] likely to be the relevant choice of law rule". As WWC had been incorporated under the laws of Samoa, the law governing the knowing receipt claim was held to be Samoan law (*Sophe Shen* at [123]).

105 It is uncertain if Goh JC's decision in *Sophie Shen* is consistent with the CA's decision in *Thahir*. The issue as to the proper choice of law rule governing knowing receipt claims, and whether this differs (and should differ) depending on whether the relief sought is personal or proprietary in nature is subject to judicial and academic debate (see generally, Chong & Man at paras 9.30–9.34; *CCL* at paras 13.069–13.070: *Dicey, Morris and Collins on The Conflict of Laws* (Lord Collins of Mapesbury gen ed) (Sweet & Maxwell, 16th Ed, 2022) at paras 36-062–36-030). Without descending into this debate, the possible candidates as to the law governing a claim in knowing receipt are: (1) the law of the place of the enrichment (*Thahir*); (2) the law governing ownership to the relevant property (*Sophie Shen*); and (3) the law of the place of the

tort/wrongdoing (*CCL* at para 13.070). I found it unnecessary to resolve this debate in this present case, since all three options above pointed to Uzbekistan law. The shares in Ezgu Niyat, Saxovat and Savdogar Bank had been received in Uzbekistan by either Jahangir, or Uzbekistan-based companies controlled by Jahangir (save for Dagnall, which is incorporated in Saint Vincent and the Grenadines). Hence, the place of enrichment/receipt would be Uzbekistan. Next, the law governing ownership to the relevant property (*ie*, the shares) would be Uzbekistan law, since Uzbekistan is the place where Ezgu Niyat, Saxovat and Savdogar Bank had been incorporated. The place of the tort/wrongdoing is, based on the analysis above, also Uzbekistan. As such, the governing law for the knowing receipt claims must be Uzbekistan law, and I found accordingly.

Relevant events and transactions

(1) Conspiracy and Knowing Receipt

106 In my view, the thrust of the Claimants' allegations against the defendants is in the claim of conspiracy. In this respect, it is established law that, for claims in tort, the place of the tort is *prima facie* the natural forum (*Rickshaw Investments* at [39]; *JIO Minerals* at [106]). The reason for this presumption lies in the fact that (a) relevant witnesses and evidence will likely be found in that place; and (b) the applicable law is likely to be the law of that country (*CCL* at para 4.036). This, however, is only a *prima facie* position, and may be rebutted by evidence to the contrary, *eg*, where the place of the commission of the tort is merely fortuitous (*JIO Minerals* at [106]–[107]). It may also be displaced when necessary, *eg*, where the tortious claim is "parasitic on other non-tortious claims to be determined in a different fora" (*Sophie Shen* at [124], citing *Oro Negro Drilling Pte Ltd v Integradora de Servicios*

Petroleros Oro Negro SAPI de CV [2020] 1 SLR 226 ("*Oro Negro*") at [90]–[91]).

(A) RELEVANCE OF THE ECONOMIC PROCEDURAL CODE OF UZBEKISTAN

107 To determine the place of the tort, the test is the same as the substance test as applied above (*Sophie Shen* at [124]). Hence, the place of the tort of conspiracy is Uzbekistan, which is *prima facie* the natural forum. In arriving at the same conclusion, the AR had taken into account Zulhumor's opinion that the Art 30 read with Art 37 of the Economic Procedural Code ("EPC") of the Republic of Uzbekistan *mandates* for the Economic Court of Uzbekistan to have *exclusive* jurisdiction "to hear disputes relating to the ownership of shares in Uzbek companies".[184] In so far as the Claimants' claim in knowing receipt against Jahangir is concerned, where they seek proprietary relief in relation to the shares in Ezgu Niyat, Saxovat and Savdogar Bank, I found Zulhumor's expert opinion that the Claimants' claim to "equitable ownership in the Uzbek companies" fall under the exclusive jurisdiction of Uzbekistan to be persuasive.[185] Indeed, the Claimants' other expert – one Vazgen Grigoryan ("Grigoryan") – has also stated that Uzbekistan Courts may in practice "adhere to the view that corporate disputes arising from the activities of legal entities registered in the Republic of Uzbekistan must be considered solely by Uzbekistan economic courts due to the exclusive jurisdiction of such disputes".[186]

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184 Jahangir's 1st Affidavit at paras 63–64; Affidavit of Zulhumor Khudayberdieva dated 4 March 2025 ("Zulhumor's Affidavit") at pp 16–18.

185 Zulhumor's Affidavit at p 18.

186 Affidavit of Vazgen Grigoryan dated 3 April 2025 ("Grigoryan's Affidavit") at p 18.

108 Zulhumor's opinion, however, did not apply with the same force to the claims for *in personam* relief against the defendants. Indeed, Zulhumor's opinion was conspicuously silent as to whether the Economic Court of Uzbekistan has exclusive jurisdiction over other claims asserted by the Claimants in their SOC which only seek personal relief from the defendants. In this respect, Grigoryan pointed out that the Art 37 of the EPC (which provides for the exclusive jurisdiction of the Economic Courts over claims for "corporate disputes") regulates "specific cases of exclusive *territorial* jurisdiction strictly within the system of economic courts of Uzbekistan" [emphasis added).[187] In this respect, I understood Grigoryan to be saying that the provisions of the EPC do not apply extraterritorially to wrongdoing alleged to have been committed against *foreign* companies just because the subject-matter of the wrongdoing involved shares in Uzbekistan companies.

109 In the absence of any suggestion that the provisions of the EPC applies in such a manner, I was inclined to agree with Grigoryan's opinion – for it was consistent with the trite public international law principle of territorial sovereignty that States are generally recognised as being supreme only within their own territorial frontiers and as having the exclusive competence to perform legislative, executive and judicial functions therein (Malcolm Shaw, *International Law* (9th Ed, Cambridge University Press, 2021) at 561–2; *Gonzalo Gil White v Oro Negro Drilling Pte Ltd* [2024] 1 SLR 307 at [74]–[77]). Accordingly, the Uzbekistan Economic Courts' exclusive jurisdiction in relation to disputes pertaining to ownership of shares in Uzbekistan companies (which are ordinarily located in Uzbekistan) is a factor that suggests that the natural forum for the claim in knowing receipt should be Uzbekistan. The same, however, cannot be said for the claim in conspiracy.

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187 Grigoryan's Affidavit at p 18.

(B) RELEVANCE OF THE EXCLUSIVE JURISDICTION CLAUSE IN EZGU NIYAT'S CONSTITUTION

110 Next, the AR also accepted Zulhumor's opinion that Art 9.1 of Ezgu Niyat's constitution, which states that "any dispute arising from (or) the Charter or the founding agreement shall be referred to a court in the Republic of Uzbekistan authorized to consider such disputes", mandated OC 926 to be determined exclusively by the Uzbekistan Courts.[188] To be clear, the "Charter", the "founding agreement" and "Memorandum of Association" ("MOA") of Ezgu Niyat mentioned in Zulhumor's opinion are all references to Ezgu Niyat's corporate constitution. Zulhumor opined that the dispute in OC 926 "ar[ose] from the Charter or the founding agreement" of Ezgu Niyat for two reasons:[189]

(a) First, Ezgu Niyat's constitution sets out the size and proportion of the shareholding of its "participants". As the Claimants were "disputing Dagnall's entitlement to Ezgu Niyat and [were] claiming for an equitable ownership in such shares, the dispute in OC 926 [could] therefore be said to arise from the Charter or MOA of Ezgu Niyat".

(b) Second, Ezgu Niyat's constitution sets out provisions relating to the transfer of shares in Ezgu Niyat from "participants" to third parties. Since the Claimants were "alleging that the transfers of Welton and Kito's shares in Ezgu Niyat are wrongful, the dispute in OC 926 [could] be said to arise from the Charter or MOA of Ezgu Niyat".

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188 Zulhumor's Affidavit at pp 20–21.

189 Zulhumor's Affidavit at pp 20–21.

111 Further, Zulhumor opined that, under Uzbekistan law, the word "participants" includes "both existing and past participants".[190] Put differently, Welton and Kito are bound by Ezgu Niyat's constitution by virtue of their status as former shareholders. Zulhumor has, however, cited no authority, whether in the form of judicial decisions or legislative provisions, for such a proposition. Indeed, Grigoryan appeared to take a contrary position, pointing out in contrast that "none of the Claimants or Defendants [was] a party to the [constitution] of Ezgu Niyat".[191]

112 I found the reasons furnished by Zulhumor at [110] above to be difficult to follow. I struggled to see how the entire dispute in OC 926 could be said to arise from the constitution of Ezgu Niyat simply by virtue of: (a) the existence of provisions in its constitution that provide for the transfer of its shares; and (b) the fact that its constitution lists out the size and proportion of the shareholding of its "participants". Clearly, the dispute in OC 926 "arose from" the alleged wrongdoing of the defendants, and not from the constitutional provisions of Ezgu Niyat. Zulhumor's opinion fails to explain why this is not the case, and accordingly, I did not accord it much weight.

113 Critically, Zulhumor's opinion in this respect also appeared to be internally inconsistent with her view that Art 28.6 of Ezgu Niyat's constitution was applicable to OC 926, such that the governing law of the issues relating to the "impugned share transfers" (defined as the transfers of shares in Ezgu Niyat, Saxovat and Savdogar Bank to Ardus, ILK Plyus, Universalint and Dagnall) was Uzbekistan law. Art 28.6 of Ezgu Niyat's constitution states:[192]

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190 Zulhumor's Affidavit at p 20.

191 Grigoryan's Affidavit at p 20.

192 Zulhumor's Affidavit at p 21.

> "Issues *not resolved* by this [constitution] shall be resolved in accordance with the legislation and the constituent agreement of the Republic of Uzbekistan". [emphasis added]

114 Zulhumor took the view that, although the dispute in OC 926 "arises from" Ezgu Niyat's constitution for the purposes of Art 9.1, the share transfers are "not resolved" by Ezgu Niyat's constitution for the purposes of Art 28.6.[193] The only basis for this conclusion was Zulhumor's assertion that the phrase "arising from" is "much wider and have different connotations" than "resolved". In his opinion, the word "resolved" required the constitution to "expressly provide for these issues, before they can be said to be […] "resolved" by the same".[194] I found it difficult to see why this was necessarily the case. I was not convinced by such an explanation, which I found to be contrived and semantical. Accordingly, the provisions in Ezgu Niyat's constitution, and Zulhumor's opinion on the same, did not take matters far in the natural forum analysis.

(C) Relevance of the Averis/Welton & Averis/Kito Agreements

115 Further, I also considered the Claimants' argument – one on which they placed a not insignificant amount of emphasis – that the Averis/Welton and Averis/Kito Agreements contained choice of law clauses and exclusive jurisdiction clauses in favour of Singapore. Whilst they were cognisant of the fact that Welton and Kito are not parties to these agreements, they argued that they were "not seeking to enforce the jurisdiction clauses"; instead, the existence of these clauses/agreements was a "weighty facto[r] that point towards Singapore as the *forum conveniens"*,[195] especially since the wrongs committed

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193 Zulhumor's Affidavit at p 21.

194 Zulhumor's Affidavit at p 21.

195 Claimants' Submissions at [50].

by the defendants were alleged to have taken "place during the provision of corporate management services to the [*sic*] Kito and Welton".[196]

116 The claimants have relied on the CA's decision in *Rappo Tania*. The facts there concerned one Mr Rybolovlev, a Russian magnate, who purchased expensive artworks made by renowned artists from various sellers with the assistance of one Mr Bouvier. Owing to the language barrier, the two parties would communicate through an intermediary, who was a representative of two companies held by the family trusts of Mr Rybolovlev. These two companies, called Accent and Xitrans, were the respondents in the proceedings.

117 Subsequently, a dispute arose between Mr Rybolovlev and Mr Bouvier, wherein the former claimed that the latter had dishonestly inflated the sale prices of artworks purchased by him, while the latter alleged that the former had failed to make full payment for one of the paintings that he had allegedly purchased. The respondents proceeded to commence proceedings against the appellants (Mr Bouvier and MEI Invest, a company controlled by him) for breach of fiduciary duties, dishonest assistance and knowing receipt. The appellants then applied for a stay of proceedings on the basis that Switzerland and/or Monaco was the appropriate forum for the resolution of the dispute.

118 In identifying the natural forum, the CA held that the most significant connecting factor in that case was "the governing law of the relationship between Mr Bouvier and the [r]espondents, which are in substance controlled by Mr Rybolovlev" (*Rappo Tania* at [74]). Specifically, the critical issue was whether Mr Bouvier had been acting as an agent of the respondents/Mr Rybolovlev or simply as an independent seller. This was because the

196 Claimants' Submissions at [59].

respondents' allegation was that Mr Bouvier had owed them fiduciary duties as their agent (*Rappo Tania* at [75]). Citing *Rickshaw Investments*, the CA held that the "legal foundation", or the root source, of the fiduciary obligations allegedly owed by Mr Bouvier to the respondents was *contractual* in nature, as Mr Bouvier and Mr Rybolovlev had orally agreed that the former would assist the latter in procuring a collection of artworks (*Rappo Tania* at [77]).

119 In determining what law governed this *contractual* relationship, the CA applied the 3-step test for determining the governing law of the contract as set out in *Pacific Recreation Pte Ltd v S Y Technology Inc* [2008] 2 SLR(R) 491 ("*Pacific Recreation*"). Consistent with this framework, since there was no express choice of law governing the contractual relationship between Mr Bouvier and the respondents/Mr Rybolovlev, the focus was on "whether the intention of the parties as to the governing law [could] be inferred from the circumstances" (*Rappo Tania* at [80]). The CA noted that, shortly after the conclusion of the oral agreement between Mr Rybolovlev and Mr Bouvier, the respondents had entered into four agreements with four separate companies that Mr Bouvier controlled for the sale and purchase of artworks. Each agreement contained an express choice of Swiss law and provided for the exclusive jurisdiction of the Swiss courts ("Earlier Agreements") (*Rappo Tania* at [18], [78]). It was in this *context* that the CA held that these Earlier Agreements could not be "separated from the alleged agency agreement", and that the most plausible inference was that the parties had "intended that the governing law in respect of their relationship as a whole should be one and the same" (*Rappo Tania* at [81]). The Claimants rely on this paragraph of *Rappo Tania* to say that, despite the Claimants not having been party to the Welton/Averis and

Kito/Averis Agreements, those Agreements should be a "weighty factor" in favour of Singapore being the natural forum.[197]

120 It is uncertain how this supports the Claimants' case. Read in the proper context, the Earlier Agreements in *Rappo Tania* were relied on for the specific purpose of determining the governing law of the *contract* between Mr Bouvier and the respondents/Mr Rybolovlev. This, in turn, is because the "legal or commercial connection between one contract and another" is a factor that courts routinely take into account in discerning the intentions of contracting parties as to the governing law of the contract (*JIO Minerals* at [81]; *Pacific Recreation* at [37]). The CA simply did not rely on the Earlier Agreements to find that Singapore was the natural forum – these agreements were relied on to find that Singapore law was the governing law for the contractual relationship between the respondents and Mr Bouvier. Such an analysis is, however, completely irrelevant to the facts of this case. The AR was thus correct to find that *Rappo Tania* did not assist the Claimants.

121 In any case, as the AR noted, the Averis/Welton and Averis/Kito Agreements had been entered into with Mirabror and not the Claimants, and there was a clause excluding third parties from relying on the agreements. I would go further to say that the Welton/Averis and Kito/Averis Agreements (and the breaches thereof) were simply one aspect or means by which the alleged conspiracy had been carried out. The exclusive jurisdiction and governing law clauses in favour of Singapore do not bind Interis, Tong, Chuah, Pang, Andreas, Felix or Jahangir, and it is difficult to see how their liabilities for conspiracy (if any) will turn on the construction of these Agreements. I

197 Claimants' Submissions at paras 54–57.

found, therefore, that these Agreements had limited significance in determining the natural forum for the conspiracy claim.

(D) THE CONSPIRACY CLAIM IS NOT PARASITIC ON THE NON-TORTIOUS CLAIMS

122 Lastly, following the reasoning in *Oro Negro*, it may be argued that the presumption that Uzbekistan is the natural forum should be displaced because the alleged unlawful means that are asserted in support of the claim in conspiracy are closely connected to Singapore. This argument was flagged to my attention by the defendants' counsel in their written submissions.[198] The unlawful means alleged to have been carried out pursuant to the conspiracy here were: (a) the breaches of the Welton/Averis and the Kito/Averis Agreements by Averis; and (b) the breaches of Averis, Tong, Chuah and Pang's fiduciary duties to Welton and Kito. It could, therefore, be argued that the conspiracy claim was "parasitic on [these] non-tortious claims", and that it would be preferable for these "inextricably linked issues" to be determined in Singapore (*Oro Negro*, [91]).

123 I agreed, however, with Averis and Felix's submissions that the focus must be on "the underlying acts that allegedly attracted tortious liability" (*Oro Negro*, [91]).[199] In the instant case, the critical acts underlying the alleged tortious liability are the disposal of the shares in the Uzbekistan entities, which were ultimately all conducted by Uzbekistan persons pursuant to powers of attorneys created in Uzbekistan. These "underlying acts" are intimately connected to Uzbekistan, not Singapore.

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198 Submissions of Averis & Felix at [48]; 2nd and 6th Defendants' Written Submissions filed on 4 September 2025 ("Submissions of Interis & Andreas") at para 31.

199 Submissions of Averis & Felix at para 48.

(a) In relation to the alleged breaches of fiduciary duties by Averis, Tong, Chuah and Pang, it should be emphasised that Tong, Chuah and Pang were simply nominee directors who (allegedly) acted on the instructions of Averis, which in turn (allegedly) acted on the instructions of Jahangir. Tong, Chuah and Pang themselves had no power to cause Welton and/or Kito to dispose of their assets; the individuals with the necessary powers were Bokiev and Komola pursuant to the Welton and Kito POAs.

(b) In relation to the alleged breaches of contract by Averis, I repeat the points made at [121] above.

The unlawful means, *ie,* the breaches of the Agreements and the fiduciary duties, by which the conspiracy is said to have been carried out therefore have limited significance in the natural forum analysis, and it is difficult to see why the presumptive position that Uzbekistan is the natural forum for the conspiracy claim should be displaced in favour of Singapore.

124 The natural forum for the conspiracy claim is, therefore, Uzbekistan. Given that the events and transactions underlying the factual substratum of the knowing receipt claims substantially overlaps with the conspiracy claim, I found that the natural forum for those claims is Uzbekistan as well.

125 For completeness, I have noted Interis and Andreas's alternative argument in their written submissions that "Switzerland and/or [the] RMI" might be the more appropriate forum for the trial of the claim in conspiracy.[200] This argument, however, was not pursued further at the hearing, where Interis and Averis appeared to focus their oral submissions mostly on Uzbekistan being

[200] Submissions of Interis & Andreas at paras 42–44.

the more appropriate forum for the claim in conspiracy.[201] To avoid doubt, I held that neither Switzerland nor the RMI is the more appropriate forum for the trial of the claim in conspiracy against the defendants, for the simple reason that the preponderance of the connecting factors pointed to Uzbekistan as the natural forum for the same. Specifically:

(a) Switzerland: The events that occurred in Switzerland, namely, the freezing of the Mirabaud Account and the refusal to hold a meeting of Abornes's shareholders despite a formal request by Nargiza *qua* majority shareholder, constituted only a *part* of the factual basis supporting the claim in conspiracy. In any case, the antagonists in this chapter of the conspiracy – Andreas and Felix – are said to have been acting in compliance with Jahangir's instructions (see [43] above).

(b) Marshall Islands: The only material factors connecting the claim in OC 926 to the RMI are: (a) the fact that RMI was where Abornes had been incorporated; and (b) the existence of Civil Action 526. As noted above at [79], the personal connection of the parties was a neutral factor in the present case. As for the existence of Civil Action 526, I found below (at [172]–[184]) that there were no overlaps between the issues raised in those proceedings and those which may potentially arise in OC 926.

It followed that neither Switzerland nor the RMI were clearly or distinctly the more appropriate forum for the trial of OC 926, and I dismissed Interis's and Andreas's arguments to the contrary.

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201 Transcript at pp 110–116.

(2) Breach of contract

126 Turning next to the claims against Averis for breach of contract, clause 10 and clause 11 of the Averis/Welton and Averis/Kito Agreements respectively provided for the exclusive jurisdiction of the Singapore Courts in the event of disputes arising from the contract.[202] However, clause 11 and clause 12 of the same expressly excluded third parties, such as the Claimants, from relying on the terms of the contract. For clarity's sake, the two clauses, which are identically worded, stated as follows:[203]

> Nothing herein is intended to grant any third party any right to enforce any term hereof or to confer on any third party any benefits hereunder for the purposes of the Contracts (Rights of Third Parties) Act (Cap 53B) and any re-enactment thereof, the application of which legislation is hereby expressly excluded.

127 Generally, this Court will respect and give effect to exclusive jurisdiction clauses in the absence of "strong cause" showing otherwise (*Vinmar Overseas (Singapore) Pte Ltd v PTT International Trading Pte Ltd* [2018] 2 SLR 1271 at [71] and [112]). However, this proposition has no application in the present case in light of clause 11 and clause 12 of the Averis/Welton and the Averis/Kito Agreements respectively. Parenthetically, I also noted that, as a matter of law, a third party is precluded from relying on s 2(1)(*b*) of the Contracts (Rights of Third Parties) Act 2001 (2020 Rev Ed) to enforce an exclusive jurisdiction clause (*VKC v VJZ* [2021] 2 SLR 753 at [72]). On the facts, therefore, I held that the Claimants were not entitled to enforce, or otherwise rely on, the exclusive jurisdiction clauses in the Agreements. It followed that the exclusive jurisdiction clauses were not material factors in

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202 Claimants' Submissions at para 47.

203 Jahangir's Submissions at para 59; Jahangir's 1st Affidavit at pp 56 and 66.

determining where the claims against Averis for breaches of contract should be tried.

128 Nevertheless, I found that the natural forum for the claims against Averis for breach of contract (*ie,* the Averis/Welton and Averis/Kito Agreements) was Singapore. First, the contractual obligations of Averis which were said to have been breached under the Agreements were to be performed in Singapore in relation to the Singapore-incorporated Welton and Kito. These related, in the main, to: (a) the management of Welton and Kito's affairs and assets; and (b) the appointment of directors to the board of directors of Welton and Kito. Second, the parties to the claim for breach of contract – Averis, Welton and Kito – were all Singapore-incorporated companies. At all material times, they had a single director that was resident in Singapore. Third, the Agreements were governed by Singapore law. It was therefore clear that the natural forum for the claims against Averis for breach of contract was Singapore.

(3) Breach of fiduciary duties

129 For substantially similar reasons as those set out in relation to the claims for breach of contract against Averis, the natural forum for Welton's and Kito's claims for breaches of fiduciary duties against Averis was Singapore. This was because the particulars pleaded in the SOC in support of these claims largely overlapped with those pleaded in support of Welton and Kito's claims against Averis for breach of contract (see [44] above). These claims related to the alleged breaches of Averis's duties owed to Singapore-incorporated companies, which were said to have arisen out of the Singapore-law governed Averis/Welton and Averis/Kito Agreements. It was therefore clear that the natural forum for the trial of these claims was Singapore, and I found accordingly.

Avoiding the fragmentation of OC 926

130 Faced with four potential claims, two of which has Singapore as the natural forum and two of which has Uzbekistan, it may be thought that a partial stay of the claim in conspiracy – which Averis, Felix, Interis, Andreas were seeking in the alternative[204] – is apposite (*Humpuss Sea Transport Pte Ltd (in compulsory liquidation) v PT Humpuss Intermoda Transportasi TBK* [2016] 5 SLR 1322 ("*Humpuss*"), [94]). However, as Chong J (as he then was) noted in *Humpuss* at [92] and [96]:

> [92]: If the case against the defendants *raises the same issues and relies on the same evidence, to grant a partial stay would allow the defendants to be sued separately in different jurisdictions, with the undesirable prospect of inconsistent judicial decisions*. In such circumstances, *it would not be in the interests of justice to grant a partial stay*.
>
> [96]: […] the court must be alert to the degree of overlap between the claims. *Any partial stay, whether as against one of multiple defendants or in respect of one of multiple claims, would be impermissible if there is a high degree of overlap in the claims leading to the possibility of inconsistent decisions by different courts*.
>
> [emphasis added]

If this Court were to grant a partial stay of the claims for conspiracy and knowing receipt on the basis that Uzbekistan was clearly the more appropriate forum for those claims, it would follow that the claims for breaches of contract and breaches of fiduciary duties would be heard in Singapore. Yet, as pleaded in the SOC, the factual bases for the claims for breaches of contract and fiduciary duties overlapped substantially with those underlying the claims for claims for conspiracy and knowing receipt (see [44]–[49] above).

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204 HC/SUM 579/2025 at para 1(2) (Averis); HC/SUM 1213/2025 at para 1(2) (Felix); HC/SUM 1214 at para 1(4) (Interis & Andreas).

131 It followed that, were the claimants to institute separate proceedings in Singapore and Uzbekistan for the ventilation of the claims for the breach of contract and fiduciary duties on the one hand, and the claims for conspiracy and knowing receipt on the other, there would be a significant overlap of evidence from the relevant witnesses. The consequence of the fragmentation of OC 926 in two different jurisdictions would be a risk of duplicative proceedings, inconsistent findings and a race to judgment, which would not be in the interests of justice. Indeed, comity, convenience and the efficient conduct of litigation dictate that the dispute between the parties should be litigated "once only, in the most appropriate forum" (*The Abidin Daver* [1984] AC 398 at 412). I found, therefore, that all four claims should be tried together in the same forum – Uzbekistan. Consequently, I held that it would be appropriate to grant the entire stay that Averis, Felix, Interis, Andreas and Jahangir sought, on the basis that Singapore is *forum non conveniens* for the trial of OC 926.

Enforceability of a potential Singapore judgment

132 In coming to her conclusion that Uzbekistan was the natural forum for the trial of OC 926, the AR accepted Zulhumor's view that the Economic Courts of Uzbekistan have "exclusive jurisdiction" to hear disputes relating to ownership of shares in Uzbekistan companies. She also accepted Zulhumor's opinion that any Singapore judgment obtained in contravention of this rule of Uzbekistan law would furnish "strong grounds" for the Uzbekistan Courts refusing to recognise and/or enforce any Singapore judgment (see [57(e)] above).

133 I have dealt with Zulhumor's opinion as to the exclusive jurisdiction of the Uzbekistan Courts under the EPC above. Regardless of the correctness of my view on that point, however, I found that the AR erred in holding that the

"issues as to the enforceability" of a potential Singapore judgment pointed towards Uzbekistan being a more appropriate forum for the hearing of OC 926.[205] This is contrary to established law that the difficulties faced by a Claimant in enforcing any judgment in a foreign forum is not relevant to the *forum conveniens* analysis (*Bayerische Landesbank Girozentrale v Kong Kok Keong* [2002] 1 SLR(R) 485 ("*Bayerische*") at [13]; *Ang Ming Chuang v Singapore Airlines Ltd* [2005] 1 SLR(R) 409 ("*Ang*") at [54]; *Humpuss* at [123]–[126]). The reasons for this proposition are simple:

(a) First, the difficulties of enforcing a potential Singapore judgment in Uzbekistan is irrelevant to the question as to which forum "the action has the most real and substantial connection" with (*Spiliada* at 478A).

(b) Second, any difficulty in enforcement is a problem for the claimant and not for the defendant to raise in a stay application (*Humpuss* at [124]; *Ang* at [54]; *Bayerische* at [13]). A defendant who raises enforcement difficulties in aid of his stay application may be suggesting unwittingly that he does not intend to comply with any potential judgment that may be entered by the Singapore Courts (*Humpuss* at [126]). This, which I did not believe was the defendant's case, means that the difficulties of enforcement were irrelevant to the natural forum analysis, contrary to the AR's holding below.

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205 In this respect, Jahangir's argument that the enforceability of an eventual judgment is relevant in the natural forum analysis was incorrect: Transcript at p 65 line 23 to p 66 line 9. The same applies to Interis and Andreas's argument: Transcript at p 121 line 12 to p 122 line 8.

Availability of transfer to the SICC

134 Generally, the presence of the SICC and its capabilities are potentially relevant to the *forum non conveniens* analysis (*Rappo Tania* at [122]). However, the possibility of a transfer to the SICC is not "a free pass to elude all jurisdictional objections to the adjudication of a dispute in Singapore". A claimant must "articulate the particular quality or feature of the SICC that would make it more appropriate for the dispute to be heard in Singapore by the SICC, as well as prove that the dispute is of a nature that lends itself to the SICC's capabilities" (*Rappo Tania* at [124]; *IM Skaugen* at [145]). It is also relevant to consider whether, on a *prima facie* basis, the requirements for the transfer of a case from the General Division of the High Court to the SICC under Order 2, Rule 4(1) of the Singapore International Commercial Court Rules 2021 ("SICC Rules") will be met (*Rappo Tania* at [124]).

135 In the instant case, as the defendants pointed out, the Claimants had not pointed to any particular quality or feature of the SICC which made it more appropriate for OC 926 to be heard in Singapore by the SICC.[206] The Claimants, in their written submissions, simply referred me to Dinara's affidavit in support of their application for the transfer of OC 926 to the SICC, which only addressed how and why the requirements of Order 2, Rule 4(1) of the SICC Rules were satisfied.[207]

136 In this respect, I agreed with the Averis and Felix's submissions that the only particular feature of the SICC which Dinara had pointed out that *may* make it more appropriate for the SICC to hear OC 926 is the presence of international

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206 Submissions of Averis & Felix at paras 66–67.

207 Claimants' Submissions at paras 75–80; Affidavit of Dinara Bakhtiyarovna Usmanova dated 16 December 2024 ("Claimants' Affidavit in Support of SUM 3670").

judges from civil law jurisdictions on the SICC bench.[208] Dinara admitted that there are "currently no Uzbek judge appointed as an international judge eligible to sit on SICC cases".[209] Nonetheless, Dinara argued, there are "judges from civil law jurisdictions who are nevertheless equipped with the necessary skills and experience to deal with questions of Uzbek law". She explained that "Uzbekistan's Civil Code is largely based on the Russian Civil Code, which is in turn heavily influenced by the German Civil Code". As there is a German judge sitting on the SICC bench, Dinara contended that the SICC is "more than equipped to deal with issues of Uzbek law, if any".[210]

137 I found this argument to be devoid of merit and rejected it accordingly. First, the possibility of a transfer to the SICC *per se* is insufficient to displace a foreign jurisdiction which is the more appropriate forum based on an application of the conventional connecting factors (*IM Skaugen* at [144]). As I had found that Uzbekistan is the more appropriate forum for the trial of the claims in conspiracy and knowing receipt, the possibility of a transfer to the SICC, even assuming all the requirements relating to the same had been met, could not suffice to displace Uzbekistan as the natural forum for the ventilation of those claims.

138 Second, I agreed with Averis and Felix's submissions that, even if the German Civil Code has had any influence on the Uzbekistan Civil Code (a claim that was not supported by any evidence), the former is twice removed from the latter.[211] It would be "stating the obvious that the [Uzbekistan] courts will be

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208 Submissions of Averis & Felix at para 67.

209 Claimants' Affidavit in Support of SUM 3670 at para 27.

210 Claimants' Affidavit in Support of SUM 3670 at para 27.

211 Submissions of Averis & Felix at para 68.

best equipped to deal with issues of [Uzbekistan] law", which I found to be the law governing the claims in conspiracy and knowing receipt (*IM Skaugen* at [144]). I was therefore of the view that the possibility of the transfer to the SICC was not a factor militating in favour of Singapore being the natural forum for the resolution of the claims in conspiracy and knowing receipt.

Stage two of Spiliada

139 Moving onto stage two of the *Spiliada* analysis, the Court may refuse a stay if the respondent satisfies it that there are "circumstances by reason of which justice requires that stay should nevertheless not be granted" (*Spiliada* at 478C; *Dresdner Kleinwort* at [26]). Such circumstances exist where there is "a real and material risk of injustice if the stay were granted and the parties were forced to go into another forum" (*Rotary Engineering Ltd v Kioumji & Eslim Law Firm* [2017] 1 SLR 907 ("*Rotary Engineering*") at [15]). Comity, however, requires the Courts to be "extremely cautious" in finding so, and thereby require such a risk to have been clearly demonstrated against an objective standard supported by cogent and credible evidence (*Spiliada* at 478D; *Rotary Engineering* at [15]; *AK Investments CJSC v Kyrgyz Mobil Tel Limited* [2012] 1 WLR 1804 at [97])

140 This issue was relatively simple and may be disposed of quickly. Put simply, the Claimants and/or Dinara failed to adduce cogent and credible evidence that they would be unable to obtain substantial justice if the dispute were to be heard in Uzbekistan. First, as the AR pointed out, the fact that Jahangir had been convicted and sentenced for his offence of intimidation showed that Dinara was in fact able to obtain justice in Uzbekistan. Second, and as Jahangir pointed out, the article published by Freedom House (at [60(b)]

above) said nothing about the integrity of the Uzbekistan judiciary.[212] Even assuming that the information contained therein was credible and reliable, the Claimants failed to show that there was a real risk that the Claimants *specifically* would not receive substantial justice in Uzbekistan.

Issue 2: Whether ORC 6183 ought to be set aside

141 As I had concluded that Uzbekistan was the *forum conveniens* for the trial of OC 926, it followed that ORC 6183 ought to be set aside on the basis that a crucial precondition for the grant of permission for service out of jurisdiction under Order 8, Rule 1(1) of the Rules of Court 2021 had not been met (see [63] above). The question of whether ORC 6183 should be set aside for want of full and frank disclosure on the part of the Claimants had thus been rendered academic.

142 Additionally, I should preface that it was unclear whether the Claimants' failure to make full and frank disclosure had constituted a distinct basis for the AR's setting aside of ORC 6183, independent from her finding that Singapore was not the *forum conveniens*. While she noted that she had "a discretion as to whether to set aside an order on the basis that full and frank disclosure was not provided", she proceeded to set aside ORC 6183 "given [her] finding that Singapore is not the appropriate forum".[213] It appeared, therefore, that the AR had made no finding as to whether she would have exercised her discretion to set aside ORC 6183 if she had been wrong on the issue of *forum conveniens*. Nonetheless, for completeness' sake, and given the fact that the parties had made submissions on the issue, I set out my reasons as to why the Claimants' failure to make full and frank disclosure of the four facts stated at [64] above

212 Jahangir's Submissions at para 110.

213 NE at p 8 lines 26–29.

would not have constituted an independent ground for the setting aside of ORC 6183.

Failure to make full and frank disclosure

143 It is a well-established principle that a claimant who applies, on an *ex parte* basis, for leave to serve a defendant out of jurisdiction has a duty to make full and frank disclosure of all material facts (*Shanghai Turbo Enterprises Ltd v Liu Ming* [2019] 1 SLR 779 ("*Shanghai Turbo*") at [105], citing *Manharlal Trikamdas Mody v Sumikin Bussan International (HK) Ltd* [2014] 3 SLR 1161 ("*Manharlal*") at [79]). The test of "materiality" is "whether the facts in question are matters that the court would likely take into consideration in making its decision" and extends to facts that "may go towards rebutting the applicant's claim" (*Broadcast Solutions* at [68]; *Cosmetic Care* at [133]).

144 In this respect, this duty – which is one that is owed to the Court, and not to the opposing parties – requires the applicant to state the facts fairly in its supporting affidavit such that "the court is able, in the context of an *ex parte* application (which will often be at short notice), to make a fair determination as to whether the case is a proper one for service out of jurisdiction" (*Manharlal* at [82]). Put another way, the "key question" in deciding whether this duty has been breached is whether the facts that are disclosed are "sufficient for the purpose of making an informed and fair decision on the outcome of the application, such that the threshold of full and frank disclosure can be meaningfully said to be crossed" (*Shanghai Turbo* at [106], citing *The Vasiliy Golovin* [2008] 4 SLR(R) 994 at [91]).

145 This onerous duty applies "not only to material facts known to the applicant", but also those additional facts which the applicant "would have known if he had made proper inquiries" (*Tay Long Kee Impex Pte Ltd v Tan*

Beng Huwah (trading as Sin Kwang Wah) [2000] 1 SLR(R) 786 ("*Tay Long Kee*") at [21]). The extent of the inquiries which an applicant should make will depend on the facts and circumstances of each case (*Tay Long Kee* at [21]). Though *Tay Long Kee* was a case involving an *ex parte* application for a prohibitive injunction, there is "no reason in principle why there should be a difference in approach between an application for leave to serve out of jurisdiction […] and one for an injunction" (*Lee Hsien Loong v Review Publishing Co Ltd* [2007] 2 SLR(R) 453 ("*Review Publishing*") at [58]).

146 Once it is established that the applicant had failed to make full and frank disclosure of facts material to the application, the consequences that follow are at the Court's discretion (*Review Publishing* at [57], citing *Asian Corporate Services (SEA) Pte Ltd v Eastwest Management Ltd* [2006] 1 SLR(R) 901 at [45]). The Court may exercise its discretion to set aside the service order granted at the *ex parte* stage and require a fresh application to be made. Alternatively, the Court retains the discretion not to set aside the service order, or to deal with the non-disclosure by "granting a fresh order in the light of the facts before it at an *inter partes* setting aside hearing" (*Cosmetic Care* at [145]). Though there appears to be no local authority on this point, in the latter scenario where the Court decides not to exercise its discretion to set aside the service order, the Court may determine whether the non-disclosures may be dealt with by a costs order if necessary (*NML Capital Ltd v Republic of Argentina* [2011] AC 495 at [136]; *Easygroup Ltd v Easyfly S.A. and anor* [2020] EWHC 40 (Ch) ("*Easygroup*") at [114]). This is consistent with the fact that, subject to any written law, costs are ultimately in the discretion of the Court (Order 21, Rule 2(1) of the Rules of Court 2021).

147 In deciding whether to set aside the service order, the Court will consider whether the non-disclosure was "inadvertent or innocent (in the sense that the

applicant did not know that fact, forgotten its existence, or failed to perceive its relevance), or whether it was deliberate and intended to mislead the court" (*Cosmetic Care* at [145], citing *Bahtera Offshore (M) Sdn Bhd v Sim Kok Beng* [2009] 4 SLR(R) 365 at [25]–[27]). The duty to disclose is not absolute, and "a minor breach" will ordinarily not be a basis to set aside the order (*Tay Long Kee* at [27]). On the other hand, where the non-disclosure pertained to a fact that was highly material to the application, the Court may set aside the order even if the non-disclosure was innocent (*Review Publishing* at [56], citing *Trasniko Pte Ltd v Communication Technology Sdn Bhd* [1995] 3 SLR(R) 941 at [11]–[12]).

148 In my view, based on the authorities, a non-exhaustive list of factors that the Court may consider in exercising its discretion to set aside the service order are: (a) whether the non-disclosure was deliberate, innocent or inadvertent (*Cosmetic Care* at [145]); (b) whether the non-disclosed fact was one that was highly significant and material to the application (*Tay Long Kee* at [27]; *Review Publishing* at [56]); (c) whether the non-disclosed fact is something that the applicant was aware of, or could have been aware of with reasonable diligence (*Tay Long Kee* at [21]); (d) whether the applicant has obtained any "unfair advantage" owing to his non-disclosure (*Cosmetic Care* at [150]), and whether this can be remediated by an order for costs (*Easygroupm* at [114]); and (e) whether setting aside the service order would be a "disproportionate response" in view of the fact that the non-disclosed facts would not have had a material impact on the outcome of the application (*Cosmetic Care* at [150]).

The non-disclosed facts were material

149 In the proceedings below, the AR held that the Claimants had failed to disclose the following material facts: (a) the existence of Civil Action 526; (b) the exclusive jurisdiction clause in favour of the Uzbekistan Courts in the

constitution of Ezgu Niyat; (c) the exclusive jurisdiction clause in favour of the Swiss Courts in the Interis/Abornes Agreement; and (d) the fact that the Uzbekistan Courts have exclusive jurisdiction to hear disputes relating to the ownership of shares in Uzbekistan companies (see [64] above).

150 Turning first to the existence of Civil Action 526, I found this to have been a material fact that ought to have been disclosed by the Claimants. The Claimants had argued that this was not "material" as there was no "overlapping issue" between OC 926 and Civil Action 526.[214] However, the inquiry as to whether an overlap in fact existed was not one for the Claimants to have arrogated to themselves. Whilst the Claimants might have disagreed with such a position, it remained "obligatory, and indeed incumbent on [them], to candidly disclose all such information", in order for the Court to assess whether there was in fact such an overlap (*Tecnomar & Associates Pte Ltd v SBM Offhsore NV* [2021] SGCA 36 at [15]). As Mohan J noted in *Cosmetic Care* at [144], the existence of "parallel or related proceedings would be a relevant fact for the court to be apprised of in considering whether to grant leave to serve the originating processes out of jurisdiction". The existence of Civil Action 526, which could potentially result in an invalidation of the shares of Abornes, was clearly a material fact that the Court would have taken into consideration in deciding whether to grant the Claimants permission to serve the defendants out of jurisdiction.

151 Next, turning to the exclusive jurisdiction clause in Ezgu Niyat's constitution, this too was a material fact that ought to have been brought to the Court's attention. Though the Claimants argued that this was a "neutral factor" owing to the fact that the claims being brought against the Claimants were *in*

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214 Claimants' Submissions at 107(a).

personam in nature, it was a fact that was highly pertinent in so far as the Claimants were seeking proprietary relief, including the delivery up of Welton and Kito's shares in Ezgu Niyat back to Welton and Kito.[215] To be clear, this was not simply the Court looking at the matter with the benefit of hindsight and in reliance on its own findings. The fact that there was an exclusive jurisdiction clause in Ezgu Niyat's constitution, coupled with the possibility that it may been engaged in respect of the Claimants' claims in knowing receipt, were clearly "matters that the court would likely take into consideration in making its decision" (*Broadcast Solutions* at [68]). It was therefore a material fact which the Claimants ought to have been disclosed to the Court in its application.

152 The exclusive jurisdiction clause in favour of the Swiss Courts in the Interis/Abornes Agreement was also a material fact that ought to have been disclosed. On the Claimants' own case, this agreement was the basis on which Felix and Andreas could exercise operational control over the management of Abornes.[216] Additionally, the Claimants alleged that one of the unlawful means employed by the defendants as part of the conspiracy was the procuration of the freezing of Abornes' Mirabaud Account, which prevented Abornes from making payment to Interis under the Interis/Abornes Agreement. Lastly, as the defendants pointed out, this Interis/Abornes Agreement was the agreement pursuant to which Interis and/or Andreas would have been obliged to call for the special meeting requested by Nargiza.[217] The fact that the Interis/Abornes Agreement contained an exclusive jurisdiction clause in favour of the Swiss Courts ought therefore to have been a fact raised by the Claimants to the Court.

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215 SOC at paras 111(7) and 111(27).

216 SOC at para 24.

217 Submissions of Interis & Averis at para 44(b).

153 Lastly, the fact that the Uzbekistan Courts had exclusive jurisdiction to hear disputes relating to the ownership of the shares was also a material fact that ought to have been disclosed. Similar to the points made above in relation to the exclusive jurisdiction clause in Ezgu Niyat's constitution, this was material since the Claimants were seeking proprietary claims against the Saxovat and Ezgu Niyat shares, which are shares in Uzbekistan companies located in Uzbekistan.

The non-disclosures do not warrant the setting aside of ORC 6183

154 However, I found that the non-disclosures did not warrant the setting aside of the service order. In this respect, I noted that while Interis, Andreas and Jahangir had argued strenuously that the Claimants did not make full and frank disclosure of the abovementioned facts, they did not argue with equal vigour the question as to why the Court ought to exercise its discretion to set aside the service order. At the hearing, Jahangir's counsel simply asserted that the non-disclosures were "deliberate" because the Claimants had not disclosed the facts despite having known about them.[218]

155 However, I found no reason to disbelieve the Claimants' contention that the non-disclosure had occurred by virtue of their failure to perceive the relevance of the facts and was therefore "innocent" in the sense referred to by Mohan J in *Cosmetic Care* (see [147] above). Put differently, I did not think that the Claimants had been attempting to mislead the Court by failing to disclose those facts. Further, the non-disclosed facts were not so significant or material that would have resulted in the Court granting the service out order on a false

[218] Transcript at p 83 lines 1–2.

basis. Consequently, it followed that setting aside the service order would be a disproportionate outcome when viewed in the round. Specifically:

(a) As discussed below, there were no actual or apparent overlaps between Civil Action 526 and OC 926 that warranted the grant of a case management stay. The existence of Civil Action 526 was also not significant to the natural forum analysis, as I did not find it seriously arguable that the RMI is the *forum conveniens* for the trial of OC 926.

(b) The existence of the exclusive jurisdiction clause in the Interis/Abornes Agreement in favour of Switzerland was not a highly material fact, since the Claimants were not claiming for a breach of that agreement against Interis. In any case, the Interis/Abornes Agreement only had relevance in the context of the Claimants' claim for conspiracy, which as discussed above, should be tried in Uzbekistan as the natural forum.

(c) The existence of the exclusive jurisdiction clause in Ezgu Niyat's constitution, while relevant to the claim in knowing receipt, was otherwise irrelevant to the Claimants' other claims. Further, whether OC 926 fell within the terms of the exclusive jurisdiction clause was a point on which even experts disagreed. The Claimants' plea that they had failed to perceive the relevance of the exclusive jurisdiction clause to the application was thus not unbelievable.

(d) Lastly, the fact that the Uzbekistan Courts had exclusive jurisdiction to hear disputes relating to ownership of shares in Uzbekistan companies was a discrete point of Uzbekistan law that the Claimants, which are companies incorporated in

> Singapore and the RMI, might conceivably have been unaware of without the aid of expert/legal advice. Granted, they could have acquired knowledge of the same with reasonable diligence, but the duty of full and frank disclosure at this jurisdictional stage, in my view, is not so onerous as to require applicants to explore and disclose points of foreign law.

156 Therefore, none of the facts that the Claimants had failed to disclose were so significant in the sense that the Court would have refused to grant permission to serve the defendants out of jurisdiction if it had been appraised of it. In my view, the non-disclosures, whilst not trivial, were not so serious as to furnish an independent basis for setting aside ORC 6183, and I held as such.

Issue 3: Whether the case management stay ought to be set aside

157 As an alternative to a permanent stay of OC 926 on the grounds of *forum non conveniens*, Averis, Felix, Interis, Andreas and Jahangir sought a limited stay of OC 926 on case management grounds pending the final determination of Civil Action 526 by the RMI Courts (including any appeals therefrom). As I had found that Uzbekistan was the *forum conveniens* for the trial of OC 926, and that a permanent stay of the same should be granted on that basis, the issue of whether a case management stay should be granted had been rendered academic *vis-à-vis* Averis, Felix, Interis, Andreas and Jahangir.

158 A case management stay is an order which strives to "*preserve* the plaintiff's right to prosecute its claim in Singapore while minimising the risk of conflicting decisions by allowing the Singapore court to have the benefit of the findings of the foreign court" [emphasis added] (*BNP Paribas Wealth Management v Jacob Agam* [2017] 3 SLR 27 ("*BNP Paribas*") at [51]). In relation to Averis, Interis, Andreas, Felix and Jahangir, I found that Singapore

was not the natural forum for the trial of the Claimants' claims against them in OC 926. Hence, a crucial plank of the rationale for the grant of a case management stay – which is to *preserve* a claimant's right to prosecute its claim *in* Singapore – fell away. However, whether a case management stay should be granted remained a live issue in relation to the Claimants' claims for breaches of fiduciary duties against Tong, Chuah and Pang, since they were not contesting the existence or the exercise of the Singapore Court's jurisdiction over them. In this regard, I found that the AR had erred in granting the case management stay sought by Tong, Chuah and Pang, and set out my reasons below.

Applicable legal principles

159 The Court has the power to grant a limited stay of proceedings instituted in Singapore pending the conclusion of foreign proceedings either by an exercise of its powers under s 18(2) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) read with paragraph 9 of the First Schedule of the same, or pursuant to its inherent jurisdiction (*Sinopec International* at [187], citing *BNP Paribas*, [32]).

160 In deciding to grant a limited stay of proceedings, the Court will take "a commonsense and practical approach, bearing in mind considerations such as multiplicity in proceedings, the risk of conflicting judgments, international comity and fairness to the parties" (*Ram Parshotam Mittal v Portcullis Trustnet (Singapore) Pte Ltd* [2014] 3 SLR 1337 ("*Ram Parshotam*") at [52]). In this respect, the principles relating to *forum non conveniens*, whilst relevant, do not have to be strictly applied in its full rigour owing to the temporary nature of the stay, which simply preserves the right of the claimant to prosecute its action in Singapore (*BNP Paribas*, [36]).

161 In *Sterling Pharmaceuticals Pty Limited v The Boots Company (Australia) Pty Limited* (1992) 34 FCR 287 ("*Sterling*"), Lockhart J enumerated a non-exhaustive list of factors that should be taken into consideration in deciding whether to grant a case management stay (at 53). These factors, which have been endorsed on many occasions by the local Courts, are (*Ram Parshotam* at [53]; *BNP Paribas* at [34]; *Sinopec International* at [187]):

(a) Which proceedings were commenced first.

(b) Whether the termination of one proceeding is likely to have a material effect on the other.

(c) The public interest.

(d) The undesirability of two courts competing to see which of them determines common facts first.

(e) Consideration of circumstances relating to witnesses.

(f) Whether work done on pleadings, particulars, discovery, interrogatories and preparation might be wasted.

(g) The undesirability of substantial waste of time and effort if it becomes a common practice to bring actions in two courts involving substantially the same issues.

(h) How far advanced the proceedings are in each court.

(i) The law should strive against permitting multiplicity of proceedings in relation to similar issues.

(j) Generally balancing the advantages and disadvantages to each party.

162 Ultimately, these factors are not to be "applied mechanically", and cases do not turn on how many of the abovementioned factors are present in a "tick the boxes" approach (*Ram Parshotam*, [53]). The grant of a limited stay of proceedings essentially entails a discretionary exercise of the court's case management powers with a view towards "ensuring the efficient and fair resolution of the dispute as a whole", and in exercising these powers, the court is "entitled to consider all the circumstances of the case" (*Sinopec International*, [187]; *BNP Paribas*, [35]).

163 The Claimants argued that a limited stay would be inappropriate in this case, as there were no "separate legal proceedings giving rise to a real risk of overlapping issues".[219] They relied on Dimigen's expert opinion, where it was said that Civil Action 526 is concerned with "whether Abornes' conversion from bearer shares to registered shares was validly conducted by the [TCMI]".[220] In contrast, OC 926 is "directed towards an entirely different subject", namely, "damage claims against directors, purported beneficial owners and purported trustees".[221]

164 In response, the defendants pointed out that Dimigen had failed to disclose that: (a) he had acted for Dinara in Civil Action 941; and (b) he had been the Chairman of the shareholders' meeting for Abornes on July 2021 (see [67] above).[222] Dimigen's failure to disclose these facts, the defendants argued, casted doubt on his impartiality and independence.

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219 Claimants' Submissions at para 44(c).

220 Claimants' Submissions at para 111(c).

221 Claimants' Submissions at para 111(b); Dimigen's Affidavit at para 4.17 of p 17.

222 Submissions of Averis & Felix at paras 95 and98; Submissions of Interis & Averis at paras 63–65; Jahangir's Submissions at paras 100–101; 3rd-5th Defendants' Written Submissions dated 4 September 2025 ("Submissions of 3–5Ds") at paras 45–48.

165 I agreed with the defendants' arguments and the AR's position that Dimigen's opinion should be given little to zero weight. As the CA has reiterated on various occasions, an expert who has, or previously had, a significant relationship with a given party ought to have disclosed such a fact in his report "without any prompting" (*HSBC Institutional Trust Services (Singapore) Ltd (trustee of Starhill Global Real Estate Investment Trust) v Toshin Development Singapore Pte Ltd* [2012] 4 SLR 738 at [71]; *Pacific Recreation* at [73]). It is the duty of the solicitor instructing the expert to bring this point home to the latter, and non-compliance "may result in the expert's opinion being accorded little or no evidentiary weight as well as in adverse cost consequences for the party who engaged that expert" (*Pacific Recreation* at [89]). Having failed to disclose his prior substantial relationships with Dinara and Abornes in the context of the wider dispute between the Claimants and the defendants, Dimigen's impartiality and independence was necessarily called into question. I therefore found that it was unsafe for me to rely on Dimigen's expert opinion and accorded it little to zero weight.

Defendants' arguments

166 In the proceedings below, the AR took the view that Civil Action 526 "may determine" OC 926 because "a *possible* outcome of Civil Action 526 could be that Dinara [who is the driving force of OC 926] would not be the majority shareholder of [Abornes]" [emphasis added].[223] Similarly, Interis and Andreas argued that there was a "serious overlap" in the issues in Civil Action 526 and OC 926.[224] They reasoned that this is because "one of the key issues that the RMI Court must determine in Civil Action 526 is the *ownership* of the

223 NE at p 7 lines 16–18.

224 Submissions of Interis & Andreas at para 60.

shares in Abornes" [emphasis added]).[225] Subsequently, if the RMI Court "sets aside the transfer of shares and decides that Dinara is not entitled to receive the shares in Abornes", this decision will "*call into serious question* as to whether the Claimants have the standing to even commence this action against the Defendants" [emphasis added].[226]

167 Similarly, Tong, Chuah and Pang appeared to suggest that there was an overlap in the issues raised in the two proceedings in the following manner. First, Comina seeks a declaration as to the validity of Abornes' registered shares, and if this is answered in the affirmative, that the beneficial ownership of Abornes "lies in an equitable claim for the estate or successors in interests of [Mirabror]".[227] Second, if Comina succeeds in this prayer, "the beneficial ownership of Abornes will fall to be determined by the RMI Court".[228] Third, Dinara *may* not "necessarily be found to be majority shareholder of Abornes in such an event".[229]

168 Tong, Chuah and Pang, however, subsequently argued that their case was "not based on there being overlapping issues in Civil Action 526 and OC 926".[230] Nonetheless, they argued that *PUBG Corp v Garena International I Pte Ltd* [2020] 2 SLR 379 ("*PUBG*") is authority for the proposition that a case management stay may be ordered despite there being "no apparent overlap in subject matter".[231]

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225 Submissions of Interis & Andreas at para 60.

226 Submissions of Interis & Andreas at para 60.

227 Submissions of 3–5Ds at para 39.

228 Submissions of 3–5Ds at para 41.

229 Submissions of 3–5Ds at para 41.

230 Submissions of 3–5Ds at para 52.

231 Submissions of 3–5Ds at para 53.

169 In *PUBG*, the appellants had commenced an action against the five respondents, alleging copyright infringement and passing off. Subsequently, the court proceedings were suspended to allow the parties to reach a settlement. The appellant offered settlement by signing and sending a proposed settlement agreement to the respondents by email. It was only almost 5 months later that the respondents purported to accept the appellant's offer of settlement. The appellant's solicitors proceeded to respond by stating that the offer was no longer capable of being accepted. As the purported settlement agreement contained an arbitration clause, the respondents commenced arbitration proceedings, stating that the appellants had breached the settlement agreement by refusing to recognise the settlement agreement. A day after, the respondents applied for a stay of the court proceedings on case management grounds pending the resolution of the arbitration.

170 The CA held that, at "a superficial level", there was no "overlap" in the factual or legal issues raised in the court and arbitration proceedings. The appellant was claiming for copyright infringement and passing off in the court proceedings, whilst the respondents were challenging the validity of the settlement agreement in the arbitration. However, such an analysis failed to "capture the real essence of the situation" – if there was a valid settlement that compromised the copyright infringement and passing off claims, then the court proceedings would not be able to proceed (*PUBG* at [14]). As such, the existence and/or validity of the settlement agreement had to be "resolved first" (*PUBG* at [15]). It would make "no sense at all for the court proceedings to continue, if there has been a valid settlement" (*PUBG* at [15]). As such, the High Court's decision to grant the case management stay was affirmed (*PUBG* at [19]).

171 Tong, Chuah and Pang argued that the decision in *PUBG*, whilst concerning separate arbitration proceedings, should apply such that "it would make logical sense for the issue regarding the shareholding of Abornes to be resolved in Civil Action 526, before allowing OC 926 to proceed any further".[232] If the RMI Court were to find that Dinara is "not the majority shareholder of Abornes", the conduct of OC 926 by the Claimants would "necessarily be impacted".[233]

The case management stay ought not to have been granted

No overlap in the issues to be determined

172 Looking at the matter in the round unblinkered by Dimigen's expert opinion, it is my view that there was no overlap in the issues that arise in the proceedings in OC 926 and Civil Action 526. First, there was no *actual* overlap, since the core issue before the RMI Court is whether Abornes' registered shares have been invalidated for want of compliance with the BCA back when they were in bearer form (see [50] above). In contrast, the issues before the Court in OC 926 is whether the defendants are liable to the Claimants for breaches of contract, breaches of fiduciary duty, knowing receipt and/or conspiracy. The former pertains to what is essentially a regulatory compliance issue, whilst the latter pertains to allegations of wrongdoing.

173 Second, there was no *apparent* overlap in the issues raised in OC 926 and Civil Action 526. The thrust of the defendants' arguments, which the AR accepted, was that if the shares of Abornes are rendered invalid by virtue of Abornes's non-compliance with the requirements of the BCA, Dinara's

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232 Submissions of 3–5Ds at para 55.

233 Submissions of 3–5Ds at paras 53–55.

standing in OC 926 *may* be called into question. I found this to be a *non sequitur* which failed to accurately reflect the matters raised for the RMI Court's determination in Civil Action 526. The question that the RMI Court has been asked to decide is not whether Dinara will no longer be the majority shareholder of Abornes. Rather, the question that the RMI Court has been asked to decide is whether the beneficial ownership of Abornes "currently lies in an equitable claim for the estate or successors in interest of Mirabror" (see [51] above). The same question has been raised on appeal: *ie*, whether the High Court of the RMI "erred in failing to conclude that the estate of Mirabror Usmanov presently holds any and all rights to ownership interest in Abornes".[234]

174 Crucially, the RMI Courts have not been asked to determine the relative entitlements of the heirs *vis-à-vis* the estate's shares in Abornes. Put differently, even if the Supreme Court of the RMI holds on appeal that ownership of all the Abornes shares had somehow reverted back to Mirabror's estate, that would not answer the *posterior* question as to who is entitled to how many shares in Abornes. And for good reason – as the High Court of the RMI held, the RMI Courts have neither subject-matter jurisdiction over the distribution of Mirabror's estate, nor personal jurisdiction over the Heirs of Mirabror (see [53(c)] above).[235] As Averis and Felix themselves argued in relation to the issue of *forum conveniens*, the substantive issues of "who are the rightful heirs of the founder's estate" (which includes Mirabror's shares in Abornes) are matters of Uzbekistan succession law that should be determined by the Uzbekistan Court.[236] As this is not in issue before the RMI Courts in Civil Action 526, I

234 8th Defendant's Letter to Court dated 3 October 2025 at p 5.

235 Claimants' 6th Affidavit at pp 25–26.

236 Transcript at p 99 lines 10–27.

found that it was unlikely for the outcome of Civil Action 526 to have a material impact on Dinara's status as the majority shareholder of Abornes.

175 Additionally, for the ownership of all the shares in Abornes to revert (or to have remained with) Mirabror's estate, the consent agreement signed by all the Heirs of Mirabror would have to be invalidated (see [16] above). Further, the various transfers between the heirs *inter se*, and between the heirs and companies controlled by them (as outlined at [17] above) would also have to be invalidated. In this respect, it should be noted that Comina has not appealed against the RMI Court's dismissal for declaratory judgment on Count 2 (*ie*, that the purported transfer of 1,625 shares from Rumilya to Dinara is invalid and that Dinara does not own 1,625 shares of Abornes).[237] For Dinara to lose her majority shareholding in Abornes, all of these antecedent transactions would have to be invalidated *simply because* the recording requirements of the BCA have not been met. Whether the alleged non-compliance with the BCA would have such far-reaching consequences has, however, not been placed before the RMI Courts for their determination.

176 Put simply, even if the appeal is allowed by the Supreme Court of the RMI and all the declarations sought are granted to Comina, Civil Action 526 would not decide on the relative entitlements of the Heirs of Mirabror to Abornes's shares. That Dinara will lose her majority shareholding in Abornes, and that the Claimants will be moved to discontinue OC 926, is simply a speculation on the part of the defendants. In this respect, the Australian case of *Burrup Fertilisers Pty Ltd (Receivers and Managers Appointed) v Oswal* [2011] FCA 424 ("*Burrup Fertilisers*") is instructive.

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237 8th Defendant's Letter to Court dated 3 October 2025 at p 3–5.

177 In *Burrup Fertilisers*, the first respondent (Pankaj Oswal ("Mr Oswal")) was a director and shareholder of the appellant (Burrup Fertilisers Pty Ltd ("BFPL")). Following defaults on loans that had been made by a substantial creditor to BFPL, receivers were appointed over the assets and undertaking of BFPL. These receivers then caused BFPL to commence proceedings against Mr Oswal for breaches of fiduciary duties, as well as against his wife (Rankaj Oswal ("Mrs Oswal")) and a related family company (Comical Ali Militant Vegetarian Pty Ltd ("Comical")) for accessorial liability and receipt of benefits alleged to have been obtained as a result of Mr Oswal's breach of fiduciary duties ("Federal Court Proceedings").

178 23 days before the institution of the Federal Court Proceedings, Mrs Oswal had commenced proceedings in the Supreme Court of Victoria against BFPL and the receivers, challenging the validity of the receivers' appointment ("Victorian Proceedings"). The respondents in the Federal Court Proceedings (*ie*, Mr Oswal, Mrs Oswal and Comical) sought a temporary stay of the Federal Court Proceedings pending the determination of the Victorian Proceedings. Similar to the arguments made by the defendants in the present case, one of the respondents' central arguments was that the determination of the Victorian Proceedings was "likely to determine whether the Federal Court proceeding continues at all" (*Burrup Fertilisers* at [34]). If the appointment of the receivers were found to be invalid in the Victorian Proceedings, the respondents argued, then control of BFPL would return to its directors (*Burrup Fertilisers* at [34]). This meant that the result of the Victorian Proceedings "may result in the withdrawal of the Federal Court proceeding" (*Burrup Fertilisers* at [7]). Accordingly, the respondents argued that a temporary stay was necessary to avoid wastage of costs and resources and duplicative proceedings.

179 In contrast, the receivers (the appellants) argued that the Victorian proceedings would not have a material effect on the Federal Court Proceedings. If the appointment of the receivers were to be found to have been invalid in the Victorian Proceedings, then BFPL would have to decide through its directors as to whether it should continue the Federal Court Proceedings in the name of the company (*Burrup Fertilisers* at [35]).

180 McKerracher J of the Federal Court of Australia dismissed the respondents' application for a limited stay, applying the factors set out in *Sterling* above (see [161] above). In doing so, McKerracher J rejected the arguments of the respondents, reasoning (*Burrup Fertilisers* at [40]–[41]):

> [40]: […] from a practical consideration and a case management perspective, it is, at least at present, the broader relief which distinguishes the Federal Court proceeding from the Victorian proceeding. *There would be, for example, even if the authority of the receivers was successfully challenged, no theoretical reason why the company could not seek to pursue the present substantial recovery of funds claimed in the Federal Court proceeding.* I am not reaching any conclusion or finding that the company would do so but simply observing there is no theoretical reason in principle why it should or would not do so. Of course, whether validly appointed directors decide to do so will be a significant practical consideration. In contrast at present, *the Victorian proceeding will determine only whether the appointment of the receivers was valid and will not (at least not as presently formulated) determine any of BFPL's rights to relief against Mr Oswal, Mrs Oswal and/or Comical.*
>
> [41]: […] To determine at this stage that there would be a material effect which would be contrary to the interests of justice when each case is in its infancy, has been properly pursued and when both parties can take sensible precautions to avoid adverse consequences of dual proceedings, would be *premature and speculative.*
>
> [emphasis added]

181 I found the reasoning in *Burrup Fertilisers* to be helpful and relevant to the instant case. Civil Action 526, like the Victorian Proceedings in *Burrup Fertilisers*, will only determine the validity of Abornes's shares and not the

relative entitlements of the Heirs of Mirabror thereto, even if ownership to the shares is found to have reverted to Mirabror's estate. Further, regardless of the outcome in Civil Action 526, it will not determine any of the Claimants' rights to relief against the defendants (*Burrup Fertilisers* at [40]). To grant a stay on the basis of a legal issue that is not before the RMI Courts, *ie*, the relative entitlements to the shares in Abornes *vis-à-vis* the Heirs of Mirabror, would not be in the interests of justice or promote efficiency in case management. In the language of *Burrup Fertilisers*, it would be "premature and speculative" to conclude that Civil Action 526 will have a "material effect" on the outcome of OC 926 (*Burrup Fertilisers* at [41]).

182 It is for this reason that the defendants' reliance on the CA's decision in *PUBG* is misplaced. There, the outcome of the arbitration would clearly have had a "material effect" on the outcome of the court proceedings. If the arbitration had determined that there was a valid settlement agreement between the parties, the *legal* effect of such an agreement would have been to supersede the original cause of action altogether and put an end to the court proceedings (*PUBG* at [15]). In contrast, even if all the issues in Civil Action 526 are resolved in favour of Comina, that the Claimants will discontinue OC 926 by virtue of Dinara no longer being a majority shareholder of Abornes is not a given. I therefore found that *PUBG* did not assist the defendants' case.

183 For the foregoing reasons, I found that there were no overlapping issues between Civil Action 526 and OC 926, and consequently, no risk of conflicting decisions arising from the two sets of proceedings. Accordingly, the fact that Civil Action 526 had been commenced earlier than OC 926, or that Civil Action 526 appeared to be at a more advanced stage than OC 926, did not militate in favour of granting the case management stay. In my view, staying OC 926 until the full determination of Civil Action 526 by the RMI Courts would not, as a

matter of case management, allow for a more expedient and efficient resolution of the dispute between the parties.

184 For completeness, Tong, Chuah and Pang further argued that there would be a risk of wasted costs and time if a limited stay is not granted, and that it would be difficult to enforce a cost order against the Claimants, especially since Welton and Kito are "just shells".[238] However, as their counsel recognised, they could enforce a cost order against Abornes in the event that OC 926 is discontinued by the Claimants.[239] In contrast, the staying of OC 926, would shut out the Claimants, albeit temporarily, to a determination of their rights against the defendants which they are entitled to. However, I recognised that this delay to the Claimants could be compensated by way of an award of interest (*Hulley Enterprises Ltd v Russian Federation* [2021] 1 WLR 3429 at [67(v)]). The Claimants have not alleged that there will be any prejudice caused by the grant of a stay that will be irremediable by costs. Accordingly, the prejudice to the parties was a neutral factor on the facts.

Conclusion

185 For all the reasons above, I dismissed the appeals in RA/144/2025 and RA/146/2025 and affirmed the AR's decision to grant a permanent stay of OC 926 on the basis that Singapore is *forum non conveniens* for the trial of OC 926. I also dismissed the appeals in RA/143/2025 and RA/147/2025, and affirmed the AR's decision to set aside ORC 6183 on the ground that Singapore is not the *forum conveniens* for the trial of OC 926. To be clear, I upheld the AR's finding that the Claimants had failed to make full and frank disclosure of all material facts, but observed that this should not be an independent ground for

238 Transcript at p 138 line 17 to p 139 line 6.

239 Transcript at p 138 lines 30–31.

the setting aside of ORC 6183. Lastly, I allowed the appeal in HC/RA 145/2025 and held that the AR was wrong to have granted a limited stay of OC 926 on case management grounds. The application for the case management stay ought to have been dismissed, and I ordered accordingly.

186 I will hear parties on costs.

Sushil Nair
Judicial Commissioner

Quek Wen Jiang Gerard and Chua Ze Xuan (PD Legal LLC) for the claimants;
Ronald Wong Jian Jie, Stuart Andrew Peter and Tan Jia Jun James (Covenant Chambers LLC) for the first and seventh defendants;
Jonathan Muk Chen Yeen and Tan Kah Wai (LVM Law Chambers LLC) for the second and sixth defendants;
Lim Chong Guang Charles and Aisyah Az Zuhra Binti Norkhalim (Shook Lin & Bok LLP) for the third, fourth and fifth defendants;
Lin Chunlong, Tian Keyun and Wong Jun Hao Lucas (WongPartnership LLP) for the eighth defendant