

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

[2023] SGHC 80

Suit No 275 of 2020

Between

Liang Xihong

... Plaintiff

And

- (1) Loong Soo Min
- (2) Yangbum Engineering Pte Ltd

... Defendants

Suit No 345 of 2020

Between

Loong Soo Min

... Plaintiff

And

- (1) Liang Xihong
- (2) Zhang Shengqiang
- (3) Ace Class Precision
Engineering Pte Ltd
- (4) Apex Precision Engineering
Pte Ltd
- (5) Qing Lian Precision Pte Ltd

... Defendants

JUDGMENT

[Companies — Oppression]
[Trusts — Breach of trust]
[Trusts — Accessory liability — Acts amounting to assistance]
[Tort — Conspiracy]

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Liang Xihong
v
Loong Soo Min and another and another suit

[2023] SGHC 80

General Division of the High Court — Suit Nos 275 of 2020 and 345 of 2020
Chua Lee Ming J
28–30 June, 5–8, 12–14, 19–22 July, 14 September 2022

31 March 2023

Judgment reserved.

Chua Lee Ming J:

Introduction

1 Ms Liang Xihong (“Sandy”) and Mr Loong Soo Min (“Sam”) were divorced in 2014. The divorce proceedings were concluded amicably with a consent order being made for custody and access, payment of maintenance and division of matrimonial assets.

2 The division of matrimonial assets in the divorce proceedings left Sandy’s and Sam’s respective 50% shareholdings in a company known as Yangbum Engineering Pte Ltd (“Yangbum”) intact. It also did not deal with Sandy’s shares in three other companies: Ace Class Precision Engineering Pte Ltd (“Ace Class”), Apex Precision Engineering Pte Ltd (“Apex Precision”) and Qing Lian Precision Pte Ltd (“QL Precision”). In this judgment, I shall refer to these three companies collectively as the “Three Companies”. The Three

Companies were subcontractors to Yangbum exclusively. Yangbum and the Three Companies are the subject-matter of these proceedings.

3 HC/S 275 of 2020 (“S 275”) is Sandy’s claim against Sam and Yangbum. Sandy seeks relief under s 216 of the Companies Act 1967 (2020 Rev Ed) (“CA”), including an order that Sam buys her shares in Yangbum. Yangbum is largely a nominal defendant in S 275.

4 HC/S 345 of 2020 (“S 345”) is Sam’s claim against Sandy, her current husband, Mr Zhang Shengqiang (“Zhang”), and the Three Companies. Sam claims that Sandy holds her shares in the Three Companies on trust for him and that Sandy has acted in breach of trust. Sam also claims that Zhang dishonestly assisted Sandy in her breaches of trust and that both Sandy and Zhang conspired to injure him. Finally, Sam claims that Sandy wrongfully withdrew S\$188,000 from their joint account. The Three Companies are nominal defendants in S 345.

5 S 275 and S 345 were heard together.

Background facts

6 Prior to 1992, Sam worked for two different companies that were involved in precision metal machining and machine tools. In July 1992, Sam started a partnership known as Yangbum Industrial Services (“YIS”) with another partner. YIS’ core business was in precision metal machining component manufacturing.

7 Sandy was a Chinese national who had come to Singapore as a student in 1992. In 1993, Sam met Sandy and started dating her. In September/October 1993, Sandy returned to China. Sam continued to court her.

8 In May 1994, YIS was dissolved. On 21 June 1994, Sam registered a sole proprietorship known as Yangbum Engineering (“YE”).¹ YE was in the business of manufacturing fabricated metal products, excluding machinery and equipment.

9 In June 1994, Sandy returned to Singapore on a social visit pass sponsored by Sam and on 27 July 1994, Sam and Sandy were married.² About three months later, Sandy became a Singapore permanent resident.

10 On 19 June 1997, Sam incorporated Yangbum, with Sandy and him as equal shareholders, and directors. Yangbum obtained banking facilities from Focal Finance Ltd and Oversea-Chinese Banking Corporation Limited and used these facilities to purchase machines for production. Sam was the sole guarantor for the banking facilities.

11 On 15 September 2005, Sandy resigned as a director of Yangbum.³ Sam has been the sole director of Yangbum ever since. The reason for Sandy’s resignation is in dispute.

12 In 2008, Sam incorporated four companies. Ace Class and Apex Precision were incorporated on the same day. Ken Precision Pte Ltd (“Ken Precision”) was incorporated some four weeks later, followed by QL Precision a little over two months after that.

(a) Ace Class and Apex Precision were incorporated on 1 July 2008. Sandy was and remains the sole shareholder in these companies. An

¹ 1 Agreed Bundle (“AB”) 90–91.

² 5 AB 106.

³ 1 AB 88.

employee of Yangbum, Mr Tan Boon Hwa, was appointed as the sole director of Ace Class.⁴ Another employee of Yangbum, Mr Hay Chiak Buang, was appointed as the sole director of Apex Precision.⁵

(b) Ken Precision was incorporated on 28 July 2008, with Sandy’s brother, Mr Liang Jian, as the sole shareholder and sole director.

(c) QL Precision was incorporated on 8 October 2008, with Sandy’s cousin, Ms Liang Qing Lian (“LQL”), as the sole shareholder. Sandy and LQL were appointed as directors of QL Precision.

All four companies acted as subcontractors to Yangbum. The circumstances leading to the incorporation of these companies are in dispute.

13 On 5 October 2009, LQL resigned as director of QL Precision and transferred her shares in the company to Sandy.⁶ An employee of Yangbum, Mr Toh Thian Hock (“Clarence Toh”), replaced LQL as director of QL Precision.⁷

14 In July 2009, Sandy brought the children to Beijing and enrolled them in an international school. Whilst in China, Sandy met Zhang (a traditional Chinese medicine practitioner) in late 2009 when she went to see him for treatment.⁸

⁴ 1 AB 78; Sandy’s affidavit of evidence-in-chief (“AEIC”), at para 159; Sam’s AEIC at para 93a.

⁵ 1 AB 81; Sandy’s AEIC, at para 159; Sam’s AEIC at para 93b.

⁶ 1 AB 67 and 71–72.

⁷ 1 AB 69.

⁸ NE, 5 July 2022, at 28:23–25.

15 On 9 November 2009, Sandy ceased to be a director of QL Precision, leaving Clarence Toh as the sole director.⁹

16 On 7 January 2010, Art 87 of Yangbum’s Articles of Association was amended to authorise a sole director to sign cheques (among other things).¹⁰ Before the amendment, Art 87 required the signatures of two directors.

17 On 19 February 2010, one Ms Ooi Tin (“Ooi”) was appointed as a second director of Ken Precision, the other director being Liang Jian (see [12(b)] above).¹¹

18 Sandy returned to Singapore in 2013. After her return, Sandy was sick and Zhang visited her in Singapore frequently to take care of her and also because one of her two sons had “some form of [attention-deficit hyperactivity disorder]”.¹²

19 Sandy and Zhang started having an affair in 2013 although it is not clear when exactly the affair started.¹³ In late 2013, Sandy asked Sam for a divorce.¹⁴

20 On 3 April 2014, Sam and Sandy entered into a Deed of Settlement relating to their divorce, division of assets and maintenance.¹⁵ With respect to the division of matrimonial assets, Sam agreed (a) to pay Sandy S\$9.3m as her

⁹ 1 AB 88.

¹⁰ 4 AB 454 and 461.

¹¹ Sam’s AEIC, at para 93c(ii).

¹² NE, 8 July 2022, at 20:6–10.

¹³ NE, 5 July 2022, at 29:1–8; 7 July 2022, at 56:9–12.

¹⁴ NE, 5 July 2022, at 26:21–22.

¹⁵ 5 AB 101–103.

share of the matrimonial assets, (b) that they would retain their respective shareholdings in Yangbum, (c) that they would retain their respective shares in a company called “Walton”, and (d) that Sandy could retain all assets in her name that were held in China. Sandy acknowledged that she had received S\$1.9m as at the date of the Deed of Settlement. The Deed of Settlement did not deal with the shares in the Three Companies and Ken Precision.

21 On 15 May 2014, Sandy commenced divorce proceedings against Sam in FC/D 2222 of 2014 (“D 2222”) on the ground of unreasonable behaviour (as agreed in the Deed of Settlement). The Statement of Particulars cited constant quarrels caused by Sam’s behaviour in neglecting Sandy and stated that Sam was mostly absorbed in his work, returned home late, kept to himself and ignored her.

22 On 10 July 2014, interim judgment was entered in D 2222 (the “IJ”).¹⁶ Paragraph 3 of the IJ set out the orders made by consent, which were mostly in line with the terms of the Deed of Settlement. With respect to Sam’s obligation to pay Sandy S\$9.3m, the IJ acknowledged that S\$3.7m “has already been paid” and the balance sum of S\$5.6m will be paid within two years from 3 April 2014.

23 Like the Deed of Settlement, the IJ did not deal with the shares in the Three Companies and Ken Precision. The decision to leave the shareholdings in Yangbum intact and the omission to deal with the shares in the Three Companies and Ken Precision became the seeds from which the present disputes sprouted.

¹⁶ 5 AB 104–105.

24 On 28 October 2014, the IJ was made final.¹⁷ Sandy denied that she asked Sam for a divorce because she was having an affair with Zhang and wanted to marry him. However, the fact remains that she married Zhang on 1 April 2015, some five months after the IJ was made final.

25 On 7 December 2016, Sam incorporated two more companies – TL Precision Pte Ltd (“TL Precision”) and SH Precision Pte Ltd (“SH Precision”).¹⁸ TL Precision was named after Mr Lim Thiam Leong who was appointed as the sole director whilst SH Precision was named after Mr Tan Soo Huat who was also appointed as the sole director; both were employees of Yangbum.¹⁹ Both companies also acted as subcontractors to Yangbum. Sandy was the sole shareholder in both companies. Sandy does not claim beneficial ownership of the shares in TL Precision and SH Precision.

26 On 14 April 2018, Sandy sent a text message to Sam requesting a loan of S\$1m from Yangbum to purchase a property.²⁰ Sam procured Yangbum and Ken Precision to make loans of S\$800,000 (the “Yangbum Loan”) and S\$200,000 (the “Ken Precision Loan”) respectively to Sandy; both loans were disbursed on 7 May 2018.²¹

27 On 31 October 2018, Sandy asked Sam to have the shares in “the few small companies held in [her] name” transferred to another shareholder; alternatively, Sandy suggested closing them down.²² At this time, Sandy was the

¹⁷ 5 AB 107.

¹⁸ Sam’s AEIC, at para 119.

¹⁹ Sam’s AEIC, at para 120.

²⁰ 1 AB 294.

²¹ 4 AB 416–418.

²² 2 AB 24.

sole shareholder of the Three Companies, TL Precision and SH Precision. Sandy also asked Sam to “close [Ken Precision] first”; Liang Jian was still the sole shareholder of Ken Precision. Sam did not object to Sandy’s requests. The reasons for Sandy’s requests are in dispute.

28 On the same day, 31 October 2018, Liang Jian transferred his shares in Ken Precision to Sam.²³ Liang Jian also resigned as director,²⁴ leaving Ooi (see [17] above) as the remaining sole director.

29 On 1 November 2018, Sandy transferred her shares in TL Precision and SH Precision to Sam.²⁵ That left Sandy holding the shares in the Three Companies. The shares in the Three Companies were not transferred because these companies would lose certain benefits that they had under the Productivity and Innovation Credit Scheme (“PIC Scheme”) in the event of a transfer of more than 50% of the share capital.²⁶

30 Between 20 February and 13 March 2019, Sandy corresponded with Mr Lai Fatt (“Lai”), who was in charge of managing Yangbum’s store.²⁷ Sandy wanted to retrieve financial and accounting records of Yangbum, the Three Companies and Ken Precision.

²³ Sam’s AEIC, at para 163(a) and pp 499–500.

²⁴ Sam’s AEIC, at para 93c(iii) and pp 502 and 504.

²⁵ Sam’s AEIC, at para 163(b).

²⁶ Sam’s AEIC, at paras 164–166.

²⁷ Sam’s AEIC, at paras 189–190.

31 On 19 March 2019, Lai sent Sandy a photo of 11 boxes of documents.²⁸ On 21 March 2019, Sandy informed one of Yangbum’s finance staff, Ms Yang Xiaoman (“Xiaoman”), that she had collected “3 files”.

32 On 22 March 2019 (which was a Friday), Sandy went to Yangbum’s store to take documents belonging to Yangbum, the Three Companies and Ken Precision.²⁹ Xiaoman informed Sam that Sandy was removing documents from Yangbum. On Monday, 25 March 2019, Sam told Xiaoman that documents should not be removed from Yangbum’s premises.³⁰ Sandy was asked to return the boxes of documents taken by her and she did so between 26 and 27 March 2019.³¹

33 Before October 2019, the mandates for the bank accounts operated by Yangbum, the Three Companies, Ken Precision, TL Precision and SH Precision were not consistent. Sandy was not an authorised signatory for all the accounts and where she was an authorised signatory, the threshold levels beyond which her signature would be required were also not consistent. Between mid-October 2019 and January 2020, changes were made to the mandates at Sandy’s request. The effect of the changes was that Sandy became an authorised signatory for all the accounts and her signature/approval was required for all transactions involving S\$20,000 or more (in the currency of each of the accounts).

34 In November 2019, Sandy sought advice from her tarot master on the strategy for the legal campaign that she was about to commence against Sam;

²⁸ Sam’s AEIC, at para 191; 1 AB 427.

²⁹ Sam’s AEIC, at para 193.

³⁰ Sam’s AEIC, at para 195 and p 674 (2 AB 48).

³¹ Sam’s AEIC, at para 196.

her objective was to sell her shares in Yangbum or force Sam to buy her out at between S\$25m and S\$35m.³²

35 In 2020, both Sandy and Sam began firing salvoes at each other, which escalated and led inevitably to the present proceedings.

36 On 24 February 2020, Sandy withdrew S\$188,000 (the “S\$188,000 Withdrawal”) from a joint account with Overseas-Chinese Banking Corporation Limited in the names of Sam and herself (the “OCBC Joint Account”), leaving a balance of just a little over S\$550.³³

37 On the same day, Sandy filed FC/SUM 550/2020 (“FC/SUM 550”) in D 2222 in which she sought to vary para 3(d)(1) of the IJ. Paragraph 3(d)(1) of the IJ stated that her share of the matrimonial assets was S\$9.3m and that S\$3.7m had been paid to her. Sandy sought to vary para 3(d)(1) to state that only S\$1.9m had been paid to her and that a balance amount of S\$7.4m was to be paid to her within the period of two years from 3 April 2014.³⁴ Sandy claimed that she made a fundamental mistake when she agreed to the terms of the IJ and that she had only received S\$1.9m and not S\$3.7m as recorded in the IJ. As will be seen later, eventually, no order was made on FC/SUM 550; instead, the whole of para 3 of the IJ (which comprised the consent orders on division of matrimonial assets and maintenance) was set aside on Sam’s application.

³² NE, 30 June 2022, at 15:6–10 and 16:13–18.

³³ 5 AB 313.

³⁴ 3 Bundle of Cause Papers (“BCP”) 644–645.

38 On 25 February 2020, on Sam’s instructions, Yangbum’s accounts executive, Ms Long Soo Hsien (“Soo Hsien”), prepared the following cheques and payment vouchers:

(a) UOB 136068 for S\$1m payable to Sam; the corresponding payment voucher described this as dividends payable to Sam;³⁵

(b) UOB 136069 for S\$500,000 payable to Sam; the corresponding payment voucher described this as dividends payable to Sam;³⁶

(c) UOB 136071 for S\$476,000 payable to Sam; the corresponding payment voucher described this as dividends payable to Sam;³⁷ and

(d) a payment voucher which stated that dividends of S\$1m and S\$188,000 were payable to Sandy but were to be set-off against the loans from Yangbum and Ken Precision and the S\$188,000 Withdrawal.³⁸

Sam signed the cheques and payment vouchers.

39 On the same day (25 February 2020), Sandy issued a Statutory Demand against Sam for purported non-payment of the sum of S\$5.6m under the IJ plus interest.³⁹ Sam subsequently succeeded in setting aside the Statutory Demand on the ground that the debt was disputed on substantial grounds.⁴⁰

³⁵ 3 AB 604.

³⁶ 3 AB 606.

³⁷ 3 AB 608.

³⁸ 3 AB 639.

³⁹ 3 BCP 181–184.

⁴⁰ 3 BCP 603–617; Sam’s AEIC, at paras 233–234.

40 On 26 February 2020, Soo Hsien asked Sandy to go to Yangbum’s office to sign the cheques and payment vouchers relating to the dividends and set-offs mentioned in [38] above. On Sandy’s request, Soo Hsien sent copies of the cheques and payment vouchers to Sandy. Sandy refused to sign the cheques or to acknowledge the proposed set-offs.⁴¹

41 Between 27 February and 8 March 2020, Sam (as the sole director of Yangbum) removed Sandy as an alternate or joint signatory to Yangbum’s bank accounts.⁴²

42 On 2 March 2020, Sandy filed MSS 719/2020 (“MSS 719”) to enforce payment of S\$1,693,276 being alleged arrears of maintenance for the children under the IJ.⁴³ MSS 719 was subsequently struck off.⁴⁴

43 On the same day (2 March 2020), Sandy’s lawyers issued letters to UOB, CIMB, SCB and OCBC alleging that Sam had forged Sandy’s signatures on cheques drawn on Yangbum’s accounts with the banks, and that Sam may have diverted dividends (issued to Sandy) to himself or caused Yangbum’s records to be falsified to create the impression that the dividends were paid to Sandy.⁴⁵

⁴¹ Sandy’s AEIC, at para 117.

⁴² Sam’s AEIC, at pp 874–900.

⁴³ 4 AB 322.

⁴⁴ 4 BCP 225–246 (at para 11c at p 227).

⁴⁵ 4 AB 134–141.

44 On 12 March 2020, Sandy appointed Zhang and herself as directors of the Three Companies.⁴⁶ It is not disputed that this was done without the knowledge of Sam or the other directors of the companies.

45 On 18 March 2020, Sandy turned up at Yangbum’s office, accompanied by four men, and demanded the financial records of the Three Companies. Sam told her that she was not entitled to the documents and asked her to leave. Sandy and the men left without the documents.

46 On 20 March 2020, Sandy issued notices of directors’ meetings of the Three Companies to be held on 27 March 2020 to (among other things) convene Extraordinary General Meetings (“EGMs”) for each of the companies for the purpose of passing special resolutions to wind up the companies.⁴⁷

47 On 25 March 2020, Sandy commenced S 275.

48 On 27 March 2020, the directors’ meetings of the Three Companies were held with Sandy and Zhang in attendance; the resolutions to convene EGMs to wind up the companies were passed.⁴⁸

49 On 30 March 2020, the EGMs of the Three Companies were held (with Sandy consenting to the holding of the EGMs without full notice) and the requisite resolutions to wind up the companies were passed.⁴⁹

50 On 13 April 2020, Sam commenced S 345.

⁴⁶ 1 AB 78, 81–82, 84.

⁴⁷ Sandy’s AEIC, at pp 725–727.

⁴⁸ Sandy’s AEIC, at pp 728–736.

⁴⁹ Sandy’s AEIC, at pp 741–769.

51 On 2 June 2020, Yangbum demanded repayment of the Yangbum Loan and Ken Precision demanded repayment of the Ken Precision Loan.⁵⁰ Sandy did not make any repayment.

52 On 26 June 2020, Yangbum commenced HC/S 567/2020 (“S 567”) against Sandy for repayment of the Yangbum Loan.⁵¹ On the same day, Ken Precision commenced DC/DC 1500/2020 (“DC 1500”) against Sandy for repayment of the Ken Precision Loan.⁵²

53 In S 567, Sandy’s defence pleaded that in mid-April 2018, Sam and Sandy agreed that she would repay the Yangbum Loan by applying a portion of her share of future shareholder dividends disbursed to her until the loan was fully repaid (the “Repayment Agreement”).⁵³

54 On 30 June 2020, Sam filed FC/SUM 1731/2020 (amended on 24 May 2021) (“FC/SUM 1731”) in D 2222, seeking, among other things, to set aside the entire para 3 of the IJ.⁵⁴

55 On 22 July 2020, Sandy repaid the Ken Precision Loan. She also paid legal costs to Ken Precision and on 30 July 2020 Ken Precision discontinued DC 1500.⁵⁵

⁵⁰ 4 AB 420 and 423.

⁵¹ 3 BCP 6–11.

⁵² 4 BCP 293–294.

⁵³ 3 BCP 14 (subpara (d)).

⁵⁴ 4 BCP 5–6.

⁵⁵ 4 BCP 296.

56 On 17 September 2020, Yangbum applied for summary judgment in respect of the Yangbum Loan in S 567.⁵⁶ On 10 November 2020, the Assistant Registrar granted Yangbum’s application and entered judgment against Sandy (the “O 14 Judgment”). On 8 January 2021, the High Court dismissed Sandy’s appeal against the O 14 Judgment.⁵⁷ On 16 February 2021, Sandy paid the Yangbum Loan.

57 On 3 December 2021, the Family Court:⁵⁸

- (a) set aside para 3 of the IJ in its entirety on the grounds that Sandy had failed to disclose a material fact to Sam; and
- (b) made no orders on FC/SUM 550 since it was predicated upon the continued existence of para 3 of the IJ.

Sandy has appealed against the decision and the appeal is pending. For present purposes, the Family Court’s reasons for setting aside para 3 of the IJ are not relevant.

Parties’ cases in S 275

58 In her closing submissions, Sandy alleges that Sam engaged in the following acts of oppression and/or unfair discrimination and/or unfair prejudice:

- (a) Sam diverted to himself dividends issued by Yangbum to her by way of eight cheques amounting to a total of US\$922,052.47, and

⁵⁶ Sam’s AEIC, at para 272.

⁵⁷ 3 BCP 173–179.

⁵⁸ 4 BCP 260–280.

falsified Yangbum's payment vouchers to create the impression that the dividends were paid to Sandy.

(b) Sam forged her signature on at least 49 cheques issued by Yangbum to various payees; the total amount of these cheques was S\$3,044,863.80.

(c) Sam caused Yangbum to attempt to issue more dividends to himself than to her in 2020 and to apply improper set-offs against her declared dividends.

(d) Sam removed her as a joint signatory of Yangbum's bank accounts in breach of her legitimate expectations as a quasi-partner.

59 Sam's case is as follows:

(a) He did not divert Sandy's dividends to himself. Sandy's dividends in seven of the cheques were deposited into their OCBC Joint Account, which Sandy had access to. The eighth cheque was payment towards Sam's agreed fees for management and expenses ("M&E Fees").

(b) He is unable to recall whether he signed all of the 49 cheques on Sandy's behalf and thus does not admit to having done so. In any event, Sandy had agreed that Sam could sign cheques on her behalf after she moved to China with the children (the "Cheque Signing Agreement").

(c) There was no attempt to issue unequal dividends. The difference between the amounts to be paid to Sam and Sandy reflected (i) sums that were payable to Sam as his M&E Fees and (ii) a sum equal to the S\$188,000 Withdrawal. In addition, the proposed set-offs were proper.

- (d) Yangbum is not a quasi-partnership and Sandy has no legitimate expectation to have joint oversight of the use of Yangbum's funds.

Parties' cases in S 345

60 In his closing submissions, Sam states his case as follows:

- (a) Sandy held the shares in the Three Companies on trust for him.
- (b) Sandy acted in breach of trust by:
 - (i) appointing Zhang and herself as directors of the Three Companies on 12 March 2020 without Sam's consent;
 - (ii) calling for directors' meetings of the Three Companies via notices issued on 19 and 20 March 2020 without Sam's consent;
 - (iii) passing directors' resolutions at the directors' meetings of the Three Companies without Sam's consent; and
 - (iv) passing special resolutions at the EGMs of the Three Companies on 30 March 2020 to put them into member's voluntary liquidation without Sam's consent.
- (c) Zhang dishonestly assisted Sandy in her breaches of trust.
- (d) Sandy and Zhang conspired to injure Sam by liquidating the Three Companies. These acts constituted breaches of trust by Sandy and were therefore unlawful. Alternatively, they were carried out with the predominant purpose to cause harm to Sam as the beneficial owner of the Three Companies.

(e) The S\$188,000 Withdrawal was in breach of the IJ.

61 Sandy's case is as follows:

(a) She owned the shares in the Three Companies absolutely.

(b) Even if she held the shares on trust for Sam, the trusts are illegal or tainted with illegality and hence unenforceable.

(c) Even if Sandy had committed breaches of trust, there was no dishonest assistance by Zhang.

(d) Even if the liquidations of the Three Companies were unlawful, Sandy and Zhang did not act in concert. There was also no intention to injure. In any event, there is no evidence of loss.

(e) The S\$188,000 Withdrawal was not in breach of the IJ because Sam had not paid Sandy the sum of S\$9.3m as required under the IJ. Further, para 3 of the IJ has been set aside and Sandy's appeal is pending.

The issues

62 The issues before me are as follows:

S 275

(a) Whether Sam diverted Sandy's dividends amounting to US\$922,052.47 to himself and falsified Yangbum's payment vouchers to create the impression that the dividends were paid to Sandy?

- (b) Whether Sam forged Sandy's signatures on at least 49 cheques issued by Yangbum to various payees in the total sum of S\$3,044,863.80?
- (c) Whether Sam caused Yangbum to attempt to issue disproportionate dividends in 2020 and to apply improper set-offs against Sandy's declared dividends?
- (d) Whether Yangbum is a quasi-partnership and whether Sam's removal of Sandy as a joint signatory of Yangbum's bank accounts was in breach of her legitimate expectations as a quasi-partner?
- (e) Whether Sandy is entitled to relief under s 216 CA?

S 345

- (f) Whether Sandy holds the shares in the Three Companies on trust for Sam?
- (g) Whether Sandy's actions leading to the liquidation of the Three Companies were in breach of trust?
- (h) Whether Zhang dishonestly assisted Sandy in her breaches of trust?
- (i) Whether Sandy and Zhang conspired to injure Sam by liquidating the Three Companies?
- (j) Whether the S\$188,000 Withdrawal was wrongful?

Whether Sam diverted Sandy's dividends to himself and falsified Yangbum's payment vouchers

63 Between August 2014 and March 2018, Yangbum issued the following eight cheques:

S/N	Date	Cheque No	Amount in US\$
1	4 August 2014	SCB 817128 ⁵⁹	200,000.00
2	30 October 2014	SCB 817148 ⁶⁰	196,475.00
3	22 January 2015	SCB 817165 ⁶¹	187,400.00
4	21 April 2015	SCB 817186 ⁶²	148,148.00
5	30 June 2015	SCB 933653 ⁶³	150,000.00
6	2 September 2015	SCB 933667 ⁶⁴	141,844.00
7	21 December 2015	SCB 933682 ⁶⁵	212,525.00
8	7 March 2018	SCB 022668 ⁶⁶	303,856.47

64 The sum of US\$922,052.47, which Sandy claims Sam diverted to himself, comprises the following:

⁵⁹ 3 AB 566.

⁶⁰ 3 AB 568.

⁶¹ 3 AB 570.

⁶² 3 AB 574.

⁶³ 3 AB 576.

⁶⁴ 3 AB 582.

⁶⁵ 3 AB 584.

⁶⁶ 3 AB 602.

- (a) US\$618,196 being Sandy's half share of the total amount of the first seven cheques; and
- (b) US\$303,856.47 being the amount of the eighth cheque.

The first seven cheques

65 It is not disputed that the first seven cheques were drawn payable to Sam and signed by Sam. The authorised signatories then were Sam and Sandy; either one was authorised to sign cheques without any limit.

66 It is also not disputed that the seven cheques were payments of dividends (in the total amount of US\$1,236,392.00) to Sam and Sandy. This is also supported by the payment vouchers in respect of these cheques.⁶⁷

67 Sandy claims that she did not receive her half-share (US\$618,196) of the dividends. Consequently, she claims that (a) Sam diverted her share of the dividends to himself, and (b) Sam falsified Yangbum's payment vouchers to create the impression that her share of the dividends had been paid to her.

68 Sam's case is that:

- (a) There was no wrongful diversion of Sandy's share of the dividends because Sandy had received the benefit of the dividends. The moneys from the seven cheques were deposited into the OCBC Joint Account and Sandy knew this. It is not disputed that Sandy had unrestricted access to the OCBC Joint Account.
- (b) It follows that he did not falsify the payment vouchers.

⁶⁷ 3 AB 567, 569, 571, 575, 577, 583 and 585; 4 AB 474 and 479.

Whether the seven cheques were deposited into the OCBC Joint Account

69 Sandy's affidavit of evidence-in-chief ("AEIC") is silent as to whether she accepts that the proceeds of the first seven cheques had been deposited into the OCBC Joint Account. However, the evidence is clear that the proceeds of the seven cheques were deposited into the OCBC Joint Account. The OCBC Joint Account statements show deposits by way of transfers from Sam which correspond to the seven cheques.⁶⁸ The cheques, which were in US dollars and drawn payable to Sam, were paid into a US dollar joint account in Sam's and Sandy's names (the specific account depending on the exchange rates offered) after which Sam deposited (by way of transfers) the equivalent amounts in Singapore dollars into the OCBC Joint Account.⁶⁹

70 Under cross-examination, Sandy accepted that the moneys from the first to seventh cheques were deposited into the OCBC Joint Account.⁷⁰

Whether Sandy knew that the seven deposits were payments of dividends

71 It is not disputed that Sandy received the monthly bank statements for the OCBC Joint Account. It is also not disputed that she was aware of the seven deposits into the account. However, she claims that she did not know that the amounts deposited were payments of dividends. According to her, after her divorce from Sam, dividends were to be paid to her directly instead of being paid into the OCBC Joint Account. Sandy claims that she therefore thought that the amounts deposited into the OCBC Joint Account were not dividends but payments by Sam for maintenance for her and the children.

⁶⁸ 5 AB 222, 235, 252, 270, 284, 295, 312.

⁶⁹ NE, 13 July 2022, at 24:6–25:1; 30:19–25; 32:15–33:22 and 39:7–21.

⁷⁰ NE, 28 June 2022, at 96:12–98:20, 98:23–99:21, 100:6–101:3, 101:4–102:1, 102:2–103:5 and 103:6–24; NE, 30 June 2022, at 1:13–20.

72 In my view, whether Sandy knew that the amounts deposited into the OCBC Joint Account were dividends, or whether she truly thought that they were payments for maintenance, is in fact irrelevant. It does not change the fact that her share of the dividends was deposited into the OCBC Joint Account. It is also not disputed that she had unrestricted access to the moneys in the OCBC Joint Account. In the circumstances, Sam cannot be said to have diverted Sandy's share of the dividends to himself. It follows that Sam also did not falsify Yangbum's payment vouchers with respect to the payments to Sandy of her share of the dividends.

73 I also note that based on Sandy's own evidence, she would have used her share of the seven deposits into the OCBC Joint Account. Sandy testified that she took care to use only the portion of the funds in the OCBC Joint Account that was intended for maintenance.⁷¹ This would mean that she had used her share of the seven deposits since, according to her, she thought that the seven deposits were payments by Sam for maintenance.

74 In any event, I find that Sandy did know about the payment of dividends by way of the seven cheques and that the dividends were deposited into the OCBC Joint Account.

75 First, it is not disputed that Yangbum's finance staff kept a journal that recorded dividends paid to Sam and Sandy (the "Dividends Journal").⁷² Sandy had signed against the entries relating to the second to sixth cheques in the Dividends Journal on the same day as the date of the entries or a day later.⁷³

⁷¹ Sandy's AEIC, at para 89.

⁷² NE, 28 June 2022, at 80:9–18.

⁷³ 4 AB 474.

76 Sandy did not sign against the entry relating to the first cheque in the Dividends Journal. However, I find it inconceivable that she was not aware of the same. The entry was just above the entry relating to the second cheque; she could not have failed to notice it. Further, two members of Yangbum’s finance team at the material time, Xiaoman and Ms Chin Shuling (“Shuling”), testified that they would inform Sandy whenever a dividend was being issued.⁷⁴ Xiaoman also testified that Sandy would always flip through the Dividends Journal to look at the records of past dividend payments.⁷⁵ Shuling testified that Sandy would always look at the payment vouchers and flip through the Dividends Journal but would generally not bother signing these documents to acknowledge her receipt.⁷⁶ Xiaoman and Shuling were objective witnesses; they were no longer working for Yangbum when they gave evidence. I find no reason to disbelieve their testimonies.

77 Sandy also did not sign the entry relating to the seventh cheque. Nevertheless, I find that on the totality of the evidence (including the evidence of Xiaoman and Shuling), it is more probable than not that she knew that the corresponding deposit of S\$300,000 into the OCBC Joint Account on 6 January 2016 was payment of dividends for Sam and herself.

78 By the time she received the relevant bank statements, Sandy was clearly aware that the seven cheques had been issued as payments of dividends to Sam and herself. There was no reason for her to think that the corresponding amounts deposited into the OCBC Joint Accounts were anything other than the payments of dividends.

⁷⁴ Xiaoman’s AEIC, at para 30(a); Shuling’s AEIC, at para 28(a).

⁷⁵ Xiaoman’s AEIC, at para 30(f).

⁷⁶ Shuling’s AEIC, at para 28(g).

79 Second, as Sam points out, the first time that Sandy raised these issues was in S 275, which she commenced on 23 March 2020. Sandy’s case is that she discovered the diversion of dividends in 2017.⁷⁷ Even so, that does not explain why she did not raise these issues until March 2020.

80 In any event, in my view, Sandy’s alleged discovery of the diversion of dividends in November 2017 is a fabrication. Sandy’s evidence about her alleged discovery was both internally and externally inconsistent.

(a) In her oral evidence, Sandy confirmed that she discovered the diversion of dividends in November 2017.⁷⁸ However, in her AEIC, Sandy said that in March 2018, Xiaoman requested her to review Yangbum’s accounting records to investigate suspected misappropriation of funds by three Yangbum employees, and it was upon reviewing these records that she discovered the diversion of dividends by Sam.⁷⁹ When questioned about the inconsistency as to the date that she discovered the alleged diversion of dividends, Sandy explained that the relevant paragraphs in her AEIC were referring to two different issues and were unconnected.⁸⁰ I do not accept Sandy’s explanation. Her AEIC is patently clear: she claimed to have discovered the diversion of dividends in March 2018.

(b) Sandy also testified that the “accounting records” that she reviewed in November 2017 was a table prepared by Shuling showing the dividends paid to Sam and Sandy between April 2013 and June 2017

⁷⁷ Statement of Claim (Amendment No 2) in Suit 275 (“S 275 SOC”), at para 22.

⁷⁸ NE, 28 June 2022, at 114:1–8.

⁷⁹ Sandy’s AEIC, at paras 70–71.

⁸⁰ NE, 28 June 2022, at 122:19–25 and 126:16–20.

(the “November 2017 Dividends Table”).⁸¹ However, the November 2017 Dividends Table has nothing to do with the alleged misappropriation of funds that Xiaoman allegedly requested Sandy to investigate.

(c) Xiaoman denied having requested Sandy in March 2018 to review the accounts to investigate suspected misappropriation of funds by three employees.⁸² Xiaoman testified that in 2018 she had merely shared an incident regarding high tooling costs, which Sam had resolved. Xiaoman further testified that it was Sandy who, in March 2019, spread an untrue rumour that Xiaoman believed three important Yangbum employees were guilty of corruption. Xiaoman’s evidence was not challenged. I also have no reason to disbelieve her evidence.

(d) Sandy confirmed that she checked the payment of dividends in the November 2017 Dividends Table against her personal bank statements but not against the OCBC Joint Account.⁸³ She claimed that she did not check against the OCBC Joint Account because the moneys in that account were for the children’s university education, and she had “enough money for daily use”.⁸⁴ Sandy’s explanations were non-responsive. In my view, even if Sandy did not check against the OCBC Joint Account, the inference to be drawn from Sandy’s inability to explain why she did not do so is that she knew that the dividends had

⁸¹ NE, 28 June 2022, at 114:1–13, 115:13–19 and 124:22–125:2; 1 AB 312.

⁸² Xiaoman’s AEIC, at para 66(b).

⁸³ NE, 28 June 2022, at 115:20–116:6.

⁸⁴ NE, 28 June 2022, at 116:8–14.

been paid into the OCBC Joint Account and that her alleged discovery of the diversion in 2017 is a fabrication.

81 Third, I agree with Sam that Sandy's conduct showed that she knew about the payment of the dividends into the OCBC Joint Account at all material times. On 6 March 2018, Sandy told Sam that there was a discrepancy between the November 2017 Dividends Table and the Deed of Settlement.⁸⁵ Sandy also suggested clearing up the matter before distributing the dividends for 2018. Despite having allegedly discovered the diversion of dividends in November 2017, Sandy said nothing about the alleged diversion. Instead, the next day, Sandy signed the eighth cheque (see [63] above); according to Sandy, she signed the cheque without knowing the purpose of the payment.⁸⁶ Separately, on 14 April 2018, Sandy asked Sam for Yangbum to lend her S\$1m.⁸⁷ Although she needed money, she did not ask for payment of the dividends allegedly diverted by Sam and again made no mention of the same.

82 Fourth, it is unbelievable that Sandy could have thought that the amounts deposited in 2015 were for maintenance. Under the IJ, Sam was to pay S\$500,000 a year as maintenance for Sandy and the children. The total amount deposited into the OCBC Joint Account in 2015 (from the third to sixth cheques) was S\$850,000, which is S\$350,000 more than what Sam had to pay as maintenance.

83 Fifth, Sandy does not dispute that she had an arrangement with Sam whereby dividends issued by Yangbum to them would be paid to Sam to be

⁸⁵ 1 AB 259 (at 4.35pm); NE, 28 June 2022, at 132:13–18.

⁸⁶ Sandy's AEIC, at para 72.

⁸⁷ 1 AB 294.

deposited into one of their joint accounts.⁸⁸ However, she alleges that she did not think that the seven deposits into the OCBC Joint Account were payments of dividends because the arrangement had ended and her share of dividends were to be paid to her directly. Sandy alleges that the arrangement ended when her divorce became final on 30 October 2014.⁸⁹

84 Sandy's allegation that she did not think that the seven deposits were payment of dividends because the arrangement of paying dividends into the OCBC Joint Account ended on 30 October 2014 cannot be true.

(a) It is inconsistent with her own evidence that she did not think about what the purpose of the deposit from the first cheque was.⁹⁰ Further, the amount from the first cheque was deposited into the OCBC Joint Account on 6 August 2014, well before the arrangement allegedly ended. There was no reason for her to doubt that that deposit was a payment of dividends.

(b) Her claim that the arrangement ended on 30 October 2014 is contradicted by Sam's evidence that the arrangement stopped *after December 2015* because Sandy asked the finance team not to pay dividends into the joint account.⁹¹ Sam's evidence was not challenged. It is not disputed that after 2015, dividends were paid to Sam and Sandy individually.

⁸⁸ Sandy's AEIC, at para 92.

⁸⁹ Sandy's AEIC, at para 92; NE, 28 June 2022, at 92:11–18.

⁹⁰ NE, 28 June 2022, at 94:6–9.

⁹¹ NE, 13 July 2022, at 31:23–32:9.

85 In any event, even if the arrangement of paying dividends into the OCBC Joint Account ended on 30 October 2014 (as Sandy alleges), it does not change the fact that the monies from the seven cheques were deposited into the account, and that Sandy knew this.

Conclusion on the first seven cheques

86 I find that Sandy knew at all material times that the first seven cheques were payments of dividends to Sam and herself and that the Singapore dollar equivalents of the seven cheques were deposited into the OCBC Joint Account. She also had unrestricted access to the moneys in the OCBC Joint Account. Indeed, it appears that she had access to even Sam's share of the dividends deposited into the OCBC Joint Account.

87 Accordingly, I find that Sam did not divert Sandy's share of the dividends (paid by way of the seven cheques) to himself. It follows as well that Sam did not falsify the payment vouchers or cause the payment vouchers to be falsified. In my judgment, Sandy's allegations of diversion of dividends and falsification of payment vouchers were fabrications.

The eighth cheque

88 Sandy claims that Sam diverted the eighth cheque to himself because the cheque was drawn payable to Sam but the payment voucher for the cheque described the payment of US\$303,856.47 as dividends payable to Sandy.⁹² It is not disputed that Sandy did not receive any part of this amount. Sandy also

⁹² Sandy's AEIC, at paras 71 (s/n 8) and 95; 1 AB 385.

claims that she discovered this diversion by Sam at the same time that she discovered the diversions relating to the seven cheques discussed above.⁹³

89 The circumstances leading to the issuance of the eighth cheque are as follows. At an EGM held on 7 March 2018, Yangbum declared US\$2.8m as dividends for FY 2017.⁹⁴ The dividends were paid by way of four cheques, all dated 7 March 2017:

(a) Two cheques, SCB 002665 and SCB 002666, were drawn for the same amount of US\$759,631.32 each; the cheques were drawn payable to Sandy and Sam respectively and the corresponding payment vouchers state that the cheques were for dividends payable to Sandy and Sam respectively.⁹⁵

(b) Two cheques, SCB 002668 and SCB 002669, were drawn for the same amount of US\$303,856.47 each; both cheques were drawn payable to Sam but the corresponding payment vouchers state that the cheques were for dividends payable to Sandy and Sam respectively.⁹⁶

All four cheques were signed by Sam *and* Sandy. It should also be noted that three of the four payment vouchers are dated “7 March 2017”; the fourth payment voucher is dated “7 March 2018”. However, it is not disputed that the references to “2017” were in error and should refer to “2018”.

⁹³ Sandy’s AEIC, at paras 70–71.

⁹⁴ 1 AB 390.

⁹⁵ 1 AB 387 and 384.

⁹⁶ 1 AB 385 and 386.

90 The eighth cheque, which Sandy claims was diverted by Sam, refers to SCB 022668 (see [89(b)] above).⁹⁷ Sandy's AEIC does not set out the circumstances leading to the issuance of the eighth cheque. She claims that she signed the eighth cheque at Sam's request without knowing the purpose of the payment.⁹⁸ In her closing submissions, Sandy submits that she did not agree that Sam could pay his M&E Fees by way of dividends.⁹⁹

91 Sam's case is that:

- (a) the two cheques (SCB 002668 and SCB 002669) for US\$303,856.47 each were payments of his M&E Fees; and
- (b) Sandy agreed to the arrangement of paying his M&E Fees by way of dividends issued to both of them.

92 I find that Sam has proved his case.

93 First, I find that the two cheques (SCB 002668 and SCB 002669) were used to pay Sam's M&E Fees. The entries in the Dividends Journal confirm that of the four cheques issued on 7 March 2018:¹⁰⁰

- (a) two cheques (SCB 022665 and SCB 022666) for US\$759,631.32 each were payments of dividends to Sandy and Sam respectively; and
- (b) the other two cheques (SCB 022668 and SCB 022669) for US\$303,856.47 each were paid to Sam as his M&E Fees.

⁹⁷ S 275 SOC, at para 22 read with Annex A.

⁹⁸ Sandy's AEIC, at para 72.

⁹⁹ Sandy's Closing Submissions, at para 28.

¹⁰⁰ 4 AB 485.

94 Sam's case is also consistent with the payment vouchers, which show that the Singapore dollar equivalent for each cheque was S\$400,000.¹⁰¹ It is not disputed that as part of their divorce settlement, Sandy agreed that Sam was entitled to payment of S\$800,000 per year as his M&E Fees; this comprised a management fee of S\$500,000 and entertainment expenses of S\$300,000.¹⁰²

95 Second, I find that Sandy knew that the two cheques (SCB 022668 and SCB 022669) were paid to Sam as his M&E Fees and that she had accepted and agreed to the arrangement of using dividends to pay Sam's M&E Fees. Sandy's claim that she did not know the purpose of the eighth cheque (SCB 022668) is simply unbelievable. She signed against the entries in the Dividends Journal for all four cheques that were issued on 7 March 2018.¹⁰³

96 Quite apart from the Dividends Journal, Sandy had to have known that the eighth cheque was one of the four cheques issued pursuant to the declaration of dividends at the EGM on 7 March 2018. Sandy was present at the EGM.¹⁰⁴ She also signed all the four cheques all of which were also dated 7 March 2018.

97 Under cross-examination, Sandy explained that the two cheques for US\$303,856.47 each were not signed at the same time and that she could not recall the specific times.¹⁰⁵ When questioned further, Sandy also claimed that all four cheques were signed separately.¹⁰⁶ She claimed that she could not

¹⁰¹ 1 AB 385 and 386.

¹⁰² Reply to 1st Defendant's Defence (Amendment No 1) in Suit 275 ("S 275 Reply"), at para 21(a) and (b); Sandy's AEIC, at para 154.

¹⁰³ 4 AB 485.

¹⁰⁴ 1 AB 389.

¹⁰⁵ NE, 28 June 2022, at 137:8–9; NE, 29 June 2022, at 2:12–22.

¹⁰⁶ NE, 28 June 2022, at 138:23–139:7; NE, 29 June 2022, at 4:3–10.

remember the sequence in which the cheques were signed except that Shuling brought the second cheque for US\$303,856.47 to her house for her to sign.¹⁰⁷ I do not accept Sandy's explanation. Her explanation was not in her AEIC. Further, all four cheques were for payment of the dividends of US\$2.8m that were declared at the EGM on 7 March 2018. There was no reason why the four cheques would have been signed separately and Sandy offered none.

98 Even if Sandy did sign the cheques separately, that still does not mean that she therefore did not know that the four cheques were issued pursuant to the declaration of dividends at the EGM.

99 The evidence also shows that in December 2015, Sandy had already agreed to the arrangement of using dividends to pay Sam's M&E Fees. Back then, Yangbum had issued two cheques (SCB 933682 and SCB 933683) that were payable to Sam.¹⁰⁸ The corresponding payment vouchers described SCB 933682 as payment of dividends to Sam and Sandy, and SCB 933683 as payment of dividends to Sam.¹⁰⁹ In the Dividends Journal, Shuling wrote "(entertainment)" against the entry for SCB 933682, and "(director fee)" against the entry for SCB 933683.¹¹⁰ Shuling testified that this was based on what Sandy told her and that Sandy also told her that it was pursuant to her "divorce agreement" with Sam.¹¹¹ Shuling's evidence was not challenged.

¹⁰⁷ NE, 29 June 2022, at 2:24–3:10 and 4:3–10.

¹⁰⁸ 3 AB 584 and 586.

¹⁰⁹ 3 AB 585 and 589.

¹¹⁰ 4 AB 479; NE, 20 July 2022, at 19:1–9.

¹¹¹ NE, 20 July 2022, at 19:9–20:9.

100 As for Sandy’s claim that she discovered the diversion of the eighth cheque at the same time that she discovered the diversion of the first seven cheques, I have rejected that claim (see [80] above).

101 It is clear from the above that although the two cheques in question (SCB 002668 and SCB 002669) were issued pursuant to the declaration of dividends at the EGM on 7 March 2018, they were never intended to be paid to Sandy and Sam as dividends. Instead, they were intended to be and were paid to Sam as his M&E Fees. Sandy knew and agreed to this arrangement. Accordingly, I find that Sam did not divert the proceeds of the eighth cheque to himself.

Whether Sam forged Sandy’s signature on 49 cheques

102 Sandy claims that in 2018, she discovered that Sam had forged her signature on at least 49 cheques issued by Yangbum against Yangbum’s OCBC account between 2012 and 2013 (the “49 Cheques”).¹¹² During this period, cheques issued against Yangbum’s OCBC account for amounts of S\$20,000 or more required Sam’s and Sandy’s signatures. The cheques were issued to various business counterparties of Yangbum; Sandy accepts that the payments were made in the ordinary course of business.¹¹³

103 Sam admitted that there were a few instances when he signed cheques (issued by Yangbum) on behalf of Sandy; however, he was unable to recollect those instances specifically and thus did not admit that all of the 49 Cheques were signed by him on Sandy’s behalf.¹¹⁴

¹¹² S 275 SOC, at paras 23–24; 3 AB 514–562.

¹¹³ NE, 28 June 2022, at 17:21–18:12.

¹¹⁴ Defence of 1st Defendant (Amendment No 1) in Suit 275 (“S 275 Defence”), at paras 22(e)–(f); Sam’s AEIC, at para 96(c).

104 Sandy did not adduce any expert evidence to prove that her signatures on the 49 Cheques were forged. Nevertheless, given Sam's admission, I proceed on the basis that Sandy's signatures on some of the 49 Cheques (without any indication as to how many) were signed by Sam.

105 Sam's case is that during the period from 2009 to 2013, when Sandy was living in China with the children, there was an understanding that he would sign cheques on behalf of Sandy if it was inconvenient for Sandy to do so. Sandy denies any such understanding.

106 I find that there was an understanding between Sam and Sandy that he could sign cheques on behalf of Sandy if it was inconvenient for her to do so. This understanding is consistent with the following facts:

(a) Sam held Sandy's bank token for Yangbum's OCBC account (against which the 49 Cheques were issued) so that he could approve payments that required the use of both tokens.¹¹⁵ In other words, he approved transactions through internet banking on Sandy's behalf, using her bank token. Sam's evidence to this effect was not challenged. Xiaoman confirmed that Sandy had passed her bank token to Sam and Sam could approve transactions through internet banking on behalf of Sandy and himself.¹¹⁶ Her evidence was not challenged either.

(b) Sandy signed cheques without question. Xiaoman testified that Sandy would usually sign cheques upon seeing that Sam had signed them, and she never rejected signing any cheque or asked to see any

¹¹⁵ Sam's AEIC, at para 48 (s/n a).

¹¹⁶ Xiaoman's AEIC, at para 23; NE, 21 July 2022, at 10:7–23.

supporting documents.¹¹⁷ Xiaoman's evidence was not challenged. Shuling testified that Sandy did not ask any questions about the cheques that she was asked to sign; she would simply sign after seeing that Sam had signed the cheque.¹¹⁸ Shuling's evidence was also not challenged.

Whether Sam caused Yangbum to attempt to issue disproportionate dividends to himself and to apply improper set-offs

107 As stated in [36] above, on 24 February 2020, Sandy withdrew S\$188,000 from the OCBC Joint Account, leaving a balance of just a little over S\$550. Sam claims that this withdrawal was wrongful because he had made full payment of S\$9.3m to Sandy as required under the IJ and Sandy was to relinquish her interests in all joint bank accounts held with him.¹¹⁹

108 The next day, 25 February 2020, Sam decided that Yangbum should issue the following dividends:

- (a) S\$2,000,000 to be paid to Sam and Sandy equally; however, Sandy's share of S\$1m would be set-off against the Yangbum Loan (S\$800,000) and the Ken Precision Loan (S\$200,000) (see [26] above);
- (b) S\$376,000 to be paid to Sam and Sandy equally; however, Sandy's share of S\$188,000 would be set-off against the S\$188,000 Withdrawal;
- (c) S\$100,000 to be paid to Sam as partial payment of his expenses; and

¹¹⁷ Xiaoman's AEIC, at para 25.

¹¹⁸ Shuling's AEIC, at para 20.

¹¹⁹ Sam's AEIC, at para 217; 5 AB 104–105, at para 3(d).

- (d) S\$500,000 to be paid to Sam as his management fee for 2018.

The set-offs in (a) and (b) above meant that Sandy would not receive any part of her share of dividends amounting to S\$1,188,000.

109 On Sam’s instructions, Yangbum’s accounts executive, Ms Long Soo Hsien (“Soo Hsien”), prepared the following cheques and payment vouchers:

- (a) UOB 136068 for S\$1m payable to Sam; the corresponding payment voucher described this as dividends payable to Sam;¹²⁰
- (b) UOB 136069 for S\$500,000 payable to Sam; the corresponding payment voucher described this as dividends payable to Sam;¹²¹
- (c) UOB 136071 for S\$476,000 payable to Sam; the corresponding payment voucher described this as dividends payable to Sam;¹²² and
- (d) a payment voucher which stated that dividends of S\$1m and S\$188,000 were payable to Sandy but were to be set-off against the Yangbum Loan, the Ken Precision Loan and the S\$188,000 Withdrawal.¹²³

110 The payment of S\$476,000 comprised the amounts of S\$376,000 and S\$100,000 referred to in [108(b)] and [108(c)] above. The amount of S\$376,000 included \$188,000 payable to Sandy as dividends but which Sam wanted to set off against the S\$188,000 Withdrawal. As that withdrawal was from the OCBC

¹²⁰ 3 AB 604.

¹²¹ 3 AB 606.

¹²² 3 AB 608.

¹²³ 3 AB 639.

Joint Account, it was owed to Sam. In effect, Sam was trying to set off dividends payable by Yangbum to Sandy against a debt that he claimed Sandy owed to him.

111 Sam signed the payment vouchers and the cheques. On 26 February 2020, Soo Hsien asked Sandy to go to Yangbum’s office to sign the cheques and payment vouchers. On Sandy’s request, Soo Hsien sent copies of the cheques and payment vouchers to Sandy. Sandy refused to sign the cheques or to acknowledge the proposed set-offs on the grounds that the dividends were disproportionate and Yangbum was not entitled to apply the set-offs.¹²⁴

112 Sandy’s case is that Sam abused his position as sole director of Yangbum by causing Yangbum to *attempt* to issue more dividends to himself and to apply improper set-offs against Sandy’s declared dividends.

Whether Sam abused his position as sole director

113 The proposed dividends were not paid and the proposed set-offs were not effected since Sandy refused to sign the three cheques. Sam submits that he did not abuse his position as sole director because the proposed dividends and set-offs were subject to Sandy’s agreement. I agree. In substance, Sam’s actions amounted to nothing more than a request for Sandy’s agreement to the proposal. It was entirely up to Sandy whether to agree or disagree. There is no suggestion that Sam misrepresented any fact to Sandy.

114 I also agree with Sam that in any event, the proposed dividends and set-offs have no continuing oppressive effect that merits any relief under s 216 CA. I agree with the following view expressed by the learned author in Margaret

¹²⁴ Sandy’s AEIC, at para 117.

Chew, *Minority Shareholders' Rights and Remedies* (LexisNexis, 3rd Ed, 2017) at 4.231:

... there is soundness in the proposition that section 216 does not cover allegedly oppressive acts that have ceased or been remedied, for instance, where breaches of the constitution or breaches of directors' duties have been addressed or rectified. In so far as such past acts do not have continuing and oppressive effects at the time an action is commenced, it is suggested that recourse to section 216 remedies may not be available.

115 For completeness, I proceed to deal with whether the proposed dividends were disproportionate and whether the proposed set-offs were improper.

Alleged disproportionate dividends

116 Sandy alleges that the proposed payments of dividends were disproportionate because Sam was to be paid a total amount of S\$1,976,000 whereas Sandy was to be paid a total of S\$1,188,000.¹²⁵ In my view, Sandy's allegation is erroneous, and the proposed dividends were not disproportionate.

117 As stated in [108] above, of the total amount of dividends to be issued,

(a) Sam and Sandy were to receive only S\$1,188,000 each as dividends but an amount of S\$188,000 from Sandy's dividends was to be paid to Sam to set off against the S\$188,000 Withdrawal; and

(b) the additional amounts of S\$100,000 and S\$500,000 were to be paid to Sam towards his M&E Fees.

Clearly, the proposed payment of dividends of S\$1,188,000 each was not disproportionate since Sam and Sandy would have received equal amounts.

¹²⁵ S 275 SOC, at paras 26–27; Sandy's Closing Submissions, at para 40.

118 The additional amounts (a total of S\$600,000) were not intended to be paid to Sam as dividends but as payment towards his M&E Fees. I have found that Sandy had agreed to the arrangement of using dividends to pay Sam’s M&E Fees (see [99] above). Sandy is therefore wrong to claim an entitlement to be paid a similar amount of S\$600,000 as dividends. Indeed, payment of this amount to Sandy as dividends would have resulted in a disproportionate payment of dividends in favour of Sandy.

Alleged improper set-offs

119 Sandy claims that the proposed set-offs (see [108] above) were improper for the following reasons:¹²⁶

- (a) Yangbum had not demanded repayment of the Yangbum Loan;
- (b) the Ken Precision Loan was not a debt owing to Yangbum; and
- (c) Sandy was entitled to make the S\$188,000 Withdrawal.

Set-off against the Yangbum Loan

120 Sandy’s pleaded case is that Yangbum was not entitled to set-off her dividends against the Yangbum Loan because (a) Yangbum had not demanded repayment of the loan, and (b) in mid-April 2018, Sam agreed to Sandy repaying the Yangbum Loan by applying a portion of her share of future shareholder dividends disbursed to her, until the loan was fully repaid (the “Repayment Agreement”).¹²⁷

¹²⁶ Sandy’s AEIC, at paras 112–114 and 116; Sandy’s Closing Submissions, at paras 44–50.

¹²⁷ S 275 SOC, at paras 29 and 34A (read with para 20D).

121 In my view, the fact that Yangbum had not demanded repayment of the Yangbum Loan is neither here nor there. If the Repayment Agreement exists, whether Yangbum had demanded repayment would be irrelevant. If the Repayment Agreement does not exist, Yangbum would have been entitled to set-off Sandy's dividends against the Yangbum Loan even if Yangbum had not demanded repayment.

122 As for the alleged Repayment Agreement, I note that Sandy's closing submissions do not refer to this. Nevertheless, in my view, the Repayment Agreement is yet another fabrication by Sandy.

123 First, Sandy's position as to the terms of the Repayment Agreement has not been consistent.

(a) In her Statement of Claim in S 275 and her affidavit filed in opposition to Yangbum's application for summary judgment in S 567, Sandy asserted that the agreement was that she would repay the Yangbum Loan by applying "a portion" of her share of future shareholder dividends.¹²⁸ This is different from her response on 29 June 2020 (through her lawyers) to the demands made by Yangbum and Ken Precision for repayment of the Yangbum Loan and Ken Precision Loan respectively. In that response, Sandy alleged that there was an agreement that the Yangbum Loan would be "fully repaid from or set-off against [Sandy's] share of the future dividends issued by Yangbum".¹²⁹ There was no mention of Sandy using "a portion" of her future dividends to repay the Yangbum Loan.

¹²⁸ S 275 SOC, at para 20D; 3 BCP 67 (Sandy's opposing affidavit in the O 14 proceedings in S 567).

¹²⁹ 4 AB 424–425.

(b) In her oral testimony, Sandy said that it was for Sam, not her, to decide how much of any future dividends would be used to pay off the Yangbum Loan.¹³⁰ This was different from her case in S 275 and S 567, which was that she would repay the Yangbum Loan by applying a portion of her future dividends. When Sam's counsel pointed out to her that her case in S 567 was that she had the right to decide how much of her future dividends would be used to repay the Yangbum Loan, Sandy immediately abandoned what she said in her oral testimony.¹³¹ No attempt was made to explain her position in her oral testimony.

124 Second, Sandy's case is that the Repayment Agreement applied only to the Yangbum Loan.¹³² Sandy had requested a S\$1m loan from Yangbum on 14 April 2018. Subsequently, Sam arranged for the loan to be given by way of the Yangbum Loan and the Ken Precision Loan. It is illogical that the Repayment Agreement (which was allegedly made in mid-April 2018) would have applied only to the Yangbum Loan. It seems to me that Sandy very likely did not include the Ken Precision Loan in the alleged Repayment Agreement because she did not need to. She was able to argue that the proposed set-off against the Ken Precision Loan was improper because that loan was not owed to Yangbum. However, Sandy needed a reason to challenge the proposed set-off against the Yangbum Loan and she came up with the Repayment Agreement for that purpose.

125 Third, the Repayment Agreement is a bare assertion by Sandy. There is no other evidence supporting the alleged agreement. In fact, Sandy's request for

¹³⁰ NE, 29 June 2022, at 61:11–21.

¹³¹ NE, 29 June 2022, at 61:22–62:1.

¹³² S 275 SOC, at paras 20B and 20D.

the S\$1m loan was made by way of a text message, to which Sam simply replied “Ok”.¹³³ There is no evidence that supports Sandy’s bare allegation that she had a meeting with Sam in mid-April 2018, during which they entered into the Repayment Agreement. In dismissing the appeal against the summary judgment entered against Sandy in S 567, the learned High Court Judge had expressed the view that the Repayment Agreement was uncertain and that there was “no evidence reasonably capable of belief that the loan would *only* be repayable from dividends” (emphasis in original).¹³⁴ I fully agree.

126 In my view, the proposed set-off against the Yangbum Loan was not improper.

Set-off against the Ken Precision Loan

127 Ordinarily, Yangbum would not have been entitled to set-off Sandy’s dividends against the Ken Precision Loan since the Ken Precision Loan was not a debt owing to Yangbum. However, as discussed earlier, all that Sam had done was to propose the set-off for Sandy’s agreement.

Set-off against the S\$188,000 Withdrawal

128 As will be seen later in this judgment, I find that Sandy was entitled to make the S\$188,000 Withdrawal. However, as discussed earlier, the proposed set-off against the S\$188,000 Withdrawal was just a proposal that Sandy could agree or disagree with.

¹³³ 1 AB 294.

¹³⁴ 3 BCP 179.

Yangbum's claim against Sandy in HC/S 567/2020

129 Sandy's pleaded case includes an allegation that Sam's action in causing Yangbum to commence S 567 despite the Repayment Agreement was oppressive.¹³⁵ Sandy has not pursued this in her closing submissions. In any event, I have found that the Repayment Agreement is a fabrication. Yangbum was fully entitled to commence S 567 against Sandy. I note as well that S 567 was commenced only after Sandy failed to respond to Yangbum's demand for payment made on 2 June 2020.

Whether the removal of Sandy as a joint signatory breached her legitimate expectations

130 Between 27 February and 8 March 2020, Sam (acting as the sole director of Yangbum) removed Sandy as a joint signatory of Yangbum's bank accounts. Sandy's case is as follows:

- (a) Yangbum is a quasi-partnership between Sam and her.¹³⁶
- (b) Even though she resigned as a director of Yangbum on 15 September 2005, it was the intention, understanding and/or agreement that she had with Sam that:¹³⁷
 - (i) both of them would continue to have joint authority and oversight of the use of Yangbum's funds, and
 - (ii) withdrawal of substantial funds from Yangbum would require the consent of both of them,

¹³⁵ S 275 SOC, at paras 34A and 35.

¹³⁶ S 275 SOC, at para 14; Sandy's Closing Submissions, at para 70.

¹³⁷ S 275 SOC, at para 18.

(the “Understanding”).

(c) Her removal as a joint signatory was in breach of the Understanding.¹³⁸

131 A quasi-partnership may be defined as an association formed or continued on the basis of a personal relationship, involving mutual confidence. While legal rights and expectations are usually enshrined in the company’s constitution in the majority of cases, a special class of quasi-partnership companies form an exception to this rule. The finding of a quasi-partnership allows the court to take into account informal understandings and assumptions in determining whether the minority shareholders have been unfairly treated. See, *Ting Shwu Ping v Scanone Pte Ltd and another appeal* [2017] 1 SLR 95 at [85].

132 In the present case, proving that Yangbum is a quasi-partnership would allow this Court to take into account the Understanding in determining whether Sandy has been unfairly treated. However, Sandy must still prove the Understanding.

Whether Yangbum is a quasi-partnership

133 Sandy makes the following allegations in support of her claim that Yangbum is a quasi-partnership:¹³⁹

(a) In 1994, Sandy and Sam set up YE (the sole proprietorship in Sam’s name). Sam was primarily in charge of sales and marketing whilst

¹³⁸ S 275 SOC, at para 36.

¹³⁹ S 275 SOC, at paras 8–16.

she was primarily in charge of production and book-keeping.¹⁴⁰ Sandy's contributions to YE since 1994 formed the foundations which led to the incorporation of Yangbum.¹⁴¹

(b) As YE's business became successful and required further financing to grow, Sandy and Sam decided to incorporate Yangbum to limit their personal liability; Sandy and Sam were appointed as directors to manage Yangbum.¹⁴² Yangbum was incorporated with the parties' shared efforts; Sandy and her family provided labour and financing.¹⁴³

(c) Yangbum was a closely held family-owned company formed and managed on the basis of mutual trust and confidence; Yangbum's affairs were conducted on an informal basis.¹⁴⁴

(d) The understanding and/or agreement was that Sandy and Sam would be jointly involved in the key decision-making in YE and Yangbum.¹⁴⁵

(e) Sam continued to be in charge of sales and marketing while Sandy continued to be in charge of production and book-keeping in Yangbum, and they jointly made decisions in relation to the financing and manpower needs of Yangbum.¹⁴⁶

¹⁴⁰ S 275 SOC, at paras 8 and 11.

¹⁴¹ Sandy's Closing Submissions, at para 74.

¹⁴² S 275 SOC, at paras 12–13.

¹⁴³ Sandy's Closing Submissions, at para 75.

¹⁴⁴ S 275 SOC, at paras 14 and 17.

¹⁴⁵ S 275 SOC, at para 15.

¹⁴⁶ S 275 SOC, at para 16.

134 I am not persuaded that Yangbum is a quasi-partnership.

Sandy had no material involvement in YE

135 I find that Sandy did not have any substantial or material involvement in the setting up of YE or in YE's business.

136 First, I reject Sandy's claim that she set up YE (the sole proprietorship in Sam's name) together with Sam.

(a) Sam formed a partnership (YIS) in July 1992 before he even met Sandy. Sam managed YIS; the other partner was a sleeping partner. In May 1994, Sam dissolved the partnership and registered YE on 21 June 1994, using moneys he received from the dissolution of YIS to start YE.¹⁴⁷ YE operated out of the premises of a subcontractor who was Sam's contact.¹⁴⁸

(b) Sandy came to Singapore as a student in 1992.¹⁴⁹ Sam started dating Sandy only in 1993. Sandy returned to China in September/October 1993 and came back to Singapore in June 1994, which was around the same time that YE was set up. Sandy had no experience or knowledge of the business that YE was in. Sandy became a permanent resident of Singapore about three months after she married Sam. After that, she worked in a child-care centre but resigned in less than a month. YE was registered as a sole proprietorship in Sam's name instead of as a partnership in both Sam's and Sandy's names.

¹⁴⁷ Sam's AEIC, at para 17.

¹⁴⁸ Sam's AEIC, at para 18.

¹⁴⁹ NE, 30 June 2022, at 58:13–14.

(c) Based on the above facts, I find it unbelievable that Sandy would have been involved in any meaningful way in the setting up of YE. The fact that Sam married Sandy in July 1994 does not mean that Sandy was therefore involved as a business partner in the formation of YE.

137 Second, I reject Sandy’s claim that she was primarily in charge of production and book-keeping in YE. Sandy’s claim that she was in charge of production is a blatant exaggeration. Under cross-examination, Sandy admitted that in fact YE had no production work; Sam outsourced the production work and what Sandy did was to smooth the edges of the products and check the dimensions, and to type the delivery orders and invoices.¹⁵⁰ It is not surprising that as Sam’s partner in marriage, she would have helped him with such tasks. As for her claim that she was in charge of book-keeping, Sam’s evidence that he (not Sandy) managed YE’s book-keeping was not challenged.¹⁵¹ In short, the evidence does not show that Sandy played any substantial role in YE.

Sandy had no material involvement in Yangbum

138 I find that Sandy did not have a substantial or material involvement in the decision to incorporate Yangbum or in Yangbum’s business.

139 First, Sandy claims that she and Sam decided to incorporate Yangbum to limit their liability. I agree with Sam that this makes no sense. Sam was the sole proprietor of YE. Sandy had no personal liability for YE’s debts. When asked to explain, Sandy first said that she was a partner of YE but she subsequently conceded that she was not registered as a partner and therefore had

¹⁵⁰ NE, 30 June 2022, at 36:22–37:22.

¹⁵¹ Sam’s AEIC, at para 28.

no personal liability.¹⁵² She then changed her evidence and said that Yangbum had to take loans to buy machinery and start the factory and as a private limited company, liability would be limited.¹⁵³ However, that still does not explain what liability she had that would be limited by incorporating Yangbum. Incorporating Yangbum to carry on YE's business had no impact on Sandy's liability since she was not liable for YE's debts in any event. In my view, Sandy was making up her evidence.

140 I accept Sam's evidence that he incorporated Yangbum because YE's business had expanded and he wanted to carry out production on his own.¹⁵⁴ It is more cogent and, in any event, was not challenged.

141 Second, Sam obtained banking facilities of approximately S\$624,000 from Focal Finance Ltd and OCBC for Yangbum to purchase machines for production.¹⁵⁵ Sam was the sole guarantor for the loans. Further, Sandy was not involved in obtaining these loans.¹⁵⁶ In her AEIC and during cross-examination, Sandy said she was not aware Sam had secured financing for Yangbum in 1997.¹⁵⁷ Subsequently, during re-examination, Sandy changed her evidence and said that she knew Sam had obtained bank loans to purchase machinery.¹⁵⁸ I do not place much weight on Sandy's evidence during re-examination. When asked to explain her earlier evidence that she did not know about the loans, her

¹⁵² NE, 30 June 2022, at 63:15–23.

¹⁵³ NE, 30 June 2022, at 63:24–64:6.

¹⁵⁴ Sam's AEIC, at paras 31–32.

¹⁵⁵ Sam's AEIC, at para 32(a).

¹⁵⁶ NE, 30 June 2022, at 64:23–25.

¹⁵⁷ Sandy's AEIC, at para 38(c); NE, 30 June 2022, at 104:1–10.

¹⁵⁸ NE, 7 July 2022, at 5:13–6:10.

answers were not responsive.¹⁵⁹ In any event, Sandy also admitted that she did not know how much the loans were.¹⁶⁰ Sandy’s lack of involvement in and knowledge about the loans show that she was not as involved in the setting up of Yangbum as she claims.

142 Third, Shuling testified that she referred to Sandy as “lady boss” as a term of respect; it did not mean that Sandy was one of the bosses at Yangbum.¹⁶¹ Shuling also confirmed that she reported to Sam directly, Sandy did not “guide her” when she joined Yangbum, the finance team did not report to Sandy, Sandy rarely went to the office and was not involved in Yangbum’s business and operations, she (Shuling) consulted Sam on financial decisions for Yangbum, and she had not seen Sam discussing finance issues with Sandy.¹⁶² I accept Shuling’s evidence; she was an objective witness and her evidence was unshaken during cross-examination.

143 Fourth, Sandy submits that she and her family provided labour and financing to Yangbum at a time when both Sam and Sandy were financially impoverished. In my view, whatever help that Sandy or her mother may have provided is consistent with her relationship to Sam and is insufficient to prove that Yangbum is a quasi-partnership.

144 Fifth, regarding the loan of RMB200,000, it is not disputed that such a loan was made to Yangbum. Sandy claims that her family (including her mother) and family friends made the loan to Yangbum as working capital during

¹⁵⁹ NE, 7 July 2022, at 6:11–7:10.

¹⁶⁰ NE, 7 July 2022, at 6:5–8, 24–25.

¹⁶¹ NE, 19 July 2022, at 48:5–15.

¹⁶² NE, 19 July 2022, at 50:22–25, 51:14–16, 53:4–14.

its incorporation and that it was interest-free.¹⁶³ Sam, however, says that the loan was made in mid-1999 and that it was Sandy who had insisted on Yangbum taking the loan so that she “could show off and do her relatives a favour by offering them a high [interest] rate” of 15%.¹⁶⁴

145 I reject Sandy’s claim that the RMB200,000 loan was made to Yangbum as working capital during its incorporation.

(a) Sandy’s evidence about the loan is inconsistent in material respects.

(i) In her reply in S 275, Sandy pleaded that her mother contributed “almost her entire life savings of [RMB]200,000 as working capital for [Yangbum] during its incorporation”.¹⁶⁵ However, in her third affidavit filed in these proceedings (dated 9 June 2020), she said that her mother contributed the RMB200,000 *after* the incorporation of Yangbum.¹⁶⁶ When questioned, Sandy could not give any credible explanation and merely kept repeating that the loan was given in 1997.¹⁶⁷

(ii) As stated above, in her reply in S 275 and in her affidavit dated 9 June 2020, Sandy said that her mother contributed the RMB200,000. In her reply, she even described the amount as “almost [her mother’s] entire life savings”. In her AEIC, Sandy changed her evidence and said the RMB200,000 came from her

¹⁶³ Sandy’s AEIC, at para 38(c).

¹⁶⁴ Sam’s AEIC, at para 34(c).

¹⁶⁵ S 275 Reply, at para 9(b).

¹⁶⁶ 1 BCP 741, at para 33.

¹⁶⁷ NE, 30 June 2022, at 82:15–83:4.

family (including her mother) and family friends.¹⁶⁸ Sandy was not responsive when asked to explain the different versions of her evidence and simply repeated that her mother “approached relatives and friends to get the loan”.¹⁶⁹

(b) Sandy’s claim that the loan was interest-free is unbelievable. RMB200,000 was a substantial amount in China in 1997. The lenders included not just Sandy’s mother but also her family and even family friends. There was no reason why they would give Yangbum an interest-free loan of RMB200,000. When questioned about this, Sandy explained that in 1997, people in China were very helpful and were willing to give out loans to help others prosper.¹⁷⁰ I find Sandy’s explanation unbelievable.

(c) Yangbum did not need the loan as YE’s assets were transferred to Yangbum¹⁷¹ and Sam had also obtained financing from the banks. It is also not disputed that Sam did not ask for the loan.¹⁷²

(d) There is no evidence as to when the loan was made to Yangbum. Sandy relied on a copy of handwritten notes that she claimed were her records of the amounts borrowed for the loan.¹⁷³ I find that these notes are not helpful in determining when the loan of RMB200,000 was made.

(i) Only a copy was produced in evidence.

¹⁶⁸ Sandy’s AEIC, at para 38(c).

¹⁶⁹ NE, 30 June 2022, at 84:4–18.

¹⁷⁰ NE, 30 June 2022, at 94:8–20.

¹⁷¹ NE, 12 July 2022, at 28:10–15.

¹⁷² NE, 30 June 2022, at 95:2–6.

¹⁷³ Sandy’s AEIC, at para 38(c) and pp 182–185.

(ii) It is also not clear that the entries were in respect of the loan of RMB200,000. The figures in the notes do not tally with the loan amount of RMB200,000. Sandy's explanation that "we just call it 200,000"¹⁷⁴ is not believable. Sandy's explanation as to how all the figures show the loan of RMB200,000 is muddled and illogical.¹⁷⁵

(iii) The dates shown in these notes do not indicate the year and the dates ranged from 16 March to 11 June. Yangbum was incorporated only on 19 June 1997. Sandy at first claimed that the dates referred to 1997. However, when asked if she was saying that she was borrowing moneys from her mother and family from March 1997, she changed her evidence and said that the 16 March date referred to 1998.¹⁷⁶

(e) During her oral testimony, Sandy said that she started borrowing moneys before Yangbum was incorporated because "[w]e wanted to buy a car ... and ... an HDB flat" and that the moneys were to be used wherever needed.¹⁷⁷ Sandy's testimony contradicted her own case that the loan of RMB200,000 was made to Yangbum as working capital during its incorporation.

146 I find that it was more probable than not that (a) it was Sandy who insisted on Yangbum taking the loan and (b) the loan was made in 1999.

¹⁷⁴ NE, 30 June 2022, at 87:14–16.

¹⁷⁵ NE, 30 June 2022, at 87:8–88:23.

¹⁷⁶ NE, 30 June 2022, at 86:10–87:7.

¹⁷⁷ NE, 30 June 2022, at 89:9–21.

147 Sixth, Sandy’s resignation as a director of Yangbum on 15 September 2005, of her own free will, shows that she had no material involvement in the management of Yangbum. Sandy claims that she resigned as director due to differences with Sam regarding the management of Yangbum, including Yangbum’s alleged use of “phantom workers” to enable Yangbum to employ more foreign workers and the employment of foreigners without work permits.¹⁷⁸

148 I reject the reasons given by Sandy for her resignation as director. In 2008, Sandy became the sole shareholder of Ace Class and Apex Precision, and a director of QL Precision. In 2009, she became the sole shareholder of QL Precision. In 2016, she became the sole shareholder of TL Precision and SH Precision. Sandy’s claim that she resigned in 2005 due to disagreement with Sam over the management of Yangbum (in particular, the alleged use of phantom workers) is inconsistent with the roles that she subsequently assumed in the above companies. After all, for all intents and purposes, these companies were part of the Yangbum group and remained under Sam’s management.

149 I accept Sam’s evidence that Sandy was made a director and shareholder of Yangbum at incorporation because the law then required every company to have a minimum of two shareholders and directors.¹⁷⁹ Given Sandy’s lack of experience or knowledge of Yangbum’s business, I do not believe that Sam appointed Sandy as a director in order to manage the business.

150 I also accept Sam’s evidence that Sandy resigned as a director in 2005 because there was no longer a legal requirement for at least two directors and

¹⁷⁸ Sandy’s AEIC, at paras 61 and 162.

¹⁷⁹ Sam’s AEIC, at para 35(a).

Sandy did not want the responsibilities of a director.¹⁸⁰ The CA was amended in 2004 to permit a company to have a single director who was ordinarily resident in Singapore. Sandy's resignation as director in 2005 shows that she had no material involvement in the management of Yangbum.

151 Seventh, in or about October 2019, Sandy requested to be reappointed as a director of Yangbum. Her request was rejected by Sam. Sandy simply accepted Sam's decision.¹⁸¹ Sandy's conduct is also consistent with the fact that she had no material involvement in the management of Yangbum.

No understanding that Sandy would be jointly involved in key decision-making

152 A part of Sandy's pleaded case is that when YE was set up and Yangbum was incorporated, there was an understanding that she would be jointly involved with Sam in key decision-making in YE and Yangbum.¹⁸² In her further and better particulars filed in S 275, Sandy stated that such decisions included decisions relating to financing, office needs and manpower needs. In my judgment, there was no such understanding.

(a) As discussed in [141] above, Sandy was neither aware of nor involved in Sam's efforts in obtaining bank loans to purchase machinery for Yangbum's business.

(b) Sandy's evidence relating to this alleged understanding is illogical. In her AEIC, Sandy says that *when Yangbum was incorporated*, there was an understanding and/or agreement between her

¹⁸⁰ Sam's AEIC, at para 69.

¹⁸¹ Sandy's AEIC, at para 174(b); NE, 30 June 2022, at 10:3–14.

¹⁸² S 275 SOC, at para 15.

and Sam that they would be jointly involved in key decision-making in *YE and Yangbum*.¹⁸³ I agree with Sam that it is illogical that an agreement would have been reached in 1997 (when Yangbum was incorporated) for her to be involved in key decision-making in the past in YE. Sandy was unable to offer an explanation and merely claimed not to understand the illogicality of her allegation.¹⁸⁴ The illogicality shows that Sandy's allegation is a fabrication.

(c) In her AEIC, Sandy also says that both she and Sam were personally involved in *every aspect* of YE's business.¹⁸⁵ This is different from just being involved in key decision-making.

(d) Sandy has no training or experience in Yangbum's business. It is unrealistic that she would have the capability to be jointly involved in key decision-making relating to Yangbum's financing needs for its business, or what Yangbum needs for its production, or the type of machinery that it needs, or the type of labour skills that it needs.

153 In any event, during oral closing submissions, Sandy did not pursue her claim that she would be jointly involved in key decision-making. Instead, she confined her case to oversight over the financials and a veto right over the issuance of cheques, which would appear to approximate to the scope of the Understanding.¹⁸⁶ As dealt with below, I find that the alleged Understanding is also a fabrication by Sandy.

¹⁸³ Sandy's AEIC, at para 43 read with para 20.

¹⁸⁴ NE, 30 June 2022, at 101:6–103:1.

¹⁸⁵ S 275 SOC, at para 15; Sandy's AEIC, at para 27.

¹⁸⁶ NE, 14 September 2022, at 19:6–20:2.

Whether the alleged Understanding exists

154 The alleged Understanding is that even though she resigned as a director, Sandy would continue to have joint authority and oversight of the use of Yangbum’s funds, and the withdrawal of substantial funds would require her consent (see [130(b)] above).

155 In my judgment, the alleged Understanding is another fabrication by Sandy. First, the scope of the alleged Understanding is vague. Sandy’s pleaded case does not state how her alleged joint authority and oversight was to be exercised, or what “substantial funds” meant. In her oral submissions, Sandy referred to a veto right over the issuance of cheques, without any requirement that the cheques involve substantial funds. The lack of clarity as to the scope of the alleged Understanding and the fluidity of Sandy’s case regarding the same are strong indications that the Understanding is just a fabrication.

156 Second, it is unrealistic that Sam would have agreed that the use of Yangbum’s funds for its business would be subject to Sandy’s consent. Sandy had not experience or knowledge of Yangbum’s business.

157 Third, Sandy’s claim that she was to have oversight of cheques issued by Yangbum is contradicted by the evidence.

(a) From 21 July 1997 to October 2016, both Sam and Sandy were authorised signatories for Yangbum’s OCBC account. However, either one could sign cheques for amounts up to \$20,000; Sandy’s joint signature was required only for amounts exceeding that. Transactions via internet banking (with a limit of \$200,000 per transaction) required authorisation by both Sam and Sandy, but Sam held both his and Sandy’s tokens.

(b) From 17 October 2016 to 12 October 2019, both Sam and Sandy were authorised signatories for Yangbum's UOB account (which in effect replaced the OCBC account). However, either one could sign cheques for amounts up to \$20,000; Sandy's joint signature was required only for amounts exceeding that. In addition, Sam was the sole authorised user for transactions via internet banking (with a limit of \$200,000 per transaction).

(c) From 1999 to January 2018, both Sam and Sandy were authorised signatories for Yangbum's SCB account. However, either one could sign cheques for any amount. Sam was also the sole authorised user for transactions via internet banking.

(d) From 29 September 2015 to 23 October 2019, both Sam and Sandy were authorised signatories for Yangbum's CIMB account. However, either one could sign cheques for any amount. Sam was also the sole authorised user for transactions via internet banking.

158 Sandy has not alleged that she objected to the above mandates for Yangbum's accounts before October 2019, or adduced any evidence to that effect. Sandy's implicit acceptance of the above mandates for the considerable period before October 2019 contradicts her case that the Understanding exists.

159 In October 2019, Sandy requested changes to the mandates. In her AEIC, Sandy says that she asked for the mandates to be changed because of the Understanding.¹⁸⁷ However, there was no mention whatsoever of the Understanding in Sandy's request. In her request, Sandy merely referred to the fact that Sam had mentioned during a meeting that he wanted to standardise the

¹⁸⁷ Sandy's AEIC, at para 172.

mandates.¹⁸⁸ The fact that her request in October 2019 did not refer to the Understanding is strong evidence that there was never any such Understanding.

160 Sandy submits that the fact that she remained a joint signatory notwithstanding various developments over the years is evidence that the Understanding exists.¹⁸⁹ In my judgment, the fact that she was not removed earlier is not sufficient to outweigh the evidence discussed above which clearly shows that the Understanding does not exist. Sandy has not discharged her burden of proving the existence of the Understanding.

Conclusion on the removal of Sandy as joint signatory

161 In the circumstances, Sandy did not have any legitimate expectation to retain oversight of Yangbum’s funds as a joint signatory to Yangbum’s bank accounts. Sam was fully entitled to remove her as a joint signatory.

Conclusion on Sandy’s claims in S 275

162 In her closing submissions, Sandy seeks:

- (a) either a buyout order or her reinstatement as a joint signatory to Yangbum’s bank accounts;
- (b) an account of dividends declared to Sam and Sandy from incorporation until the date of judgment; and
- (c) payment of US\$922,052.47.

¹⁸⁸ 1 AB 267–290.

¹⁸⁹ Sandy’s Closing Submissions, at para 91.

163 In summary, my findings with respect to Sandy's allegations in S 275 are as follows:

(a) Sam did not divert Sandy's share of dividends in seven of the eight cheques issued between August 2014 and December 2015 (see [87] above). As for the eighth cheque, Sandy was not entitled to the proceeds of that cheque and thus, there was no diversion by Sam (see [101] above).

(b) Sam did sign cheques on behalf of Sandy for payments in Yangbum's ordinary course of business but this was done pursuant to an understanding between Sam and Sandy that he could do so if it was inconvenient for her to sign the cheques (see [106] above).

(c) Sam did not abuse his position as sole director in proposing to issue the dividends and effect the set-offs in February 2020 (see [113] above).

(d) Yangbum is not a quasi-partnership (see [134] above). The alleged Understanding is a fabrication by Sandy (see [155] above).

(e) Sam was fully entitled to remove Sandy as a joint signatory to Yangbum's bank accounts (see [161] above).

164 In the circumstances, I find that Sandy has not made out a case that entitles her to any relief under s 216 CA. Sandy is therefore not entitled to either a buyout order or reinstatement as a joint signatory.

165 As for Sandy's claim for an account of the dividends declared by Yangbum, in view of my findings above, there is nothing in Sandy's pleaded case that entitles her to such an order.

166 Sandy is also not entitled to an order for payment of US\$922,052.47 in view of my finding that Sam did not divert this amount to himself (see [163(a)] above).

167 Accordingly, I dismiss all of Sandy’s claims in S 275. I would add that it can be seen from my analysis of Sandy’s evidence that Sandy’s credibility as a witness is sorely lacking.

Whether Sandy holds the shares in the Three Companies on trust for Sam

168 Sam’s case is as follows:¹⁹⁰

(a) In early 2008, the Ministry of Manpower (“MOM”) penalised Yangbum for “administrative lapses” in Yangbum’s application for work permits for its employees. Apparently, Yangbum had hired eight workers without MOM’s approval.¹⁹¹ According to Sam, the penalty was that Yangbum and any company in which he was involved either as a director or shareholder were not allowed to hire foreign staff for two years.¹⁹² Sam saw the risk of Yangbum’s operations being affected by such administrative lapses. To spread out the operational risk, on 1 July 2008, Sam incorporated Ace Class and Apex Precision to perform work as subcontractors for Yangbum exclusively. Sam decided to register the shares in these companies in Sandy’s name to further distance them from himself as he was the sole director of Yangbum. Sandy agreed to hold the shares on trust for Sam.

¹⁹⁰ Sam’s AEIC, at paras 75–84.

¹⁹¹ NE, 14 July 2022, at 73:23–74:23.

¹⁹² NE, 14 July 2022, at 73:8–21.

(b) Subsequently, Sandy requested Sam to incorporate a new subcontractor company for her brother (Liang Jian) to facilitate his application for an employment pass. Sam agreed and on 28 July 2008, he incorporated Ken Precision with Liang Jian as the sole shareholder; Liang Jian was also appointed as a director. Sandy suggested the name “Ken” because her brother’s name “Jian” roughly translated to “Ken”. Liang Jian agreed to hold the shares in Ken Precision on trust for Sam and to act in accordance with Sam’s directions. On 31 October 2018, Liang Jian resigned as director of Ken Precision and transferred his shares in the company to Sam (see [28] above).

(c) On 8 October 2008, Sam incorporated QL Precision at Sandy’s request to help her cousin (LQL) who wanted to settle down in Singapore. LQL was the sole shareholder; she was also appointed as a director. LQL held the shares on trust for Sam and acted in accordance with his directions. On 5 October 2009, LQL resigned as director of QL Precision and transferred her shares in the company to Sandy.

169 Sandy claims that Sam suggested that she invested in business instead of real estate so that she could get higher returns and that the Three Companies and Ken Precision were set up for her to invest in.¹⁹³ Sandy further claims that, at Sam’s suggestion, she arranged for LQL and Liang Jian to hold the shares in QL Precision and Ken Precision respectively, on her behalf.¹⁹⁴ According to Sandy, Sam suggested that their names (Sam’s and Sandy’s) not be used but he did not explain why.¹⁹⁵

¹⁹³ Sandy’s AEIC, at paras 149 and 152 (both as amended).

¹⁹⁴ Sandy’s AEIC, at paras 152(a) and (b).

¹⁹⁵ Sandy’s AEIC, at para 152(c) (as amended).

170 As Liang Jian has transferred his shares in Ken Precision to Sam, Sam's claim in S 345 relates only to the shares in the Three Companies. Nevertheless, the analysis of the evidence will include Ken Precision since Sandy's case is that she had invested in all four companies.

Sandy did not hold the shares in the Three Companies on trust for Sam

171 I find that Sam has not proved that Sandy holds the shares in the Three Companies on trust for *him*.

172 First, the Deed of Settlement and the consent orders in the IJ (both made in 2014) do not mention the shares in the Three Companies (and Ken Precision) even though they specifically provide that Sam and Sandy would retain their respective shareholdings in Yangbum. I agree with Sandy that this shows that Sam does not own the beneficial interest in the shares in the Three Companies. It is true that Liang Jian did transfer his shares in Ken Precision to Sam on 31 October 2018. However, in my view, this does not mean that Liang Jian had held the shares on trust for Sam. At that time, Sandy simply wanted the shares transferred to someone else (other than her).

173 Second, there is no reason why the shares in the Three Companies and Ken Precision would be held on trust for *Sam* instead of Yangbum. Ace Class and Apex Precision were set up to act as subcontractors to Yangbum exclusively. Although the impetus for setting up Ken Precision and QL Precision was Sandy's desire to help her brother and cousin, these companies too acted as subcontractors to Yangbum. As a result, part of Yangbum's operations (and profits) were to be shifted to these companies. The issues relating to MOM also did not require the shares in Ace Class and Apex Precision to be held on trust for Sam instead of Yangbum. In so far as QL Precision is

concerned, LQL’s evidence does not support Sam’s claim that she held the shares in QL Precision on trust for him. LQL testified that she understood QL Precision to be owned by *Yangbum* and ultimately to Sam because she understood Yangbum to belong to Sam.¹⁹⁶

174 Third, I agree with Sandy that a trust cannot be created over future property: see Philip H Pettit, *Equity and the Law of Trusts* (Oxford University Press, 10th Ed, 2006) at 117. In the present case, the alleged trusts involved future property.

(a) In his AEIC, Sam claims that Sandy agreed to hold the shares in Ace Class and Apex Precision on trust for him, “in or around June 2008”.¹⁹⁷ However, these two companies were only incorporated on 1 July 2008. In his oral testimony, Sam confirmed that his discussion and agreement with Sandy took place in June 2008, before the two companies were incorporated.¹⁹⁸

(b) As for Ken Precision, Sam’s discussions with Sandy (in relation to incorporating Ken Precision and Liang Jian being willing to hold the shares in Ken Precision as nominee) took place before the company was incorporated.¹⁹⁹ Sam did not speak to Liang Jian about this before the company was incorporated.²⁰⁰

¹⁹⁶ NE, 22 July 2022, at 38:13–17, 38:23–39:20 and 41:3–7.

¹⁹⁷ Sam’s AEIC, at para 79.

¹⁹⁸ NE, 14 July 2022, at 85:11–19.

¹⁹⁹ Sam’s AEIC, at paras 81–82.

²⁰⁰ NE, 14 July 2022, at 97:11–15 and 97:20–98:16.

(c) Sam's discussion with Sandy in relation to incorporating QL Precision and LQL holding the shares in the company as his nominee also took place before the company was incorporated.²⁰¹ Sam did not speak to LQL about this before the company was incorporated.²⁰² LQL confirms that Sandy spoke to her about holding shares in QL Precision before the company was incorporated.²⁰³

175 A trust can still arise if there were declarations of trust after the shares in question came into existence. However, it is not Sam's pleaded case that Sandy, LQL or Liang Jian made any declarations of trust after the shares in the Three Companies and Ken Precision came into existence. In any event, there is no evidence of any such declarations.

176 Given my finding that Sandy does not hold the shares in the Three Companies on trust for Sam, it is unnecessary for me to deal with Sandy's submission that the trusts are unenforceable because they are illegal or tainted with illegality.

Sandy did not invest in the Three Companies and Ken Precision

177 However, the fact that the shares in the Three Companies and Ken Precision were not held on trust for Sam does not mean that Sandy's claim (that she was investing in these companies) is therefore true. I find that Sandy has not proved that her shareholdings in these companies were investments, for the following reasons.

²⁰¹ Sam's AEIC, at paras 83–84.

²⁰² NE, 14 July 2022, at 97:16–19 and 98:24–99:8.

²⁰³ LQL's AEIC, at para 9.

178 First, as the Three Companies and Ken Precision were subcontractors to Yangbum, some profits would be shifted from Yangbum to these companies. Sandy admitted that she knew that the Three Companies made a lot of money.²⁰⁴ Sam and Sandy were equal shareholders in Yangbum. It defies logic that Sam would have given away substantial amounts of profits (to which he had a 50% share) to Sandy via the Three Companies and Ken Precision. Sandy also did not invest any substantial amounts in these companies.

179 Second, LQL testified that she dealt with Sandy in relation to the incorporation of QL Precision and Sandy did not tell her that the shares in QL Precision belonged to her.²⁰⁵ It was also not put to LQL that she held her shares in QL Precision on trust for Sandy. As stated at [173] above, LQL understood QL Precision to be owned by Yangbum. I accept LQL's evidence; she had no reason to lie. Her evidence is all the more persuasive given her relationship with Sandy. LQL's evidence exposed the falsity in Sandy's claim that she arranged for LQL to hold the shares in QL Precision on Sandy's behalf.

180 Third, there is no reason why the shares in Ken Precision and QL Precision would not have been registered in Sandy's name if Sandy was investing in the companies. In her AEIC, Sandy alleged that Sam had proposed that the shares in Ken Precision and QL Precision be held in Liang Jian's and LQL's names respectively, and that both Sam's and Sandy's names should not be listed as directors.²⁰⁶ I reject Sandy's allegation.

²⁰⁴ NE, 6 July 2022, at 43:23–24.

²⁰⁵ NE, 22 July 2022, at 41:13–18.

²⁰⁶ Sandy's AEIC, at para 152(c) (as amended).

(a) In her oral testimony, Sandy confirmed that it was *her* idea for Liang Jian to hold the shares in Ken Precision. Sandy’s evidence supports Sam’s case (see [168(b)] above).

(b) The fact that Sam subsequently registered the shares in TL Precision and SH Precision in Sandy’s name shows that he had no issue with Sandy’s name appearing as the shareholder in other companies in addition to Ace Class and Apex Precision.

181 Fourth, Sandy was the sole shareholder in TL Precision and SH Precision, both of which acted as subcontractors to Yangbum. During cross-examination, Sandy conceded that these two companies were not her investments.²⁰⁷ According to Sandy, Sam wanted to incorporate these two companies because the profits of Yangbum and the Four Companies were too high, and she deferred to his business judgment.²⁰⁸ The incorporation of TL Precision and SH Precision would shift some of the profits away from the Three Companies and Ken Precision. The fact that Sandy has no beneficial interest in TL Precision and SH Precision and her ready acceptance of Sam’s reason for incorporating these two companies are inconsistent with Sandy’s claim that her shareholdings in the Three Companies and Ken Precision were investments by her. If her holdings in these companies were truly investments, she would surely have wanted a beneficial interest in at least part of her shareholdings in TL Precision and SH Precision.

182 Fifth, in October 2018, Sandy requested Sam to have the shares in the Three Companies, Ken Precision, TL Precision and SH Precision transferred to

²⁰⁷ NE, 6 July 2022, at 5:12–6:2.

²⁰⁸ Sandy’s AEIC, at para 156; NE 6 July 2022, at 4:14–18.

others; alternatively she suggested closing them down.²⁰⁹ In my view, Sandy's request shows that she did not regard herself as the beneficial owner of the shares in the Three Companies and Ken Precision.

(a) In her request, Sandy did not refer to her alleged investment in the Three Companies and Ken Precision, or require payment for the shares in these companies. In fact, she even referred to the companies as "small companies". In her oral testimony, Sandy confirmed that she did not ask for payment for the shares and that she did not know or want to know what the companies' retained earnings were.²¹⁰ Sandy subsequently sought to retract her statement that she did not ask for payment for the shares. In my view, her retraction was an afterthought; her explanation was simply incredulous.²¹¹

(b) In her request, Sandy also did not ask for the residual assets to be distributed to her if the Three Companies and Ken Precision were wound up. However, in her AEIC, she claimed that she asked "that the 6 Companies ... be shut them (*sic*) down (and for their residual assets to be distributed to [her])".²¹² In my view, Sandy's evidence in her AEIC about distribution of residual assets was an afterthought. Her request to Sam speaks for itself.²¹³ In fact, in her oral testimony, Sandy also confirmed that she did not make any demands in relation to the Three Companies.²¹⁴ Further, Sandy's claim in her AEIC referred to the

²⁰⁹ 2 AB 24.

²¹⁰ NE, 6 July 2022, at 25:16–18, 38:1–7.

²¹¹ NE, 6 July 2022, at 39:11–23.

²¹² Sandy's AEIC, at para 167.

²¹³ 2 AB 24.

²¹⁴ NE, 6 July 2022, at 40:1–10 and 48:10–23.

residual assets of the “6 Companies”, which included TL Precision and SH Precision. This is inconsistent with her own admission that she held the shares in TL Precision and SH Precision on trust for Sam.²¹⁵ On the stand, Sandy explained that the demand for distribution of residual assets was in relation to only the Three Companies and Ken Precision.²¹⁶ Nevertheless, the fact that Sandy’s evidence is filled with inconsistencies only shows a lack of credibility in her evidence.

(c) Pursuant to Sandy’s request, Liang Jian transferred his shares in Ken Precision to Sam, and Sandy transferred her shares in TL Precision and SH Precision to Sam. Sandy’s shares in the Three Companies were not transferred only because doing so would cause these companies to lose certain benefits that they had under the PIC Scheme (see [29] above).²¹⁷ Sandy admits that she was not prepared to pay S\$300,000 (which she claims Sam asked for) as compensation for the losses that would be incurred if her shares were transferred to someone else.²¹⁸ It is clear that but for the issue relating to the PIC Scheme, Sandy would have had no hesitation in transferring her shares in the Three Companies to Sam or his nominee.

(d) Sandy claims that she asked for the shares in the Three Companies, Ken Precision, TL Precision and SH Precision to be transferred because she was concerned about being implicated in the manner in which Sam had managed these companies, and because Liang

²¹⁵ NE, 6 July 2022, at 5:12–6:21.

²¹⁶ NE, 6 July 2022, at 50:10–14.

²¹⁷ Sam’s AEIC, at paras 164–166.

²¹⁸ Sandy’s AEIC, at paras 169–170.

Jian was a civil servant in China and was not allowed to hold assets overseas.²¹⁹ Even if this were true, it does not explain why she did not ask (in her request to Sam) for payment for her shares or distribution of the residual assets if the companies were wound up instead. The fact that she did not do so is evidence that she did not consider herself as the beneficial owner of the shares.

(e) In any event, in my view, Sandy's claim that she wanted to exit the companies because of her concern over Sam's management is an afterthought. Sandy chose to remain as the shareholder in the Three Companies instead of paying the compensation of S\$300,000 that she says Sam demanded. If she was truly concerned over Sam's management, the compensation amount of S\$300,000 should not have stopped her from exiting these companies. The total retained earnings in the Three Companies as at 31 December 2017 exceeded S\$5m.²²⁰ In addition, these companies had substantial receivables owing to them by Yangbum. Sandy admitted that she knew these three companies made a lot of money.²²¹ If she had truly wanted to exit these companies because of her concern about being implicated by Sam's conduct, one would have expected her to have asked to set-off the compensation against part of (or even the full amount of) the moneys in these companies that were due to her (since she claimed to be the beneficial owner). It is telling that she did not do so. Neither did she ask Sam to indemnify her against any losses that she might suffer by remaining a shareholder of these companies. Her only reason as to why she remained the shareholder was

²¹⁹ Sandy's AEIC, at para 166.

²²⁰ 3 AB 119, 256 and 373; NE, 6 July 2022, at 43:20–22 and 44:2–10.

²²¹ NE, 6 July 2022, at 43:23–24.

that she was not prepared to pay the sum of S\$300,000 as compensation for the losses that would be incurred if her shares were transferred.

(f) After she was taken through the financial positions of the companies, Sandy changed her evidence and claimed that (i) she could not bear to give up the Three Companies because Yangbum owed these companies a lot of money, and (ii) her concern was not so great since she remained the shareholder in only three companies.²²² In my judgment, Sandy's reason as to why she did not exit the companies was yet another fabrication by her. It is clear from her AEIC and her earlier evidence on the stand that the only reason why she remained the shareholder in these three companies was her unwillingness to pay the compensation that Sam asked for.

183 Sixth, the Deed of Settlement and the consent orders in the IJ (both made in 2014) do not mention the shares in the Three Companies (and Ken Precision). Just as this omission is evidence that the shares in the Three Companies were not held on trust for Sam (see [172] above), it is also evidence that Sandy did not own the beneficial interests in these shares.

184 Sandy has raised two other points in support of her case. First, she says that she issued a cheque as payment for the capital of the Three Companies and Ken Precision. However, as Sam points out, the cheque was drawn on the OCBC Joint Account;²²³ the funds in the account did not belong to Sandy alone. Second, she makes the point that whilst she received dividends from the Three Companies and Ken Precision, she did not receive any dividends from TL

²²² NE, 6 July 2022, at 45:24–46:7.

²²³ Sam's AEIC, at para 90.

Precision and SH Precision.²²⁴ However, I note that Yangbum, the Three Companies and Ken Precision also did not declare dividends for several years after they were incorporated. TL Precision and SH Precision were incorporated only in late 2016. More importantly, Sam was not cross-examined on this point. In my view, against the totality of the evidence, these two points do not prove Sandy's case.

185 In my judgment, what the evidence shows is that when the Three Companies and Ken Precision were incorporated, it was not intended that Sandy would own the beneficial interests (whether directly or through Liang Jian/LQL) in these companies. However, Sam and Sandy did not discuss who the beneficial owner of these shares was. This is also consistent with Sandy's evidence that there was no discussion about the beneficial ownership of the shares in TL Precision and SH Precision. Had they thought about the question of beneficial ownership, they may well have agreed that Yangbum should be the beneficial owner of the shares in all six subcontractor companies; it would have been the most logical choice. However, I need say no more on this since the pleaded case is that Sandy held the shares in the Three Companies on trust for Sam and for his sole benefit.²²⁵

Whether Sandy acted in breach of trust

186 Sam's case is that Sandy exercised her rights as legal shareholder of the Three Companies in breach of trust by:

- (a) appointing herself and Zhang as directors of the Three Companies on 12 March 2020 without Sam's consent;

²²⁴ Sandy's AEIC, at para 157.

²²⁵ Statement of Claim (Amendment No 1) in S 345 ("S 345 SOC"), at para 9.

- (b) calling for directors' meetings of the Three Companies via notices issued on 19 and 20 March 2020 without Sam's consent;
- (c) passing directors' resolutions at the directors' meetings of the Three Companies without Sam's consent; and
- (d) passing special resolutions at the EGMs of the Three Companies on 30 March 2020 to put them into member's voluntary liquidation without Sam's consent.

187 Sam's case rests on his assertion that Sandy holds the shares in the Three Companies on trust for him. I have found that Sam has failed to prove the alleged trust. Accordingly, Sam's claim against Sandy for breach of trust must fail.

Whether Zhang dishonestly assisted Sandy in her breaches of trust

188 The elements of a claim in dishonest assistance are: (a) the existence of a trust; (b) a breach of that trust; (c) assistance rendered by the third party towards the breach; and (d) a finding that the assistance rendered by the third party was dishonest: *George Raymond Zage III and another v Ho Chi Kwong and another* [2010] 2 SLR 589 at [20].

189 As Sam's claim against Sandy for breach of trust fails, it follows that Sam's claim against Zhang for dishonest assistance also fails.

Whether Sandy and Zhang conspired to injure Sam

190 The elements to constitute unlawful and lawful means conspiracy are as follows:

- (a) A combination of two or more persons and an agreement between and amongst them to do certain acts.
- (b) If the conspiracy involves lawful acts, then the predominant purpose of the conspirators must be to cause damage or injury to the plaintiff. However, if the conspiracy involves unlawful means, then such predominant intention is not required; an intention to cause harm to the plaintiff should suffice.
- (c) The acts must actually be performed in furtherance of the agreement.
- (d) Damage must be suffered by the plaintiff.

See, *Gimpex Ltd v Unity Holdings Business Ltd and others and another appeal* [2015] 2 SLR 686 at [150].

191 Claims for conspiracy to injure are commonly pleaded, often as secondary claims and sometimes simply as claims thrown in for good measure. Many such conspiracy claims tend to be pleaded simply by making general cross-references to facts that have been pleaded in support of the primary claims, without any attempt to state which are the facts that are relied upon to satisfy each of the elements of the tort. This is a practice that should not be followed. The court, and the defendant to the conspiracy claim, should not have to second guess the plaintiff with respect to how his conspiracy claim is framed. In addition, it is not unusual to find that the facts (pleaded in support of the primary claims) do not actually support the intended conspiracy claim. The present case is no different.

192 In my judgment, Sam’s conspiracy claims fail because he is not able to even prove an agreement between Zhang and Sandy to injure him.

193 In his closing submissions, Sam submits that Zhang agreed to participate in Sandy’s scheme (to liquidate the Three Companies) during a meeting on 10 March 2020.²²⁶ It is clear that this submission cannot succeed.

194 First, this is not Sam’s pleaded case; this alone is fatal to Sam’s case. Sam’s Statement of Claim in S 345 does not plead an agreement reached between Zhang and Sandy on 10 March 2020 to injure Sam by liquidating the Three Companies. Sam pleads his lawful and unlawful means conspiracy claims with cross-references to paras 28 and 29 of his Statement of Claim in S 345 for the facts supporting the claims.²²⁷

195 Paragraph 28 alleges that Sandy “engaged in a course of conduct calculated to injure [Sam], Yangbum, and the [Three Companies, Ken Precision, SH Precision and TL Precision]” but many of the particulars of such course of conduct refer to acts that took place *before* 10 March 2020. Paragraph 28 does not mention any agreement between Sandy and Zhang to injure Sam by liquidating the Three Companies, much less that such an agreement took place on 10 March 2020.

196 Paragraph 28(y2) of the Statement of Claim states as follows:

y2 By virtue of the matters pleaded at [3c], [7] – [9] above, and in this [28], [Sandy] and [Zhang] were aware that [Sam] beneficially owned [the Three Companies], and caused the companies to be placed in members’ voluntary liquidation with the intention to injure and/or cause loss to [Sam].

²²⁶ Sam’s Closing Submissions, at para 191.

²²⁷ S 345 SOC, at paras 32 and 33.

197 However, para 28(y2) merely pleads the acts that were performed and falls short of pleading the agreement, including when the agreement took place. Further, the resolutions to wind up the companies were passed on 12 March 2020, not 10 March 2020. The references to paras 3(c) and 7–9 of the Statement of Claim do not assist Sam either. They are referred to in support of the assertion that Sandy and Zhang were aware of Sam’s beneficial interests in the companies, and the contents of these paragraphs have nothing to do with the alleged agreement to injure Sam by liquidating the companies.

198 As for para 29, that merely sets out the duties that Sandy is said to owe to Sam as trustee of the shares in Ace Class, Apex Precision and QL Precision.

199 Second, Sam’s submission that Zhang agreed to participate in Sandy’s scheme on 10 March 2020 is not supported by any evidence. Sam relies on Sandy’s evidence in para 178 of her AEIC. However, para 178 of Sandy’s AEIC refers to a meeting on 10 March 2020 between Sandy and Mr Lau Chin Huat (“Lau”) and Mr Yeo Boon Keong (“Yeo”) of Technic Inter-Asia Pte Ltd. Lau and Yeo were eventually appointed as joint and several liquidators of the three companies. Zhang was not involved in that meeting.

200 I would add that Sam’s unlawful means conspiracy claim also fails for a separate reason. Sam’s unlawful means conspiracy claim rests on the premise that the actions to liquidate the Three Companies were unlawful because Sandy was acting in breach of trust.²²⁸ This premise has not been established since Sam has failed in his claim for breach of trust.

²²⁸ Sam’s Closing Submissions, at para 191.

201 There is no need for me to deal with the other elements of a conspiracy claim.

202 I would add that it does appear that Sandy set out on a deliberate course of conduct to try and force Sam to buy her out:

(a) During cross-examination, Sandy admitted that in November 2019, she sought advice from her tarot master on the strategy for the legal campaign that she was about to commence against Sam, and that her objective was to sell her shares in Yangbum or force Sam to buy her out at between S\$25m and S\$35m.²²⁹ She had asked a Yangbum employee to help her type out a list of points for her consultation with her tarot master.²³⁰

(b) On 24 February 2020, Sandy started her legal campaign²³¹ against Sam by filing FC/SUM 550 to vary para 3(d)(1) of the IJ (see [37] above).

(c) The next day (25 February 2020), Sandy issued a Statutory Demand against Sam for purported non-payment of S\$5.6m under the IJ plus interest (see [39] above).

(d) On 2 March 2020, Sandy filed MSS 719 for payment of alleged arrears of maintenance for the children (see [42] above), and her lawyers issued letters to Yangbum's banks alleging that Sam had forged her signatures on cheques and that Sam may have diverted dividends to

²²⁹ NE, 30 June 2022, at 15:6–10 and 16:13–18.

²³⁰ Koo Choon Liang's AEIC, at para 20; 1 AB 553.

²³¹ NE, 30 June 2022, at 17:5–10.

himself or falsified Yangbum’s records to create the impression that the dividends were paid to Sandy (see [43] above).

(e) On 9 March 2020, Sandy’s then lawyers wrote to the Three Companies requesting certain documents and gave the companies seven days to respond.²³² However, before the deadline had passed, on 12 March 2020, she appointed herself and Zhang as directors of the Three Companies without the knowledge of Sam or the other directors of the companies (see [44] above).

(f) On 18 March 2020, she turned up at Yangbum’s office to demand the financial records of the Three Companies (see [45] above).

(g) On 20 March 2020, she issued notices of directors’ meetings of the Three Companies to be held on 27 March 2020 to (among other things) convene Extraordinary General Meetings (“EGMs”) for each of the companies for the purpose of passing special resolutions to wind up the companies (see [46] above).

(h) On 25 March 2020, she commenced S 275.

(i) On 27 March 2020, the directors’ meetings of the Three Companies were held with Sandy and Zhang in attendance; the resolutions to convene EGMs to wind up the companies were passed (see [48] above).

(j) On 30 March 2020, the EGMs of the Three Companies were held (with Sandy’s consent to the holding of the EGMs without full notice)

²³² 1 AB 145–150.

and the requisite resolutions to wind up the companies were passed (see [49] above).

Nevertheless, the above does not assist Sam in his conspiracy claims.

Whether the S\$188,000 Withdrawal was wrongful

203 It is not disputed that on 24 February 2020, Sandy made the S\$188,000 Withdrawal without Sam’s knowledge or consent. Sam’s case is as follows:

- (a) Pursuant to para 3(d)(1) of the IJ, Sandy was to relinquish her interests in all bank joint accounts upon Sam paying Sandy the sum of S\$9.3m as her share of the matrimonial assets.
- (b) Sam had discharged his obligation under para 3(d)(1) of the IJ.²³³
- (c) The S\$188,000 Withdrawal was therefore in breach of Sandy’s obligation under the IJ to relinquish her interests in their joint accounts.²³⁴

204 Paragraph 3(d)(1) of the IJ states as follows:

- d. 1) The matrimonial assets are to be divided equally between [Sandy] and [Sam] on a 50%:50% basis. The parties agree that [Sam] will pay [Sandy] a sum of \$9.3million as her share of the matrimonial assets of which a sum of \$3.7million has already been paid. The balance sum of \$5.6million will be paid within the period of 2 years from 3rd April 2014. Upon payment of a sum of \$9.3million, [Sandy] will relinquish her interests in all bank joint accounts held by the parties.

²³³ S 345 SOC, at para 25.

²³⁴ S 345 SOC, at para 28(j).

205 Sandy’s submits that she was entitled to make the S\$188,000 Withdrawal because Sam had not paid her the full amount of S\$9.3m.²³⁵

206 The question therefore is whether Sam had paid Sandy the full amount of S\$9.3m pursuant to para 3(1)(d) of the IJ before Sandy made the S\$188,000 Withdrawal. It appears to be common ground that if Sam had done so, then Sandy was not entitled to make the withdrawal. In her closing submissions, Sandy does not dispute the fact that under para 3(d)(1) of the IJ, she was to relinquish her interests in all bank accounts in Sam’s and her names once Sam had paid her the full amount of S\$9.3m.

Whether Sam had paid Sandy S\$9.3m pursuant to para 3(d)(1) of the IJ

207 Sam’s case is as follows:

(a) Sandy knew that his only source of funds was Yangbum’s business (carried out through Yangbum, the Three Companies and Ken Precision).²³⁶

(b) The agreement and/or understanding between them was that the sum of S\$9.3m would be paid to her in the form of dividends from Yangbum, the Three Companies and Ken Precision (the “Payment by Dividends Agreement”).²³⁷ In short, Sandy was to receive S\$9.3m more dividends than Sam.

²³⁵ Sandy’s Closing Submissions, at para 204.

²³⁶ S 345 SOC, at para 23.

²³⁷ S 345 SOC, at para 24; Sam’s AEIC, at paras 105–106.

(c) By about June 2017, Sam had completed payment of the sum of S\$9.3m to Sandy.²³⁸

208 Sandy denies the Payment by Dividends Agreement. Further, Sandy disputes having been paid S\$9.3m more dividends than Sam.

Whether Sam has proved the Payment by Dividends Agreement

209 Sam relies on the following evidence as proof of the Payment by Dividends Agreement:

(a) Sandy received US\$1.5m (by way of a cheque dated 24 October 2013) as dividends from Yangbum; the Singapore dollar equivalent was S\$1,884,750.²³⁹ This payment is also reflected in the Dividends Journal.²⁴⁰ In the Deed of Settlement (signed on 3 April 2014), a rounded-up amount of S\$1.9m in Sandy's own bank account was treated as payment toward the S\$9.3m.²⁴¹ In an affidavit filed in D 2222, Sandy admitted that the amount of S\$1.9m referred to in the Deed of Settlement reflected the payment of US\$1.5m.²⁴²

(b) Subsequently, Sandy received US\$1.67m (by way of a cheque dated 9 April 2014) as dividends from Yangbum; the Singapore dollar

²³⁸ S 345 SOC, at para 25.

²³⁹ 3 AB 610–611.

²⁴⁰ 4 AB 471.

²⁴¹ 5 AB 101–103, at 102 (cl 10).

²⁴² 3 BCP 653 (at para 16).

equivalent was S\$2,105,035.²⁴³ This, too, was recorded in the Dividends Journal.²⁴⁴

(c) The consent order in the IJ (dated 10 July 2014) acknowledged that a sum of S\$3.7m had been paid.²⁴⁵ This amount is the aggregate of the two payments referred to above. In the same affidavit in D 2222, Sandy admitted that the amount of S\$3.7m referred to in para 3(d)(1) of the IJ reflected the two payments of US\$1.5m and US\$1.67m referred to above.²⁴⁶

210 I find that Sam has proved the Payment by Dividends Agreement. It is clear from Sandy's admissions in her affidavit in D 2222 that she had accepted the two payments of dividends as payments towards the S\$9.3m that Sam had agreed to pay her. Sandy does not dispute that she knew that the two payments were being paid as dividends. In any event, she had signed against the entry in the Dividends Journal for the payment of US\$1.67m.²⁴⁷ That entry clearly describes the payment as payment of dividends. Sandy's denial of the Payment by Dividends Agreement is squarely contradicted by her own evidence.

211 It is true that the Payment by Dividends Agreement means that the payments towards the sum of S\$9.3m would not have come from Sam's pocket alone. Nevertheless, Sandy is completely free to agree to such an arrangement. Sam explained that because Sandy wanted to receive cash in the division of matrimonial assets, the payments had to be made in instalments and in the form

²⁴³ 3 AB 612–613.

²⁴⁴ 4 AB 473.

²⁴⁵ 5 AB 104–105, at para 3(d)(1).

²⁴⁶ 3 BCP 653 (at para 17).

²⁴⁷ 4 AB 473.

of dividends, and Sandy agreed.²⁴⁸ Sam's evidence was not challenged. The evidence is clear that she did agree to such an arrangement. Further, Sandy's evidence during cross-examination was that she was disputing the payment of S\$3.7m because she "subsequently realised that [Sam] also received dividends in April".²⁴⁹ In other words, Sandy was disputing Sam's claim that she had been paid S\$9.3m more than him in dividends; it was not a dispute over the existence of the Payment by Dividends Agreement.

212 Sandy makes an alternative submission that the IJ imposes a personal obligation on Sam to pay Sandy the S\$9.3m and that the IJ supersedes the Payment by Dividends Agreement. I reject Sandy's submission. There is no reason why the Payment by Dividends Agreement cannot exist alongside the IJ.

213 Having proved the Payment by Dividends Agreement, Sam still has to prove that Sandy did receive S\$9.3m more than him in dividends.

Whether Sandy received S\$9.3m more than Sam in dividends

214 In her closing submissions, Sandy appears to take the position that the whole S\$9.3m has not been paid to her. This is contrary to her pleaded case in which she only disputes payment of the sum of S\$5.6m.²⁵⁰ Sandy must be bound by her pleadings. That said, the amount unpaid makes no difference to her defence. Under para 3(d)(1) of the IJ, so long as the sum of S\$9.3m was not paid in full (or at least S\$188,000 remained outstanding) when the S\$188,000 Withdrawal was made, Sandy would have no obligation to relinquish her interest in the OCBC Joint Account.

²⁴⁸ Sam's AEIC, at para 105.

²⁴⁹ NE, 29 June 2022, at 84:12–21.

²⁵⁰ 1st and 2nd Defendants' Defence (Amendment No 1) in S 345, at para 31.

215 Sam claims that Sandy was paid a total of S\$12,691,158 as dividends whereas Sam was paid a total of S\$2,938,936; thus, Sandy received S\$9,752,222 more dividends than Sam.²⁵¹ The Dividends Journal supports these payments.²⁵² Sandy has disputed three of the payments of S\$80,000, S\$80,000 and S\$81,200.²⁵³ Even if these three payments are excluded, according to Sam, Sandy would have received S\$9,511,022 more dividends than Sam.

216 However, the timeframes used in Sam's computations are different. Sam's computations compare the dividends received by Sandy between October 2013 and June 2017 against dividends received by Sam between July 2014 and November 2016. The November 2017 Dividends Table prepared by Shuling (see [80(b)] above) shows that:

- (a) In October 2013, Sam received a dividend payment of US\$3.2m.²⁵⁴
- (b) In 2017, Sam received another three payments totalling US\$460,343.34. All three payments were made before June 2017.

217 Sam explained that the US\$3.2m shown in the November 2017 Dividends Table as dividends paid to him in October 2013 included the US\$1.5m which was paid to Sandy.²⁵⁵ This appears to refer to the US\$1.5m that

²⁵¹ S 275 Defence, Annex A; Sam's AEIC, at para 129; Sam's Closing Submissions, Appendix 1.

²⁵² See references to entries in the Dividends Journal in Sam's Closing Submissions, Appendix 1.

²⁵³ Sam's Closing Submissions, at para 200 read with Appendix 1. The total amount of S\$158,884.33 in para 200 of Sam's Closing Submissions is wrong; items 1(b) and 1(c) in Appendix 1 total S\$160,000.

²⁵⁴ 1 AB 312.

²⁵⁵ NE, 12 July 2022, at 120:23–25; 1 AB 309.

is reflected in the Deed of Settlement (see [209(a)] above). However, even if that were so, Sam still received US\$1.7m as dividends in October 2013 and this amount was not included in his computations. Sam does not dispute that US\$1.7m was paid to him; this is also confirmed by the Dividends Journal.²⁵⁶

218 When asked why he excluded the US\$1.7m in his computations, Sam first said that the amount “went into the joint account”, then that it went “into the pool”, then again that it “went into the joint account”.²⁵⁷ Neither answer explains why the US\$1.7m should be excluded from his computations. The question is simply whether Sandy had received S\$9.3m more dividends than Sam before Sandy made the S\$188,000 Withdrawal. What Sam or Sandy chose to do with the dividends paid to each of them was irrelevant for this purpose. In my view, it is illogical to include the US\$1.5m paid to Sandy but exclude the US\$1.7m paid to Sam in Sam’s computation. Eventually, Sam admitted that he did not include the dividends paid to him in 2013 in his computations because “he did not think about it” and that he “perceived it in a different manner”.²⁵⁸

219 As for the payments to Sam in 2017 (shown in the November 2017 Dividends Table),²⁵⁹ Sam explained that a payment of US\$353,581.78 was for his M&E Fee (S\$500,000) and a payment of US\$71,174.37 was payment of his director’s fee (S\$100,000); Sam could not recall what the third payment of US\$35,587.19 (S\$50,000) was for.

²⁵⁶ 4 AB 470.

²⁵⁷ NE 12 July 2022, at 121:5–22.

²⁵⁸ NE, 12 July 2022, at 124:19–125:5.

²⁵⁹ 1 AB 312.

220 The only conclusion I can draw is that Sam had made his computations in a selective manner to achieve the result that he wanted. Including the US\$1.7m paid to Sam in October 2013 in the computations would mean that Sam has not paid Sandy the S\$9.3m in full.

221 In my judgment, Sam has failed to prove that Sandy had received S\$9.3m more than him in dividends before Sandy made the S\$188,000 Withdrawal. Accordingly, Sandy had no obligation to relinquish her interest in the OCBC Joint Account. Since Sandy had unrestricted access to the OCBC Joint Account, the S\$188,000 Withdrawal was not wrongful.

Conclusion on Sam's claims in S 345

222 In S 345, Sam seeks the following orders:

- (a) A declaration that Sandy holds the shares in the Three Companies on trust for Sam, and an order that Sandy transfers the shares to Sam.
- (b) Against Sandy and Zhang: damages / equitable compensation pursuant to Sandy's breach of trust and Zhang's dishonest assistance, and damages pursuant to the tort of conspiracy.
- (c) That Sandy pays S\$188,000.

223 In summary, my findings in respect of Sam's claims in S 345 are as follows:

- (a) Sandy does not hold the shares in the Three Companies on trust for Sam (see [171] above). Accordingly, Sam's claims against Sandy for

breach of trust and against Zhang for dishonest assistance fail (see [187] and [189] above).

(b) The S\$188,000 Withdrawal was not wrongful (see [221] above).

224 In the circumstances, I dismiss all of Sam's claims in S 345.

Conclusion

225 For the above reasons, the claims in S 275 and S 345 are dismissed. Each party is to pay its own costs, except that:

(a) Sandy is to pay Yangbum costs in respect of her claims in S 275 for an account of dividends and for reinstatement as a joint signatory to Yangbum's bank accounts, fixed at S\$20,000 inclusive of disbursements; and

(b) Sam is to pay Zhang his costs in respect of S 345, fixed at S\$30,000 inclusive of disbursements.

Chua Lee Ming
Judge of the High Court

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(TSMP Law Corporation) for the plaintiff in S 275 and the first and
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Jordan Tan and Victor Leong (Audent Chambers LLC) (instructed),
Simren Kaur Sandhu and Jonas Wong (PRP Law LLC) for the
second defendant in S 275;

Michael Palmer, Keith Lim, and Wu Siyue (Quahe Woo & Palmer
LLC) for the third to fifth defendants in S 345.
