

**EASTERN CARIBBEAN SUPREME COURT
TERRITORY OF THE VIRGIN ISLANDS**

**IN THE HIGH COURT OF JUSTICE
COMMERCIAL DIVISION**

CLAIM NO. BVIHC(COM) 2025/0202

BETWEEN:

WANG WENWEI

Applicant

and

**[1] SPQR LIMITED PARTNERSHIP
[2] NINE EAGLES LIMITED**

Respondents

IN CHAMBERS

Appearances:

Mr. Robert Weekes K.C. and Mr. Christopher Pease, instructed by Harney's for the Applicant.

Mr. Andrew Westwood K.C. and Mr. John Carrington K.C and Ms. Reisa Singh., instructed by Kendall Law for the 2nd Respondent.

First Respondent not represented.

2025: December 17
2026 : March 25

JUDGMENT

- [1] **Mangatal J (Ag):** On 17th December 2025 I heard the amended application of Mr. Wang Wenwei (“**Mr. Wang**”) filed 1st December 2025 by which he sought the appointment of joint provisional liquidators of SPQR Limited Partnership (“**SPQR**”) or, in the alternative, the appointment of joint receivers over the assets, affairs and undertaking of SPQR.
- [2] At the end of the hearing, I dismissed the application, with costs to the 2nd Respondent Nine Eagles Limited (“**Nine Eagles**”). I indicated that I was upholding the jurisdiction point advanced by Mr. Westwood KC on behalf of Nine Eagles. I also indicated that even if I was wrong on the jurisdiction point, the Application has not met the threshold required for this Court to appoint either joint provisional liquidators or receivers and that the Court’s discretion should not be exercised to make either of the appointments sought. I indicated that the bases of my rulings were essentially, the grounds advanced by Mr. Westwood KC. I also ordered that the time for seeking leave to appeal, if so advised, is suspended until delivery of a finalized judgment. I promised to provide my reasons in writing at a later date. This I now do.

Background

- [3] I have gratefully adopted some of the background and procedural history contained in the Skeleton Argument ("**SKA**") of Nine Eagles as it has set out concisely a number of matters that are not controversial.
- [4] SPQR is a limited partnership registered under the Limited Partnerships Act 2017 ("**LPA 2017**"). SPQR was registered without legal personality under sub-section 8(2)(b) of the LPA 2017 on 19th February 2020. In other words, SPQR does not have separate legal personality.
- [5] Mr. Wang is the sole limited partner in SPQR.
- [6] Nine Eagles is a BVI registered company. It is the general partner of SPQR.
- [7] In his application to appoint liquidators in respect of SPQR, Mr. Wang claims that he became a limited partner of SPQR without his knowledge or consent. He alleges that he was tricked into signing the signature page for the Subscription Agreement and that he did not know that he was subscribing to a limited partnership. Those allegations are disputed by Nine Eagles. It is Nine Eagles' case that in August 2020 Mr. Wang entered into a Subscription Agreement whereby he irrevocably applied to become (and on the general partner's acceptance of his application, became) a limited partner in SPQR on the terms of the Partnership Agreement. It is Nine Eagles' case that Mr. Wang knew exactly what he was doing and that his allegations of being tricked and his attempts to paint a picture of himself as a naïve unsophisticated person who has been taken advantage of, are entirely untrue.
- [8] The Partnership Agreement contained an arbitration clause under which the parties agreed that (among other things) any dispute, controversy, difference or claim arising out of or relating to the Partnership Agreement or any Subscription Agreement, whether or not governed by the laws of the BVI, would be referred to and finally resolved exclusively by the Hong Kong International Arbitration Centre.

Procedural History

- [9] In the first Affirmation of Chu Shan Shan Marjorie (“**Chu 1**”), Ms. Chu, who is one of the directors of Nine Eagles, points out that there have been ongoing proceedings in Hong Kong filed by Mr. Wang and another, against Nine Eagles and others, in HCA 2391 of 2024, in which the plaintiffs allege that the defendants are in breach of fiduciary duties. Nine Eagles applied to have the claims by the plaintiffs stayed in favour of arbitration.
- [10] By Originating Application dated 13th May 2025 filed in BVI, Mr. Wang applied for the appointment of liquidators in respect of SPQR. The Liquidation Application, named solely SPQR as a respondent. The application was made by Mr. Wang expressly in his capacity as a partner of SPQR, pursuant to sub-section 93(4)(a) of LPA 2017, and the ground relied upon was that it would be just and equitable that liquidators be appointed (s.93(1)(c) LPA 2017). At the same time, Mr. Wang also filed the Ordinary Application, seeking the appointment of provisional liquidators in respect of SPQR pursuant to s.94(3) LPA 2017.
- [11] On 2nd June 2025 Nine Eagles filed an Originating Summons in the High Court of the Hong Kong Special Administrative Region seeking an anti-suit injunction in respect of the BVI proceedings for the appointment of liquidators in respect of SPQR. On the same date Nine Eagles also filed a Summons seeking an interim anti-suit injunction pending the determination of the Originating Summons. The anti-suit injunction was sought on the basis that the pursuit of the BVI proceedings was in breach of the arbitration agreement contained in the Partnership Agreement.
- [12] On 6th June 2025 an Order was made by DHCJ MK Liu in Hong Kong granting an interim-interim anti-suit injunction to the effect that the BVI proceedings were held in abeyance until the determination of the Originating Summons and the Summons.

- [13] The Originating Summons and Summons were heard before the Hon Anthony Chan JA (sitting as an additional judge of the Court of First Instance) in Hong Kong on 16th and 23rd September 2025. By his judgment dated 10th October 2025 [2025] HKCFI 4796 Anthony Chan JA held that the matters relied on by Mr. Wang in support of the BVI Liquidation proceedings were caught by the arbitration agreement in the Partnership Agreement, prosecution of the Originating Application would breach Mr. Wang's negative covenant not to litigate outside the scope of the arbitration agreement (which provided that the seat of the arbitration was Hong Kong), and the breach should be restrained by an anti-suit injunction.
- [14] Chan JA's ruling applied the reasoning and principles laid down in the decision of the Judicial Committee of the Privy Council in a case emanating from the Cayman Islands, **FamilyMart China Holding Co. Ltd v Ting Chuan (Cayman Islands) Holding Corporation**.¹ The Privy Council's decision has been followed in the BVI in my decision in **Kenworth Industrial Ltd. v Xin Gang Power Investments Ltd.**²
- [15] Accordingly, Anthony Chan JA granted an anti-suit injunction against the BVI application for the appointment of liquidators pending determination of arbitration between the parties. The learned Judge declined to grant an anti-suit injunction against the application for the appointment of provisional liquidators for two main reasons: (i) there was an issue as to whether the BVI Court had power to appoint provisional liquidators over a limited partnership; and (ii) should the BVI Court have jurisdiction, the matter of whether to in fact appoint provisional liquidators and if so, what powers should be granted to them, was a matter for the BVI Court. Anthony Chan JA by his orders also required Mr. Wang to take all necessary steps to seek a stay of the Originating Application in BVI for the appointment of liquidators pending determination of the arbitration proceedings.

¹ [2023] UKPC 33, [2024] Bus LR 190

² BVIHCOM 2023/0006, delivered 1 February 2024

[16] Both sides have referred to the judgment of Anthony Chan JA. In his judgment, the Judge held that it was abusive for Mr. Wang to impeach the validity of the Subscription Agreement and that he was estopped from doing so. Anthony Chan JA held that Mr. Wang had “*unequivocally elected to affirm the Subscription Agreement*” by bringing the application for the appointment of liquidators in respect of SPQR paragraph [48]. He further held that although it is true that in the Originating Application in the BVI, Mr. Wang had also pleaded his case on lack of consent to the Arbitration Agreement and Subscription Agreement, such pleas were abusive and contradictory and Mr. Wang is estopped from so maintaining.

[17] At paragraphs [34] and [35] of his judgment, Anthony Chan JA found that:

- (1) Mr. Wang’s messages “*were not all in favour of his case*” and “*suggest that he was not an unsophisticated investor (this is fortified by the fact that he is a very successful businessman)*”.
- (2) There was no reason to believe that Mr. Wang’s personal assistant, who understood English, did not read the signature page which was attached to the Subscription Agreement and explain what it was to Mr. Wang prior to his signing.
- (3) Apart from the initial transfer of US\$10 m to SPQR on about 26th August 2020, Mr. Wang had been transferring substantial funds to SPQR since November 2020 and it was “*inherently unlikely for [Mr. Wang] with his sophistication and the assistance at his disposal, not to know why he was doing so.*”

[18] By my order dated 11th November 2025 the BVI application for the appointment of liquidators in respect of SPQR was stayed pending the determination of the arbitration proceedings.

[19] On 1st December 2025 Mr. Wang filed an amended ordinary application, seeking to add, in the alternative to the appointment of joint provisional liquidators, the appointment of joint receivers over the assets, undertaking and affairs of SPQR under s. 24A of the Eastern Caribbean Supreme Court (Virgin Islands) Act (“**ECSCA**”). An examination of the draft order reveals that the proposed powers of the joint receivers, sought to be appointed in the alternative to the joint provisional liquidators, are identical to the proposed powers of the joint provisional liquidators.

[20] By consent, on 3rd December 2025, I ordered that Nine Eagles be joined to the Originating and Ordinary Applications. Paragraph 2 of that order made it clear that the stay was lifted only for the purpose of allowing such joinder but otherwise continued pursuant to the 11th November 2025 Order.

[21] To recap, therefore, the position is that the Originating Application for the appointment of liquidators in respect of SPQR on the just and equitable ground has been stayed because the matters on which that application is based are arbitrable under the terms of the arbitration clause in the Partnership Agreement and Mr. Wang is estopped from impeaching the validity of that clause. Mr. Wang pursues his application for the appointment of provisional liquidators under s. 94(3) LPA 2017, relying in support on essentially the same matters as he relies on in support of his application for the appointment of liquidators. By amendment, Mr. Wang also seeks to add alternative relief, namely the appointment of joint receivers over the assets, undertaking and affairs of SPQR under s.24A of the ECSCA.

[22] Before turning to address the main issues in the matter, I wish to indicate that at the commencement of the hearing, Mr. Weekes KC, who appeared for Mr. Wang, objected to the late filing or use of two further affirmations of Ms. Chu, with extensive exhibits, filed just three days before the hearing. Mr. Westwood KC responded and indicated that through inadvertence on his side they had thought that Chu 2 had already been filed, and Chu 3 was an updating affidavit. I upheld the objection and disallowed any reliance by Nine Eagles on that late evidence.

The three main issues that arise for this Court's consideration

[23] The main issues that arise for consideration on the Ordinary Application are as follows;

- (1) Does the Court have power to appoint provisional liquidators over a limited partnership?

- (2) If the Court does have such power, should it exercise its discretion to appoint provisional liquidators, and if so, what powers should be granted to them.
- (3) If the Court does not have power to appoint provisional liquidators, should the Court instead appoint joint receivers pursuant to s. 24 A of the Eastern Caribbean Supreme Court (Virgin Islands) Act.

(1) DOES THE COURT HAVE POWER TO APPOINT PROVISIONAL LIQUIDATORS OVER A LIMITED PARTNERSHIP

The Relevant Statutory Provisions

[24] The relevant statutory provisions that arise for consideration on this issue are sections 93 and 94 of the LPA 2017, as well as section 167 (1)(d), and sections 170 -173 (inclusive) of the BVI Insolvency Act 2003 ("**IA 2003**").

[25] Section 93 of the LPA 2017 in relevant part provides as follows:

"Court may appoint liquidator

93. (1) On the application of a person specified in subsection (4), the Court may appoint the Official Receiver or an eligible insolvency practitioner to be the liquidator of a limited partnership on any of the following grounds-

(a) the limited partnership has terminated, but is not being wound up;

(b) the limited partnership is insolvent;

(c) the Court is of the opinion that it is just and equitable that a liquidator be appointed.

(2) Without limiting subsection (1), the Court may appoint a liquidator under subsection (1)(c) if, on the application of a partner, it is satisfied that the affairs of the limited partnership have been, are being or are likely to be, conducted in a manner that is, or any act or acts of the limited partnership have been, or are likely to be, oppressive, unfairly discriminatory, or unfairly prejudicial to the partner in that capacity.

(3) An application may be made under sub-section (1) whether the limited partnership –

(a) has terminated in accordance with section 86 or it has not terminated; and

(b) has legal personality or does not have legal personality.

(4) The following persons may apply for the appointment of a liquidator-

(a) a partner;

- (b) a creditor;
- (c) the registered agent if there is no general partner;
- (d) the Official Receiver;
- (e) the Attorney General;
- (f) the International Tax Authority.”

[26] Section 94 of the LPA 2017 provides as follows:

“Application of Insolvency Act, 2003

94.(1) An insolvent limited partnership shall not be wound up or liquidated under this Part but may only be liquidated under the Insolvency Act as if the limited partnership were an unlimited company and as if references to-

- (a) a company were to a limited partnership;
- (b) a member with unlimited liability were to the general partners;

and

- (c) a member with limited liability were to a limited partner.

(2) Subject to subsection (3), where the Court appoints a liquidator on an application under section 93, the Insolvency Act applies to the liquidation of the limited partnership, with such modifications as may be necessary.

(3) On the hearing of an application under section 93 (1), the Court may make such interim or other order as it considers fit.”

[27] Section 167 (1) of the IA 2003, which is contained within Part VI of the IA 2003 titled “*Liquidation*” provides as follows:

“Court’s power on hearing of an application

167. (1) On the hearing of an application for the appointment of a liquidator, the Court may-

- (a) appoint a liquidator under section 159(1);
- (b) dismiss the application, even if a ground on which the Court could appoint a liquidator has been proved;
- (c) adjourn the hearing conditionally or unconditionally; or
- (d) make any interim order or other order that it considers fit.”**

(emphasis provided)

[28] Section 170 of the IA 2003 provides as follows:

“Interim Relief

Appointment of provisional liquidator

170. (1) Where an application for the appointment of a liquidator of a company has been filed but not yet determined or withdrawn, the Court may, on application by a person specified in subsection (2), appoint the Official Receiver or an eligible insolvency practitioner as provisional liquidator of the company on the grounds specified in subsection (4).

(2) Subject to subsection (3), an application under subsection (1) may be made by one or more of the following-

- (a) the applicant for the appointment of a liquidator;

- (b) the company;
 - (c) a creditor;
 - (d) a member;
 - (e) the Commission;
 - (ea) the International Tax Authority; and
 - (f) any person who, under any other enactment, is entitled to apply for the appointment of a liquidator of the company.
- (3) An application under subsection (1) by a member may only be made with the leave of the Court.
- (4) The Court may appoint a provisional liquidator under subsection (1) if-
- (a) the company, in respect of which the application to appoint a liquidator has been made, consents; or
 - (b) the Court is satisfied that the appointment of a provisional liquidator-
 - (i) is necessary for the purpose of maintaining the value of assets owned or managed by the company; or
 - (ii) is in the public interest.
- (5) The Court may appoint a provisional liquidator on such terms as it considers fit and may, as a condition precedent to the appointment, require the applicant to deposit at Court, or otherwise secure to the satisfaction of the Court, such sum as the Court considers reasonable to cover the remuneration of the provisional liquidator."

[29] Sections 171-173 (inclusive) provide as follows:

"Rights and powers of provisional liquidator

171. (1) Subject to subsection (2), a provisional liquidator has the rights and powers of a liquidator to the extent necessary to maintain the value of the assets owned or managed by the company or to carry out the functions for which he or she was appointed.

(2) The Court may limit the powers of a provisional liquidator in such manner and at such times as it considers fit.

Remuneration of provisional liquidator

172. (1) The provisional liquidator of a company is entitled to be paid such remuneration as the Court may order applying the general principles specified in section 432.

(2) Subject to subsections (4) and (5), the remuneration of the provisional liquidator is payable out of the assets of the company.

(3) Where a liquidator is appointed, the remuneration of the provisional liquidator shall be paid in accordance with the prescribed priority.

(4) If a liquidator is not appointed, the Court may order the applicant for the appointment of the provisional liquidator to pay or contribute to the remuneration and expenses of the provisional liquidator if it is satisfied that the applicant-

- (a) misled the Court when making the application; or
- (b) acted unreasonably in applying for the appointment of the provisional liquidator.

(5) If the assets of the company are not sufficient to pay the remuneration of the provisional liquidator, the Court may order the shortfall, or part of the shortfall, to be paid by the applicant for the appointment of the provisional liquidator.

(6) Unless the Court otherwise orders, where subsection 4(a) applies, the provisional liquidator may retain out of the company's assets such sums or assets as are, or may be, required for meeting his or her remuneration.

Termination of appointment of provisional liquidator

173. (1) The Court may, on the application of the provisional liquidator or any person specified in section 170(2) or on its own motion, terminate the appointment of a provisional liquidator.

(2) If the Court has not previously terminated the appointment of a provisional liquidator under subsection (1), it terminates on the determination by the Court of the application to appoint a liquidator.

(3) On the termination of the appointment of a provisional liquidator, the Court may give such directions or make such order with respect to the accounts of his or her administration, or to any other matters, as it considers appropriate."

[30] This issue has been raised squarely by Nine Eagles and thus, I will start by summarizing its arguments, and then consider Mr. Wang's arguments in response. Importantly, I also note that when I enquired of both learned Kings' Counsel whether they knew of any previous decision in the BVI on the point, they both indicated that their research had not revealed any. Thus, this appears to be a novel point of law.

Nine Eagles Argument

[31] Mr. Westwood KC opines in his SKA that the short answer to the application for the appointment of provisional liquidators is that the Court does not have jurisdiction to make such an appointment under s.94(3) LPA 2017. This is so for the following reasons:

(a) This is not "*the hearing of an application under section 93(1)*."

The application under s.93(1) has by the Court's Order dated 11 November 2025 been stayed pending the determination of the Arbitration Proceedings in Hong Kong.

(b) Even had the application for the appointment of a liquidator under s.93(1) not been stayed, this would still not be "*a hearing of an application under section 93(1)*". The reference

to the hearing of an application under section 93(1) is a reference to, at the very least, a substantive hearing of that application.

- (c) Further and in any event, even if (contrary to the preceding submissions) this is “*the hearing of an application under s.93(1)*”, an order appointing a provisional liquidator is not an “*interim or other order*” within the meaning of s.93(4).

[32] As to the expression “*interim or other order*”, Mr. Westwood referred to the words of section 167(1)(d) which provide that “*On the hearing of an application for the appointment of a liquidator, the Court may make any interim or other order that it considers fit.*” It was pointed out that that section is, in substance, therefore in identical terms to s.94(3) LPA 2017. Learned Counsel opined that it is clear, however, that the phrase “*any interim or other order*” in section 167(1)(d) IA 2003 does not encompass the appointment of provisional liquidators under the Act. That is separately and specifically dealt with by s.170 IA 2003, which also stipulates the test to be met for an appointment under that section.

[33] Mr. Westwood further submitted that when one examines the statutory history of the provisions currently contained in s. 167(1) and s. 170 IA 2003, it can readily be seen that s.167(1)(d) (and its equivalent in s.94(3) LPA 2017), was not intended to confer on the court power to appoint provisional liquidators.

[34] Accordingly, asserts learned Counsel, absent an express power conferring on it the power to appoint a provisional liquidator (such as that contained in s.170 IA 2003), the Court has no such power to appoint provisional liquidators over a limited partnership.

[35] It was pointed out that Mr. Wang’s SKA for the original hearing asserts that IA 2003 applies to the present application for the appointment of provisional liquidators either *directly* or *by analogy*: see paragraph 53(g). However, Nine Eagles position is that IA 2003 does not apply, either directly or by analogy.

Mr. Wang's Arguments

- [36] Mr. Weekes KC referred to sections 93 and 94 of the LPA 2017. He also referred to sections 170 and 171 of the IA 2003.
- [37] Learned King's Counsel submitted that these provisions apply to Mr. Wang's application as follows
- [38] Firstly, as a limited partner of SPQR, he has standing to apply for the appointment of a liquidator under s.93(4), LPA 2017.
- [39] Secondly, a limited partnership may be wound up on the just and equitable ground (s.93(1)(c). This includes *but is not limited to* the condition in s.93(2), LPA 2017. (Learned Counsel's emphasis). This condition has two different aspects (affairs and acts of the limited partnership) and is concerned with such acts/affairs in the past, present or future:
- a. That the *affairs* of the limited partnership have been, are being and/or are likely to be conducted in a manner that is oppressive, unfairly discriminatory, or unfairly prejudicial to Mr. Wang in his capacity as a limited partner; or
 - b. *Any act or acts* of the limited partnership have been or are likely to be so oppressive, unfairly discriminatory, or unfairly prejudicial to him in that capacity.
- [40] This, posits learned Counsel, is thus a very broad provision with a low threshold: it is not limited to the affairs of the limited partnership, nor to unlawful acts. Rather, it is sufficient (for the Court to exercise its discretion) that Mr. Wang should identify *some prior act* that has been unfairly prejudicial to him.
- [41] Mr. Weekes proffered the view that the Court may make any such interim or other order as it considers fit pursuant to s.94(3) of the LPA 2017 and that this includes

the appointment of provisional liquidators. This he considers to be the case because:

- a. Such an appointment is within the broad power conferred by s.94(3) to make “*such interim or other order as the [court] considers fit*’.
- b. Moreover, it would make little sense if, in proceedings for the winding up of a limited partnership:

- i. The Court could not appoint a provisional liquidator but could nevertheless make *any interim order that it considers fit*.
- ii. The Court could only appoint a provisional liquidator once it had already appointed a liquidator (whereupon the appointment of a provisional liquidator would serve no purpose); or
- iii. The hearing of the winding up petition had to be expedited and/or proceed without notice, so that the assets of a limited partnership could be preserved (rather than a provisional liquidator appointed).

- c. Learned Counsel posits that whilst s.94(2) provides that “*Subject to subsection (3), where the Court appoints a liquidator on an application under section 93, the Insolvency Act applies to the liquidation of the limited partnership, with such modifications as may be necessary*”, this does not mean that, *unless a liquidator is appointed*, the IA 2003 does not apply. This, it was submitted, is because:

- i. The object of s.94(2) is not the grant of interim relief (ie, relief prior to the appointment of a liquidator). Rather, s. 94(2) is concerned with the position once a limited partnership is in liquidation (or after winding up). This is apparent from (1) the qualifier “*subject to subsection (3)*”; and (2) the fact that s.94(3) is concerned with the position prior to the appointment of a liquidator (which is why it refers to making an “*interim*” order, i.e. one made *after*

- the filing of the liquidation application and *prior* to the appointment of the liquidator pursuant to the application.
- ii. The qualifier “*subject to subsection (3)*” itself indicates that the application of the IA 2003 is not limited to the circumstance set out in 94(2), (i.e. the winding up of a limited partnership *after* a liquidator has been appointed).

DISCUSSION AND ANALYSIS -POINT OF LAW-WHETHER THE BVI COURT HAS POWER TO APPOINT PROVISIONAL LIQUIDATORS OVER A LIMITED PARTNERSHIP

[42] On the 17th December 2025, I upheld the jurisdiction point advanced by Nine Eagles. I did so for a number of reasons.

[43] I accept Mr. Westwood KC’s submission that this hearing is not, and cannot be, classified as being “*the hearing of an application under section 93(1)*.” By the Court’s Order dated 11th November 2025, the application under s.93(1) has been stayed pending the Arbitration Proceedings in Hong Kong. Accordingly, this is not and cannot be “*the hearing*” of that application. Therefore, the Court’s jurisdiction under s. 94(3) to make “*such interim or other order as [the Court] thinks fit*”, is not engaged, whatever that phrase actually encompasses, which I will address in due course.

[44] I also conclude that even had the application for the appointment of a liquidator under s.93(1) not been stayed, this would still not be “*the hearing of an application under section 93(1)*”. In my judgment, the reference to the hearing of an application under s.93(1) is a reference to a substantive hearing of that application. The purpose of s.94(3) is to make clear that the Court’s choices on the hearing of the substantive application are not limited, as Mr. Westwood KC puts it in his SKA, to a binary choice between appointing a liquidator or dismissing the

application. I further accept the submission that rather, the Court may decide to make an interim order as it sees fit, including, in the event that it does appoint a liquidator, to provide that the IA 2003 or parts of it do not apply to the liquidation. I entirely accept that that is the purpose of s.94(3). It certainly is not the purpose to confer, as Mr. Westwood puts it, power on the Court to deploy one of the most intrusive remedies in its armoury without expressly doing so and irrespective of whether or not the underlying application for the appointment of a liquidator is being heard.

[45] Further, and in any event, even if I am wrong on that, and this hearing can be considered “*the hearing of an application under s.93(1)*”, an order appointing a provisional liquidator is not an “*interim or other order*” within the meaning of s.94(3).

[46] Again, Mr. Westwood is correct that section 167(1)(d) of IA 2003 is in substance in identical terms to s.94(3) LPA 2017. However, under the IA 2003, it is very clear that the phrase “*any interim or other order*” in s.167(1)(d) does not encompass the appointment of provisional liquidators under that Act. It is under section 170 of the IA 2003 that appointment of provisional liquidators is separately and expressly provided for. That section also specifies the test to be met for an appointment under that section. It is additionally clear that the Legislature went on to make express provision in relation to matters associated with the appointment of provisional liquidators, such as the rights and powers of a provisional liquidator (s.171), remuneration (s.172), and termination of appointment (s.173).

[47] Mr. Westwood made useful reference to the statutory history of section 167(1)(d) and s.170 of IA 2003, to demonstrate that s.167(1)(d) (and its equivalent in s.94(3) LPA 2017) was not intended to confer on the Court the power to appoint provisional liquidators. Learned Counsel referred to the predecessors of s.167(1)(d) and s.170 IA 2003 which were ss.119 and 120 of the Companies Act

(cap. 243). In relevant part, s.119 of that Act provided as follows in respect of a petition to wind up a company:

“The Court may also, at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the company.”

[48] Section 120 provided:

“Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order, or any other order that it deems just.”

[49] It does indeed seem that the legislature has always made separate and express provision in respect of the Court’s power to appoint provisional liquidators.

[50] I accept the submission that accordingly, absent an express power conferring on the Court the power to appoint a provisional liquidator, such as that contained in s.170 IA 2003, the Court has no such power. A provisional liquidator is a creature of statute. Reference was also made by Mr. Westwood to earlier relevant English company and insolvency legislation (on which the BVI regime is largely based). Indeed, it is, as learned Counsel argues, not surprising that there has had to be express statutory provision for such a power, given the draconian nature of the remedy.

[51] I appreciate that Mr. Weekes KC had argued, amongst other things, that it would make little sense that the Court could not appoint a provisional liquidator but could nevertheless make *“any other interim order that it considered fit.”* However, it does seem to me that the appointment of a provisional liquidator is a particularly intrusive power, and that it is a creature of statute. It is well recognized that the appointment of provisional liquidators is *“one of the most intrusive remedies in the court’s armoury”* -see the decision in **HMRC V Rochdale Drinks Distributors Ltd.**

³, cited by both sides. The power to appoint provisional liquidators, in my judgment, indeed, as the statutory history has shown, has to be expressly provided for. Courts have always shown particular reluctance to become too involved in partnerships, where the parties have entered into their arrangements by agreement, unless it is with a view to a dissolution or final winding up of the affairs of the concern- see **Lindley & Banks on Partnership**, 21st Ed. (2022) at 23-269, cited by Mr. Westwood and set out at paragraph [78] below in the section of this judgment dealing with appointment of receivers.

[52] In my view, it is also not correct to say that the IA 2003 applies to the present application either directly or by analogy. The IA 2003 clearly does not apply directly. One has only to look at the terms of s.94(2) LPA 2017. It provides (that subject to s.94(3)), “*where the Court appoints a liquidator on an application under section 93, the Insolvency Act applies to the liquidation of the limited partnership, with such modifications as may be necessary*”. (Emphasis provided) The plain and ordinary meaning of the language used is that IA 2003 only applies once the Court has appointed a liquidator under s.93 (and then subject to subsection (3)). In other words, it is only on the making of an appointment of a liquidator that the provisions of IA 2003 apply to the liquidation of limited partnerships. Accordingly, since no appointment of a liquidator has, or can be made at this stage, the power in s.170, and indeed in ss. 171-173 IA 2003, are of no application in the present case, or at all.

[53] It also is untenable to argue that the IA 2003 can apply by analogy. There is no room for applying any analogy because of at least the following 2 reasons:

- (1) The LPA 2017 expressly provides when IA 2003 is to apply and this is not such a case; and
- (2) It would have been easy for the legislature to make provision similar to that contained in s.170 of the IA 2003 for the appointment of a provisional liquidator in respect of limited partnerships where an

³ [2011] EWCA Civ 1116, [2013] BCC 419 at [109].

application for the appointment of a liquidator had been made but not yet determined. A provision such as s. 170 could have been replicated in the LPA 2017, but there is no such provision in the LPA 2017. It seems to me for good reasons, being (a) the intrusive nature of the remedy of provisional liquidators, and (b) the nature of limited partnerships and the relationship of partners.

[54] It was for these reasons that I upheld the jurisdiction point.

(3) If the Court does have such power, should it exercise its discretion to appoint provisional liquidators, and if so, what powers should be granted to them

[55] I have held that the Court does not have jurisdiction to appoint provisional liquidators in respect of a limited partnership, and that it does not have this power of appointment in respect of SPQR. However, even if I am wrong on that point, I am of the view that this is a case in which the Court should decline to exercise such a jurisdiction (if it had one), which it has long been recognized is one of the most draconian remedies available.

[56] It is common ground (see Mr. Wang's SKA dated 21st May 2025) as well as the SKA for this hearing, that before the Court can consider whether, in the exercise of its discretion, to appoint provisional liquidators, Mr. Wang would have to satisfy the Court of the following:

(a) That as and when the application for the appointment of liquidators is heard in due course, the Court is likely to appoint liquidators. It is not sufficient simply to establish a good prima facie case that liquidators will be appointed. It has to be established that it is likely that liquidators will be appointed-see **HMRC v Rochdale**, at paragraphs [77] and [113].

(b) An appointment of provisional liquidators is necessary for the purpose of maintaining the value of the assets owned or managed by SPQR (see the description in s.170(4) IA 2003).

[57] I accept Nine Eagles' submission that the matters that the Court must consider when deciding whether there is a *prima facie* case for the making of an order appointing liquidators in respect of SPQR fall within the meaning of "*dispute, controversy, difference or claim*" arising out of the Partnership Agreement. I also accept that the Court may not necessarily have to reach a concluded view on the matters which are said to justify the making of such an appointment, and that arbitrators cannot appoint provisional liquidators or say whether liquidators are likely to be appointed. However, the Court would still have to consider the dispute between the parties on those matters and reach a view whether they were or were not likely to be made out, such that it was likely that an order for the appointment of liquidators would be made.

[58] As an aside, Nine Eagles claim that they thought they had filed Chu 2 at an earlier stage and that Affirmation would have more directly contested the factual issues raised by Mr. Wang. However, in any event, the evidence and documents before me, including the papers, pleadings and judgments from the Hong Kong proceedings, are replete with reference and descriptions of the issues and factual matters. That there are substantial issues of fact in controversy and dispute cannot realistically be denied. I take the view that as such, those matters that fall within the arbitration agreement and which would be the aspects that this Court would have to access for likelihood, should not be examined, even in a preliminary way. I take the view that, at least in the circumstances of the instant case, this Court should not embark on such an exercise. As I pointed out in my decision in **Kenworth**, the BVI has a pro-arbitration policy, and my ruling here is consistent with that policy.

[59] As a corollary, one has to appreciate that this is a case in which the application for the appointment of liquidators has been stayed pending arbitration in Hong Kong. It therefore does seem inappropriate for the Court to embark on a sort of preliminary examination of those very same matters awaiting adjudication in the Hong Kong arbitration with a view to determining whether it is likely: (a) that those matters will be made out; and (b) if so, that they (or some of them as are made out) would result in the making of an appointment of liquidators.

[60] In his Reply submissions Mr. Weekes KC appeared to be arguing that this Court should not rely on the reasoning of the Hong Kong Court, of Anthony Chan JA in respect of the factual matters underlying this application. It was submitted that this Court must apply its own reasoning. This Court has applied its own reasoning, and does share the view that as Anthony Chan JA said, at paragraphs [5] and [33] of the Judgment, that there is much dispute on the facts. Further, that Mr. Wang's messages "*were not all in favour of his case*", and "*suggest that he was not an unsophisticated investor (this is fortified by the fact that he is a very successful businessman.*"

[61] In particular, this Court had to take a look at the Wechat conversations, in particular at page 1267 of the Hearing Bundle, Volume 2. Mr. Weekes and his team were good enough to have an enlarged colour print of the chat prepared and handed up to the Court. In my view, that message, which addresses the signing page of the Subscription Agreement, clearly has as a pdf reference to "SPQR Subscr...." That and other material does tend to belie Mr. Wang's assertion that he signed the signature page for the Subscription Agreement and did not know that he was subscribing to SPQR. Further, that it is inherently unlikely that with his financial sophistication and assistance at his disposal that he did not know why he was transferring significant funds over a not insubstantial period of time to SPQR.

[62] In any event, whilst of course the Judgment of Anthony Chan JA and the factual findings are not binding on this Court, they cannot be ignored by this Court,

particularly in the context where the Liquidation Proceedings here have been stayed in favour of the Hong Kong Arbitration as a result of the Anti-Suit Injunction granted by Anthony Chan JA.

[63] In my judgment, even if I am wrong on the jurisdiction point, it is neither realistic nor appropriate for this Court at this stage to reach a view on where the truth in respect of these many controversial facts may ultimately lie.

[64] In my judgment, Mr. Wang has not in any event met the second aspect of the test, i.e. he has not demonstrated that the appointment of provisional liquidators is necessary for maintaining the value of the assets owned by SPQR.

[65] Further, I accept that in any event, there is availability of interim relief in Hong Kong should the arbitral tribunal or Court there consider it appropriate.

[66] As to the matter of discretion generally, I am of the view that this Court ought not to exercise such a discretion to appoint provisional liquidators (which of course, I have held that it does not have power to order anyway), based upon consideration of a number of factors, including the following:

- (1) The fact that there will in any event be an extant arbitration in respect of the underlying factual disputes on which the application for the appointment of liquidators is based.
- (2) The close connection between the matters on which the application for the appointment of liquidators is based (and which are subject to the extant Hong Kong arbitration) and the application for the appointment of provisional liquidators.
- (3) The fact that Nine Eagles has offered voluntary undertakings aimed at providing an interim regime which would be less costly and without the potential adverse effects of provisional liquidators.
- (4) The time which has already elapsed since the application for the appointment of provisional liquidators was first filed until the hearing.

The application was issued on 13th May 2025, and was heard on 17th December 2025. The application could not readily still have been classified as urgent.

(3) If the Court does not have power to appoint provisional liquidators, should the Court instead appoint joint receivers pursuant to s. 24 A of the Eastern Caribbean Supreme Court (Virgin Islands) Act.

Mr. Wang's Arguments

[67] It was Mr. Weekes' submission that a receiver may be appointed as the interim means of preserving property until the rights of those interested in it can be determined: reference was made to **Vinogradova v Vinogradova**⁴ at paragraph [18] per Webster JA. The application must establish (i) a good arguable case for the receiver's appointment; (ii) that there is a real risk of dissipation; and (iii) that it is just or convenient to appoint the receivers.

[68] Learned Counsel submitted further that if the Court has no power to appoint provisional liquidators under s.94(3) LPA 2017, the Court may appoint receivers instead. It was argued that the appointment of a receiver is within the rubric of "*such interim or other order as [the court] considers fit.*". It is contended that in this case, there is a dispute as to the rights of Mr. Wang to property owned by SPQR (as reflected in the winding up application), that Mr. Wang has, at the very least, a good arguable case as to a winding up order being made, and that there is a real risk of dissipation of SPQR's assets.

[69] Alternatively, Mr. Weekes submitted that this is an appropriate case for the exercise of the **Black Swan** jurisdiction as codified in s.24A(2)(a) of the ECSCA. It was argued that proceedings have been brought in Hong Kong and therefore, having regard to s.24A(2)(a), the Court does have jurisdiction (apart from s.24A(1) in relation to their subject matter, since this Court has jurisdiction over the winding

⁴ BVIHCMAP 2018/052

up proceedings. Having regard to s.24A(3)(b), the appointment of a receiver is ancillary to those winding up proceedings, and it was submitted that it is just and convenient (or in the terms of s.24A(2) not inexpedient), to grant relief for all the reasons that otherwise justify the appointment of receivers.

Nine Eagles' Arguments

[70] Reference was made to s.24A and to my decision in **Parles AS v. Kabatek** ⁵, where I followed Wallbank J in **X v TVI Company** ⁶ as to the two-stage approach.

[71] At paragraph [71] in **Parles A.S.**, I stated as follows:

"The two steps are as follows:

- (1) To first consider whether the facts would warrant the relief sought if the substantive proceedings were brought in the BVI; and*
- (2) If the answer to that question is yes, then secondly to consider whether, in the language of s.24A of the Act, the fact that the Court has no jurisdiction apart from that section (because the substantive proceedings are abroad) makes it inexpedient to grant the relief."*

[72] Adopting that approach in the present case, Mr. Westwood submitted that: (1) the facts do not warrant the relief sought; and (2) it would in any event be inexpedient to grant the relief.

Discussion And Analysis Concerning Application To Appoint Receivers

[73] I have noted that the facts in the present case would not warrant the appointment of provisional liquidators. The matters relied upon by Mr. Wang in support of his application for the appointment of joint receivers are identical to the matters relied on in his application for the appointment of provisional liquidators.

[74] For the same reasons discussed in relation to the appointment of provisional liquidators in relation to the serious disputes as to the facts, I am not satisfied that Mr. Wang has a good arguable case for the appointment of receivers. The powers

⁵ BVIHCOM 2022/0123

⁶ BVIHCOM 2021.0037

that it is sought to accord to the receivers are identical to those that were sought in relation to provisional liquidators. The proposed powers are very wide, and include the management of the affairs of SPQR.

[75] Section 24A of the Eastern Caribbean Supreme Court Act provides as follows:

“Interim relief in the absence of substantive proceedings
24A. (1) *The High Court or a judge thereof may grant interim relief where proceedings have been or are about to be commenced in a foreign jurisdiction.*
(2) *On an application for interim relief under subsection (1) the High Court or a judge thereof may refuse to grant such relief if, in the opinion of the High Court or a judge thereof;*
 (a) *it has no jurisdiction, apart from this section, in relation to the subject matter of the proceedings in a foreign jurisdiction; and*
 (b) *it is inexpedient in the circumstances for the High Court or a judge thereof to grant such relief.*
(3) *Subsection (1) applies notwithstanding that*
 (a) *the subject matter of the proceedings in a foreign jurisdiction would not, apart from this section, give rise to a cause of action over which the High Court or a judge thereof would have jurisdiction; or*
 (b) *the appointment of a receiver or the grant of interim relief sought is not ancillary or incidental to any proceedings in the Territory.*
(4) *In this section “interim relief”, includes any relief which the High Court or a judge thereof has power to grant in proceedings relating to matters within its jurisdiction, as well as, an order against a non-cause of action defendant.*
...”

[76] It seems to me that the application for the appointment of receivers is not so much in aid of the Hong Kong proceedings, since the substantive proceedings, the Originating Application for the appointment of Liquidators, has been commenced here in the BVI. Thus, in my view, the question is not so much as to s.24A, but rather whether the Court should appoint receivers as being an order it can make under section 94(3) of the LPA 2017. However, the same analysis as to the non-applicability of the section because this is not *“the hearing of an application under section 93(1)”*, applies, as outlined when discussing the appointment of provisional liquidators.

[77] However, in any event, by this amended application seeking the appointment of receivers in the alternative, this is, as Nine Eagles argues, really an attempt to achieve by a different route, that which could not be had by applying for the appointment of provisional liquidators. There is no sound basis to appoint receivers, what with the width of powers sought by Mr. Wang in the draft order, including management powers, would also be an intrusive mechanism.

[78] Reference was made by Mr. Westwood to **Lindley & Banks on Partnership**, 21st Edition, (2022), at 23-269, where the authors comment on the courts' general reluctance to interfere between partners, nowhere more so than in the context of receivers as managers. In that paragraph it is stated as follows:

“Receiver and manager without a dissolution

23-269

The general reluctance of the courts to interfere between partners otherwise than with a view to dissolution has already been noticed, and is nowhere more apparent than in the present context. Indeed, Lord Lindley wrote:

‘Courts of justice are by no means anxious to take upon themselves the management of a partnership business, and they will, it is said, never do so, save with a view to a dissolution or final winding up of the affairs of the concern.’

*This rule still appears to hold good in the case of applications for the appointment of a receiver **and manager**, since there is no reported instance in which such an appointment has been made in the case of an ongoing partnership. Indeed, in such cases as have come before the courts, relief has always been refused. However, it would seem that if the relief sought is confined to the appointment of a receiver **simpliciter**, the rule will not apply, as Lord Lindley explained:*

*‘If the appointment of a receiver does not involve the appointment of a manager, Const v Harris is clear authority to show **that a receiver may be***

obtained in an action not seeking a dissolution of the partnership, the later cases are not opposed to this.’ “

(Emphasis provided by the authors in the third paragraph, and by the Court in the fourth paragraph from the extract)

[79] A quick glance at the draft order shows that the joint receivers taking on the management of SPQR, is, as argued by Mr. Westwood, precisely what the application seeks. In addition, by the Originating Application Mr. Wang **is in fact** seeking the dissolution of the partnership, so even if this application sought the appointment of a receiver simpliciter it would not arise for favourable consideration by the Court based on the learning in **Lindley & Banks**. (emphasis provided). In my judgment, there is no sound basis for making such an order appointing receivers.

[80] Further, or in the alternative, it would in any event be inexpedient to appoint receivers:

(a) The appointment is said to be sought in aid of foreign proceedings, i.e. those in Hong Kong. However, the BVI Originating proceedings have been stayed in favour of the Hong Kong arbitration proceedings and the Hong Kong tribunal (and supervising court) have suitable powers to deal with issues of interim relief. It is therefore neither necessary nor expedient to grant such relief.

(b) In any event, the discretionary factors which point away from appointing provisional liquidators, if indeed there had been such a power, set out in paragraphs 65 and 66 above, provide a further basis for holding that it would be inexpedient for this Court to grant such relief.

[81] The application filed on 1st December 2025 seeking the appointment of provisional liquidators over SPQR and other relief is dismissed. Costs are awarded against Mr. Wang in favour of Nine Eagles to be assessed if not agreed within 21 days of delivery of this judgment.

[82] I thank leading Counsel and their teams for the clarity, thoroughness and helpfulness of their submissions.

Ingrid Mangatal
High Court Judge (Ag.)

BY THE COURT

Registrar