

HONG KONG / JUDGMENT

DW v. HHT**[2022] HKFC 156****COURT**

Family Court

DECIDED

9 August 2022

CASE / FILE NUMBER

FCMC2662/2021

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bjbj FCMC 2662/2021

**[2022] HKFC 156 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION MATRIMONIAL CAUSES NO.2662 OF 2021**-----
BETWEEN DW Petitioner and HHT Respondent
-----Coram: Deputy District Judge W.Y. Ho in Chambers (Not Open to public) Date of Hearing: 29 April
2022 Date of Decision: 9 August 2022
-----DECISION (Specific Discovery)

There are 3 summonses relating to discovery before me: The Petitioner s summons dated 25 January 2022 (the Petitioner s Summons); The Respondent s summons dated 12 November 2021; and The Respondent s summons dated 23 March 2022 (the Respondent s Summons). On the day of the hearing, parties agreed to stay the Respondent s summons dated 12 November 2021 pending the filing of a consent summons to deal with the same. Parties were also able to further narrow down the dispute questions on the Petitioner s Summons and the Respondent s Summons. Hence I am only required to decide the following disputed questions in the said summonses: The Petitioner s Summons: Questions 1 8, 11 15, 17 18, 20, 24 40. The Respondent s Summons: Questions 3 and 6. (collectively referred to as the Outstanding Questions)

BACKGROUND

In order to understand and assess the relevancy of the bulk of the Petitioner's requests for discovery, I set out a brief background of the parties, the family trusts and the companies involved below. The company names shall be abbreviated for the purposes of this decision. The parties were married on 9 January 2009. The parties have one child () born in wedlock. The Respondent has 2 adult children from his previous marriage (K and K). The Respondent was previously a majority shareholder in a company (referred to as WC Investment Ltd). WC Investment Ltd owns a number of subsidiary companies including those companies listed in Question 1 of the Petitioner's Summons. WC Investment Ltd went through a number of share restructurings. According to the latest shareholders agreement disclosed (dated 3 February 2021), the Respondent's current shareholding is shared with K and K. Together the 3 of them jointly hold 49.99% of shares in WC Investment Ltd. The remaining shares are held by third parties. The Respondent had set up 4 family trusts: the Wallaby Trust, Future Trust, Dynamic Trust, and Future Event Trust. Future Event Trust was dissolved in 2007 and the assets held therein were transferred to the Future Trust. In the Respondent's Third Affirmation filed on 4 April 2022 (the Respondent's 3rd Affirmation), he claims to have disclosed the various trust deeds in an exhibit names THH 3.1 . However, there is no such exhibit attached to the affirmation in the court file, nor has it been provided in the hearing. As the parties have not included comprehensive documentation on the details of the various trusts in the hearing bundles, I have had to go through the original court file and the voluminous exhibits attached to the various Answers to Questionnaires, Form Es, and parties affirmations in order to ascertain the background details of the trusts. A brief background of the trusts and the various companies held by the Respondent is set out as follows: The 4 trusts (Wallaby Trust, Future Trust, Dynamic Trust, and Future Event Trust) were in existence during the parties marriage. The parties do not dispute these 4 trusts have now all been dissolved. Wallaby Trust was established in or around 2009 with the Petitioner, J, K and K being the beneficiaries of the trust. The trust held the company W Ltd. In or around 2013, K and K were removed as beneficiaries. However, they were subsequently re-appointed as beneficiaries in or around 2020, with J being named as an excluded class of beneficiaries. Since the dissolution of the trust on or about 15 May 2020 and the restructuring of the beneficiaries therein, K and K are now sole shareholders of W Ltd. Future Trust was set up in or around 2007 and dissolved on or about 15 May 2020. Future Trust held FE Ltd and thereafter GO Ltd. The Petitioner is the sole shareholder (holding 100% of the shares) of FE Ltd. GO Ltd in turn holds two properties, one being the matrimonial property. In or around 2020, GO Ltd underwent a share restructuring in which additional shares were issued and subsequently allotted to K and K. After the share restructuring, GO Ltd's share ownership is re-distributed as follows: K and K together now hold 49.996% shares; the Respondent holds 0.008% shares; FE Ltd holds the remaining 49.996% shares (the Petitioner's 100% shareholding in FE Ltd remains unchanged). Dynamic Trust was established in 2002 and dissolved on or about 1 May 2020. The initial beneficiaries were K and K. The Petitioner was named as an additional beneficiary of the trust in or around 2007. Dynamic Trust held 100% shares in PD Investment Ltd, which in turn held 100% of shares in TE Ltd. In or around 2020, the Petitioner was appointed as a director of PD Investment Ltd. TE Ltd

holds a property in Phuket (the Banyan Tree Property). In or around 2020, the 2 shares of TE Ltd held by PD Investment Ltd were wholly transferred to K and K, causing K and K to become the sole shareholders of TE Ltd. One of the main contentions of the Petitioner is the veracity of the various share transfers and/or share restructuring of GO Ltd, PD Investment Ltd, and W Ltd. The bulk of her discovery application revolves around discovering documents relating to the share transfers and/or allotments. The other main areas canvassed by the Petitioner's discovery application relate to the purported dissipation of assets by the Respondent and valuation of the Respondent's various companies and assets. APPLICABLE LAW The Respondent's Summons does not cite a margin note. Counsel for the Respondent, Ms. Yu, cites the application of Rule 77(4) of the Matrimonial Causes Rules (Cap 179A) () and Order 24 rule 7 of the Rules of High Court (Cap 4A) () as being the governing and provisions and legal principles governing discovery . The Petitioner's Summons cited Section 21 Evidence Ordinance (Cap 8) () and Inherent Jurisdiction as being the applicable legal provisions. Counsel for the Petitioner, Mr. Chow, cites the application of Order 24 r.7 RHC as being the basis of the summons. I am of the view that counsels reliance on Order 24 r.7 RHC is mistaken and erroneous. It is trite that an order made under Order 24 r.7 RHC is not for the actual production of documents. Under the said rule, the court only has power to order a party to make an affidavit/ affirmation stating whether any document specified or described in the application has at any time been, in his possession, custody or power, and if not then in his possession, custody or power when he parted with it and what has become of it. See also paragraph 24/7/4 Hong Kong Civil Procedure 2022 Vol 1. The relief sought in Petitioner's Summons and Respondent's Summons unambiguously requests the court to make an order compelling the other party to produce the documents requested. Their respective summonses do not ask the court to order the other party to make an affirmation as required by Order 24 r.7 RHC. In so far as the Petitioner's Summons seeks to rely on s.21 EO, I note there are no submissions addressing how the Petitioner has satisfied the requirements set out in the ss.20 and 21 EO which would enable the court to compel the banks to disclose various records to the Petitioner directly. S. 21 EO must be read in conjunction with s.20(2) EO. Both sections are set out below.

20. Copy of entry in banker's record . . .

- (2) A bank or officer of a bank shall not, in any proceedings other than proceedings instituted by or against the bank, be compelled to produce any banker's record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions or accounts therein recorded, except
 - (a) in civil proceedings, by order of a judge made for special cause;
 - (b) in criminal proceedings, by order of the court of trial.
21. Court or judge may direct copies of entries in banker's record to be taken

- (1) On the application of any party to any proceedings, the court or a judge may order that such party be at liberty to inspect and take copies of any entries in a banker's record for any of the purposes of such proceedings. (Amended 37 of 1984 s. 6)
- (2) An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank 3 clear days before the same is to be obeyed, unless the court or judge otherwise directs.
- (3) The costs of any application to the court or judge under or for the purposes of this section, and the costs of anything done or to be done under an order of the court or judge made under or for the purposes of this section, shall be in the discretion of the court or judge, who may order the same or any part thereof to be paid to any party by the bank, where the same have been occasioned by default or delay on the part of the bank.
- (4) Any such order against a bank may be enforced as if the bank were a party to the proceeding. [cf. 1879 c. 11 ss. 7 & 8 U.K.] The Petitioner must satisfy the court that there is a special cause that would warrant the court to make the orders under s.21 EO. In absence of any submissions on the same and in absence of any affidavit evidence addressing the same, I am of the view the Petitioner is unable to establish any special cause warranting the court to make an order under s.21 EO. In so far as the Petitioner's Summons seeks to invoke the court inherent jurisdiction, it is trite to say the District Court (and therefore the Family Court) is not a court of record and has no inherent jurisdiction (See QMY v GSS (Inherent Jurisdiction) [2015] HKFLR 460 at paragraph 8.14 and Chow Tak Sung v Tse Ching [2002] 4 HKC 664 at page 666I). Moreover, I know of no legal principle which allows a court to grant discovery applications on the basis of inherent jurisdiction. In respect of Ms. Yu's submissions citing Rule 77(4) MCR, Rule 77(4) MCR is not applicable in the present application (as correctly stated at paragraph 13 of the Respondent's Affirmation filed on 12 November 2011). In short, I am of the view the legal provisions / basis cited in the respective summonses or by counsel are incorrect and/or not in support of the relief sought in the respective summonses. Having heard the submissions of the parties, I am of the view the proper applicable rules to their respective applications are O.24 r.10 and O.24 r.11(1) RHC, which read as follows: Inspection of documents referred to in pleadings and affidavits (O. 24, r. 10) Any party to a cause or matter shall be entitled at any time to serve a notice on any other party in whose pleadings, affidavits or witness statements served under Order 38, rule 2A, or experts reports, reference is made to any document requiring him to produce that document for the inspection of the party giving the notice and to permit him to take copies thereof. (L.N. 223 of 1995; L.N. 383 of 1996) The party on whom a notice is served under paragraph (1) must, within 4 days after service of the notice, serve on the party giving the notice a notice stating a time within 7 days after the service thereof at which the documents, or such of them as he does not object to produce, may be inspected at a place specified in the notice, and stating which (if any) of the documents he objects to produce and on what grounds. Order for production for inspection (O. 24, r. 11)

- (1) If a party who is required by rule 9 to serve such a notice as is therein mentioned or who is served with a notice under rule 10(1)
- (a) fails to serve a notice under rule 9 or, as the case may be, rule 10(2), or
- (b) objects to produce any document for inspection, or
- (c) offers inspection at a time or place such that, in the opinion of the Court, it is unreasonable to offer inspection then or, as the case may be, there, then, subject to rule 13(1), the Court may, on the application of the party entitled to inspection, make an order for production of the documents in question for inspection at such time and place, and in such manner, as it thinks fit. . . . As stated in Rule 3 MCR, the Rules of High Court shall apply to matrimonial proceedings with necessary modifications. The following principles are applicable to applications under O.24 r.11 RHC: Applications under this rule are subject to a 2-stage process. The applicant must first satisfy the court the discovery sought is necessary either to dispose of the matter fairly or to save costs. Secondly, the application must be in relation to a live cause or matter which is required to be disposed of. If the applicant fails to discharge his burden under the 1st stage of the 2-stage process, that will be the end of the application. An order for discovery will not be made if good cause to the contrary is shown. Absence of possession, custody or power over the document may amount to a good cause but is not inevitably so. Much will depend on the facts of the case. (See paragraph 24/10/1 Hong Kong Civil Procedure 2022 Vol 1 and Allied Weli Development Ltd v Chuang Yui Chien Eugene [2020] 4 HKLRD 623) I shall therefore proceed to consider the parties respective summons pursuant to O.24 r.10 and O.24 r.11(1) RHC. I shall adopt the abbreviations used by the parties in so far as names of companies and natural persons are involved. Due to the voluminous and lengthy questions involved, I shall not set out the said questions in this decision. THE RESPONDENT S SUMMONS I shall swiftly deal with the said summons. In so far as the Respondent requests the Petitioner to provide the audited/unaudited financial statements of YZ Ltd, Mr. Chow submitted his client will attempt to procure the documents requested. Upon Mr. Chow s submissions, I shall allow the Respondent s request at Question 3. In respect of Question 6, Mr. Chow submitted the said bank record has already been provided by way of attachment to the letters from the Petitioner s solicitors dated 29 September 2021 and the letter dated 30 September 2021. The said attachments are exhibited in the hearing bundle. Ms. Yu submitted there were inconsistencies with the bank records and attempted to persuade this court of the same. It was not until I pointed out to her that the transactions she made reference to were of 2 different bank accounts did Ms. Yu then submit the other complaint was that these were not disclosed by way of affirmations. I had already pointed out to Ms. Yu that the wording of the Respondent s Summons was not a request for an affirmation as per O.24 r.7 RHC. The wording of the Respondent s Summons is clear in that he seeks an order from the court to compel production of the specific bank records as set out in Question 6 of the Respondent s Summons. Ms. Yu insisted that the court should nevertheless order the Petitioner to produce the same via an affirmation. I have checked the 2 attachments in the said letters and I find the bank records disclosed to be the

same and relating to the said bank account. Since the Petitioner has already given the Respondent copies of the bank account as per the requested period, the Respondent's request in his Summons has been met. I see no reason why I should make an order compelling the Petitioner to swear an affirmation to produce the same when such relief is not requested in the Respondent's Summons. I therefore refuse Question 6 of the Respondent's Summons. THE PETITIONER'S SUMMONS The Petitioner's requests attached to her summons are a repeat of the matters raised in her Second Affirmation filed on 26 January 2022 (the Petitioner's 2nd Affirmation). For reasons I have set out above, I am of the view the Petitioner has failed to satisfy this court there is any special cause for ordering the banks to disclose various bank records. I therefore dismiss paragraph 2 of the Petitioner's Summons. In respect of the Petitioner's request for answers to her questions and the relevant documents requested, I note that all but 2 of the Petitioner's Outstanding Questions (i.e. Question 31 and 34) have previously been put to the Respondent either by way of letter or by way of questionnaires to the Respondent's Form E. Hence, save and except for Questions 31 and 34, I am satisfied that O.24 r.10(2) RHC has been satisfied by the Petitioner and that the court may go on to consider the merits of the discovery application. In so far as Questions 31 and 34 are concerned, I shall deal with them together. Question 31 requests for the latest register of members and directors of W Ltd, and Question 34 requests for the latest register of members and directors of TE Ltd. Both requests have been previously made in the Petitioner's Questionnaire filed on 11 June 2021. In his answer to the requests, the Respondent attached the said documents in his Answer filed on 13 July 2021 (the Respondent's 1st Answer) in Attachments 41(b) (documents undated) and 44(a) (documents dated 16 June 2020). The Petitioner is now requesting for an updated version of the same documents. Having considered the documents, though no letter of request has been filed as such, I am of the view I am nevertheless entitled to consider the merits of the Petitioner's request. Rule 77(5) of the Matrimonial Causes Rules (Cap 179A) allows the court to order the discovery and production of any document at any stage of the proceedings. In view of the court's inquisitorial powers, the court is entitled to consider updated documents at the trial hearing. I am therefore satisfied the nature of Questions 31 and 34 are such that this court can invoke Rule 77(5) MCR even if the requirements in O.24 r.10(2) RHC are not met. I now consider the merits of the Petitioner's Summons and have grouped the questions in the topics they relate to in the discussion below. The individual questions will not be set out in full due to their lengthy nature. Questions relating to WC Investment Ltd and its subsidiaries (Questions 1, 2, 7, 8 and 15) Question 1 asks the Respondent to disclose the financial statements or management accounts of WC Investment Ltd and of four of its subsidiaries. I note the Respondent has already provided WC Investment Ltd's audited reports for the years 2018 and 2019. In paragraph 110 of the Respondent's 3rd Affirmation, the Respondent explained the audited report for the year 2020 is not ready. At paragraph 113 of the same Affirmation, the Respondent stated he is willing to give an undertaking to file the same within 14 days after it becomes available. Since the Respondent is willing to disclose the same, there is no need for the additional disclosure of WC Investment Ltd's management accounts. Moreover, since the Respondent has provided an explanation in his 3rd

Affirmation, I am of the view there is no need for the Respondent to answer Question 1(g). I am therefore prepared to allow the Petitioner's request at Question 1(a) but refuse Questions 1(b) and (g). In so far as the remaining requests in Question 1 (that is subparagraphs (c) to (g)) and Question 8 relating to WC Investment Ltd's subsidiaries, I refuse the requests for the following reasons: WC Investment Ltd's audited reports clearly list out all subsidiaries of the WC Investment Ltd, including those now listed in Questions 1(c) to (f). It is clear the financial position of the subsidiaries is reflected in WC Investment Ltd's audited reports. Moreover, WC Investment Ltd's value, in so far as it is affected by its subsidiaries, is also reflected in the audited reports. The Petitioner's main reason for the request is to ascertain the true value of WC Investment Ltd without incurring the expense of an expert valuation. Though I agree that the value of WC Investment Ltd is a live issue in the present proceedings and a valuation of WC Investment Ltd is necessary to dispose of the ancillary relief claims, I am of the view the Petitioner's hope of saving costs by avoiding expert valuation is unrealistic. According to a chart provided by the Respondent in Exhibit HHT-3.9 (attached to the Respondent's 3rd Affirmation), WC Investment Ltd holds 11 companies which in turn holds a number of subsidiaries. The total number of companies held under the WC group is 40. It is simply naïve to believe that the disclosure of 5 subsidiaries within the group could give an accurate assessment of WC Investment Ltd's value and avoid an expert valuation. In short, I fail to see how the extensive discovery requested could assist in saving costs. I therefore refuse the request at Questions 1(c) to (g) and Question 8. Question 2 seeks the discovery of all WC Investment Ltd's banking facilities from 2019 present. The Petitioner explains this request will help determine the true value of WC Investment Ltd. For reasons already explained above, I am of the view that an expert valuation of WC Investment Ltd is inevitable given the complicated and intricate corporate structure of WC Investment Ltd. Furthermore, WC Investment Ltd is not solely owned by the Respondent. The Respondent is not a majority shareholder in WC Investment Ltd and there is no evidence adduced by the Petitioner to show the Respondent is the sole owner of any of the subsidiaries listed. The discovery of banking facilities of a company cannot be decided by one shareholder. If the Petitioner wishes to seek the banking documents of WC Investment Ltd, the proper application must be made to WC Investment Ltd and not the Respondent alone. I therefore refuse the request at Question 2. I also refuse the request at Question 15 for the reason that internal documents of WC Investment Ltd and its subsidiaries should be made to either WC Investment Ltd or the relevant subsidiary. Furthermore, the Respondent has also answered the same in his 1st Answer at paragraph 13, his Answer to the Petitioner's 2nd Questionnaire filed on 29 November 2021 (the Respondent's 2nd Answer) at paragraph 6.2, and his 3rd Affirmation at paragraph 141. The Respondent has also provided a copy of the squeeze-out report at Attachment Q13. In respect of Question 7, in addition to the reasoning set out above, I note the Respondent has provided answers to the same in his 2nd Answer (see paragraph 5.2) and his 3rd Affirmation (see paragraphs 127-131). I therefore refuse the request at Question 7. Questions relating to the transfer of shares in WC Investment Ltd to K and K (Questions 3 to 6) In summary, the Petitioner questions whether the transfer of WC Investment Ltd's share to K and K are genuine. The various requests made in Questions 3 to

6 seek to obtain specific documentation relating to the execution of the transfer. The Respondent has already provided various documents in his 1st Answer, his 2nd Answer, and his 3rd Affirmation to prove the transfers. The documents provided include: Instruments of transfers (See Attachment 28(a)) Minutes of a WC Investment Ltd Board Meeting held on 11 February 2020 (See Exhibit HHT-3.6 of the 3rd Affirmation). WC Investment Ltd s Shareholder Agreement dated 3 February 2021 (See Exhibit HHT-3.7 of the 3rd Affirmation). The requests raised by the Petitioner are superfluous in that the Petitioner is requesting for more than is necessary to dispose of the issue. The transfer has already been made and the documents prima facie show the same. The Petitioner is not in a position at this stage, without taking out proceedings under section 17 MPPO, to set aside the transfers and/or to question the validity or propriety of the transfers. If the Petitioner intends to question the veracity or intention of such shares transfers, such a dispute is not a live issue in the present proceedings until the Petitioner makes an application to set aside the said transfers. Since there is no such application before the court at this stage, these requests do not relate to a live issue in the present proceedings. Moreover, the Petitioner is not entitled to seek discovery on the basis that she is still investigating whether she can or should make an application under s.17 MPPO. By reason of the above, I refuse the requests set out in Questions 3 6. Questions relating to the Respondent s loan to WC Investment Ltd (Questions 11, 12, 13 and 14) The Respondent has already answered the same question at paragraph 2.3 of his 2nd Answer, and at paragraphs 55 63 and 85 94 of his 3rd Affirmation. The Respondent has provided relevant documentary evidence at Attachment 27(a) and the Shareholder s Agreement at Exhibit HHT-3.7. Unless the Petitioner is able to specify and explain the necessity or relevance of the discovery of a particular document, I fail to see how the Respondent could further answer her requests as they are now worded. Moreover, for reasons already given above, any internal documentation of WC Investment Ltd sought cannot be produced by the Respondent s decision alone. The Respondent is only entitled to disclose documents that are in his possession, power and custody. The Petitioner must make applications for discovery of WC Investment Ltd documents against WC Investment Ltd itself. The requests at Questions 11, 12 and 13 are refused. In so far as Question 14 seeks documentary evidence that the collateralization of the Respondent s loan to WC Investment Ltd by a subsidiary was dissolved by reason of the German Government Loan, I note the Respondent has not provided documentary evidence to support this. The Respondent explains that this issue is not relevant to the present proceedings and that the evidence of the loan is apparent from the audited reports of WC Investment Ltd. Having read the Petitioner s reasons for the request, I am of the view her request is misconceived. From a reading of the Respondent s answers, the Respondent does not deny a loan was made. The collateralization of the loan is merely a matter of security for the loan. It would not increase the quantum of the loan as such. The lack of security for the loan is not relevant to whether the loan is to be counted as part of the matrimonial assets or to be counted towards the value of the matrimonial assets as a whole. I therefore agree with the Respondent in that the issue of collateralization of the loan in itself is not relevant to the present ancillary relief claims. I refuse the request at Question 14. Question relating to Citibank Account (Question

17) The Respondent has already disclosed his Citibank accounts in his 3rd Affirmation in Exhibit HHT-3.11. The Respondent explained there are no account records prior to 2020 as the account was not open until 2020. I have read the statements. I note the first transaction in all of the respective accounts in the January 2020 statement have a zero Beginning balance. This is consistent with the Respondent's explanation that the account was not opened until 2020. There is no further evidence filed by the Petitioner to rebut this. In such circumstances, I am not satisfied there are Citibank account statements in existence prior to January 2020. I therefore refuse the request at Question 17. Question relating to the LGT accounts of PD Investment Ltd, FE Ltd, TE Ltd, and W Ltd (Question 18) The Petitioner does not deny she is the 100% shareholder in PD Investment Ltd and FE Ltd (see paragraph 45, 55, and 56 of the Petitioner's Third Affirmation dated 29 March 2022 (the Petitioner's 3rd Affirmation)). Her complaint in respect of the accounts relating to these 2 companies (PD Investment Ltd and FE Ltd) is that she is not an authorized signer yet and therefore has been unable to obtain the account information. There has been no explanation as to why she is the sole director and shareholder of the 2 said companies but is not the authorized signer. Furthermore, there is no explanation as to what steps the Petitioner took (if any) to either rectify or overcome the problem. As the sole director and shareholder of these 2 companies, she has authority to demand to see the company accounts. It is unclear to this court why the Petitioner is unable to rectify this matter. In such circumstances, the LGT accounts of the PD Investment Ltd and FE Ltd must be in the possession, custody or power of the Petitioner rather than the Respondent. In so far as the Petitioner seeks the LGT accounts of TE Ltd and W Ltd, the majority shareholders of these 2 companies are K and K. The Petitioner has not demonstrated how the Respondent has possession, custody or power over the LGT accounts of these 2 companies after the shares in these companies have been transferred to K and K. Any application for company bank accounts should be made against the respective companies themselves. By reason of the matters set out above, I refuse the request at Question 18. Questions relating the assets owned by PD Investment Ltd and FE Ltd. (Questions 20 and 26) As already set out above, the Petitioner does not deny she became the 100% shareholder of PD Investment Ltd and FE Ltd. For reasons already set out above, I fail to see why the Petitioner, as the sole director and shareholder of the 2 said companies, cannot access the company accounts. The same applies in relation to the company assets. Such matters should be within the Petitioner's knowledge, and at the very least, within her power to obtain such knowledge. I therefore refuse the requests at Questions 20 and 26. Questions relating to the allotment of shares in FE Ltd, GO Ltd and TE Ltd to K and K (Questions 24, 25, 35, 37 and 38). The Respondent has already answered these questions at paragraphs 165 167, and 182 184 of his 3rd Affirmation. In so far as the Petitioner seeks further documents, these requests are similar to those made in Questions 3 to 6. The Petitioner is again asking for documents to investigate the veracity of the allotment of shares and/or the shares transfers to K and K. I have already set out my reasoning on whether the Petitioner is entitled, at this stage, seek documents relating to the veracity of such transfers in absence of any application under s.17 MPPO. I do not repeat the same and adopt the same reasoning in respect of the Petitioner's request for further documents under Questions 24,

25, 35, 37 and 38. In so far as the Petitioner requested for documents relating to the transfer of TE Ltd shares to K and K, I note the Respondent had already provided the minutes of the relevant board meeting and the instrument of transfer. By reason of the matters set out above, and having read the answers provided by the Respondent in his 3rd Affirmation, I refuse the Petitioner's requests at Questions 24, 25, 35, 37 and 38. Questions relating to GO Ltd management accounts and HSBC accounts (Questions 27 and 28) The Petitioner is seeking discovery of GO Ltd's company bank statement and management accounts. Since GO Ltd is not owned solely by the Respondent and the Respondent is merely a minority shareholder of the company, the proper course is to seek discovery from GO Ltd itself. Although the Respondent admits to be an authorized signatory to GO Ltd's HSBC accounts, the proprietary right in the accounts and the information therein belongs to the company and not the Respondent. The authority to disclose such documents lie with the company and not the Respondent. I therefore refuse Questions 27 and 28. Questions relating to the assets of Wallaby Trust (Questions 29 and 30) The Respondent admits the Wallaby Trust was set up during his marriage with the Petitioner and admits that the trust was always under his control (see paragraph 35 and 36 of the Respondent's 3rd Affirmation). As explained above, the Wallaby Trust was set up with the Petitioner, J, K and K being the beneficiaries. I have read the answers provided by the Respondent to the Petitioner's requests for a list of assets as at the date of settlement, and a year prior to and after the assets of the Wallaby Trust was transferred to K and K. I accept the Respondent has not provided a complete answer. I also accept the Respondent should answer the requests as the Wallaby Trust may involve matrimonial assets which need to be identified in these proceedings. Since the Wallaby Trust was at all times under the control of the Respondent, the Respondent must be in a position to answer the requests and to provide the supporting documents. I therefore allow Questions 29 and 30. Questions relating to updated Register of Members and Directors of W Ltd, TE Ltd (Questions 31 and 34) The Respondent had previously provided the Petitioner with the Register of Members and Directors of W Ltd and TE Ltd. The Petitioner is now requesting for updated copies of the same. The Respondent refused the request for the reason he is no longer the director of the said companies. However, I note W Ltd's Register of Members and Directors provided by the Respondent is dated 16 June 2020, which is 1 month after the Wallaby Trust was dissolved. The Respondent therefore must have access to the Registers despite no longer being a director of the companies. I am satisfied the disclosure is necessary in the ancillary relief proceedings to shed light on the identity of the persons whom are in possession / ownership of the matrimonial assets the Petitioner claims to have been dissipated. In any event, such Registers are usually public documents. I fail to see why the Respondent cannot provide updated copies of the same. I therefore allow Questions 31 and 34. Questions relating to changes in the beneficiaries of the Wallaby Trust (Questions 32, 33, and 36) These questions relate to the re-appointment of K and K as eligible beneficiaries to the Wallaby Trust. In essence, the Petitioner requests for various documents to prove the re-appointment is genuine and proper. The Respondent has already provided the Deed of Appointment (see Attachment 42(b)) and the letter from the Respondent to the Trustee (See Attachment 42(c)). For reasons set out above (of which I shall not repeat), in

absence of any s.17 MPPO applications, the documents sought by the Petitioner are irrelevant to the ancillary relief proceedings at this stage. There is no issue of the transfers being disingenuous and no application to set aside any relevant transfers as such. I therefore refuse Questions 32, 33, and 36. Questions relating to the valuation of the Banyan Tree property and other German Properties (Questions 39 and 40) The Petitioner requests the Respondent to provide evidence of valuation of the Banyan Tree property and the 4 plots of land in Germany. I am of the view this is unnecessary and not a cost-efficient means of resolving the matter. If there is any dispute on the valuation of the properties, the parties are entitled to seek the court's directions on expert valuation of the properties in question. It is unnecessary and unhelpful to resort to unilateral valuation of the said properties. Unless parties can agree on the value of the said properties, any unilateral variation of the properties is bound to be disputed thereby resulting in the inevitable consequence of seeking expert valuation directions on the same. In so far as the request at Question 39 relates to a potential valuation of TE Ltd, the Respondent is not in a position to provide a unilateral valuation figure which would bind the court or have any weight as to the proper valuation of TE Ltd. Any valuation of a company, if disputed, should be dealt with by way of expert valuation. I therefore refuse the requests at Questions 39 and 40. COSTS In respect of the Petitioner's Summons, I have only allowed 5 out of the Petitioner's 33 requests that required adjudication. In respect of the Respondent's Summons, I only allowed 1 out of the 2 requests that required adjudication. Moreover, the one request on each side was allowed on the basis the other party acceded to provide the relevant documents. I am of the view both parties cannot be said to be wholly successful in their respective applications. In such circumstances, I make a costs order nisi that there be no order as to costs of the Respondent's Summons and the Petitioner's Summons (including all costs reserved). Unless any party applies to vary the costs order within 14 days hereof, the costs order shall become an order absolute. I therefore make the following orders: In respect of the Petitioner's Summons: The Respondent do within 28 days of the date of this Decision do file and serve an affirmation in answer to questions 1(a), 29, 30, 31 and 34 set out in the Petitioner's Second Affirmation, together with the documents requested in the aforesaid questions. The Petitioner's requests at questions 1(b) (g), 2, 8, 11, 15, 17, 18, 20, 24, 28, 32, 33, 35, 40 be dismissed. In respect of the Respondent's Summons: The Petitioner shall, within 28 days from the date of this Decision, file and serve an affirmation in answer to paragraph 3 of the Annexure annexed to the Respondent's Summons, together with the document / information requested. The Respondent's request at paragraph 6 of the Annexure annexed to the Respondent's Summons be dismissed. There be a costs order nisi as follows: There be no order as to costs of the Petitioner's Summons and the Respondent's Summons (including all costs reserved). Unless any party applies to vary the costs order within 14 days hereof, the costs order shall become an order absolute. (W.Y. HO) Deputy District Judge

hd&; hd&; h2 v hd&; hd&; hd&; hd&; hd&; hd&; hd&; hd&; hd&; h2 v hd&; gd2 v
gd2 v gd2 v gd2 v hd&; hd&; hd&; hd&; hd&; hd&; h2 v hd&; hd&; s[Ds- h2 v h2 v hd&;
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v gd2 v hd&; h2 v hd&; hd&; hd&; hd&; hd&; xk^Q^D:D^Q:Q hd&; hd&; hd&; hd&; hd&; h2 v
gd2 v gd2 v gd"R gd2 v gd2 v gd2 v gd2 v gd"R huh[PB hd&; hd&; hd&; hd&; hd&; hd&;
hd&; gd2 v gd2 v gd"R gd2 v hd&; hd&; hd&; hd&; hd&; hd&; hd&; gd2 v gd2 v }s}ses}s}s}
hd&; hd&; hd&; hd&; hd&; hd&; hd&; hd&; hd&; hd&; hd&; hp8x hd&; hd&; hd&; hd&;
hd&; hd&; hd&; h-K_ hd&; hd&; hd&; hd&; hd&; hd&; hd&; h-K_ hd&; gd2 v gd2 v yhy[N
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