

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

[2025] SGHC 105

Originating Claim No 485 of 2022

Between

Petrotech Marine Services Sdn
Bhd

... Claimant

And

- (1) Wong Wai Leng, trading as
Win Services & Agency
- (2) Low Chong Peng

... Defendants

Originating Claim No 486 of 2022

Between

Petrotech Marine Services Sdn
Bhd

... Claimant

And

- (1) Wong Yau Kan, trading as
Mozers Enterprises
- (2) Low Chong Peng
- (3) Wong Wai Leng, trading as
Winx Linen Enterprises
- (4) Zhu Pang

... Defendants

JUDGMENT

[Equity — Fiduciary relationships— Duties]
[Tort — Unlawful means conspiracy]
[Trusts — Accessory liability— Dishonest assistance]
[Trusts — Accessory liability— Knowing receipt]
[Restitution — Unjust enrichment]
[Restitution — Failure of consideration]
[Restitution — Change of position]
[Restitution — Ministerial receipt]
[Equity — Defences— Acquiescence]
[Equity — Defences— Laches]
[Equity — Defences— Estoppel]

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This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Petrotech Marine Services Sdn Bhd
v
Wong Wai Leng (trading as Win Services & Agency) and
another and another matter

[2025] SGHC 105

General Division of the High Court — Originating Claim No 485 of 2022,
Originating Claim No 486 of 2022
Hri Kumar Nair J
18–21, 24–28 March, 1–4, 8–11, 14–15, 25, 28–30 April, 2, 5, 30 May, 2 June
2025

6 June 2025

Judgment reserved.

Hri Kumar Nair J:

Introduction

1 In HC/OC 485/2022 (“OC 485”) and HC/OC 486/2022 (“OC 486”), Petrotech Marine Services Sdn Bhd (“Petrotech”) brought claims alleging that it had been defrauded or misled into paying various invoices, and that those payments were caused or enabled by one of its directors acting in breach of his fiduciary duties and in conspiracy with the other defendants.

Parties

2 Petrotech was incorporated in Malaysia in 2013. It was involved in the business of providing ship-to-ship (“STS”) transfer services – providing

equipment for, and facilitating, the transfer of cargo between vessels.¹ It conducted operations at the Malaysian port at Batu Pahat until early 2019, when it moved to the Malaysian ports at Port Dickson and Linggi (in Malacca).²

3 The defendants in OC 485 and OC 486 were:

(a) Mr Low Chong Peng (“Mr Low”), a director of Petrotech from its incorporation until he was removed on 10 August 2023.³

(b) Ms Wong Wai Leng (“Ms Wong”), sued in her capacity as the sole proprietor of two businesses in Singapore, Win Services & Agency (“Win”) and Winx Linen Enterprises (“Winx”);

(c) Mr Wong Yau Kan (“Mr Wong”), the nephew of Ms Wong, and sued in his capacity as the sole proprietor of Mozer’s Enterprises (“Mozer’s”); and

(d) “Zhu Pang”, who was not served and did not participate in the proceedings.

Background

4 Petrotech’s first shareholders and directors were Captain Mustafa Bin Saibon (“Capt Mustafa”), Captain Mohd Hariff Bin Abdul Hamid (“Capt Hariff”) (both Malaysians), Mr Yeo Peng Hay (“Mr Yeo”) and Mr Low (both Singaporeans).⁴

¹ Notes of Evidence on 19 March 2025 (“NE 19 March”) at p 181.

² Notes of Evidence on 1 April 2025 (“NE 1 April”) at p 49.

³ Mohd Hariff Bin Abdul Hamid’s Affidavit of Evidence-in-Chief (“AEIC Hariff”) at para 59.

⁴ AEIC Hariff at paras 5–6.

5 Capt Mustafa was the chairman of Petrotech but did not play an active role in its day-to-day business.⁵ He passed away in December 2019. Thereafter, Capt Hariff – who oversaw Petrotech’s operations and who gave evidence – took over as chairman.⁶

6 Mr Yeo, who did not give evidence, lived in Singapore and largely played a business development role.⁷

7 Mr Low was made the director in charge of Petrotech’s finance and administration department.⁸ He worked with one Mr Soo Kay Lee (“Mr Soo”), the finance and accounts manager of Petrotech.⁹ In November 2018, Petrotech employed Ms Gui Kuy Jin (“Ms Jin”) and Mr Ong Liu Kian (“Mr Ong”) to replace Mr Soo, who was in poor health and eventually retired in December 2018.¹⁰ Ms Jin and Mr Ong played critical roles in this dispute, and gave evidence. Mr Soo did not give evidence.

8 For a brief period from 2 May 2017 to 27 November 2017, one Captain Mohamed Kamal Bin Ismail (“Capt Kamal”) also served as a director of Petrotech.¹¹ He did not give evidence.

⁵ AEIC Hariff at para 11.

⁶ AEIC Hariff at para 13.

⁷ AEIC Hariff at para 26.

⁸ AEIC Hariff at para 27.

⁹ AEIC Hariff at para 29.

¹⁰ AEIC Hariff at paras 29–30.

¹¹ AEIC Hariff at para 12.

Kunlun

9 From the time of its incorporation in 2013 to 2016, Petrotech did not have significant business.¹² Its fortunes changed when it was introduced to Kunlun Trading Co. Limited (“Kunlun”), a shipping company incorporated in the People’s Republic of China.¹³ This introduction was made by one Mr Simon s/o Chandrahason (“Mr Simon”) of SC Marine Consultancy & Services (“SC Marine”).¹⁴

10 In or around late 2016 or early 2017, there were meetings between Captain Li Ming (“Capt Li”) of COSCO Shipping Tanker (Dalian) Seaman & Ship Management Co. Ltd., Captain Xu Rongbao (“Capt Xu”) and Captain Han Jiude (“Capt Han”) (representatives of Kunlun), Mr Simon, Capt Kamal and all the directors of Petrotech.¹⁵

11 These meetings culminated in Petrotech and Kunlun entering an agreement dated 7 March 2017 for Petrotech to provide Kunlun STS services at Batu Pahat (“1st STS Agreement”).¹⁶ In essence, Kunlun would deploy a “mother vessel” – a vessel anchored at the port and used for the temporary storage of cargo – and Petrotech would provide equipment and other services to facilitate the transfer of the cargo between the mother vessel and other ships (collectively “Kunlun ships”).¹⁷

¹² AEIC Hariff at para 14.

¹³ Low Chong Peng’s Defence in HC/OC 485/2022 (“OC485”) (“OC485 D2”) at para 35.

¹⁴ OC485 D2 at para 35.

¹⁵ OC485 D2 at paras 4–5.

¹⁶ AEIC Hariff at para 18.

¹⁷ NE March 19 at pp 24, 181.

12 On 15 November 2018, the parties entered a new agreement (“2nd STS Agreement”) on essentially the same terms as the 1st STS Agreement, save that the services would be performed at three different ports in Malaysia (Batu Pahat, Linggi and Port Dickson) and with changes to the fees chargeable by Petrotech.¹⁸

13 Under Clause 7 of the 1st STS Agreement, Kunlun and Petrotech were each to appoint authorised representatives. Capt Hariff testified that he was Petrotech’s representative, while Kunlun’s representatives were Capt Han and Capt Xu (who were stationed in Malaysia) and one Ms Yolande (who was based in China).¹⁹

14 Ms Yolande would instruct Petrotech on the entity to be invoiced for each operation. These entities were Kunlun and six other companies: CCCC International Shipping Corporation, Fair General Trading Co Ltd, P&G Consulting Pte Ltd, China Concord Petroleum Co Limited, Summit Resources Limited and Swiss Oil Trading SA.²⁰ The references below to “Kunlun” include, where appropriate, all these companies.

15 Petrotech’s business model enabled it to obtain revenues in two ways:

(a) Petrotech would provide services to Kunlun as described under the 1st STS Agreement and 2nd STS Agreement (collectively, “STS Agreements”), or specifically agreed with Kunlun, and charge Kunlun for the same;²¹ and

¹⁸ AEIC Hariff at para 18.

¹⁹ NE March 19 at p 73.

²⁰ Notes of Evidence on 26 March 2025 (“NE 26 March”) at p 103.

²¹ AEIC Hariff at para 18.

(b) Petrotech would engage third parties to provide services related to the STS operations for Kunlun, which it would pay for and on-charge to Kunlun with a mark-up or fee.²²

16 Capt Hariff’s evidence was that all third-party service providers were engaged by, and worked directly with, Petrotech.²³ Mr Low’s evidence was that there were several service providers which Kunlun instructed directly, but whose invoices were sent to Petrotech for payment, which Petrotech would pay and then charge to Kunlun.²⁴ Win and Mozer’s were two such service providers.

Zhu Pang and the Win Agreement

17 According to Mr Low, sometime in May 2017, he was contacted by, and met with, one Zhu Pang (“Zhu Pang”) who claimed to be “responsible for managing Kunlun ships operating in both open seas and Malaysian territorial waters” and that his duties “included sourcing spare parts, machinery, and maintaining the Kunlun ships”.²⁵ Zhu Pang asked Mr Low to introduce him to “someone with good connections in Malaysia, as Kunlun was planning to increase its business by introducing more service providers to the ongoing venture” of Petrotech and Kunlun.²⁶ Mr Low introduced Zhu Pang to Ms Wong that same day but claimed he left the meeting immediately afterwards.²⁷

²² AEIC Hariff at para 18.

²³ AEIC Hariff at paras 85, 119.

²⁴ Low Chong Peng’s Affidavit of Evidence-in-Chief (“AEIC Low”) at paras 56–58, 69–71.

²⁵ AEIC Low at para 61.

²⁶ AEIC Low at para 47–50.

²⁷ AEIC Low at para 53.

18 Ms Wong was at the time in the business of selling linen goods and other related household products through Winx, a business she had established in 2008. She testified that she received a call from Mr Low who informed her that there was a business opportunity “for [them] to work together”.²⁸ Zhu Pang was introduced to her as an “authorised representative of Kunlun”.²⁹

19 At that first meeting, Zhu Pang proposed, and Ms Wong agreed, that her job scope would primarily be to provide “groceries and/or food products and other provisions” (“Groceries”) to the Kunlun ships.³⁰ She was informed by Zhu Pang that she would be entitled to charge a flat monthly fee depending on the number of vessels she provided services to and charge Petrotech for the costs of the Groceries delivered.³¹

20 Ms Wong established Win to carry out this business.³²

21 By a written agreement dated 15 May 2017, Petrotech entered an Exclusive Agency Agreement with Win (“Win Agreement”).³³ The Win Agreement was drafted by Mr Low and signed by Capt Kamal (on behalf of Petrotech) and Ms Wong. Its terms are discussed below (at [96]–[113]).

22 Ms Wong claimed that she started performing services for Kunlun from August 2017.³⁴ In addition to supplying Groceries, on Zhu Pang’s instructions,

²⁸ Wong Wai Leng’s Affidavit of Evidence-in-Chief (“AEIC WWL”) at para 12.

²⁹ AEIC WWL at para 13.

³⁰ AEIC WWL at para 14 (f), (g)

³¹ AEIC WWL at para 14(h).

³² AEIC WWL at para 17.

³³ AEIC Hariff at para 65.

³⁴ AEIC WWL at para 24.

Win paid SC Marine for oil survey services it (allegedly) provided to Kunlun from the payments Win received from Petrotech.³⁵

23 From August 2017 to December 2021, Win issued 111 invoices to Petrotech for a total sum of US\$2,853,250 (“Win Invoices”) and received payment in full.³⁶ From the amount received, Ms Wong claimed that she:³⁷

- (a) deducted the costs of the Groceries³⁸ – she was, however, unable to say how much these were;
- (b) paid SC Marine a total sum of S\$459,800;³⁹
- (c) made cash payments to Zhu Pang⁴⁰ – she was also unable to say how much there amounted to; and
- (d) kept the balance which, again, she was unable to quantify, save that this included her fees totalling US\$570,650 (based on 20% of the sums invoiced to Petrotech).⁴¹

24 In short, other than the sums paid to SC Marine, Ms Wong was not able to produce any documentary or other evidence to show or account for what she did with the sum of US\$2,853,250 she received from Petrotech.

³⁵ AEIC WWL at para 47, 48.

³⁶ Wong Wai Leng’s Defence in OC485 (“OC485 D1”) at para 9A.

³⁷ AEIC WWL at para 117(a)

³⁸ AEIC WWL at para 177(a).

³⁹ AEIC WWL at paras 48, 66, 83, 98.

⁴⁰ AEIC WWL at para 177(a).

⁴¹ AEIC WWL at para 177(a).

The Mozer’s Agreement

25 According to Ms Wong, sometime in November 2017, Zhu Pang asked if she knew of any service providers willing to provide “similar agency services as that which Win had been providing to Kunlun and the Kunlun Ships”.⁴² She introduced him to Mr Wong.⁴³

26 Mr Wong claimed Ms Wong asked if he was interested in a business opportunity, where “the work would involve helping to coordinate with suppliers and vendors in Malaysia for some representatives from a Chinese company. [He] would need to drive them around Malaysia and help to liaise and translate with locals there”.⁴⁴ Mr Wong said he met with Zhu Pang, who informed him that Petrotech would pay him on Kunlun’s behalf.⁴⁵ Zhu Pang also informed him that he would have to sign an agreement with Petrotech and one of Petrotech’s directors would call him to arrange the signing.⁴⁶ That director was Mr Low.⁴⁷

27 According to Mr Low, sometime in December 2017, Capt Mustafa informed him that Zhu Pang had requested Mozer’s to be a service provider for Kunlun, and that Mr Low was to prepare an agreement like the Win Agreement to be entered by Petrotech and Mozer’s (“Mozer’s Agreement”).⁴⁸

⁴² AEIC WWL at para 128.

⁴³ AEIC WWL at para 128.

⁴⁴ Wong Yau Kan’s Affidavit of Evidence-in-Chief (“AEIC WYK”) at para 5.

⁴⁵ AEIC WYK at paras 8–10.

⁴⁶ AEIC WYK at para 10.

⁴⁷ AEIC WYK at para 11.

⁴⁸ AEIC Low at para 69.

28 The Mozer's Agreement was dated 20 December 2017 and signed by Capt Hariff on behalf of Petrotech.⁴⁹ There is a dispute over when it was actually signed, which is dealt with below (at [237]–[252]).

29 Mr Wong claimed that he began providing services to Kunlun in September 2018.⁵⁰ This involved driving a Kunlun representative, one “Mr Chow” around in Malaysia to attend meetings with Kunlun's suppliers and providing interpretation at these meetings.⁵¹ When he could not travel to Malaysia (including during the COVID-19 lock-down), he would interpret over the phone.⁵²

30 According to Ms Wong, sometime in July 2019, Zhu Pang approached her to discuss a different business opportunity – for Winx to supply Kunlun ships with linen goods such as bedsheets, pillowcases, towels and blankets (“Linen Goods”).⁵³ Zhu Pang said that he would arrange for Mozer's to pay Winx for the Linen Goods.⁵⁴ Winx began supplying the Linen Goods in September 2019.⁵⁵ In the period September 2019 to September 2021, Winx issued 41 invoices (“Winx Invoices”) and received payment in full from Mozer's.⁵⁶

⁴⁹ AEIC Hariff at para 110.

⁵⁰ AEIC WYK at para 14.

⁵¹ AEIC WYK at paras 16–18.

⁵² AEIC WYK at paras 57–58.

⁵³ AEIC WWL at para 131.

⁵⁴ AEIC WWL at para 134.

⁵⁵ AEIC WWL at para 136.

⁵⁶ AEIC WWL at paras 141, 147, 151.

31 In turn, Mozer’s invoiced Petrotech. In the period September 2018 and July 2021, Mozer’s issued 223 invoices for a total sum of S\$4,695,201 (“Mozer’s Invoices”), which were paid in full.⁵⁷ Of that amount, Mr Wong:

- (a) paid Winx S\$1,671,980 for the Linen Goods;⁵⁸
- (b) paid cash totalling S\$2,404,540 to Zhu Pang;⁵⁹
- (c) retained a sum of \$276,000 which he claimed to be Mozer’s fees based on 6% of the sums invoiced to Petrotech (although 6% of the sums invoiced would in fact be S\$281,712);⁶⁰ and
- (d) kept the balance which comprised a monthly allowance which he claimed to be around S\$4,000 to S\$6,000 – this would amount to about S\$270,000 (taking the upper limit of S\$6,000 per month for 45 months).⁶¹

However, this left *at least* S\$72,000 unaccounted for.

32 Kunlun terminated the STS Agreements in early 2022. However, Petrotech continued to make payments on some Win and Mozer’s Invoices.⁶² This led Capt Hariff and Mr Yeo to launch an internal investigation in the middle of 2022 (“Internal Audit”), which resulted in these proceedings.⁶³

⁵⁷ Wong Yau Kan’s Defence in HC/OC 486/2022 (“OC486”) (“OC486 D1”) at para 12.

⁵⁸ OC486 D1 at para 16.

⁵⁹ OC486 D1 at para 16.

⁶⁰ AEIC WYK at para 55.

⁶¹ AEIC WYK at paras 53–54.

⁶² AEIC Hariff at para 52.

⁶³ AEIC Hariff at para 53.

The claims

33 Petrotech commenced: (a) OC 485 against Mr Low and Ms Wong (trading as Win); and (b) OC 486 against Mr Low, Mr Wong (trading as Mozer’s) and Ms Wong (trading as Winx). Petrotech named Zhu Pang as a defendant in OC 486, but he was not served as Petrotech did not know his whereabouts.

34 It was Petrotech’s case that the Win Agreement and the Mozer’s Agreement (collectively, “Win and Mozer’s Agreements”) were procured by Mr Low to defraud or mislead Petrotech into making payments to Win and Mozer’s. The causes of action in both proceedings were similar. In essence, Petrotech’s claims were:

(a) as against Mr Low, for breach of fiduciary duties for causing Petrotech to make payments which were not in its best interests nor for its benefit;⁶⁴

(b) as against Mr Low, for deceit or negligent misrepresentation, *inter alia*, for causing Capt Hariff to sign the Mozer’s Agreement and approve the payments to Win and Mozer’s and failing to inform Petrotech that it would not be receiving any services under the Win and Mozer’s Agreements;⁶⁵

(c) as against Ms Wong and Mr Wong, for deceit, negligent or innocent misrepresentation in that, *inter alia*, Win and Mozer’s did not inform Petrotech that it would not be providing Petrotech services and/or

⁶⁴ Statement of Claim in OC485 (“OC485 SOC”) at paras 61–64; Statement of Claim in OC486 (“OC486 SOC”) at paras 65–68.

⁶⁵ OC485 SOC paras 48–60; OC486 SOC paras 52–64.

the contents of the Win Invoices and Mozer's Invoices were false or incorrect;⁶⁶

(d) as against Ms Wong and Mr Wong, for dishonest assistance in Mr Low's breach of his fiduciary duties;⁶⁷

(e) as against Ms Wong and Mr Wong, for knowing receipt of the payments received by them on account of the Win Invoices and Winx Invoices and Mozer's Invoices respectively;⁶⁸

(f) as against Ms Wong and Mr Wong, in respect of the payments received by them, for unjust enrichment, as constructive trustees or for payments made under a mistake;⁶⁹ and

(g) as against Mr Low, Ms Wong and Mr Wong, for conspiracy by unlawful or lawful means.⁷⁰

35 The defendants denied all the claims.

36 Mr Low pleaded that:

(a) Zhu Pang informed Capt Mustafa and him that Kunlun wanted to have Petrotech contract with Kunlun's various service providers (such as Win and Mozer's) when in fact the services would be provided directly to Kunlun – Petrotech would act as an intermediary and pay

⁶⁶ OC485 SOC paras 23–38; OC486 SOC paras 27–42.

⁶⁷ OC485 SOC paras 66–68; OC486 SOC paras 70–72.

⁶⁸ OC485 SOC paras 68–91; OC486 SOC paras 73–75.

⁶⁹ OC485 SOC paras 39–47; OC486 SOC paras 43–51, 76–79.

⁷⁰ OC485 SOC paras 72–78; OC486 SOC paras 80–86.

these service providers and Kunlun would in turn pay Petrotech (what was then) an unfixed commission (“Payment Arrangement”);⁷¹

(b) the commission was only fixed in September 2018 at a meeting between Kunlun and Petrotech, at which Capt Mustafa held a discussion with Kunlun’s “big boss” and secured a fixed commission fee of 15%;⁷²

(c) when the Win Invoices and Mozer’s Invoices were received by Petrotech, the amounts invoiced by Petrotech to Kunlun “[would] include costs to be incurred by [Petrotech] and an additional commission fee of 15%”;⁷³

(d) Petrotech did not suffer any loss but made profits from the Payment Arrangement;⁷⁴ and

(e) Capt Hariff made independent decisions to pay the Win and Mozer’s Invoices without checking with Mr Low.⁷⁵

37 In their pleadings, Ms Wong and Mr Wong adopted the Payment Arrangement,⁷⁶ also claiming that Petrotech did not suffer any loss as the Win and Mozer’s Invoices were charged to Kunlun.⁷⁷

⁷¹ OC485 D2 at para 7(viii); Low Chong Peng’s Defence in OC486 (“OC486 D2”) at para 7(viii).

⁷² OC485 D2 at para 9; OC486 D2 at para 9.

⁷³ OC485 D2 at para 38(g); OC486 D2 at para 42(f)

⁷⁴ OC485 D2 at para 11; OC486 D2 at para 11.

⁷⁵ OC485 D2 at para 38; OC486 D2 at para 42.

⁷⁶ OC485 D1 at para 1B(d); OC485 D2 at para 7(vii); OC486 D1 at para 11(c); Wong Wai Leng’s Defence in HC/OC 486/2022 (“OC486 D3”) at para 5(d).

⁷⁷ OC485 D1 at para 19; OC485 D2 at para 11; OC486 D1 at para 35; OC 486 D2 at para 11; OC486 at para 68.

38 In addition, Ms Wong and Mr Wong also pleaded defences of laches, acquiescence, ministerial receipt, change of position and estoppel.⁷⁸

39 Given the significant overlap in the issues and evidence in both actions, I ordered OC 485 and OC 486 to be heard together. In addition, given the defendants’ position that the amounts charged in the Win and Mozer’s Invoices had been charged to Kunlun and that Petrotech had therefore not suffered any loss, I directed the parties to jointly appoint a forensic accountant to review Petrotech’s documents and issue a report in respect of this allegation.

40 On 4 October 2024, the parties jointly appointed KPMG Advisory Services (“KPMG”) as their joint expert. KPMG issued its report on 10 March 2025 (“KPMG Report”), which was admitted into evidence. For the reasons explained below, KPMG’s findings were ultimately of little value. KPMG did not take the stand as parties confirmed that they had no questions on the KPMG Report.

My findings

Zhu Pang

41 Before dealing with the principal issues, I first deal with Zhu Pang. On the defendants’ case, he played a central role in the dispute and even received a substantial portion of the monies paid by Petrotech to Win and Mozer’s.

42 It was Petrotech’s pleaded position that Zhu Pang was not an authorised representative of Kunlun.⁷⁹ It joined Zhu Pang as a defendant to OC 486 but did not serve proceedings on him as they did not know who he was or where he

⁷⁸ OC485 D1 at paras 25A, 26W; OC486 D1 at pp 55–60.

⁷⁹ OC485 SOC at para 25(f); OC486 SOC at para 29(g).

could be found. The Kunlun employees they asked did not know him. In their evidence, Petrotech's witnesses stated that they had never met Zhu Pang or even heard of him prior to these proceedings and expressed doubts that he even existed.⁸⁰

43 I find that the defendants have failed to prove that there was an authorised representative of Kunlun named Zhu Pang. The evidence strongly suggested that Zhu Pang did not exist.

44 First, despite claiming to have known and worked with Zhu Pang from 2017 to 2022, none of Mr Low, Ms Wong or Mr Wong could offer his contact details, messages exchanged with him or even a photograph of him. They all claimed that they communicated with Zhu Pang via WeChat, but:

(a) Mr Low claimed that, sometime in June 2022, he discovered that he was “unable to locate Zhu Pang’s WeChat contact on [his] handphone”;⁸¹

(b) Ms Wong claimed that she “no longer [had] Zhu Pang’s number and Zhu Pang [had] deleted [their] WeChat chat history”,⁸² and

(c) Mr Wong claimed that he lost his phone sometime in or around October 2022 and, along with it, his WeChat call logs, chat histories and contacts.⁸³

⁸⁰ AEIC Hariff at paras 46–47; Mohamad Azmi Bin Selamat’s Affidavit of Evidence-in-Chief (“AEIC Azmi”) at para 24; Notes of Evidence on 24 March 2025 (“NE 24 March”) at p 30; Notes of Evidence on 27 March 2025 (“NE 27 March”) at p 101.

⁸¹ AEIC Low at para 149.

⁸² AEIC WWL at para 28.

⁸³ AEIC WYK at para 17.

As will be seen, the defendants also failed to produce other material documents, claiming that they were lost, deleted or destroyed.

45 Second, it is incredible that Mr Low simply accepted Zhu Pang’s claim of his (alleged) role within Kunlun. On his own evidence, he took no steps to verify Zhu Pang’s identity or even ask for his name card or his contact details within Kunlun.⁸⁴ He did not even mention Zhu Pang to the Kunlun representatives stationed in Malaysia.⁸⁵ He claimed that he was satisfied that Zhu Pang was employed by Kunlun because Zhu Pang was aware of information which only someone in Kunlun would know, namely that Kunlun had a joint venture with a company known as “CCCC” and would be setting up a company in Singapore.⁸⁶ But Mr Low did not explain why only someone in Kunlun would know this, or how this was sufficient to confirm Zhu Pang’s position or authority.

46 Third, Mr Low did not introduce Zhu Pang to Captain Hariff, Mr Mohamad Azmi bin Selamat (“Mr Azmi”) (who was involved in Petrotech’s operations at the Malaysian ports) or Capt Kamal, who Mr Low described as being “responsible for coordinating between Kunlun and [Petrotech]”.⁸⁷ This is especially curious given that (a) Kunlun was Petrotech’s *only* customer and “most of [Petrotech’s] income from 2017 to 2022 originated from the business that [Petrotech] did with Kunlun”;⁸⁸ and (b) Zhu Pang was, according to Mr Low, “responsible for managing Kunlun ships in both open seas and Malaysian

⁸⁴ Notes of Evidence on 3 April 2025 (“NE 3 April”) at p 16, 66.

⁸⁵ Notes of Evidence on 4 April 2025 (“NE 4 April”) at p 124.

⁸⁶ NE 4 April at p 174.

⁸⁷ AEIC Low at para 24.

⁸⁸ AEIC Low at paras 42–43.

territorial waters”⁸⁹ and therefore played an important role for Kunlun in Malaysia.

47 In fact, the first time Zhu Pang’s name appeared in any document was in the Defences.⁹⁰ Prior to this, Mr Low did not inform Capt Hariff of Zhu Pang’s involvement, despite having ample opportunities to do so:

(a) Capt Hariff testified that in July 2022, he and Mr Yeo confronted Mr Low about the Mozer’s Invoices, and Mr Low was unable to give any satisfactory explanation.⁹¹ This evidence was not challenged by Mr Low.

(b) On 12 December 2022, Capt Hariff, Mr Yeo and Mr Low convened a board of directors meeting to discuss commencing legal proceedings against four companies, including Win and Mozer’s.⁹² At the meeting, Mr Low was asked why these companies had been paid by Petrotech.⁹³ Mr Low did not mention Zhu Pang and insisted on speaking to the lawyers engaged by Petrotech, BR Law Corporation (“BR Law”).⁹⁴

(c) BR Law wrote to Mr Low on 19 December 2022, informing him of his fiduciary duty to assist Petrotech in pursuing its claims against Win and Mozer’s by providing information regarding the payments to

⁸⁹ AEIC Low at para 50.

⁹⁰ AEIC Hariff at para 144.

⁹¹ AEIC Hariff at para 56.

⁹² Bundle of Affidavits of Evidence-in-Chief (“BAEIC”) at p 258.

⁹³ BAEIC at p 261.

⁹⁴ BAEIC at p 261.

them.⁹⁵ Mr Low's lawyers responded on 6 January 2023 to complain that BR Law's appointment was without Mr Low's consent, without responding to BR Law's queries or mentioning Zhu Pang.⁹⁶

If Zhu Pang existed, was an authorised representative of Kunlun and the Win and Mozer's Agreements were legitimate, there would have been no reason for Mr Low to keep silent. To the contrary, it would have been to his benefit (and consistent with his fiduciary duties to Petrotech) to explain what he knew about the payments to Win and Mozer's.

48 Significantly, although it was pleaded by Mr Low that Capt Hariff, being the chairman and the director in charge of Petrotech's operations, would have known of Zhu Pang's involvement in the business of Petrotech,⁹⁷ this allegation was not put to Capt Hariff. Mr Low's failure to do so was consistent with him knowing that Zhu Pang did not exist.

49 Mr Low claimed that he had introduced Zhu Pang to Capt Mustafa over the phone and Capt Mustafa thereafter instructed him to draft the Win Agreement.⁹⁸ This could not be corroborated as Capt Mustafa had passed away in 2019. For reasons I elaborate on below, I reject this evidence. It would be a constant theme of Mr Low's evidence to allege Capt Mustafa's knowledge or involvement to explain his own conduct and downplay his culpability.

50 Fourth, despite Zhu Pang's (alleged) important role for Kunlun in Malaysia, it was not Mr Low's evidence that he ever visited Petrotech's offices

⁹⁵ BAEIC at p 2751.

⁹⁶ BAEIC at p 2760.

⁹⁷ OC485 D2 at para 38; OC486 D2 at para 27.

⁹⁸ AEIC Low at para 56.

in Johor Jaya, or their operations at Batu Pahat, Port Dickson or Linggi. In this regard, Ms Wong also claimed that Zhu Pang was involved in arranging the delivery of Groceries to the Kunlun ships,⁹⁹ but Mr Azmi, who oversaw the delivery of material and personnel from the jetties to the Kunlun ships, never encountered him.¹⁰⁰ Ms Wong's response was that Zhu Pang had made his own arrangements to deliver the Groceries, without explaining how she knew this or what those arrangements were.¹⁰¹

51 Fifth, Petrotech's directors met with Kunlun's senior management and officers at least twice in March 2017 and September 2018 to negotiate and ultimately execute the STS Agreements.¹⁰² Despite the importance of the STS Agreements, and Zhu Pang's alleged role and responsibilities in Malaysia, he was not present at any of these meetings – there was no evidence that his name was even mentioned. Mr Low's explanation was that Zhu Pang was involved in ship management and not STS operations.¹⁰³ This did not make sense and was contradicted by his own evidence in respect of the invoices issued by Petrotech to Kunlun (see [84] below).

52 Sixth, other than the defendants, no one else met or dealt with Zhu Pang. Significantly, despite Ms Wong claiming that Zhu Pang dealt with Mr Simon of SC Marine,¹⁰⁴ none of the defendants called him to give evidence. Likewise, Ms Wong claimed to have introduced Zhu Pang to her friends Mr Henry Tan ("Mr Tan") and Ms Carol Yap ("Ms Yap") in connection with the delivery of

⁹⁹ AEIC WWL at para 123.

¹⁰⁰ AEIC Azmi at para 24.

¹⁰¹ NE 1 April at p 12.

¹⁰² AEIC Hariff at paras 16, 50.

¹⁰³ NE 4 April p 125.

¹⁰⁴ AEIC WWL at para 21.

Groceries but did not call either to give evidence as well. Ms Wong’s failure to do so is dealt with in detail below (at [206]).

53 Seventh, the defendants did not produce any document which mentioned Zhu Pang’s name or even hinted at his existence. This included all the emails produced between the parties and Kunlun personnel.

54 Eighth, none of the defendants took any meaningful steps to contact Kunlun to confirm the existence of Zhu Pang or the Payment Arrangement. Mr Low and Mr Wong did not even attempt to do so. Ms Wong’s efforts were perfunctory. She wrote to Kunlun’s Hong Kong office although there was no evidence that Zhu Pang ever worked there.¹⁰⁵ Further, her letter was addressed to Zhu Pang – the very person whose authority was in question. Tellingly, when she failed to receive a response, she did not follow up by writing to anyone else at Kunlun’s Hong Kong or other offices.¹⁰⁶ This half-hearted attempt suggested that she knew that Zhu Pang either did not exist or was not an authorised representative of Kunlun. Petrotech’s efforts were better – Capt Hariff instructed Ms Syahidah Binti Ahmad (“Ms Syahidah”), Petrotech’s employee, to send text messages to Kunlun representatives familiar with the Malaysian operations such as Capt Xu, Capt Han and Capt Mai, who responded to say that they had checked with Kunlun’s offices and no one knew of Zhu Pang.¹⁰⁷ The defendant’s criticisms that Petrotech’s efforts were not thorough were misplaced as it was the defendants’ burden to prove Zhu Pang’s existence and authority.

¹⁰⁵ Notes of Evidence on 10 April 2025 (“NE 10 April”) at pp 23–24.

¹⁰⁶ NE 10 April at p 25.

¹⁰⁷ AEIC Hariff Tab 22.

55 The evidence that Zhu Pang existed was therefore entirely the say so of the defendants and nothing else. All the objective evidence pointed to him not existing. In addition, I find the defendants, particularly Mr Low, dishonest in several material aspects of their evidence, which I elaborate on. I therefore reject the defendants' evidence that they had reached an agreement or understanding with an authorised representative of Kunlun with respect to Win and Mozer's Agreements or the Payment Arrangement. The Payment Arrangement was exposed as a lie when Mr Low was cross-examined on the invoicing arrangements between Petrotech and Kunlun (see [75]–[87] below).

Whether Petrotech on-charged the Win and Mozer's Invoices to Kunlun

56 Under the Payment Arrangement, Kunlun would ultimately bear the amounts charged by Win and Mozer's to Petrotech (see [34] above). There was no dispute that Kunlun paid in full all the invoices issued by Petrotech ("Petrotech Invoices"). In the circumstances, the central issue is whether the amounts in the Win and Mozer's Invoices were included in the Petrotech Invoices or otherwise charged to, and paid by, Kunlun.

57 In this regard, Mr Low's pleaded that:

(a) The Win and Mozer's Invoices were handed to Ms Jin for her to process and generate the Petrotech Invoices, which would include the amounts charged in the Win and Mozer's Invoices and the additional commission fee.¹⁰⁸

(b) Kunlun would sometimes transfer sums of money even prior to receiving Petrotech Invoices or delay payment on the Petrotech

¹⁰⁸ OC485 D2 at para 38(d); OC486 D2 at para 42(d).

Invoices.¹⁰⁹ Win or Mozer's would also delay sending invoices even after the work for Kunlun had been completed.¹¹⁰ But it was not his case that such delays affected the process of on-charging the Win and Mozer's Invoices to Kunlun.

58 In the same vein, Ms Wong and Mr Wong pleaded that (a) Zhu Pang informed them of the Payment Arrangement; and (b) it was on this basis that they entered the Win and Mozer's Agreements.¹¹¹

59 I find that the defendants have failed to prove that the amounts charged in the Win and Mozer's Invoices were included in the Petrotech Invoices, or otherwise charged to Petrotech, and that Kunlun paid or reimbursed Petrotech for the same. In fact, the evidence was overwhelming that Mr Low deliberately caused the amounts invoiced by Win and Mozer's *not* to be charged to Kunlun and that the Payment Arrangement was entirely contrived.

Petrotech's procedure for dealing with invoices

60 I first describe how Petrotech dealt with invoices it received from third parties and its invoicing of Kunlun.

61 Ms Jin and Mr Ong joined Petrotech in November 2018.¹¹² Prior to their joining, their roles were performed by Mr Soo.¹¹³ Mr Soo resided in Malaysia. While Mr Low had applied for him to give evidence via video conference, his

¹⁰⁹ OC485 D2 at para 39; OC486 D2 at para 43.

¹¹⁰ OC485 D2 at para 39; OC486 D2 at para 43.

¹¹¹ OC485 D1 at para 1B; OC486 D1 at pp 7–9.

¹¹² Gui Kuy Jin's Affidavit of Evidence-in-Chief ("AEIC Jin") at para 4; Ong Liu Kian's Affidavit of Evidence-in-Chief ("AEIC Ong") at para 4.

¹¹³ AEIC Jin at para 7; AEIC Ong at para 7.

solicitors wrote to the court on 14 October 2024 to say that they were no longer calling Mr Soo as he was not well. No medical report was produced to support this claim. In any event, his absence was immaterial as it was not suggested that matters relating to invoicing and payments were dealt with differently during Mr Soo's tenure.

62 Ms Jin and Mr Ong explained as follows:

(a) Invoices issued by service providers and suppliers to Petrotech ("Third Party Invoices") were processed by Mr Ong. It was part of his duties to request for supporting documents for the Third Party Invoices,¹¹⁴ and he would inform Mr Low if there were none.¹¹⁵ He then handed over copies of the Third Party Invoices, with supporting documents, to Ms Jin.¹¹⁶

(b) Ms Jin would consult the operations team, including Ms Syahidah (the designated human resources manager, but also an administrative assistant) or Mr Azmi to confirm that the goods or services reflected in the Third Party Invoices had been provided.¹¹⁷

(c) After Ms Jin received confirmation, she would return the Third Party Invoices to Mr Ong.¹¹⁸ He would record them in a spreadsheet he called a "payment chart", which he submitted to Mr Low for instructions on which to pay.¹¹⁹

¹¹⁴ AEIC Ong at para 13

¹¹⁵ Notes of Evidence on 21 March 2025 ("NE 21 March") at p 37.

¹¹⁶ AEIC Ong at para 14.

¹¹⁷ AEIC Jin at para 20.

¹¹⁸ AEIC Ong at para 16.

¹¹⁹ AEIC Ong at para 16.

(d) For those which Mr Low instructed to pay, either Mr Low or Mr Ong would prepare a payment request using their respective internet banking tokens linked to Petrotech's OCBC (Malaysia) Berhad ("OCBC") account.¹²⁰ This was managed through OCBC's Velocity application, an online banking platform.¹²¹ Mr Ong only prepared payment requests from November 2019 when he was granted access to the account.¹²²

(e) Either Mr Low or Mr Ong would call Capt Hariff (who was usually out of the office dealing with Petrotech's operations) to authorise the payment request through his mobile banking application.¹²³ Payments could only be made if Capt Hariff authorised them.¹²⁴ Capt Hariff would not have sight of the Third Party Invoices but would see some details in the payment request, including the name of the supplier and the amount.¹²⁵

(f) Mr Ong would then record the Third Party Invoices in Petrotech's accounting ledger ("Ledger").¹²⁶

(g) Concurrently, Ms Jin would prepare the Petrotech Invoices.¹²⁷ In that regard, the amounts charged to Kunlun could be classified into two broad categories: (i) fees for goods and/or services provided to Kunlun

¹²⁰ AEIC Ong at para 19.

¹²¹ AEIC Ong at para 19.

¹²² Notes of Evidence on 24 March 2025 ("NE 24 March") at p 76.

¹²³ AEIC Ong at paras 19–21.

¹²⁴ AEIC Ong at para 20.

¹²⁵ NE 19 March at p 131.

¹²⁶ AEIC Ong at para 18.

¹²⁷ AEIC Jin at para 22.

by Petrotech as prescribed in the STS Agreements, which provided fixed rates (including monthly fees) for different services; and (ii) the amounts charged in the Third Party Invoices as well as an agency fee for processing and making payments on the Third Party Invoices. Ms Jin would attach to the Petrotech Invoices brief descriptions of the services provided (“Summaries”).¹²⁸

(h) Ms Jin would receive instructions from Ms Yolande on which Kunlun entity to bill and Mr Low would approve the Petrotech Invoice before Ms Jin signed and issued them.¹²⁹

63 With respect to step (g) above, Ms Jin testified that when she first joined, Mr Low would instruct her on what items to include in the Petrotech Invoices.¹³⁰ Once she became more familiar with Petrotech’s operations, she would prepare the Petrotech Invoices by referencing the fees prescribed in the 2nd STS Agreement or any separate fee agreement with Kunlun.¹³¹ Where items did not fall within either of these categories, Mr Low would instruct her on what to bill.¹³² This was borne out by several WhatsApp messages between them.¹³³

64 Mr Low did not challenge the process detailed above but asserted that he would first consult Capt Mustafa and Capt Hariff before giving instructions

¹²⁸ See for example OC485 4BD254.

¹²⁹ AEIC Jin at para 24; NE 26 March at p 20.

¹³⁰ NE 26 March at p 76.

¹³¹ NE 26 March at pp 77–78.

¹³² NE 26 March at p 89.

¹³³ 3DB9.

on which Third Party Invoices to pay.¹³⁴ But this assertion was not put to Capt Hariff.

Treatment of Win and Mozer's Invoices

65 The Win and Mozer's Invoices would, by definition, be Third Party Invoices. However, according to Ms Jin and Mr Ong, they were dealt with differently.

66 According to Mr Ong, he first saw Win Invoices in or about end November 2018 when Mr Soo handed him some copies.¹³⁵ These invoices, dated 2017, were already included in the payment chart.¹³⁶ He therefore did not hand these to Ms Jin.

67 Subsequently, he recalled an instance where he received a Win Invoice and handed it to Ms Jin in accordance with the usual procedure.¹³⁷ Ms Jin spoke with Mr Low about this Win Invoice, and Mr Low then instructed Mr Ong not to hand over any Win Invoices to Ms Jin.¹³⁸ Ms Jin confirmed this incident and testified that Mr Low instructed her not to charge the Win Invoice to Kunlun.¹³⁹

68 Mr Ong also testified that the Win Invoices he received did not have any supporting documents.¹⁴⁰

¹³⁴ NE 1 April at p 104.

¹³⁵ AEIC Ong at para 29.

¹³⁶ NE 21 March at p 148.

¹³⁷ AEIC Ong at para 30.

¹³⁸ AEIC Ong at para 30.

¹³⁹ AEIC Jin at para 27.

¹⁴⁰ AEIC Ong at para 32.

69 The same happened with respect to the Mozer's Invoices.

70 Mr Ong testified that sometime between 18 and 20 July 2019, Mr Low handed him a stack of Mozer's Invoices which were dated September 2018 to December 2018 ("2018 Mozer's Invoices") and instructed him to record these in the Ledger.¹⁴¹ None of the 2018 Mozer's Invoices had any supporting documentation.¹⁴² Mr Ong produced in evidence a payment chart for the period November 2018 to June 2019 he had earlier prepared which did not record any Mozer's Invoices.¹⁴³ This supported his evidence that no Mozer's Invoices had been received by him prior to June 2019. As per Mr Low's instructions, Mr Ong included Mozer's as a creditor in the Ledger around 22 July 2019 and updated his payment chart accordingly.¹⁴⁴

71 Subsequently, all Mozer's Invoices dated 2019 and after were sent to Mr Ong via e-mail from Mozer's.¹⁴⁵ He received the first e-mail from Mozer's on 22 August 2019, which enclosed Mozer's Invoices for January and February 2019.¹⁴⁶ As per the usual procedure, Mr Ong handed these invoices to Ms Jin.¹⁴⁷ However, shortly after, Mr Low instructed him not to submit any Mozer's Invoices to Ms Jin.¹⁴⁸ Mr Ong forgot those instructions and handed Ms Jin

¹⁴¹ AEIC Ong at para 37.

¹⁴² AEIC Ong at para 37.

¹⁴³ AEIC Ong at Tab 10.

¹⁴⁴ AEIC Ong at para 40.

¹⁴⁵ AEIC Ong at para 42.

¹⁴⁶ AEIC Ong at para 42.

¹⁴⁷ AEIC Ong at para 47.

¹⁴⁸ AEIC Ong at para 48.

copies of Mozer's Invoices for the months of March and April 2019 after receiving them, only to be reminded by Mr Low of his earlier instructions.¹⁴⁹

72 Ms Jin corroborated Mr Ong's evidence. She confirmed that she never received any invoices from Mozer's except on two occasions when Mr Ong handed her copies – but she could not remember when that happened.¹⁵⁰ When she asked Mr Low, he instructed her not to include the Mozer's Invoices in the Petrotech Invoices and took them away from her.¹⁵¹

73 Mr Low denied giving such instructions and insisted that the Win and Mozer's Invoices were handed to Ms Jin for processing and on-charging to Kunlun.¹⁵²

74 I accept Ms Jin and Mr Ong's evidence. They gave clear and consistent testimonies, which were unshaken under cross-examination. Their evidence was also consistent with the documentary evidence, including the Petrotech Invoices and the Summaries, which contained no references to the Win and Mozer's Invoices or the services allegedly provided by them.

75 In contrast, Mr Low's evidence was vague, contradictory and dishonest. Importantly, given Mr Low's pleaded case on the Payment Arrangement and his role as the director in charge of finance, it was for him to explain *how* the amounts charged by Win and Mozer's were on-charged to Kunlun. He could not do so.

¹⁴⁹ AEIC Ong at paras 49–50.

¹⁵⁰ AEIC Jin at para 30.

¹⁵¹ AEIC Jin at para 31.

¹⁵² NE 1 April at p 88; NE 3 April at p 172; NE 4 April at p 16.

76 Mr Low pleaded that the Win and Mozer’s Invoices were handed to Ms Jin to process and generate the Petrotech Invoices and that the amounts invoiced to Kunlun by Petrotech would include the amounts charged in the Win and Mozer’s Invoices with a commission fee of 15%.¹⁵³ But this was not supported by his own evidence, which changed constantly and to a point where it became incomprehensible.

77 The first version of Mr Low’s evidence was set out in his affidavit, where he testified that the amounts charged by Win and Mozer’s were not “explicitly” stated in the Petrotech Invoices.¹⁵⁴ Mr Low cited the following example:¹⁵⁵

To the best of my recollection, I verily believe that Kunlun made their first transfer of USD \$97,000 to [Petrotech] sometime around August 2017. ... We invoiced USD \$97,000 (i.e.: inclusive of pre-determined amount to be invoiced by [Win which] amounted to be USD \$38,250, the rental of the STS Location, Operations, rental for fenders and hoses etc) to Kunlun. I recall that during the first month, [Win] provided services to Kunlun and invoiced us a total of USD \$38,250.

For the avoidance of doubt, the ‘pre-determined invoice amount’ was agreed upon between [Petrotech] and Kunlun, with a shared understanding that led to the Payment Arrangement. Again, all directors of [Petrotech] were aware of this arrangement.

That evidence was plainly false.

78 First, although Mr Low claimed that all the Petrotech directors were aware of the Payment Arrangement, this allegation was not put to Capt Hariff.

¹⁵³ OC485 D2 at para 38(d); OC486 D2 at para 42(d).

¹⁵⁴ AEIC Low at para 113.

¹⁵⁵ AEIC Low at paras 111–112.

79 Second, the 1st STS Agreement was signed in March 2017. Zhu Pang allegedly only surfaced in May 2017 and the Win Agreement was signed on 15 May 2017. On Mr Low’s own evidence, he did not know what services Zhu Pang wanted Win to perform and certainly could not have known that in March 2017.

80 In that regard, the example cited by Mr Low in his affidavit exposed his lie. The first Petrotech Invoice of US\$97,000 to Kunlun was specifically provided for in Clause 6.1.2 of the 1st STS Agreement:¹⁵⁶

[Kunlun] shall pay [Petrotech] the amount of USD97,000.00 (US Dollars Ninety-Seven Thousand only) for being the monthly payment for the Mother vessel agency fee, STS area license fee, POAC fee, Fenders and Hoses fee and OSR fee in advance of 30 (Thirty) days from the date of receipt by [Kunlun] of [Petrotech’s] Invoice.

81 In other words, Kunlun agreed in *March 2017* to pay Petrotech a fixed monthly fee of US\$97,000 for services to Kunlun’s “mother vessel”. Importantly, Mr Low accepted that the breakdown of services for that fee was set out in Schedule 4 of the 1st STS Agreement.¹⁵⁷ Those services did not include anything Win allegedly did or agreed to do for Kunlun. The amount payable to Win therefore could not have been “pre-determined” before, or included in, the 1st STS Agreement. Nor could the monthly fee of US\$97,000 have included the amount claimed in the first Win Invoice, which was only issued in August 2017.

82 When confronted with this, Mr Low disavowed the plain text of his affidavit and claimed that what he meant was that the Win Invoice of US\$38,250 was *paid out* of the US\$97,000 received from Kunlun.¹⁵⁸ That

¹⁵⁶ OC485 1AB393.

¹⁵⁷ NE 2 April at p 21.

¹⁵⁸ NE 2 April at p 23.

“clarification” was plainly contrived in the context of what he was trying to explain in his affidavit.

83 Mr Low accepted that the Petrotech Invoice for US\$97,000 did *not* include the Win Invoice for US\$38,250, and that applied to *all* Petrotech Invoices issued in respect of the fixed monthly fee of US\$97,000.¹⁵⁹ Mr Low had effectively abandoned the evidence in his affidavit.

84 Mr Low then changed his evidence, this time claiming that when the fees in Schedule 4 of the 1st STS Agreement was negotiated and agreed, Kunlun had *already* incorporated what it anticipated it would have to pay service providers such as Win.¹⁶⁰ He claimed to have been informed of this by Capt Mustafa, who reached such an understanding with Kunlun.¹⁶¹ Over and above contradicting his earlier evidence, this version was also incredible:

(a) Although Mr Low claimed that all the Petrotech directors was aware of this arrangement,¹⁶² this was again not put to Capt Hariff.

(b) There was no reason, and Mr Low did not offer any, as to why Petrotech and Kunlun would agree to the fees in Schedule 4 in this manner. In fact, there was no reason for Petrotech to agree to their *fixed* fees in Schedule 4 being significantly reduced to pay for *future* services Kunlun engaged from third parties.

(c) According to Mr Low (see [51] above), the STS services and ship management services were entirely different – and that explained

¹⁵⁹ NE 2 April at p 24.

¹⁶⁰ NE 4 April at pp 166–167.

¹⁶¹ NE 4 April at p 29.

¹⁶² NE 4 April at p 29.

Zhu Pang's absence from Petrotech's meetings with, and operations for, Kunlun. If so, he did not explain why Kunlun would be anticipating and incorporating fees for *ship management services* in the 1st STS Agreement.

(d) Mr Low could not explain how the fees in Schedule 4 were determined, simply asserting that Kunlun had its own way of doing things.¹⁶³

85 Mr Low then advanced a third version. He accepted that, on the face of the Petrotech Invoices, the Win and Mozer's Invoices were not included in them. However, he claimed that Capt Mustafa and Kunlun had agreed that Petrotech would earn a profit margin of 15% in respect of services carried out by third party service providers, including Win and Mozer's, and that margin would only be determined at the end of the year, taking into account all the charges incurred, and revenue earned, by Petrotech. Therefore, so long as Petrotech achieved a 15% profit margin, it would follow that all the Win and Mozer's Invoices had been charged to and paid by Kunlun. Not only was this not pleaded or in Mr Low's affidavit, it was not supported by the evidence:

(a) Mr Low again testified that all the other directors were aware of this arrangement,¹⁶⁴ but that assertion was not put to Capt Hariff;

(b) Mr Low did not offer any evidence that Petrotech in fact achieved a profit margin of 15% for any year of its operations;

¹⁶³ NE 4 April at p 180.

¹⁶⁴ NE 3 April at p 157.

(c) Mr Low accepted that the profit margins for different third party suppliers varied from 5% to 50%.¹⁶⁵ In the circumstances, unless the amounts charged by Win and Mozer's were specified in the Petrotech Invoices, neither Petrotech nor Kunlun could know whether they were charging or paying a margin of 15%. Mr Low claimed that Kunlun would know how much Win or Mozer's had charged or how Petrotech added the 15%, but when asked *how* Kunlun would know, he could not answer.¹⁶⁶

86 Mr Low was plainly making up his evidence as he went along. In fact, he continued to take different and contradictory positions during cross-examination, including that the Win Invoices were charged to Kunlun, but the Mozer's Invoices were not as they were often received late.¹⁶⁷ He then walked back that evidence by claiming that the Mozer's Invoices were subsequently charged to Kunlun, but he was unable to explain how.¹⁶⁸

87 In his closing submissions, Mr Low was left with asserting that (a) Petrotech's invoicing and Kunlun's payments were "messy" as the on-charging to Kunlun was not done on an invoice-to-invoice basis;¹⁶⁹ and (b) the Win and Mozer's Invoices were charged to Kunlun, but that he did not know how.¹⁷⁰

88 But Mr Low's evidence failed to deal with a fundamental flaw in his case. While he insisted that all the Win and Mozer's Invoices were handed to

¹⁶⁵ NE 4 April at pp 121–122.

¹⁶⁶ NE 4 April at p 123.

¹⁶⁷ NE 4 April at p 160.

¹⁶⁸ NE 4 April at pp 162–164.

¹⁶⁹ Low Chong Peng's Written Submissions filed on 5 May 2025 at para 6.

¹⁷⁰ Notes of Evidence on 28 April 2025 ("NE 28 April") at p 23.

Ms Jin to be processed and charged to Kunlun, it was *not* put to Ms Jin how she went about doing so. Mr Low conceded that he did not give Ms Jin any instructions on how to incorporate the Win and Mozer's Invoices.¹⁷¹ It was also not his case that Ms Jin included the charges on her own initiative. In other words, there was no explanation as to how the Win and Mozer's Invoices were dealt with by Ms Jin. This completely undermined Mr Low's case that the Win and Mozer's Invoices were charged to Kunlun, never mind his pleaded case that Ms Jin included the amounts in the Petrotech Invoices and added a fee of 15%.

89 I therefore have no hesitation rejecting Mr Low's evidence. He was reduced to giving contradictory and illogical evidence because he knew that the Win and Mozer's Invoices were not given to Ms Jin to process and the amounts therein were not charged to Kunlun. His case on the Payment Arrangement was entirely fabricated and dishonest. I find that it was entirely concocted to explain why Petrotech paid the Win and Mozer's Invoices.

90 That raised questions about the Win and Mozer's Agreements. According to the defendants, the Win and Mozer's Agreements were legitimate agreements entered into by Petrotech at the request of Kunlun (through Zhu Pang) and Ms Wong and Mr Wong testified that Kunlun received the services they provided. If so, there would be no reason for Petrotech not to on-charge the Win and Mozer's Invoices to Kunlun. As I explain below, the Win and Mozer's Agreements were plainly shams.

¹⁷¹ NE 4 April at pp 16–17.

KPMG's findings

91 For completeness, I deal with the KPMG Report. The parties engaged KPMG to review Petrotech's accounts and documents to determine whether the Win and Mozer's Invoices could be matched to the Petrotech Invoices.

92 KPMG carried out the exercise by analysing and matching the details in the Win and Mozer's Invoices to that in the Petrotech Invoices such as the operation dates, operation location, vessel name, description and amount. This resulted in a list of preliminary matches, which it then narrowed by the process of elimination¹⁷² by applying other criteria such as the difference in vessel names and operation dates.

93 In the circumstances, just because some of the Win and Mozer's Invoices may have met the criteria used by KPMG did not mean that they had been included in the Petrotech Invoices. Indeed, KPMG highlighted that "in light of the many uncertainties, assumptions, limitations and contradicting statements made by all parties", it was unable to confirm the accuracy of its findings.¹⁷³ More importantly, KPMG's findings did not consider *how* the Petrotech Invoices were prepared and, of course, the evidence and my findings above. In fact, after hearing the evidence of the factual witnesses, all the parties agreed that it was not necessary to ask questions on the KPMG Report.

94 In the circumstances, I find that:

- (a) there was no agreement between Petrotech and Kunlun that Petrotech would pay the Win and Mozer's Invoices and charge them to

¹⁷² KPMG Report pp 8–13.

¹⁷³ KPMG Report pp 8–13.

Kunlun and the Payment Arrangement as pleaded by the defendants did not exist;

(b) the Win and Mozer's Invoices were not charged to Kunlun on Mr Low's instructions, and Kunlun did not reimburse Petrotech its payments to Win and Mozer's;

(c) Petrotech processed and paid the Win and Mozer's Invoices on Mr Low's instructions; and

(d) Petrotech suffered losses by paying the Win and Mozer's Invoices as Win and Mozer's did not provide it with any services.

95 Before I turn to whether the defendants, or any of them, are liable for those losses, I first deal with the Win and Mozer's Agreements and the circumstances leading to their executions. In this regard, I highlight that it is the respective pleaded positions of Ms Wong and Mr Wong that the Win and Mozer's Agreements were executed to put in effect the Payment Arrangement, and the Win and Mozer's Invoices were issued pursuant to them. I have found that the Payment Arrangement did not exist.

The Win Agreement

96 Mr Low claimed that he and Capt Kamal drafted the Win Agreement on Capt Mustafa's instructions.¹⁷⁴

97 There were several features of the Win Agreement which are suspicious.

98 First, Recital (2) stated that:

¹⁷⁴ NE 4 April at p 168.

[Win] is a company registered in Singapore, principally engaged in Shipping agency and Oil Survey business.

This was not true. According to Ms Wong, she established Win in May 2017 to carry out the business of supplying Groceries to the Kunlun ships. Mr Low agreed that he knew Recital (2) was false, but claimed that he drafted it on Capt Mustafa's instructions.¹⁷⁵ I do not believe him – it was another instance of him conveniently pointing the finger at Capt Mustafa. It was Mr Low and not Capt Mustafa who knew Ms Wong and that Ms Wong was not, and had no experience, in the business of providing marine services. Likewise, Mr Low knew that Clause 7.1.2 of the Win Agreement, which provided that Win “has the qualification to perform the transaction contemplated hereunder and such transaction is covered under its scope of business” was false.¹⁷⁶ Mr Low was content to have Petrotech sign an agreement which he knew contained false terms.¹⁷⁷ If the Win Agreement was a legitimate agreement (as Mr Low claimed), there would be no reason for such subterfuge.

99 Second, Recital (3) of the Win Agreement provided that:¹⁷⁸

For the purpose of business operation, [Petrotech] decides to empower [Win] as its “exclusive agent for all marine services for the floating storage ships, replenish ships and shuttle ships” and “Oil Surveying Services” at Batu Pahat anchorage, West Malaysia and [Win] agrees to act as the exclusive agent of [Petrotech].

Clauses 1.1 and 1.2 explained:¹⁷⁹

¹⁷⁵ NE 4 April at p 171.

¹⁷⁶ OC485 1AB405.

¹⁷⁷ NE 4 April at p 171.

¹⁷⁸ OC485 1AB402.

¹⁷⁹ OC485 1AB403.

1.1 “Exclusive agent for all marine services” means the business for [Win] to have the exclusive power and rights to negotiate and secure the best price for marine services from competence (sic) service providers in Singapore to support the Ship to Ship Transfer Operations.

1.2 “Oil Survey Services” means the business for [Win] to liaise with competence (sic) surveyor in Singapore to conduct all surveying services for [Petrotech].

According to Mr Low, “exclusive agent for all marine services” included the STS services Petrotech was providing Kunlun.¹⁸⁰ It made no sense for Petrotech to appoint Win (a) to play such an important role in the service of its only customer when Win had no experience providing such services; and (b) as its exclusive agent when it was capable of engaging, and had in fact engaged, other service providers itself.

100 Third, if Kunlun genuinely required oil survey services, there was no reason for it to engage Win, which had no such expertise in such matters. In fact, SC Marine which provided such services was known to both Kunlun and Petrotech (see [9] above). Capt Hariff also testified that oil survey services required by Kunlun ships were directly arranged between the Kunlun ship captains and Mr Simon of SC Marine,¹⁸¹ and he produced an agreement between Kunlun and SC Marine dated 31 January 2019 for SC Marine to provide services to Kunlun ships.¹⁸² In other words, Kunlun had directly engaged SC Marine and there was no reason for it to go through Win.

101 Significantly, Ms Wong testified she did not even deal with SC Marine.¹⁸³ According to her, Zhu Pang (allegedly) dealt with SC Marine and

¹⁸⁰ NE 3 April at p 86.

¹⁸¹ AEIC Hariff at para 75.

¹⁸² AEIC Hariff at Tab 12.

¹⁸³ Notes of Evidence on 8 April 2025 (“NE 8 April”) at p 43.

made all the arrangements, and she did not even know if such oil survey services were provided.¹⁸⁴ All she had to do was to pay invoices (allegedly) issued by SC Marine which she received via e-mail.

102 Fourth, Clause 2.2 of the Win Agreement provided that if Win could not provide any service required, such service would be “conducted by an appropriate third party solely appointed by [Petrotech]”.¹⁸⁵ This only raised the question of why either Kunlun or Petrotech needed to engage or deal with Win in the first place.

103 Fifth, Clause 4 of the Win Agreement stated that Win was entitled to charge a fee of US\$2,000 per ship.¹⁸⁶ But this was not what it charged. According to Ms Wong’s affidavit, in or around August 2017, Zhu Pang proposed, and she agreed, that the Win Agreement be amended to reflect an agency fee of 20% on each invoice that Win charged to Petrotech.¹⁸⁷ This “amendment” was not evidenced in writing. I deal with this in detail later.

104 Sixth, and most importantly, Win did not provide *any* of the services listed in the Win Agreement. The supply of Groceries – which was the only substantive task Win was asked to perform – was not included in the Win Agreement. Counsel for Ms Wong referred to “replenish ships”¹⁸⁸ in Recital (3) – but, when read in context, that clearly referred to the *type* of ships and not

¹⁸⁴ Notes of Evidence on 9 April 2025 (“NE 9 April”) at p 20.

¹⁸⁵ OC485 1AB403.

¹⁸⁶ OC485 1AB404.

¹⁸⁷ AEIC WWL at para 23.

¹⁸⁸ Notes of Evidence on 29 April 2025 (“NE 29 April”) at p 81.

replenishing ships. Win was also supposed to liaise with oil surveyors,¹⁸⁹ which, as discussed above, it did not do.

105 This in turn raised several questions which cast further doubt on the legitimacy of the Win Agreement:

(a) Why could Kunlun not have engaged Petrotech directly to arrange for Groceries? Over and above the STS services, Petrotech had provided other services related to the welfare of the Kunlun ships' crews, such as arranging meals, transport and air flights.¹⁹⁰

(b) What was the commercial rationale for Kunlun wanting to appoint a middleman who had no experience at all in the marine industry and paying it substantial fees? When asked about this, all Mr Low could say was that this was what Kunlun wanted to do.¹⁹¹

(c) Why did the Win Agreement not simply state what Win was tasked to do? In fact, the Win Agreement did not mention Kunlun at all, much less provide that Win would provide services to Kunlun but be paid by Petrotech. Instead, the Win Agreement was replete with falsehoods and inaccuracies. Mr Low could not explain this other than insisting that it was all done on Capt Mustafa's instructions.¹⁹²

106 How the Win Agreement came to be drafted and executed is also suspicious. Mr Low claimed that after Zhu Pang accepted his recommendation to appoint Ms Wong, he discussed the arrangement with Capt Mustafa over the

¹⁸⁹ OC485 1AB403.

¹⁹⁰ OC485 2AB386.

¹⁹¹ NE 4 April p 181.

¹⁹² NE 4 April p 171.

phone and handed his phone to Zhu Pang so that he could speak directly with Capt Mustafa.¹⁹³ After Capt Mustafa agreed with Zhu Pang's proposal, Mr Low claimed that (a) he and Capt Kamal drafted the Win Agreement based on a template Mr Low downloaded from the internet; and (b) Capt Kamal signed it on behalf of Petrotech at the direction of Mr Yeo.¹⁹⁴ I disbelieve that evidence.

107 First, Capt Mustafa resided in Seremban and was not involved in Petrotech's day-to-day operations. Capt Hariff explained that (a) Capt Mustafa was in poor health and hard of hearing;¹⁹⁵ (b) he and Capt Mustafa were close and Capt Mustafa would speak to him if he wanted to find out about matters relating to Petrotech and would only discuss matters concerning Petrotech if he was with him;¹⁹⁶ and (c) Capt Mustafa would have mentioned the Win Agreement to him but never did so.¹⁹⁷ I accept this evidence. Mr Low agreed that Capt Mustafa and Capt Hariff were close and even testified that he did not inform Capt Hariff of the Mozer's Agreement as he assumed Capt Mustafa would have done so.¹⁹⁸ It was also put to Capt Hariff by Mr Low's counsel that he and Capt Mustafa were close and would have discussed the Win Agreement.¹⁹⁹

108 In that regard, it did not make sense that Capt Mustafa would agree to appoint Win as Petrotech's "exclusive agent" for all marine services and oil

¹⁹³ AEIC Low at para 56.

¹⁹⁴ AEIC Low at para 61.

¹⁹⁵ AEIC Hariff at paras 41–42.

¹⁹⁶ AEIC Hariff at para 21.

¹⁹⁷ AEIC Hariff at paras 43–44.

¹⁹⁸ AEIC Low at para 64.

¹⁹⁹ Notes of Evidence on 18 March 2025 at p 167.

surveying services without at least discussing with Capt Hariff who was in charge of Petrotech's operations and dealt with its service providers.

109 Further, despite claiming that Capt Kamal was in charge of coordinating matters between Kunlun and Petrotech,²⁰⁰ Mr Low did not inform Capt Kamal of Zhu Pang's approach or ask him to attend any meeting with Zhu Pang despite (a) Zhu Pang's (apparently) important role in Kunlun's operations in Malaysia²⁰¹; and (b) Mr Low's admission that he was the least experienced of all the Petrotech directors in the marine services industry. Mr Low could not give a good reason for not involving Capt Kamal other than insisting that he was handling the matter.²⁰²

110 It is unknown what Capt Kamal knew or understood of the Win Agreement or why he signed it. Neither Petrotech nor Mr Low called Capt Kamal to give evidence – both claimed to have lost touch with him and not to have his contact details. Importantly, Mr Low's evidence on his and Capt Kamal's involvement in the signing of the Win Agreement was inconsistent. In his affidavit, he claimed that he “drafted the Win Agreement together with [Capt] Kamal”²⁰³ and that he “was not physically present to witness the signing of the [Win Agreement] by [Capt] Kamal”.²⁰⁴ Yet, in the same affidavit, he claimed that “[Capt] Kamal was informed of the [Win Agreement] when he signed the [Win Agreement]”.²⁰⁵

²⁰⁰ AEIC Low at para 24.

²⁰¹ NE 2 April at p 151–152.

²⁰² NE 3 April at p 13.

²⁰³ AEIC Low at para 62.

²⁰⁴ AEIC Low at para 63.

²⁰⁵ AEIC Low at paras 64.

111 Second, Mr Low falsely tried to distance himself from the discussions between Zhu Pang and Ms Wong by claiming that he left the meeting immediately after making the introduction as he “did not want to be involved any further and wanted to focus [his] work with [Petrotech].”²⁰⁶ In the stand, he said he was concerned about “conflicts of interests” and that he did not want Petrotech to be prejudiced should Kunlun’s relationship with Win sour.²⁰⁷ I find his evidence contrived:

(a) Given Kunlun’s importance to Petrotech, Mr Low should have been even more concerned that the discussions between Kunlun and Ms Wong (who was his recommendation) should progress smoothly and that any issues be resolved. Further, the discussions involved Petrotech, as it was Petrotech which was to enter into an agreement with Win. It therefore did not make sense for Mr Low not to be present during the discussions.

(b) If Mr Low was genuinely concerned about conflicts of interests, he ought not to have recommended Ms Wong given his close relationship with her – which I will deal with later – or should have at least consulted his fellow directors before making that recommendation.

(c) I also note that:

(i) Mr Low’s evidence that he was not involved in the actual signing of the Win Agreement was contradicted by Ms Wong, who said that he was the one who handed it to her and was present when she signed.²⁰⁸

²⁰⁶ AEIC Low at para 53.

²⁰⁷ NE 2 April at p 92.

²⁰⁸ AEIC WWL at paras 18–19.

(ii) Mr Low was copied on all of Win’s e-mails to Mr Ong attaching the Win Invoices and, prior to Mr Ong joining Petrotech, the Win Invoices were received by Mr Low;²⁰⁹ and

(iii) It was Mr Ong’s unchallenged evidence that he had asked Mr Low about the Win Invoices and was told that there were no supporting documents²¹⁰ – Mr Low clearly knew more about the Win Agreement and the Win Invoices than he let on in his evidence.

112 Third, Mr Low was actively giving or maintaining the false impression that Win was providing marine services for Petrotech’s operations. When Mr Ong sent him a message on 20 August 2019 saying that Petrotech’s auditors had asked about the kind of services that Win provided to Petrotech,²¹¹ Mr Low instructed Mr Ong to inform the auditors that Win did the following: (a) coordinating with ship management on supply of ship crews; (b) liaising and coordinating of supplying ship stores and equipment; (c) coordinating repair work for CCPC Vanguard (a mother vessel); and (d) coordinating and supplying oil surveyors and bunkering for CCPC Vanguard.²¹² That was plainly false. Ms Wong confirmed in her evidence that she did not provide any of these services.²¹³

²⁰⁹ NE 9 April at p 13.

²¹⁰ NE 25 March at p 48.

²¹¹ 2DB63.

²¹² 2DB63.

²¹³ NE 9 April at pp 66–68.

113 Fourth, Mr Low claimed that (a) he informed the Petrotech directors that Win was owned by Ms Wong;²¹⁴ and (b) all directors were informed of the Payment Arrangement by Capt Mustafa sometime in July or early August 2017.²¹⁵ But these assertions were not in his affidavit nor were they put to Capt Hariff.

The Mozer's Agreement

114 The Mozer's Agreement was also drafted by Mr Low. It was simply a copy of the Win Agreement, with some modifications. It was equally suspicious.

115 First, Ms Wong's evidence as to the involvement of Mozer's made no sense. When Zhu Pang asked if she knew of any service provider who could provide "similar agency services"²¹⁶ as Win, Mozer's was plainly not such an entity. There was also no explanation as to why Zhu Pang needed a *second* service provider to provide similar services. In the event, the services (allegedly) provided by Mozer's bore no similarity to that provided by Win (other than handing substantial cash to Zhu Pang).

116 Second, Recital (2) of the Mozer's Agreement stated:²¹⁷

[Mozer's] is a company registered in Singapore, principally engaged in Sourcing of Marine Materials & Spare Parts and Ship Maintenance, Repair & Overhaul Services business[.]

²¹⁴ NE 3 April at p 3.

²¹⁵ AEIC Low at para 112.

²¹⁶ AEIC WWL at para 128.

²¹⁷ OC486 1AB445.

This was false. Further, in Clause 7.1.2 of the Mozer’s Agreement, Mozer’s undertook and warranted to Petrotech that “it has the qualification to perform the transaction contemplated hereunder and such transaction is covered under its scope of business”,²¹⁸ which was also false.

117 Third, Recital (3) of the Mozer’s Agreement stated:²¹⁹

For the purpose of business operation, [Petrotech] decides to empower [Mozer’s] as its “exclusive coordinating agent for Sourcing of all Marine Materials & Spare Parts and Maintenance, Repair & Overhaul Services for the floating storage ships, replenish ships and shuttle ships” and [Mozer’s] agrees to act as the exclusive coordinating agent of [Petrotech].

But these were services that Mozer’s had no experience providing.

118 Fourth, Mozer’s was not asked to, and did not, carry out any of the services described in the Mozer’s Agreement. It also did not state that Mozer’s would provide services to Kunlun but be paid by Petrotech. Like the Win Agreement, Kunlun was not even mentioned in the Mozer’s Agreement.

119 Fifth, Clause 4 of the Mozer’s Agreement expressly provided that Mozer’s was to charge an agency fee of S\$1,500 per ship,²²⁰ which was not what Mozer’s in fact charged. According to Mr Wong’s affidavit, Zhu Pang agreed that he could charge (a) a coordinating fee amounting to 6% of the sums invoiced by Mozer’s to Petrotech; and (b) a monthly allowance of about S\$6,000 a month.²²¹ But this change was not evidenced in writing.

²¹⁸ OC486 1AB447.

²¹⁹ OC486 1AB445.

²²⁰ OC486 1AB446.

²²¹ AEIC WYK at para 23.

120 Sixth, just as Win was (allegedly) used as a middleman to pay SC Marine, Mozer’s was used as a middleman to pay Winx for the Linen Goods. There was no commercial reason for Kunlun to agree to such an arrangement, which would only cause Kunlun to incur additional costs given Mozer’s “coordinating fee” which was based on the value of the Mozer’s Invoices.

121 When confronted with these issues, Mr Low’s response was (again) that he had simply followed Capt Mustafa’s instructions. For the same reasons as with the Win Agreement, I do not find this evidence credible. I also note that Capt Mustafa’s involvement was not pleaded by Mr Low.

122 In fact, Mr Low’s falsely downplayed his involvement with Mozer’s and the Mozer’s Agreement. According to his affidavit:

(a) in December 2017, Capt Mustafa called him and informed him that Zhu Pang had requested Mozer’s to be a service provider to Kunlun on terms similar to the Win Agreement;²²²

(b) Mr Low was not privy to the details of Capt Mustafa’s discussions between Zhu Pang;²²³ and

(c) Capt Mustafa instructed Mr Low to draft the Mozer’s Agreement and gave him instructions on what to include – Mr Low claimed that was the extent of his involvement in the Mozer’s Agreement.²²⁴

²²² AEIC Low at para 69.

²²³ AEIC Low at paras 71–72.

²²⁴ AEIC Low at paras 70–72.

123 However, Mr Wong’s evidence suggested a greater involvement on the part of Mr Low. According to Mr Wong, sometime in mid-December 2017, Mr Low called him to arrange the signing of “an agreement with Petrotech”,²²⁵ and informed him that this was so that Petrotech could pay him pursuant to his arrangement with Zhu Pang.²²⁶ Mr Wong therefore went to Petrotech’s office in Malaysia sometime in mid-December 2017 to sign the Mozer’s Agreement in the presence of Mr Low.²²⁷ He did not meet anyone else in Petrotech and claimed that the Mozer’s Agreement had already been signed by Capt Hariff.²²⁸ Further, as discussed below (at [242]–[243]), Mr Low clearly dealt with Mr Wong on the issuance of the 2018 Mozer’s Invoices to Petrotech.

124 I reject Mr Low’s evidence that Capt Mustafa was responsible for the terms of the Win and Mozer’s Agreements and find that their drafting and execution were entirely orchestrated by Mr Low. I also find that Mr Low deliberately drafted them to give the false impression that Win and Mozer’s were experienced service providers in the marine industry and providing services to support Petrotech’s STS operations. That the Win Agreement template was modified for the Mozer’s Agreement to reflect specific and different services (which Mozer’s was not qualified to do, and did not perform) only evidenced the deliberateness with which Mr Low set about that task. The Win And Mozer’s Agreements were necessary as Petrotech or its auditors would likely ask about them in reviewing the Win and Mozer’s Invoices, which was in fact what happened (see above at [112] and below at [130] and [244]).

²²⁵ AEIC WYK at para 11.

²²⁶ AEIC WYK at para 12.

²²⁷ AEIC WYK at para 12.

²²⁸ AEIC WYK at para 12.

Breach of fiduciary duties

125 I first deal with the claim against Mr Low for breach of fiduciary duties.

126 It is trite that directors owe fiduciary duties to their companies, which include duties (a) to act honestly and in good faith in the best interests of their company; (b) not to exercise their powers for an improper purpose; and (c) not to place themselves in a position in which there is a conflict between their duties to the company and their personal interests or duties to others: *Concorde Services Pte Ltd (in liquidation) v Ong Kim Hock and another* [2024] SGHC 324 (“*Concorde Services*”) at [61], citing *DM Divers Technics Pte Ltd v Tee Chin Hock* [2004] 4 SLR(R) 424 at [80].

127 It is clear from the evidence and my findings above that Mr Low had acted in breach of his fiduciary duties to Petrotech:

- (a) *on his own evidence*, he knew that Win and Mozer’s were not providing any services to Petrotech;
- (b) he caused Petrotech to pay the Win and Mozer’s Invoices, by preparing or instructing Mr Ong to prepare the payment instructions to the banks and for Capt Hariff to approve the same;
- (c) *on his own case*, the amounts charged in the Win and Mozer’s Invoices were to be charged to and borne by Kunlun;
- (d) he nonetheless caused Petrotech to pay the Win and Mozer’s Invoices knowing and intending that the amounts charged therein would not be charged to Kunlun and that Kunlun would not reimburse Petrotech for the same; and

- (e) by doing so, he knew that he would cause Petrotech to suffer loss and Petrotech did suffer such loss.

128 The above is sufficient to establish Mr Low's breach. But the evidence against him goes much further – it is evident that he was the mastermind behind a scheme to wrongfully misappropriate monies from Petrotech by using the Win and Mozer's Agreements and the Win and Mozer's Invoices.

129 First, Mr Low orchestrated the preparation and execution of the Win and Mozer's Agreements:

- (a) I did not accept his evidence that he dealt with Zhu Pang, much less that Zhu Pang was authorised by Kunlun, or that it was Zhu Pang who was behind the Win and Mozer's Agreements;
- (b) he alone from Petrotech met and dealt with Ms Wong and Mr Wong, and according to him, Zhu Pang (see [17] and [123] above);
- (c) on his own evidence, he roped in Ms Wong to be the counterparty to the Win Agreement (see [17] above);
- (d) it was likely that he brought Mr Wong into his scheme as well, or at least, supported Ms Wong's proposal to do so, given that I do not accept Mr Low's evidence with respect to Zhu Pang or that he was acting on Capt Mustafa's instructions (see [41]–[45] above);
- (e) he drafted the Win and Mozer's Agreements (see [96] and [114] above);
- (f) he caused the Win and Mozer's Agreements to (i) contain false statements calculated to give the appearance that these were legitimate

agreements with entities experienced in the marine industry and could provide services to support Petrotech in their STS operations (see above at [98], [116] and [117]) and (ii) falsely reflect services which Win and Mozer's had no experience in providing and did not in fact provide (see [104] and [118] above);

(g) he arranged for and witnessed the signing of the Win and Mozer's Agreements by Ms Wong and Mr Wong respectively (see [96] and [123] above); and

(h) he arranged for Capt Kamal and Capt Hariff to sign the Win and Mozer's Agreements respectively on behalf of Petrotech (see [21] and [28] above).

130 Mr Low's evidence that his role was limited to getting the Win and Mozer's Agreements drafted and signed was clearly untrue. To cover up his conduct, Mr Low went as far as to claim that he was unaware of the services provided by Win and Mozer's, and that he did not care whether they provided any services at all because they would be charged to Kunlun.²²⁹ That evidence was dishonest and contrived to distance himself from Win and Mozer's. Over and above the matters set out above, it was contradicted by:

(a) WhatsApp messages between Mr Ong and Mr Low, where Mr Low instructed Mr Ong to provide the auditors with false information about the services that Win provided (see above at [112]);²³⁰ and

²²⁹ NE 4 April pp 43, 47, 51, 52.

²³⁰ 2DB63.

(b) Mr Ong's (unchallenged) evidence that when the auditors queried what services Mozer's provided, he asked Mr Low, who said that he would deal with the auditors.²³¹

131 That lie was also exposed by the fact that Mr Low knew the amounts charged by Win and Mozer's would not be paid by Kunlun (see above [89]).

132 Second, and crucially, the scheme would only work if Petrotech paid the Win and Mozer's Invoices without question or verification. It was Mr Low who ensured that happened (see [94] above). Mr Low instructed Mr Ong to make the payments to Win and Mozer's and caused Capt Hariff (either personally or through Mr Ong) to approve the payments. He also specifically instructed Mr Ong not to hand the Win and Mozer's Invoices to Ms Jin, and Ms Jin not to act on the Win and Mozer's Invoices. It was his intention that they would not be charged to Kunlun. Contrary to the suggestion of counsel for Mr Low that there was no reason for Mr Low not to charge the Win and Mozer's Invoices Kunlun,²³² Mr Low knew he could not do that because Ms Yolande (as conceded by Mr Low)²³³ would carefully review the Petrotech Invoices to ensure that they were consistent with the STS Agreements.²³⁴

133 Third, Mr Low knew that the Win and Mozer's Invoices were shams in that they did not reflect services performed by Win and Mozer's as a substantial part of Petrotech's payments were (according to Ms Wong and Mr Wong) handed to Zhu Pang in cash. Mr Low claimed that he was unaware of this,²³⁵ but

²³¹ Notes of Evidence on 25 March 2025 ("NE 25 March") at p 73.

²³² NE 28 April at p 65.

²³³ NE 4 April at pp 114–118.

²³⁴ OC485 7AB175–178.

²³⁵ NE 3 April at p 101.

that evidence contradicted his own affidavit, where he stated that “Kunlun will use [Win and Mozer’s] to claw back from the amount they paid monthly to [Petrotech]”.²³⁶ When confronted with this, Mr Low bizarrely claimed that he did not know what the term “claw back” meant,²³⁷ although they were his own words. Even that canard was exposed because he had stated, in another paragraph in his affidavit, that “[Kunlun] sought to *recover* a portion of the monthly payments made to [Petrotech] for their operations through [Win and Mozer’s]” (emphasis added).²³⁸ Mr Low could not pretend that he did not know what “recover” meant. Unsurprisingly, he fell back to claiming that he was merely recounting what Capt Mustafa told him at the meeting with Kunlun in September 2018.²³⁹ But this was not stated in his affidavit, where he testified that this was “based on [*his*] understanding” (emphasis added).²⁴⁰ Further, it was Ms Wong’s evidence that the cash payments to Zhu Pang began in 2017. Mr Low could not explain why Zhu Pang was collecting cash payments before Kunlun had (allegedly) agreed to such an arrangement.²⁴¹ When further questioned, Mr Low changed his evidence and conceded that he knew that Kunlun was recovering monies from Win and Mozer’s.²⁴² Clearly, Mr Low had no regard for the truth. I find that he mentioned the “claw back” of monies by Kunlun in his affidavit to support Ms Wong and Mr Wong’s position that it was proper of them to hand cash to Zhu Pang, only to resile from it when he realised that it exposed his own position.

²³⁶ AEIC Low at para 92.

²³⁷ NE 3 April p 88.

²³⁸ AEIC Low at para 66.

²³⁹ NE 3 April p 102.

²⁴⁰ AEIC Low at para 92.

²⁴¹ NE 2 April p 56.

²⁴² NE 3 April p 105.

134 The defendants argued that all payments to Win and Mozer’s could only have been made with Capt Hariff’s approval. That does not absolve Mr Low of his breaches. In any event, I accept Capt Hariff’s evidence that he relied on Mr Low that the payments were appropriate before approving the same. Capt Hariff oversaw Petrotech’s operations and left the financial and accounting matters to Mr Low, who was the director in charge of the Finance Department and an equal shareholder. He had no reason to doubt that Mr Low was acting properly and approved the payments without raising queries.

135 Mr Low also argued that there was no reason for him to cause Petrotech loss given that he held just over a third of its shares and would have benefitted from higher profits through dividends.²⁴³ The fact that there may be no apparent *motive* for Mr Low’s breach is not a defence; nor does it displace the overwhelming evidence against him. In any event, there was a clear motive. At a minimum, the Win and Mozer’s Agreements benefitted Ms Wong, whom (as will be explained below at [153]–[154]) Mr Low had a close relationship with, and Mr Wong, who was related to Ms Wong and who Mr Low knew personally as well. Further, a large proportion of the monies paid by Petrotech to Win and Mozer’s (including cash allegedly given to Zhu Pang) remained unaccounted for. This is significant given my findings that Mr Low orchestrated the scheme and Zhu Pang was likely a character he contrived – this suggested that Mr Low benefitted personally as well.

136 Mr Low’s evidence that he was acting on Capt Mustafa’s instructions and that Capt Mustafa had, while he was alive, instructed him to pay all the Win

²⁴³ Low Chong Peng’s Written Submissions filed on 25 April 2025 (“Low Closing Submissions”) at para 34.

and Mozer's Invoices also does not assist him.²⁴⁴ I do not believe that evidence. In any event, Mr Low conceded that Capt Mustafa's instructions to pay the Win and Mozer's Invoices were on the premise that they would be charged to, and paid by, Kunlun,²⁴⁵ which Mr Low knew they would not be.

137 Mr Low sought relief under ss 157C and 391 of the Companies Act 1967 (2020 Rev Ed) ("Companies Act"). Parties agreed that, for the purposes of the present proceedings, the law governing a director's duties under Malaysian law was the same as under Singapore law.²⁴⁶ In any event, similar relief is available under the Malaysian Companies Act. However, s 157C(2)(a) specifies that relief is only available if the director had acted in good faith and made proper inquiries where the circumstances necessitated it. In interpreting s 391, the Court of Appeal highlighted that "relief from liability must be underpinned by the presence of the three elements of honesty, reasonableness and fairness": *JSI Shipping (S) Pte Ltd v Teofoongwonglcloong (a firm)* [2007] 4 SLR 460 at [167].

138 In essence, Mr Low argued that he placed reasonable reliance on Capt Mustafa's instructions and always acted honestly.²⁴⁷ Given my findings above, Mr Low was clearly not entitled to any statutory relief. Even if he had acted on Capt Mustafa's instructions – which I have rejected - he would still have been under a duty to act honestly and reasonably in drafting the Win and Mozer's Agreements and paying the Win and Mozer's Invoices, which was plainly not the case. Even on Mr Low's own evidence, Capt Mustafa's instructions to pay

²⁴⁴ AEIC Low at para 110.

²⁴⁵ NE 4 April at pp 80–81.

²⁴⁶ Order of Court dated 16 May 2024.

²⁴⁷ Low Closing Submissions at para 62(b) and (c).

Win and Mozer’s were given on the understanding that Petrotech would be reimbursed by Kunlun, but Mr Low deliberately caused them not to be.

139 Mr Low relied heavily on the decision of the Malaysian Court of Appeal in *Soh Chee Gee v Syn Tai Hung Trading Sdn Bhd* [2019] 2 MLJ 379 (“*Soh Chee Gee*”), arguing that even if he was found to have breached his fiduciary duties, he should not be held liable for losses suffered by Petrotech because there was no evidence that he profited from any of the payments to Win and Mozer’s. In *Soh Chee Gee*, the appellant unilaterally approved the extension of credit terms and increase of credit limits to a company he was interested in (“Cosmo”). The respondent suffered loss when Cosmo was wound up and the respondent could not recover the amount owed by Cosmo. The respondent contended that the appellant had breached his fiduciary duties for failing to disclose his interest in Cosmo: see *Soh Chee Gee* at [55]–[56]. The court, while affirming the finding that the appellant had breached his fiduciary duties, set aside the award of damages against the appellant on the basis that:

- (a) the respondent could not prove the claimed loss because the trial judge had disallowed the admission of certain source documents (at [70]–[71]); and
- (b) in any event, it was not the appellant but Cosmo that had directly benefitted from the impugned transactions and the appellant could not be said to be solely responsible for the claimed losses (at [68]–[69], [72]).

Soh Chee Gee does not support the proposition that a director should be absolved of liability if he did not gain financially from his breach. Much will turn on the nature of the breach and the director’s conduct. Importantly, the appellant was found to be negligent, and not dishonest: see *Soh Chee Gee* at

[50]. In this case, I have found that Mr Low acted dishonestly and deliberately caused Petrotech to suffer loss, which loss has been proved. Further, I find it likely that Mr Low had personally benefitted from his breach.

Conspiracy

140 In *EFT Holdings, Inc and another v Marinteknik Shipbuilders (S) Pte Ltd and another* [2014] 1 SLR 860 (“*EFT Holdings*”) (at [112]), the Court of Appeal held that a claimant must plead and prove the following to succeed in a claim for conspiracy by unlawful means:

- (a) there was a combination of two or more persons to do certain acts;
- (b) the alleged conspirators had the intentions to cause damage or injury to the claimant by those acts;
- (c) the acts were unlawful;
- (d) the acts were performed in furtherance of the agreement; and
- (e) the claimant suffered loss as a result of the conspiracy.

141 The learned authors of *Clerk & Lindsell on Torts (Andrew Tettenborn, gen ed) (Sweet & Maxwell, 24th Ed, 2023)* state (at paras 23-103) that, in relation to the element of “combination”, “[t]he tort [of conspiracy] requires an agreement, combination, understanding, or concert to injure, involving two or more persons.”

142 For there to be a combination, it must be shown that the alleged conspirator shared a common understanding of the material facts underlying this agreement: *EFT Holdings* at [114]. The surrounding circumstances, as well as

the alleged conspirator’s conduct and state of knowledge, must also be capable of supporting an inference that the party had combined with the other conspirators to pursue a particular course of conduct involving unlawful acts: *OUE Lippo Healthcare Ltd (formerly known as International Corp Healthway Corp Ltd) and another v Crest Capital Asia Pte Ltd and others* (“*OUE Lippo*”) [2020] SGHC 142 at [185].

143 Direct evidence of such a combination is not necessary: *EFT Holdings* at [113]; nor is it necessary to prove that such an agreement was express, or for all the alleged conspirators to have joined at the same time or know what the others have agreed to do: *New Ping Ping Pauline v Eng’s Noodles House Pte Ltd and others* [2021] 4 SLR 1317 at [60].

144 It is also not a requirement that all conspirators commit or are able to commit the unlawful means in question, so long as they participate in the overall conspiracy to cause loss: *PT Sandipala Arthaputra and others v STMMicroelectronics Asia Pacific Pte Ltd and others* [2018] 1 SLR 818 at [52].

145 Unlawful acts include criminal acts, intentional tortious acts, breaches of contract and breaches of fiduciary duties: *OUE Lippo* at [172].

146 Even though the nature of the allegations involved in an action for conspiracy by *unlawful* means that “the amount of proof required is higher than that required in a normal civil action”, the standard of proof is still the civil standard based on the balance of probabilities: *Swiss Butchery Pte Ltd v Huber Ernst and others and another suit* [2010] 3 SLR 813 at [17].

147 I have found that Mr Low had, in breach of his fiduciary duties, orchestrated a scheme to cause Petrotech to pay on the Win and Mozer’s

Invoices (see [125]–[139] above) when Petrotech did not in fact receive the benefit of any services and would not be reimbursed for such payment. It is evident that Mr Low could not have done so without Ms Wong and Mr Wong’s participation by entering the Win and Mozer’s Agreements and issuing the Win and Mozer’s Invoices. It is not necessary for them to know *how* Mr Low would use the Win and Mozer’s Agreements or cause Petrotech to pay on the Win and Mozer’s Invoices. At its core, the critical issue was whether Ms Wong and Mr Wong knew or must have known that the Win and Mozer’s Agreements, and the Win, Winx and Mozer’s Invoices, were shams.

148 I find that Petrotech has established its case in conspiracy against the defendants.

149 I begin with a broad observation. If Zhu Pang did not exist, as I have found, there can be no question that Ms Wong and Mr Wong had engaged in a conspiracy with Mr Low to cause loss to Petrotech, given their respective positions that they acted entirely on Zhu Pang’s instructions and had paid him a substantial portion of the funds they had received.

150 The alternative scenario is that Mr Low had procured Zhu Pang to pose as an authorised representative of Kunlun to mislead Ms Wong (his close friend) and Mr Wong (her nephew) and that they were also “victims” of Mr Low’s plan. Such a scenario is far-fetched and I have no hesitation rejecting it. Ms Wong and Mr Wong did not run such a case. It also did not explain their failure to call witnesses, or make reasonable enquiries with Kunlun, to confirm the existence of Zhu Pang (see [52] above), and was, more importantly, inconsistent with their conduct which demonstrated that they were active participants in Mr Low’s scheme. I elaborate on this below.

151 Nonetheless, independent of Zhu Pang's existence, I highlight numerous aspects of Ms Wong and Mr Wong's respective conduct which established the conspiracy between the defendants.

Win

152 I start with some general points.

153 First, Mr Low and Ms Wong did not disclose the true extent and nature of their relationship:

(a) In his affidavit, Mr Low downplayed their relationship, only mentioning that he had met Ms Wong sometime around 1998 or 1999, while she was running a perfume business in Johor, and that she occasionally went to Singapore for dinner with him and Mr Yeo in 2000.²⁴⁸ According to Mr Low, they did not contact each other from 2001 to 2008, and only reconnected when he met her in Singapore around late 2008.²⁴⁹ They then occasionally met for lunch, and Ms Wong sometimes accompanied him to attend functions.²⁵⁰ Ms Wong employed Mr Low in Winx between 2013 to 2017.²⁵¹ Ms Wong's affidavit told a similar story – that she had known Mr Low since around the year 1998, and Mr Low had previously worked for her in Winx from 2013 to 2017.²⁵²

²⁴⁸ AEIC Low at paras 12–13.

²⁴⁹ AEIC Low at paras 13–14.

²⁵⁰ AEIC Low at para 14.

²⁵¹ AEIC Low at paras 15–17.

²⁵² AEIC WWL at para 9.

(b) However, at trial, it was revealed that Mr Low had texted an employee of Petrotech to book flights for himself and Ms Wong and had referred to Ms Wong as his “wife.”²⁵³ When confronted, Mr Low claimed that he did this in jest because they had been mistaken by Ms Wong’s customers as husband and wife when he was working for her.²⁵⁴ I find this explanation contrived – what Ms Wong’s customers may have said in the past did not explain why *he* would describe Ms Wong as his “wife” to *Petrotech’s employees*. Mr Low also disclosed that he had brought Ms Wong to Petrotech’s offices for lunch with his staff several times, including during Chinese New Year.²⁵⁵ It is evident that Mr Low and Ms Wong shared a close personal relationship.

154 Indeed, their close relationship was, *on their own evidence*, demonstrated by Mr Low bringing Ms Wong into the collaboration with Zhu Pang despite her having no experience in providing marine services and no relevant “connections” in Malaysia. The only conceivable purpose was to financially benefit her.

155 Second, the Payment Arrangement did not make any commercial sense. Appointing Win as a middleman only resulted in Kunlun incurring substantially higher costs for no discernible benefit. On Ms Wong’s best case, her only substantive involvement was the supply of Groceries. But over and above the costs of the Groceries, she was also paid a fee amounting to 20% of the Win Invoices, in circumstances where (on Ms Wong’s own evidence) the amounts stated in the Win Invoices were grossly inflated to include the cash payments to

²⁵³ NE 2 April at p 143.

²⁵⁴ NE 2 April at p 144.

²⁵⁵ NE 2 April at p 144.

Zhu Pang and the payments to SC Marine. Neither Mr Low nor Ms Wong could explain why Kunlun would agree to such a disadvantageous arrangement. Mr Low argued that this did not make a difference to Kunlun as it would in turn on-charge the costs its own customers.²⁵⁶ Not only was there no evidence of such on-charging, but this argument failed because the payments to Win were in fact not charged to Kunlun. Mr Low was again making up his case as he went along.

156 Third, this arrangement resulted in Ms Wong receiving substantial payments which was not commensurate with the work she claimed to have done for Kunlun. For supplying the Groceries, making payments to SC Marine and handing cash to Zhu Pang, Ms Wong received, at a *minimum*, a total sum of US\$570,650. I say minimum as the evidence is clear that Ms Wong (a) retained more than this sum (see [188]–[189] below); and (b) was not able to account for the monies she received from Petrotech (save for the sum of S\$459,800 paid to SC Marine), other than alleging that she had made some cash payments to Zhu Pang (see [182]–[185] above).

157 I now deal with specific matters which highlight the extent to which Ms Wong facilitated the breach of Mr Low’s fiduciary duties and caused the loss suffered by Petrotech.

The Win Agreement

158 Ms Wong knew that the Win Agreement contained false statements or was indifferent to the same.

159 First, Ms Wong knew or must have known that:

²⁵⁶ Low Closing Submissions at para 8.

- (a) Recital (2) of the Win Agreement was false as Win was not principally engaged in “Shipping agency and Oil Survey business”; and
- (b) Clause 7.1.2 was also false as Win was not qualified to perform the services contemplated under the Win Agreement –that she denied this in cross-examination only undermined her credibility.²⁵⁷

160 Second, Ms Wong could not explain why Petrotech (or Kunlun) would appoint Win as its “exclusive agent for all marine services for the floating storage ships, replenish ships and shuttle ships” and “Oil Surveying Services”, when she had no experience in such matters. Her response was to:

- (a) claim that she did not notice this at the time she executed the Win Agreement,²⁵⁸ which was unbelievable given that the very purpose of the Win Agreement was to appoint Win as Petrotech’s “exclusive agent”; and
- (b) rely on Clause 2.3 of the Win Agreement,²⁵⁹ which empowered Win to appoint sub-agents – which begged the question why Win was appointed at all.

161 Third, Ms Wong could not explain other provisions in the Win Agreement:

- (a) Clause 1.1 stated that Win had the “exclusive rights to negotiate and secure the best price for marine services from competence (sic)

²⁵⁷ NE 8 April at p 83.

²⁵⁸ NE 8 April at p 76.

²⁵⁹ NE 8 April at p 83.

service providers in Singapore to support [Petrotech's] Ship to Ship Transfer Operations". But Ms Wong:

(i) could not name any competent service providers, nor did she engage any;²⁶⁰ and

(ii) did not even know what type of services were involved in STS operations.²⁶¹

(b) Clause 1.2 stated that Win would "liaise with competence (sic) [oil surveyor] in Singapore", but Ms Wong did not know any competent surveyor.²⁶² Instead, she testified that it was Zhu Pang who engaged and dealt with SC Marine to provide oil survey services²⁶³.

(c) Clause 2.1 gave Win "the right to act as the exclusive agent for all marine services provided from Singapore", but when Ms Wong was asked what "marine services" would be provided, she gave the absurd response that it was to supply "medication".²⁶⁴

162 Ms Wong's counsel submitted that no dishonest intent should be attributed to Ms Wong as she did not negotiate the terms of the Win Agreement and simply signed what Mr Low placed before her.²⁶⁵ That did not explain nor excuse her conduct. She entered the Win Agreement willingly. She knew that the services identified in the Win Agreement were not what she was qualified

²⁶⁰ NE 8 April at p 77.

²⁶¹ NE 8 April at p 77.

²⁶² NE 8 April at p 77.

²⁶³ AEIC WWL at para 21.

²⁶⁴ NE 8 April at p 78.

²⁶⁵ NE 29 April at pp 28, 94.

to do and was not (on her own case) asked to do. She could not claim to have been an unthinking or unwilling participant to this arrangement. More importantly, that submission was inconsistent with her conduct when she registered Win (see [163]–[166] below).

Win’s incorporation

163 Ms Wong claimed that at her first meeting with Zhu Pang in May 2017, he informed her that she was required to provide Groceries to the Kunlun Ships,²⁶⁶ and that she established Win solely to carry out her services for Kunlun under the Win Agreement.²⁶⁷

164 However, the description of Win’s business registered with ACRA by Ms Wong was telling:²⁶⁸

Activities (I): SHIP MANAGEMENT SERVICES (52226)

Description: LIAISING WITH CONSULTANCY COMPANY TO PROVIDE ADVICE FOR SHIP TO SHIP OPERATION

Activities (II): MARINE SURVEYING SERVICES OTHER THAN CLASSIFICATION SOCIETIES (52252)

Description: LIAISING WITH OIL SURVEYING COMPANY FOR SURVEYOR TO PERFORM OIL SURVEY JOBS

165 Ms Wong claimed that she came up with these descriptions herself but could not explain them.²⁶⁹ She testified that the “consultancy company” was Petrotech but could not say what “advice” she was to provide Petrotech.²⁷⁰ When pressed, she claimed that the word “advice” was the given Google translation

²⁶⁶ OC485 D1 at para 5(c).

²⁶⁷ AEIC WWL at para 17.

²⁶⁸ BAEIC at p 2699.

²⁶⁹ Notes of Evidence on 11 April 2025 (“NE 11 April”) at p 40.

²⁷⁰ NE 11 April at p 41.

of the Mandarin word for “instruction” – which made no sense at all.²⁷¹ In any event, given that she was only asked to supply Groceries, she would not be giving “advice” or “instructions” to Petrotech on STS operations, which she was in any event not qualified to do.

166 I find Ms Wong deliberately described Win’s business with ACRA to mirror the terms of, and the services to be provided under, the Win Agreement, and to give the false impression that Win was a legitimate service provider in the marine industry. This was likely done to allay suspicions in the event any background checks were carried out on Win.

The 20% Agency Fee

167 Ms Wong could not explain the fees Win received. Clause 4.1 of the Win Agreement entitled Win to an agency fee of US\$2,000 per ship but Ms Wong testified that she was paid a fee based on 20% of the amounts reflected in the Win Invoices.²⁷²

168 Ms Wong claimed that it was Zhu Pang who made this change and that she had agreed to this as Mr Low had told her to follow Zhu Pang’s instructions.²⁷³ But, even on her best case, Mr Low’s representation was to comply with Zhu Pang’s instructions in relation to the services to be provided to Kunlun. This did not authorise Zhu Pang to amend or vary the Win Agreement – such variation would require Petrotech’s consent. In the stand, she testified that she did not inform Mr Low, or any other Petrotech director, of the

²⁷¹ NE 11 April at p 40.

²⁷² AEIC WWL at para 117(a).

²⁷³ NE 8 April at pp 79, 84.

change.²⁷⁴ She also testified that she did not ask Mr Low whether Zhu Pang was authorised to amend the Win Agreement.²⁷⁵ When pressed, she suddenly claimed that Zhu Pang was *also* a representative of Petrotech, which contradicted her earlier evidence that she was only told that Zhu Pang was a representative of Kunlun.²⁷⁶

169 Further, Ms Wong could not explain why she was entitled to earn 20% of the Win Invoices, when the amounts therein did not reflect the services she (allegedly) provided and were inflated to allow for the payments to SC Marine and the cash payments to Zhu Pang.

170 Ms Wong's income tax returns also did not support her claim that she only received an agency fee of 20% of the Win Invoices. For example, she declared that Win had earned an income of S\$396,099 for 2019,²⁷⁷ which was almost *twice* what a fee of 20% for that year would be. When confronted with this, she said that she would mark-up the prices of some of the Groceries, and include this mark-up when declaring her income.²⁷⁸ She also claimed that the 20% fee applied to the mark-up.²⁷⁹ This did not make sense and also contradicted her previous evidence that the 20% fee only applied to the invoiced amounts.²⁸⁰ It is clear that Ms Wong was making up her evidence.

²⁷⁴ NE 8 April at p 84.

²⁷⁵ NE 11 April at p 9.

²⁷⁶ NE 8 April at p 58.

²⁷⁷ OC485 6AB300.

²⁷⁸ NE 10 April at p 57.

²⁷⁹ NE 10 April at p 59.

²⁸⁰ NE 10 April at p 59.

The Win Invoices

171 Ms Wong could not explain the contents of the Win Invoices. On her own evidence, she entirely delegated the responsibility of preparing the Win Invoices to Zhu Pang. It was Zhu Pang who dictated the amounts as well as the descriptions of the (alleged) services described in the Win Invoices:²⁸¹

(a) while she claimed that the Win Invoices were to account for her 20% agency fee, the costs of the groceries and the SC Marine invoices, she could not explain why the monthly fee charged to Petrotech remained at US\$38,250 even when there was no corresponding invoice from SC Marine for some months;²⁸²

(b) she subsequently admitted that she did not know how Zhu Pang arrived at the figures in the Win Invoices, and that she did not ask him;²⁸³

(c) she admitted that although various Win Invoices used the term “Agency and Consultancy Services”, she was only referring to the provision of grocery and food stuffs and oil survey services and did not in fact provide any other services. The term “Agency and Consultancy Services” was plainly false;²⁸⁴ and

(d) she did not know what the services described in the Win Invoices were and whether they had been provided (other than the delivery of Groceries).²⁸⁵

²⁸¹ NE 8 April at p 106.

²⁸² NE 8 April at pp 91–92.

²⁸³ NE 8 April at p 96.

²⁸⁴ NE 9 April at p 67.

²⁸⁵ NE 9 April at pp 102–103; AEIC WWL at para 125.

172 In fact, Ms Wong admitted under cross-examination that she did not even inform Zhu Pang of the costs of the Groceries,²⁸⁶ which meant that the amounts in the Win Invoices did not even take that into account.

173 Ms Wong therefore knew, or did not care, that the Win Invoices were shams. She did not care what Petrotech was being charged for, or the amounts it was being charged. According to her, she was only concerned about her 20% fee.²⁸⁷

The SC Marine Payments

174 According to the Win Agreement, Win was obliged to “liaise with competence (sic) surveyor[s] in Singapore to conduct all surveying services for [Petrotech]”.²⁸⁸ Ms Wong claimed that SC Marine was engaged to provide the oil survey services. I find her evidence contrived and incredible.

175 Ms Wong claimed that she was tasked by Zhu Pang to find an oil surveyor although she had no experience in the industry and did not know any. After she tried (and failed), Zhu Pang informed her that he had found SC Marine.²⁸⁹ Contrary to the terms of the Win Agreement, Zhu Pang took over the role of liaising with and giving instructions to SC Marine, and Win’s role was reduced to simply making payments to SC Marine from the funds it received from Petrotech.²⁹⁰ On her own evidence, Ms Wong did not at any time deal with

²⁸⁶ NE 8 April at p 105.

²⁸⁷ NE 9 April at p 26.

²⁸⁸ OC485 1AB403.

²⁸⁹ AEIC WWL at para 21.

²⁹⁰ AEIC WWL at paras 124–125.

SC Marine or even know if it had provided oil survey services.²⁹¹ This further suggests that the Win Agreement was a sham.

176 In addition, the SC Marine invoices she produced were themselves suspicious.²⁹² They were not signed. There was no mention in them that they were in respect of services provided to Kunlun or Kunlun ships. Ms Wong received the SC Marine invoices via e-mail from two different accounts *simonc_21@yahoo.com.sg* and *carmela_joyce@yahoo.com*. She did not know the senders. In addition, she could not explain why one e-mail was addressed to “Alan”, which was Mr Low’s name, and simply dismissed that as being “not important” to her.²⁹³ Neither did she check with anyone from Petrotech as to whether it was appropriate for her to make payments to SC Marine. For completeness, I highlight that Ms Wong did not produce any documentary evidence confirming her payments to SC Marine, but Petrotech did not dispute that she made such payments.

177 Although the authenticity of the SC Marine invoices was challenged by Petrotech, Ms Wong did not call Mr Simon or anyone from SC Marine to confirm they were genuine, that SC Marine had provided oil survey services to Kunlun or that the SC Marine invoices were issued in respect of those services. Indeed, on her own case, Mr Simon could have even corroborated the existence of Zhu Pang. But Ms Wong could not explain why she did not call him as a witness. Her counsel referred me to an exchange of e-mail between Ms Wong’s solicitors and Mr Simon where he declined to give evidence because he claimed

²⁹¹ AEIC WWL at paras 124–125.

²⁹² AEIC WWL at pp 615–627.

²⁹³ NE 11 April at p 31.

he was being called as a witness for Petrotech.²⁹⁴ However, there is no property in a witness: *Harmony Shipping Co SA v Saudi Europe Line Ltd* [1979] 1 WLR 1380 at 1384–1385. In any event, even if Mr Simon’s assertion was true, Ms Wong would have known at the latest by 15 April 2024 that Petrotech’s list of witnesses did not include him.²⁹⁵ She did not explain why she did not then renew her efforts to call or subpoena him.²⁹⁶ In fact, Ms Wong revealed that she had seen Mr Simon in the public gallery during the trial, which only confirmed his availability to give evidence.²⁹⁷

178 The court’s ability to draw an adverse inference from a party’s failure to call a witness is grounded in s 116(g) of the Evidence Act 1893 (2020 Rev Ed) which provides:

116. The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business, in their relation to the facts of the particular case.

Illustrations

The court may presume —

...

(g) that evidence which could be and is not produced would be unfavourable to the person who withholds it;

...

179 The “party who might reasonably have been expected to call the witness” is not necessarily the party who bears the *legal* burden of proving its case – the other party may be expected to call the witness in question in order

²⁹⁴ AEIC WWL at p 176.

²⁹⁵ P3.

²⁹⁶ NE 11 April at p 28.

²⁹⁷ NE 11 April at p 47.

to discharge its *evidentiary* burden: *Elcarim Science Pte Ltd v Zhang Yongtai* [2023] SGHC 211 at [297]–[301].

180 It was Ms Wong who was asserting that Zhu Pang had engaged SC Marine to provide oil survey services for Kunlun and SC Marine had issued the SC Marine invoices for those services. The burden was on her to prove these matters. I therefore draw the inference against Ms Wong that she did not call Mr Simon as it would have confirmed that:

- (a) Mr Simon or SC Marine did not know or deal with Zhu Pang;
- (b) SC Marine did not perform any services for Kunlun through Zhu Pang or related to the Win Agreement; and
- (c) there was no basis for Ms Wong to have made any payments to SC Marine.

The cash payments to Zhu Pang

181 The most culpable aspect of Ms Wong’s conduct was her cash payments to Zhu Pang.

182 Ms Wong testified that Zhu Pang first asked her for cash payments in or around August 2017.²⁹⁸ As stated above, it was Zhu Pang who determined the amounts in the Win Invoices. According to Ms Wong, from the payments received, she took 20% as Win’s agency fee, deducted the costs of the Groceries and payments to SC Marine, and handed the balance to Zhu Pang in cash. In her affidavit, she claimed to have a practice of issuing payment vouchers for the

²⁹⁸ AEIC WWL at para 38.

cash she handed to Zhu Pang (“Payment Vouchers”).²⁹⁹ However, she was only able to produce three Payment Vouchers allegedly signed by Zhu Pang for the sums of S\$80,000, S\$60,000 and S\$80,000 respectively – she claimed that she had lost the other Payment Vouchers.³⁰⁰ However, in the stand, she testified that she only made Zhu Pang sign payment vouchers when she paid him large amounts – that is, amounts more than S\$5,000.³⁰¹ It was therefore unclear how many Payment Vouchers Zhu Pang had signed. Ms Wong was also unable to say the total amount she had handed to Zhu Pang.

183 The cash payments to Zhu Pang were highly suspicious:

(a) Ms Wong said that she did not inform Mr Low (or anyone else from Petrotech) about them,³⁰² and could not explain why she did not check with Petrotech as to whether they were proper. All she could say was that she was following Zhu Pang’s instructions, as she was told to do by Mr Low.³⁰³ But she conceded that the cash payments were *not* part of the Win Agreement and therefore could not be explained away by her simply following Zhu Pang’s instructions.³⁰⁴

(b) Ms Wong could not give a credible reason for giving substantial amounts in cash to Zhu Pang. She testified that Zhu Pang claimed he needed the cash to meet the salaries and expenses of the Kunlun ship crews, but offered no evidence as to how the monies were in fact used

²⁹⁹ AEIC WWL at para 102.

³⁰⁰ AEIC WWL at para 102.

³⁰¹ April 10 NE pp 36–37.

³⁰² NE 9 April at p 25; NE 11 April at p 55.

³⁰³ NE 11 April at p 55.

³⁰⁴ NE 11 April at p 55

or why Zhu Pang required such large amounts. She claimed that she had no reason to doubt Zhu Pang's request because she was aware that it was "common practice" in the shipping industry to conduct and settle transactions in cash but offered no evidence to support that assertion.³⁰⁵ Capt Hariff testified that he was not aware of any practice of paying ship crew's salaries by cash, and the defendants did not offer any evidence to the contrary. Instead, and precisely because Ms Wong had no experience in the industry, the sheer amount of cash payments, and the manner the cash was obtained from Petrotech, should have at least put her on inquiry. Ms Wong claimed that she was not concerned with the cash payments because she believed that Petrotech would be reimbursed by Kunlun – but, on her own evidence, she was informed of this by Zhu Pang, the very person who was preparing the Win Invoices and taking the cash.³⁰⁶

(c) Ms Wong's evidence was also not consistent with her documents – the Payment Vouchers she prepared bore different descriptions for the use of the cash, namely "For China Goods" and "For Ship Crews".³⁰⁷ If she believed Zhu Pang's (alleged) explanation, there was no reason for her to record different descriptions in the Payment Vouchers.

(d) Ms Wong could not produce evidence of the source of the cash payments to Zhu Pang. She did not produce any bank statements to evidence where the cash was withdrawn from. She claimed that the

³⁰⁵ AEIC WWL at para 42.

³⁰⁶ AEIC WWL at para 176.

³⁰⁷ AEIC WWL at Tab 22.

monies were from her linen business,³⁰⁸ but that would mean that she kept large amounts of cash in her office, which was not believable.

184 As the evidence stood, Ms Wong could not quantify or account for the cash she allegedly handed over to Zhu Pang, if any. In the stand, Ms Wong claimed (for the first time) that she would account to Zhu Pang for the balance cash in her possession by drawing up statements of the amounts she received from Petrotech and reflecting the deductions she made for her 20% agency fee, the Groceries and the payments to SC Marine.³⁰⁹ However, she failed to produce any of these documents.

185 In this regard, and with respect to the Payment Vouchers, expenses relating to the Groceries and other business records, Win was obliged to maintain its business records for five years: see s 199(2) of the Companies Act. When asked about this, Ms Wong claimed not to be aware of that obligation.³¹⁰

186 There was therefore no evidence to support, and I do not believe, Ms Wong's assertion that she had made cash payments to Zhu Pang.

187 Importantly, on Ms Wong's own evidence, she must have realised from the cash payments that the Win Invoices did not represent the true value of services provided to Kunlun but were at least substantially inflated to extract cash from Petrotech for Zhu Pang's use. As noted above (at [183(a)]), Ms Wong conceded that the cash payments were not part of the Win Agreement. Zhu Pang's request for cash would have prompted an honest person to have at least made enquiries with Petrotech. That Ms Wong failed to even consider doing so

³⁰⁸ NE 9 April at p 24.

³⁰⁹ NE 11 April at p 37.

³¹⁰ NE 9 April at p 60.

supported the conclusion that she was aware that the Win Agreement and Win Invoices were shams and that she was complicit in the scheme to wrongfully cause Petrotech to make payments to Win.

The amount kept by Ms Wong

188 It is notable that Ms Wong was unable to say how much of the Petrotech funds she kept. She did not even state in her affidavit how much she spent on the Groceries. When asked, she could only give an estimate that she spent about US\$10,000 for *one* of the Kunlun ships in a month.³¹¹ But she provided no basis for this, and did not say whether she spent similar amounts for other ships. Even her evidence that she received an agency fee based on 20% of the value of the Win Invoices was not reliable given her assertion that the 20% fee included *ad hoc* mark-ups (see [170] above).

189 The evidence suggested that Ms Wong retained much more of the funds that she received from Petrotech. It certainly established that she did not pay any regard or attention to the terms of the Win Agreement, which evidences that she knew it was a sham.

The delivery of Groceries

190 As discussed above, Ms Wong did not carry out any services as described in the Win Agreement. The only substantive thing she claimed to have done was the delivery of Groceries to the Kunlun ships. It was her burden to prove the Payment Arrangement and that Petrotech had agreed to pay Win for that service, which I find that she has failed to do.

³¹¹ NE 8 April at p 101.

191 I also find that, on balance, she has failed to prove that Win delivered Groceries, and importantly, that the Win Invoices were issued for such services.

192 According to Ms Wong, she or her agents would purchase Groceries from businesses in Malaysia and arrange for their delivery to the jetties of the relevant Malaysian ports where the Kunlun ships were carrying out operations.³¹² She also testified that from the start of the business, she had engaged her friends in Malaysia, Mr Tan and his wife, Ms Yap, to help her purchase and deliver groceries to the Kunlun ships.³¹³ According to Ms Wong, Mr Tan and Ms Yap subsequently established a business called Elite Fresh Sdn Bhd (“Elite Fresh”) to perform these services.³¹⁴

193 In Ms Wong’s Further and Better Particulars,³¹⁵ she pleaded that Zhu Pang was involved in the “organizing and facilitation of the transportation of the provisions” to the Kunlun ships but provided no details of this in her affidavit.

194 Under cross-examination, Ms Wong claimed that when Petrotech’s operations were based in Batu Pahat, she used a Malaysian company, Better Future Sdn Bhd (“Better Future”) to make customs declarations for the delivery of the Groceries.³¹⁶ Better Future was founded by Mr Low and Mr Yeo, and its involvement is further evidence of Ms Wong close connection to Mr Low.³¹⁷

³¹² AEIC WWL at paras 25, 53.

³¹³ AEIC WWL at para 25.

³¹⁴ AEIC WWL at para 53.

³¹⁵ Wong Wai Leng’s Further and Better Particulars filed on 30 March 2023 in OC485 at p 3.

³¹⁶ NE 8 April at p 54.

³¹⁷ AEIC Low at para 19.

According to Better Future’s business profile registered with Suruhanjaya Syarikat Malaysia (the Malaysian equivalent of the ACRA),³¹⁸ the company’s nature of business was described as:

TRANSPORT SERVICE PROVIDER, CAR RENTING SERVICES
AND PROVISION OF SUPPLY SERVICES FOR ALL KIND OF
GROCERIES.

195 Before August 2017, both Mr Low and Mr Yeo were directors and shareholders of Better Future.³¹⁹ Mr Wong testified that in August 2017, at about the time when Petrotech began their STS operations with Kunlun and when the delivery of the Groceries allegedly began, Mr Low and Mr Yeo resigned as directors of Better Future and, on *Ms Wong’s* recommendation, transferred their shares to Mr Wong without payment.³²⁰ Mr Wong claimed that he did not know why the shares were transferred to him,³²¹ which I find unbelievable. In any case, this is further evidence of the close relationship between Mr Low, Ms Wong and Mr Wong, which was not disclosed in their respective affidavits.

196 Ms Wong produced a few documents to support her evidence, including some invoices, delivery orders and packing lists of groceries bearing the names of Elite Fresh or Better Future. I do not find these documents convincing:

(a) None of them were Win’s documents, or were addressed, or referred, to Win or any Kunlun ship. Instead, some of the documents show that the items were purchased from businesses such as “Chan Fatt

³¹⁸ OC485 1AB450.

³¹⁹ NE 1 April at p 60.

³²⁰ NE 11 April at p 72.

³²¹ NE 11 April at p 72.

Trading”³²² and “J Blue Enterprises”³²³. Ms Wong claimed that these businesses acted as Win’s agents to purchase the items,³²⁴ but referred to them in her affidavit as shops/suppliers she purchased the Groceries from. None of the documents evidenced the delivery of Groceries to the Kunlun ships or any customs declaration form evidencing their transport to the Kunlun ships. There were some handwritten names of Kunlun ships on a few of the documents, but that was not probative and, more importantly, did not mean that the Groceries were purchased or delivered by Win or on its behalf.

(b) Ms Wong produced a few WhatsApp messages with some individuals she claimed were Kunlun ship captains, including one “Capt Hai” and one “Capt Yuan”.³²⁵ When asked whether she had obtained any confirmation from Kunlun that these were Kunlun ship captains, Ms Wong stated that she obtained confirmation from Zhu Pang.³²⁶ The messages were either greetings or made vague references to the purchase or provision of “food”. Again, there was no mention of Win.

(c) Ms Wong produced a few WhatsApp messages exchanged with Ms Yap where they discussed the purchase of groceries.³²⁷ But none of these messages referred to Win or Ms Wong paying Mr Tan, Ms Yap or Elite Fresh for their services – this will be relevant later. Significantly, the messages – which spanned across 2019, 2020 and 2021 – contained

³²² OC485 13AB124.

³²³ OC485 13AB126.

³²⁴ NE 9 April at p 75.

³²⁵ AEIC WWL at Tab 16.

³²⁶ NE 11 April at p 4.

³²⁷ NE 9 April a p 5.

no references to Zhu Pang although, according to Ms Wong, she had introduced Zhu Pang to Mr Tan and Ms Yap,³²⁸ and Zhu Pang would arrange the delivery of the Groceries purchased by Elite Fresh to the Kunlun ships.³²⁹

(d) Despite previously claiming that she had already given discovery of all material documents, Ms Wong produced at the trial a few WhatsApp messages with one “Kif Kaya Merah” (who she explained was Mr Kif of Kayu Merah).³³⁰ Kayu Merah was Petrotech’s agent when its operations were at Batu Pahat, and it would arrange for the transportation of supplies to the Kunlun ships. But there was no corroborative evidence that “Kif Kaya Merah” was, in fact, a representative of Kayu Merah. It is also unclear from the messages whether Ms Wong was arranging for the delivery of groceries, and even if she was, whether it was for Kunlun ships or done pursuant to the Win Agreement.

(e) I note that in her affidavit, Ms Wong claimed that she used the e-mail address, betterfuturesb88@gmail.com to communicate with the Kunlun ship captains.³³¹ Ms Wong was not a shareholder, director or employee of Better Future, and it was not explained how or why she was given use of the e-mail account. However, she did not produce any of these emails, claiming that she had deleted them in or after 2022.³³² However, this was contradicted by Mr Wong, who testified that he

³²⁸ AEIC WWL at para 53.

³²⁹ AEIC WWL at para 54.

³³⁰ NE 9 April at p 36.

³³¹ AEIC WWL at para 35.

³³² AEIC WWL at para 35.

accessed the e-mail account once or twice a month after he was made a director on 30 August 2017 but did not see such e-mails from Ms Wong.³³³

197 In contrast, there was substantial evidence against Ms Wong’s claim. Even if there had been delivery of groceries to Kunlun ships, the evidence suggests that this was not carried out by Win or had anything to do with the Win Agreement or the Win Invoices.

198 First, it did not make sense for Kunlun to engage a *Singapore* company to buy and deliver groceries in *Malaysia* to supply ships docked in *Malaysian* waters. The documentary evidence suggested that two Malaysian businesses, Elite Fresh and Better Future supplied the Groceries. There was no evidence (other than Ms Wong’s bare assertion) that they did so on Win’s behalf. Ms Wong pleaded in her Further and Better Particulars that “on some occasions, whilst COVID-19 pandemic restrictions were in force in Singapore, [she] was assisted by [Ms Yap], who was based in Seremban, Malaysia. [Ms Yap] assisted in making purchases of groceries for the [Kunlun ships].”³³⁴ But she took an inconsistent position in her affidavit, where she stated that Elite Fresh delivered groceries to Kunlun ships *from 2017* until Win’s arrangement with Zhu Pang ended in *January 2022*.³³⁵ In other words, it was not her evidence that Ms Yap or Elite Fresh was only involved during the COVID-19 lockdown.

199 Second, Ms Wong’s evidence was vague. She did not say how many times she personally delivered the Groceries to the jetties, to which ports she

³³³ NE 11 April at p 75.

³³⁴ Wong Wai Leng’s Further and Better Particulars filed on 21 April 2023 in OC485 at p 4.

³³⁵ AEIC WWL at para 54.

delivered the Groceries or how she arranged for their delivery to the Kunlun ships. With respect to her claim that Elite Fresh supplied the Groceries on her instructions when she was “unable to assist Zhu Pang”:³³⁶

- (a) she was vague on how often Elite Fresh did so;
- (b) she produced no evidence to corroborate her assertion that they had done so on her instructions or pursuant to the Win Agreement; and
- (c) she produced no evidence to corroborate her assertion that Win had paid Elite Fresh, asserting that this was done “in cash”.³³⁷

200 Third, Mr Azmi’s evidence was critical. He was a director of Oceania Marine Services Sdn Bhd (“Oceania”), an agent and related company of Petrotech, and was personally involved in Petrotech’s operations at Batu Pahat from November 2018, and later at Port Dickson and Malacca. He testified that:

- (a) He was instructed by Mr Low to pass to the Kunlun ship captains the contacts of Mr Tan of Elite Fresh and Better Future for the supply of groceries.³³⁸ Significantly, Mr Low’s counsel only challenged that evidence by suggesting that Mr Low merely informed Mr Azmi of this and it was not an instruction.³³⁹
- (b) When Petrotech’s operations were at Batu Pahat, Petrotech’s agent was Kayu Merah, which would arrange for the transportation of

³³⁶ AEIC WWL at para 53.

³³⁷ NE 11 April at p 60.

³³⁸ AEIC Azmi at para 13.

³³⁹ NE 9 April at pp 4–5.

groceries to the Kunlun ships.³⁴⁰ He was informed by Kayu Merah Better Future would supply the Kunlun ships with groceries at Batu Pahat.³⁴¹

(c) When the operations moved to Port Dickson and Malacca in early 2019, Oceania was Petrotech’s agent and Mr Azmi would arrange for the transportation of all supplies and materials, including groceries, from the jetties to the Kunlun ships.³⁴² If a Kunlun ship required groceries or provisions, the ship captain would contact him and he would provide the contact details of the suppliers and the ship captain would then directly liaise with the suppliers.³⁴³

(d) At Port Dickson and Malacca, he dealt only with *Mr Tan* for the delivery of groceries to the Kunlun ships.³⁴⁴ He never had any dealings with Win or Ms Wong,³⁴⁵ nor had he ever heard of anyone called Zhu Pang.³⁴⁶ That evidence was not challenged, which meant that neither Ms Wong nor Zhu Pang delivered the Groceries to the jetties when Petrotech’s operations were in Port Dickson and Malacca.

201 Capt Hariff testified that all items delivered to the Kunlun ships would go through Petrotech and Oceania,³⁴⁷ supporting Mr Azmi’s evidence. This was also confirmed by documentary evidence, in particular an e-mail from Mr Tan

³⁴⁰ NE 1 April at p 48.

³⁴¹ NE 1 April at p 48.

³⁴² NE 1 April at p 9.

³⁴³ AEIC Azmi at para 12.

³⁴⁴ NE 1 April at p 50.

³⁴⁵ AEIC Azmi at para 20.

³⁴⁶ AEIC Azmi at para 23.

³⁴⁷ NE 19 March pp 173–175.

to Mr Azmi dated 10 May 2021 discussing arrangements for the delivery of groceries to the Kunlun ship “Penny H”. Notably, the e-mail enclosed a packing list, a delivery order and an invoice on *Elite Fresh*’s letterhead.³⁴⁸

202 In response, all that counsel for Ms Wong could suggest to Mr Azmi was that Zhu Pang *could* have made separate arrangements for the delivery of Groceries to the Kunlun ships which he was unaware of.³⁴⁹ But Ms Wong did not offer evidence of a single instance when this happened or what arrangements Zhu Pang allegedly made.

203 Fourth, Ms Wong’s evidence did not make sense. As stated above, Mr Tan e-mailed Mr Azmi on 10 May 2021 regarding arrangements for the delivery of groceries to the Kunlun ship “Penny H”. When asked about this, Ms Wong testified that it was the “usual practice” for Mr Tan/Elite Fresh to contact Mr Azmi and that he did so on her instructions.³⁵⁰ If so, it stands to reason that she would have done the same if she had personally delivered the Groceries to the jetties at Port Dickson and Malacca and arranged for their delivery to the Kunlun ships. But the undisputed evidence is that Ms Wong never dealt with Mr Azmi. The clear inference is that contrary to her pleadings and evidence, Ms Wong did not deliver the Groceries to the jetties or the Kunlun ships.

204 Fifth, the defendants’ attempts to claim that Better Future did not deliver groceries to the Kunlun ships were not credible:

- (a) Both Mr Low and Mr Wong claimed that Better Future was not in the business of purchasing and delivering groceries. But this was

³⁴⁸ OC485 6AB215-220.

³⁴⁹ NE 1 April at p 12.

³⁵⁰ NE 9 April at p 60.

squarely contradicted by Better Future’s registered business profile (see above at [194]), which was consistent with Mr Low’s instructions (or request) to Mr Azmi to recommend Better Future to the Kunlun ship captains.

(b) Ms Wong testified that she only used Better Future’s name for customs clearances *at Batu Pahat* as she had been advised by Kayu Merah that it would be easier to obtain approvals if the application was made by a Malaysian company.³⁵¹ But this was not mentioned in her affidavit. Further, it was contradicted by an e-mail dated 25 September 2019 from Mr Tan to Mr Azmi where they discussed the delivery of groceries from the *Port Dickson* jetty to the Kunlun ship “Echo Star”.³⁵² Significantly, attached to the e-mail was a packing list, deliver order and invoice for groceries on the letterhead of *Better Future*. This also suggested that Elite Fresh and Better Future were working together.

205 Over and above the clear issues with Ms Wong’s evidence, it suffered another serious difficulty. As discussed above, there was clear evidence that Mr Tan/Elite Fresh delivered Groceries to the Kunlun ships. In her affidavit, Ms Wong stated that the Kunlun ship captains would pay Mr Tan for the Groceries *in cash*.³⁵³ Importantly, if Mr Tan/Elite Fresh received cash payments from the ship captains, there would be no reason for Win to then pay him and charge Petrotech. Counsel for Ms Wong argued that Ms Wong’s affidavit did not mean that Mr Tan was *always* paid by the ship captains.³⁵⁴ However, Ms Wong did not adduce any evidence as to: (a) how many times Mr Tan delivered Groceries;

³⁵¹ NE 8 April at p 38.

³⁵² OC485 6AB97.

³⁵³ AEIC WWL at para 57.

³⁵⁴ NE 29 April at p 47.

(b) how many times he was paid in cash by the captains; (c) how he accounted to Win for those cash payments; and (d) how many times and how much Mr Tan was paid by Win.

206 The burden lay with Ms Wong to prove these matters. She could not produce any documents or give any details. Yet, she did not call either Mr Tan or Ms Yap to give evidence. She claimed (without any supporting evidence) that Mr Tan refused her request to come to court but admitted that she did not ask Ms Yap.³⁵⁵

207 Finally, Ms Wong could not state or account for the amount she (allegedly) spent on the Groceries.

208 I therefore find that Ms Wong has failed to prove that:

- (a) Win had supplied Groceries to the Kunlun ships or that such deliveries was related to the Win Agreement;
- (b) Win had any basis to charge Petrotech for the Groceries, especially given her own evidence that the ship captains would pay for the Groceries in cash; and
- (c) the amounts in the Win Invoices included the costs of the Groceries – in this regard, it is worth reiterating Ms Wong’s own evidence that she did not inform Zhu Pang (who decided on the amounts in the Win Invoices) what those costs were when he prepared the Win Invoices (see [171] above).

³⁵⁵ NE 9 April at pp 63–65.

209 The above findings also support the conclusion that the Ms Wong knew that the Win Invoices were shams and are further evidence of her conspiracy with Mr Low.

Findings on conspiracy

210 I therefore find that Ms Wong had conspired with Mr Low with the intention of wrongfully causing Petrotech to pay Win the sum of US\$2,853,250, thereby causing Petrotech to suffer loss. In particular:

- (a) Ms Wong acted together with Mr Low to enter the Win Agreement to facilitate the issuance of the Win Invoices;
- (b) Ms Wong knew that the Win Agreement and the Win Invoices were shams;
- (c) Ms Wong registered Win's business profile on ACRA to be consistent with the services described in the Win Agreement to falsely give Win, the Win Agreement and the Win Invoices an appearance of legitimacy;
- (d) Ms Wong issued, or caused to be issued, the Win Invoices, knowing that no such services as described in them had been performed by Win;
- (e) In any event, Ms Wong knew that Win did not perform any services for Petrotech and there was no basis for her assertion or belief that Kunlun would reimburse Petrotech for the monies it paid to Win;
- (f) Ms Wong received payment from Petrotech on the Win Invoices knowing that Win was not entitled to the same;

(g) Ms Wong knew that there was no basis to pay the sum of S\$459,800 to SC Marine or did not care if such payments were proper; and

(h) Ms Wong did not hand over any cash to Zhu Pang and, even if she did so, she knew such payments were improper.

Mozer's

211 I also find that the evidence established a conspiracy between Mr Low, Mr Wong and Ms Wong to wrongfully cause Petrotech to make payments on the Mozer's Invoices, and for part of those payments to be made to Winx.

212 I begin with two general points.

213 First, Mr Wong was not honest in his evidence of his involvement with Ms Wong and Mr Low:

(a) In his affidavit, Mr Wong sought to give the impression that he was introduced to the business opportunity with Kunlun by Ms Wong whom he met occasionally at family gatherings and his only connection with her was to pay the Winx invoices.³⁵⁶ But it was disclosed at the trial that Mr Wong was also assisting *Win* in its dealings with Petrotech under the Win Agreement, although he claimed that this was limited to sending some of the Win Invoices to Petrotech via e-mail.³⁵⁷

(b) As discussed above (at [195]), it was only disclosed at the trial that Mr Wong received Mr Low's shares in Better Future *without paying*

³⁵⁶ AEIC WYK at para 5.

³⁵⁷ NE 15 April at p 3.

for them. They clearly shared a relationship that was closer than the impression he advanced in his affidavit, *ie*, that Mr Low “was only known to [him] as a friend of [his] aunt”.³⁵⁸

214 Second, Mr Wong (like Ms Wong) could not explain the commercial logic of his arrangement with Kunlun, Petrotech and Winx. Mr Wong accepted that he had no experience in providing the services described in the Mozer’s Agreement.³⁵⁹ He had no business experience in Malaysia and had never been involved in the shipping industry. He claimed that Zhu Pang had assured him that he (Zhu Pang) would provide Mr Wong with the opportunity to learn on the job as well as the necessary resources and assistance³⁶⁰ – but that begged the question why Mr Wong needed to be appointed at all. When asked, Mr Wong said that he did not think about this.³⁶¹

215 There was also no need for Kunlun or Petrotech to engage Mozer’s to pay Winx for the Linen Goods when Petrotech already had an existing agreement with Ms Wong *viz* the Win Agreement (which Mr Wong knew about), and certainly no need for Kunlun to pay additional and substantial fees to an unnecessary middleman. Again, Mr Ong’s response was to claim that he did not think about this.³⁶²

³⁵⁸ AEIC WYK at para 11.

³⁵⁹ NE 14 April p 12.

³⁶⁰ NE 14 April at p 12.

³⁶¹ NE 15 April at p 62.

³⁶² NE 15 April at p 63.

The Mozer’s Agreement

216 Mr Wong executed the Mozer’s Agreement even though he knew that it contained terms which were false:³⁶³

(a) Recital (2) falsely stated that Mozer’s was “a company registered in Singapore, principally engaged in Sourcing of Marine Materials & Spare parts and Ship maintenance, Repair and Overhaul Services business”;³⁶⁴ and

(b) Clause 7.1.2 falsely claimed that Mozer’s had the qualifications to perform the services contemplated under the Mozer’s Agreement.

When asked why he would sign an agreement containing false terms, Mr Wong kept repeating that he was acting on Zhu Pang’s instructions and did not think much about it.³⁶⁵ He finally admitted doing so because he wanted to earn money.³⁶⁶

217 Further, the terms of the Mozer’s Agreement bore absolutely no relation to the services Mr Wong (allegedly) provided. The Mozer’s Agreement appointed Mozer’s as “the exclusive coordinating agent for sourcing all marine materials and spare parts provided from Singapore”, which meant having “the exclusive power and rights to negotiate and secure the best price for marine materials and spare parts from ... service providers in Singapore”.³⁶⁷ However, in his affidavit, Mr Wong stated that Zhu Pang informed him that his role would

³⁶³ NE 14 April at p 4.

³⁶⁴ NE 15 April at p 59.

³⁶⁵ NE 15 April at p 61.

³⁶⁶ NE 15 April at p 61.

³⁶⁷ OC486 1BD445.

“primarily involve translating for Kunlun’s representatives and driving them around Malaysia to various locations where they had arranged meetings.”³⁶⁸ This ultimately involved him driving one “Mr Chow” around in Malaysia and attending meetings with him.

218 Mr Wong could not even explain the terms of the Mozer’s Agreement:

(a) When he was asked what “coordinating agent” meant, he testified that it included sourcing for supplies and providing cash to Zhu Pang to meet the expenses of the ships’ crew.³⁶⁹ That was plainly contrived: (i) that was not what he stated in his affidavit he was told by Zhu Pang; (ii) he was never asked to source for supplies in Singapore; and (iii) the handing over of cash clearly did not fall within the wording of the Mozer’s Agreement and according to him, he was only told by Zhu Pang in 2018 that he was required to handover cash.

(b) Mr Wong could not name *any* service providers in Singapore which he had contacted.³⁷⁰ When pressed, he could only name Winx,³⁷¹ which was obviously irrelevant to the scope of the Mozer’s Agreement.

(c) When pressed further as to what he did to, *inter alia*, secure marine material and spare parts, he twice gave the absurd answer that it was Zhu Pang who made the all the arrangements, and that Zhu Pang

³⁶⁸ AEIC WYK at para 9.

³⁶⁹ NE 14 April at p 6.

³⁷⁰ NE 14 April at p 6.

³⁷¹ NE 14 April at p 7.

informed him that everything he (Zhu Pang) did would be treated as if done by Mr Wong.³⁷²

219 As with the case of Ms Wong and the Win Agreement, Mr Wong plainly did not care about, or pay attention to, the terms of the Mozer's Agreement, suggesting that he knew it was a sham.

Mozer's ACRA registration

220 Mozer's was established in 2015 and owned by Mr Wong's wife until July 2019, when it was transferred to Mr Wong.³⁷³ According to Mr Wong, it was previously in the business of providing transport and wholesale supply services.³⁷⁴

221 Mr Wong changed the description of Mozer's business as registered with ACRA to mirror the services under the Mozer's Agreement:³⁷⁵

ACTIVITIES (I): BUILDING AND REPAIRING OF SHIPS,
TANKERS AND OTHER OCEAN-GOING VESSELS (INCLUDING
CONVERSION OF SHIPS INTO OFF-SHORE STRUCTURES)
(30110)

ACTIVITIES (II): FREIGHT TRANSPORT ARRANGEMENT
(52292)

DESCRIPTION: COORDINATING AGENT FOR ALL MARINE
MATERIALS & SPARE PARTS AND SHIP REPAIR

222 According to Mr Wong, this was done on Zhu Pang's instructions some months after he had signed the Mozer's Agreement and *before* he issued the

³⁷² NE 14 April at pp 8–9.

³⁷³ OC486 1AB491.

³⁷⁴ NE 14 April at p 15.

³⁷⁵ OC486 1AB490.

Mozer's Invoices.³⁷⁶ It is undisputed that Mozer's did not carry on any such business at all. I find that Mr Wong deliberately changed the description of Mozer's business with ACRA to give the false impression that Mozer's was a legitimate service provider in the marine industry. This was likely done to allay any suspicions in the event any checks were carried out on Mozer's.

Fees

223 Mr Wong could not explain why he was entitled to receive the amounts he was paid under the Mozer's Agreement. Under Clause 4, Mozer's was to be paid: (a) an agency fee of S\$1,500 "for each ship"; and (b) a "coordinating fee" which would be agreed between Mozer's and Petrotech.³⁷⁷ In the event, Mozer's was paid: (a) a coordinating fee of 6% of the invoice sums; and (b) a monthly allowance of about S\$6,000. According to Mr Wong, these were decided by Zhu Pang who (as accepted by Mr Wong) was introduced to him as a representative of Kunlun and not Petrotech. Further, it was not his evidence that anyone from Petrotech had made any representations to him about Zhu Pang's authority. On his own evidence, his only contact with Petrotech with respect to the Mozer's Agreement was when he was asked by Mr Low to sign the same at Petrotech's office so that Petrotech could pay him pursuant to the Payment Arrangement.³⁷⁸ Mr Wong accepted that, during this meeting, he did not discuss any "coordinating fee" or other sums with Mr Low.³⁷⁹

224 Mr Wong also could not explain the distinction between the monthly allowance and agency fee, except to state that this was all arranged by Zhu Pang

³⁷⁶ NE 14 April at p 16.

³⁷⁷ OC486 1AB446.

³⁷⁸ AEIC WYK at para 12.

³⁷⁹ NE 14 April at p 23.

and that he only knew that his monthly allowance would be for his expenses in Malaysia.³⁸⁰ In fact, Mr Wong claimed that he did not even know that Mozer's was entitled to an agency fee of S\$1,500 per ship until he saw the Mozer's Invoices prepared by Zhu Pang in July 2019.³⁸¹ Further, Mr Wong claimed that Zhu Pang had agreed to the 6% coordinating fee at their first meeting,³⁸² which raised the question why that was not reflected in the Mozer's Agreement.

225 Again, Mr Wong did not care about the terms of the Mozer's Agreement, or Zhu Pang's authority to amend it, suggesting that he knew it was a sham.

The Mozer's Invoices

226 The evidence showed that Mr Wong knew the Mozer's Invoices were a sham or that he turned a blind eye to that fact:

(a) According to Mr Wong, Zhu Pang prepared the Mozer's Invoices.³⁸³ In fact, Mozer's had not previously issued invoices, and it was Zhu Pang who designed the format of the Mozer's Invoices, inserted the description of services provided and the amounts charged.³⁸⁴ All Mr Wong was required to do was to sign and issue the Mozer's Invoices.³⁸⁵

(b) Mr Wong did not know whether the services described in the Mozer's Invoices had been provided, nor did he even understand them. Most of the Mozer's Invoices identified three standard services:

³⁸⁰ NE 15 April at pp 9–10.

³⁸¹ NE 15 April at p 7.

³⁸² NE 15 April at p 7.

³⁸³ AEIC WYK at para 23.

³⁸⁴ NE 15 April at p 56.

³⁸⁵ NE 15 April at p 56.

(i) First, “agency fee”. Mr Wong first testified that he did not know what the agency fee was for.³⁸⁶ He later claimed that this was his fee to withdraw and hand over cash to Zhu Pang and to make payments to third parties.³⁸⁷ But that was false as he did not perform those services before August 2019. He then claimed that he paid another party “one to two times”³⁸⁸ but I disbelieved that evidence – Mr Wong could not name that party or say how much he paid; he also did not even give a reason for paying that party. I find that he was making up his evidence.

(ii) Second, “coordinating fee for the supply of materials and spare parts”. Mr Wong claimed that this reflected his efforts *helping* Mr Chow source for accessories and spare parts but did not know how his work related to each invoice.³⁸⁹

(iii) Third, “coordinating fee for Manpower and Labours for maintenance repair”. Mr Wong admitted that he did not do any such work but claimed that Zhu Pang did so.³⁹⁰

(c) On his own evidence, Mr Wong only provided translation and transportation services – but the Mozer’s Invoices did not set out these services. He accepted that he did not ask Zhu Pang about these inconsistencies.³⁹¹

³⁸⁶ NE 15 April at p 10.

³⁸⁷ NE 15 April at p 69.

³⁸⁸ NE 15 April at p 70.

³⁸⁹ NE 15 April at p 20.

³⁹⁰ NE 15 April at p 21.

³⁹¹ NE 15 April at p 52.

(d) For the Mozer’s Invoices dated 1 March 2019³⁹² and 11 April 2019³⁹³, he could not explain why they did not include any names of ships which received the services or when those services were provided.³⁹⁴

(e) For the Mozer’s Invoices dated 1 March 2019, he could not explain the descriptions “coordination for the purchase of flexible hoses” or the “Land & Transportation Fee”.³⁹⁵

227 For completeness, Mr Wong did not challenge Ms Jin’s evidence that the details stated in numerous Mozer’s Invoices were false as no such services were provided.³⁹⁶ Mr Wong had no personal knowledge that such services were provided. On his own evidence, he allowed Zhu Pang to prepare the Mozer’s Invoices without questioning or checking.

228 Mr Wong must have also known that the Mozer’s Invoices did not make sense in the context of the payments to Winx. According to Mr Wong, he was only informed in August 2019 that he was required to pay Winx from the funds he received from Petrotech. Mozer’s made its first payment to Winx on 18 September 2019. However, the description of the services and the amounts in the Mozer’s Invoices prior to and after the payments to Winx remained generally the same and did not reflect the Linen Goods (allegedly) provided by Winx. Mr Wong could not explain any of this.

³⁹² OC486 2AB56.

³⁹³ OC486 2AB62.

³⁹⁴ NE 15 April at p 23.

³⁹⁵ NE 15 April at p 24.

³⁹⁶ AEIC Jin at para 35.

The payments to Mozer's

229 On Mr Wong's own evidence, he received a princely sum of S\$618,681 for essentially driving Mr Chow in Malaysia and providing interpretation services over a period of just over three years, a substantial portion of which Mr Wong could not even travel to Malaysia on account of COVID-19.³⁹⁷ This amount was clearly not commensurate with what Mr Wong purportedly did.

230 I note that Mr Wong's income tax returns did not support his claim that he received more than S\$600,000 for his services. This amount was more than twice the total of the sums he declared in 2019 (S\$50,865)³⁹⁸, 2020 (S\$60,321)³⁹⁹, 2021 (S\$81,839)⁴⁰⁰ and 2022 (S\$52,445)⁴⁰¹.

231 I also do not accept Mr Wong's evidence that he provided Kunlun any services. He could not give any contact details of "Mr Chow", claiming that he had lost his handphone which had the details;⁴⁰² nor could he produce a single document, including any receipts for expenses he incurred, evidencing that he had performed any work for "Mr Chow" or Kunlun. He was also unable to give any details of the meetings he attended with "Mr Chow". In his affidavit, he speculated that the details were kept from him as Kunlun "did not want [him] to have too much knowledge of their operations out of fear that [he] may steal their business."⁴⁰³ This was far-fetched given that Mr Wong was not in a similar,

³⁹⁷ AEIC WYK at para 53.

³⁹⁸ OC486 8AB127.

³⁹⁹ OC486 8AB132.

⁴⁰⁰ OC486 8AB139.

⁴⁰¹ OC486 8AB149.

⁴⁰² AEIC WYK at para 17.

⁴⁰³ AEIC WYK at para 19.

much less competing, business, with Kunlun and contradicted his evidence that Zhu Pang agreed to provide him with the necessary resources and assistance to learn on the job (see [214] above).

232 In his closing submissions, Mr Wong argued that “[Capt Hariff’s evidence] that Petrotech had no need for Mozer’s services, had never called on Mozer’s to provide services, and knew that Mozer’s never provided any services to Petrotech when it paid every payment to Mozer’s” precluded Petrotech from asserting that Mozer’s had failed to provide services to Petrotech.⁴⁰⁴ I reject this argument. I find that Capt Hariff approved payments to Mozer’s without knowing what services it provided because he trusted Mr Low. That however does not give Mr Wong a licence to claim that Mozer’s did not have to provide any services under the Mozer’s Agreement or to prove that it did so.

The cash payments to Zhu Pang

233 As in the case of Ms Wong, the cash payments by Mr Wong to Zhu Pang were highly suspicious. Mr Wong claimed that he was first told by Zhu Pang in September 2018 that he (Mr Wong) had to make cash payments as Zhu Pang needed to pay for the ship’s expenses and fees.⁴⁰⁵ Mr Wong conceded that the obligation to make cash payments to Zhu Pang or Kunlun was not contained in the Mozer’s Agreement.⁴⁰⁶ Yet, he did not check with anyone from Petrotech as to whether this was appropriate – he claimed that this did not occur to him at that time, and that it was his understanding that he had to take instructions from Zhu Pang.⁴⁰⁷ But, as explained above (at [223]), Mr Wong had no basis to

⁴⁰⁴ Wong Yau Kan’s Written Submissions filed on 5 May 2025 at para 9.

⁴⁰⁵ NE 15 April at p 11.

⁴⁰⁶ NE 15 April at p 56.

⁴⁰⁷ NE 15 April at p 57.

believe that Zhu Pang had the authority to vary the Mozer's Agreement on Petrotech's behalf, or to ask for cash payments.

234 On Mr Wong's evidence, he paid a total of S\$2,404,540 in cash to Zhu Pang,⁴⁰⁸ out of the sum of S\$4,695,201 Mozer's invoiced and received from Petrotech, *ie*, more than 50%. An honest person would have at least made enquiries with Petrotech on the appropriateness of these payments. Further, Mr Wong must have realised that the Mozer's Invoices were false or at least substantially inflated to enable the cash payments to Zhu Pang. Mr Wong did not make any inquiries because he knew that the Mozer's Invoices were a sham.

235 When he was asked to explain how he would account to Zhu Pang for the monies he received from Petrotech and what he would retain, Mr Wong claimed that he would draw up accounts from time to time, which he had since destroyed.⁴⁰⁹ But there was no mention of this in his affidavit and, on Mr Wong's evidence, Mozer's (like Win) had failed to keep its business records as it was legally required to do (see [185] above).

The unaccounted monies

236 Mr Wong was unable to account for *at least* S\$72,000 of the total sum of S\$4,695,201 he received from Petrotech (see above at [31]). There was no explanation as to where these monies had gone. There is also no reason that Mr Wong would be unable to explain this if the arrangement between Mozer's and Petrotech was legitimate. The evidence suggested that Mr Wong retained more of the funds than he claimed.

⁴⁰⁸ AEIC WYK at para 48.

⁴⁰⁹ NE 15 April at p 73.

When was the Mozer’s Agreement signed?

237 One of the disputes between the parties was when the Mozer’s Agreement was signed. Although my findings above are sufficient to establish Petrotech’s claim in conspiracy against Mozer’s, this issue remains significant as the date and circumstances under which the Mozer’s Agreement was signed strengthens my findings.

238 Capt Hariff admitted executing the Mozer’s Agreement.⁴¹⁰ He claimed that he was informed by Mr Low sometime *in July 2019* that Petrotech should enter into an agreement with Mozer’s as Petrotech would require agency services in Singapore.⁴¹¹ He did not inquire further as he trusted Mr Low and did not read the contents of the Mozer’s Agreement, which he said was undated.⁴¹²

239 I do not accept Capt Hariff’s evidence that the Mozer’s Agreement was undated when he signed it.⁴¹³ The text printed on the original of the Mozer’s Agreement – “This Agreement is made and entered into by and between the following parties on *20 December 2017* in Singapore” (emphasis added) – suggested that the date was printed at the same time as the text around it and unlikely to have been inserted later.⁴¹⁴ However, that did not mean that the rest of Capt Hariff’s evidence was necessarily untrue or incorrect. On the contrary, I find that the Mozer’s Agreement was likely signed in July 2019.

⁴¹⁰ AEIC Hariff at para 110.

⁴¹¹ AEIC Hariff at para 110.

⁴¹² AEIC Hariff at para 111.

⁴¹³ AEIC Hariff at para 116.

⁴¹⁴ OC486 1AB445.

240 Capt Hariff's evidence was corroborated by Mr Ong, who testified that he witnessed Capt Hariff sign the Mozer's Agreement in Petrotech's office in July 2019 and that he noticed that it bore the date 20 December 2017 when it was handed to him.⁴¹⁵ This was related to the incident where Mr Low handed him the 2018 Mozer's Invoices (see [70] above). I find Mr Ong to be an honest witness who gave clear and consistent evidence. More importantly, Mr Ong's account was consistent with the objective evidence and the documents.

241 Mr Ong explained that, following a meeting between Mr Low and Petrotech's auditor on 15 July 2019, Mr Low had asked the auditor how Petrotech could reduce its tax burden and was told that Petrotech had to show more expenses.⁴¹⁶ This evidence was not challenged. A few days later, Mr Low handed Mr Ong the 2018 Mozer's Invoices and instructed him to record them in the Ledger (see [70] above).⁴¹⁷

242 Mr Ong's evidence was corroborated by Mr Wong, who testified that although he started providing services to Kunlun in September 2018, he only issued the first batch of Mozer's Invoices (prepared by Zhu Pang) in or around *July 2019*.⁴¹⁸

243 Mr Low denied handing Mr Ong the 2018 Mozer's Invoices, but significantly, his counsel did not challenge Mr Ong's evidence. Mr Wong, on the other hand, claimed that he had e-mailed the 2018 Mozer's Invoices to Petrotech but could not produce that e-mail or offer an explanation as to what

⁴¹⁵ AEIC Ong at para 43.

⁴¹⁶ AEIC Ong at paras 35–36.

⁴¹⁷ AEIC Ong at paras 38–39.

⁴¹⁸ AEIC WYK at para 27.

had happened to it.⁴¹⁹ All Mozer's Invoices dated 2019 and after were sent to Petrotech via e-mail, which emails were produced. I therefore find that the 2018 Mozer's Invoices were handed by Mr Low to Mr Ong in July 2019, and that Mr Low must have received these from Mr Wong. This supports my finding that Mr Low and Mr Wong were working closely together in relation to the Mozer's Agreement and the Mozer's Invoices.

244 By an e-mail dated 20 July 2019, Mr Ong forwarded the documents Mr Low had handed to him to Petrotech's auditors.⁴²⁰ Mr Ong testified that he had assumed that the documents included the agreement between Petrotech and Mozer's which supported the 2018 Mozer's Invoices.⁴²¹ However, that same day, the auditors asked him for a copy of the agreement with Mozer's and he informed Mr Low of this.⁴²²

245 On 22 July 2019, Mr Low instructed Mr Ong to call Capt Hariff to attend at Petrotech's office to sign the Mozer's Agreement.⁴²³ Capt Hariff did so that same morning, and Mr Low handed the signed Mozer's Agreement to Mr Ong to send to the auditors,⁴²⁴ which he did via an e-mail on the same day.⁴²⁵ By further e-mails to the auditors dated 22 July 2019 and 1 August 2019 respectively, Mr Ong enclosed copies of the Ledger and the updated payment chart (now showing Mozer's as a creditor).⁴²⁶

⁴¹⁹ AEIC WYK at para 27.

⁴²⁰ AEIC Ong at para 43.

⁴²¹ NE 25 March at p 77.

⁴²² AEIC Ong at para 43.

⁴²³ NE 25 March at p 78.

⁴²⁴ AEIC Ong at para 43.

⁴²⁵ AEIC Ong at para 43.

⁴²⁶ AEIC Ong at para 41.

246 Although these details were omitted in Mr Ong's affidavit, the sequence of events narrated by him was consistent with the documents referred to above. Notably, while Mr Low's counsel suggested to Mr Ong that he already had the Mozer's Agreement in his possession prior to 20 July 2019, it was **not** suggested *when* Mr Low had handed him a copy or how Mr Ong would have had it.

247 Mr Wong also claimed that the Mozer's Agreement was signed in December 2017. On his own evidence: (a) it was in February 2018 that he changed the registration of the principal activities of Mozer's to mirror its (purported) services under the Mozer's Agreement; and (b) the non-disclosure agreement he purportedly signed with Kunlun was dated 5 August 2018. Neither supported the claim that the Mozer's Agreement was signed in December 2017.

248 Further, there was other evidence supporting Capt Hariff and Mr Ong's accounts.

249 First, Mozer's was only owned by Mr Wong from *16 July 2019*.⁴²⁷ This was just a few days before Capt Hariff and Mr Ong said the Mozer's Agreement was signed. Mr Wong would not likely have signed the Mozer's Agreement in December 2017 as he was not Mozer's owner then. Although he claimed that he was authorised to do so, he did not produce any evidence of that authority, nor did he call his wife to give evidence to confirm this.⁴²⁸ This suggests Mr Wong only signed the Mozer's Agreement after 16 July 2019.

250 Second, Mr Wong could not reasonably explain why he only issued the 2018 Mozer's Invoices in July 2019 when, according to him, he had been

⁴²⁷ OC486 1AB491.

⁴²⁸ NE 14 April at p 13.

providing services to Kunlun from September 2018. That would mean he would have been working for 10 months without income or even reimbursement of his expenses. This was not dealt with in his affidavit. When cross-examined, he claimed that Zhu Pang had informed him that he was waiting for “updates” from Kunlun.⁴²⁹ I do not find that explanation credible. It also contradicted his evidence that he obeyed Zhu Pang’s instructions as he wanted to earn money. The fact that Petrotech was dealing with its auditors in July 2019 to finalise its 2018 accounts and, as Mr Ong stated, Mr Low wanted the 2018 Mozer’s Invoices included in those accounts to reduce Petrotech’s profits (and therefore its tax liability) better explained why the 2018 Mozer’s Invoices were only issued then. This further supports the finding that the Mozer’s Invoices were shams.

251 I therefore find that while Capt Hariff may have been mistaken that the Mozer’s Agreement was undated when he signed it, he and Mr Ong were truthful in claiming that it was only signed by him on 22 July 2019. I note that Petrotech had originally pleaded that the Mozer’s Agreement was signed in December 2017 and only amended its pleadings at the trial to state that it was signed in July 2019. I accept that the pleading was an error. Capt Hariff’s affidavit stated that it was signed in July 2019 and the amendment was necessary to align the pleadings with the evidence.

252 The signing of the Mozer’s Agreement, and Mr Wong’s issuance of the 2018 Mozer’s Invoices, in July 2019 is further evidence of Mr Wong acting in concert with Mr Low. He did both, or at least the latter, when Mr Low required Petrotech’s books and accounts to reflect its liabilities to Mozer’s. The timing

⁴²⁹ NE 15 April at p 13.

of the 2018 Invoices also suggested that Mr Wong did not do any work for “Mr Chow” or Kunlun, and that the Mozer’s Invoices were shams.

Findings

253 I therefore find that Mr Wong had conspired with Mr Low with the intention of wrongfully causing Petrotech to pay Mozer’s the sum of S\$4,695,201, thereby causing Petrotech to suffer loss. In particular:

- (a) Mr Wong acted together with Mr Low to enter the Mozer’s Agreement to facilitate the issuance of the Mozer’s Invoices;
- (b) Mr Wong knew that the Mozer’s Agreement and the Mozer’s Invoices were shams;
- (c) Mr Wong updated Mozer’s business profile on ACRA to be consistent with the services described in the Mozer’s Agreement to falsely give Mozer’s, the Mozer’s Agreement and the Mozer’s invoices an appearance of legitimacy;
- (d) Mr Wong issued the Mozer’s Invoices knowing that no such services as described in them had been performed by Mozer’s;
- (e) In any event, Mr Wong knew that Mozer’s did not perform any services for Petrotech and there was no basis for his assertion or belief that Kunlun would reimburse Petrotech for the monies it paid to Mozer’s;
- (f) Mr Wong received payment from Petrotech on the Mozer’s Invoices knowing that Mozer’s was not entitled to the same; and

- (g) Mr Wong did not hand over any cash to Zhu Pang and, even if he did so, he knew such payments were improper.

254 I also find that Mr Wong knew that there was no basis to pay the sum of S\$1,671,980 to Winx or did not care if such payments were proper. It was not his case, nor could he reasonably argue, that such payments were governed by the Mozer's Agreement. He also did not know if Winx had delivered the Linen Goods to Kunlun and did not make any inquiries. On his own evidence, he simply did what Zhu Pang instructed. On the contrary, the payments to Winx support my finding that Mr Wong knew that the Mozer's Invoices were shams.

Winx

255 Ms Wong claimed that she was approached by Zhu Pang in July 2019 to supply the Linen Goods.

256 The evidence that Winx sold and delivered the Linen Goods was scanty at best:

- (a) Other than the Winx Invoices, which were handwritten and not even numbered, Ms Wong did not produce any documentary or corroborating evidence that the Linen Goods even existed, much less collected by or delivered to Zhu Pang.
- (b) She did not produce any documentary evidence as to the source of the Linen Goods.
- (c) She did not produce any witness to corroborate the sale or delivery of the Linen Goods to Zhu Pang. She claimed no one else was at her warehouse when Zhu Pang or his assistant came to collect the Linen Goods.

(d) There was no evidence of any delivery of the Linen Goods to the Kunlun Ships. As discussed above, such deliveries would be arranged by Mr Azmi. On the contrary, Mr Azmi recalled two or three occasions of linen products being delivered to the Kunlun ships by another supplier, Golden Harvest Shipping Services Pte Ltd.⁴³⁰

257 In contrast, there were several aspects of Ms Wong's evidence in relation to the Winx transactions which were not satisfactory:

(a) Ms Wong could not explain the commercial logic or propriety of Winx being paid by Mozer's. In this regard, Ms Wong was aware that Mozer's was purportedly only providing interpretation and chauffeur services.⁴³¹ Yet she did not question why Mozer's was receiving large sums of monies from Petrotech to pay Winx.⁴³²

(b) She could not explain why Winx did not enter an agreement directly with Petrotech, claiming that she did not ask.⁴³³

(c) She claimed that she did not inform Mr Low that she was supplying the Linen Goods much less ask him why Petrotech was paying Mozer's to settle the Winx Invoices; nor did she discuss this arrangement with Mr Wong.⁴³⁴ Given their close relationships, I find this evidence unbelievable.

⁴³⁰ NE 1 April at p 52.

⁴³¹ NE 11 April at p 62.

⁴³² NE 11 April at p 62–63.

⁴³³ NE 11 April at p 14.

⁴³⁴ NE 11 April at p 13.

(d) When asked why Zhu Pang did not sign on the Winx Invoices and affix a Kunlun stamp as he had done for the Payment Vouchers, Ms Wong testified that the latter involved cash.⁴³⁵ But this was not a reasonable distinction. In any event, the sale of the Linen Goods was also a cash transaction. When pressed, all she could say was that she trusted Zhu Pang, which was a meaningless response.⁴³⁶

(e) Ms Wong did not declare the income she received for the Linen Goods.⁴³⁷ The sale to Zhu Pang represented a substantial portion of Winx's business. For example, for the Year of Assessment 2020, Winx declared an income of S\$216,358.⁴³⁸ The revenue for the Linen Goods in that same period amounted to S\$338,080.⁴³⁹ She claimed that she did not declare that income because the Linen Goods were for use "out on the sea". That did not make any sense – the sale was to Zhu Pang in Singapore. Ms Wong's failure to declare such income suggests that there was no sale.

(f) Ms Wong made no attempt to co-relate the Winx invoices to the Kunlun ships within Malaysian waters which Petrotech was servicing to demonstrate some plausible basis that the Linen Goods were delivered to them.

⁴³⁵ NE 10 April at p 35.

⁴³⁶ NE 10 April at p 35.

⁴³⁷ NE 10 April at p 48.

⁴³⁸ OC485 6AB299.

⁴³⁹ AEIC WWL at para 141.

258 On balance, I find that (a) Ms Wong had not proven that Winx supplied the Linen Goods; and (b) the Winx Invoices were shams. Winx therefore had no basis to receive payment from Mozer’s.

259 Given that Ms Wong was the sole operating mind behind both Winx and Win, her role in the conspiracy involving Mr Low and Win is relevant to assessing her role in respect of the payments to Winx and the conspiracy between Mr Low and Mozer’s. Mr Wong assisted Ms Wong in Win’s business (see [213(a)]). On Ms Wong’s own evidence, she introduced Mr Wong to the new “opportunity” with Zhu Pang. It could not be a coincidence that it was also in *July 2019* – when the Mozer’s Agreement was signed and the 2018 Mozer’s Invoices were issued – that Winx was (according to Ms Wong) asked by Zhu Pang to supply the Linen Goods. The first payment for the Linen Goods were from the monies received by Mozer’s from Petrotech for the 2018 Mozer’s Invoices. The evidence therefore pointed to close involvement and co-ordination between Mr Low, Mr Wong and Ms Wong in respect of the Mozer’s Agreement, the Mozer’s Invoices and the Winx Invoices.

260 I therefore find that:

- (a) Ms Wong acted in concert with Mr Low and Mr Wong with the intention of wrongfully causing Petrotech to pay on the Mozer’s Invoices;
- (b) Ms Wong caused part of Petrotech’s monies to be funnelled to Winx by issuing the Winx Invoices;
- (c) Ms Wong knew that the Winx Invoices were shams; and

- (d) Ms Wong knew that was not entitled to the sum of S\$1,671,980 which she received from Mozer's.

Conclusion

261 For the above reasons, I find that the Win Agreement, Mozer's Agreement, Win Invoices, Mozer's Invoices and Winx Invoices were shams. They were entered and issued pursuant to a conspiracy between Mr Low, Ms Wong and Mr Wong to enable Mr Low to wrongfully cause Petrotech to pay monies to Win and Mozer's, and for part of that payment to be funnelled to Winx. As a result, Petrotech suffered losses of US\$2,853,250 and S\$4,695,201, being the monies it had paid out on the Win and Mozer's Invoices.

262 Given my findings above, it is not necessary for me to deal with Petrotech's cause of action in lawful means conspiracy.

Dishonest assistance and knowing receipt

263 It is well-settled that the elements of a claim in dishonest assistance are: (a) there has been a disposal of the claimant's assets in breach of trust or fiduciary duty; (b) in which the defendant has assisted or which he has procured; and (c) the defendant has acted dishonestly: see *Esben Finance and others v Wong Hou-Lianq Neil* [2022] 1 SLR 136 ("*Esben Finance*") at [255]. In this context, dishonesty is established when the defendant is shown to have knowledge of the irregular shortcomings of the transaction that ordinary honest people would consider it to be a breach of standards of honest conduct if he failed to adequately query them: *George Raymond Zage III and another v Ho Chi Kwong and another* [2010] 2 SLR 589 at [23].

264 The elements of a claim in knowing receipt are: (a) a disposal of the plaintiff's assets in breach of fiduciary duty; (b) the beneficial receipt by the defendant of assets which are traceable as representing the assets of the plaintiff; and (c) knowledge on the part of the defendant that the assets received are traceable to a breach of fiduciary duty and this state of knowledge makes it unconscionable for the defendant to retain the benefit of the receipt: *Esben Finance* at [256]. It suffices that the defendant knows all the facts necessary for him to conclude that there was *prima facie* something so unusual or so contrary to accepted commercial practice and fails to make inquiries under such circumstances: *MKC Associates Co Ltd and another v Kabushiki Kaisha Honjin and others (Neo Lay Hiang Pamela and another, third parties; Honjin Singapore Pte Ltd and others, fourth parties)* [2017] SGHC 317 at [286].

265 Given my findings above (at [125] – [261]), the following requirements of both a claim in dishonest assistance and a claim in knowing receipt are satisfied:

- (a) Mr Low had acted in breach of his fiduciary duties to Petrotech;
- (b) Ms Wong (acting through Win) and Mr Wong (acting through Mozer's) had assisted in Mr Low's breach; and
- (c) Win, Mozer's and Winx had received Petrotech's assets which are traceable to Mr Low's breach.

266 The issue is whether Ms Wong and Mr Wong had notice of irregularities or something so unusual or so contrary to accepted commercial practice, in their transactions with Petrotech (for convenience, I will refer to these as "red flags") that warranted them to inquire further.

267 For the reasons below, I find that Ms Wong and Mr Wong are liable to Petrotech as constructive trustees in respect of the payments made by Petrotech on the Win and Mozer’s Invoices.

Win

268 There were numerous “red flags” with respect to the Win Agreement and Win Invoices which ought to have put Ms Wong on inquiry. In particular:

- (a) the false statements contained in the Win Agreement (see [159] above);
- (b) it was illogical for Win to be appointed Petrotech’s exclusive agent for all marine services when Ms Wong had no experience in such matters (see [160] above);
- (c) there was no commercial reason for Kunlun wanting to appoint Win as a middleman when this would only increase Kunlun’s costs for no discernible benefit (see [155] above);
- (d) Win was not asked to perform any of the services described in the Win Agreement (see [104] above);
- (e) Win was asked to perform services not included in the Win Agreement (see [104] and [183] above);
- (f) Win was paid fees not in accordance with the terms of the Win Agreement and it was Zhu Pang, who was not an authorised representative of Petrotech, who was dictating these changes (see [167]–[168] above);

- (g) the Win Invoices did not describe the services, and were for amounts not related to those services, which Win (allegedly) performed (see [171] above);
- (h) the monthly fee charged to Petrotech in the Win Invoices remained the same even when there were no invoices from SC Marine for that month (see [171(a)] above);
- (i) the lack of information in the SC Marine Invoices (see [176] above);
- (j) the amount paid to Win were not commensurate with the services it (allegedly) provided (see [169] above); and
- (k) the substantial cash payments instructed by Zhu Pang, which not only was not part of the Win Agreement, it implied that the Win Invoices were issued to obtain cash for his use (see [183]–[187] above).

Mozer’s

269 There were also numerous “red flags” with respect to the Mozer’s Agreement and Mozer’s Invoices which ought to have put Mr Wong on inquiry. In particular:

- (a) the false statements in the Mozer’s Agreement (see [216] above);
- (b) it was illogical for Mozer’s to be appointed Petrotech’s as “the “exclusive coordinating agent for sourcing all marine materials and spare parts provided from Singapore”, when Mr Wong had no experience in such matters (see [214] above);

- (c) there was also no commercial reason for Kunlun wanting to appoint Mozer's as a middleman when this would only increase Kunlun's costs for no discernible benefit (see [214]–[215] above);
- (d) Mozer's was not asked to perform any of the services described in the Mozer's Agreement (see [217] above);
- (e) Mozer's was asked to perform services not included in the Win Agreement (see [217] and [233] above);
- (f) Mozer's was paid fees not in accordance with the terms of the Mozer's Agreement and it was Zhu Pang, who was not an authorised representative of Petrotech, who was dictating these changes (see [223]–[224] above);
- (g) the Mozer's Invoices, which were entirely prepared by Zhu Pang, did not describe the services, and were for amounts not related to those services, which Mozer's (allegedly) performed (see [226] above);
- (h) the description of the services in Mozer's Invoices prior to and after the payments to Winx remained generally the same and did not reflect the Linen Goods allegedly provided by Winx (see [228] above);
- (i) the sum received by Mozer's was clearly not commensurate with the services it provided (see [229] above); and
- (j) the substantial cash payments to Winx and Zhu Pang, which were not only was not part of the Mozer's Agreement, it evidenced that the Mozer's Invoices were shams to obtain cash for Zhu Pang's use (see [233]–[235] above).

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Winx

270 My finding that Winx did not supply the Linen Goods necessarily meant that its receipt of Petrotech’s funds was dishonest. In any event, there were several “red flags” with respect to the payments of the Winx Invoices which ought to have put Ms Wong on inquiry:

- (a) it was illogical for Mozer’s to pay Winx for the Linen Goods when Ms Wong (on her own evidence) was told that Mozer’s was only providing transport and interpretation services to Kunlun (see [257(a)] above);
- (b) there was no reason for Petrotech not to engage Winx directly for the supply of Linen Goods (see [257(b)] above); and
- (c) Ms Wong’s knowledge of the “red flags” in relation to the Win Agreement and the Win Invoices.

Conclusion

271 I am therefore satisfied that Ms Wong (acting through Win and Winx) and Mr Wong (acting through Mozer’s) dishonestly assisted Mr Low’s breach of fiduciary duty and were knowing recipients of the payments from Petrotech.

Unjust Enrichment

272 The three requirements of a claim in unjust enrichment are (a) the enrichment of the defendant (b) at the expense of the plaintiff and (c) circumstances which make the enrichment unjust (*ie*, the presence of an “unjust factor”): *Skandinaviska Enskilda Banken AB (Publ), Singapore Branch v Asia Pacific Breweries (Singapore) Pte Ltd and another and another appeal* [2011] 3 SLR 540 at [110].

273 The first requirement was not contested.

274 In respect of the second requirement, Ms Wong and Mr Wong denied that the enrichment Win and Mozer’s was at *Petrotech*’s expense because any sums advanced by Petrotech would have been reimbursed by Kunlun.⁴⁴⁰ But, as discussed above (at [94]), I have rejected this assertion.

275 I also note that Winx received payments from Mozer’s and not from Petrotech directly. Nonetheless, it benefitted at Petrotech’s expense since Mozer’s was a mere intermediary which passed on to Winx monies received from Petrotech pursuant to Mr Low’s wider scheme: see *Esben Finance* at [153].

276 Ms Wong argued that Petrotech is precluded from advancing a claim for unjust enrichment because there existed a valid contract between Petrotech and Win ie, the Win Agreement.⁴⁴¹ But a recognised exception to this rule is where there is a total failure of consideration: *Benzline Auto Pte Ltd v Supercars Lorinser Pte Ltd and another* [2018] 1 SLR 239 at [53]–[54].

277 The unjust factor relied on by Petrotech was a failure of consideration:

- (a) Win and Mozer’s had benefitted from payments from Petrotech without having provided any services to Petrotech; and

⁴⁴⁰ Wong Wai Leng’s Written Submissions filed on 25 April 2025 (“WWL Closing Submissions”) at para 83; Wong Yau Kan’s Written Submissions filed on 25 April 2025 (“WYK Closing Submissions”) at para 69.

⁴⁴¹ WWL Closing Submissions at para 81.

- (b) Winx has benefited from sums traceable to the payments made by Petrotech to Mozer’s without having provided any services to Petrotech.

278 It is undisputed that Win and Mozer’s did not provide any services to Petrotech, as described in the Win and Mozer’s Agreement, or otherwise. Ms Wong and Mr Wong respectively argued that this was not relevant as the payments were made pursuant to the Payment Arrangement and on the basis that Win and Mozer’s provided services directly to Kunlun.⁴⁴²

279 However, the Win and Mozer’s Agreement expressly provided that Win and Mozer’s were to provide services to Petrotech and not Kunlun. Ms Wong and Mr Wong have failed to discharge their burden of proving the Payment Arrangement or that the Win and Mozer’s Agreements were respectively varied, or that there was a separate or collateral agreement, for Win and Mozer’s to provide the services to Kunlun instead. In fact:

- (a) Clause 13.3 of both the Win and Mozer’s Agreements required a written agreement to amend or supplement the same – there were none.
- (b) Clause 13.6 of both the Win and Mozer’s Agreements provided that the agreement constitutes the entire agreement between the parties. Such “entire agreement clauses” are construed as denuding a collateral agreement of legal effect and/or by rendering inadmissible extrinsic evidence which reveals terms inconsistent with those in the written contract: *Lee Chee Wei v Tan Hor Peow Victor and others and another appeal* [2007] 3 SLR(R) 537 at [36].

⁴⁴² WWL Closing Submissions at paras 89; WYK Closing Submissions at para 67, 68, 77.

280 In addition:

(a) Ms Wong and Mr Wong did not plead that Zhu Pang was authorised to give instructions on behalf of Petrotech *on account of* Mr Low's representations. In this regard, Mozer's case was particularly weak. As stated above (at [223]), Mr Wong could not rely on any representations from Mr Low or Petrotech as to Zhu Pang's authority as none was made to him. He came to know Zhu Pang through Ms Wong, who introduced him as a representative of Kunlun. Although Mr Wong testified that Mr Low informed him that the signing of the agreement was so that Petrotech could pay him pursuant to the Payment Arrangement,⁴⁴³ this was never put to Mr Low by counsel for Mr Wong.

(b) Ms Wong and Mr Wong also cannot rely on Mr Low's conduct as binding on Petrotech given my findings that they were aware of and complicit in Mr Low's breach of his fiduciary duties.

(c) In any case, Zhu Pang's allege authority in respect of the Win and Mozer's Agreement was irrelevant as Win and Mozer's did not provide any services pursuant to, or described in, the Win and Mozer's Agreement respectively.

281 In any event, Ms Wong and Mr Wong's argument that Win and Mozer's provided consideration failed as they did not discharge their respective burdens of proving that Win and Mozer's provided any services to Kunlun.

⁴⁴³ AEIC WYK at para 12.

282 Insofar as Ms Wong emphasised that Petrotech had accepted that she had made payments to SC Marine,⁴⁴⁴ these were not contemplated under the Win Agreement, which only required Ms Wong to “liaise” with oil surveyors, which she did not do. Further, she failed to prove that these payments were for services rendered to Kunlun.

283 For these reasons, I am satisfied that there has been a total failure of consideration in respect of Win and Mozer’s, and the claims against them for unjust enrichment were therefore established.

284 In respect of Winx, there was no contract between Petrotech and Winx. Given my finding that Winx did not supply the Linen Goods, the payment it received from Petrotech’s funds was plainly unjust.

Deceit and Negligent/Innocent Misrepresentation

285 Given my findings above, it is not necessary for me to deal with Petrotech’s causes of action in deceit, negligent or innocent misrepresentation.

Defences

286 Ms Wong pleaded the defences of acquiescence, laches and change of position,⁴⁴⁵ while Mr Wong pleaded the defences of estoppel, change of position and ministerial receipt.⁴⁴⁶ I deal with each of them below.

⁴⁴⁴ WWL Closing Submissions at para 46.

⁴⁴⁵ OC485 D1 at paras 24B, 25A, 26W.

⁴⁴⁶ OC486 D1 at pp 55–60.

Acquiescence and estoppel

287 The doctrine of acquiescence and estoppel was explained by the court in *Urs Eller v Cheong Kiat Wah* [2020] SGHC 106 (at [101]–[102]):

Acquiescence

101 The doctrine of acquiescence is described in the following manner in Halsbury’s Laws of England vol 16 (Butterworths, 4th Reissue, 2000) at para 924 (cited by the Court of Appeal in *Genelabs Diagnostics Pte Ltd v Institut Pasteur and another* [2000] 3 SLR(R) 530 at [76]):

The term acquiescence is ... properly used where a person having a right and seeing another person about to commit, or in the course of committing an act infringing that right, stands by in such a manner as really to induce the person committing the act and who might otherwise have abstained from it, to believe that he consents to it being committed; a person so standing-by cannot afterwards be heard to complain of the act. In that sense, the doctrine of acquiescence may be defined as quiescence under such circumstances that assent may reasonably be inferred from it and is no more than an instance of the law of estoppel by words or conduct ... [emphasis added]

...

Estoppel

107 It is trite that the defendant must prove three elements to successfully make out a defence of promissory estoppel: (a) the plaintiff must have made a clear and unequivocal representation, whether by words or conduct, that he will not enforce his strict legal rights; (b) the defendant must have acted in reliance on the plaintiff’s representation and suffered detriment as a result; and (c) it will be “inequitable” for the plaintiff to resile from his promise” ...

288 Ms Wong and Mr Wong respectively argued that Petrotech had acquiesced in the matters complained of or had been estopped from bringing its claims because:

(a) Petrotech made full payment to Win/Mozer's without seeking any clarification or confirmation on the services set out;⁴⁴⁷ and

(b) Petrotech had issued audit confirmation letters to Win/Mozer's, which confirmed that they were owed sums pursuant to the Win and Mozer's Invoices respectively.⁴⁴⁸

289 Ms Wong further highlighted that Mr Low had instructed Ms Wong to follow Zhu Pang's instructions.⁴⁴⁹

290 I reject these arguments. Ms Wong and Mr Wong cannot argue that they inferred from Petrotech's payments and audit confirmation letters that there were no issues with the Win and Mozer's Agreements and Win and Mozer's Invoices given my findings that they knew that these were shams. It bears noting that it was *Mr Low* (who they conspired with) that issued the audit confirmation letters to Win in 2017 and 2018,⁴⁵⁰ and to Mozer's in 2019,⁴⁵¹ while Mr Ong (under Mr Low's instructions) issued the audit confirmation letters to Win from 2019 onwards⁴⁵² and to Mozer's from 2020 onwards.⁴⁵³ That disposes of their defences.

291 Further, the essence of acquiescence is that a plaintiff *who knows about the conduct which it complains of* and yet does nothing to object or prevent such

⁴⁴⁷ WWL Closing Submissions at para 108; WYK Closing Submissions at para 89.

⁴⁴⁸ WWL Closing Submissions at para 108; WYK Closing Submissions at para 88.

⁴⁴⁹ WWL Closing Submissions at para 108; WYK Closing Submissions at para 108.

⁴⁵⁰ OC485 6AB281–285; NE March 24 at p 44.

⁴⁵¹ OC486 8AB79.

⁴⁵² OC485 6AB287; OC485 13AB109.

⁴⁵³ OC486 8AB86–105; NE 25 March at p 47.

conduct may be taken to have made a representation to the defendant that it does not object to that conduct, which representation may found an estoppel, a waiver of rights: *Ho Yew Kong v Sakae Holdings Ltd and other appeals and other matters* [2018] 2 SLR 333 at [188]. Petrotech did not delay, nor did it stand by and do nothing – it only found out, after the Internal Audit in or around the middle of 2022, that there was no basis for paying the Win and Mozer’s Invoices and promptly commenced proceedings. The knowledge of Mr Low (who perpetrated the scheme against Petrotech) cannot be attributed to Petrotech, which was in the dark as to the conspiracy against it. In *Ho Kang Peng v Scintronix Corp Ltd (formerly known as TTL Holdings Ltd)* [2014] SGCA 22, the Court of Appeal observed (at [70]–[71]):

70 We agree ... that while a company should be bound by the improper acts of the directors at the suit of an innocent third party, that rule should not apply where the suit is at the instance of the company itself against the directors for their breach of duties. ...

71 ... We would reiterate that where a company makes a claim against a director premised on the latter’s breach of duty, the company is a victim, and the law will not allow the enforcement of that duty to be compromised by the director’s reliance on his own wrongdoing: see also *Belmont Finance Corporation Ltd v Williams Furniture Ltd* [1979] Ch 250.

Although the Court of Appeal’s reasoning was directed at a director’s breach of duty, this reasoning should extend to situations where a third party had conspired with the director or had assisted in his wrongdoing against the company – such a third party should not be allowed to rely on the director’s conduct to deny the company’s claim.

Laches

292 For the doctrine of laches to operate, there must be a substantial lapse of time coupled with circumstances where it would be practically unjust to give a

remedy either because there is conduct equivalent to a waiver or the conduct and neglect has put the other party in a situation in which it would not be reasonable to allow the claim: *Chng Weng Wah v Goh Bak Heng* [2016] 2 SLR 464 (“*Chng Weng Wah*”) at [44]. There must be some change of position or similar prejudice on the part of the defendant or injustice to blameless third parties: *Salaya Kalairani (legal representative of the estate of Tey Siew Choon, deceased) and another v Appangam Govindhasamy (legal representative of the estate of T Govindasamy, deceased) and others and another appeal* [2023] SGHC(A) 40 at [85].

293 In her closing submissions,⁴⁵⁴ Ms Wong argued that the preparation of her defence was prejudiced by Petrotech’s failure to bring her claims in a timely manner – this led to her being unable to produce and keep all the relevant documentary records required to prove her case, including:

- (a) the WeChat correspondence between Ms Wong and Zhu Pang;
- (b) relevant grocery receipts and payment receipts evidencing the sums paid to Zhu Pang; and
- (c) e-mails in relation to the betterfuturesb88@gmail.com, which she deleted.

294 But Petrotech did not delay in bringing proceedings – it sued within a short time of completing the Internal Audit when it first became aware of its claims against the defendants. Even if I were to accept that Petrotech should have raised queries on the *very first* Win Invoice in 2017 (which I do not), this

⁴⁵⁴ WWL Closing Submissions at para 111.

would mean that there was a delay of only five years – I am not of the view that this lapse was so lengthy as to cause prejudice to Ms Wong.

295 The facts of the present case are materially different from those in *Chng Weng Wah*. In that case, the Court of Appeal held that the doctrine of laches was applicable because the respondent’s 12-year delay in commencing legal proceedings had caused most of the relevant evidence to be lost or destroyed. Significantly, the Court of Appeal highlighted that the parties had been in a personal relationship wherein they had “dealt with each other on a relatively informal basis”, resulting in a situation where “limited formal documentation was kept” (at [54]–[55]). Additionally, the respondent’s claim was premised on an oral trust with no express terms (at [55]). Any attempt to reconstruct the events surrounding the dispute would therefore necessarily depend on the strength of the parties’ recollection, which had been severely compromised by the intervening lapse of time (at [54] and [59]).

296 In contrast, Ms Wong was not prevented by Petrotech’s conduct from adducing documentary evidence to support her case. In fact, Ms Wong was legally obliged to keep Win and Winx’s business records for a period of five years, but did not do so. She therefore has only herself to blame for the lack of documentation, assuming those documents even existed. Nor did Petrotech’s conduct prevent her from calling witnesses who, on her own evidence, would have been able to confirm her claims.

Ministerial receipt

297 Under the defence of ministerial receipt, a defendant who receives assets as an agent and passes them to his principal may be able to escape liability in unjust enrichment on the basis that he received the assets ministerially, and not

for his own use and benefit: *Zhou Weidong v Liew Kai Lung and others* [2018] 3 SLR 1236 (“*Zhou Weidong*”) at [54].

298 Mr Wong contended that he had (a) paid cash to Zhu Pang; and (b) paid Winx on behalf of Kunlun on the basis of a shared understanding with Petrotech of the Payment Arrangement.⁴⁵⁵ But this argument was misplaced as (a) I have rejected the existence of the Payment Arrangement; and (b) the Mozer’s Agreement did not provide for Mozer’s to make payment to third parties – he did so only on the instructions of Zhu Pang, who was not, and not represented to Mr Wong to be, an agent of Petrotech (see above at [223]).

299 Further, ministerial receipt (as well as change of position) is subject to the requirement that the defendant had acted in good faith; – a defendant lacks good faith if he acts in a commercially unacceptable way, and if he fails to query the irregular shortcomings of the transaction that ordinary honest people would so query: *Zhou Weidong* at [57]. Given my findings against Mr Wong for conspiracy and as a constructive trustee, this defence is clearly not available to him.

Change of position

300 Under the defence of change of position, a person cannot be held liable if (a) the person enriched had changed his position; (b) the change was *bona fide*; and (c) it would be inequitable to require the person enriched to make restitution: *Zhou Weidong* at [55]. The recipient must also show that, but for the receipt of the benefit, it would not have changed its position: *Cavenagh Investment Pte Ltd v Kaushik Rajiv* [2013] 2 SLR 543 at [67].

⁴⁵⁵ WYK Closing Submissions at para 83.

301 Mr Wong relies essentially on the same argument for ministerial receipt – that he had made payments pursuant to Payment Arrangement.⁴⁵⁶ He further relies on the fact that he had:

(a) used the S\$600,000 he retained as his coordinating fee and monthly allowance for his own and his family’s expenses (amounting to S\$492,000) as well as on a downpayment on his HDB flat and renovations for the flat (amounting to a total of S\$230,000);⁴⁵⁷ and

(b) paid income tax and CPF contributions, which are not available for restitution as he no longer has access to these funds.⁴⁵⁸

302 Ms Wong contended that she has suffered a change of position because she only retained her 20% agency fee and had used the balance to pay off expenses incurred by Win in the provision of services, third party charges and cash payments to Zhu Pang.⁴⁵⁹

303 My findings against Ms Wong and Mr Wong for conspiracy and as constructive trustees established that they did not act in good faith in receiving and paying out the monies they had received from Petrotech. The defence of change of position is therefore not available to them.

Failure to call Mr Yeo

304 For completeness, I deal with the defendants’ argument that I should draw an adverse inference against Petrotech for not calling Mr Yeo as a witness.

⁴⁵⁶ WYK Closing Submissions at para 83.

⁴⁵⁷ WYK Closing Submissions at paras 84–85.

⁴⁵⁸ WYK Closing Submissions at para 85.

⁴⁵⁹ OC485 D1 at para 24B.

There was no dispute that Mr Yeo was available to give evidence. I reject that argument:

(a) In OC 485, all Mr Low pleaded was that, given Mr Yeo's primary involvement in client relations, he would have all relevant knowledge pertaining to Petrotech's business. But this is irrelevant – Mr Low did not plead what Mr Yeo knew or did which was germane to these proceedings.⁴⁶⁰

(b) In OC 486, Mr Low pleaded that he had informed Mr Yeo of Zhu Pang's involvement in Petrotech's business.⁴⁶¹ But it is not his evidence that Mr Yeo met with Zhu Pang or had any part to play in the drafting, execution or performance of the Win and Mozer's Agreements. Further, there was no need for Petrotech to call Mr Yeo to rebut this assertion – Mr Low telling Mr Yeo of this did not make what he said true. Insofar as Mr Low wanted to rely on this to show that he had mentioned Zhu Pang before the proceedings commenced, he should have called Mr Yeo to confirm that conversation.

(c) Insofar as Mr Low had alleged that "the directors" of Petrotech were aware of the arrangements allegedly negotiated between Capt Mustafa and Kunlun in relation to the payment of Win and Mozer's, it was not his evidence that Mr Yeo was privy to matters which Capt Hariff was unaware of. The fact that he failed to put these allegations to Capt Hariff meant that calling Mr Yeo would not have made a difference.

⁴⁶⁰ OC485 D2 at para 19.

⁴⁶¹ OC486 D2 at para 27.

Relief

305 In the circumstances, I find in favour of Petrotech and order:

(a) in respect of OC 485, damages payable by Mr Low and Ms Wong jointly and severally in the sum of US\$2,853,250 with interest at the rate of 5.33% per annum from the date of commencement of the proceedings; and

(b) in respect of OC 486, damages payable by Mr Low, Ms Wong and Mr Wong jointly and severally in the sum of S\$4,695,201 with interest at the rate of 5.33% per annum from the date of commencement of the proceedings

306 In addition, I:

(a) make no order as to Petrotech's prayers for the rescission of the Win and Mozer's Agreements, given that I did not deal with Petrotech's causes of action in deceit, negligent or innocent misrepresentation, and such relief was in any event not necessary;

(b) dismiss Petrotech's prayers for equitable compensation and punitive and/or aggravated damages against the defendants - Petrotech did not make any submissions as to why it was entitled to such relief;

(c) dismiss Petrotech's prayers for damages for loss of use of the monies paid to Win and Mozer's – these were not pleaded and no evidence was led of such loss; and

(d) make no order for an account as against Winx, given my award of damages against Ms Wong.

307 Parties are to agree on costs and disbursements, failing which they are to file submissions (limited to seven pages) within 14 days.

Hri Kumar Nair
Judge of the High Court

Ponnampalam Sivakumar and Kanthan Raghavendra (BR Law Corporation) for the claimant in HC/OC 485/2022 and HC/OC 486/2022;
Cephas Yee Xiang and Lim Jing Kai Joshua (Aquinas Law Alliance LLP) for the first defendant in HC/OC 485/2022 and the third defendant in HC/OC 486/2022;
Robert Raj Joseph, Lee Yi Wei Sean, Lee Ming Le and Madeline Vu (Silvester Legal LLC) for the second defendant in HC/OC 485/2022 and HC/OC 486/2022;
Ronald Wong Jian Jie, Stuart Andrew Peter and James Tan (Covenant Chambers LLC) for the first defendant in HC/OC 486/2022;
The fourth defendant in HC/OC 486/2022 absent and unrepresented.
