



In The Supreme Court of Bermuda

COMPANIES (WINDING UP) JURISDICTION

2025 No 273

IN THE MATTER OF THAIHOT INVESTMENT (BERMUDA) COMPANY LIMITED

AND

IN THE MATTER OF THE COMPANIES ACT 1981

RULING

(In Chambers)

Date of Hearing: 28 October 2025

Date of Ruling: 29 October 2025

Appearances: *Christian Luthi and Conor Doyle of Conyers Dill & Pearman Ltd for the Petitioner*

Delroy Duncan KC and Ryan Hawthorne of Trott & Duncan Ltd for the Company

Ex tempore ruling of Martin, J

1. The Court will first deal with the application to amend the petition. The terms of the amendment are simply to correct the basis of the resolution for the winding up of Thaihot Investment (Bermuda) Company Limited (“the Company”) relied upon in the petition and which also forms the basis of the present application.
2. It is unclear whether leave to amend the petition is strictly required under the rules, but there being no prejudice to the Company in granting the amendment, the amendment is hereby granted in terms.
3. This is an application for the appointment of joint provisional liquidators in respect of the Company made by its sole shareholder Everwin Enterprise (Hong Kong) Limited (in Liquidation) (“Everwin”) on the grounds that (a) the sole shareholder has passed a unanimous written resolution for the winding up of the Company and (b) the sole shareholder has lost confidence in the present board (or its purported board) and its ability to manage and direct the affairs of the Company.
4. The basic facts are that the sole shareholder is itself in liquidation and its liquidators are in the process of taking control and gathering in the assets of Everwin which consist of a 100% shareholding of the Company which itself in turn owns subsidiaries which are involved in (or were involved in) life insurance and insurance underwriting businesses.

5. There is no dispute that the sole shareholder has the right to resolve to wind up the Company by unanimous written resolution and it has done so, and consequently the sole shareholder has demonstrated a *prima facie* case that a winding up order will be made at the hearing of the petition which is now scheduled for 28 November 2025.
6. The alternative prayer for a winding up order on the grounds that it is just and equitable to do so is based upon disputed facts relating to the conduct of the affairs of the board and the purported appointment of directors by the ultimate beneficial owner of the group of companies. These facts include the appointment of directors by the ultimate beneficial owner ostensibly to fill vacancies on the board and the appointment of a director by the sole shareholder whom it is alleged has been wrongly excluded from management by the other board members and that his appointment has not been recognised by the other board members. Both the law and the facts in relation to these appointments are the subject of dispute.
7. The Court is not able to resolve any of the disputes of fact or disputed application of the law in relation to that aspect of the petition for the purposes of deciding the present application. Those matters will have to be determined (if necessary) at the hearing of the petition. The Court makes no findings in relation to these points at this stage and does not consider that it can conclude that a *prima facie* case has been made out for the appointment of joint provisional liquidators on the just and equitable ground.
8. The relevance of the disputed background facts is simply that it is clear that the joint liquidators (as liquidators of the sole shareholder) have lost confidence in the present board and have determined that the appropriate course is to cause the Company to be wound up.
9. This Court is not in a position to go behind the reasons for the decision to pass the resolution to wind the Company up and the Court must accept it as a fact. This leaves the Company in the position that the sole shareholder will in all likelihood obtain a winding up order at the hearing of the petition (in the absence of facts which are proved that would justify the refusal of an order, which is only a remote possibility). The sole shareholder wishes to prevent any steps being taken that would potentially prejudice or undermine the value of the assets of the Company or the Company itself in any proposed restructuring negotiations with a prospective new investor.
10. It appears that there are some potential negotiations underway and various steps will need to be taken before any concluded restructuring proposal can be approved. The Court is persuaded that there is a sufficient basis to make the appointment of the joint provisional liquidators over the Company at this time in order to enable the sole shareholder (whose ultimate economic interest is at issue in any such negotiations) to have the negotiations conducted under the control of independent officers of the court in whom the sole shareholder has full confidence.
11. Accordingly the Court makes the order for the appointment of the joint provisional liquidators on the grounds that (a) there is a *prima facie* case for the making of a winding up order on the strength of the resolution of the sole shareholder and (b) there is a proper basis for the sole shareholder to appoint independent provisional liquidators to conduct the affairs of the Company and to control any restructuring negotiations that affect the sole shareholders ultimate economic interests in the Company and its underlying business undertakings.
12. The appointment will however be primarily aimed at taking those steps necessary to take control, preserve, and gather in the assets of the Company, and for the conduct of the negotiations for any restructuring. The terms of the proposed order will be revised to making clear that the joint provisional liquidators shall not exercise any powers of sale in relation to any assets or any implementation of any restructuring without further approval of the Court.

13. In that respect the exercise of the powers granted under paragraph 6 (i) (k) (n) and (p) of the draft order will be subject to the approval of the Court or until further order (for example after the hearing of the petition or otherwise).
14. The Court acknowledges that an application was made by the Company for a relatively short adjournment. The Court has decided however that in view of the fact that ultimate control over the question whether the Company should be wound up is exclusively within the hands of the sole shareholder (acting by its liquidators) it would be inappropriate to adjourn the application simply to have a repetition of the arguments made today.
15. In so refusing the application for the adjournment, the Court is in no way expressing any view as to the position of the directors of the Company or their motivations. The Court is guided by the principle that the shareholders have the ultimate right to replace the board of the Company for any reason and an adjournment of this application pending further negotiations by the board would frustrate that right. In this case the sole shareholder has determined that a winding up order is the most effective way of achieving control over the Company's affairs, and the Court sees no reason to interfere with or prevent the lawful exercise of that right.



THE HON. MR. ANDREW MARTIN
PUISNE JUDGE