HCMP 981/2026
[2026] HKCFI 5374

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
MISCELLANEOUS PROCEEDINGS NO 981 OF 2026

IN THE MATTER of the Post-Effective Date Trustee of the Bankruptcy Estate of Kfir Gavrieli

and

IN THE MATTER of Recognition and Assistance under Common Law

Before: Hon Linda Chan J in Chambers
Date of Hearing: 29 July 2026
Date of Further submissions: 9 September 2026
Date of Judgment: 11 September 2026
Date of Reasons for Judgment: 21 September 2026

R E A S O N S F O R J U D G M E N T

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1. By *ex parte* originating summons filed on 18 June 2026 the plaintiff, J. Michael Issa who is the post-effective date trustee of the estate of Kfir Gavrieli ("**Debtor**") appointed by the United States Bankruptcy Court for the Central District of California ("**US Bankruptcy Court**") on

17 June 2022 ("**Trustee**"), seeks an order recognising his appointment and confirming that he may exercise the powers available to him as a matter of US law in carrying out his functions as trustee of the Debtor's estate. After considering the submissions advanced on behalf of the Trustee, I made an order set out in §23 below. These are the reasons for my judgment.

Background

2. The Debtor and the Trustee are citizens of the United States. They are habitually resident and domiciled in California.

3. On 1 February 2021, the Debtor filed an application at the US Bankruptcy Court under Chapter 11 of the US Bankruptcy Code (Case No. 2:21-bk 10826-BB) ("**Bankruptcy Case**") for debt reorganization.[1] In the schedule of assets filed by the Debtor, he listed under item 35 of part 4 (financial assets) a "50% ownership interest of approximately $13.2 million in cash held in various accounts in Hong Kong subject to the order by the State Court". This US$6.6 million is the same as "Hong Kong Funds" as defined in §8 below[2].

4. On 28 July 2021, the US Bankruptcy Court appointed Robert A. Kors as Chapter 11 trustee in respect of the Debtor's reorganization plan ("**Chapter 11 Trustee**")[3].

5. On 22 May 2022, the US Bankruptcy Court entered the Order Confirming Chapter 11 Trustee's Second Amended Plan of Reorganization (Docket No. 834) ("**Confirmation Order**"), which approved the Chapter

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1 Affidavit of Christopher John Dobby dated 18 June 2026 ("**Dobby 1st**") §6
2 2nd Affidavit of Christopher John Dobby dated 9 September 2026 §§8-16
3 Letter of Request §6

11 Trustee's Second Amended Plan of Reorganization (Docket No. 829) ("**Plan**").[4]

6. The effective date of the Plan occurred on 17 June 2022 ("**Effective Date**"). On the same day, the Chapter 11 Trustee was discharged. Pursuant to the Plan and the Confirmation Order, the US Bankruptcy Court appointed the Trustee as trustee of the post-effective date trust ("**Trust**") established to administer the Debtor's estate in accordance with the terms of the Plan and the Post-Effective Date Trust Agreement dated 17 June 2022 ("**Trust Agreement**").[5]

7. On 15 April 2026, Hon. Sheri A. Bluebond of the US Bankruptcy Court made an order (Docket No. 1049) ("**2026 Order**") confirming the Trustee's powers and issued a Letter of Request to the Hong Kong court, requesting the Hong Kong court to (1) recognise the Bankruptcy Case pending in the US Bankruptcy Court and the Trustee as the duly appointed representative of the Debtor's bankruptcy estate, and (2) provide assistance to the Trustee as set forth therein. In the Letter of Request, the US Bankruptcy Court confirmed that:[6]

(1) the Bankruptcy Case is a collective insolvency proceeding (§5);

(2) under US law including s.1123 of the US Bankruptcy Code, the Plan, the Confirmation Order, the Trust Agreement, the 2026 Order, all assets of the Debtor's estate vested in the Trust on the Effective Date ("**Trust Assets**") and the Trust, through

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4 Dobby 1st §6; Letter of Request §7
5 Letter of Request §§8-9
6 Dobby 1st §9

the Trustee, is the representative of the Debtor's estate for all purposes; and the Trustee is appointed as representative of the estate pursuant to s.1123(b)(3)(B) of the Bankruptcy Code and is empowered to, among other things (§§11-12);

(a) prosecute, settle and assign or otherwise compromise all claims and causes of action transferred, assigned and conveyed to the Trust or arising out of the Trust;

(b) allow, object to or reconcile claims asserted against the Debtor's estate, including retaining counsel and agents to address such claims as permitted by the Plan unless otherwise required or modified by the Trust Agreement;

(c) administer, monetise, liquidate, sell or abandon the Trust Assets;

(d) execute any documents and take any other actions related to or in connection with the liquidation of the Trust Assets and the exercise of the Trustee's powers granted in the Trust Agreement, the Plan, and the Confirmation Order;

(e) hold legal title to any and all rights of the Debtor's estate in, to, or arising from the Trust Assets;

(f) protect and enforce the rights to the Trust Assets by the Trust Agreement, the Plan and Confirmation Order by any method deemed reasonably appropriate;

(g) execute any and all documents on behalf of the Trust and the Debtor's estate;

(h) collect outstanding receivables of the Debtor's estate including receivables and/or causes of action; and

(i) subject to the terms of the Plan and the Trust Agreement, collect and liquidate all uncollected and unliquidated Trust Assets.

8. The Letter of Request also sets out the facts relating to the US$6.6 million deposited in certain bank accounts in Hong Kong ("**Hong Kong Funds**") as follows:

(1) In 2009, the Debtor and his sister, Dikla Gavrieli Unatin ("**Mrs Unatin**"), established Gavrieli Brands, LLC, a California limited liability company ("**Company**"). The Debtor and Mrs Unatin have been the only members of the Company. The Company has no written limited liability company agreement. Mrs Unatin and her husband, Dean Unatin (together "**Unatins**") were employed by the Company from 2010 to September 2017 (§13).

(2) With the assistance of their cousin, Guy Davidyan ("**Davidyan**"), a number of Hong Kong companies viz., (a) Tall Crest Trading Ltd; (b) Wei Lin Fung Ltd; and (c) Xian Shing Ltd (collectively "**HK Companies**") and bank accounts of the Hong Kong Companies were set up. Davidyan was the sole shareholder and director of the HK Companies, and the

authorized signatory of the bank accounts opened in the name of the HK Companies (§14).

(3) The bank accounts include (a) an account at Hang Seng Bank in the name of Tall Crest Trading Ltd (ending -6883); (b) an account at HSBC in the name of Wei Lin Fung Ltd (ending -9838), (c) an account at HSBC in the name of Xian Shing Ltd (ending -5838), (d) an account at HSBC in unknown name (ending -7838); and (e) an account at DBS Bank (HK) Ltd in unknown name (ending -6098) (collectively "**HK Bank Accounts**") (§15).

(4) Unatins and the Debtor transferred more than US$13 million from the Company's principal bank account to the HK Bank Accounts (§16).

(5) In 2017, disagreements arose between the Debtor and Mrs Unatin regarding the agreements that had governed the Company (§17).

(6) In December 2017, Unatins commenced proceedings against the Debtor in the Superior Court of the State of California for the County of Los Angeles ("**State Court**") (Case No. BC 686856) alleging breach of fiduciary duty against the Debtor with respect to the Company and claiming certain investments made with the Company's profits (§18).

(7) On 9 October 2020, the State Court handed down its judgment which was subsequently amended by the judgment dated 22 January 2021 ("**Amended Judgment**") (§19).

(8) Pursuant to the Amended Judgment, the State Court ordered *inter alia* that:

(a) The Debtor and Mrs Unatin each owns 50% of the Company; and

(b) "a constructive trust is hereby imposed over a 50% share of all funds transferred to and/or located at [the HK Bank Accounts] and Euro Pacific Bank Ltd account ending -4711 (collectively, the "Bank Accounts") and [the Debtor] is held to be an involuntary, constructive trustee, thereof." (§20)

(9) On 22 January 2021, the Debtor lodged an appeal against the Amended Judgment and contends that the Constructive Trust is invalid and that the Debtor owns 60%, not 50% of the Company. The appeal remains pending (§21).

(10) Upon the petition date (i.e. the date when the Bankruptcy Case was filed on 1 February 2021), the Debtor's estate assumed the Debtor's position in the Hong Kong Funds (§22).

(11) The Trustee considers that the effective exercise of his powers under US law requires that his appointment be recognized by the Hong Kong court because:

(a) the Trust Assets include at least US$6.6 million located in the HK Bank Accounts (although the Debtor's estate has the power to seek recovery of the remaining US$6.6. million for which the Debtor was held to be a constructive trustee); and

(b) the HK Companies, which hold title to the Hong Kong Funds, are located in Hong Kong and subject to the personal jurisdiction of the Hong Kong court (§23).

(12) The US Bankruptcy Court is satisfied that in order for the Trustee to discharge his duties, it is in the interests of justice to request the Hong Kong court, to the extent it deems appropriate to do so, to assist the US Bankruptcy Court by empowering the Trustee to exercise all the powers, duties and discretions afforded to him under US law in Hong Kong in accordance with applicable Hong Kong law (§25).

(13) The US Bankruptcy Court requests the Hong Kong court to act in aid of the Bankruptcy Case and in aid of the Trustee by (a) recognizing the right and title of the Trustee when acting within the jurisdiction, to represent and act for and on behalf of the Debtor's estate and the Trust as its duly appointed representative for all purposes; and (b) granting the Trustee the right to have and exercise such powers as are available to him as a matter of US law and would be available to him under the laws of Hong Kong as if he had been appointed a trustee in bankruptcy of the Debtor's estate under the laws of Hong Kong including the powers set forth therein (§26).

9. By letters dated 12 June 2026, the solicitors acting on behalf of the Trustee informed each of the banks where the HK Bank Accounts are maintained of the intended application to seek recognition order, and requested the banks to freeze the HK Bank Accounts, and provide copies of bank statements and other records. In response:

(1) HSBC refused to cooperate on the basis that it is "not in position to act on customers' account or provide customer information unless there is a proper legal basis (e.g. a Hong Kong Court Order)";[7]

(2) Hang Seng Bank refused to cooperate on the basis that there is no recognition order made by the Hong Kong court and the account holder was not a party to the Bankruptcy Case or the litigation proceedings in the US;[8] and

(3) DBS refused to cooperate on the basis that the Debtor did not have any account with it.[9]

Discussion

10. The doctrine of "modified universalism" provides a common basis for recognition and assistance of foreign bankruptcy proceedings and winding up proceedings, and the court's approach in dealing with an application for recognition of and assistance to foreign trustee-in-bankruptcy and foreign liquidator is materially the same (*Re Phillips James Kingston (Bankrupt)* [2024] HKCFI 3311, §19).

11. The criteria for recognition of foreign bankruptcy proceedings are set out in *Re Lim Huey Ching* [2025] HKCFI 2896 at §14:

(1) The foreign bankruptcy proceedings are collective in nature;

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7 Annexure 1 to Trustee's skeleton
8 Annexure 2 to Trustee's skeleton
9 Annexure 3 to Trustee's skeleton

(2) The foreign proceedings are conducted in the jurisdiction in which the debtor is domiciled or the debtor has submitted to that jurisdiction;

(3) The assistance sought is necessary for the administration of a foreign bankruptcy or the performance of the office-holder's functions; and

(4) The order sought is consistent with the substantive law and public policy of the assisting court so as to ensure that it is not available for the purposes which are properly the subject of other schemes.

12. In *Re USUM Investment Group Ltd* [2026] HKCFI 1320, §59(1)-(2), the court summarises the different criteria applicable to recognition and assistance.

13. In the present case, each of the requirement for recognition is satisfied.

14. First, as confirmed in the Letter of Request, the Bankruptcy Case is a collective insolvency proceeding.

15. Second, the Bankruptcy Case is conducted in the US Bankruptcy Court in which the Debtor is domiciled, and the Debtor has submitted to the jurisdiction by filing the Bankruptcy Case in the US Bankruptcy Court.

16. Third, recognition is not barred on grounds of public policy, fraud or breach of natural justice, or the enforcement of penal or revenue laws (*Re USUM* §59(1)).

17. I am also satisfied that this is a case where the court should grant assistance to the Trustee.

18. First, the powers which the Trustee asks the court to exercise or confer on him are usual powers which the court has recognised and granted to foreign office-holders under common law.

19. Second, the powers sought are powers available to the Trustee under US law, as confirmed in the Letter of Request.

20. Third, the assistance sought is necessary to enable the Trustee to carry out his functions as trustee of the Debtor's estate and the Trust Assets in Hong Kong. The Trustee has not been able to obtain any information and documents in respect of the HK Bank Accounts or the Hong Kong Funds as the banks had refused to provide any substantive response and required the Trustee to obtain an order from the court. In the circumstances, it is necessary for the court to grant an order recognising the Trustee as the trustee of the Debtor's estate and the Trust Assets so that he can perform his functions as trustee in investigating and collecting the Trust Assets.

21. Mr Christohper Dobby acknowledges that the third parties including the banks may require further order to be made by the court given that the HK Bank Accounts are in the name of the HK Companies and the authorised signatory of the HK Bank Accounts is Davidyan, not the Debtor.

The Trustee, acting under the supervision of the US Bankruptcy Court, is required to adopt a stage-by-stage approach by first seeking a recognition order to see if the banks will comply with his requests and provide information and documents relating to the Hong Kong Funds. If and to the extent that the Hong Kong Funds (or any part thereof) remain in the HK Bank Accounts but the banks are not agreeable to transfer the same to the Trustee, a further application for specific relief may need to be made to the court.

22. Fourth, the order sought is consistent with the substantive law and public policy of the Hong Kong court.

Disposition

23. For the above reasons, it is appropriate for this Court to make an order in the following terms:

(1) The appointment of the plaintiff as the Trustee ("**Trustee**") of the post-effective date trust ("**Trust**") established to administer the debtor Kfir Gavrieli's ("**Debtor**") bankruptcy estate ("**Bankruptcy Estate**") as confirmed by Order of the United States Bankruptcy Court for the Central District of California dated 15 April 2026 be recognised;

(2) For the purpose of carrying out his functions as Trustee of the Trust and representative of the Bankruptcy Estate, the Trustee has and may exercise such powers as are available to him as a matter of United States law and would be available to him under the laws of Hong Kong as if he had been appointed a

Trustee in bankruptcy of the Debtor's estate under the laws of Hong Kong, including, without limitation, to:

(a) request and receive from third parties documents and information belonging to the Debtor or to which the Debtor is otherwise entitled, including, without limitation, his business dealings, accounts, assets (including, but without limitation, the funds in the Hong Kong Bank Accounts set out in Schedule 1 of the Order), liabilities and financial affairs;

(b) locate, protect, secure and take into his possession and control all assets, including, without limitation, the Trust assets (including, but without limitation, the funds in the Hong Kong bank accounts set out in Schedule 1 of the Order), within the jurisdiction of the High Court of Hong Kong to which the Debtor is or appears to be entitled;

(c) locate, protect, secure and take into his possession and control the books, papers, and records belonging to the Debtor or to which the Debtor is otherwise entitled including, without limitation, the accountancy and statutory records within the jurisdiction of this Court and to investigate the assets and affairs of the Debtor;

(d) bring legal proceedings and make applications to this Court, whether in his own name or as Trustee of the property of the Debtor; and

(e) retain and employ barristers, solicitors or attorneys, accountants and/or such other agents or professional persons as the Trustee considers appropriate for the purpose of advising or assisting in the execution of his powers and duties.

(3) The banks listed in Schedule 1 of the Order ("**Banks**") do disclose to the Trustee (or their solicitors) within 28 days from the date of service of the Order (or such other time as may otherwise be agreed with the Trustee), in respect of the bank accounts set out in Schedule 1 of the Order:

(a) the current account balance (if any) as at the date of the Order;

(b) the identities of the authorised signatory(ies);

(c) account statements for the accounts from January 2020 to the date of the Order; and

(d) if the account was closed at any time since January 2020, the date of the closure of the account.

(4) The Banks shall have liberty to apply, on notice to the Trustee's solicitors, to vary or discharge the Order;

(5) The reasonable costs of and occasioned by the Banks in complying with paragraph (3) of the Order be paid by the Trustee to the Banks and such costs to be taxed if not agreed on an indemnity basis; and

(6) There be liberty to apply.

24. For the reasons explained in *Re USUM* at §76(9), the question of the Trustee's entitlement to costs is a matter for the US Bankruptcy Court, being the court supervising the Bankruptcy Case.

(Linda Chan)
Judge of the Court of First Instance
High Court

Mr Christopher John Dobby (Solicitor Advocate), of Hogan Lovells Cadwalader, for the Plaintiff