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UGANDA REGISTRATION SERVICES BUREAU

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE COMPANIES ACT CAP. 106

AND

IN THE MATTER OF THE COMPANIES (POWERS OF THE REGISTRAR) REGULATIONS SI NO. 71 OF 2016

AND

IN THE MATTER OF LOOKS PICTURES & DESIGNS LIMITED

COMPANY PETITION NO. 88053 OF 2026

BRN: 80010001288053

DERRICK KIRABO::: PETITIONER

VERSUS

1. **ALFRED OKOT**
2. **LOOKS PICTURES & DESIGNS LIMITED ::::::::::::::::::::::::::::::RESPONDENTS**

RULING

Before: Daniel Nasasira—Assistant Registrar of Companies

A. *Representation*

1. *Counsel Edwin Busuulwa from M/S Buwule & Mayiga Advocates represented the Petitioner while Counsel David Okello from Novus Advocates represented the first and second Respondents.*

B. *Background*

2. The Petitioner and the first Respondent are shareholders and directors of the second Respondent, LOOKS PICTURES & DESIGNS LIMITED (hereinafter referred to as "Looks Pictures"). Their respective shareholding in the Company is equal, with each holding 50% of the ordinary shares.

3. The second Respondent is a company limited by shares incorporated in Uganda on the 17th day of August 2016 under registration number 80010001288053.
4. The Petitioner and the First Respondent were directors and equal shareholders of the Company. The Petitioner alleges that between 2022 and 2024, the First Respondent progressively excluded him from the management and affairs of the Company and made decisions without Board meetings, resolutions or prior approval of the Board, thereby preventing the Petitioner from participating in corporate decision-making and exercising his management rights.
5. The Petitioner's complaints principally relate to alleged mismanagement and diversion or concealment of Company funds and business opportunities. In particular, he alleges that the First Respondent incorporated Blakstyn Holdings Co. Limited as a competing entity and diverted business belonging to the Company to it. The alleged conduct is said to have affected, among others, the Company's dealings with Research Triangle Institute (RTI International), Cafe Pap, MTN, Bringo Fresh Limited and NSSF.
6. The First Respondent denied the allegations of oppression and mismanagement. He averred that he was primarily responsible for the Company's day-to-day operations, including sourcing clients, executing assignments and performing contracts, and that the Company's profits were to be shared equally after accounting for operational expenses and liabilities. He further denied that the Company's operations were personally funded by any of them, maintaining that the company’s contracts were financed from its operational income, debt financing and other financial facilities. He maintained that the Company paid off all its liabilities including the Petitioner’s loans.
7. The First Respondent also contended that the Petitioner was largely non-participatory in the Company's day-to-day affairs, including being absent for more than eight months, leaving him with a disproportionate share of the Company's

workload. He maintained that Blakstyn Holdings Co. Limited was incorporated to advance his professional interests in the creative and design industries and did not compete with the Company.

C. ***Petitioner's Case***

8. The Petitioner swore a statutory declaration wherein he deposed that, during the period between 2022 and 2024. The First Respondent progressively excluded him from the management and affairs of the Company and, on several occasions, acted without prior authorisation or approval of the Board.
9. The Petitioner alleges that the First Respondent routinely disregarded the need for Board meetings, approvals and resolutions in making decisions affecting the Company, thereby preventing the Petitioner from participating in corporate decision-making and exercising his rights as a shareholder and director.
10. The alleged conduct was manifested, among other things, in the Company's transactions with Research Triangle Institute (RTI International), Cafe Pap, MTN, Bringo Fresh Limited and NSSF.
11. In relation to RTI International, the Petitioner argued that the Company was contracted to provide services without the approval or involvement of the Board. The Petitioner alleges that the terms and particulars of the contract, including the contract price, were not disclosed to or determined with the input of the Board.
12. The Petitioner subsequently established that the RTI International contract had been performed and that RTI International made payments to the Company amounting to, among others, UGX 11,622,500/=, UGX 12,964,000/= and UGX 112,926,000/=, as evidenced by the relevant electronic receipts.
13. The Petitioner alleges that, notwithstanding the receipt of those funds by the Company, approximately 90% of the payments were subsequently withdrawn or expended through requisitions purportedly intended to settle suppliers, photographers, videographers, transport, printing and other expenses. He

contends that the First Respondent did not provide adequate details or accountability regarding the persons paid, the amounts paid or the purposes for which the payments were made, thereby casting doubt on the Company's financial position.

14. In another transaction involving Cafe Pap, the Company allegedly raised invoices for services rendered, but a payment of UGX 1,800,000/= was privately received by the First Respondent and applied for his personal use. The Petitioner contends that the transaction deprived the Company of the benefit of the funds and left no corresponding profits available for distribution to the shareholders.
15. In relation to Bringo Fresh Limited, the Petitioner alleges that the Company received an advance, which was made available to the First Respondent for payment to the Company's partners and suppliers. The Petitioner states that this arrangement was undertaken without his knowledge and was not reflected in the Company's financial records.
16. The Petitioner further alleges that the First Respondent prepared a payment voucher for UGX 600,000/= purportedly payable to a one Denis Isreal for videography services rendered to Bringo Fresh Limited, although the services were allegedly not rendered and the payment was not made to the stated recipient.
17. The Petitioner also alleges that the First Respondent generated other payment vouchers for UGX 1,000,000/=, UGX 200,000/= and UGX 150,000/=, purportedly in favour of various partners or suppliers, without authorisation and without the alleged beneficiaries actually receiving the stated payments.
18. The Petitioner contends that these transactions demonstrated a lack of transparency and accountability in the manner in which the First Respondent conducted the Company's affairs and that he was denied access to information necessary to ascertain the Company's true financial position.

19. The Petitioner further alleges that, throughout the period in question, the First Respondent deliberately failed to convene meetings of the directors and members, notwithstanding that such meetings provided the appropriate forum for making corporate decisions and determining the Company's strategic direction. As a result, the Petitioner alleges that he was denied an opportunity to vote, express his views and participate in decisions affecting the Company and his interests as a member.
20. The Petitioner also alleges that, after he raised concerns regarding the management of the Company, the First Respondent secretly incorporated or established a rival company known as Blakstyn Holding Co. Ltd., which allegedly engaged in business similar to that of the Company.
21. According to the Petitioner, the establishment and operation of Blakstyn Holding Co. Ltd. resulted in business opportunities that would otherwise have accrued to the Company being diverted to the rival entity, thereby contributing to the Company's dormancy, loss of business and financial prejudice to the Petitioner.
22. The Petitioner further alleges that the First Respondent concealed or withheld vital information concerning the Company's finances, books of account, receipts and other corporate records. He contends that, as a member of the Company, he was thereby prevented from obtaining a true and clear picture of its financial and operational affairs.
23. The Petitioner considers the alleged exclusion from management, failure to convene meetings, withholding of information, diversion of business opportunities and alleged financial irregularities to constitute oppressive conduct and mismanagement by the First Respondent.
24. The Petitioner deposed that he requested the First Respondent to avail the Company's books of account, receipts and other financial records for inspection, perusal and audit. Instead of providing the requested records, the First

Respondent allegedly responded by proposing the dissolution or winding up of the Company.

25. The Petitioner mentioned that although he is not opposed to the possibility of dissolution or winding up, he maintains that, before any such step is taken, the conduct and operations of the Company for the preceding five years should be investigated, particularly in relation to the alleged mismanagement, diversion and misappropriation of Company funds and opportunities.
26. The Petitioner accordingly contended that the matters complained of warrant investigation in order to establish the true financial position of the Company, determine whether Company funds or opportunities were misappropriated or diverted, and ascertain the respective responsibilities of the persons involved.
27. The Petitioner therefore sought, among other reliefs, declarations that the conduct of the First Respondent constituted oppressive conduct towards him; the appointment of an auditor or inspector to investigate the conduct and financial affairs of the Company and to prepare a report; such further directions as may be appropriate in light of the findings of the investigation or audit; an order requiring the First Respondent to compensate the Company for any funds found to have been diverted or misappropriated; and directions concerning the future conduct and management of the Company's affairs.

D. <u>Respondents Case.</u>

28. The First Respondent, Alfred Okot, stated that he was a shareholder and director of the Second Respondent, LOOKS PICTURES & DESIGNS LIMITED, and had sworn a declaration in reply to the Petition. In response to the Petition and the statutory declaration in support thereof, the Respondents denied the allegations except where expressly admitted.
29. The First Respondent contended that the Petitioner lacked *locus standi* and a cause of action against him for the alleged fraudulent management of the Company's

affairs or oppressive conduct. He further contended that the Registrar of Companies lacked jurisdiction to re-entertain the matter *de novo* because the Registrar had previously considered and disposed of this matter in Company Cause No. 88053 of 2025, and that therefore the Registrar had already pronounced himself on the issue of jurisdiction. He further argued that the Petitioner's claim, insofar as it concerned alleged prejudice arising from the conduct of the Company's affairs, was in substance a derivative action and therefore fell within the jurisdiction of the High Court. He also disputed the Petitioner's characterization of himself as a minority shareholder, pointing out that the parties each held 50% of the Company's ordinary shares.

30. On the merits, the First Respondent admitted that the Petitioner and he were equal shareholders and co-directors of the Company but denied the allegations of mismanagement, fraud and bad faith. He stated that the parties had agreed that profits from the Company's operations would be shared equally after taking into account the liabilities and expenses incurred in conducting the business. He further stated that the Petitioner had not personally injected funds into the Company's operations, as the financing required to execute contracts was generated from the Company's operations or obtained through loans and other financing facilities from financial institutions, which were serviced from the Company's profits.

31. The First Respondent stated that he had primary responsibility for the Company's day-to-day operations, including sourcing clients, executing assignments and ensuring the performance of contracts. He contended that the Petitioner had been largely non-participatory in the management and operations of the Company, resulting in an imbalance in the parties' respective workloads and responsibilities. He stated that, owing to this imbalance, he had at one point proposed either purchasing the Petitioner's shares or mutually dissolving the Company, but that

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the Petitioner declined those proposals and instead made what he described as unsubstantiated and malicious allegations against him.

32. Regarding the RTI International and Café Pap transactions, the First Respondent denied the allegations of financial impropriety and stated that he and the Petitioner were joint signatories to the Company's bank accounts. He therefore contended that no withdrawals could have been made without the Petitioner's participation and signature. He further stated that the services provided under the RTI International and Café Pap engagements were performed in the ordinary course of the Company's business, with the necessary expenses and professional inputs duly accounted for in the Company's financial statements. He denied concealing any proceeds or diverting Company funds and maintained that the Petitioner had at all times been able to access and review the Company's financial transactions.

33. In relation to Blakstyn Holdings Co. Limited, the First Respondent denied that the company had been established as a rival entity for purposes of diverting business from LOOKS PICTURES & DESIGNS LIMITED. He stated that Blakstyn Holdings Co. Limited had been established to advance his professional interests and expertise in the creative and design industries and did not create a conflict of interest with the Second Respondent. He further contended that there was no restraint of trade agreement preventing him from incorporating a company with similar objectives.

34. The First Respondent further denied the allegations of concealment of the Company's affairs and financial mismanagement, describing them as baseless and malicious and as an attempt to frustrate an amicable resolution of the Company's internal deadlock. He maintained that the Petitioner had been a largely inactive director whose participation, if any, was limited to endorsing documents rather than actively managing the Company's affairs. He also contended that, as a joint

signatory to the Company's account(s), the Petitioner could not properly allege fraud or malicious conduct in relation to transactions undertaken with his knowledge and participation.

35. The First Respondent stated that, should the Registrar of Companies consider an investigation of the Company's affairs necessary, such investigation ought to be undertaken by an independent external auditor jointly appointed by the shareholders/directors. He further requested that any inspection or investigation be conducted with his participation or that of his legal representatives in order to safeguard against bias and ensure compliance with the principles of natural justice.

36. Accordingly, the First Respondent maintained that the allegations contained in the Petition were false, unsubstantiated and untenable and prayed that the Petition be dismissed with costs. In the alternative, it was prayed that, should the Registrar of Companies grant any of the reliefs sought, he requested that any inspection or investigation be conducted transparently and with his participation or that of his legal representatives.

37. The First Respondent further filed a Supplementary Statutory Declaration in response to the Petition wherein he stated that while the Petition sought orders for the inspection, investigation and audit of the affairs and accounts of the Company on the basis of alleged suspicious dealings in the management of its affairs. According to him, the allegations principally concerned the establishment of a rival company, accountability for funds of the Company, and the alleged sidelining of the Petitioner from the affairs of the Company.

38. Mr. Okot denied that the circumstances complained of by the Petitioner warranted an order for inspection, investigation or audit of the Company's affairs. He contended that the claims made by the Petitioner arose principally from the Petitioner's own prolonged absence from the Company's official duties.

39. In particular, Mr. Okot stated that although the Petitioner was a director of the Company, he had neglected, abandoned or otherwise failed to perform his duties as a director and photographer of the Company for a period of approximately eight months. He contended that, after remaining absent from his duties for that period, the Petitioner had returned to demand benefits and raise complaints regarding the affairs of the Company.

40. Mr. Okot further explained that some of the business activities which the Petitioner sought to have investigated arose from opportunities, which he himself had secured while he was still employed by Watoto Church. He stated that, at the material time, registration of a company was a prerequisite for obtaining the relevant contracts and that, consequently, the business opportunities were channeled through the Company.

41. With regard to the financial affairs of the Company, Mr. Okot stated that the Company did not operate a formal accounting system. He nevertheless acknowledged that he and the Petitioner were joint signatories to the Company's bank accounts.

42. He further stated that, as directors, both he and the Petitioner were entitled to receive dividends at the end of the financial year, subject to the financial position of the Company. He alleged, however, that the Petitioner had repeatedly demanded payment irrespective of the Company's financial position.

43. By way of example, Mr. Okot stated that he had, at one point, withdrawn Uganda Shillings Four Million (UGX 4,000,000) as the Petitioner's share following repeated demands by the Petitioner.

44. Mr. Okot disputed the Petitioner's contention that the circumstances complained of amounted to oppression of the Petitioner in his capacity as a minority shareholder. His position was that the Petitioner's complaints arose substantially

from his own failure to participate in the Company's affairs and therefore did not justify the intervention sought.

45. In the alternative, and without prejudice to his position that no inspection, investigation or audit was warranted, Mr. Okot prayed that, should the Registrar of Companies find it appropriate to order an inspection of the Company's affairs, such inspection be conducted jointly by the parties.

E. Rejoinder

46. The Petitioner, Derrick Kirabo, filed a Statutory Declaration in Rejoinder in which he stated that he was a shareholder and member of the second Respondent Company and, in that capacity, was the Petitioner in the matter.

47. In response to the First Respondent's objection to the Petition, the Petitioner contended that, as a member of the Company, he had *locus standi* to bring a petition alleging oppression by an officer of the Company. He distinguished the present Petition from *Petition Cause No. 88053 of 2025*, contending that the present proceedings were founded on oppression of a member and were neither a derivative action nor proceedings founded on prejudicial conduct.

48. The Petitioner further contended that the Registrar's previous ruling in *Petition Cause No. 88053 of 2025* had clarified that the investigatory powers of the Registrar under section 170 of the Companies Act were administrative in nature. Relying on that position, he stated that he had initially sought an amicable resolution by letter dated 10th September 2025. When no response was received, he subsequently wrote to the Registrar on 15th October 2025 requesting the appointment of inspectors to investigate the conduct, operations and financial affairs of the Company.

49. The Petitioner stated that, by a letter dated 30th October 2025, the Registrar advised that the request could only be lodged by way of a petition under section 243(1) of the Companies Act. He subsequently wrote to the Registrar on 1st December 2025

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seeking to clarify that section 243(1) concerned oppression of a minority member, which, in his view, was distinct from his earlier request for the appointment of inspectors.

50. In response to the allegations concerning his participation in the Company's affairs, the Petitioner acknowledged that he was a co-signatory to the Company's bank account but maintained that this did not prevent him from being excluded from the management and affairs of the Company.

51. In particular, the Petitioner alleged that the First Respondent excluded him from the management and affairs of the Company and frequently acted without the authorisation or approval of the Board. He cited, as an example, the contract with RTI International, which he alleged was undertaken without his knowledge of material details, including the contract price.

52. The Petitioner further alleged that the First Respondent made payments disguised as requisitions for suppliers, videography, transport, printing and other expenses without furnishing supporting documentation or accounting for the expenditure.

53. The Petitioner also alleged that the First Respondent privately received cash payments, particularly from Café Pap, and applied the funds for personal purposes, thereby adversely affecting the Company's revenues and profitability.

54. In addition, the Petitioner alleged that the First Respondent prepared payment vouchers in varying amounts in favour of persons or purported suppliers who, according to him, neither received nor acknowledged receipt of the stated payments. He relied on payment vouchers exhibited in the Petition in support of these allegations.

55. Regarding the establishment of the alleged rival company, the Petitioner disputed the First Respondent's explanation and contended that the rival company had been established in bad faith after he had raised concerns regarding non-disclosure, dishonesty and mismanagement in the affairs of the Company.

56. The Petitioner further maintained that the concealment of the Company's affairs and financial records from him was deliberate and that his status as a co-signatory to the Company's bank account did not afford him access to the information necessary to ascertain the Company's financial position and operations.

57. Finally, the Petitioner stated that both he and the First Respondent were agreeable to an audit or investigation into the affairs of the Company to establish the extent, if any, of the alleged mismanagement. He contended that such an exercise would be the appropriate course of action before consideration of any dissolution of the Company.

F. ***Directions on Written Submissions***

58. Having heard the parties and considered their respective statutory declarations filed pursuant to Section 286 of the Companies Act, Cap. 106, I directed counsel to file written submissions as follows:

    a) *A rejoinder to the statutory declaration in reply to the Petition and written submissions from the Petitioner were to be filed and served by the 19th day of August 2026.*

    b) *Written submissions from the Respondent were to be filed and served by the 21st day of August 2026.*

    c) *Any submissions in rejoinder were to be filed and served by the 24th day of August 2026.*

59. I informed the parties that the ruling would be issued on notice.

G. ***Issues***

60. The following issues were agreed upon with the parties' legal representatives as sufficient to determine this dispute.

    a) *Whether the conduct complained of amounted to oppressive conduct within the meaning of Section 243 of the Companies Act, Cap 106?*

b) *Whether the facts justify the appointment of an inspector under Section 170 of the Companies Act, Cap 106?*

c) *What remedies are available to the parties?*

H. <u>Determination</u>

a) <u>Preliminary Objections</u>

61. Before determining the substantive issues, I must first address the preliminary objections raised by the First Respondent. These are: (i) that the Registrar lacks jurisdiction to re-entertain the matter, having previously disposed of it in Company Cause No. 88053 of 2025; and (ii) that the Petitioner's claim is, in substance, a derivative action properly cognisable by the High Court.

62. On the first limb, the burden lies on the party raising a plea of *res judicata* or *functus officio* to clearly demonstrate the nexus between the two matters, both in relation to the facts and the applicable law. No clear substantiation was made to this effect.

63. That notwithstanding, I have considered the previous proceedings referred to by Counsel for the Respondent and the ruling relied upon. The previous matter principally concerned an application commenced purely under Section 170 of the Companies Act for the appointment of an inspector. The ruling determined the jurisdictional question arising from the manner in which that Petition had been presented and found that the Petition before the Registrar did not properly invoke the Registrar's quasi-judicial jurisdiction under Section 243 of the Companies Act, Cap 106, yet the parties sought remedies under the said provision.

64. The present Petition is materially different. It expressly invokes Section 243 and raises a complaint of oppression by a member, together with a request for investigation under Section 170.

65. The previous ruling did not finally determine, on the merits, whether the Petitioner had been oppressed within the meaning of Section 243. Indeed, the previous ruling expressly declined to determine the merits after finding that the

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application before the Registrar was not properly within the relevant jurisdiction. I therefore do not find that the previous proceedings constitute a bar to the determination of the present Petition.

66. I further reiterate, as I shall further explain in this decision, that the Registrar's jurisdiction under Section 243 is distinct from the jurisdiction of the High Court under Section 244 in respect of unfairly prejudicial conduct. The present determination is confined to the statutory jurisdiction conferred upon the Registrar under Sections 243 and 170.

67. In the absence of evidence proving the preliminary point concerning *res judicata* and *functus officio*, I am unable to find that the issues raised in this Petition were previously heard and finally determined on their merits. The objection on this limb accordingly fails.

68. On the second limb, I distinguish between conduct that founds a derivative claim on behalf of the Company for loss occasioned to it, and conduct that founds a personal claim under Section 243 for prejudice suffered by a member in that capacity. The Petitioner's core complaint is that he was excluded from participation in the management and decision-making processes of the Company as a director and equal shareholder — a complaint personal to him as a member, and not one belonging to the Company. To the extent the Petition also raises complaints of diversion or misapplication of Company funds, I consider these to form part of the factual matrix from which the alleged oppression and its consequences fall to be assessed, rather than freestanding derivative claims requiring separate proceedings before the High Court. The objection on this limb also fails.

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b) ***Whether the conduct complained of amounted to oppressive conduct within the meaning of Section 243 of the Companies Act, Cap 106?***

69. Section 243(1) of the Companies Act provides that a member who complains that the affairs of a company are being conducted in a manner oppressive to some part of the members, including himself or herself, may petition the Registrar for relief under that section. This is a specific and confined statutory remedy, and it is necessary at the outset to distinguish it from the related but separate remedy for unfairly prejudicial conduct under Section 244 of the Companies Act, Cap 106, which is a distinct cause of action reserved to the High Court. The two provisions are not interchangeable, and a petitioner invoking Section 243 before the Registrar must bring his complaint within the narrower concept of "oppression," not the broader standard of "unfair prejudicial conduct."

70. It follows that the Registrar's jurisdiction under Section 243 is not a general supervisory jurisdiction over every dispute or disagreement arising in the management of a company. The inquiry is a focused one: whether the specific conduct complained of amounts to oppression of the petitioner in his or her capacity as a member.

71. The Supreme Court's guidance in *Rukikaire Mathew v. Incafex (U) Ltd*, Civil Appeal No. 03 of 2015, remains the guiding authority/precedent in this context. The Court there recognised that exclusion of a shareholder from company meetings and a lack of transparency in a company's financial affairs may constitute relevant evidence of oppression, while also emphasising that a petitioner must establish both membership and conduct that affects him specifically in that capacity, rather than in some other capacity (such as employee, creditor, or director acting independently of his shareholding interest). Consistent with this and with the broader body of authority applied by the Registrar of Companies in oppression matters, oppressive conduct is ordinarily understood as a *course of conduct* —

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sustained, deliberate and connected — rather than isolated disagreements, that are indeed expected in the ordinary course of business or unpopular commercial decisions that do not sit in well with one of the members. The conduct complained of must be sufficiently burdensome, harsh or wrongful to justify the statutory remedy, which functions as an alternative to winding up and is accordingly reserved for conduct of real gravity.

72. The Petitioner's standing is not in doubt: he holds 50% of the ordinary shares of the Company and is one of its two directors, and is unquestionably a member for purposes of Section 243.

73. I do not accept the Respondent's submission that the Petitioner is disentitled from complaining of oppression solely because he is not a minority shareholder. The text of Section 243 protects *"a part of the members including himself or herself,"* and imposes no express numerical threshold. That said, the equality of shareholding is not irrelevant — it bears materially on how the alleged conduct is to be assessed. It establishes that Looks Pictures is, in substance, a two-member, two-director company in which each party holds an equal proprietary stake and, subject to the Articles of Association and the Companies Act, an equal entitlement to participate in its governance. Conduct that may be regarded as ordinary or commercially acceptable in a company controlled by a dominant majority shareholder may assume a materially different character in a company where the shareholders hold equal interests. In the latter circumstance, neither shareholder enjoys a superior voting position, and the affairs of the company are ordinarily expected to be conducted through mutual participation, Board deliberation and collective decision-making. Consequently, unilateral acts by one shareholder-director, particularly where they have the effect of excluding the other from management, withholding information, or diverting corporate opportunities, may carry greater

legal and equitable significance because they effectively defeat the other shareholder's equal right to participate in the governance of the company.

74. I would, however, emphasise that a petition founded on alleged oppression must be established by cogent and credible evidence. The legal and evidential burden rests, in the first instance, upon the Petitioner to demonstrate the acts or omissions complained of and to establish that, viewed objectively and in their proper context, they amount to oppressive conduct within the meaning of the applicable law. A finding of oppression cannot properly be founded on suspicion, conjecture, speculation or the mere assertion that the Petitioner considers the Respondent's conduct unfair. The Petitioner must place before the Registrar sufficient evidence from which the alleged oppressive conduct can reasonably and objectively be inferred.

75. The evidential burden does not shift merely because the Respondent disputes the allegations. Rather, where the Respondent puts forward a competing account of the material events, the Registrar must evaluate the evidence adduced by both parties and determine, on the balance of probabilities, which version is more credible and consistent with the documentary and other evidence on record. The Respondent's duty is therefore to answer the case made against them, while the ultimate burden of establishing the complained-of oppression remains with the Petitioner.

76. This approach is consistent with the quasi-judicial nature of the Registrar's mandate. In *Luitingh Lafras & Another v Special Services Ltd*, Company Cause No. 11 of 2019, Hon. Justice Musa Sekaana observed that the powers of the Registrar of Companies under the Companies Act are quasi-judicial and that decisions made in the exercise of those powers must be founded on cogent evidence rather than assumptions or conjecture. The principle is of particular relevance in oppression proceedings, where allegations may arise from disputed commercial dealings and

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the Registrar must distinguish between conduct that is genuinely oppressive and conduct that, although commercially undesirable or the subject of disagreement between members, does not meet the evidential threshold required to sustain such a finding.

77. Accordingly, the task before the Registrar is not merely to determine whether the parties' relationship has deteriorated or whether one member is dissatisfied with the manner in which the company has been managed. It is to determine whether the evidence establishes conduct which, objectively assessed in light of the parties' rights, their relationship within the company and the circumstances in which the impugned acts occurred, constitutes oppression. Where the evidence falls short of that threshold, the petition cannot succeed merely on the basis of allegations or competing assertions.

78. That said, I shall now examine each limb of the alleged oppressive conduct and determine whether oppression has been established.

79. **(i) Exclusion from management and decision-making.** The Petitioner's central complaint is that the First Respondent excluded him from management and made material corporate decisions without meetings, resolutions, or his participation. Where established, deliberate exclusion of an equal shareholder from governance is capable in principle of amounting to oppression — a shareholder in a fifty-fifty structure cannot be permitted unilaterally to appropriate the Company's governance to himself at the expense of his co-equal. However, an allegation of this nature must be anchored in specifics: which meetings were convened without notice to the Petitioner or not convened at all, which decisions were taken without his input, on what dates, and by what mechanism his participatory rights were displaced. The evidence before me does not descend to that level of particularity. A general assertion of exclusion, however genuinely held, cannot substitute for

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the corroborated, dated, and specific evidence that a finding of oppression — a serious finding with real consequences — requires.

80. **(ii) The RTI International, Café Pap and Bringo Fresh transactions.** The allegations concerning these transactions are comparatively more specific, as they relate to identified commercial dealings and particular sums of money. They therefore raise legitimate questions regarding the manner in which the Company's funds were received, applied and accounted for and, in an appropriate case, could warrant closer scrutiny. However, the mere existence of unexplained or disputed transactions does not, without more, establish oppression. The legal character of the complaint must first be properly identified and distinguished from a general allegation of mismanagement or breach of duty owed to the Company.

81. In the present case, the evidence falls short of establishing, on a balance of probabilities, that the alleged financial irregularities occurred in the manner asserted by the Petitioner. The Petitioner's allegations are not sufficiently supported by credible and independently verifiable evidence demonstrating that the First Respondent diverted, misappropriated or otherwise improperly appropriated Company funds for his personal benefit. The competing declarations present materially different accounts: the Petitioner characterises certain withdrawals and expenditures as unaccounted for, while the First Respondent maintains that the funds were applied in the ordinary course of the Company's business including payment of company's rent arrears and further points out that the parties were joint signatories to the Company's account.

82. I must also distinguish between a complaint concerning the mismanagement or misapplication of corporate assets and a claim of oppression of a member. A shareholder cannot, merely by alleging financial wrongdoing affecting the Company, convert a corporate grievance into a personal claim of oppression. The Petitioner must additionally demonstrate that the impugned conduct was directed

at the member, or had the effect of unfairly prejudicing the member in the exercise or enjoyment of his rights and interests as a member of the Company. This distinction is important because corporate assets belong to the Company and not to individual shareholders, and conduct prejudicial to the Company does not necessarily constitute conduct oppressive to a particular shareholder. Conduct amounting to mismanagement, and which is properly characterised as prejudicial to the Company as a whole rather than as conduct directed at, or having a distinct effect upon, a particular member in that capacity, is not conduct that Section 243 is designed to remedy. Where such conduct is said to be unfairly prejudicial to the interests of members generally, or of a defined class of members, the appropriate statutory avenue is a claim under Section 244 of the Companies Act, Cap 106, for which the High Court — and not the Registrar — is the competent forum. The distinction is not merely procedural but reflects the differing scope and gravity of the two remedies: Section 243 is confined to conduct that is oppressive of a member in his or her capacity as such, and demands proof of a course of conduct sufficiently burdensome, harsh or wrongful to justify a remedy that stands as an alternative to winding up; Section 244, by contrast, addresses the broader and less exacting standard of unfair prejudice to members' interests generally, and Parliament has reserved that wider jurisdiction to the High Court rather than to the Registrar exercising quasi-judicial powers. Where, as here, the substance of a petitioner's complaint reduces to alleged mismanagement of the Company's affairs — the propriety of expenditure, the adequacy of financial controls, or the conduct of the Company's business generally — rather than to conduct specifically targeting the petitioner's rights or interests as a member, that complaint is more accurately pursued, if at all, as a claim under Section 244 before the High Court, and cannot be converted into a Section 243 oppression petition merely by its being framed in those terms.

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83. On the evidence before me, I am not satisfied that the alleged irregularities were undertaken with the purpose, or had the effect, of depriving the Petitioner of his rights as a member. Nor can I, on the basis of the conflicting declaration evidence alone and in the absence of supporting financial records, bank statements, invoices, contractual documents or other independent verification, make a definitive finding that the First Respondent personally appropriated Company funds. The fact that the Petitioner was a joint signatory to the Company's account does not, of itself, conclusively establish that he approved or authorised every transaction conducted through that account. Conversely, his subsequent challenge to those transactions does not, without sufficient corroborating evidence, establish that the transactions constituted oppressive conduct.

84. Accordingly, while the RTI International, Café Pap and Bringo Fresh transactions raise questions that may be relevant to the proper management and accountability of the Company's affairs, the evidence presently before me does not establish the additional element necessary to sustain a finding of oppression, which is the link to show oppressive conduct directed to the Petitioner in his capacity as a member. The allegations therefore cannot, in their present evidential form, found relief against the First Respondent on the ground that the Petitioner was oppressed in his capacity as a member.

85. **(iii) Blakstyn Holdings Co. Limited.** The mere incorporation of a separate company by a shareholder or director does not, without more, constitute oppression. What would be material and indeed relevant is evidence that specific Company opportunities, clients, assets or revenues were deliberately diverted to the new entity in a manner infringing the Petitioner's rights as a member. The present record does not identify the particular opportunities allegedly diverted, the clients allegedly transferred, the revenues allegedly received by Blakstyn Holdings, or the causal connection between those matters and the Petitioner's

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alleged exclusion. While this issue plainly warrants clarification through further investigation, it does not, on the evidence as it presently stands, establish oppression.

86. Had the parties incorporated a restraint of trade clause in their Articles of Association, and had the Petitioner alleged a breach of that clause, such a claim would properly fall within the realm of contract law, being a claim for breach of a contractual term as between the parties. The Articles of Association constitute a contract between the company and its members, and between the members *inter se*, binding them to its terms in accordance with the applicable provisions of the Companies Act.

87. However, this Office, being an administrative, regulatory, and — in defined circumstances — quasi-judicial body established under the Companies Act to oversee company registration and compliance, and to determine matters of member oppression and rectification of the register, does not have jurisdiction to adjudicate claims founded on breach of contract, including an alleged breach of a restraint of trade clause. Such claims, being contractual in nature and requiring determination of liability, assessment of damages, or grant of equitable remedies such as injunctions, fall squarely within the jurisdiction of a competent court of law.

88. Accordingly, should the Petitioner wish to pursue any claim arising from an alleged breach of a restraint of trade clause, the appropriate forum for such a claim is a competent court of law with the requisite jurisdiction to hear and determine the matter, and not this Office.

89. **(iv) Withholding of Company records.** A member's legitimate expectation of access to information concerning a company's affairs is relevant to the oppression inquiry, and the Supreme Court decision in *Rukikaire v Incafex Limited* confirms that a lack of financial transparency may form part of a course of conduct

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amounting to oppression where sufficiently established. Here, however, the evidence is in direct and irreconcilable conflict — the Petitioner asserting that requested records were withheld, the First Respondent maintaining that he had access throughout — and nothing before me resolves that conflict one way or the other.

90. Taken together, the record discloses a genuine and serious dispute between two equal shareholders concerning the management and financial affairs of their Company, and one that plainly warrants closer examination. But Section 243 demands more than the existence of a dispute, a deadlock, or a well-founded suspicion — it demands proof, on the evidence before the Registrar, that the conduct complained of constitutes oppression of the Petitioner as a member, of a gravity sufficient to justify a remedy that functions as an alternative to winding up. On the material presently before me, the Petitioner has not discharged that burden. The allegations are concerning and merit further inquiry, but they have not, on the present evidence, crossed the statutory threshold of oppression. I accordingly resolve Issue One in the negative.

c) ***<u>Whether the facts justify the appointment of an inspector under Section 170 of the Companies Act, Cap 106?</u>***

91. Section 170 empowers the Registrar, on application or of his own motion, to appoint one or more competent inspectors to investigate the affairs of a company where there is good reason to believe that its affairs are being or have been conducted with intent to defraud its members or for a fraudulent or unlawful purpose, in a manner unfairly prejudicial to some part of its members, or that the members have not been given all the information respecting the company's affairs that they might reasonably expect.

92. The threshold under Section 170 is deliberately calibrated. It requires *"**good reason to believe**"* — more than mere suspicion or an unresolved allegation, but a rational

and evidentially grounded basis for concluding that an investigation is warranted. It is not enough that the parties disagree, or that one party's account, if true, would disclose wrongdoing; there must be some objective indicator, on the material as it stands, that lends the allegation sufficient credibility to justify the extraordinary step of subjecting a company's affairs to external investigation.

93. Having found, under Issue One, that the Petitioner has not established a *prima facie* case of oppression — the allegations concerning exclusion from management being insufficiently particularised, and the allegations concerning the RTI International, Café Pap and Bringo Fresh transactions being unsupported by credible evidence beyond the parties' conflicting declarations — I do not consider that the same body of evidence, without more, meets the distinct and additional threshold required for the appointment of an inspector under Section 170. An inspection under Section 170 is not a general auditing exercise to be ordered whenever shareholders fall into disagreement; it is a targeted remedy responsive to a demonstrated evidentiary basis for suspecting fraud, unlawful conduct, or a systemic denial of information. Such conduct does not only affect the shareholders but could also potentially affect third parties such as creditors and the general public that would wish to invest or do business with such a company. That basis has not been made out here.

94. I am further guided by the nature of the dispute as disclosed on the record. What emerges is not a case of one shareholder having been shut out of a company controlled adversely to his interests, but a breakdown in the working relationship between two equal shareholders and co-directors, each of whom was a joint signatory to the Company's accounts and each of whom bore concurrent authority and responsibility for its governance. The Petitioner's own status as joint signatory is significant: it indicates that the mechanisms for oversight and accountability existed and were available to him, even if he now says they were not adequately

exercised in practice. That constitutes a governance deficiency capable of being addressed through clearer structural governance safeguards going forward. However, on the evidence presented to me, it does not rise to the level of a fraudulent or unlawful scheme warranting a formal investigation under Section 170.

95. I accordingly find Issue two in favour of the First Respondent. The facts as presently established do not, by way of *prima facie* evidence, justify the appointment of an inspector under Section 170 of the Companies Act, Cap 106.

96. This is not, however, to say that the concerns raised by the Petitioner are without substance or that the Company's governance can be left as it stands. The absence of formal Board meetings, resolutions and structured financial reporting — matters not seriously disputed by the First Respondent, whose answer was one of justification rather than denial — discloses a governance deficit that, left unaddressed, is likely to perpetuate the very disputes that gave rise to this Petition. In the circumstances, I am satisfied that the appropriate course is not investigative but corrective: to direct the parties toward governance-based remedies designed to restore functional, transparent and accountable management of the Company, rather than to subject the Company to the cost, delay and disruption of a formal inspection where the evidentiary threshold for one has not even been met.

97. I wish to point out that nothing precludes the parties in this case from voluntarily proceeding to appoint an auditor to conduct such investigation as they may desire. An audit is a routine and prudent exercise beneficial to the proper governance of any company, and can go a long way in resolving disputes and putting unsubstantiated allegations to rest. Accordingly, I find that there is nothing barring the parties from proceeding, by mutual agreement, with the audit sought.

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98. However, a statutory investigation of the nature envisaged under Section 170 of the Companies Act is a special and onerous remedy, invocable only upon satisfaction of the specific statutory grounds prescribed thereunder. This Office, being a creature of statute, can only exercise such power within the confines set by the legislature, and cannot extend it beyond the conditions established under the Section. Having considered the evidence and submissions on record, I find that the grounds necessary to invoke Section 170 have not been established in this case.

99. I am therefore unable to grant the statutory audit/investigation sought, though this finding is without prejudice to the parties' liberty to pursue a voluntary audit by mutual consent.

d) <u>What remedies are available to the parties?</u>

100. Having found that the conduct complained of does not, on the evidence, cross the statutory threshold of oppression under Section 243, and that the facts do not disclose the requisite *prima facie* basis for the appointment of an inspector under Section 170, the remedies ordinarily attendant on a finding under either provision are not available to the Petitioner in the present proceedings and I accordingly dismiss the Petition with no order as to costs.

I so order

Given under my hand, this 31st day of August 2026.

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Ass. Registrar of Companies