

Exhibit E

Proposed Intervenor's Omnibus Objection to Discovery Requests

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION**

In re:

HO WAN KWOK, *et al.*,Debtors¹

LUC A. DESPINS, CHAPTER 11 TRUSTEE FOR
THE ESTATE OF HO WAN KWOK,

Plaintiff,

V.

HCHK TECHNOLOGIES, INC., HCHK
PROPERTY MANAGEMENT, INC.,
LEXINGTON PROPERTY AND STAFFING,
INC., HOLY CITY HONG KONG VENTURES,
LTD., ANTHONY DIBATTISTA, YVETTE
WANG, and BRIAN W. HOFMEISTER,
ASSIGNEE FOR THE BENEFIT OF THE
CREDITORS

Defendants.

**HCHK CREDITORS' OMNIBUS OBJECTION TO THE
TRUSTEE'S REQUESTS FOR THE PRODUCTION OF DOCUMENTS,
INTERROGATORIES, SUBPOENAS AND REQUESTS FOR ADMISSION**

Pursuant to Rules 26, 33, 34, 36 and 45(d)(2)(B) of the Federal Rules of Civil Procedure,
as made applicable to this proceeding by Rules 7026, 7033, 7034, 7036 and 9016, respectively, of

¹ The Debtors in these chapter 11 cases are Ho Wan Kwok (also known as Guo Wengui, Miles Guo, and Miles Kwok) (last four digits of tax identification number: 9595), Genever Holdings LLC (last four digits of tax identification number: 8202), and Genever Holdings Corporation. The mailing address for the Trustee, Genever Holdings LLC, the Genever Holdings Corporation, is Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 c/o Luc A. Despins, as Trustee for the Estate of Ho Wan Kwok (solely for the purposes of notices and communications).

the Federal Rules of Bankruptcy Procedure, Shin Hsin Yu (“Mr. Yu”), 1332156 B.C. LTD (“1332156 B.C.”), GWGOPNZ Limited (“GWGOPNZ”) and Japan Himalaya League, Inc. (“Japan Himalaya”) (collectively, the “HCHK Creditors”), by their attorneys, Pastore LLC, hereby object to the following discovery requests served by the Chapter 11 Trustee (collectively, the “Discovery Requests”):

(i) First Set of Requests for Production of Documents in Response to Motion to Intervene by Chapter 11 Trustee to Proposed Intervenor Shih Hsin Yu, 1332156 B.C. LTD, GWGOPNZ Limited and Japan Himalaya League (“Requests for Production”);

(ii) First set of Interrogatories in Response to Motion to Intervene by Chapter 11 Trustee to Proposed Intervenor Shih Hsin Yu, 1332156 B.C. LTD, GWGOPNZ Limited and Japan Himalaya League, Inc. (“Interrogatories”);

(iii) Chapter 11 Trustee’s Subpoena and Notice of Deposition to 1332156 B.C. LTD Pursuant to Fed. R. Civ. P. 30(B)(6);

(iv) Chapter 11 Trustee’s Subpoena and Notice of Deposition to GWGOPNZ Limited Pursuant to Fed. R. Civ. P. 30(B)(6);

(v) Chapter 11 Trustee’s Subpoena and Notice of Deposition to Japan Himalaya League, Inc. Pursuant to Fed. R. Civ. P. 30(B)(6) (iii through v collectively, the “Subpoenas”);

(vi) First Set of Requests for Admission in Response to Motion to Intervene by Chapter 11 Trustee to Shih Hsin Yu;

(vii) First Set of Requests for Admission in Response to Motion to Intervene by Chapter 11 Trustee to 1332156 B.C. LTD;

(viii) First Set of Requests for Admission in Response to Motion to Intervene by Chapter 11 Trustee to Japan Himalaya League, Inc.; and

(ix) First Set of Requests for Admission in Response to Motion to Intervene by Chapter 11 Trustee to GWGOPNZ Limited (vi through ix collectively, the “Requests for Admission”).

GENERAL OBJECTIONS²

1. The HCHK Creditors object to the Discovery Requests on the ground that they seek discovery far outside the scope and purposes permitted under the Federal Rules. The Discovery Requests, served at 6:30 pm on Friday, July 21, demand the production of documents, answers to interrogatories, and answers to requests to admit by Thursday, July 27, plus three depositions by August 3. The stated justification for these voluminous requests and extraordinarily expedited timeline is that the Trustee's deadline to respond to the HCHK Creditors' Motion to Intervene (ECF No. 60) is August 7. However, the HCHK Creditors are aware of no authority providing that a party is entitled to discovery to assist him in preparing an opposition to a motion to intervene, much less authority that supports requiring the proposed intervenors – who remain non-parties to the action – to respond to enormous discovery requests in less than a week.

2. Indeed, the Discovery Requests include categories of discovery that the federal rules only authorize for service on upon **parties**, which (at this time) the HCHK Creditors plainly are not. Further, the Discovery Requests include numerous requests for discovery that appears to be at best loosely related to the specific matters at issue in this Adversary Proceeding (let alone the HCHK Creditors' Motion to Intervene) and therefore not necessary to the Trustee's litigation of this case. In short, the Discovery Requests appear to be designed to make the HCHK Creditors' efforts to intervene in this matter and protect their rights as creditors as expensive and painful as possible. This is not a proper use of discovery.

3. The HCHK Creditors object to the Discovery Requests on the ground that they are premature. Rule 26(d)(1) of the Federal Rules of Civil Procedures provides that “[a] party may not

² The HCHK Creditors reserve all rights to assert specific objection to the individual Requests for Production, Interrogatories, and Requests for Admission in the event that the HCHK Creditors' General Objections to the Requests for Production, Interrogatories, and Requests for Admission are overruled.

seek discovery from any source before the parties have conferred as required by Rule 26(f).” On information and belief, the parties to this Adversary Proceeding have not held a Rule 26(f) conference.

4. The HCHK Creditors object to the Discovery Requests on the ground that they fail to provide a reasonable time to comply. The Discovery Requests were served on the HCHK Creditors at 6:30 p.m. on a summer Friday. Federal Rules of Civil Procedure 33, 34 and 36 on their face require 30 days for a receiving party to comply with or object to requests for production, interrogatories or requests for admission absent a court order or stipulation between the parties. Despite there being no stipulation or court order mandating an expedited compliance deadline, the Requests for Production, Interrogatories and Requests for Admission provide only four business days to comply.³ Further, the Subpoenas call for depositions on July 31 (Japan Himalaya League, Inc.), August 1 (GWGPNZ LTD), and August 3 (1332156 B.C. Inc.), giving the HCHK Creditors five to eight business days to prepare. The Subpoenas demand that the corporate parties designate representatives to testify on fifteen topics, which would require significant preparation and some of which have no bearing on this matter. This timeline is especially burdensome because the HCHK Creditors are located in Auckland, New Zealand; Vancouver B.C., Canada; and Osaka, Japan; and there is a significant time zone difference between counsel and the HCHK Creditors.

5. The HCHK Creditors object to the Discovery Requests on the ground that they impose an undue burden. The HCHK Creditors are not parties to the Adversary Proceeding at this time. “Although Rule 24 does not, by its language, bestow the status of ‘party’ on an intervenor, it is well-settled that **once the court approves an application for intervention**, the intervenor ‘becomes a full participant in the lawsuit and is treated just as if it were an original party.’” *United*

³ In any event, the HCHK Creditors are not required to respond to the Requests for Production, Interrogatories and Requests for Admission, given their status as non-parties. See ¶¶ 8-10, below.

States v. all Right, Title & Interest in accounts at Morgan Guar. Trust Co., 1996 U.S. Dist. LEXIS 17987, 31 (S.D.N.Y. 1996) (citing *Schneider v. Dumbarton Developers, Inc.*, 767 F.2d 1007, 1017 (D.C. Cir. 1985)) (emphasis added). We are aware of no authority holding that a party's desire for information to support his opposition to a motion to intervene permits that party to demand *any* discovery from the proposed intervenors, much less the very burdensome discovery sought by the Discovery Requests.

6. The HCHK Creditors object to the Subpoenas on the ground that they require compliance beyond the 100 mile limit set forth in Federal Rule of Civil Procedure 45(c)(1)(A). The HCHK Creditors are currently residing and working in Auckland, New Zealand; Vancouver B.C., Canada; and Osaka, Japan. While the notices of deposition state the depositions will commence "at a location and by a method to be determined," the Subpoenas explicitly describe the "Place" of the deposition as New York, New York. *See City of Almaty v. Sater*, No. 19-cv-2645 (JGK) (KHP), 2023 U.S. Dist. LEXIS 27063 *6 (S.D.N.Y. Feb. 16, 2023) (stating the "use of video technology does not enable a party to evade the explicit geographic restrictions of the Rule").

7. The HCHK Creditors object to the Discovery Requests on the ground that they are overly broad, unduly burdensome and disproportionate to the needs of the case (let alone the Motion to Intervene).

8. The HCHK Creditors object to the Requests for Production on the ground that they are not parties to this action. Federal Rule of Civil Procedure 34 provides "A party may serve on any other party a request within the scope of Rule 26(b)...." *See also Conquistador v. Adamaitis*, No. 3:19-cv-430 (KAD), 2019 U.S. Dist, LEXIS 192372 *5 (D. Conn. Nov. 6, 2019) (denying a motion to serve discovery requests on a non-party because "[t]he Federal Rules of Civil Procedure

provide that requests for production, interrogatories, and requests for admission **may be served only on parties**") (emphasis added). Unless and until the Court grants the HCHK Creditors' Motion to Intervene they remain non-parties to this Adversary Proceeding and thus are not subject to Requests for Production under Rule 34.

9. The HCHK Creditors object to the Interrogatories on the ground that they are not parties to this action. Federal Rule of Civil Procedure 33 provides "[u]nless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 25 written interrogatories...." *See also Conquistador v. Adamaitis*, No. 3:19-cv-430 (KAD), 2019 U.S. Dist. LEXIS 192372 *5 (D. Conn. Nov. 6, 2019) (denying a motion to serve discovery requests on a non-party because "[t]he Federal Rules of Civil Procedure provide that requests for production, interrogatories, and requests for admission **may be served only on parties**") (emphasis added). Unless and until the Court grants the HCHK Creditors' Motion to Intervene they remain non-parties to this Adversary Proceeding and thus are not subject to Interrogatories under Rule 33.

10. The HCHK Creditors object to the Requests for Admission on the ground that they are not parties to this action. Federal Rule of Civil Procedure 36 provides "[a] party may serve on any other party a written request to admit...." *See also Conquistador v. Adamaitis*, No. 3:19-cv-430 (KAD), 2019 U.S. Dist. LEXIS 192372 *5 (D. Conn. Nov. 6, 2019) (denying a motion to serve discovery requests on a non-party because "[t]he Federal Rules of Civil Procedure provide that requests for production, interrogatories, and requests for admission **may be served only on**

parties”) (emphasis added). Unless and until the Court grants the HCHK Creditors’ Motion to Intervene they remain non-parties to this Adversary Proceeding and thus are not subject to requests for admission under Rule 36.

Dated: July 26, 2023
Stamford, Connecticut

**CREDITORS SHIN HSIN YU, 1332156 B.C.
LTD, GWGPNZ LIMITED AND JAPAN
HIMALAYA LEAGUE, INC.**

By: /s/ Joseph M. Pastore III
Joseph M. Pastore III (ct11431)
Melissa Rose McClammy (ct31199)
Tyler W. Rutherford (*application for
admission pending*)
Pastore LLC
4 High Ridge Park, Third Floor
Stamford, CT 06905
203-658-8454 (Tel.)
Jpastore@pastore.net
Mmcclammy@pastore.net
Trutherford@pastore.net