

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE**

MISCELLANEOUS PROCEEDINGS NO. 1855 OF 2022

**IN THE MATTER OF THE CROWN ATTORNEY GENERAL / LIQUIDATOR /
MANAGING CONTROLLER & THE CROWN (LIQUIDATOR AND MANAGING
CONTROLLER APPOINTED) & ORS.**

AND IN THE MATTER OF Order 32 of the Rules of the High Court, Cap. 4A

AND IN THE MATTER OF Order 53 of the Rules of the High Court, Cap. 4A

AND IN THE MATTER OF a proposed application for leave to apply for judicial review
concerning the New Capital Investment Entrant Scheme, Transaction Reference
IHK0010JMCKT9T09

AND IN THE MATTER OF the Immigration Ordinance, Cap. 115

AND IN THE MATTER OF the Anti-Money Laundering and Counter-Terrorist Financing
Ordinance, Cap. 615, the Organized and Serious Crimes Ordinance, Cap. 455, the United
Nations (Anti-Terrorism Measures) Ordinance, Cap. 575, the Crimes Ordinance, Cap. 200,
the Criminal Procedure Ordinance, Cap. 221, the Prevention of Bribery Ordinance, Cap. 201,
the Courts (Remote Hearing) Ordinance, Cap. 654, and related Hong Kong statutory,
common law, public law, constitutional and administrative law duties

EX PARTE

SUMMONS

INTERLOCUTORY APPLICATION TO REOPEN, RESTORE OR FURTHER LIST
HCMP 1855 OF 2022 AND FOR CASE-MANAGEMENT DIRECTIONS THAT THIS
APPLICATION BE HEARD TOGETHER WITH, OR IMMEDIATELY BEFORE, THE
PROPOSED ORDER 53 APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL
REVIEW

LET all parties concerned attend before the Honourable Mr / Madam Justice
_____ in Chambers, open to public unless otherwise directed, on the
..... day of, 20, at o'clock in the forenoon / afternoon,
on the hearing of an application by the Applicant for the orders set out below.

Filed on theday of, 20

Applicant in Person: Andrew Morton Garrett; represented by Scott Cameron Mitchell, Power of Attorney.

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A. NATURE OF THIS APPLICATION

1. This is an interlocutory application in HCMP 1855 of 2022 for the originating process to be restored, listed and heard ex parte, or otherwise dealt with by the Court on an ex parte basis in the first instance.
2. The Applicant applies in his personal capacity and in the capacities asserted in the originating process and subsequent materials, including as Trustee in Bankruptcy of individuals, Liquidator, Managing Controller and / or person appointed in respect of the nations, corporations, trusts, estates and other persons named or identified in:
 - a. the originating process in HCMP 1855 of 2022;
 - b. Annexure 1 to the originating process in HCMP 1855 OF 2022;
 - c. the Concise Reply of the Applicant dated 11 December 2023 filed in NSD 741 of 2023;
 - d. the Addendum dated 8 April 2024 to the Concise Reply and Cross Claim;
 - e. the Notice of Indictment and Indictment Information dated 3 February 2024 filed and served in NSD 741 of 2023 / 2024: *Australian Prudential Regulatory Authority v Andrew Morton Garrett*;
 - f. the proposed Order 53 judicial review materials to be filed in the Constitutional and Administrative Law List.
3. The Applicant contends that HCMP 1855 of 2022 was commenced for the purpose of placing before the High Court of Hong Kong matters and proceedings removed, referred, preserved, notified or otherwise brought to the attention of the Court, including the matters and proceedings shown in Annexure 1 to the originating process in HCMP 1855 of 2022.
4. The Applicant further contends that, by reason of his asserted appointments as Trustee in Bankruptcy, Liquidator and / or Managing Controller, the rights of the bankrupt individuals, officers of corporations, corporations, trusts, estates and other represented persons are suspended, displaced, controlled or exercisable only through the Applicant in the capacities asserted, unless and until the Court determines otherwise.
5. Accordingly, the originating process is not to be treated as a proceeding in which the persons named as bankrupts, officers, corporations, interested parties, accused persons, respondents, record-holders or persons identified in Annexure 1 have an ordinary adversarial standing to oppose the originating process before first complying with any order or direction of the Court for production, preservation, identification or scheduling of records.
6. The Applicant's position is that the Interested Parties have no standing at this stage other than:
 - a. to produce the records of the matters and proceedings shown in Annexure 1 to the originating process in HCMP 1855 of 2022;

- b. to identify what documents, records, metadata, orders, filings, correspondence, affidavits, exhibits, notices, transcripts, reasons, administrative directions and registry materials are within their possession, custody or power;
 - c. to preserve those records pending further order;
 - d. to apply to the Court only if production, preservation, confidentiality, privilege, public-interest immunity, law-enforcement restriction, insolvency control, banking secrecy, regulatory secrecy or other lawful restriction is said to arise.
7. The Applicant does not ask the Court at this interlocutory stage to determine finally the validity of each appointment, each bankruptcy, each liquidation, each managing-controller appointment, each indictment, each notice of removal, or each allegation of wrongdoing.
 8. The Applicant asks the Court to treat those matters as the asserted jurisdictional and evidentiary basis upon which the ex parte originating process should be restored, listed and heard so that the Court may determine what records must be produced and how the existing HCMP file and proposed Order 53 judicial review proceeding should be case-managed together.

B. AMENDED ORDERS SOUGHT

The Applicant applies for orders that:

9. HCMP 1855 of 2022 be restored, reopened, re-listed or otherwise placed before the Court for ex parte hearing.
10. The originating process in HCMP 1855 of 2022 be heard ex parte in the first instance.
11. The Court direct that the persons, corporations, officers, bankrupts, alleged bankrupts, interested parties, accused persons, respondents, agencies, public officials, courts, tribunals, regulators, professional firms, financial institutions and other entities named or identified in Annexure 1 to the originating process in HCMP 1855 of 2022, the Concise Reply dated 11 December 2023, the Addendum dated 8 April 2024, the proposed Order 53 judicial review proceeding and the Notice of Indictment and Indictment Information dated 3 February 2024, are not to be treated as having adversarial standing to oppose the originating process unless and until the Court grants them leave to be heard.
12. The Court direct that the standing of those persons and bodies, at this stage, is limited to the production, preservation, identification and scheduling of records concerning the matters and proceedings shown in Annexure 1 to the originating process in HCMP 1855 OF 2022 and the related materials.
13. The Court direct that any person or body served with the originating process or this interlocutory application must preserve and, if directed, produce all records within that person's or body's possession, custody or power concerning:
 - a. the matters and proceedings shown in Annexure 1 to the originating process in HCMP 1855 OF 2022;

- b. HCMP 1855 of 2022;
 - c. NSD 741 of 2023: *Australian Prudential Regulatory Authority v Andrew Morton Garrett*;
 - d. the Concise Reply dated 11 December 2023;
 - e. the Addendum dated 8 April 2024;
 - f. the Notice of Indictment and Indictment Information dated 3 February 2024;
 - g. any notice of removal, removal application, removal correspondence or related filing concerning those matters;
 - h. any court, tribunal, regulator, registry, agency, ministerial, law-enforcement, financial-system, insolvency, bankruptcy, liquidation, managing-controller, banking, tax, AML / CFT, proceeds-of-crime, sanctions or extradition-related record concerning those matters.
14. The Court direct that any person or body claiming a right to be heard before production must first file and serve a short statement identifying:
- a. the capacity in which that person or body seeks to be heard;
 - b. whether that person or body accepts, disputes or cannot admit the Applicant's asserted appointment as Trustee in Bankruptcy, Liquidator or Managing Controller;
 - c. whether the person or body holds relevant records;
 - d. whether any claim of privilege, confidentiality, public-interest immunity, statutory secrecy, insolvency control, regulatory restriction, banking secrecy or law-enforcement restriction is relied upon;
 - e. the minimum directions sought from the Court.
15. The Court direct that the proposed Order 53 application for leave to apply for judicial review, to be filed in the Constitutional and Administrative Law List, be heard together with, or immediately after, this interlocutory application, because the proposed judicial review depends upon the same record-production, preservation and jurisdictional matrix.
16. The Court direct that the proposed Order 53 Form 86, affidavit, draft minutes of order, schedules and skeleton submissions be received and placed before the same Judge or List Judge as HCMP 1855 of 2022, so far as practicable.
17. The Court direct that the proposed Interested Parties in the Order 53 proceeding are, at the leave stage, proposed record-holders and competent authorities only, and are not to be treated as respondents with adversarial standing unless and until the Court orders joinder, service or leave to be heard.
18. The Court direct that the Registry identify the status of the HCMP 1855 of 2022 Court file, including:
- a. the originating process;

- b. Annexure 1;
 - c. all filing receipts, endorsements, rejection notices, correspondence, administrative notes, listing notes, judicial directions and Registry directions;
 - d. all documents lodged, filed, rejected, returned, removed, sealed, served or attempted to be filed in HCMP 1855 of 2022;
 - e. all communications concerning whether the originating process was to be heard ex parte.
19. The Court direct that the Applicant be permitted to inspect and obtain copies of the complete HCMP 1855 of 2022 Court file, Registry file, electronic file, correspondence file and listing record.
20. Liberty to apply be reserved to any record-holder affected by any production, preservation, confidentiality, statutory secrecy or public-interest issue.
21. Costs be reserved.
22. Such further or other order as the Court considers just.

C. AMENDED GROUNDS

23. HCMP 1855 of 2022 was commenced as an originating process in the High Court of Hong Kong as enforcement proceedings of Judgment of a Foreign Court pronounced by the Applicant and is to be heard ex parte in the first instance.
24. The Applicant contends that the originating process was commenced in circumstances where the Applicant was, and remains, appointed as Trustee in Bankruptcy, Liquidator and / or Managing Controller of individuals, nations, corporations, trusts, estates and other persons identified in the originating process, Annexure 1 to the originating process in HCMP 1855 OF 2022, the Concise Reply dated 11 December 2023, the Addendum dated 8 April 2024, and the Notice of Indictment and Indictment Information dated 3 February 2024.
25. The Applicant contends that the rights of bankrupts and / or officers of corporations are suspended, displaced or controlled by the Applicant's asserted appointment, unless and until the Court determines otherwise.
26. The Applicant contends that the Interested Parties therefore have no ordinary adversarial standing to oppose the originating process at this stage.
27. Their standing, if any, is limited to producing the records of the matters and proceedings shown in Annexure 1 to the originating process in HCMP 1855 OF 2022 and related court, tribunal, registry, regulatory, insolvency, bankruptcy, liquidation, managing-controller, banking, tax, AML / CFT, proceeds-of-crime, sanctions and extradition records.
28. The originating process should be restored and heard ex parte because the purpose of the application is first to preserve, identify and obtain the record, not to finally determine liability against any Interested Party.

29. The Applicant contends that NSD 741 of 2023: *APRA v Andrew Morton Garrett*, was commenced by an originating process signed on or about 13 July 2023 and filed on or about 20 July 2023, after preparation of the Fifth Amended Notice of Removal of the matters and proceedings shown in Annexure 1 to the originating process in HCMP 1855 OF 2022 and is therefore not named in Annexure 1 to the Originating Process of these proceedings.
30. The Applicant contends that the later Concise Reply dated 11 December 2023 and Addendum dated 8 April 2024 demonstrate that NSD 741 of 2023 and its associated indictment materials form part of the same jurisdictional, evidentiary and record-production matrix as HCMP 1855 of 2022.
31. The Applicant contends that the proposed Order 53 judicial review proceeding should be heard together with, or immediately after, this interlocutory application because the proposed judicial review requires identification, preservation and production of the same records.
32. The Applicant does not seek, at this stage, a final determination of the truth of the allegations made in the Concise Reply, Addendum, Notice of Indictment or Indictment Information.
33. The Applicant seeks procedural, preservatory and record-production orders so that the Court may determine:
- a. what matters and proceedings are before the Court;
 - b. what records exist;
 - c. who holds those records;
 - d. whether any person or body has lawful standing to be heard;
 - e. whether any record-holder may resist production on a lawful basis;
 - f. how HCMP 1855 of 2022 and the proposed Order 53 proceeding should be case-managed.
34. It is in the interests of justice that the originating process be restored and heard ex parte so that the Applicant's asserted bankruptcy, liquidation, managing-controller, removal, indictment, record-production and judicial-review issues may be placed before the Court in an orderly manner.

D. PROPOSED DIRECTION AS TO INTERESTED PARTIES

35. For the avoidance of doubt, the Applicant seeks a direction in the following terms:

“The persons and bodies named or identified in Annexure 1 to the originating process in HCMP 1855 OF 2022, the Concise Reply dated 11 December 2023, the Addendum dated 8 April 2024, the Notice of Indictment and Indictment Information dated 3 February 2024, and the proposed the proposed Form 86 Order 53 judicial review proceeding materials, are not joined as adversarial parties at this stage. Their present procedural status is limited to proposed record-holders, proposed competent authorities, proposed referral recipients or

persons on notice. No such person or body has standing to oppose the originating process or the proposed Order 53 leave application unless the Court grants leave to be heard. Any such person or body must first identify the records held by it and the legal basis upon which it seeks to be heard.”

E. SUPPORTING EVIDENCE

This application is supported by materials served on the proposed respondent and the Interested parties named in the proposed Order 53 application:

36. the originating process in HCMP 1855 OF 2022, being the HCMP 1855 of 2022 originating process and Annexure 1;
37. the Concise Reply of Andrew Morton Garrett dated 11 December 2023 filed in NSD 741 of 2023;
38. the Addendum dated 8 April 2024 to the Concise Reply and Cross Claim;
39. the Notice of Indictment and Indictment Information dated 3 February 2024 filed and served in NSD 741 of 2023 / 2024;
40. the proposed Order 53 Form 86 judicial review application concerning the Director-General of Investment Promotion and New CIES Transaction Reference IHK0010JMCKT9T09;
41. such further affidavit evidence as the Applicant files or the Court permits.

F. FURTHER NOTE CONCERNING INFORMATION PROVIDED, AND CRIMINAL-INVESTIGATION REPORT REFERENCES

42. The Applicant further relies upon AMG 9623 and related materials as evidence that the parties addressed in AMG 9623 have been served with materials concerning:
 - a. HCMP 1855 of 2022;
 - b. the proposed Order 53 judicial review proceedings;
 - c. the proposed New CIES judicial review concerning Transaction Reference IHK0010JMCKT9T09;
 - d. the materials said by the Applicant to require criminal investigation, preservation, referral and record-identification by Hong Kong and Australian public officials.
43. The Applicant contends that the service effected by AMG 9623 was not ordinary adversarial service conferring standing on the addressees to oppose the ex parte originating process in HCMP 1855 of 2022.
44. Rather, the Applicant contends that AMG 9623 was service of information provided to competent authorities, proposed record-holders, proposed referral recipients, public officials, regulators, financial-system authorities and other persons on notice, requiring investigation, preservation, scheduling, referral and lawful treatment according to law.

45. The Applicant relies in that regard on the following report references:
- a. Hong Kong Police e-Report Centre reference **ERC2606101083878**, dated 10 June 2026;
 - b. Hong Kong Customs and Excise Department transaction reference **CED0020MVCKJXHQR**, dated 10 June 2026.
46. The Applicant contends that those report references confirm that the materials were provided in the context of information requiring investigation, including matters alleged to concern terrorism financing, money laundering, proceeds of crime, cross-boundary movement of physical currency and bearer negotiable instruments, suspicious financial-system conduct, and related public-law duties.
47. The Applicant does not ask the Court at this stage to make any final criminal finding against any person addressed in AMG 9623.
48. The Applicant asks the Court to recognise, for procedural and case-management purposes, that the AMG 9623 addressees were placed on notice as proposed record-holders, competent authorities, referral recipients, investigators or persons holding relevant records, and not as ordinary parties having standing to oppose the ex parte originating process unless and until the Court grants leave to be heard.
49. The Applicant further contends that any AMG 9623 addressee seeking to be heard should first identify:
- a. the records held by that person or body;
 - b. the capacity in which that person or body was served;
 - c. whether that person or body received, preserved, referred, investigated, scheduled or acted upon the materials served;
 - d. whether any claim of privilege, confidentiality, statutory secrecy, public-interest immunity, law-enforcement restriction, suspicious-transaction restriction, regulatory secrecy or banking secrecy is asserted;
 - e. the legal basis upon which that person or body claims standing to be heard beyond record-production, preservation or referral issues.
50. The Applicant contends that the report references ERC2606101083878 and CED0020MVCKJXHQR should be expressly recorded in the interlocutory application, the supporting affidavit and any draft directions as part of the evidentiary chain showing that the HCMP 1855 of 2022 and proposed Order 53 materials were served as information requiring investigation and lawful treatment by competent authorities.
51. The Applicant reserves the right to rely upon AMG 9623, the Hong Kong Police report, the Hong Kong Customs and Excise report, and all related correspondence, acknowledgements, attachments and service records in support of orders for preservation, production, referral, record-identification, confidentiality directions and case management.

G. CLOUD-STORED, ELECTRONIC AND DIGITAL EVIDENCE

52. The Applicant seeks a direction that evidence stored electronically, including evidence stored in cloud repositories, email accounts, electronic document systems, public-interest disclosure drives, secure hyperlinks, online folders, cloud backup systems, banking platforms, regulatory portals and court e-filing portals, may be adduced in these proceedings by affidavit, electronic bundle, exhibit schedule, hyperlink schedule and / or such other means as the Court directs.

53. The Applicant does not ask the Court to treat an unverified hyperlink alone as proof of the truth of the contents of any document and seeks permission to swear that evidence before the court as adduced from the address in the cloud

<https://1drv.ms/f/c/13ebd865c7415cd4/IgDUXEHHZdjrIIATrzYAAAAAXmTvYhfqIST2s4c0k-IuMI?e=R3ea8R>



54. The Applicant seeks leave to rely upon cloud-derived material in a stable evidentiary form, including:

- a. paginated PDF copies;
- b. electronic bundles;
- c. document schedules;
- d. hyperlink schedules;
- e. file-name and folder-path schedules;
- f. metadata schedules;
- g. hash-value or checksum schedules, where available;
- h. affidavit evidence identifying the source, date of download, method of export, custody, preservation and relevance of the material.

55. The Applicant seeks that the Court direct that any cloud-derived evidence be treated as adduced when:

- a. the relevant document or file is exhibited to an affidavit or included in an electronic bundle;
- b. the deponent identifies the cloud source or repository from which it was obtained;

- c. the deponent identifies, where practicable, the date and time of download, export, upload, receipt or preservation;
 - d. the deponent identifies whether the document is a true copy, screenshot, export, print-to-PDF, native file, email, metadata record, transaction record, portal record or other electronic record;
 - e. any necessary access restrictions, confidentiality restrictions, privilege issues, privacy issues, law-enforcement issues, banking-secrecy issues or statutory secrecy issues are preserved for determination by the Court.
56. The Applicant further seeks a direction that hyperlinks, cloud-folder links and online repositories may be used as navigational aids to the Court and to record-holders, but that the primary evidentiary record shall be the filed affidavit, exhibit, electronic bundle, schedule or other material accepted by the Court.
57. The Applicant seeks liberty to apply for further directions for:
- a. production of native electronic files;
 - b. preservation of metadata;
 - c. inspection of cloud repositories;
 - d. production by cloud-service providers or record-holders;
 - e. verification of file integrity;
 - f. forensic imaging, export or download;
 - g. redaction, confidentiality, restricted access or sealed filing;
 - h. use of the Judiciary's electronic bundle, e-lodgement, technology court or digital evidence facilities.
58. The Applicant contends that these directions are necessary because the materials relevant to HCMP 1855 of 2022, the proposed Order 53 judicial review, AMG 9623, the Hong Kong Police report reference ERC2606101083878, the Hong Kong Customs and Excise transaction reference CED0020MVCKJXHQR, and the related Australian and Hong Kong record-production issues are substantially documentary, electronic, portal-based, email-based, cloud-stored and metadata-dependent.
59. The Applicant reserves the right to seek further directions requiring any proposed record-holder, competent authority, cloud-service provider, public authority, financial institution, regulator, court, tribunal, registry or other person to preserve, export, certify, schedule or produce cloud-stored records within that person's possession, custody or power.

H. REMOTE HEARING / VIDEO-LINK DIRECTION

60. The Applicant seeks a direction that the hearing of this interlocutory application, the ex parte originating process in HCMP 1855 of 2022, and the proposed Order 53 leave application be conducted by remote hearing or video-conferencing facilities, with the Applicant attending from South Australia.

61. The Applicant seeks that the Court permit attendance by video link from:
- a. a court facility in South Australia, if made available by the relevant South Australian court or authority;
 - b. alternatively, another secure video-conferencing location in South Australia approved by the Hong Kong High Court Registry;
 - c. alternatively, such electronic means, such as Microsoft Teams or Zoom, as the Court directs.
62. The basis of this request is the Courts (Remote Hearing) Ordinance, Cap. 654, the applicable Hong Kong Judiciary guidance concerning remote hearings in civil proceedings, the Court's case-management powers, and the inherent jurisdiction of the Court of First Instance.
63. The Applicant also relies on the cross-border insolvency, bankruptcy, liquidation, managing-controller and record-production context as a reason why a remote hearing is appropriate, efficient and consistent with the interests of justice.
64. The Applicant does not contend that Hong Kong has enacted the UNCITRAL Model Law on Cross-Border Insolvency 1997 as a direct statutory source of the video-link power. The Applicant relies instead on:
- a. Hong Kong's remote-hearing legislation and practice directions / guidance;
 - b. the Court's common law power to recognise and assist foreign insolvency, bankruptcy, liquidation and record-production processes where necessary and consistent with Hong Kong law and public policy;
 - c. the principle of modified universalism and cooperation between courts in cross-border insolvency matters;
 - d. the practical need to avoid unnecessary cost, delay, travel impediment and fragmentation of proceedings.
65. The Applicant seeks that any remote-hearing order provide that:
- a. the Applicant may attend and address the Court by video link from South Australia;
 - b. any affidavit or documentary materials be filed electronically or by such method as the Registry permits;
 - c. any necessary court-to-court, registry-to-registry or facility-to-facility arrangements be made between the Hong Kong High Court Registry and the nominated South Australian court or approved video-conferencing facility;
 - d. the Applicant comply with any direction of the Hong Kong Court concerning identity verification, confidentiality, non-recording, public access, document use, evidence, oath or affirmation, and hearing protocol;
 - e. liberty to apply be reserved in the event of technical failure, time-zone difficulty, public-access issue, or any objection concerning fairness.
66. The Applicant contends that a remote hearing is appropriate because:

- a. the proceedings concern cross-border insolvency, bankruptcy, liquidation, managing-controller and record-production issues;
- b. the Applicant is in South Australia;
- c. the materials are documentary and record-based;
- d. the proposed hearing is ex parte or otherwise limited to procedural, preservatory, record-identification and case-management issues in the first instance;
- e. remote attendance would reduce cost, delay and practical prejudice;
- f. remote attendance would not prevent the Court from controlling the proceeding or ensuring compliance with Hong Kong law.

Dated this day of, 2026.

Filed by:



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