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Joint Provisional Liquidators Appointed: All Year Holdings Limited

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Conyers BVI litigators Richard Evans and Charles Goldblatt secure the appointment of Provisional Liquidators over All Year Holdings Limited (“AYH”) at an urgent hearing before the BVI Commercial Court on 20 December 2021.

Following AYH’s filing for Chapter 11 relief in the Federal Bankruptcy Court of the Southern District of New York in December 2021, Conyers was instructed to secure the appointment of Charlotte Caulfield and Paul Pretlove of Kalo BVI as “soft touch” Joint Provisional Liquidators of AYH. Their appointment was sought to assist AYH in its ongoing restructuring efforts and, in particular, to support the Chapter 11 Proceedings.

AYH operates as a holding company that, through its direct and indirect subsidiaries, focuses on the development, construction, acquisition, leasing and management of residential and commercial income producing properties in Brooklyn, New York. The group’s assets are valued at over US\$1 billion and notably include a luxury hotel and luxury rental complex.

The Company has some US\$1.6 billion of secured and unsecured debt payable to bondholders. Informal restructuring had been underway since late 2020, with the appointment of a Chief Restructuring Officer to the Board and the suspension of trading of its shares and bonds on the Tel Aviv stock market.

On 8 December 2021, AYH voluntarily commenced a case under chapter 11 of the United States Code in the United States Bankruptcy Court and this was followed by the application to the BVI Commercial Court under section 170 of the BVI Insolvency Act 2003.

Justice Jack, commenting on the application, noted that *“provisional liquidations are becoming more common due to the Constellation case”*.

As per Justice Adderley in Constellation:

“The essence of a “soft touch” provisional liquidation is that a company remains under the day to day control of the directors, but is protected against actions by individual creditors. The purpose is to give the Group the opportunity to restructure its debts, or otherwise achieve a better outcome for creditors than would be achieved by liquidation.”

The BVI Commercial Court has, once again, demonstrated both its willingness to grant relief in support of a (foreign) restructuring process, the flexibility of its approach and the speed with which such relief will be granted in cases of real urgency (the application was heard within just days of issue and within the very busy last week of the Commercial Court’s term).

Richard Evans and Charles Goldblatt were instructed by AYH and worked alongside Weil, Gotshal & Manges LLP in New York (who had conduct of the Chapter 11 Proceedings in the United States).

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