IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
VESTTOO LTD, *et al.*,[1]	Case No. 23-11160 (MFW)
Debtors.	(Joint Administration Requested)

WHITE ROCK INSURANCE (SAC) LTD.'S OPPOSITION TO MOTION FOR AN ORDER ENFORCING THE AUTOMATIC STAY AGAINST (I) WHITE ROCK INSURANCE (SAC) LTD. AND (II) THE PUTATIVE JOINT PROVISIONAL LIQUIDATORS OF THE DEBTORS' SEGREGATED ACCOUNTS

White Rock Insurance (SAC) Ltd. ("White Rock") hereby files this opposition ("Opposition") to the motion of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for an order enforcing the automatic stay ("Motion").

INTRODUCTION

1. The Debtors ask this Court to find that White Rock violated the automatic stay by prosecuting certain non-bankruptcy actions against non-debtors, and to void an order of the Bermuda Supreme Court appointing joint provisional liquidators over a non-debtor at the request of the Bermuda Monetary Authority. The Debtors' request relies on both misrepresentations and erroneous statements of law, and should be denied for the following reasons.

2. *First*, the Debtors argue that White Rock violated the automatic stay by "demanding discovery and pressing for a hearing to freeze the assets of a debtor subsidiary, irrespective of whether it or its parent entity had filed bankruptcy." Motion ¶ 37. As the Debtors admit in their Motion and declarations, the only actions that White Rock took after the initial petition date

[1] Due to the large number of debtor entities in these chapter 11 cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at https://dm.epiq11.com/vesttoo.

concerned a non-debtor. Moreover, as the Debtors further admit, White Rock immediately ceased prosecuting the action against that non-debtor as soon as it filed its own bankruptcy petition. Axiomatically, the automatic stay does not apply to a non-debtor absent an affirmative injunction extending the automatic stay to the non-debtor. No such injunction was entered in this case, and therefore, there was no violation of the automatic stay.

3. *Second*, the Debtors argue that White Rock violated the automatic stay in Israel based on proceedings commenced at around 5:00 a.m. (ET) on August 14, 2023. White Rock commenced those proceedings prepetition, and White Rock immediately ceased prosecuting them as soon as it learned of the bankruptcy. Therefore, White Rock did not violate the automatic stay.

4. *Third*, the Debtors argue that White Rock violated the automatic stay by seeking the appointment of joint provisional liquidators over "Segregated Accounts." The Debtors are misrepresenting the order of the Bermuda Supreme Court. The Supreme Court of Bermuda appointed joint provisional liquidators ("JPLs") over White Rock, and the authority of the JPLs to act for White Rock is expressly limited to certain cells impacted by the fraud at Vesttoo. All that the Bermuda Supreme Court's order does is to have the JPLs step into the shoes of White Rock for the purposes of considering White Rock's options with respect to the restructuring of the impacted Vesttoo cells. The order does not provide, as the Debtors state, that the JPLs may "begin to act within the United States to seize Debtor assets." Motion ¶ 64. Therefore, there is no violation of the automatic stay.

BACKGROUND

I. Vesttoo's Businesses

5. Vesttoo Ltd. ("Vesttoo") holds interests in a privately-held insurance tech group. Morrison Decl. ¶ 21.[2] It purports to use a digital platform to assess risk in insurance investments, thereby (allegedly) enabling insurance companies to obtain reinsurance[3] at (allegedly) lower costs from investors through capital markets.[4] Vesttoo claims that it "connects the insurance industry and the capital markets by combining proprietary AI-powered technology with expertise in fintech, insurance and asset management so that insurers have the capacity they need and investors have opportunities to diversify with confidence."[5]

II. White Rock's Business

6. White Rock, a subsidiary of Aon Plc ("Aon"), is a Bermuda company that operates segregated accounts under the Bermuda Segregated Accounts Company Act of 2000 (the "SAC Act"). Morrison Decl. ¶ 8. As a segregated accounts company, White Rock creates segregated accounts, or "cells," which can be used by client insurance companies who desire a reinsurance facility but do not want to establish and license a separate insurance company in Bermuda. *Id.* ¶¶

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[2] "Morrison Decl." refers to the *Declaration of Michael Morrison in Support of the Verified Petition for Recognition of Foreign Main Proceeding and Motion for Order Granting Relief Pursuant to Bankruptcy Code Sections 1515, 1517, 1520 and 1521* filed in *In re White Rock Insurance (SAC) Limited*, Case No. 23-11349 (Bankr. D. Del.) at D.I. 10.

[3] In broad terms, reinsurance is a transaction pursuant to which an insurance company transfers to a reinsurer a portion of the risk that it underwrote under certain of its policies along with a portion of the premium. *See* Barlev Decl. ¶ 7.

[4] *See* https://vesttoo.com/img/about-pdf.pdf.

[5] *Id.*

9-10.[6] White Rock establishes cells for such clients to transact reinsurance contracts, which are segregated from all other cells established by White Rock. *Id.* ¶ 10. The underwriting risk of the reinsurance is assumed by third-party capital providers. *Id.* ¶ 11. White Rock facilitates these transactions and writes contracts of reinsurance only when that contract is fully collateralized by the insurance provider. *Id.*[7] There are a variety of ways to collateralize a cell, including, for example, letters of credit from a bank in favor of the cedent (defined below). *Id.* ¶ 13.

7. For example, an insurance company or "cedent" may use White Rock's facilities to secure reinsurance capacity from large investors. *Id.* ¶ 12. The cedent will arrange the necessary collateralization with a market maker or another entity. *Id.* White Rock would then hold the capital in a segregated account for the cedent and issue a reinsurance contract for the segregated account that is fully collateralized by the contents of that segregated account. *Id.* The financial obligations under the reinsurance contract are limited to the value of the assets in the segregated account, so that the cell can never become insolvent. *Id.* This structure, however, depends on the integrity of the collateral provided. *Id.*

III. Vesttoo's Collaboration with White Rock

8. Beginning in the fourth quarter of 2021, Aon used Vesttoo' services to arrange transactions where owners of certain intellectual property ("IP") could obtain loans against the IP. *Id.* ¶ 22. The lenders in those transactions would then seek collateral protection insurance from an

[6] The assets and liabilities of each segregated account are segregated from the assets and liabilities of all other segregated accounts and from the assets and liabilities of the general account of White Rock. Morrison Decl. ¶ 9. In other words, assets linked to any specific segregated account may only be used to meet liabilities to creditors in respect of that account and are generally not available to creditors of other segregated accounts or White Rock's general account. *Id.*

[7] A contract is "fully collateralized" by the capital provider when assets are provided to meet or exceed the reinsurance policy limit. Morrison Decl. ¶ 11.

insurance provider, and the insurance provider would then seek reinsurance through a Vesttoo-provided White Rock cell, which would be collateralized by a letter of credit procured by Vesttoo. *Id.*

9. As relevant for Vesttoo-related transactions, for every reinsurance transaction involving a cedent and White Rock, White Rock executed a Participating Shareholder Agreement with a Vesttoo entity, which were usually limited partnerships domiciled in the Bermudas or Israel ("Vesttoo LP"). *Id.* ¶ 23. Pursuant to those Participating Shareholder Agreements, White Rock would generally grant the relevant Vesttoo LP a 100% interest in the net proceeds (premiums minus losses, expenses, and fees) from the relevant cells (the "Vesttoo Cells"). *Id.* The relevant Vesttoo LP, in exchange, would provide "Acceptable Security" to White Rock to secure an indemnity obligation it provided to White Rock and to satisfy the liability and collateral requirements set forth in White Rock's reinsurance certificate with the applicable cedent. *Id.*

10. In total, Vesttoo LPs represented that they obtained 37 letters of credit to serve as collateral for White Rock's reinsurance contracts. *Id.* ¶ 24. The banks from which Vesttoo LPs purportedly procured these letters are China Construction Bank Corp. ("CCB"), Banco Santander, S.A. ("Banco Santander"), and Standard Chartered Bank USA ("Standard Chartered"). *Id.*

IV. Vesttoo's Fraudulent Letters of Credit

11. The banks listed above have indicated that the letters of credit that Vesttoo had represented collateralized reinsurance contracts had actually been invalidly executed. *Id.* ¶ 25. In mid-July 2023, an insurer demanded payment in full under one of the letters of credit that Vesttoo had purportedly incurred from CCB, but the insurer's request for payment was denied. *Id.* ¶ 26. CCB informed the insurer's counsel that the letter of credit was not issued by CCB and appeared to be fraudulent. *Id.* ¶ 26. The media picked up on this event, and the ensuing coverage forced

Vesttoo to commence an investigation into the alleged fraud. *Id.* ¶ 27. It now appears that up $2.35 billion of letters of credit that Vesttoo purported to procure that collateralized the Vesttoo Cells were invalid. *Id.*

V. The SDNY Action and the Israel Actions

12. Based on the revelations of the purportedly fraudulent letters of credit, on August 10, 2023, White Rock filed a petition for injunctive relief in aid of foreign arbitration ("PI Petition") in the Southern District of New York ("SDNY Litigation" and "SDNY Court"). *Id.* ¶ 31. White Rock sought to freeze Vesttoo's assets except for $1,000,000 to prevent their dissipation pending arbitration proceedings in Bermuda, as well as discovery. *White Rock Insurance (SAC) Limited v. Vesttoo Ltd., et al*., Case No. 23-civ-7065 (PAE), D.I. 1 (SDNY).

13. On August 10, 2023, the SDNY Court entered a temporary restraining order ("TRO") against Vesttoo and certain of its subsidiaries, and ordered expedited document and deposition discovery. *Id.*, D.I. 27; Martin Decl., Ex. C. The SDNY Court set a hearing on a preliminary injunction on August 15, 2023, and ordered Vesttoo to file an opposition by August 14, 2023 at noon. *Id.*

14. On August 14, 2023 at approximately 5:00 a.m. ET, White Rock filed actions against certain Vesttoo entities in Israel ("Israel Actions"). Zailer Decl. ¶ 2. Immediately upon learning of the bankruptcy cases, White Rock immediately ceased taking steps to advance the Israel Actions. *Id.*

15. On August 14, 2023, at approximately 11:36 a.m. ET, Vesttoo filed an opposition to the requested preliminary injunction, without any mention of a forthcoming Chapter 11 filing. Sharma Decl. ¶ 4. After the issuance of a number of summonses, at approximately 9:30 p.m. ET Vesttoo filed a suggestion of bankruptcy ("August 14 Suggestion of Bankruptcy"), indicating that

six Vesttoo entities had filed bankruptcy. Martin Decl. Ex. D; Sharma Decl. ¶ 5. Vesttoo's counsel later e-mailed the SDNY Court approximately 15 minutes later, informing it that, given the Suggestion of Bankruptcy, "we presume the hearing before the Court for tomorrow afternoon will be adjourned." Sharma Decl. ¶ 6, Ex. A.

16. The SDNY Court, however, declined to adjourn the hearing. Instead, in an order, it stated that "the suggestion of bankruptcy filed with this Court does not indicate that all subsidiaries in this action have filed for bankruptcy," and ordered that the hearing would address whether and the extent to which the automatic stay applied to the SDNY Action. *White Rock Insurance (SAC) Limited v. Vesttoo Ltd., et al*., Case No. 23-civ-7065 (PAE), D.I. 59 (S.D.N.Y. Aug. 15, 2023).

17. Vesttoo's counsel sent a letter to the SDNY Court, stating that Vesttoo RT SPV LLC had not filed bankruptcy. Martin Decl., Ex. G. White Rock's counsel then also sent a letter to the SDNY Court stating that Vesttoo RT SPV LLC had not filed a bankruptcy petition, the action was not stayed as to that entity, and requested to take discovery from that entity and any other entities that had not filed bankruptcy petitions. *Id.*, Ex. H. The SDNY Court again declined to adjourn the hearing, and instead ordered Respondents to immediately inform the Court if they were able to confirm the status of Vesttoo RT SPV LLC. *White Rock Insurance (SAC) Limited v. Vesttoo Ltd., et al*., Case No. 23-civ-7065 (PAE), D.I. 63 (S.D.N.Y. Aug. 15, 2023).

18. A few minutes before the 3 p.m. hearing on August 15, 2023, Vesttoo RT SPV, LLC filed its own bankruptcy petition, and as the Debtors admit, White Rock promptly agreed that the action was stayed as to that entity as well. Motion ¶ 29; Sharma Decl. ¶ 7. Counsel for Vesttoo then represented to the SDNY Court: "in the interim from my subsequent letter to your Honor and my getting off the elevator here this afternoon, the last entity has now been placed into bankruptcy which is Vesttoo RT SPV, LLC, the case number, your Honor, in Delaware Bankruptcy Court, is

23-11212. And again, I extremely apologize to both – I have already done so in the hallway to counsel – and to the Court." (Aug. 15, 2023 Hr. Tr. 3:12-19). Sharma Decl. ¶ 8, Ex. B.

19. On August 18, 2023, the SDNY Court vacated the temporary restraining order and suspended the SDNY Action pending Vesttoo's bankruptcy proceedings. *White Rock Insurance (SAC) Limited v. Vesttoo Ltd., et al*., Case No. 23-civ-7065 (PAE), D.I. 64 (S.D.N.Y. Aug. 18, 2023).

VI. The Appointment of the JPLs and the Chapter 15 Proceeding

20. The Bermuda Monetary Authority ("BMA") regulates Bermuda's financial services sector.[8] It is the "sole regulatory body" in Bermuda "for financial services, responsible for the licensing, supervision, and regulation of financial institutions conducting deposit-taking, insurance, investment, and trust business on the island."[9] Among other things, the BMA supervises, regulates, and inspects financial institutions operating in Bermuda, issues Bermuda's national currency, manages exchange control transactions, and assists other authorities with the detection and prevention of financial crimes.[10] As relevant here, the BMA is responsible for the supervision, regulation and inspection of Bermuda's insurance companies, and consistent with the "strong" principles of "responsible business conduct" in Bermuda, "particularly among international companies," the BMA has, as relevant here, issued an Insurance Code of Conduct.[11] That is because the "re/insurance industry is one of Bermuda's key leading industries …."[12]

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[8] *See* https://www.bma.bm/about-us.

[9] *See* https://www.state.gov/reports/2021-investment-climate-statements/bermuda/.

[10] *See* https://www.bma.bm/about-us.

[11] *See* https://www.state.gov/reports/2021-investment-climate-statements/bermuda/.

[12] *Id.*

21. In July 2023, Aon reported to the BMA that certain letters of credit that had been procured by the Vesttoo LPs were suspected to be fraudulent. Morrison Decl. ¶ 35. The BMA subsequently initiated a Provisional Liquidating Proceeding by presenting a petition to the Supreme Court of Bermuda [redacted], with an accompanying application to appoint Charles Thresh and Michael Morrison as joint provisional liquidators of White Rock (the "JPLs"). *Id.* ¶ 36.

22. On August 18, 2023, the Supreme Court of Bermuda issued an order ("JPL Appointment Order") appointing the JPLs on a "limited powers" basis with supervisory authority over White Rock's affairs with respect to the Vesttoo Cells only. *Id.*, Ex. A. The JPL Appointment Order however, does not impact the Vesttoo Cells themselves. Instead, the JPL Appointment Order was aimed at enabling the BMA and Aon to bring their resources together to pursue maximum recovery for the (re)insureds impacted by the alleged fraud, stabilizing White Rock in light of Vesttoo's conduct, and therefore mandated the JPLs to, among other things:

a. "[D]evelop and propose a plan to mitigate, correct or otherwise address the negative impact of loss or impairment of collateral by the Vesttoo Cells in a manner designed to allow [White Rock] acting in respect of the [non-Vesttoo Cells] and generally, to continue as a going concern, with a view to making a compromise or arrangement with the Vesttoo Cell cedents, including (without limitation) a compromise or arrangement by way of a scheme of arrangement, or novating the Vesttoo Cells outside of [White Rock];"

b. Oversee White Rock's board and consult with cedents of the Vesttoo Cells to determine the most appropriate manner to conduct negotiations with third parties;

c. Allow White Rock's board to maintain sustainable operations for the benefit of non-Vesttoo Cells, and to aim to preserve the value of the underlying business and ensure the orderly disposal or other treatment of the Vesttoo Cells and the linked liabilities;

d. Maintain White Rock's operations for the benefits of its various stakeholders; and

e. "[L]ocate, protect, secure and take into their possession and control all assets and property to which [White Rock] acting in respect of the Vesttoo Cells is or appears to be entitled."

JPL Appointment Order ¶¶ 2(a), 2(b), 2(c), 2(d), 2(g).

23. All fees and expenses of the JPLs are required to be paid out of White Rock's general accounts, not the Segregated Account. JPL Appointment Order ¶ 7.

24. On August 28, 2023, the JPLs caused to be filed a *Chapter 15 Petition for Recognition of a Foreign Proceeding* before the Court, along with a verified petition for recognition of a foreign main proceeding and related relief. *In re White Rock Insurance (SAC) Limited*, Case No. 23-11349 (Bankr. D. Del.).

OPPOSITION

I. White Rock's Continued Prosecution Of The New York Action Against A Non-Debtor Did Not Violate The Automatic Stay

25. The Debtors argue that White Rock violated the automatic stay by "demanding discovery and pressing for a hearing to freeze the assets" of Vesttoo RT SPV LLC. Motion ¶ 37. This argument fails.

26. It is well established that the automatic stay does not apply to a debtor's non-debtor subsidiary. *Equity Broad. Corp. v. Shubert (In re Winstar Commc'ns. Inc.)*, 284 B.R. 40, 51 (Bankr. D. Del. 2002) (holding that a lawsuit against a non-debtor subsidiary does not violate the

automatic stay because it does not "alter the Bankruptcy estate's right, liabilities, options or freedom of action" and that "ownership of all of the outstanding stock of [the subsidiary] by the [parent-debtor] does not confer jurisdiction on the Bankruptcy Court to decide disputes involving [the subsidiary's] assets."); *see Kreisler v. Goldberg*, 478 F.3d 209, 211 n.1, 215 (4th Cir. 2007) (holding that the property of the non-debtor subsidiary is not property of the estate). This body of case law is a natural consequence of the maxim that a parent and a subsidiary are separate legal entities. *In re Calvert*, 135 B.R. 398, 402 (Bankr. S.D. Cal. 1991) (holding that the automatic stay does not apply to a non-debtor subsidiary because it is a separate legal entity).[13]

27. Here, as set forth in detail above, White Rock immediately ceased prosecting the SDNY Action against the entities that filed for bankruptcy as soon as it learned of the bankruptcy petitions. The Debtors neglected to file a petition for Vesttoo RT SPV, LLC on August 14, 2023, and White Rock pressed to continue the action against that entity only. Vesttoo RT SPV, LLC filed its own bankruptcy petition on August 15, 2023, and upon learning of that bankruptcy, White Rock immediately ceased prosecuting the SDNY Action against that entity. There was no violation of the automatic stay.

II. The Israel Actions Did Not Violate The Automatic Stay

28. The Debtors next argue that White Rock violated the automatic stay by commencing proceedings in Israel. Motion ¶ 41. This argument also fails.

29. White Rock commenced the Israel Actions before any of the Debtors filed their bankruptcy petitions. Zailer Decl. ¶ 2. Upon learning of the bankruptcy petitions, White Rock

[13] The Debtors have not requested, nor have they identified, any "unusual circumstances" that would have warranted extending the August 14, 2023 bankruptcy petitions to Vesttoo RT SPV, LLC. *See Kreisler*, 478 F.3d at 213.

immediately ceased taking steps to advance the Israel Actions. *Id.* ¶ 2. Therefore, there is no stay violation.

III. The Appointment Of The JPLs Did Not Violate The Automatic Stay

30. The Debtors contend that the appointment of the JPLs violated section 362(a)(1) and (3) of the Bankruptcy Code because the appointment constitutes "continuing litigation on account of a prepetition claim," and is an act to obtain possession of property of the estate or to exercise control over property of the estate. Motion ¶¶ 40, 45. These arguments misrepresent the proceedings in Bermuda and the effect of the JPL Appointment Order.

31. The Debtors' first argument—that the continuation of the action in Bermuda following Vesttoo's bankruptcy violates section 362(a)(1)—is specious. Section 362(a)(1) stays the continuation of an action or proceeding "against the debtor that was or could have been commenced before the commencement of a case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title." It is axiomatic that litigation in which the debtor is not a party is not stayed, even if that litigation may collaterally affect a debtor. 3 Collier on Bankruptcy ¶ 362.03[3][a] (2023); *see, e.g.*, *In re Carlson*, 265 B.R. 346, 348 (Bankr. D. R.I. 2001) (holding that a Pennsylvania debtor did not violate the automatic stay in a Rhode Island debtor's bankruptcy when it filed a motion for a Rule 2004 examination of the Rhode Island debtor in the Pennsylvania debtor's bankruptcy, because the Rule 2004 motion did not involve a proceeding against the debtor, but instead only sought discovery in the Pennsylvania bankruptcy, which was not an action against the Rhode Island debtor).

32. The action in Bermuda is not against Vesttoo. As set forth in the Debtors' own declaration, provisional liquidators are only appointed upon the presentation of a winding-up petition, Wasty Decl. ¶ 66, which is exactly what happened here as to White Rock. Morrison Decl.

¶ 36. A winding-up petition, similar to a chapter 11 bankruptcy petition, is not adversarial in the sense that it is not an "action" that is filed "against" a defendant. Indeed, the petition is generally filed either by the company or a stakeholder of the company, and it requests the winding-up of the company. Wasty Decl. ¶ 53. There is no other defendant.

33. Vesttoo appears to argue that, notwithstanding the fact that it is not a party to the winding up in Bermuda, that the JPL Appointment Order violated the automatic stay because it is "continuing litigation on account of a prepetition claim." Motion ¶ 45. This argument does not make sense. Vesttoo distorts the plain text of section 362(a)(1), which only prohibits continuation of actions "to recover a claim against the debtor that arose before the commencement of the case under this title." The winding-up petition in Bermuda does not equate to an attempt to recover a claim against Vesttoo, and the JPL Appointment Order does not impact Vesttoo at all. All that the JPL Appointment Order does is appoint the JPLs to focus on pursuing a maximum recovery for the reinsureds impacted by the fraud at Vesttoo. It is only related to White Rock's claims against Vesttoo in the sense that the JPLs will be asserting and negotiating that claim in these chapter 11 cases. Simply, the JPL Appointment Order is an internal matter with respect to White Rock's management. Therefore, section 362(a)(1) does not apply, and there was no violation of the automatic stay.

34. The Debtors' second argument—that the JPL Appointment Order is an attempt to gain control of property of the estate that violates section 362(a)(3)—fares no better. The Supreme Court of Bermuda appointed the JPLs on a "light touch" basis. JPL Appointment Order ¶ 5 (describing the appointment of the JPLs under section 170(2) of the Bermuda Companies Act 1981); *see* Wasty Decl. ¶ 70 (describing section 170(2)). The purpose of the "light touch" basis is generally to support a company's (*i.e.*, White Rock's) restructuring efforts, and involves the

"supervision of the company's restructuring and liaison between creditors and management," with the aim of facilitating a consensual resolution between a company and its creditors. Wasty Decl. ¶¶ 71-73.

35. That is all that the JPL Appointment Order did here. The JPL Appointment Order provides for the JPLs to have supervisory authority over *White Rock's* affairs with respect to the Vesttoo Cells. In other words, the JPLs were appointed over White Rock, not over the "Segregated Accounts," and the impact of the Bermuda Supreme Court's order is to have the JPLs step into the shoes of White Rock, with a list of specific limited powers for the JPLs.[14] The order does not provide, as the Debtors state, that the JPLs may exercise control over the Segregated Accounts, the Vesttoo Cells, or "begin to act within the United States to seize Debtor assets." Motion ¶ 64. Nor does it provide the JPLs authority to "exercise control over the Debtors' assets." *Id.* ¶ 8. Therefore, there is no violation of the automatic stay.[15]

36. The Debtors' arguments are made up, lack evidentiary and legal support, and should not merit further consideration, let alone success. All that the JPL Appointment Order does is

[14] These facts are readily distinguishable from the Debtors' authorities, which all involved the appointment of liquidators *over a debtor* or bankruptcy actions *against a debtor*. For example, in *In re Cenargo Intern., PLC*, 294 B.R. 571, 597 (Bankr. S.D.N.Y. 2003), the court held that the filing of a winding-up petition *against a debtor* violated the automatic stay. Similarly, in *In re Nakash*, 190 B.R. 763, 770-71 (Bankr. S.D.N.Y. 1996), the court held that the filing of an involuntary bankruptcy petition in Israel *against a debtor* violated the automatic stay. Likewise, in *Soundview Elite, Ltd.*, 503 B.R. 571, 583-84 (Bankr. S.D.N.Y. 2014), the court held that the continuation of a winding-up proceeding *against a debtor* violated the automatic stay. The same is the case with *In re Soundview Elite, Ltd.*, 503 B.R. 571, 589-590 (Bankr. S.D.N.Y. 2014), where the bankruptcy court annulled the automatic stay to permit the appointment of joint official liquidators *for the debtors*. That is also the case in *In re FTX Trading Ltd.*, Case No. 22-11068 (JTD) [D.I. 1192], where joint provisional liquidators had been appointed in the Bahamas over one of the debtors.

[15] Because the JPL Appointment Order does not purport to provide control over the Vesttoo Cells, there is no reason at this time to decide whether the "Segregated Accounts" are property of the estate. In any event, a determination of whether the "Segregated Accounts" are property of the estate requires an adversary proceeding pursuant to Bankruptcy Rule 7001(2).

appoint the JPLs to focus on pursuing a maximum recovery for the (re)insureds impacted by the fraud at Vesttoo. The Bermuda Supreme Court appointed the JPLs over White Rock, and the JPLs will now have the ability to assert White Rock's rights in these cases. As discussed above, the JPL Appointment Order does not impact property of Debtors. Disturbing an order that was requested by a governmental authority charged with regulating the Bermuda reinsurance business, that was entered by the Bermuda Supreme Court, and that does not impact the Debtors, has no basis in the Bankruptcy Code, and defies the deference to governmental authorities reflected in the Bankruptcy Code.[16]

[16] Indeed, various provisions of the Bankruptcy Code, including section 362(b)(4), "reflect a Congressional deference to states and a policy not to permit the bankruptcy laws to interfere too greatly with state regulatory or police power proceedings." *See, e.g.*, *In re Cousins Restaurants, Inc.*, 11 B.R. 521, 522 (Bankr. W.D.N.Y. 1981).

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court deny the Motion.

Dated: August 29, 2023
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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