



No. H-250150
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

Peterson Investment Group Inc.

Petitioner

AND:

1076255 B. C. Ltd., Lightstone Development Ltd.,
1082463 B. C. Ltd., 1218548 B. C. Ltd., Gold Coast Industries Ltd.,
Xiao Song Zheng, Xiao Li, Ying Zheng Yu, Blueshore Leasing Ltd.,
Gould Leasing Ltd., Li Jiang, Bei Chen, Qing Su, Jide Liu,
686912366 Investment Ltd., Lei Bun Leung, Xiao Lian Zhang,
Johnson Rui Leung, Jon Kit Leung, Karen Leung,
Shun Feng Investment Ltd., Liwei Sun and 12503343 B. C. Ltd.

Respondents

NOTICE OF APPLICATION

Names of applicants: Respondents, Liwei Sun and 1250334 B. C. Ltd. (the “**Applicant**”)

To: The Petitioner, FTI Consulting Canada Inc., and all Respondents except for Liwei Sun and 1250334 B. C. Ltd..

TAKE NOTICE that an application will be made by the Applicant to Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on **July 16, 2025 at 10:00 a. m.** for the orders set out in Part 1 below.

The applicants estimate that the application will take 1.5 to 3 hours.

☒ [X] This matter is within the jurisdiction of an associate judge.

☐ [] This matter is not within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. A declaration pursuant to s. 69.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, that sections 69-69.31 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, C. B-3, do not operate with respect to the plaintiffs such that the plaintiffs may continue this action in the Supreme Court of British Columbia, Vancouver, Registry file number S-250794 (the “**Action**”).

2. Such further and other relief as this court may deem just.

Part 2: FACTUAL BASIS

Overview

1. This is an application by Respondents, Liwei Sun and 1250334 B. C. Ltd. who are the plaintiffs in the Action under s. 69.4 of the *Bankruptcy and Insolvency Act*, R.S. C. 1985, c. B-3 (the “**BIA**”), to life a stay of proceedings consequence upon the court order of the Honorable Justice Fitzpatrick appointing a receiver and manager of the defendants assets pursuant to the petition filed by the creditor of the defendants, Peterson Investment Group Inc. (the “**Peterson**”) on February 18, 2025 under action H-250150 (the “**Petition**”).
2. On February 13, 2025, Justice Fitzpatrick made an order pursuant to Section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, C. B-3, as amended and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 C. 253 that FTI Consulting Canada Ltd. (the “**FTI**”) be appointed as receiver and manager of all the property and assets of the defendants, 255 and Lightstone effective as of February 24, 2025.
3. The application is advanced within the Petition.
4. The Action was commenced on January 31, 2025 by the Applicant who were presale purchasers of three units of the development project located in Vancouver, British Columbia.
5. In the Action, the plaintiffs allege that they are beneficials owners of the three units having purchased and fully paid for the properties from the defendants. Additionally, they allege that the defendants breached the terms of agreements/contracts they signed with the plaintiffs, the defendants’ actions amounted to fraudulent conveyance, and that they are unjustly enriched for failure to deliver the properties to the plaintiffs and kept the purchased funds from the plaintiffs.
6. The corporate defendants, 1076255 B.C. Ltd. (the “**255**”) and Lightstone Development Ltd. (the “**Lightstone**”) is the developer of a 4-story mixed-used development known as the” Chloe “consisting of 46 residential units, 11 commercial units and 2 levels of parking with civic address of 2096 West 47th Avenue, Vancouver, British Columbia, V6M 3V7 (the “**Project**”).
7. The three units in dispute are 309, 405 and 411. 255 is the registered owner of the Units 309, 405 and 411 of the Project (the “**Purchased Units**”) and is also the registered owner of 21 other units (the “**Unsold Properties**”) of the Project.
8. In May 2020, the plaintiff, 1250334 B.C. Ltd. (the “**334**” or the “**Purchaser**”) entered into a purchase agreement with the defendants, 1082463 B.C. Ltd. (the “**463**”), 255, and

Lightstone (collectively as the “**Vendors**”) in which 334 agreed to buy the Purchased Units from the Vendor and Xiao Song Zheng (the “**Zheng**”) and the corporate defendants were the guarantors under the agreement (the “**Purchase Agreement**”).

9. Under the Purchase Agreement, 334 paid \$3,000,000 Canadian as the total purchase price to the Vendor for the Purchased Units.
10. In October 2022, 255 and Lightstone borrowed \$18,500,000 from Peterson secured by a mortgage and assignment of rent registered against the Purchased Units and the Unsold Properties of the Project the (“**Peterson Loan**”). Subsequently, 255 and Lightstone defaulted under the Peterson Loan and Peterson filed the Petition to seek amongst other orders, an order that a receiver/manager be appointed over the defendant’s assets.
11. The Project received occupancy on or about November 2024 but the Vendor failed to deliver the Purchased Units to 334.
12. On February 4, 2025, the Petition was filed against 255 and Lightstone for defaulting under a mortgage and assignment of rents which were registered against the Purchased Units and the Unsold Properties of the Project. Various holders of charges registered against the Project were also added as respondents in the Petition including the plaintiffs in the Action.
13. Amongst the orders sought in the Petition is an order that a receiver and manager be appointed of the assets and other properties own by 255 and Lightstone which included the Purchased Units and the Unsold Units of the Project.
14. On March 26, 2025, the plaintiffs’ lawyer sought consent from FTI to lift the stay of the Action but as of the date of the drafting of this application there had been no response from FTI.
15. On May 1, 2025, the plaintiff, Sun received a copy of the filed disclosure statement of the Project for Unit 405/408 from the developer.
16. On May 1, 2025, the plaintiffs’ lawyer wrote another letter to FTI to enclose a copy of the signed disclosure statement of the Project signed by the plaintiff, Sun, to re-iterate the position that the plaintiffs are beneficial owners of the Purchased Units and to advise that the plaintiffs will be filing a notice of application to lift the stay shortly.

Procedural Background

17. The Action was filed on January 31, 2025. Given the Petition was filed on February 4, 2025, effectively staying the Action, the Action has not been served on the defendants.
18. On February 3, 2025, the plaintiffs registered a certificate of pending litigation at the Land Title Office against the Purchased Units and the Unsold Properties and a property own by the defendant, Zheng and Xiao Li with civic address, 6261 Adera Street (the “**CPL**”).

19. On February 5, 2025, Peterson registered a certificate of pending litigation at the Land Title Office against the Purchased Units.

20. As indicated, consent was sought from FTI to agree to lift the stay so that the Action can continue but no response was received from FTI.

The Action

21. In the Action, the plaintiffs allege the following:

- a. On May 27, 2020, the plaintiff, 334, and the defendants, 463, 255 and Lightstone entered into the Purchase Agreement where the defendants agreed to sell to 334 three units of the Project for a total purchase price of \$3,000,000. This agreement was entered into before the construction of the Project began. Zheng and the corporate defendants agreed to be the guarantors under the Purchase Agreement. If the defendants failed to deliver and or transfer Purchase Units to the plaintiff on or before June 30, 2020 then the defendants must refund the \$3,000,000 plus interest and late penalty (if applicable) to the plaintiffs. Additionally, if the defendants failed to transfer the Purchased Units to the plaintiff, the plaintiff has an option to cancel the Purchase Agreement and the defendants shall repay the \$3,000,000 plus annual interest and any applicable penalty to the plaintiffs.
- b. The plaintiff has the option to cancel the agreement by January 1, 2023.
- c. From May to July 2020, the plaintiff advanced to the defendants, the sum of \$3,000,000.00 pursuant to the Purchase Agreement.
- d. The Purchaser has not elected to cancel the Purchase Agreement and has not given notice to the Vendors to cancel the Purchase Agreement.
- e. On July 14, 2021 and August 10, 2021, pursuant to the Purchase Agreement, the parties signed purchase and agreement of purchase and sale for the plaintiffs to buy from the defendants the Purchased Units as follows:
 - the plaintiff, Sun as purchaser was to buy unit 405; and
 - the plaintiff, 334 as purchaser was to buy units 309 and 411.

Collectively the “Offer to Purchase”

- f. On or about July 2021, Zheng approached Sun for a personal loan of \$250,000 for the Project. Zheng told Sun that she was going to use the fund for the Project. Sun agreed.
- g. Pursuant to a loan agreement dated July 14, 2021, Sun lent to Zheng \$250,000.00 for a term of six months from July 15, 2021 to January 14, 2022 plus interest of 8% per annum to be paid monthly to Sun; and if the \$250,000 plus interest is not paid by January 14, 2022, Sun can charge Zheng 0.1% daily interest on the outstanding amount

(the “**Loan Agreement**”).

- h. On July 15, 2021, Sun transferred \$250,000 Canadian equivalent to 1,300,000 Renminbi to Zheng’s account under the Loan Agreement.
- i. Zheng defaulted under the Loan Agreement. Subsequently Zheng and Sun entered into seven supplemental loan agreement to extend the terms of the Loan Agreement (the “**Supplemental Agreements**”).
- j. June 5, 2024 was the last supplemental loan agreement between Zheng and Sun.
- k. Zeng defaulted under the Supplemental Agreements. Zheng paid a total of \$67,500 in interest pursuant to the Loan Agreement and the Supplemental Agreements..
- l. In April and May 2024, the Purchaser was provided with procedures and protocols for pre-occupancy walkthrough and confirmation of dates for the walkthroughs of the Purchased Units in April, May and June 2024.
- m. On or about November 2024, the Project began processing occupancy.
- n. On or about December 2024 the plaintiff, Sun received keys for Unit 405/408 from Zheng.
- o. On June 6, 2024, the plaintiffs received a list of walk-through home inspection deficiency from the developer for Unit 405/408.
- p. Without consent or knowledge of the Purchaser, on November 15, 2024, 255 allowed an option to purchase, a mortgage and an assignment of rents were registered against the title of Unit 405 and Unit 411.
- q. The plaintiffs allege that 334 is the beneficial owner of Unit 309 and Unit 411 and the plaintiff, Sun is the beneficial owner of Unit 405. The defendants used the funds from mortgaging Unit 405 and Unit 411 for preservation, maintenance or improvement of the Unsold Properties and the Zheng Property and such action constitutes fraudulent conveyance.
- r. The plaintiffs allege there is a constructive trust in favor of the plaintiffs over the Unsold Properties and the Zheng Property.
- s. The plaintiffs wants an order that Zheng pay back the \$250,000 together with agreed interest and late payment fees pursuant to the Loan Agreement and specific performance of the Offer to Purchase for Unit 309, Unit 405 and Unit 411 dated June 11, 2021 and damages..

The Petition

22. Peterson makes the following allegations in the Petition:

- a. In October 2022, Peterson lent 255 and Lightstone principal amount \$18,500,000 plus interest security by mortgage and assignment registered against the Purchased Units and the Unsold Properties on October 20, 2022. As of February 3, 2025, the balance owed to Peterson is \$19,237,061.45 and interest.
- b. 255 and Lightstone defaulted under the Peterson Loan.
- c. Peterson agreed to subordinate its charges on the Purchased Units and Unsold Properties to a first mortgage securing a loan in favor of National Bank of Canada (the “NBC”) and agree to subordinate its debt to the deposit insurer of the project, Westmount West Services Inc., as agent for Aviva Insurance Company of Canada, Intact Insurance Company and Liberty Mutual Insurance Company in accordance with the terms of the Westmount letter of commitment and Deposit Insurance contract.
- d. As of January 22, 2025, 255 and Lightstone is indebted to NBC was \$47,390,783.16 plus fees and interests of \$8,679.69 (the “NBC Mortgage”).
- e. The NBC Mortgage and the Peterson mortgage were registered against the Purchased Units on the same day which was on October 20, 2022.
- f. Peterson makes the following allegations against the 255 and Lightstone, they::
 - i. had placed or allowed registration of multiple mortgages and encumbrances on certain strata units without approval of Peterson, NBC and Westmount;
 - ii. entered into side deals with third party lenders unknown to Peterson, including agreements for sale at prices lower than fair market value for units that were already subject to presales;
 - iii. entered into side deals with several potential purchasers, allowing them to fully prepay for their units directly to the developer of the Project (Lightstone) without approval of Peterson, NBC and Westmount;
 - iv. certificate of pending litigation was registered by Shun Feng Investments Ltd. against two retail units at end of December due to another undisclosed and allegedly fully paid purchase and sale agreement
 - v. certificate of pending litigation was registered by Liwei Sun and 12503343 B.C. Ltd. against all of the residential units in connection with the sale of units that are also subject to the unauthorized mortgage charges;

- vi. these certificate of pending litigation represent a significant legal complication and potentially liability for 255 and Lightstone and are the symptomatic of the ongoing double-dealing and lack of transparency of 255 and Lightstone.
- g. The Project's general contractor, Urban One has filed a builders lien claim against the builder's lien holdback account currently held by 255 and Lightstone's legal counsel for unpaid invoices totally approximately \$680,000;
- h. Peterson claims while in discussion with 255 and Lightstone in respect of the defaults under the loan agreements since October 2024, is when they discovered for the first time the side deals 255 and Lightstone had with third party lenders.
- i. Peterson asked the court to appoint a receiver/manager on an urgent basis for the reasons as stated in paragraphs 30 and 31 of the Petition.
- j. Pursuant to Justice Fitzpatrick, FTI was appointed as receiver of the assets of the defendants effective February 24, 2025.
- k. As of the date of the Petition, only 22 out of 46 available residential units have closed.
- l. On April 3, 2025, Associated Judge Roberston made an order nisi declaring that the defendants is default of the Peterson Loan and fixed the redemption period as of October 3, 2025.

Part 3: LEGAL BASIS

The Jurisdiction of the Supreme Court

23. The Supreme Court of British Columbia has jurisdiction at both law and equity to exercise jurisdiction in bankruptcy and other proceedings authorized by the Act.

The Act ss. 183-187

24. Pursuant to section 69.1(1) on the filing of a bankruptcy proposal, no creditor may commence or continue an action, execution or other proceeding for recovery of a claim provable in bankruptcy.

25. The bankruptcy stay of proceedings serves two fundamental purposes. First, by preventing creditors from commencing or continuing their legal actions, it replaces the normal civil process with a summary method to avoid a multiplicity of actions and to reduce the costs of adjudication of the various claims.

382231 Ontario Ltd. v. Wilanour Resources Ltd., 43 CBR (N.S.) 153 at para. 6

26. Second, by preventing creditors from enforcing their claims, the single proceeding model

of the Act aims to collectivize creditors' remedies and to further the public interest in the expeditious, efficient and economical clean-up of the aftermath of a financial collapse.

Century Services Inc v. Canada (AG), 2010 SCC 60 at para 22;
Sam Levy & Associates Inc v Azco Mining Inc, [2001] 3 S.C.R. 978 at para. 27

27. A Superior Court has the power to make orders lifting an automatic stay pursuant to section 69.4 of the Act where it made practical sense to do so.

Carleton University v. Mercier, [2001] O.J. No. 84
at paras. 5-8 (the “*Carleton University*”);
Exponents Canada Inc. V. Sharma, 2014 ONSC 7097 at para. 68;
Blatherwick v. Blatherwick, 2014 ONSC 1433 at paras. 23-26

28. An application to lift the automatic stay so a civil case can proceed is typically brought in the bankruptcy proceeding, but it can also be brought in the civil proceeding in appropriate circumstances.

Carleton University at para. 8

The Legal and Legislative Framework

29. A creditor who is subject to an automatic stay pursuant to section 69.1 may apply to the Court for a declaration under section 69.4 that the stay no longer operates in respect of that person subject to such qualifications that the court considers proper.

Court may declare that stays, etc., cease

69.4 A creditor who is affected by the operation of sections 69 to 69.31 or any other person affected by the operation of section 69.31 may apply to the court for a declaration that those sections no longer operate in respect of that creditor or person, and the court may make such a declaration, subject to any qualifications that the court considers proper, if it is satisfied

- a. that the creditor or person is likely to be materially prejudiced by the continued operation of those sections; or
- b. that it is equitable on other grounds to make such a declaration.

30. On such an application, the court is concerned with the proper operations of the Act, and not the merits of the underlying case:

In considering an application for leave, the function of a bankruptcy court is not to inquire into the merits of the action sought to be commenced or continued. Instead, the role is one of ensuring that sound reasons, consistent with the scheme of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, exist for

relieving against the otherwise automatic stay of proceedings.

Re Franciso, (1995) 32 C.B.R. (3d) 29 at para. 1

31. Courts have determined it appropriate to lift the stay of proceedings where a civil action offers a superior means of determining issues of liability than the bankruptcy process or is advantageous for some other reason.
32. In determining whether to lift a stay of proceedings imposed by a receivership order, a court should consider the totality of the circumstances and the relative prejudice to both sides: [citations omitted]. While not strictly applicable, a court may take guidance from the jurisprudence addressing the lifting of stays under s. 69.4 of the BIA.

Romspen Investment Corporation v. Courtice Auto Wreckers Limited, 2017 ONCA 301

33. The circumstances in which the court will exercise its discretion under s. 69.4 of the Act to lift the stay, include the following (non-exhaustive list):
 - i. Actions against the bankrupt for a debt to which a discharge would not be a defence.
 - ii. Actions in respect of a contingent or unliquidated debt, the proof of which and valuation has that degree of complexity which makes the summary procedure prescribed by s. 95(2) of the *Bankruptcy Act* inappropriate.
 - iii. Actions in which the bankrupt is a necessary party for the complete adjudication of the matters at issue involving other parties.
 - iv. Actions brought to establish judgment against the bankrupt to enable the plaintiff to recover under a contract of insurance or indemnity or under compensatory legislation.
 - v. Actions in Ontario which, at the date of bankruptcy, have progressed to a point where logic dictates that the action be permitted to continue to judgment.

Panorama Parkview Homes Ltd. (Re), 2017 BCSC 2071 (“*Panorama*”) at para. 10, citing with approval,
Re Advocate Mines Limited (1984), 52 C.B.R. (N.S.) 277 (Ont S.C.) (“*Advocate Mines*”) at p. 278)

34. The existence of one or more of the factors listed in *Re Advocate Mines* will be an important consideration but is not determinative.

Maple Homes Canada Ltd., Re, 2000 BCSC 1443 at para. 33

35. Before granting in order to lift a stay, the court may need only be satisfied on any one of or more of these grounds. It is not necessary that they will all need to be satisfied.

36. To justify the lifting of the stay, the plaintiff must provide some evidence to support the conclusion that there is a fair issue to be tried. This is not a high onus and falls short of proof on a balance of probabilities: *Burke v. Red Barn at Mattick's Ltd.*, 2019 BCSC 69 at para. 14.

37. Further, at paragraph 33 of *Maple Homes*, Justice Smith held as follows:

[33] The principles that emerge from the jurisprudence may be summarized:

1) The general scheme of bankruptcy proceedings is that civil actions are stayed against the insolvent person; exemptions are to be made only where there are "compelling reasons". This flows from one of the major purposes of the *Bankruptcy and Insolvency Act*, which is to permit the rehabilitation of the bankrupt unfettered by past debts.

(2) An applicant for exemption from the stay must show that there will be material prejudice to the applicant if the stay is continued or that it is equitable on other grounds to allow the exemption.

(3) The existence of one or more of the factors listed in *Re Advocate Mines* will be an important consideration but is not determinative.

(4) The court is not to attempt to determine the proposed claim on its merits.

(5) Rather, it must assess whether it is a claim of the nature that would survive discharge, whether it is a claim that could not succeed, and whether if it did succeed it could not result in recovery against the defendants.

The Stay Should be Lifted

38. There are compelling reasons for lifting the stay; the plaintiffs are likely to be materially prejudiced by the continued operation of the stay and it is otherwise equitable to make the declaration, including that this case falls within the second and third factors of *Advocate Mines*.

The issues are not suitable for determination pursuant to the summary proceeding under the Act

39. The second factor identify in *Re Advocate Mines* is whether the action is in respect of a contingent or unliquidated debt such that the summary procedure prescribed by the *Act* is not appropriate. Stay maybe lifted where the action involves issues of a complex nature that cannot be disposed of in any summary way.

40. The following are examples of factors the Court has found which make the Act's summary procedure inappropriate and a full hearing was required:

- a. Where the damages are for a contingent or unliquidated amount;
- b. Where the nature or complexity of the claims will make it difficult or impossible for the trustee to value; and
- c. Where the claims will engage issues of credibility and reliability and require detailed findings of fact.

Advocate Mines Ltd., Re, at para. 2;
Taylor Ventures Ltd. (Re), 2002 BCSC 82 at para. 4;
Great North Data Ltd. (Re), 2020 NLSC 105 at para. 28-29

41. Each of these factors is present in this case.

42. There are two important overarching issues that must be determined in the Action;

- a. The first question that must be determined is whether the defendants breached its contractual obligations to the plaintiffs in the Purchase Agreement and the subsequent Offer to Purchase.
- b. If the defendants did commit a breach of contract, what are the damages? The plaintiffs seek specific performance of the contracts but the court would need to determine whether to grant specific performances or damages. In either option, proof and valuation of the plaintiff's claim has a degree of complexity in Action. Damages assessment will involve not just determining the appropriate damages but also the determining the appropriate date to value the damages, not to mention any issues of mitigation. The plaintiff's claim also requires the court to make a factual and legal finding regarding the honest performance of contractual obligations of the parties.

43. The determination of these issues will require the court to weigh all of the competing evidence, including oral testimony adduced at trial. A crucial question for the assessment of damages for breach of contract will be the date that is to be used for the assessment. The determination of this date will require careful consideration of all of the relevant facts and an exercise of discretion by the Court. Thus, the proof and valuation of the claim do have a degree of complexity so it is not a matter that is suitable for summary determination under the Act.

44. Given the plaintiff's claim is rooted in contracts/agreements signed by the defendants and the defendants continued default under the contracts/agreements, likely the parties will take competing positions at trial and there will be conflicting evidence adduced at trial which will require the trial judge to make findings of credibility and reliability.

45. Similarly, the resolution of the plaintiff's claims against the defendants will require a careful consideration of the veracity of the explanation tendered by the defendants and or

their witnesses as to why the defendants did not uphold their end of the bargain under the Purchase Agreement and Offer to Purchase they signed and why they continue to mislead the plaintiff that they were going to transfer the Purchased Units but in reality they did not have the capacity to do so. As well a significant consideration is the defendants conduct in not disclosing the Peterson and the National Bank mortgages to the plaintiffs.

Cassidy v. Smith, 2008 BCSC 1778, at paras.

463, 255, Lightstone are necessary party to the Action

46. The third *Advocate Mines* factor also favors lifting the stay, because the bankrupt is necessary party for the complete adjudication of the Action which involves another, non-bankrupt party.

Liang v. French, 2004 BCSC 851 at para. 22 (the “*Liang*”)

47. 463, 255 and Lightstone is 3 of 4 defendants in the Action. The claim against Zheng is for breach of contract, unjust enrichment and fraudulent conveyance which are closely intertwined on the facts with the claims against the corporate defendants, and to some extent require a finding that the corporate defendants breached its contract with the plaintiffs. It would be costly and inefficient to have the claims against these defendants determined in different proceedings.

First Choice Capital Fund Ltd. v First Canadian Corp. [1999] S.J. No. 153 at para. 9;
Liang at para. 22

48. The plaintiffs will be materially prejudice if they are not granted leave to continue the Action against the corporate defendants as the facts are so inextricably intertwined.
49. The trial judge will necessarily have to make findings of facts in relation to the breaches of contract alleged by the plaintiffs in order to making finding as to liability of the individual defendants. This creates the risk of inconsistent findings and provides an additional equitable basis to lift the stay.

Ma (Re), [2000] O.J. no. 2954 at para. 42

Other Issues

50. In addition to the plaintiff's submissions regarding the categories in Advocate mines, there are further issues of substance the plaintiffs would like to raise in this application as follows:
- a. Pursuant to the Purchase Agreement and the Offer to Purchase and the Loan Agreement, the plaintiffs take the position they are beneficial owners of the Purchased Units. The plaintiff's position should be prioritized over the Peterson's Loan as they have entered into valid and enforceable agreements with the defendants and fully paid for the units long BEFORE the Peterson Loan and the

NBC Mortgage even existed between the defendants and Peterson and NBC.

- b. The plaintiffs are innocent parties under the circumstances. They have been deceived by the defendants and to deny an order to grant a lift of the stay of the proceedings is to deprive the plaintiffs of an opportunity to have their claims adjudicated fairly and completely, which is wrong in law and equity.
- c. It is the plaintiff's understanding that Zheng and or her related companies may be involved in other construction building projects in British Columbia and own other assets including properties in China and thus making recovery of the plaintiff's claims in the Action a possibility should the plaintiffs' claims succeed in the Action.


Part 4: MATERIAL TO BE RELIED ON

- 1. Affidavit #1 Liwei Sun of May 8, 2025.
- 2. The pleadings herein.
- 3. Any further materials counsel may advise and this Honourable Court permits.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date: June 6, 2025


Signature of Nicole Tam,
agent for David Chen, lawyer
for the Applicant

To be completed by the court only:

Order made

- ☐ in the terms requested in paragraphs of Part 1 of this notice of application
- ☐ with the following variations and additional terms:

.....

.....

.....

Date:[*date*].....

.....
Signature of ☐ Judge ☐ Associate Judge

Appendix

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

[Check the box(es) below for the application type(s) included in this application.]

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above