



No. S-224444
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C., 1985 c. C-36, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF CANADIAN
DEHUA INTERNATIONAL MINES GROUP INC.

PETITIONER

APPLICATION RESPONSE

FORM 33 (RULE 8-1(10))

Application response of Canada Zhonghe Investment Ltd., (the "application respondent")

THIS IS A RESPONSE TO the notice of application of the petitioner filed April 8, 2025.

The application respondent estimates that the application will take two days.

PART 1: ORDERS CONSENTED TO

The application respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application on the following terms: NONE.

PART 2: ORDERS OPPOSED

The application respondent opposes the granting of the orders set out in paragraphs ALL of Part 1 of the notice of application.

PART 3: ORDERS ON WHICH NO POSITION IS TAKEN

The application respondent takes no position on the granting of the orders set out in paragraphs NONE of Part 1 of the notice of application.

PART 4: FACTUAL BASIS

Canada Zhonghe Investment Ltd. Judgment and Proof of Claim

1. The application respondent, Canada Zhonghe Investment Ltd. (“Canada Zhonghe”), is a judgment creditor of the petitioner, Canadian Dehua International Mines Group Inc. (“CDI”).
2. On or about August 30, 2021, default judgment was obtained by Canada Zhonghe against CDI in SCBC Action No. S214547 in the amount of \$4,781,310.20 plus interest in the amount of \$495,946.31 (totalling \$5,277,256.51) and costs to be assessed (the “Canada Zhonghe Judgment”).
3. The Canada Zhonghe Judgment arises out of a written promissory note signed by Naishun Liu on behalf of CDI in favour of Canada Zhonghe (the “Promissory Note”).
4. CDI has never sought to set aside the Canada Zhonghe Judgment.
5. Pursuant to the Claims Process Order, on or about August 10, 2022, Canada Zhonghe submitted a Proof of Claim to the Monitor which was Proof of Claim was amended on May 4, 2023. The Monitor has not sent Canada Zhonghe a Notice of Revision or Disallowance and the Canada Zhonghe’s Proof of Claim is therefore proven (para. 25 of the Claims Process Order).

CCAA Overview, Including Protracted and Unsuccessful Sale Process

6. The Twenty Sixth Report of the Monitor, filed April 10, 2025, sets out the history of this CCAA proceeding starting with the Initial Order which was pronounced almost three years ago on June 3, 2022 and the Amended and Restated Initial Order pronounced on June 9, 2022.
7. The Amended and Restated Initial Order was granted in the face of a bankruptcy application filed by the creditor, China Shougang International Trade & Engineering Corporation (“Shougang”).

8. Almost three years ago – on or about August 18, 2022 – CDI obtained an order approving a sale and investment solicitation process for Wapiti Coking Coal Mines Corporation (“Wapiti”) which was modified on November 30, 2022 to include Canadian Bullmoose Mines (“Bullmoose”) and CDI’s interest in HD Mining International Ltd. (“HD Mining”). CDI holds a 40% interest in HD Mining through its partial ownership interest in Canadian Dehua Lvliang Corp. (“CDLV”). CDI’s interest in HD Mining relates to the Murray River Project.
9. On or about November 10, 2022, CDI entered into a non-binding letter of intent wherein the purchaser would acquire 60% of CDI’s shares in Wapiti for \$75M USD.¹
10. The non-binding letter of intent for CDI’s shares in Wapiti never transpired. Over one year later, the purchaser “shifted its focus to the Murray River Project” (“although still intent on completing the acquisition of the Wapiti shares”) and signed a non-binding letter of intent, dated October 30, 2023, wherein the purchaser would acquire half of CDLV’s shares in HD Mining for \$100M USD which would result in an estimated after-tax sale proceeds to CDI of \$35M.²
11. On November 25, 2023, CDI and the purchaser entered into a deposit agreement for \$1M USD payable within 5 business days. The deposit was not paid.³
12. Subsequently, there was interest from a different purchaser acquiring all of the shares in HD Mining which would result in approximately \$112M USD sale proceeds to CDI (pre-tax). An Equity Transfer Framework Agreement (the “Framework Agreement”) was prepared which provided for a 40M RMB deposit being paid within 6 days of signing the agreement.⁴

¹ Fourth Report of the Monitor at paras. 26-33.

² Eighth Report of the Monitor at paras. 24-26.

³ Ninth Report of the Monitor at paras. 32-34.

⁴ Tenth Report of the Monitor at paras. 17-23.

13. The Framework Agreement was signed on February 28, 2024, yet, by May 6, 2024 no deposit was paid. The stay had been extended to April 26, 2024 on the basis that CDI would be able to confirm the receipt of the deposit.⁵
14. None of the foregoing transactions ever completed or even advanced to payment of a deposit.
15. Subsequently, on or about July 4, 2024, the Monitor received an offer to purchase CDI's interest in Wapiti and Bullmoose for \$400,000 CDN from Tane Mahuta Capital.⁶
16. On September 6, 2024, the Monitor received a purchase agreement from Qu Bo Liu (a 50% shareholder of CDI and the wife of the sole officer and director of CDI) to purchase CDI's interest in Wapiti and Bullmoose for \$1,650,000 CDN. The Monitor viewed the purchase agreement from Qu Bo Liu as the best available offer and supported the short extension of the stay so that CDI could add Wapiti and Bullmoose to the CCAA proceeding.⁷
17. Prior to court approval of the Qu Bo Liu purchase agreement, Tane Mahuta Capital submitted a purchase agreement for \$2M CDN which resulted in a multi-day hearing on October 17-18, 21-22, 2024 and January 13, 14 and 20, 2025. Although the \$2M offer from Tane Mahuta Capital would have resulted in a greater recovery to the estate, and had the support of the creditors (Canada Zhonghe and Shougang), CDI did not support the approval of the higher offer.
18. The protracted hearing ultimately resulted in a settlement whereby West Moberly First Nation purchased CDI's interest in Wapiti and Bullmoose for \$2.45M CDN.⁸
19. To date, there has been no accounting of the distribution of the sale proceeds to the DIP lender, the Monitor/its counsel and CDI/its counsel. If the proposed sale process is permitted to proceed, there will be no meaningful recovery of funds to the estate from the sale because any funds paid to the estate will be depleted by the proposed sale process.

⁵ Twelfth Report of the Monitor at paras. 35-38.

⁶ Fourteenth Report of the Monitor at para. 9.

⁷ Seventeenth Report of the Monitor at para. 30.

⁸ Twenty Fourth Report of the Monitor at paras. 38-42.

20. On February 18, 2025, CDI obtained the most recent extension of the stay to April 30, 2025. Additionally, the court ordered, *inter alia*:
- a) that a two day hearing shall be scheduled prior to the expiry of the stay of proceedings to address the CCAA proceeding generally and the Shougang bankruptcy application; and
 - b) if CDI wished to seek further relief in the CCAA proceeding it file and serve its materials at least eight business days in advance of the hearing.
21. On April 8, 2025, CDI served its notice of application seeking:
- a) an extension of the stay to August 31, 2025;
 - b) approval of a sales and investment solicitation process for the remaining property, assets and undertakings of CDI (with the exception of CDI's interest in Canadian Kailuan Dehua Mines Co., Ltd.); and
 - c) approval of a stalking horse asset purchase agreement ("SHAPA") between CDI and Qu Bo Liu.
22. Despite the court order ordering CDI to file and serve its materials eight business days in advance of the hearing, and despite requests from counsel for Canada Zhonghe and counsel for Shougang, CDI has not provided the proposed SISP or SHAPA.
23. Canada Zhonghe shares the Monitor's concerns that CDI and Qu Bo Liu, without a valid reasonable explanation, were not able to negotiate and serve the SISP and the SHAPA within the current stay extension.⁹

PART 5: LEGAL BASIS

24. Before the court are the competing applications to (1) continue the CCAA proceeding or (2) assign CDI into bankruptcy.

⁹ Twenty Sixth Monitor's Report at para. 50.

25. The factors that the court commonly considers in weighing competing *BIA* and *CCAA* applications are as follows:
- a) The relationship between debtor and creditors;
 - b) Value maximization and cost minimization;
 - c) The availability of new financing;
 - d) The effects on stakeholders;
 - e) The behaviour of the parties; and
 - f) The need for the *CCAA*'s greater discretionary relief.

Emma Newbery, Liam Byrne and Valerie Cross, "Should I *CCAA* Stay or Should I *BIA* Go: A Review and Analysis of Judicial Treatment of Competing *CCAA* and *BIA* Applications" (2023) Annual Review of Insolvency Law

26. While most competing *BIA* and *CCAA* applications concern a receivership, in the present case, there are no secured lenders. Accordingly, a bankruptcy order is the appropriate relief sought and is supported by Canada Zhonghe.

Relationship between the debtor and creditors

27. A reasonable loss of faith in the debtor by creditors is a factor against continuing a *CCAA* proceeding.

Alberta Treasury Branches v. Tallgrass Energy Corp., 2013 ABQB 432 at paras. 16-18 and 21

28. Canada Zhonghe has a loss of faith and confidence in CDI, which is reasonable in light of the following:
- a) CDI has had almost three years to liquidate all of its assets. Yet, CDI has chosen to conduct a sales process in a piece meal fashion and chose not to market all of its assets;
 - b) the ultimate sale price for Wapiti and Bullmoose was \$2.45M CDN which demonstrates that the negotiations between CDI and the potential purchasers for tens of millions of

- dollars was not realistic (which is further supported by the fact that no deposits were paid);
- c) despite the foregoing, CDI obtained numerous stay extensions apparently in the hopes that the negotiations with potential purchasers would complete;
 - d) CDI seeks a new sale and investment solicitation process in respect of its interest in the Murray River Project. Notably, this was included in the modified SISP obtained on November 30, 2022. CDI has had over 2.5 years to market this asset and did not achieve a sale;
 - e) in the face of competing bids by Qu Bo Liu and Tane Mahuta Capital for Wapiti and Bullmoose, CDI refused to support the higher Tane Mahuta Capital bid that was supported by the creditors. This resulted in a costly seven day court hearing, substantially increasing professional fees and reducing the amount of sale proceeds available to the estate; and
 - f) in breach of the court order made on February 18, 2025, CDI failed to serve the proposed SISP and SHAPA at least 8 business days before the present hearing. CDI has ignored inquiries by Canada Zhonghe and Shougang regarding the missing materials.

Value maximization and cost minimization

29. Maximization of creditor recovery is a central objective in insolvency proceedings.

9354-9186 Québec Inc v. Callidus Capital Corp, 2020 SCC 10 at para. 42

30. The court has concluded that a CCAA proceeding was inappropriate where:

- a) it would not enhance the value of the assets and increase the potential for creditor returns;

Shire International Real Estate Investments Ltd., Re, 2010 ABQB 84 at paras. 8-9

- b) it is unfair to burden the creditors with the professional fees in a CCAA proceeding.

Dondeb Inc., Re, 2012 ONSC 6087 at paras. 28-31

Octagon Properties Group Ltd., Re at paras. 7 and 17

Affinity Credit Union 2013 v. Vortex Drilling Ltd., 2017 SKQB 228 at para. 27(k) and 40
 (“Affinity”)

31. This CCAA proceeding was started almost three years ago. The sale process conducted by CDI demonstrates that this proceeding does not have the effect of enhancing the value of the assets. Instead, the sale process conducted by CDI significantly increased professional fees which reduced any benefit to the creditors from the sale proceeds from Wapiti and Bullmoose.
32. A bankruptcy trustee is in at least as good of a position as CDI (or the Monitor) to sell CDI’s assets. A bankruptcy would ultimately result in a greater recovery to the creditors because a bankruptcy will not incur the same level of professional fees as continuing this CCAA proceeding and be more expedient.

Availability of New Financing

33. CDI has not indicated that it is seeking new financing to restructure or avoid a liquidation. This weighs against continuing the CCAA proceeding.

Affinity at para. 37

Effects on Stakeholders

34. Stakeholders considered by the court include the debtor company’s employees, customers and unsecured creditors.
35. CDI is not an active business. This is a liquidating CCAA proceeding. CDI does not have arms-length employees or customers to support the continuance of the CCAA proceeding. The unsecured creditors that have been active in the CCAA proceeding – Shougang and Canada Zhonghe – oppose continuing the CCAA proceeding and support a bankruptcy order.

Behaviour of the Parties

36. Section 11.02(c) of the *CCAA* requires CDI to demonstrate it is acting in good faith and with due diligence before a court may grant a stay.
37. Where a debtor's efforts do not result in value to the estate, the debtor's due diligence will be questioned. A debtor's breach of a court order is evidence of bad faith and is inexcusable.

SLMSoft Inc., RE, 2003 CarswellOnt 4402, [2003] O.J. No. 4685 at paras. 3-4

38. Factors demonstrating that CDI is not acting in good faith and/or with due diligence include, *inter alia*:
- a) its failed efforts to complete a sale process that has not resulted in any meaningful recovery to the estate in almost three years;
 - b) the piecemeal manner in which the sales process has been conducted;
 - c) in the face of competing bids by Qu Bo Liu and Tane Mahuta Capital, CDI's refusal to support Tane Mahuta Capital's higher bid, which was supported by the creditors. This resulted in a costly seven day court hearing, substantially increasing professional fees and reducing the amount of sale proceeds available to the estate; and
 - d) breaching the court order made on February 18, 2025 by failing to serve the proposed SISP and SHAPA at least 8 business days before the present hearing and ignoring inquiries by Canada Zhonghe and Shougang regarding the missing materials.

No Need for CCAA's Greater Discretionary Relief

39. This is a liquidating *CCAA* proceeding. CDI does not need any specific relief that is only afforded under the *CCAA*.

PART 6: MATERIAL TO BE RELIED ON

1. Materials listed in "Part 6: Material to be Relied on" in the application response of Shougang, filed April 16, 2025;
 2. Affidavit #1 of Failang Wang, made June 8, 2022; and
 3. Affidavit #1 of Channie Yoon, made April 17, 2025.
- The application respondent has filed in this proceeding a document that contains the application respondent's address for service.

Date: April 17, 2025



HARPER GREY LLP
(Per Erin Hatch)
Lawyer for the Respondent, Canada
Zhonghe Investment Ltd.

Name and address of lawyer:
HARPER GREY LLP
Barristers & Solicitors
3200 – 650 West Georgia Street
Vancouver, BC V6B 4P7
Telephone: 604 687 0411
Email: ehatch@harpergrey.com
Attn: Erin Hatch/cy/150551