

District of British Columbia
Division No. 03-Vancouver
Vancouver Registry
Court No. B-220142
Estate No. 11-254383

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE BANKRUPTCY OF CANADIAN DEHUA
INTERNATIONAL MINES GROUP INC.

RESPONSE TO APPLICATION FOR BANKRUPTCY ORDER

Filed by: Canada Zhonghe Investment Ltd. (“Canada Zhonghe”)

THIS IS A RESPONSE TO the Application for Bankruptcy Order filed April 6, 2022.

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

PART 1: ORDERS CONSENTED TO

The application respondent consents to the granting of an order that Canadian Dehua International Mines Group Inc. (“CDI”) be adjudged bankrupt and that a bankruptcy order be made in respect of the property of CDI.

PART 2: ORDERS OPPOSED

The application respondent opposes the granting of the orders set out in paragraphs NONE 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 N/A of Part 1 of the notice of application.

PART 4: FACTUAL BASIS

Canada Zhonghe Investment Ltd. Judgment

1. The application respondent, Canada Zhonghe Investment Ltd. (“Canada Zhonghe”), is a judgment creditor of the debtor, 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.

CCAA Overview, Including Protracted and Unsuccessful Sale Process

5. The Twenty Sixth Report of the Monitor, filed April 10, 2025, in SCBC Vancouver Registry No. S-224444 (the “CCAA Proceeding”), sets out the history of the 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.
6. The Amended and Restated Initial Order was granted in the face of the subject bankruptcy application filed on April 6, 2022, by the creditor, China Shougang International Trade & Engineering Corporation (“Shougang”).
7. 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.

8. After almost three years, the only assets that have been sold in the CCAA Proceeding are CDI's interest in Wapiti and Bullmoose, for \$2.45M CDN. The amount remaining from the net sale proceeds has not been disclosed, but it is apparent that the vast majority of the sale proceeds were used to repay the DIP lender (Qu Bo Liu), and to pay the Administrative Charge, and professional fees.

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

Acts of Bankruptcy

9. CDI has committed the following acts of bankruptcy under section 42(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the "*BIA*"), within six months preceding the date of the filing of the subject application:
 - (a) CDI permitted execution against it by way of writ of seizure and sale dated September 21, 2021, under which CDI's shares in Canadian Kailuan Dehua Mines Co., Ltd. (the "CKD Shares") were seized in execution on or about October 25, 2021, which have remained unsatisfied since the date of seizure; and
 - (b) Under s. 42(1)(j) of the *BIA*, CDI ceased to meet its liabilities generally as they became due, including, without limitation, by failing to pay:
 - (i) The Canada Zhonghe Judgment; and
 - (ii) A judgment in favour of the applicant, Shougang, in the amount of \$20,821,091.49, plus post-judgment interest and costs, granted by the Supreme Court of British Columbia on January 19, 2021 (the "Shougang Judgment").
10. Furthermore, by initiating the CCAA Proceeding, CDI has admitted that it is insolvent.

Canada Zhonghe Judgment is Enforceable

11. As set out above, Canada Zhonghe obtained judgment against CDI on August 30, 2021. CDI has never sought to set aside the Canada Zhonghe Judgment.

12. To the extent that CDI and Qu Bo Liu are now contending that CDI disputes the Canada Zhonghe Judgment, that is irrelevant. CDI has never sought to set aside the Canada Zhonghe Judgment. Furthermore, Canada Zhonghe previously directly responded to the allegations raised by Naishun Liu (regarding the Canada Zhonghe Judgment) in the context of the CCAA Proceeding.

Seizure of CKD Shares

13. On September 10, 2021, Zhonghe obtained a Writ of Seizure and Sale. Accurate Court Bailiff Services Ltd. (“Accurate Bailiff”) was appointed as the bailiff. Accurate Bailiff had conduct of the seizure and marketing of the CKD Shares. A public auction for the CKD Shares was held on November 26, 2021.
14. None of Canada Zhonghe’s representatives attended the auction. Furthermore, Canada Zhonghe is not affiliated with the highest bidder, Witcool Technology Co. Ltd. and did not learn of Witcool Technology Co. Ltd. until after the auction.
15. On January 12, 2022, at Accurate Bailiff’s request, counsel for Canada Zhonghe filed an application to approve the sale of the CKD Shares.
16. Subsequently, CDI retained legal counsel. At the request of CDI’s counsel, counsel for Canada Zhonghe agreed to adjourn the court application.
17. CDI’s counsel was notified that Accurate Bailiff retained independent legal counsel, namely Lawson Lundell LLP. On April 19, 2022, counsel for Accurate Bailiff emailed counsel for CDI and counsel for Zhonghe, that it intended to conduct a sale solicitation process for the CKD Shares and would seek court approval of the proposed process before commencing it.

Ernst & Young Inc. has Consent to Act as Licensed Insolvency Trustee

18. Ernst & Young has consented to act as Licensed Insolvency Trustee and there is no evidence that Ernst & Young is concerned about funding arrangements. Furthermore, Qu

Bo Liu's stated reason as to why she is not willing to provide funding for the licensed insolvency trustee is not rational.

Portions of the Nathan Liu's Affidavit and Bo Qiu Lu's Affidavit Ought to be Struck

19. The following portions of the Affidavit #1 of Nathan Liu ought to be struck:
 - (a) The first sentence of paragraph 19 (inadmissible opinion evidence);
 - (b) The opening words of paragraph 28: "Despite knowing the value of the CKD Shares" (inadmissible speculation);
 - (c) The closing words of paragraph 34: "...but neither of those claims have been proven in those proceedings" (inadmissible legal conclusion);
 - (d) The first sentence of paragraph 36 (inadmissible speculation);
 - (e) The first sentence of paragraph 37 (inadmissible speculation);
 - (f) Paragraph 39 (inadmissible speculation).
20. The following portions of the Affidavit #1 of Qu Bo Liu ought to be struck:
 - (a) The last part of paragraph 27, starting with the words "despite the fact that" until the end of the paragraph (inadmissible legal conclusion).

PART 5: LEGAL BASIS

Bankruptcy Application

1. Under s. 43 of the *BIA*, one or more creditors may file in court an application for a bankruptcy order against a debtor if it is alleged in the application that:
 - (a) The debt or debts owing to the applicant creditor or creditors amount to one thousand dollars; and

- (b) The debtor has committed an act of bankruptcy within the six months preceding the filing of the application.

BIA, section 43

- 2. Section 42 of the *BIA* sets out the “acts of bankruptcy”.

BIA, section 42

- 3. CDI has committed the following acts of bankruptcy under section 42(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “*BIA*”), within six months preceding the date of the filing of the subject application:

- (a) CDI permitted execution against it by way of writ of seizure and sale dated September 21, 2021, under which CDI’s shares in Canadian Kailuan Dehua Mines Co., Ltd. (the “CKD Shares”) were seized in execution on or about October 25, 2021, which have remained unsatisfied since the date of seizure; and

- (b) Under s. 42(1)(j) of the *BIA*, CDI ceased to meet its liabilities generally as they became due, including, without limitation, by failing to pay:

- (i) The Canada Zhonghe Judgement; and

- (ii) The Shougang Judgement.

- 4. The Canada Zhonghe Judgment and the Shougang Judgement are valid judgments.

- 5. Furthermore, by initiating the CCAA Proceeding on May 31, 2022, CDI has admitted that it was insolvent (and/or had committed an act of bankruptcy within the meaning of the *BIA*). Furthermore, in initiating the CCAA Proceeding, CDI expressly acknowledged that without the stay of proceedings and other relief provided by the *CCAA*, CDI “will likely be forced into bankruptcy by the Bankruptcy Action”.

Companies’ Creditors Arrangement Act, s. 2(1), definition of “debtor company”

Stay of Proceedings in Bankruptcy Application Not Appropriate

6. Qu Bo Liu contends that there ought to be a stay of proceedings under section 43(10) of the *BIA* on the basis that there are disputed facts. The Canada Zhonghe Judgment and the Shougang Judgment are valid judgments of this Honourable Court. CDI does not dispute that the Canada Zhonghe Judgment and the Shougang Judgment have been granted by this Honourable Court. Even if CDI is now purporting to deny any of the underlying facts, given that Shougang Judgment and the Canada Zhonghe Judgment have been granted by this Honourable Court, CDI's denial of the underlying facts does not amount to the type of denial that could justify a stay of proceedings under section 43(10) of the *BIA*. For example, if Canada Zhonghe and Shougang had not obtained judgments of this Court, CDI's denial of the underlying facts might lead to a stay of proceedings to permit a trial of the issue relating to the disputed facts. Here, however, both matters are functus officio. Neither judgment was appealed.

BIA, section 43(10)

Bankruptcy Process is Highly Regulated

7. Qu Bo Liu also contends that there ought to be a stay of proceedings under section 43(11) of the *BIA*. There is no basis for a stay of proceedings under section 43(11) of the *BIA*.

BIA, section 43(11)

8. The bankruptcy process is highly regulated. Any concerns that CDI or Qu Bo Liu may have about decisions or actions of the Licensed Insolvency Trustee, the decisions or actions of any inspectors, any alleged conflict of interest on the part of Zhonghe and/or Shougang, and the validity and/or valuation of the CKD Security Interest can be addressed through the *BIA*. For example:

- (a) Under section 37 of the *BIA*, where the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he may apply to the court, and the court may confirm, reverse or modify the act or decision complained of and make such order in the premises as it thinks just;

BIA, section 37

- (b) Under section 38 of the *BIA*, where a creditor requests the trustee to take any proceeding that in his opinion would be for the benefit of the estate of a bankrupt and the trustee refuses or neglects to take the proceeding, the creditor may obtain from the court an order authorizing him to take the proceeding in his own name and at his own expense and risk, on notice being given the other creditors of the contemplated proceeding, and on such other terms and conditions as the court may direct;

BIA, section 38

- (c) Under section 119(2) of the *BIA*, the decisions and actions of the inspectors are subject to review by the court at the instance of the trustee or any interested person and the court may revoke or vary any act or decision of the inspectors and it may give such directions, permission or authority as it deems proper in substitution thereof or may refer any matter back to the inspectors for reconsideration.

BIA, section 119(2)

- (d) Under section 135(5) of the *BIA*, the court may expunge or reduce a proof of claim or proof of security on the application of a creditor or of the debtor if the trustee declines to interfere in the matter.

BIA, section 135(5)

9. Furthermore, if the Licensed Insolvency Trustee requires directions, the trustee may apply to the court for directions in relation to any matter affecting the administration of the estate of a bankrupt and the court shall give in writing such directions, if any, as to it appear proper in the circumstances.

BIA, section 34(1)

10. The *CCAA* Proceeding has been ongoing for over three years, with little progress. In a bankruptcy, on the other hand, under section 34(2) of the *BIA*, where an estate has not been fully administered within three years after the bankruptcy, the trustee shall, if requested to do so by the Superintendent, report that fact to the court as soon as practicable thereafter, and the court shall make such order as it considers fit to expedite the administration.

BIA, section 34(2)

PART 6: MATERIAL TO BE RELIED ON

1. Pleadings and affidavits filed herein;
2. The following documents filed in SCBC Vancouver Registry No. S-224444 (the “CCAA Proceeding”):
 - (a) Initial Order, granted June 3, 2022;
 - (b) ARIO, granted June 9, 2022;
 - (c) Initial SISP Order, granted August 18, 2022;
 - (d) Modified SISP Order, granted November 30, 2022;
 - (e) Claims Process Order, granted June 28, 2022;
 - (f) Seventh ARIO, granted October 9, 2024;
 - (g) Order made after Application, granted February 18, 2025;
 - (h) Affidavit #1 of Yang Yang, made June 8, 2022;
 - (i) Affidavit #1 of Naishun Liu, made May 31, 2022;
 - (j) Affidavit #1 of Xiao Lu, made October 15, 2024;
 - (k) Affidavit #5 of Naishun Liu, made April 8, 2025;
 - (l) Affidavit #1 of Failang Wang, made June 8, 2022;
 - (m) Affidavit #1 of Kaye Wong, made June 8, 2022;
 - (n) Affidavit #1 of Channie Yoon, made April 17, 2025;
 - (o) Affidavit #1 of Ashley Kumar, made April 17, 2025;
 - (p) Affidavit #2 of Channie Yoon, made June 2, 2025;
 - (q) First Report of the Monitor, dated June 8, 2022;

- (r) Third Report of the Monitor, dated August 16, 2022;
- (s) Seventh Report of the Monitor, dated September 7, 2023;
- (t) Twentieth Report of the Monitor, dated November 18, 2024;
- (u) Supplement to the Twentieth Report of the Monitor, dated December 1, 2024;
- (v) Twenty Fifth Report of the Monitor, dated February 17, 2025;
- (w) Twenty Sixth Report of the Monitor, dated April 10, 2025;
- (x) Supplement to Twenty Sixth Report of Monitor, dated April 21, 2025; and
- (y) Order made after Application, granted April 28, 2025.

3. Such further and other material as counsel may advise.

Date: June 2, 2025



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(Per Erin Hatch and Roselle Wu)
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