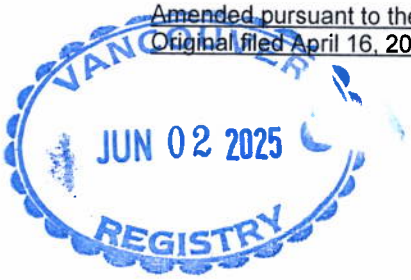
Amended pursuant to the Order of Justice Walker made on April 29, 2025
Original filed April 16, 2025



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

AMENDED APPLICATION RESPONSE

Application response of: **China Shougang International Trade & Engineering Corporation** (the "**Application Respondent**" or "**Shougang**")

THIS IS A RESPONSE TO the amended notice of application of Canadian Dehua International Mines Group Inc. filed ~~April 8, 2025~~ May 5, 2025 (the "**Petitioner's Application**").

The Application Respondent estimates that the Petitioner's Application will take two days.

Part 1: ORDER CONSENTED TO

The Application Respondent consents to the granting of NONE of the orders set out in Part 1 of the Petitioner's Application.

Part 2: ORDERS OPPOSED

The Application Respondent opposes the granting of the orders set out in paragraphs 1 to 4 7 of Part 1 of the Petitioner's Application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Application Respondent takes no position on the granting of NONE of the orders set out in Part 1 of the Petitioner's Application.

Part 4: FACTUAL BASIS

Background on *CCAA* proceeding

1. On or about January 20, 2020, Shougang commenced an action in this Court against Canadian Dehua International Mines Group Inc. ("**CDI**" or the "**Petitioner**") to recognize an arbitral award against CDI granted to Shougang by the China International Economic and Trade Arbitration Commission.

First Affidavit of Yang Yang made June 8, 2022 ("First Yang Affidavit"), paras. 23–24.

2. On January 19, 2021, this Court granted judgment against CDI in favour of Shougang in the amount of $20,826,789.83 (the "**Judgment**"). Thereafter, Shougang sought to enforce the Judgment, with limited success. As of June 8, 2022, Shougang had only recovered $5,698.34 in respect of the Judgment.

First Yang Affidavit, paras. 25–26.

3. On or about April 6, 2022, Shougang filed an application for a bankruptcy order with respect to CDI (the "**Bankruptcy Application**").

First Yang Affidavit, para. 28.

4. In response to the Bankruptcy Application, on June 3, 2022, CDI sought and was granted an initial order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "***CCAA***"). Among other things, the Initial Order included a stay of proceedings (the "**Stay of Proceedings**"), which stayed the Bankruptcy Application among other proceedings against CDI.

5. In support of the application for the Initial Order, CDI provided evidence that it was "in a liquidity and debt crisis, which has made it necessary for the Petitioner to pursue refinancing, restructuring efforts, as well as a potential sale of some or all of the Petitioner's assets, or a combination thereof."

First Affidavit of Naishun Liu, made May 31, 2022 ("First Liu Affidavit"), para. 31.

6. More specifically, CDI admitted that:

   (a) "[a]s at March 31, 2021, CDI has $106,721,494 in unsecured debt", including an approximate claim by Shougang of $20.8 million;

   (b) the "Petitioner is an entity to which the CCAA applies and has debts in excess of $5,000,000"; and

(c) "CDI is insolvent on a cash flow basis and is unable to meet its obligations as they generally come due."

First Liu Affidavit, paras. 19, 27, 90, 91.

7. Shougang has awaited repayment from CDI for over eight years prior to bringing the Bankruptcy Application, and did not agree that a restructuring under the *CCAA* was feasible when this proceeding was initiated.

First Yang Affidavit, paras. 30–31.

Summary of *CCAA* proceeding

DIP Facility

8. After being granted the Initial Order, CDI sought approval of an amended and restated initial order that included approval of an interim financing facility to be advanced by Ms. Qu Bo Liu (the "**DIP Lender**"), initially in the amount of $350,000 (the "**DIP Facility**") and an associated DIP Facility charge (the "**DIP Charge**").

First Report of the Monitor, dated June 8, 2022, paras. 59, 61.

9. On August 18, 2022, CDI sought an increase and an amendment to the DIP Facility to allow the DIP Lender to advance additional funding (the "**Amended DIP Facility**").

Third Report of the Monitor, dated August 16, 2022 ("Third Report"), paras. 56–57.

10. After obtaining approval of the Amended DIP Facility, the Petitioner sought several increases to the borrowing limit under the Amended DIP Facility and the DIP Charge. The latest increase was granted on March 19, 2024, which increased the DIP Facility and the DIP Charge to $1,680,000.

Twentieth Report of the Monitor, dated November 18, 2024 ("Twentieth Report"), para. 17.

11. The advances under the DIP Facility totaled $1,499,331.16 as of on or about September 7, 2024.

First Affidavit of Xiao Liu made October 15, 2024, para. 18, Ex. E.

12. As of November 18, 2024, no further advances had been made pursuant to the DIP Facility.

Twentieth Report, para. 41(a).

13. As set out in the Twenty Sixth Report of the Monitor, filed April 10, 2025 (the "**Twenty Sixth Report**"), the sale of certain assets of CDI to West Moberly First Nations closed on or about March 28, 2025, as discussed further below.

Twenty Sixth Report, paras. 41–42.

14. The net sale proceeds from the sale of certain assets of CDI to West Moberly First Nations were, or are in the process of being, distributed in accordance with the order approving the transaction. Specifically, the amount owing to the DIP Lender under the DIP Facility was repaid in full, being $1,499,331.16.

Fifth Affidavit of Naishun Liu, made April 8, 2025 (the "Fifth Liu Affidavit"), para. 15.

15. Pursuant to the terms of the Amended DIP Facility, advances thereunder "shall be a draw term loan and may not be re-borrowed once repaid."

Third Report, Appendix C, p. 4.

~~16. CDI has not identified how it intends to fund the relief sought in the Petitioner's Application.~~

~~**Twenty Sixth Report, paras. 51, 55.**~~

17. As noted below, neither the Monitor nor CDI has confirmed the balance of the net sale proceeds from the West Moberly Transaction (as defined below). Further, an updated cash-flow for CDI has not been provided.

18. CDI seeks approval of a further amendment and restatement of the Amended DIP Facility. The amendment would, among other things, increase the available funding and remove the term prohibiting CDI from re-borrowing funds once repaid.

SISP

19. On August 18, 2022, CDI sought and obtained an order approving a sales and investment solicitation process (the "**Initial SISP Order**") with respect to certain assets of CDI. The Initial SISP Order was "intended to solicit interest in and opportunities for a sale of or investment in [CDI's] interest in the Wapiti Project or [CDI] generally". The "**Wapiti Project**" is the Wapiti River coal project located near Tumbler Ridge, which is owned and operated by Wapiti Coking Coal Mines Corporation ("**Wapiti**").

Twentieth Report, para. 8.
Initial SISP Order, Schedule "B", para. 1.

20. On November 30, 2022, the Initial SISP Order was modified by further order of this Court (the "**Modified SISP Order**"). Among other things, the Modified SISP Order:

(a) added the "**Murray River Project**", which is a underground coal mine project located near Tumbler Ridge that CDI has an indirect 20.4% interest in, to the sales and investment solicitation process;

(b) added the "**Bullmoose Project**", which is a coalfield exploration project also located near Tumbler Ridge owned and operated by Bullmoose Mines Co., Ltd. ("**CBM**"), to the sales and investment solicitation process;

(c) established a deadline for non-binding letters of intent ("**LOI**") of March 10, 2023 (the "**LOI Deadline**"); and

(d) set out that the binding bid deadline would be no later than June 18, 2023.

Modified SISP Order, Schedule "B", paras. 1, 3, 11.
Twentieth Report, para. 11.

21. The Modified SISP Order failed to result in any binding offers for a sale or investment in CDI's interests in any of the Wapiti Project, the Murray River Project or the Bullmoose Project, or CDI generally.

22. On October 10, 2024, the Petitioner filed an application seeking approval of an asset purchase agreement from the DIP Lender for the shares of Wapiti and CBM owned by CDI in addition to the assets of Wapiti and CBM (collectively, the "**Assets**") for a purchase price of $1,650,000 (the "**DIP Lender APA**").

Twenty Fifth Report of the Monitor, filed February 18, 2025 ("Twenty Fifth Report"), para. 27.

23. On October 15, 2024, TaneMahuta Capital Ltd. filed an application, acting as an agent for West Moberly First Nations ("**West Moberly**") to approve their purchase of the Assets for a purchase price of $2,000,000 (the "**West Moberly APA**").

Twenty Fifth Report, para. 28.

24. Following the applications from West Moberly and the Petitioner for the approval of the West Moberly APA and the DIP Lender APA, respectively, there were multiple days of hearings before this Court relating to the approval of a sale of the Assets to either of West Moberly or the DIP Lender.

25. Ultimately, on February 3, 2025, CDI sought and obtained approval (the "**Sale Approval Order**") of a sale of the Assets to West Moberly for a purchase price of $2,450,000 (the "**West Moberly Transaction**").

Twenty Fifth Report, para. 32.

26. The West Moberly Transaction closed on or about March 28, 2025.

Twenty Sixth Report, para. 41.

27. The net sale proceeds from the West Moberly Transaction were or are being distributed in accordance with the Sale Approval Order. Specifically:

(a) the amount owing to the DIP Lender under the DIP Facility was repaid in full, being $1,499,331.16;

(b) the amount of $350,000 owing under the Administration Charge, together with the amounts owing to the Monitor, its counsel and counsel to the Petitioner in excess of the Administration Charge are in the process of being paid; and

(c) the balance of the net sale proceeds will be held by the Petitioner's counsel, in trust.

Fifth Liu Affidavit, para. 15.

28. Neither the Monitor nor CDI has confirmed the balance of the net sale proceeds from the West Moberly Transaction, and an updated cash-flow for CDI has not been provided.

29. Despite the Modified SISP Order failing to result in any binding offers for a sale of CDI's interests the Murray River Project, CDI now seeks a new sales and investment solicitation process in respect of that asset.

30. The new sales and investment solicitation process would solicit offers based on two stalking horse asset purchase agreements between CDI and Qu Bo Liu (the "**Stalking Horse Bids**").

Claims Process

31. On June 28, 2022, CDI sought and obtained a claims process order establishing a claims process (the "**Claims Process Order**"), which set a claims bar date of August 15, 2022 (the "**Claims Bar Date**").

Seventh Report of the Monitor, dated September 7, 2023 ("Seventh Report"), para. 17.

32. The Claims Process Order required that the Monitor review all "**Proofs of Claim**", in consultation with the Petitioner. If the Monitor wished to revise or disallow a "**Claim**", the Monitor was required to send a "**Notice of Revision or Disallowance**" to the applicable creditor. "If the Monitor does not send a Notice of Revision or Disallowance, the Claim as set out in the applicable Proof of Claim shall be a Proven Claim."

Claims Process Order, made June 28, 2022, para. 25.

33. Shougang submitted its Proof of Claim pursuant to the Claims Process Order prior to August 15, 2022.

34. As of the Claims Bar Date, the Monitor had received eight Proofs of Claim in the approximate amount of $83.4 million.

Seventh Report, para. 47.

35. Shougang has not received a Notice of Revision or Disallowance from the Monitor with respect to their filed Proof of Claim in accordance with the Claims Process Order. Pursuant to the Claims Process Order, Shougang has a Proven Claim.

Part 5: LEGAL BASIS

1. CDI seeks, among other things, an extension of the Stay of Proceedings pursuant to subsection 11.02(2) of the *CCAA*. Subsection 11.02(3) of the *CCAA* mandates:

> The court shall not make the order unless
>
> **(a)** the applicant satisfies the court that circumstances exist that make the order appropriate; and
>
> **(b)** in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

***CCAA*, s. 11.02(2)–(3).**

2. The "burden is on the applicant to satisfy the court that the order is appropriate in the circumstances". Appropriateness "is assessed by inquiring whether the order sought advances the policy objectives underlying the *CCAA*."

***Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60 [*Century Services*] at paras. 69–70.**

3. The relief sought by CDI does not advances any of the policy objectives underlying the *CCAA*.

4. Extending the Stay of Proceedings, along with the other relief sought by CDI, is not appropriate because:

   (a) this proceeding has been extant for almost three years and there has been no meaningful progress towards a restructuring and zero recovery for creditors;

   (b) continuing this proceeding is contrary to the policy objectives of the *CCAA*, among other things, the relief sought by CDI:

      (i) does not contemplate creditor participation in decision-making; and

      (ii) is not focused on maximizing creditor recovery; and

   (c) it will impose unnecessary costs on creditors.

There has been no progress toward a restructuring to date

5. When assessing an application to extend the stay of proceedings in a *CCAA* proceeding, a court will consider:

> ... the debtor's progress during the previous stay period toward a restructuring; whether creditors will be prejudiced if the court grants the extension; and the comparative prejudice to the debtor, creditors and other stakeholders in not granting the extension: *Federal Gypsum Co. (Re)*, 2007 NSSC 347, 40 C.B.R. (5th) 80 at paras. 24-29.
>
> ***Worldspan Marine Inc. (Re)*, 2011 BCSC 1758 [*Worldspan*] at para. 22.**

6. A court may deny relief under the *CCAA* when "the request for *CCAA* relief ... is little more than an attempt to buy time" and will merely add to the existing delay.

> ***Conexus Credit Union 2006 v. Voyager Retirement II Genpar Inc.*, 2021 SKQB 273 at para. 61.**

7. As noted above, this Court should consider CDI's "progress during the previous stay period toward a restructuring". This was a central issue in *Timber Lodge Ltd. v. Imperial Life Assurance Co.*, where the Court denied an extension of a *CCAA* stay:

> Through one means or another the applicant has, in fact, received the benefit of a stay exceeding five months. It is uncertain whether the applicant is any further advanced to making a firm proposal at this time than it was five months ago. Certainly the most likely sources have not proven successful. The length of a stay will depend on the surrounding circumstances and no particular set time period is necessarily applicable to all cases. However, in reviewing the numerous cases that have been filed,

it is evident that a three month stay appears to be about the maximum that is allowed.

One of the reasons that I extended the stay since the application of September 30th, was the fact that Imperial and Montreal Trust would lose little, if anything, if the stay were granted. Both were insured by CMHC and CMHC did not appear before the Court regarding any loss it would sustain if the stays were granted. However, at the hearing of December 4th, Mr. Mulvilhill of CMHC indicated that the continuation of the stay would mean the accumulation of further liability which was not in their best interest.

For all of these reasons I feel that the Court has reached the limit of its discretion in extending further time to the applicant. I conclude that the discretion of the Court ought not to be exercised in favour of the applicant and the stay should be lifted to permit the creditors to take whatever action they deem necessary.

[Emphasis added.]

***Timber Lodge Ltd. v. Imperial Life Assurance Co.*, 1992 CarswellPEI 15 (T.D.) at paras. 18–20.**

8. This proceeding has been extant for almost three years and there has been no meaningful progress towards a restructuring and zero recovery for creditors.

9. Further, CDI has already carried out a lengthy SISP with respect to the Murray River Project, with no success. "Nothing indicates the result will be different a second time."

***Arrangement relatif à Kaloom inc.*, 2023 QCCS 3688 [*Kaloom*] at para. 20.**

10. In addition, the break fees included in the Stalking Horse Bids are not appropriate.

11. The break fees are "not fair and reasonable in the circumstances." These fees are not "related to the stalking horse bid process itself and the efforts undertaken towards that end."

***Freshlocal Solutions Inc. (Re)*, 2022 BCSC 1616 at para. 51, citing *Boutique Euphoria Inc. (Re)*, 2007 QCCS 7129 at para. 71.**

12. CDI has not advanced any evidence in this regard. CDI has not demonstrated that the Stalking Horse Bids, including the break fees, are in the best interests of the creditors as a whole.

***Leslie & Irene Dube Foundation Inc. v. P218 Enterprises Ltd.*, 2014 BCSC 1855 at paras. 36–41.**

Continuing this CCAA proceeding is contrary to the policy objectives of the CCAA

13. An extension of a stay under the *CCAA* should advance "the policy objectives underlying the *CCAA*."

Century Services at para. 70.
See also _Worldspan,_ at para 21.

14. Among other things, the "*CCAA* regime contemplates creditor participation in decision-making as an integral facet of the workout regime".

***9354-9186 Québec inc. v. Callidus Capital Corp.*, 2020 SCC 10 [*Callidus*] at para. 69.**

15. CDI has never proposed any plan to creditors, nor does CDI propose putting the steps currently being contemplated to a creditor vote. CDI seeks to avoid any creditor participation in this proceeding, which is contrary to the objectives of the *CCAA*.

16. In the circumstances, there is "no principled basis for … maintaining a stay that would prevent" a bankruptcy. CDI is not an "active business being carried out that [requires] shielding by a *CCAA* stay." Further, it is now apparent that liquidating CDI's assets will, at best, result in a "substantial shortfall" to creditors. To date, this proceeding has not generated any recovery for creditors.

***Encore Developments Ltd. (Re.)*, 2009 BCSC 13 at paras. 22–25.**

17. Continuing this proceeding is not appropriate because it does not advance any policy objectives underlying the *CCAA*.

Continued costs to will erode creditor recovery

18. Given the current circumstances, the Court should focus on the policy objective of "maximizing creditor recovery".

***Callidus* at paras. 42, 46.**

19. It is now clear that liquidating CDI's assets, as proposed by CDI, will result in minimal, if any, recovery for creditors. As a result, any costs incurred to progress this proceeding will only erode creditor recovery.

20. CDI has not provided any evidence that would support a conclusion that the "substantial costs of the proposed SISP were appropriate in the circumstances."

***Kaloom* at para. 19.**

21. Further, the Monitor has not "filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy" in accordance with section 36(3)(c) of the CCAA.

CCAA, s. 36(3)(c).

22. CDI has not provided any evidence supporting the assertion that continuing this *CCAA* proceeding would be more beneficial to the creditors than a bankruptcy.

23. To date, this proceeding has incurred almost $2.45 million in costs, with zero recovery for creditors. Continuing on that path is not appropriate given the significant shortfall to creditors.

24. "The appropriateness of any order sought under the CCAA must be evaluated in light of the cost imposed on stakeholders. This includes the cost of professional fees."

***Kaloom* at para. 44.**

25. If further *CCAA* relief is granted in this proceeding, CDI's creditors "would effectively [bear] the risks and costs associated with that action". All of the costs of progressing this *CCAA* proceeding would effectively be borne by the creditors.

***Affinity Credit Union 2013 v. Vortex Drilling Ltd.*, 2017 SKQB 228 at para. 37(k).**

26. Given the circumstances and the lack of any meaningful progress in this proceeding for the benefit of creditors, it would not be appropriate for CDI's creditors to bear the risks and costs of continuing this *CCAA* proceeding.

27. The break fees included in the Stalking Horse Bids would further erode creditor recovery.

~~28. Shougang submits that all of the relief sought by CDI should be dismissed.~~

Further interim financing is not appropriate

29. CDI seeks approval of a further amendment and restatement of the Amended DIP Facility. The amendment would, among other things, increase the available funding and remove the term prohibiting CDI from re-borrowing funds once repaid. CDI also seeks to increase the DIP Charge to $1,900,000.

30. Sections 11.2 of the CCAA set out the framework for considering interim financing:

> **11.2 (1)** On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the company's property is subject to a security or charge — in an amount that the court considers appropriate

— in favour of a person specified in the order who agrees to lend to the company an amount approved by the court as being required by the company, having regard to its cash-flow statement. The security or charge may not secure an obligation that exists before the order is made.

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

...

(4) In deciding whether to make an order, the court is to consider, among other things,

(a) the period during which the company is expected to be subject to proceedings under this Act;

(b) how the company's business and financial affairs are to be managed during the proceedings;

(c) whether the company's management has the confidence of its major creditors;

(d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;

(e) the nature and value of the company's property;

(f) whether any creditor would be materially prejudiced as a result of the security or charge; and

(g) the monitor's report referred to in paragraph 23(1)(b), if any.

31. As emphasized by the Supreme Court of Canada, interim financing "must be in an amount that is 'appropriate' and 'required by the company, having regard to its cash-flow statement'."

***Callidus* at para. 87.**

32. As there is no evidence of the current cash position of CDI nor an updated cash-flow for the stay extension period, the new interim financing is not appropriate in the circumstance.

33. Further, as the amount owing to the DIP Lender under the DIP Facility, being $1,499,331.16, was repaid in full, the DIP Charge is no longer necessary.

34. Shougang submits that all of the relief sought by CDI should be dismissed.

Part 6: MATERIAL TO BE RELIED ON

1. Initial Order, granted June 3, 2022;
2. ARIO, granted June 9, 2022;
3. Initial SISP Order, granted August 18, 2022;
4. Modified SISP Order, granted November 30, 2022;
5. Claims Process Order, granted June 28, 2022;
6. Seventh ARIO, granted October 9, 2024;
7. Order made after Application, granted February 18, 2025;
8. First Affidavit of Yang Yang made June 8, 2022
9. First Affidavit of Naishun Liu, made May 31, 2022
10. First Affidavit of Xiao Liu, made October 15, 2024;
11. Fifth Affidavit of Naishun Liu, made April 8, 2025;
12. First Report of the Monitor, dated June 8, 2022;
13. Third Report of the Monitor, dated August 16, 2022;
14. Seventh Report of the Monitor, dated September 7, 2023;
15. Twentieth Report of the Monitor, dated November 18, 2024;
16. Supplement to the Twentieth Report of the Monitor, dated December 1, 2024;
17. Twenty Fifth Report of the Monitor, dated February 17, 2025; ~~and~~
18. Twenty Sixth Report of the Monitor, dated April 10, 2025; and
19. Any such further materials as counsel may advise and this Honourable Court may permit.

☒ The Application Respondent has filed in this proceeding a document that contains the Application Respondent's address for service.

Date: 02/JUN/2025

Signature of Eamonn Watson
Lawyer for Application Respondent