Court File No: CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

MOTION RECORD
(Re: Distribution & Discharge Order)
(Returnable August 29, 2024)

August 1, 2024

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto ON M5L 1B9

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
mkonyykhova@stikeman.com

Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5563
navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver

TO: THE SERVICE LIST

Court File No. CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

Applicants

SERVICE LIST
As of July 30, 2024

COMPANY	CONTACT
GENERAL	
HANFENG EVERGREEN INC. 2 St. Clair Avenue West Suite 610 Toronto, ON M4V 3A1 *Applicant*	
ERNST & YOUNG INC. 222 Bay Street P.O. Box 251, Toronto, ON M5K 1J7 *Receiver*	**Murray McDonald** Tel: (416) 943-3016 Email: murray.a.mcdonald@ca.ey.com **Brent Beekenkamp** Tel: (416) 943-2652 Email: brent.r.beekenkamp@ca.ey.com **Allen Yao** Email: allen.yao@ca.ey.com Fax: (416) 943-3300
STIKEMAN ELLIOTT LLP Barristers & Solicitors 5300 Commerce Court West 199 Bay Street Toronto, ON M5L 1B9 *Counsel to the Receiver*	**Maria Konyukhova** Tel: (416) 869-5230 Email: mkonyukhova@stikeman.com **Daniel Murdoch** Tel: (416) 869-5529 Email: dmurdoch@stikeman.com **Nicholas Avis**

COMPANY	CONTACT
	Tel: (416) 869- 5563 Email: navis@stikeman.com
DENTONS Harbin Office 5/F, Yuandong Business Center 65 Changjiang Road Nangang District Harbin 150090 China Dalian Office 29th Floor, Nord Building 22 Titan Road Shahekou District Dalian 116021 China *Counsel to Harbin Pengcheng Fertilizer Co. Ltd.*	**Xinyi Li** Email: xinyi.li@dentons.cn **David Liu** Email: dazhi.liu@dentons.cn **Wenchen Liu** Email: wenchen.liu@dentons.cn
PAPE CHAUDHURY LLP 1 Queen St E #1910, Toronto, ON M5C 2W5 *Canadian counsel to Harbin Pengcheng Fertilizer Co. Ltd.*	**Paul Pape** Tel: (416) 364-8755 Email: pjp@papebarristers.com paul@papechaudhury.com
MOORE BARRISTERS 393 University Avenue, Suite 1600 Toronto, ON M5G 1E6 *Counsel to Xinduo Yu and Lei Li*	**David C. Moore** Tel: (416) 581-1818 Email: david@moorebarristers.ca **Karen M. Mitchell** Tel: (416) 581-1818 x223 Fax: (416) 581-1279 Email: kmmitchell@bellmore.ca
SILVERCOVE CAPITAL (CANADA) INC. 67 Glen Park Avenue Toronto, ON M6B 2C3 *Landlord*	**Louis Goluboff** Tel: (416) 360-0431 Email: louis@silvercovecapital.com
AGRIUM INC. 13131 Lake Fraser Drive SE Calgary, AB T2J 7E8	**Tom Mix** Email: tom.mix@agrium.com

COMPANY	CONTACT
	Patrick Freeman Email: patrick.freeman@agrium.com
BEIDAHUANG AGRICULTURE DEVELOPMENT LIMITED Unit A (RM9) 3/F; Cheong Sun Tower 1116-118 Wing Lok Street Sheung Wan Hong Kong	Email: hkbeidahuang@gmail.com
THORNTON GROUT FINNIGAN LLP Toronto-Dominion Centre 100 Wellington Street West Suite 3200, P.O. Box 329 Toronto, ON M5K 1K7 *Lawyers for FTI Consulting (China) Limited*	**Robert Thornton** Email: rthornton@tgf.ca Tel: 416-304-0560 **Mitchell Grossell** Email: mgrossell@tgf.ca Tel: 416-304-7978
JONATHAN POLLACK	Email: jp@firesidecap.com
JOANNE YAN	Email: joanne@joanneyan.com
TSX TRUST COMPANY **100 Adelaide Street West, Suite 301** **Toronto ON M5H 1S3** *Transfer agent for Hanfeng Evergreen Inc.*	**Pierre Tellis** Head of Legal Email: pierre.tellis@tmx.com **Tania Narciso** Chief Risk and Compliance Officer Email: tania.narciso@tmx.com **Steven Nguyen** Regional Head, Client Management Email: steven.nguyen@tmx.com tsxtis@tmx.com
GOVERNMENT PARTIES	
ONTARIO SECURITIES COMMISSION 20 Queen Street West, Suite 2200 Toronto, ON M5H 3S8	**Jason Koskela** Tel: (416) 595-8922 Fax: (416) 593-8177 Email: jkoskela@osc.gov.on.ca
DEPARTMENT OF JUSTICE The Exchange Tower 130 King Street West, Suite 3400, P.O. Box 36	**Diane H. Winters** Email: diane.winters@justice.gc.ca

COMPANY	CONTACT
Toronto, ON M5X 1K6	
HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE 33 King Street West, 6th Floor, PO Box 620 Oshawa, ON L1H 8E9	**Kevin J. O'Hara** Email: kevin.ohara@ontario.ca
SHAREHOLDERS	
2089259 ONTARIO LTD **c/o AGRIUM INC.** 13131 Lake Fraser Drive S.E. Calgary, AB T2J 7E8	Attn: General Counsel
HONG KONG HANLIN INVESTMENT CO. LIMITED 18G, No. 17 Renmin Rd Zhongshan Dist Dalian, Liaoning 116001 China	Attn: Liu Wenfu
GUI ZHI LEI Suite 2-5 No. 19M Lingyuan Street Shahekou District Dalian, Liaoning 116001 China	
MATT NOEL 17th Floor, 777 Dunsmuir Street Vancouver, British Columbia V7Y 1J5	Tel: (604) 662-5243 Fax: (604) 662-5205
MIDLAND WALWYN CAPITAL INC 22 Front St W., 4th Floor Toronto, ON M5J 2W5	Attn: Dividends Dept.
NINGHUA CHEMICAL CO LIMITED 7-5-1 No. 212 Gao Erji Road Xigang District Dalian 116001 China	
OAKWEST CORPORATION LIMITED 20 Eglinton Ave. W., Suite 1902 P.O. Box 2071	

COMPANY	CONTACT
Toronto, ON M4R 1K8	
XIU LAN SHI Apt 2-2-2 57 Gao Erji Road Dalian, Liaoning 116011 China	
XIA XU Suite 181 No. 17 Renmin Rd Dalian 116001 China	
XIA XU 66 West Shuong Tang Rd Tangzhou, Jiangsu 225008 China	
TIAN HUA YU 3589 Osler Street Vancouver, BC V6H 2W5	
TIAN YU YU 204-2733 Atlin Pl Coquitlam, BC V3C 5B1	
YANQIU ZHANG 17 Renmin Road, Suite 18-H Dalian, Liaoning 116000 China	
YANQIU ZHANG 401-103 Youhao Street Dalian 116001 China	
ADDITIONAL CLAIMANTS	
8310831 CANADA INC. 306 Russell Hill Road Toronto, ON M4V 2T6	**Lei Li** Tel: (647) 346-8341 Fax: (647) 436-6947
1568192 ONTARIO INC. **(o/a INTERFACE TECHNOLOGIES)** 90 Adelaide Street West, 5th Floor Toronto, ON M5H 3V9	**Li-Yin Chong** Tel: (416) 363-9880 Fax: (416) 367-5338 Email: accounting@interface.ca
MILLS & MILLS LLP 2 St. Clair Avenue West, Suite 700 Toronto, ON M5K 1J7	**David A. P. Lees** Tel: (416) 682-7159 Fax: (416) 863-3997

COMPANY	CONTACT
Lawyers for Augmentram Capital Corp.	Email: david.lees@millsandmills.ca
F&A ORIENT INC. 32 Heath Street Richmond Hill, ON L4B 2B6	**Ming Zhang** Tel: (416) 831-4619
G. DEWINNE MANAGEMENT INC. 936 Elgin Street Newmarket, ON L3Y 3C1	**Estate of Guido DeWinne** Tel: (905) 898-3859 Email: dewinne@attglobal.net **Elly De Winne** Email: ellydewinne@gmail.com
GOODWELL LAW FIRM 33-B, Anho Building No. 87 Renmin Road Zhongshan District, Dalian China	**Jiechang Liu** Tel: +86-411-8279-8899 Fax: +86-411-8279-8245 Email: dmuliujiechang@163.com
KING & WOOD MALLESONS 20the Floor, East Tower, World Financial Center 1 Dongsanhuan Zhonglu, Chaoyang District Beijing 100020 China	**George Zhao** Tel: +86-10-5878-5588 Email: george.zhao@cn.kwm.com
LIZHI HAN 64 Mericourt Road, Apt. 4 Hamilton, ON L8S 2N9	Tel: (647) 303-3556 Email: lizhihan@hotmail.com
LOUDEN OWEN c/o McLean Watson Capital Inc. 141 Adelaide Street West, Suite 1200 Toronto, ON M5H 3L5 *On behalf of D&Os under Chubb Insurance Policy and Owen Corporation*	**Louden Owen** Tel: (416) 307-3271 Email: lowen@mcleanwatson.com **Annie Tong** Tel: (416) 363-2000 Fax: (416) 363 2010 Email: atong@mcleanwatson.com
FASKEN MARTINEAU DUMOULIN LLP 333 Bay Street, Suite 2400 Toronto, ON M5H 2T6 *Lawyers for Marsh Canada Limited*	**David C. Rosenbaum** Tel: (416) 868-3516 Email: drosenbaum@fasken.com **Jesse R. Harper** Tel: (416) 865-4378

COMPANY	CONTACT
	Fax: (416) 364-7813 Email: jharper@fasken.com
MNP LLP 710 Evans Avenue, 8th Floor Toronto, ON M9C 1A3	**Isabella Lee** Tel: (416) 641-4963 Fax: (416) 626-8650 Email: isabella.lee@mnp.ca
WENLI XUE 2373 Coronation Drive Oakville, ON L6H 7N2	Tel: (647) 269-6704 Email: wxue620@aol.com

Email Service List

murray.a.mcdonald@ca.ey.com; brent.r.beekenkamp@ca.ey.com; allen.yao@ca.ey.com; mkonyukhova@stikeman.com; dmurdoch@stikeman.com; navis@stikeman.com; xinyi.li@dentons.cn; dazhi.liu@dentons.cn; wenchen.liu@dentons.cn; pjp@papebarristers.com; paul@papechaudhury.com; david@moorebarristers.ca; kmmitchell@bellmore.ca; louis@silvercovecapital.com; tom.mix@agrium.com; patrick.freeman@agrium.com; hkbeidahuang@gmail.com; rthornton@tgf.ca; mgrossell@tgf.ca; jp@firesidecap.com; joanne@joanneyan.com; pierre.tellis@tmx.com; tania.narciso@tmx.com; steven.nguyen@tmx.com; tsxtis@tmx.com; jkoskela@osc.gov.on.ca; diane.winters@justice.gc.ca; kevin.ohara@ontario.ca; accounting@interface.ca; david.lees@millsandmills.ca; dewinne@attglobal.net; ellydewinne@gmail.com; dmuliujiechang@163.com; george.zhao@cn.kwm.com; lizhihan@hotmail.com; lowen@mcleanwatson.com; atong@mcleanwatson.com; drosenbaum@fasken.com; jharper@fasken.com; isabella.lee@mnp.ca; wxue620@aol.com;

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

I N D E X

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1.	Notice of Motion dated August 1, 2024
2.	Seventh Report of the Receiver dated August 1, 2024
A.	Appendix "A" – Receiver's Fourth Report dated April 4, 2017
B.	Appendix "B" – Receiver's Fifth Report dated July 11, 2017
C.	Appendix "C" – Receiver's Sixth Report dated May 18, 2021
D.	Appendix "D" – Claims Procedure Order dated September 23, 2014
E.	Appendix "E" – Receiver's statement of receipts and disbursements from June 1, 2017, to July 28, 2024
F.	Appendix "F" – Myers J.'s decision approving fees and disbursements dated November 30, 2017
G.	Appendix "G" – Affidavit of Allen Yao affirmed August 1, 2024
H.	Appendix "H" – Affidavit of Brian Pukier affirmed July 29, 2024
I.	Appendix "I" – Receiver's Termination Certificate
3.	Draft Distribution and Discharge Order
4.	Blackline of the Distribution and Discharge Order to the Model Order

TAB 1

Court File No: CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
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IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

NOTICE OF MOTION
(Re: Distribution & Discharge Order)
(Returnable August 29, 2024)

Ernst & Young Inc. ("**EYI**"), in its capacity as the Court-appointed Receiver (EYI in such capacity, the "**Receiver**") of Hanfeng Evergreen Inc. ("**Hanfeng**") will make a motion to a Judge presiding over the Commercial List on August 29, 2024, at 10:00 a.m. or as soon after that time as the motion can be heard by video conference. Please contact Nicholas Avis (navis@stikeman.com) if you plan to attend the motion and require a video conference link.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally by video conference.

THE MOTION IS FOR:

1. An Order:

   (a) approving the making of payments and distributions (collectively, the "**Distributions**") from any funds in the possession of the Receiver:

      (i) first, to the Receiver and its counsel, Stikeman Elliott LLP ("**Stikeman Elliott**"), in satisfaction of any fees and disbursements they have incurred and not yet been paid, and fees and disbursements to be incurred;

(ii) second, to holders of the Accepted Claims (as defined below) in an amount up to 100% of their accepted value, without any interest or penalties that might otherwise have accrued after August 20, 2014; and

(iii) third, any remaining funds to shareholders of Hanfeng on a *pro rata* basis, provided that no funds shall be distributed to Mr. Xinduo Yu or Mrs. Lei Li;

(b) authorizing the TSX Trust Company and any of its affiliates, successors and assigns, as applicable, to facilitate and implement distributions to any remaining shareholders of Hanfeng;

(c) approving the Receiver's Seventh Report, to be filed (the "**Seventh Report**"), and the Receiver's Sixth Report dated May 18, 2021 (the "**Sixth Report**"), and the activities of the Receiver described therein;

(d) approving the fees and disbursements of the Receiver and Stikeman Elliott, including the estimated fees and disbursements of the Receiver and Stikeman Elliott through to the date of the Receiver's discharge;

(e) terminating these proceedings and discharging the Receiver;

(f) granting a release in favour of the Receiver and Stikeman Elliott; and

(g) such further and other relief as counsel may advise and this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. The facts summarized in this Notice of Motion are more fully set out in the Seventh Report;

2. Capitalized terms that are not otherwise defined herein have the meaning ascribed to them in the Seventh Report;

3. All dollar references in this Notice of Motion are to Canadian dollars;

Generally

4. Hanfeng was a holding company for certain entities that were incorporated and, at the relevant times, operated in China, including its wholly owned subsidiary Hanfeng Slow-Release Fertilizer Co., Ltd. (the "**Chinese Subsidiary**");

5. The Chinese Subsidiary was managed by Mr. Yu and a team of individuals designated by him;

6. On August 20, 2014, this Court issued an Order appointing EYI as the Receiver of the assets, undertakings and properties of Hanfeng pursuant to s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

7. The primary purpose of these receiver proceedings was to complete a share transfer transaction pursuant to which the shares of the Chinese Subsidiary were vested in Heilongjiang Pengcheng Fertilizer Co. Ltd. ("**HLJ Pengcheng**"), as purchaser, and the proceeds thereof distributed;

8. The purchasing entity was switched from HLJ Pengcheng to the Chinese language translation of Harbin Pengcheng Fertilizer Co. Ltd. ("**New Pengcheng**") in the share transfer agreement;

9. As the Receiver attempted to close the share transfer transaction, it uncovered evidence of concealed loans, legal actions and other information that led to mounting

concerns over the state of the Chinese Subsidiary, the potential linkage between Mr. Yu and New Pengcheng, as well as Mr. Yu's role in the entire transaction;

10. New Pengcheng paid a RMB 12.4 million (approximately CAN$2.48 million) deposit (the "**Deposit**") to the Receiver in connection with the share transfer transaction, but failed to make any further payments;

11. The share transfer transaction did not close;

Deposit Litigation

12. New Pengcheng commenced an action in China against Hanfeng, the Chinese Subsidiary, Mr. Yu and EYI in its personal capacity on or about August 3, 2015, seeking the termination of the share transfer agreement and the return of the Deposit (the "**Chinese Litigation**");

13. After years of litigation and appeals, the Receiver obtained a favourable judgement from the Heilongjiang Province Superior Court, which judgement was affirmed by the Supreme People's Court of China in December 2017;

14. In April 2021, the Receiver's Chinese counsel obtained a decision rendered on February 17, 2020, by the Supreme People's Procuratorate in China, which had the effect of concluding the Chinese Litigation and confirmed Hanfeng's entitlement to retain the Deposit;

15. The Deposit represents all of the funds left in the Hanfeng's estate;

Chinese Subsidiary Investigations

16. The Receiver, with the assistance of Chinese counsel and advisors, investigated the financial affairs of the Chinese Subsidiary and uncovered substantial financial irregularities that were unknown at the outset of these receivership proceedings;

17. The Receiver, with the assistance of its counsel and advisors, took steps with a view to preserve the assets of the Chinese Subsidiary, including reorganizing the three-member board of the Chinese Subsidiary to gain corporate control;

18. The Receiver's efforts were unsuccessful due to e.g., non-cooperation from local management and challenges related to the regulatory process in China;

19. The Receiver suspended its activities related to the Chinese Subsidiary pending the outcome of the Chinese Litigation;

20. The Receiver has now determined that it is challenging, if not impossible, to determine whether any recovery from the Chinese Subsidiary is feasible without investing substantial additional time, effort and funding, and the Receiver lacks the necessary resources to make such an investment;

Other Litigation

21. The Receiver commenced actions against Mr. Yu and his spouse, Mrs. Li, in the Ontario Superior Court of Justice (Toronto) on March 22, 2016, for relief including damages for breaches of fiduciary duties and fraudulent misrepresentation;

22. The Receiver's actions against Mr. Yu and Mrs. Li were settled, which settlement resulted in, among other things, Mr. Yu and Mrs. Li withdrawing the claims they filed against Hanfeng, agreeing not making any further claims in respect of their ownership of shares of Hanfeng, and waiving any and all rights to recovery and distribution in respect of same;

The Claims Process & Proposed Distribution

23. This Court issued an Order approving a claims process on September 23, 2014 (such claims process, the "**Claims Process**", and such order, the "**Claims Procedure Order**");

24. As part of the Claims Process, the Receiver:

(a) received 17 claims with a face value of $4,307,663 prior to the applicable deadline, of which it accepted or settled eleven of the 17 claims for a total amount of $456,191.32 (the "**Accepted Claims**");

(b) received one late claim of $173.32, which it disallowed; and

(c) received 61 claims related to shareholder rights with a total face value of $11,944,533 (the "**Equity Claims**"), none of which were (and have not yet been) accepted, revised or dismissed;

25. The Receiver holds funds in the amount of approximately C$1,788,432 before accounting for unpaid and accrued fees and disbursements of the Receiver and its counsel;

26. The Receiver proposes to distribute the funds it holds on the following basis:

(a) first, to the Receiver and Stikeman Elliott in satisfaction of any fees and disbursements they have incurred and not yet been paid, and fees and disbursements to be incurred;

(b) second, to holders of the Accepted Claims in an amount up to 100% of their accepted value without any interest or penalties that might otherwise have accrued after August 20, 2014; and

(c) third, any remining funds to shareholders of Hanfeng on a *pro rata* basis, provided that no funds shall be distributed to Mr. Yu or Mrs. Li;

27. In accordance with the Claims Procedure Order, the proposed Distribution does not pay any interest or penalties that might otherwise have accrued after August 20, 2014 (i.e., the date of the receivership) to holders of Accepted Claims;

28. Approximately $458,702 is estimated to be available for distribution to holders of Equity Claims;

29. TSX Trust Company previously served as the transfer agent for the shareholders of Hanfeng and has access to Hanfeng's latest shareholder registry;

30. The Receiver intends to work with TSX Trust Company to effect the distribution to holders of Equity Claims;

Termination and Discharge of the Receiver

31. After completing the distribution and certain administrative matters, the Receiver expects all remaining tasks in these receivership proceedings to be complete;

32. The proposed Order provides that the Receiver shall be discharged as receiver and manager of Hanfeng effective upon serving a certificate on the service list in these receivership proceedings;

33. The proposed Order includes a limited release in favour of the Receiver and Stikeman Elliott from any and all claims arising from these receivership proceedings;

Approval of the Fees and Disbursements of the Receiver and Stikeman Elliott

34. This Court previously approved the fees and disbursements of (a) the Receiver up to and including April 28, 2017, and (b) Stikeman Elliott up to and including May 5, 2017;

35. The Receiver is now seeking approval of:

(a) its fees and disbursements for the period of April 29, 2017, to June 30, 2024, in the amount of $246,804.17 (inclusive of HST);

(b) the fees and disbursements for Stikeman Elliott for the period of May 6, 2017,[1] to July 18, 2024, in the amount of $526,892.63 (inclusive of HST); and

(c) the fees and disbursements of the Receiver and Stikeman Elliott from July 1, 2024 (in the case of the Receiver) and July 19, 2024 (in the case of Stikeman Elliott) to the date of the Receiver's discharge, provided that neither the Receiver nor Stikeman Elliott's fees and disbursements exceed $50,000 each (inclusive of HST);

36. The fees and disbursements incurred by the Receiver and Stikeman Elliott, as set out in the affidavit of Allen (Liang) Yao, to be affirmed (the "**Yao Affidavit**"), and the affidavit of Brian Pukier, affirmed July 29, 2024 (the "**Pukier Affidavit**"), are reasonable in the circumstances and have been validly incurred;

37. The Receiver and Stikeman Elliott each estimate that they will incur fees and disbursements in the amounts of $50,000 (inclusive of HST), from July 1, 2024 (in the case of the Receiver) and July 19, 2024 (in the case of Stikeman Elliott), to the completion of these receivership proceedings;

38. The proposed Order provides that the Receiver and Stikeman Elliott are not required to pass their accounts in respect of the period from July 1, 2024 (in the case of the Receiver)

[1] Stikeman Elliott's accounts include one docket entry from April 17, 2017 (i.e. prior to May 6, 2017). Stikeman Elliott is seeking to have that one docket entry from April 17, 2017, approved as part of the current motion. All of the time entries that Stikeman Elliott is otherwise seeking to have approved as part of the current motion relate to the period from May 6, 2017, to July 18, 2024. Any references to Stikeman Elliott's accounts for the period from May 6, 2017, to July 18, 2024, should be read to include that single docket entry from April 17, 2017.

and July 19, 2024 (in the case of Stikeman Elliott), to the completion of these receivership proceedings, provided that their fees and disbursements do not exceed their estimates;

Approval of Receiver’s Activities and Reports

39. The Receiver is seeking approval of its Sixth Report, the Seventh Report, any supplements thereto and the Receiver’s activities and conduct of the Receiver as set out therein;

Other Grounds

40. The provisions of *Courts of Justice Act*, R.S.O. c. C.43, as amended, and the inherent and equitable jurisdiction of this Court;

41. Rules 1.04, 1.05, 2.03, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

42. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

43. The Yao Affidavit, to be filed;

44. The Pukier Affidavit, to be filed;

45. The Seventh Report of EYI in its capacity as the Receiver, to be filed; and

46. Such further and other materials as counsel may advise and this Honourable Court may permit.

July 31, 2024

STIKEMAN ELLIOTT LLP
Barristers and Solicitors
5300 Commerce Court West
199 Bay Street
Toronto ON M5L 2B9

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
mkonyykhova@stikeman.com

Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5563
navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended) AND IN THE MATTER OF HANFENG EVERGREEN INC

Court File No. CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Toronto

NOTICE OF MOTION
(Returnable August 29, 2024)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
mkonyukhova@stikeman.com

Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5504
navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver

119138475

TAB 2

Court File No. CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

SEVENTH REPORT OF THE RECEIVER

August 1, 2024

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
mkonyukhova@stikeman.com

Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5504
navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver, Ernst & Young Inc.

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IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

SEVENTH REPORT OF THE RECEIVER
August 1, 2024

INTRODUCTION

1. Hanfeng Evergreen Inc. ("**Hanfeng**" or the "**Company**") was a holding company for certain entities that were incorporated and, at the relevant times, operated in China. By mid-August 2014, Hanfeng's principal remaining un-monetized asset was all the issued and outstanding shares (the "**Shares**") of Hanfeng Slow-Release Fertilizer Co., Ltd., the Company's wholly owned subsidiary in China (the **"Chinese Subsidiary**").

2. On August 20, 2014, following an application by Hanfeng, the Ontario Superior Court of Justice (the "**Court**") issued an order (the "**Approval Order**") approving a share transfer agreement dated August 8, 2014 (the "**Share Transfer Agreement**") and the transaction contemplated therein (the "**Share Transfer Transaction**"). The Approval Order provided for vesting of all of the Shares in Heilongjiang Pengcheng Fertilizer Co. Ltd., as purchaser, upon the completion of the Share Transfer Transaction.

3. Pursuant to an order issued by this Court on August 20, 2014, Ernst & Young Inc. ("**EYI**") was appointed as receiver and manager (the **"Receiver**") of the assets, undertakings and properties of Hanfeng, pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

4. The primary purpose of the receivership proceedings (the "**Receivership Proceedings**") was to complete the Share Transfer Transaction and effect a distribution of the proceeds thereof.

5. As described in prior reports of the Receiver, during the course of attempting to advance the Share Transfer Transaction, the Receiver uncovered serious concerns over the identity of the purported purchaser, Harbin Pengcheng Fertilizer Co. Ltd. ("**New Pengcheng**"), that was engaged under the Share Transfer Transaction, as well as its ability and desire to close the Share Transfer Transaction.

6. In the meantime, the Receiver obtained information indicating financial irregularities of the Chinese Subsidiary, including concealed indebtedness, undisclosed lawsuits and enforcement actions by local banks against the Chinese Subsidiary, as described further herein.

7. Also as described in prior reports of the Receiver, the Receiver was unable to complete the Share Transfer Transaction due to the actions of New Pengcheng.

8. In August 2015, New Pengcheng commenced litigation in China against Hanfeng and EYI, among others (the "**Chinese Litigation**"), alleging that Hanfeng breached the Share Transfer Agreement and demanding a refund of a deposit of RMB 12.4 million (approximately CAN$2.48 million; the "**Deposit**") paid to the Receiver in August 2014.

9. As described further herein, the Chinese Litigation process took nearly six years and was ultimately concluded in favour of Hanfeng and EYI.

10. The Receiver's Fourth Report dated April 4, 2017, Fifth Report dated July 11, 2017 (the "**Fifth Report**"), and the Sixth Report dated May 18, 2021 (the "**Sixth Report**"), all without appendices, are attached hereto as **Appendices "A", "B" and "C"**, respectively. These reports provide greater details about the concerning information uncovered by the Receiver.

PURPOSE

11. The purpose of this seventh report of the Receiver (the "**Seventh Report**") is to report to the Court on:

    (a) the outcome of the Claims Process (as described and defined below), including the resolution and settlement of certain claims;

(b) the current status of the estate administration, including a summary of the receipts and disbursements;

(c) the estimated recovery for the Accepted Claims (as defined and discussed below) and shareholders;

(d) approving the proposed distributions to holders of the Accepted Claims (as defined below) and certain shareholders (as discussed below);

(e) authorizing the TSX Trust Company and any of its affiliates, successors and assigns, as applicable, to facilitate and implement distributions to certain shareholders;

(f) approving the Seventh Report and Sixth Report, and the activities of the Receiver described therein;

(g) approving the fees and disbursements of the Receiver and its counsel, including the estimated fees and disbursements of the Receiver and its counsel through to the date of the Receiver's discharge;

(h) terminating these proceedings and discharging the Receiver; and

(i) granting a release in favour of the Receiver and its counsel.

TERMS OF REFERENCE

12. In preparing the Seventh Report and making the comments herein, the Receiver has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, prepared from the Company's books and records, discussions with former employees of the Company and information from other third-party sources (collectively, the "**Information**"). Except as described in the Seventh Report:

(a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information; and

(b) the Receiver has prepared the Seventh Report in its capacity as a court-appointed officer solely for the use of this Court and the stakeholders in these proceedings and will make copies of the Sixth Report and the prior reports available on the Receiver's case website at www.ey.com/ca/hanfeng.

13. All monetary amounts contained herein are expressed in Canadian dollars, unless otherwise stated.

BACKGROUND INFORMATION

Chinese Subsidiary

14. Hanfeng, through its wholly owned subsidiaries, was a developer and producer of value-added fertilizers in China. Hanfeng is incorporated under the laws of Ontario with its registered head office in Toronto.

15. Hanfeng has no independent operations and exists solely as a holding company for certain entities that were incorporated in and, at the relevant times, operating in China. By mid-August 2014, the Company's principal remaining un-monetized asset was all the issued and outstanding shares of the Chinese Subsidiary (i.e., the Shares).

16. The Chinese Subsidiary was managed by Xinduo Yu and a team of individuals designated by him (collectively, the "**Local Management Team**"). The Local Management Team, by way of Mr. Yu's delegation of authority (as legal representative of the Chinese Subsidiary), controlled the Chinese Subsidiary's business licence, bank accounts and other corporate details.

Share Transfer Transaction

17. As noted above, the Approval Order authorized the Receiver to sell the Shares. As described in greater detail in the prior reports of the Receiver to the Court, immediately prior to the execution of the Share Transfer Agreement, the name of the counterparty to the Share Transfer Transaction was changed from "Heilongjian Pengcheng Fertilizer Co. Ltd." ("**HLJ Pengcheng**") to the Chinese language translation of "Harbin Pengcheng Fertilizer Co. Ltd." (i.e., New Pengcheng).

18. HLJ Pengcheng is a well-established company active in the Chinese province of Heilongjiang. By contrast, New Pengcheng appears to be a shell company with no operations that was only registered on August 4, 2014 (four days before signing of the Share Transfer Agreement) and in respect of which very limited information is available to the public.

19. The Receiver attempted to close the Share Transfer Transaction but was not successful, due in part to the actions of New Pengcheng and Mr. Yu. In light of New Pengcheng's continued failure to meet its contractual obligations, the Receiver concluded that New Pengcheng did not have the financial wherewithal or desire to close the Share Transfer Transaction.

Litigation in China re: Deposit

20. On or about August 3, 2015, New Pengcheng commenced an action in the Intermediate People's Court of Harbin City (the "**Harbin City Court**") against Hanfeng, the Chinese Subsidiary, Mr. Yu and EYI in its personal capacity and sought to terminate the Share Transfer Agreement and cause the return of the Deposit.

21. On February 15, 2017, the Harbin City Court released a decision (backdated to December 29, 2016) granting certain relief sought by New Pengcheng. On March 20, 2017, the Receiver commenced an appeal to the Heilongjiang Province Superior Court (the "**Provincial Court**"). The Provincial Court rendered its decision dated September 18, 2017 (the "**Provincial Court Judgement**"), which granted the Receiver's appeal and overturned certain parts of the Harbin City Court's decision.

22. New Pengcheng refused to accept the Provincial Court Judgement and applied for a retrial to the Supreme People's Court of China (the "**Supreme Court**"). In December 2017, the Supreme Court denied the application brought by New Pengcheng for retrial.

23. On February 12, 2018, counsel to New Pengcheng advised that New Pengcheng had applied for trial supervision (the "**Protest Application**") to the Supreme People's Procuratorate in China (the "**Supreme Procuratorate**"). On or about May 7, 2018, after repeated inquires by the Receiver, New Pengcheng's counsel corrected its previous statement and advised that the Protest Application was in fact filed with the Provincial Procuratorate of Heilongjiang Province (the "**Provincial Procuratorate**") and not with the Supreme Procuratorate.

24. The Provincial Procuratorate issued a decision dated August 28, 2019, dismissing the Protest Application (the "**Provincial Procuratorate's Decision**").

25. In October 2019, counsel to New Pengcheng advised the Receiver and this Court that New Pengcheng had appealed the Provincial Procuratorate's Decision to the Supreme Procuratorate.

26. In April 2021, the Receiver's Chinese counsel obtained the decision of the Supreme Procuratorate rendered on February 17, 2020, which rejected New Pengcheng's appeal and upheld the Provincial Procuratorate's Decision.

27. The Supreme Procuratorate's decision represents the conclusion of the Chinese Litigation in favour of Hanfeng and the Receiver, confirming Hanfeng's entitlement to retain the Deposit according to Chinese law.

Investigations re: Chinese Subsidiary's Administration

28. During the process to investigate New Pengcheng, the Receiver also uncovered evidence of concealed loans, legal actions and other information that led to mounting concerns over the state of the Chinese Subsidiary, the potential linkage between Mr. Yu and New Pengcheng, as well as Mr. Yu's role in the entire transaction.

29. The Receiver, with assistance of Chinese counsel and advisors, investigated the financial affairs of the Chinese Subsidiary. These investigations uncovered substantial financial irregularities that were unknown at the outset of these receivership proceedings. They included concealed bank loans and legal proceedings initiated by the lenders against the Chinese Subsidiary, which potentially had a significant negative impact on the net realizable value of the Chinese Subsidiary and its assets.

30. The Receiver made significant efforts to collect information from local management. However, the information provided by local management proved untrustworthy and inconsistent with other data received by the Receiver. Despite numerous inquiries made by the Receiver and its advisors, local management failed to provide credible explanations regarding these discrepancies. In or around August 2015, local management stopped providing information to the Receiver.

31. The Receiver, with the assistance of its Chinese counsel and advisors, made attempts to assert control over and gain access to the Chinese Subsidiary. During this process, the Receiver and the Receiver's Chinese counsel engaged with the local courts, government agencies and banks to access information and assert Hanfeng's shareholder rights.

32. The Receiver, with the assistance of its Chinese counsel and advisors, endeavoured to reorganize the three-member board of the Chinese Subsidiary. In or around August 2015, the Receiver appointed its Chinese counsel, Mr. Liu Guan, to a vacant seat on the board that was previously held by a director who had passed away. Mr. Yu and the general manager of the Chinese Subsidiary continued to serve as the other two directors. However, the Receiver was unable to appoint a second director (which would be required to gain control of the board) due to non-cooperation from local management and challenges related to the regulatory process in China. As a result, the Receiver was unable to make any meaningful progress in controlling the Chinese Subsidiary or accessing the Chinese Subsidiary.

33. Among other efforts, the Receiver attempted to obtain a local court order to assist with enforcing the shareholder rights on behalf of Hanfeng; however, the Harbin City Court advised that it was not prepared to hear the Receiver's submission.

34. The Receiver suspended these activities pending the outcome of the Chinese Litigation.

35. At the time of this Seventh Report, it is challenging, if not impossible, to determine whether any recovery from the Chinese Subsidiary is feasible without investing substantial additional time, effort, and funding. The Receiver lacks the necessary resources to make such an investment.

Other Litigation

36. The Receiver commenced actions against Mr. Yu and his spouse, Lei Li, in the Ontario Superior Court of Justice (Toronto) for relief including damages for breaches of fiduciary duties and fraudulent misrepresentation (the "**Yu and Li Actions**"). As described in more detail at paragraph 44 below, the Yu and Li Actions were resolved as part of the Yu Settlement (as defined below).

THE CLAIMS PROCESS

37. On September 23, 2014, this Court issued an Order (the "**Claims Procedure Order**"), approving a claims process (the "**Claims Process**"). A copy of the Claims Procedure Order is attached hereto as **Appendix "D".**

38. The Claims Process:

(a) established a process to allow all parties with a claim or an alleged claim to advance their claims;

(b) permitted such claims to be processed and adjudicated efficiently; and

(c) allowed the Receiver to address such alleged claims prior to any distribution of the remaining proceeds to Hanfeng's shareholders.

39. Pursuant to the Claims Procedure Order, the Receiver placed newspaper ads in the *Globe and Mail* (national edition), the *National Post* (national edition), and a local newspaper in China in September 2014 in respect of the Claims Process.

40. The Receiver mailed a claims package to all known creditors (which creditors were determined based on Hanfeng's financial records) and to people who requested it.

41. As a result of the Claims Process:

(a) the Receiver received 17 claims (the "**Claims**") with a total face value of $4,307,663 prior to the Claims Bar Date (i.e., 5:00 p.m. Eastern Time on November 10, 2014). After reviewing these 17 Claims, the Receiver issued 13 Notices of Revision or Disallowance ("**NORDs**") pursuant to the Claims Procedure Order. Out of these, 10 NORDs were disputed by the respective claimants (the "**Disputed Claims**").

(b) the Receiver received one late claim of $173.32 (the "**Late Claim**") after the Claims Bar Date. The Receiver disallowed the Late Claim in accordance with the Claims Procedure Order.

(c) the Receiver received 61 claims related to shareholder rights with a total face value of $11,944,533 (the "**Equity Claims**"). The Receiver sent letters to each person who submitted Equity Claims acknowledging receipt of their Equity Claim, but the Receiver did not (and has not yet) accepted, revised, or dismissed any Equity Claims.

42. The Claims Procedure Order provides that, in case of a disputed claim, the Receiver may attempt to consensually resolve any disputed claims with the claimants or schedule a motion for the purpose of resolving such claims. The Receiver paused work relating to the resolution of the Disputed Claims after the Share Transfer Transaction was stalled and the Chinese Litigation was initiated (which brought into question Hanfeng's entitlement to the Deposit, which represented all of the funds left in Hanfeng's estate).

43. After the Chinese Litigation resulted in, among other things, Hanfeng's entitlement to the Deposit being affirmed, the Receiver, with the assistance of its counsel, reviewed, accepted, resolved or disallowed non-Equity Claims. As part of this process, the Receiver entered into settlement agreements with multiple claimants.

44. Among others, the Receiver entered into a settlement agreement with Mr. Yu and his spouse, Mrs. Li, with respect to claims that they filed in the Claims Process. As part of the settlement, Mr Yu and Mrs. Li agreed to (a) irrevocably withdraw the claims they filed against Hanfeng; (b) not make any further claims in respect of their ownership of shares of Hanfeng; and (c) waive any and all rights to recovery and distribution in respect of same. In exchange, the Receiver agreed to dismiss the Yu and Li Actions, and the parties agreed to a mutual release of any and all claims related to Hanfeng (the "**Yu Settlement**").

45. At the time of this Seventh Report, the Receiver has resolved all of the Disputed Claims. The following is a summary of the claims received in the Claims Process and the outcome of the Receiver's review and resolution of same:

Claims as Filed	**Results**
- 17 Claims in the amount of $4,307,662.68	- 11 Claims have been accepted or settled for a total amount of $456,191.32 (the "**Accepted Claims**") - Six claims have been disallowed

- One Late Claims of $173.32	- Disallowed

46. The Receiver developed and maintained a claims register setting out the all the proofs of claim received.

ESTATE ADMINISTRATION

Receiver's Activities

47. In addition to the activities described above in respect of Hanfeng and the Chinese Litigation, the Receiver's activities since the last Court approval include:

(a) responding to inquiries from creditors, shareholders and other stakeholders;

(b) preparing tax filings; and

(c) submitting notices and statements pursuant to Subsection 246 (2) of the *Bankruptcy and Insolvency Act* to the Office of Superintendent of Bankruptcy regarding the state of the estate administration.

48. The activities undertaken and services provided by the Receiver in connection with these Receivership Proceedings since the Fifth Report were prudent, reasonable and not arbitrary. They were all necessary and undertaken in good faith pursuant to the Receiver's duties and powers and in the best interests of Hanfeng and its stakeholders generally. Accordingly, the Receiver is requesting approval of the Sixth Report, this Seventh Report and the activities of the Receiver described herein.

49. Over the course of the Receivership Proceedings, the Receiver has periodically sought and obtained Court's approval for its reports, conduct and activities. This Court has approved all the reports of the Receiver prior to the Sixth Report, and the Receiver's conduct and activities described therein through July 11, 2017.

Summary of Receipts and Disbursements

50. Appendix "R" of the Fifth Report provides a summary of the Receiver's receipts and disbursements from the commencement of the receivership (i.e., August 20, 2014) until May 31, 2017. Attached hereto as **Appendix "E"** is the Receiver's statement of receipts and

disbursements from June 1, 2017 to July 28, 2024. As of the time of this Seventh Report, the Receiver holds funds in the amount of approximately CAD$1,780,850 and USD$315 before accounting for unpaid and accrued fees and disbursements of the Receiver and its counsel.

FEES AND DISBURSEMENTS OF THE RECEIVER AND ITS COUNSEL

51. The Receiver and its counsel, Stikeman Elliott LLP ("**Stikeman Elliott**") maintained records of their professional time and costs. On this motion, the Receiver is seeking approval of:

(a) its fees and disbursements for the period of April 29, 2017, to June 30, 2024; and

(b) the fees and disbursements for Stikeman Elliott for the period of May 6, 2017, to July 18, 2024.

52. On November 30, 2017, this Court approved the fees and disbursements of (a) the Receiver up to and including April 28, 2017; and (b) Stikeman Elliott up to and including May 5, 2017. A copy of Myers J.'s decision approving these fees and disbursements is attached hereto as **Appendix "F"**.

53. The fees and disbursements of the Receiver for the period of April 29, 2017 to June 30, 2024 total $246,804.17, including fees in the amount of $217,200.00, disbursements in the amount of $1,210.77, and HST in the amount of $28,393.40, as more particularly described in the Affidavit of Allen Yao affirmed August 1, 2024 (the "**Yao Affidavit**"), a copy of which is attached hereto as **Appendix "G"**.

54. The fees and disbursements of Stikeman Elliott from May 6, 2017, to July 18, 2024 total $526,892.63, including fees in the amount of $456,178.95, disbursements in the amount of $10,116.10, and HST in the amount of $60,597.58, as more particularly described in the Affidavit of Brian Pukier affirmed July 29, 2024 (the "**Pukier Affidavit**"), a copy of which is attached hereto as **Appendix "H"**.

55. The Receiver respectfully submits that the fees and disbursements incurred by the Receiver and Stikeman Elliott, as set out in the Yao Affidavit and Pukier Affidavit, respectively (together, the "**Fee Affidavits**"), are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Orders issued in these receivership

proceedings. Accordingly, the Receiver respectfully requests the approval of the fees and disbursements of the Receiver and as set out in the Fee Affidavits.

56. In addition to the Receiver's fees and disbursements described above, the Receiver estimates that it will incur additional fees and disbursements in the amount of $50,000 to arrange and make distributions in respect of the Accepted Claims and to the remaining shareholders and to complete the administration of these Receivership Proceedings up to the date of its discharge.

57. In addition to Stikeman Elliott's fees and disbursements described above, Stikeman Elliott estimates that it will incur additional fees and disbursements in the amount of $50,000 up to the date of the Receiver's discharge.

58. If the actual fees and disbursements are below the estimates, the Receiver will include any surplus funds in the proposed distribution to shareholders, as described further below.

59. The Receiver submits that these remaining fees and disbursements are reasonable in the circumstances and will be validly incurred in accordance with the provisions of the Orders issued in the Receivership Proceedings.

PROPOSED DISTRIBUTIONS

60. The following is an estimated recovery for creditors and shareholders, subject to the court's approval of the fees and disbursements of the Receiver and its counsel, including the proposed fees and disbursements to complete the administration of the Receivership Proceedings:

   (a) the Accepted Claims are projected to receive 100% of their accepted value; and

   (b) an estimated surplus of approximately $458,702 is estimated to be available for distribution among remaining shareholders. As part of the Yu Settlement, Mr. Yu and Mrs. Li will not receive any distribution on their shareholdings.

		Estimate ($CAD)
Cash Balance as of July 22, 2024	$	1,788,432
Unpaid invoices		
EY (April 29, 2017 to June 30, 2024)		246,646
Stikeman (May 6, 2017 to July 18, 2024)		526,892
Less: estimated costs (incl. HST) through completion		
Receiver and legal counsel		100,000
TSX distribution cost		10,000
Available Funds	$	904,894
Accepted Creditors' Claims		456,191
Estimated Recovery Available to Shareholders	$	448,702

61. In accordance with the Claims Procedure Order, holders of the Accepted Claims will not recover any interest or penalties that would otherwise accrue after August 20, 2014 (i.e., the date of the receivership).

62. Subject to Court approval, the Receiver plans to distribute funds to the claimants of the Accepted Claims via cheques. The Receiver will notify the claimants of the distribution through phone, email or mail based on available contact information. If any cheques remain uncashed after a period six months, these funds will be included to the pool of funds for distribution to shareholders.

63. TSX Trust Company previously served as the transfer agent for the shareholders of Hanfeng and has access to the latest shareholder registry. The Receiver intends to work with the TSX Trust Company to implement the distribution of the remaining funds to the shareholders. The proposed Order authorizes TSX Trust Company to (a) facilitate and implement the distribution of the remaining funds to the shareholders; and (b) disclose personal information of identifiable individuals to the Receiver and its advisors and any other third party authorized by the Receiver to the extent required by make distributions to shareholders. The Receiver believes that these authorizations are necessary to ensure TSX Trust Company is willing to work with the Receiver to make these distributions to shareholders.

TERMINATION AND DISCHARGE OF THE RECEIVER

64. Subject to the Court's approval, upon completing the administration of these Receivership Proceedings, the Receiver intends to serve upon the service list a certificate (the "**Receiver's**

Termination Certificate"), substantially in the form attached as **Appendix "I"**, certifying that all remaining tasks have been completed.

65. The proposed Order provides that, upon serving the Receiver's Termination Certificate on the service list, these Receivership Proceedings shall be terminated (the "**Termination Time**").

66. Upon service of the Receiver's Termination Certificate, the Receiver will be discharged from its duties as the Receiver, but will continue to have the benefit of any of the rights, approvals, releases and protections in favour of the Receiver under the various Orders granted in these proceedings and at law following the Termination Time, including in connection with any other actions taken by the Receiver following the Termination Time with respect to Hanfeng or these proceedings.

CONCLUSION AND RECOMMENDATION

67. Based on the foregoing, the Receiver respectively recommends that this Court grant the requested Order:

(a) approving the proposed distributions to holders of the Accepted Claims and certain shareholders;

(b) authorizing the TSX Trust Company and any of its affiliates, successors and assigns, as applicable, to facilitate and implement distributions to certain shareholders;

(c) approving the Sixth Report and this Seventh Report, and the activities of the Receiver described therein;

(d) approving the fees and disbursements of the Receiver and its counsel, including the estimated fees and disbursements of the Receiver and its counsel through to the date of the Receiver's discharge;

(e) authorizing the Receiver to terminate these proceedings by filing the Receiver's Termination Certificate at the Termination Time, thereby discharging the Receiver; and

(f) granting a release in favour of the Receiver and its counsel.

All of which is respectfully submitted this 1st day of August, 2024.

ERNST & YOUNG INC.
In its capacity as Receiver of
Hanfeng and not in its personal or corporate capacity

Per:

Brent Beekenkamp
Senior Vice President

Allen Yao
Senior Vice President

Appendix “A”

Court File No. CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

FOURTH REPORT OF THE RECEIVER DATED APRIL 4th, 2017

INTRODUCTION

1. On August 20, 2014, following an application by Hanfeng Evergreen Inc. ("**Hanfeng**" or the "**Company**"), the Ontario Superior Court of Justice (the "**Court**") issued an order (the "**Approval Order**") approving a share transfer agreement (the "**Share Transfer Agreement**") dated August 8, 2014 and the transaction contemplated therein (the "**Share Transfer Transaction**").

2. The Approval Order provided for vesting in HLJ Pengcheng (as defined below) all the shares of Hanfeng Slow-Release Fertilizer Co., Ltd. (the **"Chinese Subsidiary"**), the Company's wholly-owned subsidiary in China upon the completion of the Share Transfer Transaction. A copy of the Approval Order is attached hereto as **Appendix "A"**.

3. Pursuant to an order issued by this Court on August 20, 2014 (the "**Appointment Order**"), Ernst & Young Inc. ("**EY**") was appointed as receiver and manager (the **"Receiver"**) of the assets, undertakings and properties (the **"Properties"**) of the Company, pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended. A copy of the Appointment Order is attached hereto as **Appendix "B"**.

4. The Appointment Order authorized the Receiver to, among other things:

   (a) take any necessary steps required to complete the Share Transfer Transaction;

(b) take possession of and exercise control over the Properties and any and all proceeds, receipts and disbursements arising out of, or from, the Properties;

(c) engage counsel and advisors from time to time to assist with the exercise of the Receiver's powers and duties; and

(d) seek Court approval of and conduct a procedure for the solicitation, determination and resolution of claims against the Company.

5. On July 24, 2015 and July 31, 2015, following an application by the Receiver, this Court issued two Orders (collectively, the "**Clarification Orders**"), which, among other things:

(a) confirmed the Receiver's power and authority to exercise the shareholder rights of Hanfeng with respect to the Chinese Subsidiary, including the replacement of Mr. Yu Xinduo ("**Mr. Yu**") with Mr. Hong Rong-Kai ("**Mr. Hong**") as the legal representative and a director of the Chinese Subsidiary;

(b) authorized the Receiver to take any necessary steps to assert its ownership of and effect control over the Chinese Subsidiary;

(c) required Mr. Yu to provide unfettered access for Mr. Hong and his designates to the Chinese Subsidiary's offices and facilities and to the Chinese Subsidiary's books and financial records;

(d) required Mr. Yu to surrender the chops and certain other business and legal documents of the Chinese Subsidiary to Mr. Hong and the Receiver;

(e) required Mr. Yu to provide full and timely cooperation to the Receiver with respect to the above tasks; and

(f) prohibited Mr. Yu, without the Receiver's approval, from executing any agreement with respect to the Chinese Subsidiary or causing it to make any payments.

Copies of the Clarification Orders are attached hereto collectively as **Appendix "C"**.

PURPOSE

6. The purpose of this fourth report of the Receiver (the "**Fourth Report**") is to report to the Court in respect of:

   (a) the status of the Share Transfer Transaction;

   (b) the Receiver's efforts to gain control of the Chinese Subsidiary;

   (c) the current status of the Chinese Subsidiary;

   (d) the commencement and status of the claim by the Receiver against, *inter alia*, Mr. Yu;

   (e) the commencement and status of a proceeding brought by New Pengcheng (as defined below) against Hanfeng, the Chinese Subsidiary and EY in China;

   (f) the Receiver's other activities; and

   (g) the current financial position of the Company.

7. The Fourth Report is organized as follows:

   (a) Terms of Reference;

   (b) General Background;

   (c) Update on the Share Transfer Transaction;

   (d) Update on Control over the Chinese Subsidiary;

   (e) Status of the Chinese Subsidiary;

   (f) Litigation Proceedings;

   (g) Summary of the Receiver's Other Activities; and

   (h) Hanfeng's Current Financial Position.

TERMS OF REFERENCE

8. In preparing the Fourth Report and making the comments herein, the Receiver has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, prepared from the Company's books and records, discussions with employees of the Company and information from other third-party sources (collectively, the "**Information**"). Except as described in the Fourth Report:

(a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information; and

(b) the Receiver has prepared the Fourth Report in its capacity as a court-appointed officer solely for the use of this Court and the stakeholders in these proceedings and will make a copy of the Fourth Report available on the Receiver's website at www.ey.com/ca/hanfeng.

9. The Receiver has previously filed with the court its first report dated September 12, 2014 (the "**First Report**"), the supplement to the first report dated September 22, 2014, the second report dated July 17, 2015 (the "**Second Report**") and the supplement to the second report dated July 22, 2015 and its third report dated September 25, 2015 (the "**Third Report**"). Copies of each of these reports are posted on the Receiver's website. Copies of the First Report with supplement, the Second Report and supplement (without appendices) and the Third Report (without appendices) are attached hereto as **Appendices "D", "E" and "F"**.

10. All monetary amounts contained herein are expressed in Canadian dollars, unless otherwise stated.

GENERAL BACKGROUND

Hanfeng and its Chinese Subsidiary

11. Hanfeng, through its wholly-owned subsidiaries, was a developer and producer of value-added fertilizers in the China. Hanfeng is incorporated under the laws of Ontario with its registered head office in Toronto.

12. Hanfeng has no independent operations and exists solely as a holding company for certain entities incorporated in China and, at the relevant times, were operating in China. By mid-August, 2014, the Company's principal remaining un-monetized asset was all the issued and outstanding shares of the Chinese Subsidiary (the "**Shares**"). The Chinese Subsidiary is a Wholly Foreign-Owned Enterprise ("**WFOE**") that was established and is registered in China.

13. In accordance with its articles of association, the board of the Chinese Subsidiary is required to have three directors. Until the board reorganization in June 2015 (described in greater detail below), the board consisted of the following members:

(a) Mr. Yu, founder and former CEO of the Company, who owns and controls approximately 20.4% of the Company's shares;

(b) Qi Zhida, General Manager of the Chinese Subsidiary; and

(c) a vacant seat.

14. On or about June 5, 2015, Mr. Guan Liu ("**Mr. Guan**") (a lawyer at Heilongjiang Honghui Law Firm ("**Honghui**"), the Receiver's Chinese counsel) was appointed to the Chinese Subsidiary's board of directors to fill the vacant seat.

15. Despite the Receiver's efforts described below, Mr. Yu remains both a director of the Chinese Subsidiary as well as the legal representative of the Chinese Subsidiary, a position that, under Chinese law, is responsible for the overall activities of the Chinese Subsidiary. The Chinese Subsidiary is managed by Mr. Yu and a team of individuals designated by him (collectively, the "**Local Management Team**"). The Local Management Team, by way of Mr. Yu's (as legal representative) delegation of

authority, controls the Chinese Subsidiary's business license, chop sets (which are company seals required for executing corporate documents and government registrations) and bank accounts.

16. As described in greater detail herein, notwithstanding the Clarification Orders, since the filing of the Third Report, the Receiver and its representatives have been unable to obtain any meaningful information from the Local Management Team with respect to the status of the Chinese Subsidiary, and also have been denied access to the Chinese Subsidiary's premises as well as its books and records. Based on the Receiver's investigations, substantial bank loans were taken out by the Chinese Subsidiary under Mr. Yu's authority. Mr. Yu, even after direct questioning by the Receiver, denied the existence of the loans and concealed from Hanfeng and the Receiver such indebtedness as well as other guarantees of indebtedness the Chinese Subsidiary had provided in respect of other Chinese company's under Yu's control but not related to Hanfeng. The Receiver has not been able to identify any evidence to suggest that the Chinese Subsidiary ever received the cash proceeds or other benefit of any of these loans.

Share Transfer Transaction

17. On or about June 16, 2014, Mr. Yu and Ms. Lei Li[1] ("**Ms. Li**") forwarded to Hanfeng a letter of intent to effect the Share Transfer Transaction from an entity that identified itself with a Chinese name that translates into Heilongjian Pengcheng Fertilizer Co. Ltd ("**HLJ Pengcheng**"). Prior to entering into any definitive agreement with HLJ Pengcheng, the Company conducted due diligence, including obtaining an independent report from Deloitte LLP, in respect of HLJ Pengcheng.

18. During the subsequent eight weeks, the Company and HLJ Pengcheng negotiated the terms of a Share Transfer Agreement and related documents. Each of the Chinese language drafts of these documents prepared by HLJ Pengcheng continued to refer to the buyer using the same corporate name of the buyer referred to in paragraph 16.

[1] Ms. Lei Li is the spouse of Mr. Yu and a former director and officer of Hanfeng.

19. However, in preparing the execution versions of the Share Transfer Agreement on August 8, 2014, the name of the buyer was switched from the Chinese language translation of "Heilongjian Pengcheng Fertilizer Co. Ltd." to the Chinese language translation of "Harbin Pengcheng Fertilizer Co. Ltd." ("**New Pengcheng**"). An English language translation of the Share Transfer Agreement is attached hereto as **Appendix "G"**.

20. Unlike HLJ Pengcheng, a well-established company active in Heilongjiang Province of China, New Pengcheng appears to be a shell company with no operations that was only registered on August 4, 2014 (4 days before signing of the Share Transfer Agreement) and in respect of which very limited information is available to the public.

21. As discussed in the Second and Third Reports, the Receiver has significant skepticism over the New Pengcheng's purported identity, intent and ability to ever close the Share Transfer Transaction.

22. The Share Transfer Agreement provides that the total purchase price for all of the Shares is RMB 248 million (approximately $49.6 million), of which cash consideration is RMB 198.4 million. Set out in the table below is a summary of the timing and amount of the payments and consideration provided for in the agreement.

Description	**Amount**	**Time**
5% of the total purchase price	RMB 12,400,000	Within 7 business days of the date of the Share Transfer Agreement
15% of the total purchase price	RMB 37,200,000	Within 10 business days of the Court approval of the Share Transfer Transaction
60% of the total purchase price	RMB 148,800,000	Within 10 days upon closing of the Share Transfer Transaction
Total Cash Consideration	**RMB 198,400,000**	
20% of the total purchase price in promissory note to be assigned to Mr. Yu on account of approximately 20.4% of the Company's shares owned or controlled by Mr. Yu	RMB 49,600,000	Within 10 days upon closing of the Share Transfer Transaction
Total Purchase Price	**RMB 248,000,000**	

23. New Pengcheng paid the 5% deposit amount (the "**Deposit**") due in connection with the execution of the Share Transfer Agreement on August 28, 2014, being 9 days after it was due under the terms of the Share Transfer Agreement, but failed to make the 15% interim payment (the "**Interim Payment**") due on September 3, 2014, and failed to make any subsequent payments.

24. As described in the First and Second Report, the failure to make the Interim Payment was initially attributed to issues arising from the requirement for the Chinese regulatory authorities to authorize foreign exchange payments being remitted out of China.

25. In order to advance the Share Transfer Transaction and address the obstacles being raised by New Pengcheng regarding local regulatory requirements, after extensive negotiations, the Receiver subsequently agreed with New Pengcheng that the Interim Payment could be paid by it into escrow with a Chinese bank, and accordingly the parties entered into an escrow agreement (the "**Escrow Agreement**") dated February 13, 2015. Under the terms of the Escrow Agreement, New Pengcheng was required to deposit the Interim Payment within five days into an account (the "**Escrow Account**") at Minsheng Bank (the "**Escrow Bank**") under New Pengcheng's name. Although an account was opened by New Pengcheng at the Escrow Bank, the Interim Payment was not deposited when required under the Escrow Agreement.

26. On March 23, 2015, following numerous demands being made by the Receiver, New Pengcheng committed to a new timeframe for the deposit of the Interim Payment into the Escrow Account. New Pengcheng made deposits in the aggregate amount of RMB 10 million between April 3, 2015 and April 27, 2015 (the "**Escrow Funds**"). The remainder of the Interim Payment in the amount of RMB 27 million was due on April 30, 2015, but was never deposited.

27. The Receiver, with the assistance of its Chinese counsel and advisors, began investigations in China as a result of the numerous and ongoing breaches by New Pengcheng under the Share Transfer Agreement and the Escrow Agreement. As the

investigations progressed, the Receiver uncovered concerning information about the real identity of the New Pengcheng, the Chinese Subsidiary's status and the potential linkage between Mr. Yu and New Pengcheng (as described in detail in the Second and Third Reports and further below).

28. As a result of these findings and its concerns, as well as the lack of trust in New Pengcheng that was created by this course of action, the Receiver, in consultation with its Canadian and Chinese counsel, concluded that it should adhere strictly to the timing of the payment structure in the Share Transfer Agreement and it should not accede to further departures from its terms. Accordingly, the Receiver insisted that applications for regulatory approval be made only after New Pengcheng had rectified its various breaches, including depositing the remainder of the Interim Payment in the Escrow Account in accordance with the Escrow Agreement. In parallel, the Receiver, in accordance with the orders of this Court, also took further steps to attempt to gain control over the Chinese Subsidiary as discussed further herein.

29. As described in the Third Report, the Receiver was informed that starting in the week of July 13, 2015, New Pengcheng had repeatedly contacted the Escrow Bank requesting the Escrow Bank return the Escrow Funds to New Pengcheng.

30. On July 22, 2015, the Receiver received from New Pengcheng an email, which, among other things, alleged that the Receiver was responsible for the delay of the Share Transfer Transaction. On July 28, 2015, New Pengcheng sent another email, which repeated its previous allegations and demanded the return of all payments previously made, being the Deposit and the Escrow Funds.

31. The Receiver rejected New Pengcheng's allegations the Receiver had failed to meet its obligations in any way. The Receiver obtained a legal opinion from Honghui confirming the Receiver's entitlement to the Deposit under the Share Transfer Agreement and in accordance with Chinese law. A copy of the legal opinion together with its translation is attached hereto as **Appendix "H"**.

32. On July 28, 2015, the Escrow Bank sent a notice notifying the parties to the Escrow Agreement, including the Receiver that the Escrow Agreement was to be terminated

effective August 4, 2015. The notice did not, however, provide details as to how the Escrow Funds would be released. Article 8.5 of the Escrow Agreement provides that "on the termination date for the escrow, the Escrow Bank shall deal with the balance of the escrow amount in accordance with the instructions in the written notice jointly issued by the buyer and the seller". (emphasis added)

33. The Receiver informed the Escrow Bank and New Pengcheng that it would not consent to the designation of a successor account under the Escrow Agreement or release of the Escrow Funds back to New Pengcheng. The Receiver also instructed Mr. Yu that he was not to authorize or cause any change to the Escrow Funds without written instructions from the Receiver.

34. Despite the Receiver's clear instructions to Yu and the Escrow Bank, the Receiver's Chinese counsel found Mr. Yu had provided written consent on behalf of Hanfeng (which he was not authorized to do) to the Escrow Bank, resulting in the Escrow Funds being released back to New Pengcheng in August 2015.

Control of Chinese Subsidiary

35. As noted in the Second Report, the Chinese Subsidiary is managed by the Local Management Team under Mr. Yu's supervision. Although Mr. Yu advised on several occasions the Chinese Subsidiary had been dormant since around April 2014, the Receiver became increasingly concerned about the status of the assets of the Chinese Subsidiary (the "**Heilongjiang Assets**") due to:

(a) the Chinese Subsidiary incurring significantly more disbursements than what would be expected for a dormant manufacturing facility;

(b) the absence of any meaningful cooperation from Mr. Yu, Ms. Li and the Local Management Team and their continuing refusal to provide detailed supporting information for the disbursements;

(c) financial and operational information received by the Receiver being inadequate and inconsistent with explanations and supporting collaborative information; and

(d) discovery of lawsuits related to undisclosed loans of the Chinese Subsidiary that were concealed from the Company and Receiver and subsequent settlements entered into by the Chinese Subsidiary without the Receiver's knowledge or agreement. Under these settlements, the Chinese Subsidiary is obligated to pay to China Industrial Bank ("**Industrial Bank**") approximately RMB 161 million in principal and interest (approximately $32 million) (the "**Industrial Bank Settlements**") (all as described in greater detail in the Second Report).

36. As discussed in the Second Report, in order to preserve the Heilongjiang Assets, in June 2015, the Receiver undertook to reorganize the board and management of the Chinese Subsidiary by appointing:

(a) Mr. Guan Liu as a director of the Chinese Subsidiary to fill the vacancy in the Chinese Subsidiary's board;

(b) Mr. Hong[2] as the legal representative and a director of the Chinese Subsidiary to replace Mr. Yu; and

(c) an associate of Mr. Hong as a director to replace the third director.

UPDATE ON THE SHARE TRANSFER TRANSACTION

37. The Receiver remained intent on completing the Share Transfer Transaction. However, concerns mounted over New Pengcheng's ability and intent to complete the Share Transfer Transaction, as well as the real identity of New Pengcheng and Mr. Yu's role in the entire transaction in light of the following:

[2] Mr. Hong is a Canadian citizen who received his PhD degree from the University of Toronto. The Receiver understands Mr. Hong has extensive experience in restructuring, general management and operation management from his previous employment with several multinational companies. The Receiver is advised that Mr. Hong founded four companies (one in China, two in Taiwan and one in Toronto) and has provided freelance advisory services to a wide variety of clients. Mr. Hong is familiar with the transactional environment in China.

(a) New Pengcheng's continued failure to meet its obligations under the Share Transfer Agreement and Escrow Agreement;

(b) despite the Receiver's express instructions not to authorize or cause any change to the Escrow Funds, Mr. Yu provided written consent to the Escrow Bank for the release of the Escrow Funds back to New Pengcheng;

(c) misrepresentations by Mr. Yu and Ms. Li about the true identity and corporate history of New Pengcheng (as discussed further herein);

(d) the discovery of substantial undisclosed bank loans of the Chinese Subsidiary, which far exceeds the purchase price for the Share Transfer Transaction (as discussed further herein); and

(e) a lawsuit commenced by New Pengcheng against Hanfeng, the Chinese Subsidiary, Mr. Yu and EY in its personal capacity seeking to terminate the Share Transfer Agreement and the return of the Deposit that it had paid previously in the amount of RMB 12.4 million (as discussed further herein).

38. Based on the foregoing, the Receiver no longer has any remaining belief that New Pengcheng has the financial resources or desire to close the Share Transfer Transaction, or that the Share Transfer Transaction can be completed.

39. The Receiver believes that New Pengcheng's numerous and continuous breaches of the Share Transfer Agreement are the sole cause for the failure to close the Share Transfer Transaction. The Receiver also continues to believe that it is entitled to keep the Deposit pursuant to the Share Transfer Agreement.

40. In the Second and Third Reports, the Receiver advised this Court that it was critical to the estate to further both the investigation activities and efforts to preserve the assets of the Chinese Subsidiary. In the Third Report, the Receiver advised this Court that the remaining funds in the estate, including a portion or all of the Deposit, would be used by the Receiver to fund the next steps outlined in the Report. This Court approved the Third Report by an Order dated October 5, 2015, a copy of which is attached hereto as **Appendix "I"**. In accordance with this Order, the Receiver has

continued to use the Company's remaining funds, including the Deposit, to fund the various activities as further described herein.

UPDATE ON CONTROL OVER THE CHINESE SUBSIDARY

41. Mr. Guan's appointment as director was approved on August 18, 2015, by Harbin Administration of Industry and Commerce ("**HAIC**"), upon a review of the translation of the Clarification Orders.

42. In the Third Report, the Receiver reported it was in the process of preparing the submissions to HAIC for the registration of Mr. Hong as legal representative and a director of the Chinese Subsidiary. Despite the Clarification Orders and repeated demands by the Receiver and its representatives, Mr. Yu and the Local Management Team have refused to provide cooperation, including:

(a) refusing to sign/seal certain documents necessary for a submission to register Mr. Hong as the legal representative and director of the Chinese Subsidiary and refusing to surrender the chops, bank tokens or other business documents;

(b) failing to provide financial information and records of the Chinese Subsidiary; and

(c) refusing to accommodate access to the Chinese Subsidiary's facility; in particular, Mr. Hong and Mr. Guan were denied entry to the Chinese Subsidiary's facility by security during the weeks of July 27, 2015 and June 6, 2016.

43. With respect to the replacement of Mr. Yu as the Chinese Subsidiary's legal representative, Honghui and Mr. Hong engaged in numerous discussions with HAIC, and learned that HAIC was not prepared to process the submissions without the documents being signed/sealed by Mr. Yu and the Chinese Subsidiary.

44. In order to address the non-cooperation of Mr. Yu and the Local Management Team, the Receiver, with assistance of Honghui, applied to the Harbin Intermediate People's

Court in Heilongjiang Province, China (the "**Harbin Court**") in November 2015, seeking, among other things,

(a) recognition of the Appointment Order and Clarification Orders; and

(b) endorsement of the Receiver's authority to exercise certain shareholder rights on behalf of Hanfeng in respect of the Chinese subsidiary, including changing the legal representative of the Chinese Subsidiary.

45. However, the Harbin Court was not prepared to hear the Receiver's application based on its review of the aforementioned Orders issued by this Court.

46. The Receiver, with assistance of Honghui and Mr. Hong, has also had several discussions with the banks of the Chinese Subsidiary, but without the cooperation of Mr. Yu, as legal representative, or the Local Management Team, has only been able to obtained limited information with respect to the Chinese Subsidiary (as further discussed below).

47. Since the filing of the Third Report, the Receiver has not been able to obtain any meaningful information from Mr. Yu and the Local Management with respect to the Chinese Subsidiary. There has also been no significant progress in effecting control over the Chinese Subsidiary and appointing Mr. Hong as the legal representative.

STATUS OF THE CHINESE SUBSIDIARY

48. Following the discovery of the Industrial Bank Settlements, the Receiver, with assistance of its Chinese counsel and Mr. Hong, uncovered additional bank loans of the Chinese Subsidiary which had been concealed from Hanfeng and the Receiver. The Receiver's further investigations reveal the Chinese Subsidiary has been carrying a significant amount of undisclosed indebtedness since long before the receivership proceedings.

49. According to information from the Corporate Credit Information Centre of the People's Bank of China (the central bank of China), the indebtedness of the Chinese Subsidiary amounted to over RMB 438 million (approximately $87.6 million) as of

March 31, 2016, which far exceeds the Chinese Subsidiary's available cash, as at June 30, 2015, of RMB 74 million (or the equivalent of $14.4 million) as reported by the Local Management Team. The Chinese Subsidiary has defaulted under certain of these bank loans, resulting in seizure and recovery actions being initiated in China by its lenders such as the Industrial Bank.

LITIGATION PROCEEDINGS

50. As a result of the issues discussed above with respect to the Share Transfer Transaction and control over the Chinese Subsidiary, the Receiver has become involved in two legal proceedings, both of which remain ongoing:

(a) the Receiver's action against Mr. Yu and Ms. Li in Canada; and

(b) the proceeding brought in China by New Pengcheng against Hanfeng, the Chinese Subsidiary, Mr. Yu and EY (the "**New Pengcheng Proceeding**").

Receiver's Action

51. On March 22, 2016, the Receiver commenced a claim (the "**Receiver's Action**") in the Ontario Superior Court of Justice against Mr. Yu and Ms. Li. Among other things, the Statement of Claim alleges Mr. Yu breached his fiduciary duties to Hanfeng and the Chinese Subsidiary by taking out a series of loans on behalf of the Chinese Subsidiary, which proceeds he converted for his own use or otherwise improperly dissipated from the Chinese Subsidiary, and/or were received by Ms. Li. In addition, the Statement of Claim alleges that Mr. Yu and Ms. Li fraudulently represented the true identity and corporate history of New Pengcheng.

52. In the Receiver's Action, the Receiver claims restitution or damages in the total amount of Canadian currency sufficient to purchase RMB 865,600,000 for breach of fiduciary duty, fraud, conversion, unjust enrichment, knowing assistance and knowing receipt and fraudulent misrepresentation and seeks a declaration that all monies belonging the Chinese Subsidiary and wrongfully obtained by Mr. Yu and/or Ms. Li are subject to a constructive trust in favor of the Receiver. The Receiver also asserts a claim for aggravated, exemplary and punitive damages in the amount of

$500,000 and special damages in an amount to be determined in advance of trial for costs associated with the Court approval and monitoring of the Share Transfer Agreement, delays to the Share Transfer Transaction and the costs to investigate Mr. Yu and Ms. Li's activities and to try and preserve the Chinese Subsidiary's assets.

53. After the Receiver delivered two responses to the defendants' Demand for Particulars, on January 5, 2017, Mr. Yu and Ms. Li delivered a defence to the action. The Statement of Defence broadly denies the allegations of the Receiver and claims certain allegations fail to disclose a cause of action against Mr. Yu and Ms. Li.

54. The next steps in this proceeding are expected to be as follows:

(a) the Receiver intends to file a reply to the Statement of Defence and has been given an indulgence with respect to service and filing. Accordingly, at this time pleadings are not closed;

(b) the defendants have stated they may file a motion to strike certain aspects of the Receiver's claim with respect to Ms. Li, but as of the date of this report, have not yet done so; and

(c) once pleadings have closed, a timetable will be established for discovery.

New Pengcheng Proceeding

55. On or about August 3, 2015, New Pengcheng commenced an action against Hanfeng, the Chinese Subsidiary, Mr. Yu and EY in its personal capacity in the Harbin Court, seeking to terminate the Share Transfer Agreement and the return of the Deposit that it had paid previously in the amount of RMB 12.4 million.

56. On February 15, 2017, the Harbin Court released its decision (backdated to December 29, 2016). Among other things, the decision included the following:

(a) the termination of the Share Transfer Agreement;

(b) the requirement for Hangfeng to return the deposit, plus interest, to the Purchaser; and

(c) a finding that EY, in its personal capacity, was not a party to the Share Transfer Agreement and not personally liable for the return of the deposit.

57. The Receiver does not believe that the Harbin Court reached the appropriate result with respect to the termination of the Share Transfer Agreement and the requirement for Hangfeng to return the deposit.

58. In forming its judgment, the Harbin Court held that the Share Transfer Agreement was entered into lawfully, but was ineffective, and therefore not binding upon the parties on account of the ultimate failure to obtain certain regulatory approval concerning foreign investment entities (the "**FIE Approval**"). The Receiver takes issue with this conclusion as, among other things, its Chinese counsel, Honghui, has advised that the proper interpretation of applicable Chinese law is that a lawfully established contract is legally binding on the parties regardless of whether such FIE Approval was obtained, in particular, the parties should be bound by the contractual obligations in respect of the steps towards applying for the FIE Approval.

59. In addition, the Harbin Court based its decision, in part, on Hanfeng's failure to apply for the FIE Approval. However, the Harbin Court failed to consider that Hanfeng was willing to apply for the FIE Approval, but did not do so as a result of New Pengcheng breaching its obligations pursuant to the terms of the Share Transfer Agreement, including payment of the required deposit, on numerous occasions.

60. The Receiver takes the position that these, and other grounds, constitute reasonable grounds to appeal the decision and intends to appeal same.

61. In order to appeal, Hanfeng is required to file written submissions within 30 days of formally receiving the Harbin Court's decision and make a payment to the court. At the time of this report, the Receiver has instructed Honghui to file the appeal submissions. Honghui has advised the Receiver that it may take three to five months before the appeal is decided.

SUMMARY OF THE RECEIVER'S OTHER ACTIVITES

62. In addition to the activities described above, since the filing of the Third Report, Receiver has taken various steps pursuant to the Appointment Order as detailed below:

(a) responded to inquiries from stakeholders;

(b) consulted certain stakeholders as appropriate with respect to the Share Transfer Transaction and Chinese Subsidiary; and

(c) suspended disbursements except for funding Chinese counsel and expenses related to the litigation activities in China in order to preserve liquidity.

THE COMPANY'S CURRENT FINANCIAL POSITION

63. As described in the Second Report, the Receiver has received 17 non-equity claims with a total face value of $4,307,663 and 2 late claims for a total amount of $17,863 in the Claims Process.

64. The Receiver currently holds funds in the amount of CA$2,037,485 and US$7,901 in respect of the receivership of Hanfeng.

65. At the time of this Report, outstanding professional fees and disbursements are estimated at $525,000 before HST.

66. As described in more detail above, given the current status of the Share Transfer Transaction and that it is unlikely to proceed further, the Receiver intends to:

(a) proceed with pursuing the litigation as against Mr. Yu and Ms. Li in Canada; and

(b) proceed with the appeal of the Chinese Court decision in China in respect of the New Pengcheng lawsuit.

67. The Receiver, therefore, intends to return to this Court in the near future to seek approval of its activities and for payment of the Receiver's and Canadian counsel's

outstanding professional fees and disbursements in accordance with the Appointment Order.

All of which is respectfully submitted this April 4th, 2017

ERNST & YOUNG INC.
In its capacity as Receiver of
Hanfeng and not in its personal or corporate capacity

Per:

Murray A. McDonald
President

Appendix “B”

Court File No. CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

FIFTH REPORT OF THE RECEIVER
July 11, 2017

INTRODUCTION

1. On August 20, 2014, following an application by Hanfeng Evergreen Inc. ("**Hanfeng**" or the "**Company**"), the Ontario Superior Court of Justice (the "**Court**") issued an order (the "**Approval Order**") approving a share transfer agreement (the "**Share Transfer Agreement**") dated August 8, 2014 and the transaction contemplated therein (the "**Share Transfer Transaction**").

2. The Approval Order provided for vesting in HLJ Pengcheng (as defined below) all the shares of Hanfeng Slow-Release Fertilizer Co., Ltd. (the "**Chinese Subsidiary**"), the Company's wholly-owned subsidiary in China, upon the completion of the Share Transfer Transaction. A copy of the Approval Order is attached hereto as **Appendix "A"**.

3. Pursuant to an order (the "**Appointment Order**") issued by this Court on August 20, 2014 (the "**Filing Date**"), Ernst & Young Inc. ("**EY**") was appointed as receiver and manager (the "**Receiver**") of the assets, undertakings and properties (the "**Properties**") of the Company, pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended. A copy of the Appointment Order is attached hereto as **Appendix "B"**.

4. The Appointment Order authorized the Receiver to, among other things:

   (a) take any necessary steps required to complete the Share Transfer Transaction;

(b) take possession of and exercise control over the Properties and any and all proceeds, receipts and disbursements arising out of, or from, the Properties;

(c) engage counsel and advisors from time to time to assist with the exercise of the Receiver's powers and duties; and

(d) seek Court approval of, and conduct a procedure for, the solicitation, determination and resolution of claims against the Company.

5. On July 24, 2015 and July 31, 2015, following motions by the Receiver, this Court issued two Orders (collectively, the "**Clarification Orders**"), which, among other things:

(a) confirmed the Receiver's power and authority to exercise the shareholder rights of Hanfeng with respect to the Chinese Subsidiary, including the replacement of Mr. Yu Xinduo ("**Mr. Yu**") with Mr. Hong Rong-Kai ("**Mr. Hong**") as the legal representative and a director of the Chinese Subsidiary;

(b) authorized the Receiver to take any necessary steps to assert its ownership of and effect control over the Chinese Subsidiary;

(c) required Mr. Yu to provide unfettered access for Mr. Hong and his designates to the Chinese Subsidiary's offices and facilities and to the Chinese Subsidiary's books and financial records;

(d) required Mr. Yu to surrender the chop sets (which are company seals required for executing corporate documents and government registrations) and certain other business and legal documents of the Chinese Subsidiary to Mr. Hong and the Receiver;

(e) required Mr. Yu to provide full and timely cooperation to the Receiver with respect to the above tasks; and

(f) prohibited Mr. Yu, without the Receiver's approval, from executing any agreement with respect to the Chinese Subsidiary or causing it to make any payments.

Copies of the Clarification Orders are attached hereto collectively as **Appendix "C"**.

PURPOSE

6. The purpose of this fifth report of the Receiver (the "**Fifth Report**") is to report to the Court in respect of:

   (a) developments with respect to the ongoing Legal Proceedings (as defined below);

   (b) the current financial status of the Company;

   (c) the outstanding fees and disbursements for the Receiver and its counsel; and

   (d) the Receiver's motion for:

      (i) approval of the Supplement to the First Report dated September 22, 2014 (the "**Supplement to the First Report**"), the Fourth Report (defined below), the Fifth Report and the activities described therein; and

      (ii) approval of the fees and disbursements of the Receiver and its counsel.

7. The Fifth Report is organized as follows:

   (a) Terms of Reference;

   (b) General Background;

   (c) Update on the Legal Proceedings;

   (d) Current Financial Status of Company; and

   (e) Fees and Disbursements.

TERMS OF REFERENCE

8. In preparing the Fifth Report and making the comments herein, the Receiver has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, prepared from the Company's books and records, discussions with employees of the Company and information from other third-party sources (collectively, the "**Information**"). Except as described in the Fifth Report:

(a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information; and

(b) the Receiver has prepared the Fifth Report in its capacity as a court-appointed officer solely for the use of this Court and the stakeholders in these proceedings and will make a copy of the Fifth Report available on the Receiver's website at www.ey.com/ca/hanfeng.

9. The Receiver has previously filed with the Court its first report dated September 12, 2014 (the "**First Report**"), the Supplement to the First Report, the second report dated July 17, 2015 (the "**Second Report**"), the supplement to the second report dated July 22, 2015 (the "**Supplement to the Second Report**"), its third report dated September 25, 2015 (the "**Third Report**") and its fourth report dated April 4, 2017 (the "**Fourth Report**"). Copies of each of these reports are posted on the Receiver's website. Copies of the First Report, the Supplement to the First Report, the Second Report (without appendices), the Supplement to the Second Report (without appendices), the Third Report (without appendices) and the Fourth Report (without appendices) are attached hereto as **Appendices "D", "E", "F", "G", "H" and "I"**, respectively. The First Report, Second Report and Supplement to the Second Report were approved by the Order of Justice Hainey dated July 31, 2015. The Third Report was approved by the Order of Justice Hainey dated October 5, 2015.

10. All monetary amounts contained herein are expressed in Canadian dollars, unless otherwise stated. Capitalized terms not defined herein have the meaning set out in the Fourth Report.

GENERAL BACKGROUND

Hanfeng and its Chinese Subsidiary

11. Hanfeng, through its wholly-owned subsidiaries, was a developer and producer of value-added fertilizers in China. Hanfeng is incorporated under the laws of Ontario with its registered head office in Toronto.

12. Hanfeng has no independent operations and exists solely as a holding company for certain entities that were incorporated in and, at the relevant times, operating in China. By mid-August 2014, the Company's principal remaining un-monetized asset was all the issued and outstanding shares of the Chinese Subsidiary (the "**Shares**").

13. The Chinese Subsidiary is managed by Mr. Yu and a team of individuals designated by him (collectively, the "**Local Management Team**"). The Local Management Team, by way of Mr. Yu's delegation of authority (as legal representative), controls the Chinese Subsidiary's business licence, chop sets and bank accounts.

14. The board of the Chinese Subsidiary (the "**Board**") currently consists of the three following directors:

- Mr. Yu, chairman of the Board, the founder and former CEO of the Company, who owns and controls approximately 20.4% of Hanfeng's shares;
- Qi Zhida, General Manager of the Chinese Subsidiary; and
- Guan Liu, ("**Mr. Guan**") (a lawyer at Heilongjiang Honghui Law Firm, the Receiver's Chinese counsel).

Share Transfer Transaction

15. As noted above, the Appointment Order authorized the Receiver to sell the Shares.

16. As described in greater detail in the prior reports of the Receiver to the Court, immediately prior to the execution of the Share Transfer Agreement, the name of the counterparty to the Share Transfer Transaction was changed from "Heilongjian Pengcheng Fertilizer Co. Ltd." ("**HLJ Pengcheng**") to the Chinese language translation of "Harbin Pengcheng Fertilizer Co. Ltd." ("**New Pengcheng**").

17. HLJ Pengcheng is a well-established company active in Heilongjiang Province of China. By contrast, New Pengcheng appears to be a shell company with no operations that was only registered on August 4, 2014 (4 days before signing of the Share Transfer Agreement) and in respect of which very limited information is available to the public.

18. The Receiver has attempted to close the Share Transfer Transaction, but has not been successful, in part due to the actions of New Pengcheng and Mr. Yu. In light of New Pengcheng's continued failure to meet its contractual obligations and various other factors set out in the Forth Report, the Receiver no longer believes that New Pengcheng has the financial wherewithal or desire to close the Share Transfer Transaction.

19. During this process, the Receiver uncovered evidence of concealed loans, legal actions and other information that led to mounting concerns over the state of the Chinese Subsidiary, the potential linkage between Mr. Yu and New Pengcheng, as well as Mr. Yu's role in the entire transaction, all as detailed in the Fourth Report.

Control of the Chinese Subsidiary

20. In light of these concerns, the Receiver, with the assistance of its counsel and advisors, took various steps with a view to preserving the assets of the Chinese Subsidiary. However, the Receiver's efforts have not been successful due to Mr. Yu's failure to surrender control of the Chinese Subsidiary despite the Receiver's demands and the Court's previous orders. Mr. Yu has failed to provide the documents requested by the receiver or cooperate with the Receiver and its representatives in accordance with the Clarification Orders, in particular, Mr. Yu has not:

    (a) executed certain documents necessary for the replacement of the legal representative as further discussed herein;

    (b) granted access to the Chinese Subsidiary's offices and facilities and to its books and financial records; and

    (c) responded to inquiries with respect to the concealed loans of the Chinese Subsidiary, legal actions by its lenders, and other operational and financial information.

21. As a result, the Receiver has been unable to complete an application to the Harbin Administration of Industry and Commerce ("**HAIC**") to register the replacement of the legal representative.

22. As discussed in the Fourth Report, the Receiver attempted to obtain a local court order to assist with enforcing the shareholder rights on behalf of Hanfeng; however, the Harbin Intermediate People's Court (the "**Harbin Court**") advised that it was not prepared to hear the Receiver's submission.

UPDATE ON THE LEGAL PROCEEDINGS

23. As a result of the issues discussed above with respect to the Share Transfer Transaction and control over the Chinese Subsidiary, and as described in the Fourth Report, the Receiver has become involved in two legal proceedings (the "**Legal Proceedings**"), both of which remain ongoing:

    (a) the Receiver's action against Mr. Yu and Ms. Lei Li[1] in Canada (the "**Receiver's Action**"); and

    (b) the proceeding brought in China by New Pengcheng against Hanfeng, the Chinese Subsidiary, Mr. Yu and EY (the "**New Pengcheng Proceeding**").

Receiver's Action

24. On March 22, 2016, the Receiver commenced a claim (the "**Receiver's Action**") in the Ontario Superior Court of Justice against Mr. Yu and Ms. Li. Among other things, the Statement of Claim alleges that Mr. Yu breached his fiduciary duties to Hanfeng and the Chinese Subsidiary by taking out a series of loans on behalf of the Chinese Subsidiary, which proceeds he converted for his own use or otherwise improperly dissipated from the Chinese Subsidiary and/or were received by Ms. Li. In addition, the Statement of Claim alleges that Mr. Yu and Ms. Li fraudulently represented the true identity and corporate history of New Pengcheng. Attached hereto as **Appendix "J"** is the Statement of Claim in the Receiver's Action.

[1] Ms. Lei Li is the spouse of Mr. Yu and a former director and officer of Hanfeng.

25. In the Receiver's Action, the Receiver claims restitution or damages in the total amount of Canadian currency sufficient to purchase RMB 865,600,000 (approximately $17.3 million[2]) for breach of fiduciary duty, fraud, conversion, unjust enrichment, knowing assistance and knowing receipt and fraudulent misrepresentation and seeks a declaration that all monies belonging to the Chinese Subsidiary and wrongfully obtained by Mr. Yu and/or Ms. Li are subject to a constructive trust in favor of the Receiver. The Receiver also asserts a claim for aggravated, exemplary and punitive damages in the amount of $500,000 and special damages, in an amount to be determined in advance of trial, for costs associated with the Court approval and monitoring of the Share Transfer Agreement, delays to the Share Transfer Transaction and the costs to investigate Mr. Yu and Ms. Li's activities and to try to preserve the Chinese Subsidiary's assets.

26. After the Receiver delivered two responses to the defendants' Demand for Particulars, on January 5, 2017, Mr. Yu and Ms. Li delivered a defence to the action (the "**Statement of Defence**"). The Statement of Defence broadly denies the allegations of the Receiver and claims certain allegations fail to disclose a cause of action against Mr. Yu and Ms. Li. Attached hereto as **Appendix "K"** is the Statement of Defence.

27. Since the Fourth Report was prepared, the Receiver and Mr. Yu, through their counsel, have engaged in extensive correspondence regarding the Receiver's Action and these receivership proceedings. In particular, Mr. Yu's counsel disagreed with statements in the Fourth Report relating to Mr. Yu's failure to cooperate with the Receiver and its representatives in their attempts to investigate the business and financial affairs of the Chinese Subsidiary as well as to exercise control over it.

28. The application to HAIC for the replacement of the legal representative is required to include, among other things, the Board resolution, appointment letter, the Chinese Subsidiary's business license and various other documents that need to be executed by the directors and stamped with the Chinese Subsidiary's business chop. As discussed earlier, many of these documents are within the control of Mr. Yu and/or the Local Management Team by way of Mr. Yu's delegation of authority. In addition,

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[2] Converted based on the exchange rate of CAD$1.00 = RMB5.00

in light of certain lenders' claims and actions against the Chinese Subsidiary, the Receiver believed it was critically important to have immediate unfettered access to the Chinese Subsidiary's corporate and financial information in order to exercise control.

29. To this end, the Receiver and its representatives made repeated requests to Mr. Yu for various documents and information. For over two years, Mr. Yu and various member of the Local Management Team provided numerous responses to these letters, none of which have resulted in any meaningful cooperation or positive action to comply with the Receiver's requests.

30. On May 12, 2017, counsel to Mr. Yu contacted the Receiver's counsel, requesting the documentation that must be executed by Mr. Yu, among others, to register the replacement of a legal representative and/or director of the Chinese Subsidiary (the "**May 12 Letter**"). The May 12 Letter was written without prejudice to Mr. Yu's position, as set out in the Statement of Defence. Attached hereto as **Appendix "L"** is the May 12 Letter.

31. On July 7, 2017, the Receiver, through its counsel, responded to the May 12 Letter (the "**July 7 Letter**"). The Receiver noted that Mr. Yu had a number of obligations under the Clarification Order which he had not complied with and demanded the Mr. Yu provide certain financial information pursuant to the Clarification Orders. The Receiver also provided a list of documents that must be signed and registered to effect a change of legal representative and/or director of the Chinese Subsidiary. Attached hereto as **Appendix "M"** is the July 7 Letter.

32. On May 19, 2017, Receiver's counsel received correspondence from counsel for Mr. Yu with respect to the Fourth Report (the "**May 19 Letter**"), requesting, among other things:

(a) that the Receiver post additional documents relating to the Legal Proceedings on the Receiver's website;

(b) further information regarding the New Pengcheng Proceeding; and

(c) that the Receiver provide further documents and information with respect to the Receiver's allegations of Mr. Yu and Ms. Lei's failure to cooperate.

33. Receiver's counsel responded to these requests in a letter dated June 6, 2017 (the "**June 6 Letter**"). The May 19 Letter and the June 6 Letter are attached hereto as **Appendices "N" and "O"**. Attached to the June 6 Letter is a notice of disallowance in respect of the claim made by Mr. Yu in the Receivership (the "**Notice of Disallowance**").

34. On May 30, 2017, the Receiver served the parties to the Receiver's Action with its Reply to the Statement of Defence.

35. On June 26, 2017, Mr. Yu filed a notice of dispute in respect of the Notice of Disallowance. Attached hereto as **Appendix "P"** is the notice of dispute of Mr. Yu dated June 26, 2017.

36. On June 12, 2017, the defendants in the Receiver's Action served a notice of motion seeking to strike the claims against Ms. Li and certain aspect of the claim against Mr. Yu for failing to disclose a cause of action (the "**Motion to Strike**"). The motion has been scheduled for September 22, 2017. Attached hereto as **Appendix "Q"** is the notice of motion dated June 12, 2017.

37. The next steps in this proceeding are expected to be as follows:

(a) the Motion to Strike will be heard on September 22, 2017; and

(b) once pleadings have closed, a timetable will be established for discovery.

New Pengcheng Proceeding

38. On or about August 3, 2015, New Pengcheng commenced an action against Hanfeng, the Chinese Subsidiary, Mr. Yu and EY in its personal capacity in the Harbin Court, seeking to terminate the Share Transfer Agreement and cause the return of the initial deposit in the amount of RMB 12.4 million (approximately $2.48 million[2]) that New Pengcheng had previously paid (the "**Deposit**").

39. On February 15, 2017, the Harbin Court released its decision (backdated to December 29, 2016). Among other things, the decision included the following:

(a) a finding that the Share Transfer Agreement was terminated;

(b) the requirement for Hanfeng to return the Deposit, plus interest, to the Purchaser; and

(c) a finding that EY, in its personal capacity, was not a party to the Share Transfer Agreement and not personally liable for the return of the Deposit.

40. For reasons set out in greater detail in the Fourth Report, the Receiver does not believe that the Harbin Court reached the appropriate result with respect to the termination of the Share Transfer Agreement and the requirement for Hanfeng to return the Deposit.

41. On March 20, 2017, the Receiver commenced an appeal of the Harbin Court decision by delivering a notice of appeal to the Harbin Court. The Harbin Court then transferred the appeal to the Heilongjiang Province Superior Court (the "**Heilongjiang Court**").

42. The Heilongjiang Court heard the appeal on June 30, 2017. Prior to the hearing, the parties made written submissions to the judges. The Heilongjiang Court may request further written submissions.

THE COMPANY'S CURRENT FINANCIAL POSITION

43. As described in the Fourth Report, the Receiver has received 17 non-equity claims with a total face value of CA$4,307,663 (including two claims filed by Mr. Yu and a company controlled by him for a total amount of $2,451,613.83) and two late claims in a total amount of CA$17,863 in the Claims Process. The claims have not yet been fully adjudicated by the Receiver due to the pending Legal Proceedings as well as the state of the Share Transfer Transaction and the Chinese Subsidiary.

44. A summary of the Receiver's receipts and disbursements for the period from the Filing Date to September 20, 2015 is set out in Appendix I to the Third Report. Attached hereto as **Appendix "R"** is the Receiver's statement of receipts and disbursements from September 21, 2015 to May 31, 2017. The Receiver currently holds funds in the

amount of CA$2,015,925.29 and US$9,945.62 in respect of the receivership of Hanfeng. These funds effectively include the remaining balance of the Deposit.

45. As described further below, at the time of this Fifth Report, outstanding professional fees and disbursements are estimated at approximately $361,062 before Harmonized Sales Tax ("**HST**").

46. It is the Receiver's intention to continue to utilize the Company funds to administer the receivership, advance the Legal Proceedings, as well as evaluate and pursue other courses of action for the benefit of Hanfeng pursuant to the Appointment Order.

FEES AND DISBURSEMENTS

47. The Receiver, and its counsel, Stikeman Elliott LLP ("**Stikeman**"), Mayer Brown JSM ("**Mayer Brown**") and Heilongjiang Honghui Law Firm ("**Honghui**") maintained records of their professional time and costs.

48. The Receiver seeks approval of:

(a) its fees and disbursements for the period of August 2, 2014 to April 28, 2017;

(b) the fees and disbursements for Stikeman for the period of April 12, 2014 to May 5, 2017;

(c) the fees and disbursements for Mayer Brown for the period of November 10, 2014 to August 27, 2015; and

(d) the fees and disbursements for Honghui for the period of May 4, 2015 to May 31, 2017 as summarized in the table below:

In $CAD	Fees			Disbursements			Tax			Total
	Paid	Outstanding	Total	Paid	Outstanding	Total	Paid	Outstanding	Total	
Receiver	439,543	201,524	641,067	8,917	6,415	15,332	58,190	27,141	85,332	741,730
Stikeman	256,342	151,609	407,952	7,613	1,514	9,127	34,265	19,880	54,145	471,224
Mayer Brown (1)	214,210	-	214,210	61	-	61	14,502	-	14,502	228,774
Honghui (1)	80,011	-	80,011	24,673	-	24,673	2,400		2,400	107,085
Total	990,107	353,133	1,343,240	41,265	7,929	49,193	92,455	47,021	139,476	1,548,812

*Additions may not sum to total due to rounding.

(1) U.S. dollar payments were converted based on the exchange rate of CAD$1.30 = US$1.00

49. The fees and disbursements of the Receiver for the period of August 2, 2014 to April 28, 2017 total $741,729.82, including fees in the amount of $641,066.50, disbursements in the amount of $15,331.57, and HST in the amount of $85,331.75, as more particularly described in the Affidavit of Brent Beekenkamp sworn June 30, 2017 (the "**Beekenkamp Affidavit**"), a copy of which is attached hereto as **Appendix "S".**

50. The fees and disbursements of Stikeman from August 1, 2014 to May 5, 2017 total $471,223.57, including fees in the amount of $407,951.80, disbursements in the amount of $9,127.12, and HST in the amount of $54,144.65, as more particularly described in the Affidavit of Brian Pukier sworn July 6, 2017 (the "**Pukier Affidavit**"), a copy of which is attached hereto as **Appendix "T"**.

51. The fees and disbursements of Mayer Brown from November 10, 2014 to August 27, 2015 total RMB 1,078,387.55 ($228,773.52), including fees in the amount of RMB 1,009,740.00 (approximately $214,210.35), disbursements in the amount of 288.80 (approximately $61.27), and Value Added Tax ("**VAT**") in the amount of RMB 68,358.75 (approximately $14,501.90), as more particularly described in the Affidavit of Robert Terence Kwong Shien Tung sworn June 29, 2017 (the "**Tung Affidavit**"), a copy of which is attached hereto as **Appendix "U"**.

52. The fees and disbursements of Honghui from May 4, 2015 to May 31, 2017 total RMB 526,254.21 (approximately $107,085), including fees in the amount of RMB 393,203.87 (approximately $80,011.04), disbursements in the amount of RMB 121,254.21 (approximately $24,673.40) and VAT in the amount of RMB 11,796.13 (approximately $2,400.33), as more particularly described in the Affidavit of Mr. Guan sworn June 23, 2017 (the "**Guan Affidavit**", and together with the Beekenkamp Affidavit, Pukier Affidavit and Guan Affidavit, the "**Fee Affidavits**"), a copy of which is attached hereto as **Appendix "V".**

53. The Receiver respectfully submits that the fees and disbursements incurred by the Receiver, Mayer Brown, Honghui and Stikeman, as set out in the Fee Affidavits, are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the Orders issued in these receivership proceedings. Accordingly,

the Receiver respectfully requests the approval of the fees and disbursements of the Receiver, Stikeman, Mayer Brown and Honghui, as set out in the Fee Affidavits.

54. The activities undertaken and services provided by the Receiver in connection with these receivership proceedings:

(a) described in the Supplement to the First Report; and

(b) since the filing of the Third Report and described in the Fourth Report and in this Fifth Report

were prudent, reasonable and not arbitrary. Accordingly, the Receiver is requesting approval of (a) the Supplement to the First Report and the activities of the Receiver described herein (b) the Fourth Report and the activities of the Receiver described therein and (c) this Fifth Report and the activities of the Receiver described herein.

All of which is respectfully submitted this 11th day of July, 2017.

ERNST & YOUNG INC.
In its capacity as Receiver of
Hanfeng and not in its personal or corporate capacity

Per:

Murray A. McDonald
President

Per:

Brent Beekenkamp
Senior Vice President

Appendix “C”

Court File No.: CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

SIXTH REPORT OF THE RECEIVER

May 18, 2021

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Daniel S. Murdoch LSO#: 53123L
Tel: (416) 869-5529
Email: dmurdoch@stikeman.com

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
E-mail: mkonyukhova@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver, Ernst & Young Inc.

Court File No. CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

SIXTH REPORT OF THE RECEIVER
May 18, 2021

INTRODUCTION

1. Hanfeng Evergreen Inc. ("**Hanfeng**" or the "**Company**") was a holding company for certain entities that were incorporated and, at the relevant times, operated in China. By mid-August 2014, Hanfeng's principal remaining un-monetized asset was all the issued and outstanding shares (the "**Shares**") of Hanfeng Slow-Release Fertilizer Co., Ltd., the Company's wholly owned subsidiary in China (the "**Chinese Subsidiary**").

2. On August 20, 2014, following an application by Hanfeng, the Ontario Superior Court of Justice (the "**Court**") issued an order (the "**Approval Order**") approving a share transfer agreement (the "**Share Transfer Agreement**") dated August 8, 2014 and the transaction contemplated therein (the "**Share Transfer Transaction**"). The Approval Order provided for vesting of all of the Shares in Heilongjiang Pengcheng Fertilizer Co. Ltd., as purchaser, upon the completion of the Share Transfer Transaction.

3. Pursuant to an order issued by this Court on August 20, 2014, Ernst & Young Inc. ("**EYI**") was appointed as receiver and manager (the "**Receiver**") of the assets, undertakings and properties of Hanfeng, pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

4. The primary purpose of the receivership proceedings (the "**Receivership Proceedings**") was to complete the Share Transfer Transaction and effect a distribution of the proceeds thereof.

5. As described in prior reports of the Receiver, in the course of attempting to advance the Share Transfer Transaction, the Receiver uncovered information that led to serious concerns over:

   (a) the identity of the purported purchaser ("**New Pengcheng**") that was engaged under the Share Transfer Transaction, which was found by the Receiver to have no connection with Heilongjiang Pengcheng Fertilizer Co. Ltd, the purchaser named in the Approval Order;

   (b) New Pengcheng's ability and desire to close the Share Transfer Transaction;

   (c) the potential relationship between New Pengcheng and Mr. Yu, Xinduo ("**Mr. Yu**") - the founder, former President, former Chief Executive Officer and a former director of Hanfeng;

   (d) the real role of Mr. Yu in the transaction; and

   (e) previously concealed financial information of the Chinese Subsidiary.

6. A copy of the Fifth Report of the Receiver dated July 11, 2017 (without appendices) which provides greater details about the concerning information uncovered by the Receiver is attached hereto as **Appendix "A"**.

7. Also as described in prior reports of the Receiver, the Receiver was unable to complete the Share Transfer Transaction due to the actions of New Pengcheng and Mr. Yu.

8. In August 2015, New Pengcheng commenced proceedings in China against Hanfeng and EY, among others (the "**Chinese Litigation**"), claiming that Hanfeng breached the Share Transfer Agreement and that it should be refunded a deposit of RMB 12.4 million (approximately $2.48 million CAD; the "**Deposit**") that was paid to the Receiver in August 2014.

9. As a result of the Chinese Litigation, the Receiver paused most workstreams in these receivership proceedings with a view to preserving liquidity, pending the outcome of the Chinese Litigation.

PURPOSE

10. The purpose of this sixth report of the Receiver (the "**Sixth Report**") is to report to the Court on the outcome of the Chinese Litigation commenced by New Pengcheng and the Receiver's next steps as a result of same.

TERMS OF REFERENCE

11. In preparing the Sixth Report and making the comments herein, the Receiver has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, prepared from the Company's books and records, discussions with employees of the Company and information from other third-party sources (collectively, the "**Information**"). Except as described in the Sixth Report:

(a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with the Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information; and

(b) the Receiver has prepared the Sixth Report in its capacity as a court-appointed officer solely for the use of this Court and the stakeholders in these proceedings and will make copies of the Sixth Report and the prior reports available on the Receiver's case website at www.ey.com/ca/hanfeng.

12. All monetary amounts contained herein are expressed in Canadian dollars, unless otherwise stated.

OUTCOME OF THE CHINESE LEGAL PROCEEDINGS

13. As stated above, New Pengcheng asserted a claim for the return of the Deposit. This was a critical issue facing the estate, which, as early as July 17, 2015, had funds of only CS2.3 million. This amount was less than the Deposit before taking into account accrued and unpaid professional fees - as was reported in the Receiver's Second Report. If New

Pengcheng's claim was successful, the estate would have no funds left to address other claims or actions and administer the receivership proceedings.

Chinese Litigation

14. The Chinese Litigation was commenced on or about August 3, 2015 in the Intermediate People's Court of Harbin City (the "**Harbin City Court**") by New Pengcheng against Hanfeng, the Chinese Subsidiary, Mr. Yu and EYI in its personal capacity and sought to terminate the Share Transfer Agreement and cause the return of the Deposit.

15. On February 15, 2017, the Harbin City Court released a decision (backdated to December 29, 2016) granting certain relief sought by New Pengcheng.

16. On March 20, 2017, the Receiver commenced an appeal to the Heilongjiang Province Superior Court (the "**Provincial Court**").

17. The Provincial Court rendered its decision dated September 18, 2017 (the "**Provincial Court Judgement**"), granting the Receiver's appeal and overturning certain parts of the Harbin City Court's decision. A copy of the Provincial Court Judgement is attached hereto as **Appendix "B"**. In summary, the Provincial Court concluded that:

   (a) New Pengcheng had breached its contractual obligations under the Share Transfer Agreement;

   (a) The Harbin City Court erred in applying facts and law in its decision;

   (b) Hanfeng was entitled to keep the Deposit and New Pengcheng's motion for, *inter alia*, the return of the Deposit, was dismissed;

   (c) The Share Transfer Agreement was terminated; and

   (d) Court fees of RMB 200,226.04 (approximately $40,000) and a property preservation fee of RMB 5,000 (approximately $1,000) were to be borne by New Pengcheng.

18. New Pengcheng refused to accept the Provincial Court judgement and applied for retrial to the Supreme People's Court of China (the "**Supreme Court**"). In December 2017, the Supreme Court denied the application brought by New Pengcheng for retrial.

19. On February 12, 2018, counsel to New Pengcheng advised that New Pengcheng had applied for trial supervision (the "**Protest Application**") to Supreme People's Procuratorate in China (the "**Supreme Procuratorate**"); however, on or about May 7, 2018, after repeated inquires by the Receiver, New Pengcheng's counsel corrected its previous statement and advised that the Protest Application was in fact filed with the Provincial Procuratorate of Heilongjiang Province (the "**Provincial Procuratorate**") and not with the Supreme Procuratorate.

20. The Provincial Procuratorate granted a decision dated August 28, 2019 dismissing the Protest Application (the "**Provincial Procuratorate's Decision**").

21. In October 2019, counsel to New Pengcheng advised the Receiver and this Court that New Pengcheng had appealed the Provincial Procuratorate's Decision to the Supreme Procuratorate.

22. In April 2021, the Receiver's Chinese counsel obtained the decision of the Supreme Procuratorate rendered on February 17, 2020, which rejected New Pengcheng's appeal and upheld the Provincial Procuratorate's Decision. The Supreme Procuratorate's decision with translation is attached hereto as **Appendix "C"**.

23. Hanfeng's entitlement to retain the Deposit has been confirmed in China now that both the court proceedings and the Protest Application proceedings have been concluded.

THE RECEIVERSHIP PROCEEDINGS IN CANADA

24. On November 30, 2017, Justice Hainey approved certain fees and disbursements of the Receiver and those of its counsel as fair and reasonable. A copy of Justice Hainey's endorsement dated November 30, 2017 is attached hereto as **Appendix "D"**.

25. New Pengcheng opposed Hanfeng's entitlement to the Deposit in the Receivership Proceedings and the proposed payment of the professional fees and disbursements that were approved by the Court, on the grounds that the Chinese Litigation was ongoing.

26. During this lengthy process, New Pengcheng, through its counsel, provided the following commitments and/or undertakings:

(a) On or about November 17, 2017, before the Supreme Court denied New Pengcheng's application for retrial, its Chinese counsel wrote to the Receiver, stating: "......when the Supreme Court's decision issued, regardless of the outcome of retrial is, we will accept it without any further objection"; and

(b) On or about July 4, 2018, New Pengcheng's Canadian counsel confirmed in writing that, if the Provincial Procuratorate denies the Protest Application, New Pengcheng will take no further steps to challenge, appeal or protest against the Provincial Court Judgement in China, Canada or any other jurisdiction.

27. New Pengcheng refused to comply with the above undertakings and continued to assert its claim after each of the Supreme Court and Provincial Procuratorate turned down the respective applications brought by New Pengcheng.

28. On November 14, 2019, Justice Hainey issued an endorsement (the "**2019 Endorsement**"), directing that the Receiver maintain the status quo and not utilize the Deposit until the Supreme Procuratorate has rendered its decision. Justice Hainey further directed that the Receiver may utilize the Deposit funds to pay the fees of the Receiver and its counsel without further order of this Court if the Supreme Procuratorate's decision is in favour of the estate. A copy of the 2019 Endorsement is attached hereto as **Appendix "E".**

29. As stated above, on February 17, 2020, the Supreme Procuratorate rejected New Pengcheng's appeal and upheld the Provincial Procuratorate's Decision in favour of Hanfeng and the Receiver. Therefore, and in accordance with Justice Hainey's 2019 Endorsement, the Receiver processed the payment of the professional fees and expenses of the Receiver and its counsel, Stikeman Elliott LLP, that were previously approved by this Court on November 30, 2017.

NEXT STEPS

30. Due to the Chinese Litigation and uncertainty surrounding the entitlement to the Deposit, the Receiver paused certain workstreams with a view to preserving liquidity, pending the outcome of the Chinese Litigation. The activities that were put on hold included, but are not limited to:

(a) Advancing a claims process, including the adjudication of certain claims, pursuant to an Order of September 23, 2014;

(b) Evaluating options to preserve and realize on any remaining assets;

(c) Advancing the legal action against Mr. Yu and others in Canada;

(d) Preparing tax filings; and

(e) Processing disbursements.

31. The successful conclusion of the Chinese Litigation allows the Receiver to take steps to advance the administration of the Receivership Proceedings. The Receiver, in consultation with its counsel, will report to this Court in the near term and seek directions on the proposed steps to carry out the Receiver's responsibilities and complete the administration of the Receivership Proceedings.

All of which is respectfully submitted this 18th day of May, 2021.

ERNST & YOUNG INC.
In its capacity as Receiver of
Hanfeng and not in its personal or corporate capacity

Per:

Murray A. McDonald
Chairman

Appendix “D”

Court File No. CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR	)	TUESDAY, THE 23rd
	)	
JUSTICE WILTON - SIEGEL	)	DAY OF SEPTEMBER, 2014

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

ORDER
(Claims Procedure Order)

THIS MOTION, made by Ernst & Young Inc., in its capacity as the receiver (the "**Receiver**") of Hanfeng Evergreen Inc. ("**Hanfeng**"), for an order approving a procedure for the identification, determination and resolution of claims against Hanfeng, in accordance with the terms of the Claims Procedure Order (as these terms are defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the First Report of the Receiver dated September 12, 2014, and on hearing the submissions of counsel to the Receiver, no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and Motion Record in respect of this Motion is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that, for purposes of this Order establishing a claims procedure for Hanfeng (the "**Claims Procedure Order**"), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

(a) "**9:30 Appointment**" means a chambers appointment with a Justice of the Court which may be scheduled for 9:30 a.m. on any day on which the Court is sitting;

(b) "**Appointment Order**" means the Order of the Honourable Madam Justice Matheson dated August 20, 2014, as extended and amended from time to time;

(c) "**Assessments**" means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority;

(d) "**Business Day**" means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;

(e) "**Claim**" means:

(i) any right or claim of any Person against Hanfeng, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of Hanfeng in existence prior to the Date of Receivership, and any accrued interest thereon and costs payable in respect thereof to the Date of Receivership, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts which existed prior to the Date of Receivership, and includes any claims that would have been claims provable in bankruptcy had Hanfeng become bankrupt on the Date of Receivership (each a "**Pre-Filing Claim**", and collectively the "**Pre-Filing Claims**"); and

(ii) any existing or future right or claim of any Person against Hanfeng in connection with any indebtedness, liability or obligation of any kind whatsoever owed by Hanfeng to such Person arising on or after the Date of Receivership as a result of any disclaimer, resiliation, termination or breach on or after the Date of Receivership of any contract, lease, permit, authorization or other agreement existing on the Date of Receivership whether written or oral and whether such disclaimer, resiliation, termination or breach took place or takes place before or after the date of this Claims Procedure Order, including any accrued interest thereon and costs payable in respect thereof to the date of such disclaimer, resiliation, termination or breach, to the extent provided for in the contract, lease, permit, authorization or other agreement, each a "**Restructuring Claim**", and collectively the "**Restructuring Claims**");

For greater certainty, "Claim" includes any claim of a current or former shareholder of Hanfeng against Hanfeng with respect to any shares issued by Hanfeng at any time, including without limitation losses incurred by a former shareholder or losses to be incurred by a current shareholder.

(f) "**Claimant**" means a Person asserting a Claim;

(g) "**Claims Bar Date**" means 5:00 p.m. (Toronto Time) on **November 10, 2014**;

(h) "**Claims Officer**" means any individual designated by the Receiver or approved by the Court pursuant to paragraph 35 of this Claims Procedure Order;

(i) "**Claims Package**" means the package of documents which shall include a copy of this Order, the Notice of Claims Procedure and Claims Bar Date, the Proof of Claim and any other materials that the Receiver may consider appropriate;

(j) "**Claims Procedure**" means the procedures outlined in this Order, including the Schedules;

(k) "**Claims Procedure Order**" means this Order;

(l) "**Court**" means the Ontario Superior Court of Justice (Commercial List) in the City of Toronto, in the Province of Ontario;

(m) "**Date of Receivership**" means August 20, 2014;

(n) "**Dispute Package**" has the meaning ascribed to that term in paragraph 19(b) of this Claims Procedure Order;

(o) "**Excluded Claim**" means any Claim secured by any of the charges granted in the Appointment Order, including the Receiver's Charge as therein defined, or any charges granted in subsequent Orders of the Court;

(p) "**Known Creditor**" means a Person who the Receiver received actual notice may have a Pre-Filing Claim against Hanfeng, or that the books and records of Hanfeng show as owed an amount prior to the Appointment Order;

(q) "**Notice of Claims Procedure and Claims Bar Date**" means the notice for publication, substantially in the form attached as **Schedule "A"** hereto;

(r) "**Notice of Dispute**" means a notice substantially in the form attached as **Schedule "D"** hereto;

(s) "**Notice of Revision or Disallowance**" means a notice substantially in the form attached as **Schedule "C"** hereto;

(t) "**Orders**" means any and all orders issued by the Court, including the Appointment Order;

(u) "**Person**" means any individual, partnership, firm, joint venture, trust, entity, corporation, unincorporated organization, trade union, pension plan administrator, pension plan regulator, governmental authority or agency, employee or other association, or similar entity, howsoever designated or constituted;

(v) "**Pre-Filing Claim**" has the meaning ascribed to that term in paragraph 2(f)(i) of this Claims Procedure Order;

(w) "**Proof of Claim**" means the form substantially in accordance with the form attached hereto as **Schedule "B"**;

(x) "**Proven Claim**" means the amount of a Claim and its classification as a secured Claim or an unsecured Claim, as finally determined in accordance with this Claims Procedure;

(y) "**Receiver**" means Ernst & Young Inc., in its capacity as the Court-appointed Receiver of Hanfeng;

(z) "**Receiver's Website**" means http://www.ey.com/ca/hanfeng.

(aa) "**Restructuring Claim**" has the meaning ascribed to that term in paragraph 2(f)(ii) of this Claims Procedure Order.

INTERPRETATION

3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any references to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day, unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word "including" shall mean "including without limitation".

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

6. **THIS COURT ORDERS** that the Receiver is hereby authorized to (a) use reasonable discretion as to the adequacy of compliance with respect to the manner in which any Proof of Claim is completed, and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Procedure Order as to the completion and execution of such Proof of Claim, and (b) request such further documentation from a Claimant that the Receiver may reasonably require in order to enable them to determine the validity of a Claim. Notwithstanding anything contained herein, the Receiver shall not have any discretion to accept any Claim submitted subsequent to the Claims Bar Date.

7. **THIS COURT ORDERS** that any Pre-Filing Claim denominated in a foreign currency shall be converted to Canadian dollars for the purposes of this Claims Procedure on the basis of the Bank of Canada Canadian dollar noon exchange rate on the Date of Receivership and that any Restructuring Claim denominated in a foreign currency shall be converted to Canadian dollars for the purposes of this Claims Procedure on the basis of the Bank of Canada Canadian dollar noon exchange rate on the date that such Restructuring Claim arose.

8. **THIS COURT ORDERS** that interest and penalties that would otherwise accrue after the Date of Receivership shall not be included in any unsecured Claim. Amounts claimed in Assessments whether issued before or after the Date of Receivership shall be subject to this Claims Procedure Order and there shall be no presumption of validity or deeming of the amount due in respect of the Claim set out in any Assessment.

RECEIVER'S ROLE

9. **THIS COURT ORDERS** that the Receiver, in addition to its rights, duties, responsibilities and obligations under the Orders, is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order and are incidental thereto.

10. **THIS COURT ORDERS** that the Receiver, in carrying out the terms of the Claims Procedure Order, shall have all of the protections given to it by the Order or as an officer of this Court, including the stay of proceedings in its favour, shall incur no liability or obligation as a result of the carrying out of its obligations under this Claims Procedure Order, shall be entitled to rely on the books and records of Hanfeng, and any information provided by Hanfeng or a Claimant, and shall not be liable for any claims or damages resulting from any errors or omissions in such books, records, or information.

GENERAL CLAIMS PROCEDURE

Notice of Claims Bar Date

11. **THIS COURT ORDERS** that:

(a) The Receiver shall cause the Notice of Claims Procedure and Claims Bar Date to be placed in each of the *Globe and Mail* (national edition), the *National Post* (national edition), and a local newspaper in Heilongjiang province in the People's Republic of China as soon as practicable after the date of this order and in any event within five (5) Business Days of the date hereof;

(b) The Receiver shall cause the Notice of Claims Procedure and Claims Bar Date to be posted on the Receiver's Website as soon as practicable after the date of this Order and in any event within three (3) Business Days of the date hereof and cause it to remain posted thereon until its discharge as Receiver of Hanfeng;

(c) Within three (3) Business Days of the date of this Order, the Receiver shall send a Claims Package to Known Creditors by mail, courier, facsimile transmission or electronic mail; and

(d) The Receiver will send a copy of the Claims Package by mail, courier, facsimile transmission or electronic mail as soon as practicable following receipt of a request for a package, to any Claimant requesting such material prior to the Claims Bar Date.

Deadline for Submitting a Claim

12. **THIS COURT ORDERS** that any Person that wishes to assert a Claim must deliver to the Receiver on or before the Claims Bar Date a completed Proof of Claim form, together with all relevant supporting documentation in respect of such Claim, in the manner set out in this Claims Procedure Order.

13. **THIS COURT ORDERS** that any Person who does not file a Proof of Claim with the Receiver in accordance with this Order by the Claims Bar Date shall be forever barred from asserting or enforcing such Claim against Hanfeng and Hanfeng shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by Hanfeng or the Receiver.

ADJUDICATION OF CLAIMS

Adjudication of Claims

14. **THIS COURT ORDERS** that the Receiver shall review the information filed by each Claimant with respect to a Pre-Filing Claim or a Restructuring Claim that is received by the Claims Bar Date and may accept, revise or disallow such Pre-Filing Claim or Restructuring Claim, in whole or in part. At any time, the Receiver may request additional information from the Claimant with respect to any Pre-Filing Claim or Restructuring Claim.

15. **THIS COURT ORDERS** that the Receiver may attempt to consensually resolve the classification (as secured or unsecured) and amount of any Pre-Filing Claim or Restructuring Claim with the Claimant prior to accepting, revising or disallowing such Pre-Filing Claim or Restructuring Claim.

16. **THIS COURT ORDERS** that if the Receiver determines to revise or disallow a Pre-Filing Claim or Restructuring Claim, the Receiver shall notify the Claimant by sending a Notice of Revision or Disallowance to the Claimant as provided in this Order by no later than 5:00 p.m. (Toronto time) on a date that is twenty (20) days after receipt of the relevant Proof of Claim or such later date as the Court may order.

17. **THIS COURT ORDERS** that if a Claimant disputes the classification or amount of its Pre-Filing Claim or Restructuring Claim as set forth by the Receiver, then such Claimant may dispute such revision or disallowance by sending a Notice of Dispute so that it is received by no later than 5:00 p.m. (Toronto time) on a day that is 20 days after the date of the Notice of Revision or Disallowance or such later date as the Court may order.

18. **THIS COURT ORDERS** that any Claimant who fails to dispute a revision or disallowance by the deadline shall be deemed to accept the classification and amount of its Pre-Filing Claim or Restructuring Claim as set out in the Notice of Revision or Disallowance, and the Pre-Filing Claim or Restructuring Claim as set out in the Notice of Revision or Disallowance shall constitute a Proven Claim.

19. **THIS COURT ORDERS** that if a Claimant disputes a revision or disallowance of its Pre-Filing Claim or Restructuring Claim as set out in the Notice of Revision or Disallowance, the Receiver may:

(a) attempt to consensually resolve the classification and the amount of the Pre-Filing Claim or Restructuring Claim with the Claimant;

(b) deliver a package to the Claims Officer consisting of that Claimant's Proof of Claim, the Notice of Revision or Disallowance, the Notice of Dispute and any other materials which may be relevant for the determination of the dispute to the Claims Officer (the "**Dispute Package**"); and/or

(c) schedule a 9:30 Appointment with the Court for the purpose of scheduling a motion to resolve the Pre-Filing Claim or Restructuring Claim. At such motion the Claimant shall be deemed to be the applicant and the Receiver shall be deemed to be the respondent.

CLAIMS OFFICERS

20. **THIS COURT ORDERS** that the Receiver may appoint Claims Officers for the purposes of the Claims Procedure described herein.

21. **THIS COURT ORDERS** that if a Claim is referred to a Claims Officer for resolution, the Claims Officer shall determine the validity, amount and classification of disputed Claims in accordance with this Claims Procedure Order. A Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including the manner in which any evidence may be adduced. A Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before a Claims Officer shall be paid.

22. **THIS COURT ORDERS** that, notwithstanding anything to the contrary herein, the Receiver may at any time refer a Claim to a Claims Officer or to the Court for resolution, where in the Receiver's view such a referral is preferable or necessary for the resolution of the Claim.

23. **THIS COURT ORDERS** that upon receipt of a Dispute Package or referral for resolution pursuant to paragraphs 19 or 21 hereof, as applicable, the Claims Officer shall schedule and conduct a hearing to determine the validity, amount and/or classification of the Claim and shall as soon as practicable thereafter notify the Receiver and the Claimant of his or her determination.

24. **THIS COURT ORDERS** that the Receiver or the Claimant may appeal the Claims Officer's determination to this Court within 15 days of the date on which notification is deemed to have been received of the Claims Officer's determination of such Claim by serving upon the Receiver or the Claimant, as applicable, and filing with this Court a notice of motion returnable on a date to be fixed by this Court. Such an appeal is to be based on the record before the Claims Officer and will not be a

hearing *de novo*. If an appeal is not filed within such 15-day period, then the Claims Officer's determination shall, subject to a further order of the Court, be deemed to be final and binding and shall be a Proven Claim.

25. **THIS COURT ORDERS** that the Receiver shall pay the reasonable professional fees and disbursements of each Claims Officer in connection with such appointment as Claims Officer on presentation and acceptance of invoices from time to time. Each Claims Officer shall be entitled to a reasonable retainer against his or her fees and disbursements which shall be paid by the Receiver upon request. Any dispute as to fees and disbursements shall be resolved by the Court.

SET-OFF

26. **THIS COURT ORDERS** that the Receiver may set off (whether by way of legal, equitable or contractual set-off) against the Claims of any Claimant, any claims of any nature whatsoever that Hanfeng may have against such Claimant arising prior to the Date of Receivership, provided that it satisfies the requirements for legal, equitable or contractual set-off as may be determined by the Court if there is any dispute between the Receiver and the applicable Claimant. However, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by Hanfeng of any such claim that Hanfeng may have against such Claimant.

NOTICE OF TRANSFEREES

27. **THIS COURT ORDERS** that if, after the Date of Receivership, the holder of a Claim transfers or assigns the whole of such Claim to another Person, the Receiver shall not be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of the existence and validity of such transfer or assignment, shall have been received and acknowledged by the Receiver in writing. Thereafter, such transferee or assignee shall for the purposes hereof constitute the "Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance

with this Claims Procedure Order prior to receipt and acknowledgment by the Receiver of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which Hanfeng may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to Hanfeng.

28. **THIS COURT ORDERS** that if a Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Receiver as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Receiver shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant may, by notice in writing delivered to the Receiver, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant in accordance with the provisions of this Order.

29. **THIS COURT ORDERS** that Hanfeng and the Receiver are not under any obligation to give notice to any Person holding a security interest, lien or charge in, or a pledge or assignment by way of security in, a Claim, as applicable in respect of any Claim.

SERVICE AND NOTICES

30. **THIS COURT ORDERS** any notice, notification or communication required to be delivered by the Receiver pursuant to this Order may be delivered by mail, courier,

facsimile transmission or electronic mail to the address or number contained in the books and records of Hanfeng or as included in the Proof of Claim.

31. **THIS COURT ORDERS** that any notice, notification, dispute, or communication required to be delivered by a Claimant pursuant to the terms of this Order will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email addressed to:

Ernst & Young Inc.
Attn: Robert Ferguson
222 Bay Street, P.O. 251
Toronto, ON M5K 1J7, Canada

Or by courier to:

Ernst & Young Inc.
Attn: Robert Ferguson
222 Bay Street, Suite 2100
Toronto, ON M5K 1J7, Canada

Or by facsimile transmission to:
416-943-3300

Or by email to:
hanfeng.receiver@ca.ey.com

32. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Procedure Order.

33. **THIS COURT ORDERS** that any notice delivered to a Claimant via personal delivery, email, or facsimile transmission shall be deemed to have been received by such Claimant on the date and at the time that it was sent, as evidenced by the time

and date stamp on the email or facsimile transmission as applicable, if sent prior to 5:00 p.m. (local time) on a Business Day, or if sent after 5:00 p.m. on a Business Day or on a non-Business Day, on the next following Business Day.

34. **THIS COURT ORDERS** that any notice delivered to a Claimant by mail or courier shall be deemed to have been received by such Claimant on the third Business Day after the notice was mailed, or couriered.

35. **THIS COURT ORDERS** that in the event that this Claims Procedure Order is amended by further Order of the Court, the Receiver may post such further Order on the Receiver's website and send an email to any Known Creditors and any Claimant who has submitted a Proof of Claim who is affected by such amendment and such posting and emailing shall constitute adequate notice to Claimants of such amended claims procedure.

MISCELLANEOUS

36. **THIS COURT ORDERS** that notwithstanding any other provisions of this Claims Procedure Order, the solicitation by the Receiver of Claims and the filing by any Claimant of any Claims shall not, for that reason only, grant any person any standing in these proceedings.

37. **THIS COURT ORDERS** that the forms of notice to be provided in accordance with this Claims Procedure Order shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order and the Claims Bar Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Claims Procedure Order. The form and substance of each of the Notice of Claims Procedure and Claims Bar Date, Proof of Claim, Notice of Revision or Disallowance, and Notice of Dispute substantially in the forms attached as Schedules "A", "B", "C", and "D" respectively to this Order are hereby approved. Despite the foregoing, the Receiver may, from time to time, make minor, non-substantive changes to such forms as the Receiver considers necessary or desirable.

38. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, the Receiver may apply to this Court from time to time for directions from this Court with respect to the Claims Procedure Order, or for such further Order or Orders as it may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.

39. **THIS COURT ORDERS AND RESPECTFULLY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the People's Republic of China to give effect to this Order and to act in aid of and to assist the Receiver and this Court in carrying out the terms of this Claims Procedure Order.

W. Han-LJ.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

SEP 23 2014
NB

SCHEDULE "A"

NOTICE TO CREDITORS AND TO PRESENT AND FORMER SHAREHOLDERS
of HANFENG EVERGREEN INC.
(hereinafter referred to as the "Company")

RE: NOTICE OF CLAIMS PROCEDURE FOR THE COMPANY PURSUANT TO AN APPLICATION UNDER SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. c. C.43 (as amended)

PLEASE TAKE NOTICE that this notice is being published pursuant to an Order of the Superior Court of Justice of Ontario made [DATE] (the "Claims Procedure Order"). Any capitalized term used but not defined herein shall have the meaning ascribed to it in the Claims Procedure Order.

Pursuant to the Claims Procedure Order, Claim Packages will be sent to creditors and to present and former shareholders (collectively, "Shareholders") by mail, on or before [DATE], if those creditors and Shareholders are known to the Company, and if the Company has a current address. Creditors and Shareholders may also obtain a copy of the Claims Procedure Order and Claim Packages from the website of Ernst & Young Inc., Court-appointed Receiver of the Company (the "Receiver"), at "www.ey.com/ca/hanfeng", or by contacting the Receiver by telephone (1-416-943-7142 or by fax (1-416-943-3300 or by email at hanfeng.receiver@ca.ey.com).

Proofs of Claim must be submitted to the Receiver for any claim against the Company, whether unliquidated, contingent or otherwise, in each case where the claim (i) arose prior to August 20, 2014, or (ii) arose on or after August 20, 2014 as a result of the restructuring, termination, repudiation or disclaimer of any lease, contract, or other agreement or obligation. **For greater certainty, and without limiting the generality of the foregoing, Proofs of Claim must be submitted to the Receiver in respect of any claim of a current or former shareholder of Hanfeng against Hanfeng with respect to any shares issued by Hanfeng at any time, including without limitation losses incurred by a former shareholder or losses to be incurred by a current shareholder.** Please consult the Claims Package for more details.

Completed Proofs of Claim must be received by the Receiver by 5:00 p.m. (prevailing Eastern Time) on NOVEMBER 10, 2014 (the "Claims Bar Date"). It is your responsibility to ensure that the Receiver receives your Proof of Claim by the Claims Bar Date.

CLAIMS WHICH ARE NOT RECEIVED BY NOVEMBER 10, 2014 WILL BE BARRED AND EXTINGUISHED FOREVER.

SCHEDULE "B"

PROOF OF CLAIM OF HANFENG EVERGREEN INC.

CLAIMS PROCEDURE

Pursuant to an Order of the Ontario Superior Court of Justice dated [DATE] the court appointed Receiver of Hanfeng Evergreen Inc. ("**Hanfeng**") has been authorized to conduct a claims procedure. The Court Order, a copy of which is enclosed, shall govern the claims procedure, notwithstanding any of the instructions contained herein.

(All capitalized terms not otherwise defined will have the meanings ascribed to them in the [DATE] court order.)

FOR CLAIMANTS SUBMITTING A PROOF OF CLAIM

If you believe that you have a claim against Hanfeng, including for greater certainty a claim of a current or former shareholder of Hanfeng against Hanfeng with respect to any shares issued by Hanfeng at any time, including without limitation losses incurred by a former shareholder or losses to be incurred by a current shareholder, you must file this Proof of Claim. **The Proof of Claim must be received by the Receiver by 5:00 p.m. (Eastern Daylight Savings Time) November 10, 2014 (the "Claims Bar Date").**

If you do not file your claim by the Claims Bar Date you shall be forever barred from asserting or enforcing such Claim against Hanfeng and Hanfeng shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by Hanfeng or the Receiver.

GENERAL INSTRUCTIONS FOR COMPLETING THE PROOF OF CLAIM

The Proof of Claim must be completed by an individual, or an individual acting on behalf of a corporation. The individual acting for a corporation or other person must state the capacity in which he/she is acting, such as "Credit Manager", "Treasurer", "Authorized Agent", etc. The individual completing the Proof of Claim must have knowledge of the circumstances connected with the Claim. All Proofs of Claim must be signed, dated and witnessed.

The full legal name of the Claimant must be filled out in its entirety. A statement of account containing full details of the Claim must be attached to the Proof of Claim. The Proof of Claim should include all amounts owing to you for any goods or services provided to Hanfeng and shall be reduced by the application of any volume or other discounts in respect thereof and any other credits that are properly applicable against the Claim.

If the Claimant holds security for the indebtedness, a statement of the value and nature of the security must accompany the Proof of Claim.

If the Claimant holds a contingent or unliquidated claim, the details of the guarantee or reasons for the claim must be provided in addition to the basis upon which the claim has been valued.

If the Claim or a portion thereof has been sold or assigned, the name of the party purchasing the Claim, the amount of the Claim sold or assigned, as well as supporting documentation, must be attached to the Proof of Claim submitted. The Claim can be completed by either the original Claimant or by the assignee, but not both. Claimants and assignee(s) must determine amongst themselves who will file the Proof of Claim.

Please carefully read the instructions above before completing this Proof of Claim. Please print legibly.

Please indicate if this Proof of Claim is an (please check one):

☐ Original Proof of Claim, OR

☐ Amended Proof of Claim

A. PARTICULARS OF CLAIMANT

1. Full Legal Name of Claimant: ________________________________ (the "Claimant").
*(Full legal or Corporate name should be the name of the original Claimant of Hanfeng, notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred. **Do not file separate Proofs of Claim by division of the same Claimant.**)*

2. Full Mailing Address of the Claimant (the original Claimant not an Assignee):

____

____

____

____

3. Telephone Number of Claimant: ____________________

4. Facsimile Number of Claimant: ____________________

5. Attention (Contact Person): ____________________

6. Has the Claim been sold or assigned by Claimant to another party?
Yes___ No___ (If yes please complete section D)

B. PROOF OF CLAIM:

I, ________________________________[Name of Claimant or Representative of the Claimant, do hereby certify:

A) that I am (please check one):

___ the Claimant of Hanfeng; or

___ hold the following position of ____________________ of the Claimant of Hanfeng Evergreen Inc.

and have knowledge of all the circumstances connected with the Claim described herein;

B) Hanfeng is indebted to the Claimant in the amount of $______________ Cdn

(A Pre-Filing Claim (as defined in the Claims Process Order) in a foreign currency should be converted to Canadian dollars on the basis of the Bank of Canada Canadian dollar noon exchange rate on August 20, 2014.)

(A Restructuring Claim (as defined the Claims Process Order) in a foreign currency should be converted to Canadian dollars on the basis of the Bank of Canada Canadian dollar noon exchange rate on the date that such Restructuring Claim arose.)

C. PARTICULARS OF CLAIM:

Description of transaction or agreement giving rise or relating to the Claim:

____

____

____

If the claim is contingent, or unliquidated, state the basis upon which the claim has been valued:

____

____

____

Names of any guarantors which have guaranteed the Claim:

____

Description of security, if any, granted to the Claimant or assigned by Claimant in respect of the Claim:

____

____

Estimated value of security outlined above as at the date of the claim:

____

A DETAILED, COMPLETE STATEMENT OF ACCOUNT MUST BE ATTACHED TO THE PROOF OF CLAIM WHICH MUST SHOW THE DATE, THE NUMBER AND THE AMOUNT OF EACH INVOICE OR CHARGE, TOGETHER WITH THE DATE, THE NUMBER AND THE

AMOUNT OF ALL CREDITS, COUNTERCLAIMS, DISCOUNTS, PAYMENTS, ETC. TO WHICH HANFENG IS ENTITLED. PLEASE ATTACH ADDITIONAL SHEETS.

D. PARTICULARS OF ASSIGNEE(S) (IF ANY):

1. Full Legal Name of Assignee(s) of Claim (if all or a portion of the claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

____

(the "Assignee(s)")

Amount of Total Claim Assigned $____________
Amount of Total Claim Not Assigned $____________

Total Amount of Claim $____________
(should equal "Total Claim" as entered on Section B)

2. Full Mailing Address of Assignee(s):

____

____

____

____

3. Telephone Number of Assignee(s): ____________
4. Facsimile Number of Assignee(s): ____________
5. Attention (Contact Person): ____________

The duly completed Proof of Claim together with supporting documentation must be returned and received by the Receiver, no later than 5:00 pm (Eastern Daylight Savings Time) on August 20, 2014, to the following address or facsimile:

By mail to:	By courier to:
Ernst & Young Inc. Attn: Robert Ferguson 222 Bay Street, P.O. 251 Toronto, ON M5K 1J7, Canada	Ernst & Young Inc. Attn: Robert Ferguson 222 Bay Street, Suite 2100 Toronto, ON M5K 1J7, Canada
Or by facsimile transmission to: 416-943-3300	Or by email to: hanfeng.receiver@ca.ey.com

DATED at ______________________ this _________ day of _____________, 20__.

(Signature of Witness)	(Signature of individual completing this form)
(please print name)	(please print name)

SCHEDULE "C"

NOTICE OF REVISION OR DISALLOWANCE

(All capitalized terms not otherwise defined will have the meanings ascribed to them in the [DATE] court order.)

Name of Claimant

____

Pursuant to the Claims Procedure Order, the Receiver gives you notice that it has reviewed your Proof of Claim dated ____________ and has revised or rejected your claim ("Claim") for the following reason(s):

____

____

____

____

Subject to further dispute by you in accordance with the provisions of the Claims Procedure Order, the Claim will be allowed as follows:

	Claim per **<u>Proof of Claim</u>**	**Claim per** **<u>Allowed as Revised</u>**
[COMPNY-A]	$__________	$______________

Please be advised that if you disagree with the revision or disallowance of your claim as it is set at above, you must complete and return the enclosed Notice of Dispute to the Receiver, to be received by the Receiver **by no later than 5:00 p.m. (Eastern Daylight Saving Time) on [DATE]**. If you do not file the enclosed Notice of Dispute by [**DATE**] your claim shall be as set out above for distribution purposes.

DATED at Toronto, Ontario, Canada this ____________ day of ____________, 20__.

ERNST & YOUNG INC., in its capacity as Receiver of Hanfeng Evergreen Inc. and not in its personal capacity.

Per: ______________________

Encl.

SCHEDULE "D"

DISPUTE NOTICE

(All capitalized terms not otherwise defined will have the meanings ascribed to them in the [DATE] court order.)

Pursuant to the Claims Procedure Order dated [DATE], we hereby give you notice of our intention to dispute the Notice of Revision or Disallowance bearing Reference Number ________ and dated __________, 20__ issued by Ernst & Young Inc. in its capacity as court appointed Receiver of Hanfeng Evergreen Inc. in respect of our claim.

Name of Claimant: ____

	Notice of Revision or Disallowance	Claim per Claimant
Claim per	$________	$ ________

Reasons for Dispute (attach additional sheet and copies of all supporting documentation if necessary): __

____

____

____

______________________________________ ______________________

Signature of Individual completing this claim Date

____

(Please print name)

Telephone Number: ( ) ________________ Facsimile Number:( ) ________________

Full Mailing Address: ____

____

____

THIS FORM AND SUPPORTING DOCUMENTATION TO BE RETURNED BY PERSONAL SERVICE, MAIL, FACSIMILE OR COURIER AND TO BE RECEIVED NO LATER THAN [DATE] TO:

Ernst & Young Inc. in its capacity as
Receiver of Hanfeng Evergreen Inc.

By mail to: Ernst & Young Inc. Attn: Robert Ferguson 222 Bay Street, P.O. 251 Toronto, ON M5K 1J7, Canada	By courier to: Ernst & Young Inc. Attn: Robert Ferguson 222 Bay Street, Suite 2100 Toronto, ON M5K 1J7, Canada
Or by facsimile transmission to: 416-943-3300	Or by email to: hanfeng.receiver@ca.ey.com

Court File No. CV-14-10667-00CL

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceedings commenced at Toronto

CLAIMS PROCEDURE ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter F.C. Howard LSUC# 22056F
Tel: (416) 869-5613
E-mail: phoward@stikeman.com

Maria Konyukhova LSUC# 52880V
Tel: (416) 869-5230
E-mail: mkonyukhova@stikeman.com

Yannick Katirai LSUC# 62234K
Tel: (416) 869-5556
E-mail: ykatirai@stikeman.com
Fax: (416) 947-0866

Lawyers for the Receiver
Ernst & Young Inc.

Appendix “E”

ERNST & YOUNG INC.
Court Appointed Receiver & Manager of
Hanfeng Evergreen Inc. - CAD
TRUST ACCOUNT RECONCILIATION
FOR THE PERIOD August 20, 2014 TO July 28, 2024

		June 1, 2017 to July 28, 2024		Cumulative to July 28, 2024
Receipts:				
Funds from Hanfeng - USD AC	$	0.00	$	2,168,335.51
Funds from Hanfeng - CAD AC		0.00		1,296,578.56
Interest Earned		276,169.62		322,170.03
Pre-Appointment HST Refunds		0.00		259,962.78
Post-receivership HST Refunds		0.00		116,944.41
Income Tax Refund		0.00		3,589.16
Insurance Refund		0.00		511.02
HST Refund Interest		0.00		395.24
Petty Cash on Hand		0.00		46.20
Total Receipts	**$**	**276,169.62**	**$**	**4,168,532.91**
Disbursements:				
Receiver's Fees	$	208,779.72	$	648,322.72
Board Compensation Payments		0.00		500,000.00
Transfer to Hanfeng USD A/C		19,369.50		419,369.50
Legal Fees		133,581.94		407,392.42
HST Paid		45,635.83		143,641.05
Payments to Advisor in China		100,551.20		100,551.20
Payroll		0.00		47,950.50
Source Deductions		0.00		47,923.43
Employee Expenses		0.00		26,731.17
Legal Disbursements		1,040.44		10,248.46
Receiver's Other Disbursements		0.00		8,075.36
Rent and Office Related Costs		0.00		19,023.46
TMX - Shareholder Services		0.00		2,542.39
Storage and Security		873.00		1,668.31
Bank Charges		1,413.75		1,533.00
Advertising		0.00		1,500.00
Web Site Services		0.00		650.00
Insurance		0.00		255.51
Telephone		0.00		234.90
Registrar's Fees		0.00		70.00
Total Disbursements	**$**	**511,245.38**	**$**	**2,387,683.38**
Excess (Deficiency) of Receipts over Disbursem	**$**	**(235,075.76)**		**1,780,849.53**
Represented By:				
RBC Trusteed A/C # 153-192-0			**$**	**1,780,849.53**

ERNST & YOUNG INC.
Court Appointed Receiver & Manager of
Hanfeng Evergreen Inc. - USD
TRUST ACCOUNT RECONCILIATION
FOR THE PERIOD August 20, 2014 TO July 28, 2024

		June 1, 2017 to July 28, 2024		Cumulative to July 28, 2024
Receipts:				
Transfer from Receiver's CAD A/C	$	15,000.00	$	323,663.51
Transfer from Hanfeng's USD AC		0.00		214,067.50
Interest Earned		147.51		170.35
Total Receipts	$	**15,147.51**	$	**537,901.36**
Disbursements:				
Legal Fees	$	0.00	$	230,921.99
Advisory Fees -Pre-Appointment		0.00		124,000.00
Fees & Disbursements for Advisor in China		0.00		87,254.79
Legal Disbursements		24,374.37		32,517.56
HST Paid		0.00		18,964.79
Reimbursement for Appeal Fees		0.00		16,200.00
VAT - China		0.00		14,493.64
Chinese Counsel Fees		0.00		11,968.90
Bank Charges	$	403.99	$	1,264.92
Total Disbursements		**24,778.36**		**537,586.59**
Excess (Deficiency) of Receipts over Disl	**$**	**-9,630.85**	**$**	**314.77**
Represented By:				
RBC Account # 400-117-8			**$**	**314.77**

Appendix “F”

CITATION: Hanfeng Evergreen Inc., (Re), 2017 ONSC 7161
COURT FILE NO.: CV-14-10667-00CL
DATE: 20171130

ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c.C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

Applicant

BEFORE: F.L. Myers J.

COUNSEL: *Daniel S. Murdoch and Haddon Murray*, counsel for Ernst & Young Inc., receiver
David C. Moore and Karen M. Mitchell, counsel for the Lei Lo and Xinduo Yu

HEARD: November 20, 2017

ENDORSEMENT

[1] Ernst & Young Inc. moves for approval of its activities as receiver and manager of Hanfeng Evergreen Inc. as described in the Supplement to its First Report, its Fourth Report, and its Fifth Report. It also seeks approval of its fees and disbursements including the fees and disbursements of its counsel here and abroad.

[2] Xinduo Yu, the founder and former CEO of Henfeng Evergreen Inc. and his spouse Lei Li oppose the approval of the receiver's reports at this time. They seek, at minimum, the imposition of conditions to protect their positions in separate litigation that the receiver has brought against them. They also argue that the receiver has failed or refused to deliver sufficient evidence to support its claim for approval of its fees and disbursements. They invite the court to require the receiver to engage in a document disclosure process so as to create a sufficient factual record on which they can make submissions and the court can meaningfully assess the fees and disbursements of the receiver and its counsel.

[3] For the reasons that follow the receiver's motion is granted on the terms set out below.

Brief Background

[4] Hanfeng Evergreen Inc. is an Ontario public corporation. Henfeng was a financing vehicle to raise money from investors who were interested in investing in the fertilizer business operated by a subsidiary in the People's Republic of China. By 2014, Henfeng's sole operations were limited to the fertilizer business.

[5] When this proceeding began, Mr. Yu was a member of the board of directors of Henfeng. He was a principal contact for the receiver. He controlled Chinese management of the business.

[6] The receiver advises that in 2011, Henfeng's biggest customer was a company run by the state in China. It sought to buy 30% of the fertilizer business to ensure its control over its supply. By February, 2013, an agreement had been prepared whereby Henfeng would sell its shares in the fertilizer subsidiary to a company controlled by Mr. Yu. Mr. Yu agreed to sell 30% of that company's shares to the state actor. The transactions were expected to close in April, 2013.

[7] The deal did not close as expected. Eventually Henfeng established a special committee representing shareholders independent of management. Acrimony developed between the special committee and Mr. Yu. In December, 2013, the purchaser terminated the transaction. The board of directors proceeded to fire Mr. Yu.

[8] A proxy battle ensured. During the proxy battle, Henfeng's auditor KPMG resigned. Thereupon, the rest of the board of directors resigned. Ultimately, Mr. Yu regained control of the public corporation.

[9] In April, 2014, Mr. Yu brought forward a transaction to sell the operating subsidiary to an established third party business in China for a price of approximately $40 million. The transaction would have provided meaningful recovery to shareholders. The transaction required shareholder approval. However, without an auditor, Henfeng could not produce the material required to call a shareholders' meeting under Ontario securities laws. Therefore, this receivership was proposed as a way to convey title in a solvent transaction.

[10] Negotiations with the buyer proved difficult. The receiver retained the Mayer Brown law firm to help it obtain a deposit of approximately $2.4 million required by the agreement and to deal with some Chinese regulatory matters that arose. The purchaser was also supposed to put funds in escrow. With Mayer Brown's assistance some funds were escrowed. But then they were released back to the purchaser by the escrow agent ostensibly with Mr. Yu's cooperation. In addition, the receiver says that the buyer's name seems to have changed subtly in the documents over time. While initially Mr. Yu represented that the buyer was an established third party, the ultimate buyer may have been a company with a similar name that is actually a shell controlled by Mr. Yu. Further, the receiver alleges that while the transaction was playing out, Mr. Yu obtained very substantial loans in China on the credit of the subsidiary so that they he has effectively taken the value of the business leaving the other shareholders with nothing.

[11] The receiver has sued Mr. Yu and Ms. Li for damages exceeding $100 million.

[12] In addition, the ostensible purchaser has sued the receiver in China for the return of the $2.4 million deposit. Mr. Yu is a defendant in that case as he is a guarantor under the terms of the relevant agreement. Whether he is also behind the plaintiff/purchaser remains to be proven.

[13] The purchaser succeeded against the receiver at first instance in China. But an appellate court overruled the first decision. As of this moment therefore, the deposit has been forfeited and is properly counted among the funds realized by the receiver. The purchaser has appealed from that decision however and the further appeal is pending.

[14] In this receivership proceeding, Mr. Yu is concerned to ensure that the receiver does not consume the deposit on its own fees and disbursements in case it is required to return the deposit to the purchaser by the ultimate appeal court in China. If the purchaser succeeds in China, there may be a priorities dispute between the purchaser and the receiver over which has a better claim to the deposit funds in the receiver's hands. In any event, Mr. Yu argues that as guarantor of the return of the deposit, he has an interest in protecting the deposit in the receiver's hands and in minimizing or delaying the receiver's use of the deposit to pay its fees and disbursements until the Chinese litigation ends.

Approval of the Receiver's Activities

[15] In *Target Canada Co. (Re)*, 2015 ONSC 7574 (CanLII), Morawetz RSJ discussed the process for approval of the reports of a court officer. In that case the court dealt with a Monitor under the CCAA. The same principles apply in a receivership in my view.

[16] In *Target*, Morawetz RSJ recognized that the effect of the approval of the reports of a court officer varies with the context. Where a report is delivered for a specific purpose, such as a sale transaction, express findings of fact may be required to support the relief being sought. An affidavit may be delivered to support the findings or not. In either case, the court is called up to address squarely specific facts and to make specific findings that will be binding in future.

[17] However, the context of a general approval of activities, such as the motion that is currently before me, is different. As discussed by Morawetz RSJ:

> [20] The Monitor has in its various reports provided commentary, some based on its own observations and work product and some based on information provided to it by the Applicant or other stakeholders. Certain aspects of the information provided by the Monitor has not been scrutinized or challenged in any formal sense. In addition, for the most part, no fact-finding process has been undertaken by the court.
>
> [21] In circumstances where the Monitor is requesting approval of its reports and activities in a general sense, it seems to me that caution should be exercised so as to avoid a broad application of res judicata and related doctrines. The benefit of any such approval of the Monitor's reports and its activities should be limited to the Monitor itself. To the extent that approvals are provided, the effect of such approvals should not extend to the Applicant or other third parties.
>
> [22] I recognized there are good policy and practical reasons for the court to approve of Monitor's activities and providing a level of protection for Monitors during the CCAA process. These reasons are set out in paragraph [12] above. However, in my view, the protection should be limited to the Monitor in the manner suggested by counsel to Rio Can and KingSett.

[23] By proceeding in this manner, Court approval serves the purposes set out by the Monitor above. Specifically, Court approval:

(a) allows the Monitor to move forward with the next steps in the CCAA proceedings;

(b) brings the Monitor's activities before the Court;

(c) allows an opportunity for the concerns of the stakeholders to be addressed, and any problems to be rectified,

(d) enables the Court to satisfy itself that the Monitor's activities have been conducted in prudent and diligent manners;

(e) provides protection for the Monitor not otherwise provided by the CCAA; and

(f) protects the creditors from the delay and distribution that would be caused by:

(i) re-litigation of steps taken to date, and

(ii) potential indemnity claims by the Monitor.

[24] By limiting the effect of the approval, the concerns of the objecting parties are addressed as the approval of Monitor's activities do not constitute approval of the activities of parties other than the Monitor.

[18] In this case, Mr. Yu and Ms. Li do not want the approval of the receiver's activities to impact on their litigation with the receiver including their desire to counterclaim against the receiver in that litigation. Apparently they have sought directions regarding a possible counterclaim although no motion for leave to proceed has been heard as yet. Regional Senior Justice Morawetz held that the general approval of a court officer's activities should not affect third party dealings generally. He accepted however that the approval of the receiver's activities does affect the court officer's own status. For example, there is case law suggesting that a stronger showing on the merits is required to obtain leave to sue a receiver in respect of activities that have been approved than for unapproved activities.[1]

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[1] Compare and contrast for example, *Bank of America Canada v Wilann Investments Ltd.* (1993), 23 CBR (3d) 98 (Ont. Gen. Div) with *GMAC Commercial Credit Corporation - Canada v. T.C.T. Logistics Inc.*, 2006 SCC 35 (CanLII). See also: Houlden, Morawetz & Sarra, *The 2007*

[19] Mr. Yu and Ms. Li argue that if they are prejudiced by the approval of the receiver's activities, then they would be required to contest in this motion the substance of their concerns in order to protect themselves in their other litigation. I agree that it is not the purpose of this summary proceeding to engage in fact finding that might prejudge or affect the fact finding process in other litigation. As such, there is no need to delve deeply into the concerns raised by the objectors with the receiver's characterization of their behaviour or the other details of specific issues of fact that may become the subject matter of proceedings later. There will be no findings of contested facts that might bind Mr. Yu or Ms. Li elsewhere.

[20] The receiver argues that it seeks broad, general approval for its decisions to bring litigation against Mr. Yu and Ms. Li and to defend the litigation in China. It notes that its prior activities have already been approved in relation to the approval of its earlier reports.

[21] Under the terms of its appointment order, the receiver is already authorized to litigate on behalf of the debtor generally. As such, Mr. Yu and Ms. Li argue that it does not need any further approval of its litigation activities. But, I agree with Morawetz RSJ that there are additional proposes to a court officer's reporting and the court's approval functions such as those listed in para. 23 of T*arget* above. In this case for example, concerns of stakeholders can be considered and addressed in real time rather than waiting until matters are concluded some years hence. Moreover, stakeholders are given an opportunity to bring to the fore any concerns with the receiver's prudence and diligence in the issues under consideration. Here, for example, no one – not even Mr. Yu or Ms. Li - contest the prudence of the receiver's decisions to defend the deposit in China or to commence the litigation here against Mr. Yu and Ms. Li.

[22] The receiver also argues that is wants its activities approved so as to protect it from personal liability for costs in the event that it is later determined that the deposit must be returned to the purchaser with the result that the receiver may not have any assets left in the estate to fund any costs liability that it may incur. The receiver refers to the decision of Pattillo J. in *Essery Estate (Trustee of) v Essery*, 2016 ONSC 321. At para. 72 of that decision, Pattillo J. wrote:

> [72] In receiverships, the general rule is that costs are awarded against a receiver personally in rare cases. Where a receiver engages in litigation in its capacity as receiver in the normal course of the receivership, is it is subject to the costs in accordance with s. 131 of the CJA and Rule 57.01. To the extent that costs are awarded against a receiver they are normally covered by receivership funds or by an indemnity agreement with a

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Annotated Bankruptcy and Insolvency Act, (Thomson Reuters, Toronto) at L§26. Whether *Wilann* remains good law after *TCT* is an issue that is not before the court today.

> secured creditor. It is only when the receiver embarks on a course of action extraneous to the credit-driven relationship which effectively undermines its neutral position as an officer of the court and turn itself into a "real litigant' [*sic*] that a receiver exposes itself to costs personally: see *Akagi v Synergy Group (2000)*, 2015 ONCA 771 (Ont. C.A.), at para. 18.

[23] In my view, the receiver reads too much into this quotation. I do not read *Essery* as altering the receiver's risk of personal liability for costs. Rather, Pattillo J. explains the court's historic hesitation to award costs against receivers because they can bear personal liability for costs. In my view *Essery* does not create any special protection for receivers' costs liability. Neither does the approval of a receiver's activities provide it with any special protection in relation to costs awards in subsequent litigation. That is the reason that Pattillo J. noted that before undertaking litigation, receivers typically will consider the sufficiency of the assets under their charge to meet a costs award or obtain an indemnity from a creditor to protect themselves from the risk of adverse costs.

[24] It is clear therefore that in approving the receiver's general activities broadly and summarily in this motion, I am not finding any facts beyond expressing satisfaction with the general scope and direction of the receiver's activities as set out in the three reports that are before me. However, if the law post-*TCT* still provides that the approval of a receiver's conduct raises the bar for those who seek to sue a receiver, as referenced in the footnote above, that is indeed a consequence of approval and nothing I say or do not say should affect that outcome. The fact that approval may have some effect is not a basis to withhold or deny approval. Rather it reflects the intention of the law as it applies in circumstances where the court is satisfied with the activities undertaken by its officer and with the protections that the law affords court officers in such circumstances as discussed by Morawetz RSJ above.

[25] I also do not see the existence of an outstanding appeal in China as a basis to defer or withhold approval of the receiver's activities, especially its activities in defending and participating fully in that case. Approval does not affect the ongoing litigation in China. Neither does it affect the priorities in the deposit or authorize or embolden the receiver to distribute to itself or to its counsel funds that it currently holds. If the court in China rules that the funds are a deposit that are to be returned to the purchaser, legal results flow. As noted above, if that creates a priority issue here, that issue may have to be determined.

[26] As argument of this aspect of the motion was drawing to a close, it appeared that counsel might be able to agree upon language to resolve the issues in dispute. I invited them to advise me within 48 hours if they reached agreement. On November 22, 2017, counsel advised that while they had not agreed to resolve the objections of Mr Yu and Ms. Li, they had agreed upon some language to limit the relief granted should I determine to approve the receiver's activities.

[27] The term agreed upon by counsel reflects the limitations that I have discussed above as follows:

> THIS COURT ORDERS that the approval of the Fourth Report and the Fifth Report shall be without prejudice to any of the procedural or substantive rights of the Receiver, Xinduo Lu and Lei Li in respect of Action No. CV-16-11325-00CL, and, without limiting

> the generality of the foregoing, shall be deemed not to constitute any finding or determination of any kind whatsoever in respect of any allegations, issues or defences in said Action.

[28] While this term does not satisfy all of the concerns of Mr. Yu and Ms. Li, it does satisfy mine. Accordingly, it is appropriate to approve the activities of the receiver as set out in the three reports that are before the court on the term set out in the immediately preceding paragraph.

Receiver's Fees

[29] In accordance with the principles set out in *Confectionately Yours Inc. (Re)*, 2002 CanLII 45059 (ON CA), the receiver delivered affidavits supporting its fees and disbursements including those of its counsel. Cross-examinations ensued. Mr. Yu and Ms. Li argue that there is insufficient disclosure of information to enable the court to determine the reasonableness of the receiver's fees and disbursements. They say they have delivered letter after letter for months seeking production of documents relating to matters set out in the receiver's invoices so as to be able to understand the work performed by the receiver and to make proper submissions on the fees and disbursements sought in relation to the work. In addition, the receiver delivered dockets (belatedly in some cases) that are heavily redacted to prevent disclosure of the subject matter of much of the work that is the subject of the docket entries.

[30] The receiver argues that the scope of its discussions with its counsel and the work being performed by its counsel on its behalf are privileged – both under lawyer client privilege and litigation privilege. I agree. Disclosing the subject matter of a meeting is essentially disclosing the communication from client to lawyer (or vice versa) concerning the topic on which advice was being sought or given. That does not mean however that the receiver is entitled to approval of its fees or disbursements without providing proper supporting evidence. If the claims of privilege prevent the court from making the assessment required, then the motion will not succeed until sufficient evidence is duly adduced to meet the required standard.

[31] In *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851 (CanLII), the Court of Appeal discussed the test for assessment of a receiver's fees as follows:

> [32] In *Bakemates*, this court described the purpose of the passing of a receiver's accounts and also discussed the applicable procedure. Borins J.A. stated, at para. 31, that there is an onus on the receiver to prove that the compensation for which it seeks approval is fair and reasonable. This includes the compensation claimed on behalf of its counsel. At para. 37, he observed that the accounts must disclose the total charges for each of the categories of services rendered. In addition:
>
> > The accounts should be in a form that can be easily understood by those affected by the receivership (or by the judicial officer required to assess the accounts) so that such person can determine the amount of time spent by the receiver's employees (and others that the receiver may have hired) in respect to the various discrete aspects of the receivership.

[33] The court endorsed the factors applicable to receiver's compensation described by the New Brunswick Court of Appeal in *Belyea*: *Bakemates*, at para. 51. In *Belyea*, at para. 9, Stratton J.A. listed the following factors:

- the nature, extent and value of the assets;
- the complications and difficulties encountered;
- the degree of assistance provided by the debtor;
- the time spent;
- the receiver's knowledge, experience and skill;
- the diligence and thoroughness displayed;
- the responsibilities assumed;
- the results of the receiver's efforts; and
- the cost of comparable services when performed in a prudent and economical manner.

These factors constitute a useful guideline but are not exhaustive: *Bakemates*, at para. 51.

[32] The Court of Appeal also noted in *Diemers* that while the calculation of billable hours times hourly rates is not the most desirable metric for conducting this review, it is the predominant methodology in the case law. Moreover, while counsel for Mr. Yu and Ms. Li submitted that this is not to be a mathematical exercise, the bulk of their complaints are essentially directed to the question of whether there has been duplication in the dockets or, more specifically, whether the claims of privilege prevent them and the court from determining with any degree of precision whether there is duplication in the dockets that ought to be excluded from the value calculus. While I certainly do not dismiss the risk of duplication in an assessment of the reasonableness of the fees, it is but one factor and not an especially important one in my view. Duplication might suggest a lack of value-added but not necessarily so in a holistic review. If an issue takes time to resolve, there may be several docket entries that look similar. That does not make them duplicative. More than one person may be involved providing different services and docket to the same issue – either at different levels of seniority or different subject matters. Reading brief docket descriptions years after complex work is performed is a poor method to learn precisely what was accomplished by any single person on any given day. A full assessment of the file accompanied by oral narrative is required to assess professional accounts. That is what assessment officers routinely do in formal cost assessment hearings. But that is not what is anticipated or even desirable in fee approval hearings of this type.

[33] It is not lost on me that what was also at play on Mr. Yu's side of the table is possibly a desire for discovery in the other litigation or at least opening up a threat to the receiver's remuneration as a strategy to provide bargaining leverage. Thus, rather than responding to the receiver's request for the specifics of documents required or bringing their own motion (or 9:30 appointment) seeking production of documents that they actually need, Mr. Yu and Ms. Li were

content to make request after request and then graciously offer to allow the receiver an adjournment to give it time to make yet further production. I have little doubt that were any further documents produced, Mr. Yu and Ms. Li would just ask for more. After all, if you want to assess what every person acting for counsel and the receiver have done every day, then every draft of every document and communication is ostensibly relevant. The eight, non-exhaustive *Belyea* factors do not require or anticipate a full fee assessment process. Mr. Yu and Ms. Li's digging for more and ever more documents ostensibly to allow them to review in minute detail the receiver's fees was misdirected from the outset.

[34] Mr. Yu and Ms. Li make much of the fact that the receiver's Ontario counsel had 27 billers on the file over a period of three years. Counsel for the receiver took me through each biller's name and role. Apart from a few students, there was one partner and an associate in each relevant area at each time. The associate generally performed the bulk of the work. As the project evolved from a consensual corporate transaction to contested litigation, the identities and focus of the partners involved changed. There is nothing untoward or even suspicious in the identification of the lawyers engaged despite the effort to evoke an emotional reaction to the overall number of billers. I am perfectly satisfied that given the complexity and evolution of the matter over time, staffing raises no significant concerns. Given the limited numbers of people involved in each specialty area, and the swing from corporate to contested litigation, duplication is not a significant issue in my view.

[35] The receiver has not provided docket level evidence of activities from its litigation counsel in China. However that lawyer was retained on a fixed fee of $100,000. The litigation involved securing the receiver's right to keep the deposit of approximately $2.4 million. A fee of 4% of the fund whose preservation is in issue strikes me as quite reasonable. Dockets would not assist the understanding of the flat fee account in this circumstance.

[36] Other counsel were retained for other specific purposes. Each had to be briefed so, once again, it is not surprising to see docket entries where people discuss similar things. They are instructing or reporting back to each other. Mr. Yu and Ms. Li pointed to docket entries in which telephone inter-firm communications are set out but only by one firm. The unstated implication is that unless both sides docketed the call, then the docket that was recorded is suspect and may be fraudulent. I do not know a more innocent word to characterize a docket of a call that did not happen. But Mr. Yu and Ms. Li forgot to account for the International Date Line. When one looks to see if telephone calls from this side of the globe were docketed in China on the next day, many of the calls were indeed recorded. I cannot draw an inference of fraud, or even suspicion from noting that a firm did not record every single telephone call it ostensibly received or made. Docketing practices can differ. I did not look to see if the calls that were not recorded by both sides were recorded as being short or long duration for example. In any event, I do not see how a few calls has much impact on the assessment of the *Belyea* factors.

[37] The receiver's counsel has provided a lengthy assessment of the *Belyea* factors in para. 60 of its factum. Again, without making findings of fact on the level of cooperation or the lack thereof by Mr. Yu and Ms. Li, in my view in para. 60 the receiver provided a very fair analysis of the relevant factors and I adopt it in full.

[38] In all, I am satisfied that the fees and disbursement of the receiver, including those of its counsel, are fair, reasonable and ought to be approved as sought.

[39] Costs should be agreed upon. Barring exceptional circumstances, I would expect them to follow the event on a partial indemnity basis. If counsel cannot agree on costs then they should exchange Costs Outlines and schedule a telephone case conference through my Assistant for oral argument of costs.

F.L. Myers J.

Date: November 30, 2017

Appendix “G”

Court File No: CV-14-10667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF AN APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. c. C.43 (as amended)

AND IN THE MATTER OF HANFENG EVERGREEN INC.

AFFIDAVIT OF ALLEN (LIANG) YAO
(Affirmed August 1, 2024)

I, **ALLEN (LIANG) YAO**, of the City of Toronto, in the Province of Ontario, **AFFIRM AND SAY**:

1. I am a Senior Vice President of Ernst & Young Inc. ("**EYI**"), in its capacity as the Court-appointed manager and receiver (in such capacity, the "**Receiver**") of Hanfeng Evergreen Inc. ("**Hanfeng**") in the above-noted proceeding pursuant to s. 101 of the *Courts of Justice Act*, R.S.O. c. C.43 (as amended). The Receiver does not, and does not intend to, waive privilege by any statement made herein.

2. I affirm this Affidavit in connection with a motion seeking an Order of this Court to, among other things, approve the fees and disbursements of the Receiver for the period from April 29, 2017, to June 30, 2024, inclusive.[1]

[1] This Court previously approved the Receiver's accounts up to and including April 28, 2017.

Overview

3. Pursuant to an order of this Court dated August 20, 2014 (the "**Appointment Order**"), EYI was appointed Receiver. The Receiver retained Stikeman Elliott LLP as its legal counsel in these receivership proceedings.

4. Paragraph 18 of the Appointment Order provides that the Receiver and its legal counsel are to be paid their reasonable fees and disbursements, in each case at their standard rates and charges.

5. Paragraph 19 of the Appointment Order provides that the Receiver and its legal counsel are to pass their accounts from time to time.

The Receiver's Fees and Disbursements

6. During the period from April 29, 2017, to June 30, 2024, the Receiver docketed 539.6 hours, amounting to fees invoiced in the amount of $217,200.00 plus HST ($28,236.00) for a total of $245,436.00. In addition, the Receiver incurred disbursements in the amount of $1,210.77 plus HST ($157.40) for a total of $1,368.17.

7. Attached and marked collectively as **Exhibit "A"** to this Affidavit is a copy of the Receiver's invoice for the period from April 29, 2017, to June 30, 2024. This invoice includes narratives that describe the work carried out by the Receiver, which narratives have been redacted to remove confidential, privileged, and sensitive information.

8. Attached hereto as **Exhibit "B"** is a summary of the Receiver's invoice for the period from April 29, 2017, to June 30, 2024, including the date, fees, disbursements and HST, the contents of which I believe to be true.

9. Attached hereto as **Exhibit "C"** is a schedule summarizing the billing rates and total amount billed with respect to each member of the Receiver who rendered services to the Receiver.

10. The Receiver estimates that it will incur additional fees and disbursements in the amount of $50,000 from July 1, 2024, to the date on which the Receiver is discharged (i.e., the date on which these receivership proceedings conclude). The Receiver has created this estimate on the basis that most of its work between July 1, 2024, and the Receiver's discharge will consist of (a) arranging and making distributions to certain stakeholders; (b) completing administrative matters; (c) preparing a report in support of a motion before this Court for an Order, among other things, approving the proposed distributions and discharge of the Receiver; and (d) responding to inquiries from creditors, shareholders, and other stakeholders.

Services Rendered by the Receiver

11. As detailed in the Receiver's Seventh Report and previous reports, the Receiver's services for the period from April 29, 2017, to June 30, 2024, include, among other things:

(a) concluding protracted litigation and appeals in China against Harbin Pengcheng Fertilizer Co. Ltd. ("**New Pengcheng**"), which litigation concluded in the Receiver's favour and resulted in the RMB 12.4 million (approximately $2.48 million) deposit paid by New Pengcheng remaining with the Receiver;

(b) initiating litigation against Mr. Xinduo Yu and Ms. Lei Li in the Ontario Superior Court of Justice (Toronto) and entering into a settlement agreement with them;

(c) conducting investigations into the status of Hanfeng's wholly owned subsidiary, Hanfeng Slow-Release Fertilizer Co., Ltd. (the "**Chinese Subsidiary**"), (ii) its push for unfettered access to the Chinese Subsidiary's corporate and financial information, and (iii) its efforts to gain control of the Chinese Subsidiary;

(d) responding to an objection brought by Ms. Li regarding the Receiver's fees and disbursements;

(e) reviewing, assessing, and settling claims submitted by stakeholders;

(f) attending to the potential distribution of funds to the holders of the allowed claims and shareholders; and

(g) responding to inquiries from creditors, shareholders, and other stakeholders.

12. The Receiver's efforts have generated value for the estate. Most notably, with the assistance of its legal counsel, the Receiver successfully defended its entitlement to the RMB 12.4 million deposit paid by New Pengcheng to the Receiver – a process that involved protracted and complex litigation proceedings in both China and Canada. By retaining this deposit, the Receiver has funds that can be distributed to Hanfeng's stakeholders.

Charges & Disbursements

13. The disbursements included in the Receiver's invoice total $1,210.77 (excluding HST). These disbursements consist of costs related to:

(a) obtaining notarized consular certificates in connection with the litigation proceeding in China; and

(b) maintaining Hanfeng's internet domain.

Reasonableness of the Fees and Disbursements

14. I have reviewed the Receiver's invoice and confirm that, to the best of my knowledge, information, and belief, it accurately reflects the work that was done in connection with this matter and that all of the time spent was reasonable and necessary.

15. To the best of my knowledge, the rates charged by EYI throughout the course of these proceedings were no more than EYI's normal hourly rates which were in effect during relevant periods and are comparable to the rates charged by other accounting firms in the Toronto market for the provision of similar services.

Conclusion

16. I affirm this Affidavit expressly for the purposes of the Receiver passing its account in accordance with the Appointment Order and not for any other purpose.

AFFIRMED BEFORE ME remotely by video conference by Allen (Liang) Yao, stated as being in the City of Markham, in the Province of Ontario, Canada, before me at the City of Toronto, in the Province of Ontario, Canada, on August 1, 2024, in accordance with O. Reg 431/20 *Administering Oath or Declaration Remotely*.

DocuSigned by:
Nicholas Avis
2C12EEAB5242430

NICHOLAS AVIS, LSO# 76781Q
Commissioner for Taking Affidavits

DocuSigned by:
Allen Yao
0EC788E66D2E4D9

ALLEN (LIANG) YAO