

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE JUSTICE PENNY	)))	THURSDAY, THE 29th DAY OF AUGUST, 2024
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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.

DISTRIBUTION & DISCHARGE ORDER

THIS MOTION, made by Ernst & Young Inc. (“EYI”) in its capacity as the Court-appointed receiver and manager (EYI in such capacity, the “**Receiver**”) of all of the assets, undertakings and properties of Hanfeng Evergreen Inc. (“**Hanfeng**”), for an order (a) approving the distribution of certain funds 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 those certain shareholders of Hanfeng; (c) approving the Sixth Report of the Receiver dated May 18, 2021 (the “**Sixth Report**”), the Seventh Report of the Receiver dated August 1, 2024 (the “**Seventh Report**”), and the activities of the Receiver as described in the Sixth Report and the Seventh Report; (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 receivership proceedings; and (f) granting a release in favour of the Receiver and its counsel, was heard

this day via judicial video conference at Toronto, Ontario.

ON READING the Seventh Report, the Affidavit of Brian Pukier affirmed July 29, 2024 (the “**Pukier Affidavit**”), the Affidavit of Allen Liang Yao affirmed August 1, 2024 (the “**Yao Affidavit**”), and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although served as appears from the affidavit of Nicholas Avis sworn August 7, 2024, filed:

SERVICE

1. **THIS COURT ORDERS** that that the time for service of the Receiver’s Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the Seventh Report.

DISTRIBUTIONS

3. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make payments and distributions (collectively, the “**Distributions**”) from any funds in possession of the Receiver at the time or times determined by the Receiver, in its sole discretion, in the following manner:

- (a) first, to the Receiver and its counsel, Stikeman Elliott LLP (“**Stikeman Elliott**”), in satisfaction of any fees and disbursements they have incurred or will incur and not yet been paid, and which fees and disbursements were approved by paragraphs 10 and 11 below or any other Order of this Court;

- (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 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 in accordance with the Yu Settlement.

4. **THIS COURT ORDERS** that notwithstanding anything else contained in this Order, the Distributions provided for in this Order shall be made free and clear of all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including, without limiting the generality of the foregoing, all charges, security interests, liens, trusts, or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property or real property registry system.

5. **THIS COURT ORDERS** that the Receiver or any other person facilitating Distributions pursuant to this Order, including TSX Trust Company, shall be entitled to deduct and withhold from any such Distribution such amounts as may be required to be deducted or withheld under any applicable law and to remit such amounts to the appropriate governmental authority or other person entitled thereto as may be required by such law. To the extent that amounts are so withheld or deducted and remitted to the appropriate governmental authority or other person entitled thereto, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these receivership proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Hanfeng and any bankruptcy order issued pursuant to any such application; and
- (c) any assignment in bankruptcy made in respect of Hanfeng;

any payment or distributions made pursuant to this Order are final and irreversible and shall be binding on any trustee in bankruptcy that may be appointed in respect of Hanfeng and shall not be void or voidable by creditors of Hanfeng, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

TSX TRUST COMPANY

7. **THIS COURT ORDERS** that the TSX Trust Company and any of its affiliates, successors and assigns, as applicable, is authorized to facilitate and implement the Distributions described in subparagraph 3(c) above and otherwise provide assistance to the Receiver as required to make the Distributions described in subparagraph 3(c) above.

8. **THIS COURT ORDERS** that pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the TSX Trust Company and any of its affiliates, successors and assigns, as applicable, are authorized to disclose personal information of identifiable individuals to (a) the Receiver and its advisors and (b) any other

third party authorized by the Receiver, but only to the extent required to make the Distributions described in subparagraph 3(c) above. The Receiver, its advisors, and any other third party that the Receiver authorizes shall maintain and protect the privacy of such information and limit the use of such information to the making of the Distributions described in subparagraph 3(c) above and, if such Distributions are not made, they shall destroy all such information.

APPROVAL OF RECEIVER'S ACTIVITIES AND REPORTS

9. **THIS COURT ORDERS** that the Sixth Report, the Seventh Report, the supplements thereto and the Receiver's activities and conduct of the Receiver as set out therein are hereby approved, provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability shall be entitled to rely upon or use in any way such approval.

APPROVAL OF FEES AND DISBURSEMENTS

10. **THIS COURT ORDERS** that (a) the fees and disbursements of the Receiver for the period from April 29, 2017 to June 30, 2024, totalling \$246,804.17 (inclusive of HST), as set out in the Yao Affidavit and described in the Seventh Report, and (b) the fees and disbursements of Stikeman Elliott, in its capacity as legal counsel to the Receiver, from April 17, 2017 (with respect to a single docket, as set out in the Pukier Affidavit), and for the period from May 6, 2017 to July 18, 2024, totalling \$526,892.63 (inclusive of HST), as set out in the Pukier Affidavit and described in the Seventh Report, be and are hereby approved.

11. **THIS COURT ORDERS** that the requirement of the Receiver and the Receiver's counsel pursuant to paragraph 19 of the Order of this Court dated August 20, 2014 (the "**Appointment Order**"), to pass their accounts is hereby waived and dispensed with in

respect of the period 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 and no further approval of the fees and disbursements of the Receiver and the Receiver's counsel is required provided that (a) the fees and disbursements of the Receiver from July 1, 2024, to the completion of these receivership proceedings do not exceed \$50,000 (inclusive of HST), in accordance with the estimate set out in the Yao Affidavit; and (b) the fees and disbursements of Stikeman Elliott, in its capacity as legal counsel to the Receiver, from July 19, 2024, to the completion of these receivership proceedings do not exceed \$50,000 (inclusive of HST), in accordance with the estimate set out in the Pukier Affidavit.

DISCHARGE & RELEASE

12. **THIS COURT ORDERS** that, effective upon a certificate (the **"Receiver's Termination Certificate"**) in the form attached hereto as **Schedule "A"** being posted on the webpage the Receiver maintains in connection with these receivership proceedings¹ (the **"Receiver's Webpage"**) certifying that the terms and conditions of its discharge have been met, the Receiver shall be discharged as receiver and manager of all of the assets, undertakings and properties of Hanfeng provided, however, that notwithstanding its discharge (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership and as relates to any action or other proceeding any person may seek to bring against the Receiver subsequent to its discharge; and (b) the Receiver shall continue to have the benefit of all of the rights, approvals, protections, releases, charges and stays of proceedings in favour of the Receiver at law or pursuant to any Order made in this proceeding.

¹ www.ev.com/ca/hanfeng

13. **THIS COURT ORDERS** that the Receiver is hereby directed to notify the Service List of the Receiver's intention to post the Receiver's Termination Certificate on the Receiver's Webpage at least seven days prior to posting thereof. Any Person who objects to any of the relief that will become effective on the posting of the Receiver's Termination Certificate must send a written notice of objection, including the grounds therefor, to the email addresses of the Receiver and Stikeman Elliott in its capacity as the Receiver's counsel (as set out in the Service List) such that the objection is received prior to the posting of the Receiver's Termination Certificate. If an objection is received by the Receiver in accordance with the preceding sentence, the Receiver shall only post the Receiver's Termination Certificate (a) if the objection is resolved, or (b) on further order of the Court.

14. **THIS COURT ORDERS** that the Receiver is hereby directed to file a copy of the Receiver's Termination Certificate with this Court as soon as is practicable following posting thereof on the Receiver's Webpage.

15. **THIS COURT ORDERS AND DECLARES** that effective as of the date of this Order, in addition to the protections in favour of the Receiver in any Order of this Court in these receivership proceedings or the *Bankruptcy and Insolvency Act* (Canada), the Receiver, Stikeman Elliott in its capacity as the Receiver's counsel, and each of their respective affiliates and officers, directors, partners, employees and agents (collectively, the "**Released Parties**") are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the date of this Order in any way relating to, arising out of or in respect of

the within receivership proceedings or with respect to their respective conduct in the within receivership proceedings (collectively, the “**Present Released Claims**”), and any such Present Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, provided that the Present Released Claims shall not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Released Parties.

16. **THIS COURT ORDERS** that effective upon the Receiver’s Termination Certificate being posted on the Receiver’s Webpage, in addition to the protections in favour of the Receiver in any Order of this Court in these receivership proceedings or the *Bankruptcy and Insolvency Act* (Canada), the Released Parties are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place following the date of this Order and up to and including the time at which the Receiver’s Termination Certificate is posted on the Receiver’s Webpage, in any way relating to, arising out of or in respect of the within receivership proceedings or with respect to their respective conduct in the within receivership proceedings (collectively, the “**Subsequent Released Claims**”) and any such Subsequent Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, provided that the Subsequent Released Claims shall not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Released Parties.

17. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against any of the Released Parties in any way arising from or related to the within receivership proceedings, except with prior leave of this Court on at least seven days' prior written notice to the applicable Released Party.

18. **THIS COURT ORDERS** that the Receiver's Charge (as defined in the Appointment Order) shall be and is hereby terminated, released and discharged, effective as at the Receiver's Termination Certificate being posted on the Receiver's Webpage.

GENERAL

19. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada, China or in any other foreign jurisdiction, to give effect to this Order and to assist the Receiver and its respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its respective agents in carrying out the terms of this Order.

21. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.



SCHEDULE “A” – FORM OF RECEIVER’S TERMINATION CERTIFICATE

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.****RECEIVER’S TERMINATION CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Justice Matheson of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated August 20, 2014, Ernst & Young Inc. (“**EYI**”) was appointed as the receiver and manager (EYI in such capacity, the “**Receiver**”) of all of the assets, undertakings and properties of Hanfeng Evergreen Inc. (“**Hanfeng**”).

B. Pursuant to an Order of the Court dated ●, 2024, the Receiver shall be discharged as Receiver upon the posting of this certificate by the Receiver on the webpage that the Receiver maintains in connection with these receivership proceedings (www.ey.com/ca/hanfeng).

THE RECEIVER CERTIFIES the following:

1. To the knowledge of the Receiver, all matters to be attended to in connection with these receivership proceedings (Court File No: CV-14-10667-00CL) including, but not

limited to, those set out in the Seventh Report of the Receiver dated August 1, 2024, have been completed; and

2. This certificate was issued by the Receiver at _____ [TIME] on _____ 2024.

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

Per: _____
Name:
Title:

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-14-10663-00CL **E317**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER
(Distribution & Discharge Order)**

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