

## IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BANK OF CHINA

PLAINTIFF/ JUDGMENT CREDITOR

AND:

XU CHAO FAN, also known as Hui Yat Fai; XU GAO JUN, also known as Xu Juo Jun, Xu Guo Jun, Kit Sun Hui; Hui Kit Shun Hui Kit Sun and Hui Kit Chun; YU ZHEN DONG, also known as Xu Zhen Dong, Yu Zhen-Dong, Yu Wing Chung, Yu Zhan Dong, Yu Wing Chong and Yu Chun Tung; KWONG WA PO; CINDY CHING YIU-CHU, also known as Sindy Ching, Ching Yu-Chu Sindy, Ching Fo-Chu and Ching Yu-Chu; KUANG WAN FANG, also known as Wendy Wan Fang Kuang; YING YI YU, also known as Yu Yung Yi; FION XU HUI YU, also known as Fion Yu and Xu Hu Yu; LI CONG XU; SIU LING YAN; XIA LI XU, also known as Carolyn Xia Li Xu and Carolyn X Xu; FAL KWONG CHING, also known as Fo Kong Ching, Fo Kong Cheung and Connie Fal Kwong Ching; WEN JING TAN; XU LIE MING; XU GANG QIANG; XU BIN YAN; TANG JIE YU, also known as Jie Yu Tang, Tan Jie Yu and Jie Yu Tan; YU BAO QUON, also known as Bao Quon Yu, Yu Bao Quan and Quan Bao Yu; LIANG BIN JIN; LIANG CUI E; and JOHN DOE

DEFENDANTS/ JUDGMENT DEBTORS

## NOTICE OF APPLICATION

**Name of Applicant:** Alvarez & Marsal Canada Inc., in its capacity as Court-appointed Receiver (the "**Receiver**") of Kuang Wan Fang, also known as Wendy Wan Fang Kuang, also known as Wan Fang Kuang.

**To:** Kuang Wan Fang, also known as Wendy Wan Fang Kuang,

**And to:** Bank of China and Canada Revenue Agency

AN APPLICATION will be made by Alvarez & Marsal Canada Inc., in its capacity as Court-appointed Receiver of Kuang Wan Fang, also known as Wendy Wan Fang Kuang, also known as Wan Fang Kuang, to the presiding Judge at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on June 20<sup>th</sup> at 9:45 a.m. for the Order set out in Part 1 below:

The applicant estimates that the application will take 15 mins.

☒ This matter is within the jurisdiction of Judge

## PART 1: ORDER(S) SOUGHT

1. The Receiver seeks a **"Fee Approval and Distribution Order"**, substantially in form attached hereto as **Schedule "A"**:
  - (a) approving the activities of the Receiver, as set forth in the Receiver's First Report dated September 1, 2023 (the **"First Report"**), and the Second Report of the Receiver dated June 5, 2025 (the **"Second Report"**), and together with the First Report, the **"Receiver's Reports"**);
  - (b) approving the fees and disbursements of the Receiver and its counsel, Gowling WLG (Canada) LLP (**"Gowling"**) in these receivership proceedings; and
  - (c) authorizing and directing the Receiver to make a distribution of the receivership estate to the Bank of China (the **"Bank"**) in the amount of \$1.7 million to the Bank.
2. Such further and other relief as counsel may request and this Honourable Court may deem just.

## PART 2: FACTUAL BASIS

### **Background**

1. Capitalized terms used but not otherwise defined in this Notice of Application have the meanings ascribed to them in the Second Report.
2. Pursuant to an order of this Honourable Court (the **"Receivership Order"**) made on March 3, 2023, the Receiver was appointed as court-appointed receiver over all of the assets, undertakings and property of Kuang Wan Fang, also known as Wendy Wan Fang Kuang, also known as Wan Fang Kuang (the **"Debtor"**) in Canada, including all proceeds (the **"Receivership Order"**).
3. Prior to the Receivership Order, the Bank was granted judgment against the Debtor by the Court in the amount of \$672,181,277.54 including pre-judgment interest (the **"Judgment"**).
4. The Debtor was the registered owner of the Udy Property.
5. Pursuant to section 3 of the Receivership Order, on August 2, 2023, the Receiver marketed and listed the Udy Property for sale. On September 8, 2023, the Court granted an order approving the sale of the Udy Property to the Purchaser for \$2.58 million subject to a sale agreement dated August 8, 2023 made between the Purchaser and the Receiver, which subsequently closed on September 26, 2023 (the **"Sale Transaction"**).
6. Since the filing of the First Report, the Receiver's activities have focused primarily on concluding the Sale Transaction and addressing tax-related matters arising from the disposition all as set out in detail in the Second Report.

### ***Outline of Receiver's Activities and Fees***

7. The activities of the Receiver since its appointment are described in detail in the Receiver's Reports. By way of summary, the Receiver's activities included the following:

- (a) attending to the closing of the sale of the Udy Property and related matters;
- (b) preparing and submitting an application for an Individual Tax Number on behalf of the Debtor and corresponding with the CRA in relation thereto;
- (c) applying for a certificate of compliance in connection with the disposition of the Udy Property and remitting the appropriate payments to the CRA in accordance with the *Income Tax Act*, R.S.C. 1985, C.1, as further detailed in the Second Report;
- (d) assisting with and engaging Lancaster & David for the preparation and filing of the Debtor's 2023 tax return;
- (e) reviewing invoices and preparing payments as necessary, as well as reconciling all cash receipts and disbursements of the trust account of the Receiver;
- (f) reviewing draft court application materials in consultation with the Receiver's legal counsel and the Bank's legal counsel;
- (g) holding discussions and attending meetings with the Receiver's legal counsel and the Bank's legal counsel to address matters relating to the Sale Transaction, tax filings, and other aspects of these proceedings;
- (h) updating the Receiver's website with pertinent information relating to these proceedings; and
- (i) preparing the First Report and Second Report.

8. In connection with these activities, the Receiver has incurred professional fees from the period of October 21, 2022 to December 31, 2024 in the amount of \$83,512.98 including taxes and disbursements.

9. In advising the Receiver in connection with these activities, Gowling, in its capacity as independent legal counsel to the Receiver, has incurred professional fees from the period of March 5, 2021 to June 30, 2024 in the amount of \$40,227.43, including taxes and disbursements.

### ***Distribution to the Bank of China***

10. As set out in the Second Report, the Receiver has liquidated and/or disposed of all assets in its possession and does not anticipate any further realization to occur. The Receiver currently holds \$2,077,750 in its trust accounts.

11. The Receiver seeks an order authorizing and directing the Receiver to make an interim distribution of \$1.7 million to the Bank, as judgment creditor of the Debtor, to apply against the Judgment.

12. The proposed interim distribution will allow for sufficient funds to be held by the Receiver to address the remaining matters in the administration of the estate, as described in the Second Report.

13. Following the completion of the remaining matters in the administration of these proceedings, the Receiver intends to forward any net proceeds remaining in the estate to the Bank as a final distribution, subject to further order from this Honorable Court.

### **PART 3: LEGAL BASIS**

#### **Approval of the Receiver's Activities**

14. This Court has inherent jurisdiction to approve the activities set out in the report of a court-appointed receiver, if satisfied that the receiver has acted reasonably, prudently and not arbitrarily. The assessment of whether the receiver has acted "reasonably, prudent and not arbitrarily" is made on an objective basis.

*Leslie & Irene Dube Foundation Inc. v. P218 Enterprises Ltd.*, 2014 BCSC 1855, para. 54.

15. The Receiver respectfully submits that its activities, as described in the Receiver's Reports, have been carried out in a reasonable, prudent and not arbitrary manner and, accordingly, seeks approval of its activities.

#### **Approval of the Fees**

16. The Receivership Order expressly authorizes the Receiver and its counsel to pass their accounts from time to time and, for this purpose, refers such accounts to this Court to be heard on a summary basis.

Receivership Order, para 21.

17. When considering whether the fees of a court-appointed officers in insolvency proceedings are fair and reasonable in the circumstances, this court has referenced with approval the following considerations:

- (a) the value of the assets;
- (b) complications and difficulties encountered by the receiver;
- (c) degree of assistance provided by the debtor;
- (d) time spent by the receiver;
- (e) the receiver's knowledge, experience, and skill;
- (f) diligence and thoroughness;
- (g) responsibilities assumed;
- (h) results of the receiver's efforts; and
- (i) costs of comparable services.

*Redcorp Ventures Ltd. (Re.)*, 2016 BCSC 188 [**Redcorp**]

at para 23, citing *Bank of Montreal v. Nican Trading Co.* (1990), 1990 CanLII 454 (BC CA).

18. Similar factors as considered on the assessment of a receiver's fees are also considered on the assessment of the accounts of legal counsel to a receiver, including, the:

- (a) time expended;
- (b) complexity of the proceeding;
- (c) degree of responsibility assumed by the lawyers;
- (d) amount of money involved, including the amount of proceeds after payment to the creditors;
- (e) degree and skill of the lawyers involved;
- (f) result achieved;
- (g) the ability of the client to pay; and
- (h) client's expectations as to the fee.

*Redcorp* at para 33.

19. In applying the above factors, it is not necessary for the court to go through the supporting documentation for the fees "line by line" to determine what the appropriate fees are. The value provided should pre-dominate the consideration of what a fair and reasonable amount is appropriate.

*Re Nortel Networks Corporation et al*, 2017 ONSC 673 at para. 21.

20. To provide the court with a proper evidentiary basis for assessing the fees subject to the approval application, the accounts subject to the approval application should:

- (a) be verified by affidavit;
- (b) include information regarding the standard rates and charges of each of the personnel who had worked on the receivership;
- (c) include an indication of seniority of the personnel within the profession; and
- (d) include a narrative description about what was done and the time taken that permits the Court to ascertain whether the fees were properly made or incurred.

*Redcorp* at paras 27 and 32.

21. In the circumstances, in respect of the Receiver's fees, the Receiver submits:

- (a) that its professional fees and disbursements were properly incurred, and commensurate with fees charged by other insolvency firms of a similar size for work of a similar nature and complexity in British Columbia;
  - (b) the work completed by the Receiver was delegated to the appropriate professionals with the appropriate seniority and hourly rates; and
  - (c) the services were performed by the Receiver in a prudent and economical manner.
22. Similarly, the Receiver submits that Gowling's fees are fair and reasonable in the circumstances as:
- (a) Gowling's professional fees and disbursements were properly incurred at Gowling's standard rates, and commensurate with fees charged by similar firms with the expertise and capacity to serve a matter of comparable size and complexity;
  - (b) the work completed by Gowling was delegated to the appropriate professionals with the appropriate seniority and hourly rates;
  - (c) the services were performed by Gowling in a prudent and economical manner; and
  - (d) Gowling's invoices were provided to the Receiver when rendered, and all have been approved by the Receiver.

**PART 4: MATERIALS TO BE RELIED ON**

1. Affidavit #1 of Jonathan B. Ross, made June 5, 2025;
2. Affidavit #1 of Vicki Chan, made June 5, 2025;
3. First Report of the Receiver dated September 1, 2023;
4. Second Report of the Receiver dated June 5, 2025;
5. Receivership Order made on March 3, 2023; and
6. Such further materials as counsel may advise.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party one copy of the following:

(i) a copy of the filed application response;

(ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person.

Date: June 5, 2025

  
Signature of Counsel for Alvarez &  
Marsal Canada Inc.  
Jonathan B. Ross

To be completed by the Court only:

Order made

☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1  
of this notice of application

☐ with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ Signature of ☐ Judge ☐ Associate Judge

**SCHEDULE "A"**

No. S015937  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**BANK OF CHINA**

**PLAINTIFF/ JUDGMENT CREDITOR**

**AND:**

XU CHAO FAN, also known as Hui Yat Fai; XU GAO JUN, also known as Xu Jue Jun, Xu Guo Jun, Kit Sun Hui; Hui Kit Shun Hui Kit Sun and Hui Kit Chun; YU ZHEN DONG, also known as Xu Zhen Dong, Yu Zhen-Dong, Yu Wing Chung, Yu Zhan Dong, Yu Wing Chong and Yu Chun Tung; KWONG WA PO; CINDY CHING YIU-CHU, also known as Sindy Ching, Ching Yu-Chu Sindy, Ching Fo-Chu and Ching Yu-Chu; KUANG WAN FANG, also known as Wendy Wan Fang Kuang; YING YI YU, also known as Yu Yung Yi; FION XU HUI YU, also known as Fion Yu and Xu Hu Yu; LI CONG XU; SIU LING YAN; XIA LI XU, also known as Carolyn Xia Li Xu and Carolyn X Xu; FAL KWONG CHING, also known as Fo Kong Ching, Fo Kong Cheung and Connie Fal Kwong Ching; WEN JING TAN; XU LIE MING; XU GANG QIANG; XU BIN YAN; TANG JIE YU, also known as Jie Yu Tang, Tan Jie Yu and Jie Yu Tan; YU BAO QUON, also known as Bao Quon Yu, Yu Bao Quan and Quan Bao Yu; LIANG BIN JIN; LIANG CUI E; and JOHN DOE

**DEFENDANTS/ JUDGMENT DEBTORS**

**ORDER MADE AFTER APPLICATION**

**(FEE APPROVAL AND DISTRIBUTION ORDER)**

**BEFORE THE HONOURABLE**

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)  
)

**JUNE 20, 2025**

ON THE APPLICATION of Alvarez & Marsal Canada Inc., in its capacity as court-appointed Receiver (in such capacity the "**Receiver**") of all of the assets, undertakings and property of Kuang Wan Fang, also known as Wendy Wan Fang Kuang, also known as Wan Fang Kuang (the "**Debtor**") in Canada, including all proceeds, coming on for a hearing this day at Vancouver, British Columbia; AND ON HEARING Manuel Dominguez, counsel for the Receiver, and those other counsel listed in Schedule "A"



hereto; AND UPON READING the material filed, including the Affidavit #1 of Jonathan B. Ross, sworn June 5, 2025 (the "**Counsel Affidavit**"), the Affidavit #1 of Vicki Chan, sworn June 5, 2025 (the "**Receiver Affidavit**"), the first report of the Receiver dated September 1, 2023 (the "**First Report**"), and the second report of the Receiver dated June 5, 2025 (the "**Second Report**" and together with the First Report, the "**Receiver's Reports**");

THIS COURT ORDERS AND DECLARES THAT:

***Activities and fee approval***

1. The activities of the Receiver, as set out in the Receiver's Reports, are hereby approved.
2. The fees and disbursements of the Receiver and its counsel, as set out in the Second Report, the Receiver Affidavit and the Counsel Affidavit, are hereby approved.

***Distribution to the Bank of China***

3. The distribution of \$1,700,000.00 of funds held by the Receiver in trust and to be applied as a partial payment against the judgment made in these proceedings against the Debtor on April 16, 2015 is hereby approved, and the Receiver is hereby authorized and directed to make that distribution to the Bank of China.

***General***

4. The Receiver may apply to this Court for advice and directions in relation to this order and any related matters.

5. Endorsement of this Order by counsel appearing on this application, other than counsel to the Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of counsel for the Receiver  
Manuel Dominguez

BY THE COURT

\_\_\_\_\_  
REGISTRAR

**SCHEDULE "A"**

**Counsel List**

<b>Counsel Name</b>	<b>Party Represented</b>

No. S015937  
Vancouver Registry

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AND:

XU CHAO FAN, also known as Hui Yat Fai, and others

DEFENDANTS/JUDGEMENT DEBTORS

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**NOTICE OF APPLICATION**

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**GOWLING WLG (CANADA) LLP**

Lawyers

2300-550 Burrard Street  
Vancouver, B.C. V6C 2B5  
604-683-6498

**Attention: Manuel Dominguez**

MD/msh

file # V53261