

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS

Release No. 984 / October 22, 2013

ADMINISTRATIVE PROCEEDING

File Nos. 3-15544, 3-15545

In the Matter of

CHINA RUITAI INTERNATIONAL
HOLDINGS CO., LTD., DIAN MIN MA,
GANG MA, AND JIN TIAN

ORDER POSTPONING HEARINGS
AND SCHEDULING PREHEARING
CONFERENCE

In the Matter of

CHINA RUITAI INTERNATIONAL
HOLDINGS CO., LTD.

The Securities and Exchange Commission (Commission) instituted these proceedings on September 30, 2013. In Administrative Proceeding File No. 3-15544, the Commission issued an Order Instituting Administrative and Cease-and-Desist Proceedings (First OIP) against Respondents China Ruitai International Holdings Co., Ltd. (China Ruitai), Dian Min Ma, Gang Ma, and Jin Tian (collectively, Respondents), pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 (Exchange Act) and Rule 102(e)(1)(iii) of the Commission's Rules of Practice. A hearing is currently scheduled for Wednesday, October 30, 2013, in that proceeding.

In Administrative Proceeding File No. 3-15545, the Commission issued an Order Instituting Administrative Proceedings (Second OIP) against China Ruitai, pursuant to Section 12(j) of the Exchange Act. A hearing is currently scheduled for Thursday, October 24, 2013, in that proceeding. On October 21, 2013, the Section 12(j) proceeding was reassigned to me. China Ruitai Int'l Holdings Co., Admin. Proc. Rulings Release No. 973.

Although these proceedings have not been consolidated, I address the preliminary issues related to both of them in this Order. In each proceeding, the Division of Enforcement (Division) has submitted a Motion to Postpone Hearing (Motions). In the Motions, the Division represents that it is in the process of effecting service on Respondents under the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, and that postponing the currently scheduled hearings is appropriate to allow time for Answers.

The Division has also submitted a declaration from a process server, representing that she personally served the First and Second OIP on China Ruitai by personal delivery to the Delaware Secretary of State. Further, the Office of the Secretary has provided confirmation of delivery of the same documents by U.S. Postal Service certified mail to the Delaware Secretary of State. However, it is unclear in the circumstances of these proceedings whether the Delaware Secretary of State is an “agent authorized by appointment or law to receive . . . notice” for the purpose of effecting service on China Ruitai. 17 C.F.R. § 201.141(a)(2)(ii). Under Delaware law, service on the Delaware Secretary of State is effective as to the corporation when “the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by [Del. Code Ann. tit. 8, § 321(a)],” which includes serving the registered agent of the corporation in Delaware. Del. Code Ann. tit. 8, § 321(b); see SEC v. Am. Land Co., No. 87-cv-1453, 1987 WL 19930, at *4 (D.D.C. Nov. 6, 1987) (“Delaware law plainly provides for service upon the Secretary of State in the case of a dissolved corporation with no resident agent.”).

To allow time for service and for Answers, it is ORDERED that the Division’s Motions are GRANTED, the currently scheduled hearings are POSTPONED sine die, and a telephonic prehearing conference for both proceedings will be held on Tuesday, October 29, 2013, at 11:30 a.m. EDT. Service as to all Respondents will be discussed at the conference.

Cameron Elliot
Administrative Law Judge