

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 73839 / December 15, 2014**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3613 / December 15, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16315**

**In the Matter of**

**CANADIAN SOLAR, INC.**  
**and YAN ZHUANG,**

**Respondents.**

**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER AND CIVIL PENALTIES**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Canadian Solar, Inc. (“CSI” or “Canadian Solar”) and Yan Zhuang (“Zhuang”) (collectively, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order and Civil Penalties (“Order”), as set forth below.

### III.

On the basis of this Order and Respondents' Offers, the Commission finds that:

#### A. SUMMARY

This matter arises from Canadian Solar's violations of the reporting, books and records, and internal controls provisions of the Exchange Act resulting from CSI's recognition of revenue for certain transactions with United States ("U.S.") customers during the second, third, and fourth quarters of 2009 even though certain criteria for revenue recognition had not been met. Yan Zhuang, CSI's Vice President of Global Sales and Marketing during the relevant period, was a cause of CSI's violations. In addition, by directing a customer to make certain revisions to purchase orders, Zhuang also violated Section 13(b)(5) of the Exchange Act.

#### B. RESPONDENTS

**Canadian Solar, Inc.** is a Canadian corporation headquartered in Ontario that designs, develops, manufactures and markets solar power products. Canadian Solar has its principal place of business in Suzhou, People's Republic of China ("PRC"), and has a U.S. head office and customer center in San Ramon, California. Canadian Solar is a foreign private issuer of securities registered with the Commission pursuant to Section 12(b) of the Exchange Act and quoted on NASDAQ under the ticker symbol CSIQ.

**Yan Zhuang**, age 49, is a resident of the PRC. Zhuang has been Senior Vice President and Chief Commercial Officer of Canadian Solar since May 2012. From July 2011 until May 2012, Zhuang was Senior Vice President of Global Sales and Marketing. From June 2009 until July 2011, and during the relevant period, Zhuang was Vice President of Global Sales and Marketing. From September 2007 until June 2009, Zhuang was an independent director of CSI.

#### C. FACTS

Beginning in 2006 with its initial public offering in the United States, CSI—which, since starting operations in 2001, had focused primarily on the European market—publicly stated its intentions "to expand into the U.S. market" as a result of new government incentives in select states.

To facilitate its U.S. expansion, in 2007, by which time at least six states were offering incentives to developers of solar projects, CSI set up an office in Phoenix, Arizona and

incorporated a U.S. subsidiary. In 2007, however, CSI's revenue from the U.S. was still only \$2.6 million or less than 1% of CSI's reported annual revenue.<sup>1</sup>

In 2008 and 2009, CSI continued its U.S. expansion efforts. During 2008, CSI entered into a distributorship with a California company and by early 2009 opened a sales office in San Ramon, California. At the time, CSI announced in a press release that it was "increasing its footprint in anticipation of the U.S. becoming a significant market" and that it "expect[ed] to see substantial growth in the U.S. in 2009."

By the end of 2008, CSI's publicly reported U.S. revenue increased to \$32.3 million and accounted for approximately 4.6% of CSI's revenue. CSI continued to demonstrate growth in the U.S. in 2009: For the second quarter of 2009, CSI reported "strong sales growth in Asia and America, with sequential gains of 188% and 500%, respectively, over Q109, resulting in a diversified and balanced global market distribution." For the third quarter of 2009, CSI reported U.S. revenue of \$12.9 million or 6% of CSI's revenues and for the fourth quarter of 2009, U.S. revenue of \$24.8 million, or 8.6% of revenues. For the full year 2009, approximately 8.5% of CSI's revenue was generated from the U.S.

However, CSI's depiction of steady growth in the U.S. market in 2009 was inaccurate because CSI recognized revenue from certain transactions during the second, third, and fourth quarters of 2009 which failed to meet all of the criteria for revenue recognition.

### **Relevant Accounting Standards**

In determining whether to recognize revenue during an accounting period, U.S. Generally Accepted Accounting Principles ("GAAP") require an entity to consider whether (1) the revenue is realized or realizable and (2) the revenue is earned.

Revenue is realizable when related assets received or held are readily convertible to known amounts of cash or claims to cash. Revenues are considered to have been earned when the entity has substantially accomplished what it must do to be entitled to the benefits represented by the revenues. Revenue is realized and earned when all of the following criteria are met:

- (i) Persuasive evidence of an arrangement exists;
- (ii) Delivery has occurred or services have been rendered;
- (iii) The seller's price to the buyer is fixed and determinable; and
- (iv) Collectability is reasonably assured.

Each of the four conditions must be met by the end of an accounting period in order to recognize revenue from a particular transaction. If any condition fails to be satisfied, revenue

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<sup>1</sup> During the relevant period, CSI's U.S. revenue was reported within the "America" geographic region. While the "America" region included some revenue from Canadian customers, most of it was derived from U.S. customers.

recognition must be deferred until the period in which the condition is met. *See, e.g.*, Accounting Standards Codification (“ASC”) 605-10-25-1. *See also* ASC 605-10-S99-1.

### **Customer A**

In April 2009, CSI began discussions to supply a California-based solar power contractor (“Customer A”) with solar modules for two large-scale municipal projects in California and Florida, transactions that CSI anticipated would yield over \$7.7 million in revenue.

Upon completion of the two projects, Customer A expected large U.S. government subsidies and significant income, but Customer A required financing to cover the initial costs associated with purchasing the solar modules. CSI had access to financing from Chinese banks, in addition to the ability to obtain credit insurance from a Chinese government-funded entity established to promote foreign trade.<sup>2</sup> CSI concluded that by utilizing these resources it could provide or arrange for the financing Customer A required.

While negotiations over the terms of the transaction were ongoing, CSI began to manufacture and ship solar modules to Customer A. On June 23, 2009, CSI shipped its first batch of solar modules to Customer A’s Florida project, whereupon it recorded \$1.2 million in revenue.<sup>3</sup> On June 30, 2009, CSI shipped a second batch of modules to Customer A’s Florida project, recognizing an additional \$1.2 million in revenue.

### **Evidence of an arrangement**

It was improper for CSI to recognize this \$2.4 million in revenue in the second quarter of 2009. First, negotiations between Customer A and CSI regarding the final financing for the transaction remained ongoing into the third quarter of 2009. By the third quarter, the parties had still not determined how Customer A would pay for the entirety of the panels required for the large-scale projects.

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<sup>2</sup> This entity (the “Insurer”) provided insurance against losses from a particular customer for a defined payment term and up to a specific amount. For example, in a typical arrangement, the Insurer might agree to provide credit insurance up to \$3 million for a customer with a 90-day payment term. If the customer defaulted, CSI could file a claim with the Insurer seeking reimbursement of between 70% - 90% of its resulting loss. Any amount of credit CSI extended to a particular customer above the agreed credit limit would not be covered by the Insurer. Accordingly, in the above example, if CSI allowed the customer to purchase \$5 million worth of product, only \$3 million would be covered by the Insurer. In addition, allowing payment terms beyond those dictated by the Insurer nullified the insurance. Therefore, if CSI allowed the customer more than 90 days to pay for product, the Insurer would not protect against losses upon the customer’s default.

<sup>3</sup> Pursuant to its revenue recognition policy at the time, CSI recorded revenue for the sale of solar panels when title had passed to the customer. Under CSI’s customary shipping terms, this usually occurred when a product shipped from its place of origin in China.

### Collectability

CSI recognized the revenue from sales to Customer A, even though CSI questioned whether it would be able to collect payment for these sales. In particular, at the time that CSI shipped the first two batches of solar modules to Customer A and recognized the corresponding revenue, CSI expressed reservations about Customer A's ability to pay. For example, shortly before shipment, Zhuang noted Customer A's poor Dun & Bradstreet credit report and "I am raising several yellow flags about [Customer A] here – I have been watching them closely! . . . They are very short money. They are not confident they can pay us on November 1<sup>st</sup> and not confident enough to find money to finish the project." Nevertheless, CSI shipped the modules and recognized revenue.

Despite shipping modules to Customer A in June 2009 and recognizing \$2.4 million in revenue, and shipping additional modules in July and August 2009, negotiations between the parties fell apart in mid-September 2009. As a result, CSI repossessed all of the modules it had already shipped.

### **Customer B**

#### a. Second Quarter

CSI also recognized \$3.4 million of revenue in the second quarter of 2009 from transactions with Customer B, a preferred distributor of CSI, when not all the criteria for revenue recognition had been met.

### Fixed and determinable price

Commencing in the second quarter of 2009, in its transactions with Customer B, CSI at times reduced the price of solar modules already shipped, even though revenue had already been recognized. This practice was a way for CSI to effectively guarantee Customer B against losses by adjusting Customer B's price below that which Customer B could expect on resale. For example, in June 2009, Zhuang directed sales personnel to "drop the price of [Customer B's] inventory . . . Need them to move the goods to pay us." Zhuang also indicated that CSI might further reduce Customer B's price in the future, directing sales personnel to "be prepared to further lower the price if their inventory still does not move soon. We need them to sell out to pay us back." Absent a fixed or determinable price, it was improper for Canadian Solar to recognize revenue of \$3.4 million on sales to Customer B in the second quarter of 2009.

### Collectability

Collectability was also questionable for CSI's sales to Customer B in the second quarter of 2009. In particular, after initial shipments to Customer B in the second quarter, CSI's outstanding accounts receivable balance for Customer B exceeded the limit of the Insurer's credit insurance

coverage.<sup>4</sup> Customer B submitted additional purchase orders, one of which sought an additional \$2.3 million in solar modules to be shipped within the second quarter of 2009. Although Customer B committed to a payment plan, CSI personnel expressed concern about further increasing CSI's credit risk by shipping additional product before Customer B paid down its account balance.

Ultimately, CSI developed a plan to expand its warehouse capacity in Northern California and, beginning in June 2009, ship product to this warehouse instead of shipping directly to Customer B. Pursuant to the plan, CSI would release solar modules to Customer B in installments as Customer B paid down its outstanding balance pursuant to an agreed-upon schedule. At the time this plan was developed, Zhuang and others understood that CSI could not recognize revenue associated with shipments to its own warehouse until Customer B made payment and picked up the solar modules from CSI's warehouse.

After this plan was developed, the Insurer's limit for Customer B was raised from \$1 million to \$3 million. When CSI's sales team learned this, they sought permission to ship additional containers directly to Customer B rather than shipping to CSI's warehouse. By doing so, CSI would avoid extra handling and storage fees. Zhuang was firm, however, that CSI should stick with the original storage and payment plan: "We had a good plan! [Customer B] still owe [sic] \$1M and most of the panels are still sitting in their inventory. We lowered our price to help them to sell out. I do not want to ship more to their warehouse without their promised payment monthly before they clear their inventory significantly. . . I already gave the final decision in my previous mail. This is final!"

Despite this decision, CSI discovered that its Northern California warehouse could not store as many containers as planned. Therefore, rather than following the original storage and payment plan, CSI released containers directly to Customer B and booked revenue for those panels. Although Zhuang earlier had insisted that the existing payment plan be followed, instead he directed CSI personnel to "ask for a payment plan and try to ship more to [Customer B]. Revenue not recognized by shipping to our warehouse."

In addition, the decision to abandon the original storage and payment plan and to ship the containers directly to Customer B was not made until after the close of the second quarter of 2009. However, revenue from solar modules shipped to Customer B in the third quarter of 2009 was booked in the second quarter.

The recognition of this revenue relating to Customers A and B was publicly reported in a press release and filed with the Commission on Form 6-K. This revenue accounted for 36% of CSI's second-quarter 2009 U.S. revenue and 5% of CSI's second-quarter 2009 global revenue.

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<sup>4</sup> The Insurer subsequently raised the limit, although Customer B's outstanding balance ultimately exceeded the higher limit as well.

b. Third Quarter

Collectability

In the third quarter of 2009, CSI recognized revenue of \$3.7 million from sales to Customer B even though collectability was doubtful. This transaction, which was booked at the very end of the third quarter, resulted from CSI's failure to finalize the deal with Customer A, described above. Faced with the anticipated return of a large quantity of modules previously shipped to Customer A during a period of falling prices and having to reverse revenue already recognized in the second and third quarters of 2009, CSI sought to resell the solar modules repossessed from Customer A. At Zhuang's direction, all modules repossessed from Customer A that could not be resold to other customers were resold to Customer B.

Collectability, however, was questionable because Customer B already had a large outstanding balance at the time of the transaction, as well as substantial unsold inventory from prior purchases. CSI committed its own sales force to help Customer B in reselling the repossessed modules to end users, and CSI did not require Customer B to pay for the modules until reselling them.

Zhuang and others understood that Customer B owed substantial sums for prior purchases, and questioned whether Customer B would be able to pay for additional shipments. In fact, immediately prior to redirecting the return from Customer A to Customer B, CSI personnel were instructed, "If you can divert to other credible customers then it should be done first – let all sales managers know and push them!!!! The rest goes to [Customer B] – as their [Accounts Receivable] will be 5 month [sic] old soon (2 months overdue)."

Further, CSI agreed as part of the transaction to reimburse Customer B for costs it incurred in storing the inventory CSI shipped. This agreement was reflected in a purchase order Customer B sent to CSI, which indicated that CSI was to pay Customer B's storage fees. However, Zhuang directed Customer B to "delete the storage fee from the PO. We can not realize sales for Q3 with this line. We can have a separate contract on the storage fee and I will approve it." In addition, the actual purchase orders for this transaction were not completed until October 2009. At Zhuang's direction, Customer B dated the purchase orders for September 29, the date when some of the panels were shipped to Customer B.

The recognition of this revenue relating to Customer B was publicly reported in a press release and filed with the Commission on Form 6-K. This revenue accounted for 29% of CSI's third-quarter U.S. revenue and 1.7% of CSI's third-quarter global revenue.

**Revision of Fourth Quarter**

On March 3, 2010, CSI publicly announced its financial results for the fourth quarter of 2009 in a press release filed with the Commission on Form 6-K. CSI reported U.S. revenue of \$24.8 million and identified U.S. revenue as 8.6% of CSI's total revenues.

In August 2010, CSI revised its previously reported earnings for the fourth quarter of 2009. One portion of the revision related to revenue recognition, resulting in a \$19.5 million reduction in CSI's fourth-quarter 2009 U.S. revenue from \$24.8 million to \$5.3 million to account for (1) products shipped in the fourth quarter of 2009 for which collection was not reasonably assured, and (2) a sales return reserve that CSI began to accrue for the fourth quarter 2009 forward. CSI did not revise its previously reported earnings for the second and third quarters of 2009.

### **Internal Controls**

CSI was able to recognize revenue from the above-described transactions, due to CSI's deficient internal control over financial reporting. Both CSI's management and its independent auditor concluded that as of December 31, 2009, there were material weaknesses in the effectiveness of CSI's internal control over its financial reporting. These deficiencies included, among others, the failure to establish effective controls to ensure that all revenue recognition criteria were met prior to recognizing revenue and a control to monitor sales returns and record a reserve related to estimated sales returns.

### **D. VIOLATIONS**

Section 13(a) of the Exchange Act and Rule 13a-16 thereunder require every foreign private issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission such information, documents and reports as the Commission may require, and, pursuant to Rule 12b-20 of the Exchange Act, mandate that such reports contain such further material information as may be necessary to make the required statements not misleading.

Section 13(b)(2)(A) of the Exchange Act requires reporting companies to make and keep books, records and accounts, which, in reasonable detail, accurately reflect their transactions and dispositions of their assets, and prohibit any person from, directly or indirectly, falsifying or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A).

Section 13(b)(2)(B) of the Exchange Act requires all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP.

Section 13(b)(5) of the Exchange Act prohibits any person from knowingly circumventing a system of accounting controls or knowingly falsifying any book, record, or account subject to Section 13(b)(2)(A).

### **Canadian Solar**

As a result of the conduct described above, CSI violated Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-16 thereunder by reporting inaccurate U.S. revenue in its quarterly earnings reports for the second, third, and fourth quarters of 2009 by including revenue for certain transactions when the criteria for revenue recognition had not been met.



As a result of the conduct described above, CSI violated Section 13(b)(2)(A) of the Exchange Act because it did not keep books, records, or accounts that accurately reflected the amount of U.S. revenue it had earned.

As a result of the conduct described above, CSI violated Section 13(b)(2)(B) of the Exchange Act because it failed to maintain a system of internal accounting controls sufficient to provide reasonable assurances that it was recognizing revenue in accordance with GAAP.

### **Yan Zhuang**

As a result of the conduct described above, Zhuang knew or should have known that CSI was improperly recognizing revenue with respect to certain transactions with U.S. customers. As a result of the conduct described above, Zhuang caused or was a cause of CSI's violations of Section 13(a) and 13(b)(2)(A) of the Exchange Act and Rules 12b-20 and 13a-16 thereunder. In addition, by directing Customer B to make certain revisions to purchase orders, Zhuang violated Section 13(b)(5) of the Exchange Act.

### **E. CSI'S REMEDIAL MEASURES**

In determining to accept the Offers of Settlement, the Commission considered remedial acts undertaken by CSI.

## **IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Sections 21C and 21B of the Exchange Act, it is hereby ORDERED that:

- A. Respondent Canadian Solar cease and desist from committing or causing any violations and any future violations of Section 13(a) and Sections 13(b)(2)(A) and (B) of the Exchange Act and Rules 12b-20 and 13a-16 thereunder.
- B. Respondent Yan Zhuang cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A) and 13(b)(5) of the Exchange Act and Rules 12b-20 and 13a-16 thereunder.
- C. Within 30 days of the entry of this Order:
  - a. Respondent Canadian Solar shall pay to the United States Treasury a civil money penalty in the amount of \$500,000;

- b. Respondent Yan Zhuang shall pay to the United States Treasury a civil money penalty of \$50,000.

If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways: (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request; (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying the payer as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Amy L. Friedman, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5010A.

By the Commission.

Brent J. Fields  
Secretary