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ADMINISTRATIVE PROCEEDING
FILE NOS. 3-14872, 3-15116

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

In the Matter of

BDO China Dahua CPA Co., Ltd.;

Ernst & Young Hua Ming LLP;

KPMG Huazhen (Special General
Partnership);

Deloitte Touche Tohmatsu Certified Public
Accountants Ltd.;

PricewaterhouseCoopers Zhong Tian CPAs
Limited

Respondents.

The Honorable Cameron Elliot,
Administrative Law Judge

RESPONDENTS' MOTION TO SUPPLEMENT THE RECORD

Respondents Dahua CPA Co., Ltd. ("Dahua"), Ernst & Young Hua Ming LLP ("EHYM"), KPMG Huazhen (Special General Partnership) ("KPMG Huazhen"), Deloitte Touche Tohmatsu CPA Ltd. ("DTTC"), and PricewaterhouseCoopers Zhong Tian CPAs Limited Company ("PwC Shanghai") respectfully submit this motion to supplement the record.

ARGUMENT

The China Securities Regulatory Commission ("CSRC") has now produced the only audit work papers that the Securities and Exchange Commission ("SEC" or the "Commission") requested from the CSRC before the evidentiary hearing in this case. Additional work papers requested after the hearing have either been produced to the PCAOB or are undergoing the

necessary process for production by the CSRC to the SEC. This critical new evidence should be evaluated by this Court, as part of a fair and complete adjudication of this matter. First, the CSRC has produced directly to the SEC work papers relating to DTTC Client A and Client G – the only work papers at issue in this proceeding that the SEC had actually requested from the CSRC prior to the conclusion of the hearing. Second, although the Division of Enforcement insisted both during and after the hearing that any requests for work papers beyond these two would be a “waste of time” because the CSRC is “simply not a viable gateway for obtaining assistance” in obtaining work papers from China, [REDACTED]

[REDACTED] Within approximately a month [REDACTED], the CSRC had [REDACTED] issued its own demands for those work papers, and served those demands on the relevant Respondents. Those work papers are being processed within China for production to the SEC by the CSRC. Third, the CSRC has produced EYHM Client C work papers at issue here and requested by the SEC to the Public Company Accounting Oversight Board (“PCAOB”), and those work papers are immediately available to the SEC.

In short, Respondents seek to supplement the record to include these developments, the potential relevance and exculpatory nature of which the Court repeatedly recognized during the course of the hearing. For example, with respect to the DTTC Client A and Client G work papers, which are *now in the hands of the SEC*, the Court stated:

If there is any change in the status of [production in response to the DTTC Client A and G requests], then I would like the parties . . . to tell me about it. . . . The Division should file something to indicate whatever change in status occurs. And obviously some changes in status are going to be more important than others, but this is, of course, relevant to the Respondents’ defense and so you should treat this . . . as Brady material.”

Tr. at 2319-20. More broadly, and at the conclusion of the hearing, the Court observed that it “consider[ed] whatever production is coming from China to be . .

. something that's certainly relevant, it's relevant to the question of the Respondents' 106(f) argument."¹ The Court thus instructed:

"I think you should err on the side of disclosure if there is any change at all in—any movement at all from China on production. So, for example, if—again, I'll use the same example I did the other day. If you get a letter from the CSRC that says, okay, we're ready to ship you Client B's documents, send us a UPS label or something, then you should disclose that. And I think it would be in the nature of *Brady* material."

Tr. at 2693-94.

As this Court is well aware, the Division's case is based on Respondents' purported willful refusal to produce directly to the SEC audit work papers for ten clients. The viability of the CSRC as a conduit for the production of audit work papers to the SEC is critical to that issue and was a hotly contested issue at the hearing. Without exception, the witnesses called by the Division testified on direct examination that (1) no audit work papers had been produced to the SEC by the CSRC in response to the SEC's requests (including the requests for DTTC Client A and Client G), (2) it was therefore futile for the SEC to seek the CSRC's assistance with respect to any of the other eight clients at issue in this proceeding, or (3) both.² And the Division continued to press its argument post-hearing that it was "futile" to request the documents from the CSRC in part to justify its abandonment of the 106(f) process to obtain the records.³

¹ Section 106(f) states: "Notwithstanding any other provisions of this section, the staff of the Commission or the Board may allow a foreign public accounting firm that is subject to this section to meet production obligations under this section through alternate means, such as through foreign counterparts of the Commission or the Board."

² See Arevalo Tr. 1045:22-1046:4 (stating that "the CSRC was not a viable gateway for the delivery of audit work papers from China to the SEC"); *id.* at 1067:23-1068:5 (stating that the CSRC was not a viable gateway because it had not produced the DTTC Client A or Client G work papers). See also Rana Tr. 182:23-183:14 ("And so based on their experience [not obtaining Client A and G work papers], we sort of concluded that seeking the assistance of the CSRC was not likely to yield any success. We weren't going to get documents out of that process, so we decided not to go that route."); Peavler Tr. 276:9-16 (same); Kaiser Tr. 385:8-13 (same); Weinstein Tr. 623:9-19 (same); Kazon Tr. 757:19-758:4 (same); London Tr. 868:21-869:14 (same).

³ See ENF Post-Hearing Reply Brief September 20, 2013, p. 34-35 (arguing that the CSRC is not an alternative means of production because "not a single Client A workpaper has been produced to the SEC. In addition, the SEC still has not received any of the DTTC work papers for Client G – the only other work papers that were both subject to a Section 106 demand and sought by an SEC request for assistance to the CSRC before the July 2013 hearing in these proceedings.").

Now, Respondents seek to provide the Court with evidence that, in fact, the only audit work papers requested by the SEC prior to the hearing in this matter have been produced to the SEC via the CSRC; others that were requested by the PCAOB through the CSRC have been produced or are in the process of being produced; and all the remaining work papers the SEC has sought since the hearing are in the process of being produced via the CSRC. Moreover, if requested by the Commission, there is no genuine reason to doubt that the other two sets of work papers the SEC has not requested through the CSRC would also be produced. The Division has claimed that the Chinese government prevented the SEC's access to the requested work papers, "effectuat[ing] a total blockade against the SEC."⁴ That claim was inaccurate at the time of the hearing, and it is even more demonstrably wrong now. For that reason, Respondents seek to supplement the record to provide the Court with critical evidence describing the production of work papers to the Commission.

As the evidence Respondents seek to introduce shows, the production of the requested work papers to the SEC is either completed or well underway with respect to the majority of the issuers that are relevant to this proceeding. Indeed, for every matter where the SEC or the PCAOB has requested the CSRC's cooperation, the work papers have been produced in the US or are well underway. Initially, the SEC had only made requests to the CSRC with respect to DTTC Clients A and G. Those documents now have been produced. [REDACTED]

[REDACTED] For each of the Respondents, there have been significant developments since the close of the hearing—[REDACTED]—regarding production efforts relating to the very documents that are at the core of this entire case.

A brief summary of current developments follows:

⁴ ENF Post-Hearing Brief at 4; *see also id.* at 18, 20, 24, 25, 28, 31, 33, 36, 38, 41 (emphasizing that the Division never received the requested work papers for the clients at issue).

- DTTC Clients A and G: The CSRC has produced the DTTC Client A and Client G work papers to the Commission this month.
- EYHM Clients B and C: The Client C work papers were produced by the CSRC to the PCAOB on or before October 16, 2013.⁵ [REDACTED]
[REDACTED] The CSRC served its own request on EYHM for the Client B work papers on October 15, and EYHM completed its state secret screening and produced the work papers to the CSRC on November 18, 2013 for production to the SEC.
- KPMG Huazhen Clients D and F: KPMG Huazhen has completed its review of the Client D work papers and produced those work papers to the CSRC on October 8 for production to the PCAOB, from whom the Division will be able to obtain copies. Similarly, the Client F work papers will be produced to the CSRC within the next one to two months, and the CSRC is expected to then produce them to the PCAOB and for further production to the Division as well. Neither the PCAOB nor the SEC has made a request to the CSRC for the work papers for Client E.
- PwC Shanghai Client I: [REDACTED]
[REDACTED] the CSRC served its own request on PwC Shanghai for the Client I work papers on October 15. PwC Shanghai is in the process of completing its state secret screening and preparing those work papers for delivery to the CSRC, and the CSRC is expected to produce them to the SEC [REDACTED]
[REDACTED]. Neither the PCAOB nor the SEC has made a request to the CSRC for the work papers relating to Client H.

⁵ The PCAOB confirmed to EYHM counsel that it had received the documents on or before October 16, 2013 and was “working with” Division staff. In a call held on November 1, 2013, Division staff initially refused to confirm whether it had received the Client C documents, although it has the absolute right to obtain them from the PCAOB under Section 105 of the Sarbanes-Oxley Act. Subsequently, on November 5, 2013, Division staff represented that they did not have the Client C documents, but acknowledged that although they were aware that the PCAOB had the documents, they had not requested a copy from the PCAOB. However, Division staff stated that it does anticipate receiving these documents from the PCAOB, and has agreed to orally inform counsel for EYHM when the documents are received.

- Dahua Client A: [REDACTED]
[REDACTED] the CSRC served a document request on Dahua for its Client A work papers on October 15. The Client A Dahua work papers are being prepared for delivery to the CSRC, and the CSRC is expected to produce them to the SEC [REDACTED]
[REDACTED].

These recent, and highly relevant, developments go to the very core of this case. As SEC staff members have stated, in writing, the production of the requested work papers makes this entire proceeding “unnecessary.”⁶ The now *repeated* productions consistent with those written commitments on the part of SEC staff are both directly relevant to this proceeding and unequivocal in their impact on the Division’s position in this proceeding. At the very least, the ongoing production of these documents refutes the Division’s contention that the CSRC is not a “viable gateway” for the production of documents to the Commission, and clearly supports Respondents’ good faith. The productions, as well as the requests themselves, also are highly relevant to arguments pursuant to Section 106(f).

The Court’s September 18 Order does not address or foreclose the submission of this new evidence. The issues that were addressed in that Order – the then-imminent deadline for a initial decision and the need for additional testimony to understand the significance of the correspondence – are no longer present here. Respondents’ proffered evidence is discrete and its relevance is apparent on its face, requiring no testimony to interpret the significance of the fact that many of the documents requested have now been produced. Given the clear relevance of this new evidence and the extension of time for the final order, the September 18 Order has no bearing on whether the Court evaluates this important new evidence as part of its full and fair evaluation of the merits here. Indeed, the significance of the proffered new evidence –

⁶ [REDACTED]

including the CSRC's production of the requested work papers, which the SEC said would make this proceeding "unnecessary" – calls for something more than the possibility that this evidence might be presented to the Commission if this matter is appealed. The Court has wide discretion regarding the documents and information that are accepted into the record, *see* 17 C.F.R. § 201.350(a)(9), and itself expressed the view during the hearing that information about the delivery of these materials was highly relevant (Hearing Transcript at 2319-20; 1238-39; 246-27; and 2693-94).⁷

Moreover, in other cases, materials have been accepted into evidence after the close of the hearing. *See In the Matter of Initial Decision Ernst & Young LLP*, 82 SEC Docket 2472, 2004 WL 824099, at *1-2 (Apr. 16, 2004) (granting motions to supplement the record filed by both the Respondent and by the Division, after post-hearing briefing had completed, and admitting documents into evidence); *In the Matter of Ted Harold Westerfield*, 66 SEC Docket 1616, 1998 WL 49459, at *1 (Feb. 9, 1998) (exhibit "offered and accepted into evidence by [ALJ] post-trial"); *In the Matter of George Salloum*, 53 SEC Docket 115, 1992 WL 409853, at *1 (Dec. 10, 1992) ("respondent was permitted to file a supplemental post-hearing brief based upon the Division's introduction of several new exhibits into the record"); *In the Matter of Combellick, Reynolds & Russell Inc*, 49 SEC Docket 247, 1991 WL 286760, at *1 (June 19, 1991) ("respondents, with permission, filed a supplemental post-hearing brief, as well as several post-hearing exhibits").

Accordingly, Respondents move to supplement the record by offering evidence of these recent developments in the form of the following, each of which is attached hereto:⁸

⁷ Likewise, the Division itself previously requested that its production obligations be limited to *precisely* the kind of critical information that is the subject of this motion to supplement the record. Division of Enforcement's Notice of Production and Motion for Order Clarifying Division's Post-Hearing Production Obligation (Sept. 9, 2013) at 2 ("Specifically, the Division requests that the ALJ clarify that the Division is required to produce to Respondents and to make available only the following: correspondence between the SEC's OIA and the CSRC that indicates that the CSRC is producing, has produced, or intends to produce documents sought by any of the Section 106 requests for DTTC Client A, Dahua Client A, or Clients B, C, D, E, F, G, H, or I, that are at issue in these proceedings (the 'Requests').").

⁸ If Court prefers more direct evidence of the recent work papers productions by the CSRC, the Court can direct the SEC to provide such documents to the Court for its review. Respondents have requested that the SEC provide such *Brady* material, but have not received any to date.

- Declaration of David A. Gordon dated November 20, 2013;
- Declaration of Richard A. Martin dated November 20, 2013 and Exhibit 1 thereto;
- Declaration of Timothy B. Nagy dated November 20, 2013 and Exhibit A thereto;
- Declaration of Michael S. Flynn dated November 20, 2013 and Exhibit 1 thereto; and
- Declaration of Deborah R. Meshulam dated November 20, 2013 and exhibit thereto.

CONCLUSION

For the foregoing reasons, Respondents' Motion to Supplement the Record should be granted and the Court should supplement the record by admitting each of these documents into evidence.

Dated this 20th day of November,
2013

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By



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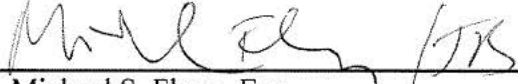
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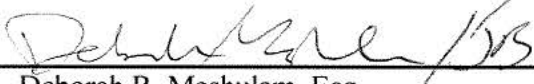
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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

In the Matter of	:	
	:	
BDO China Dahua CPA Co., Ltd.;	:	
Ernst & Young Hua Ming LLP;	:	
KPMG Huazhen (Special General	:	
Partnership);	:	The Honorable Cameron Elliot,
Deloitte Touche Tohmatsu Certified	:	Administrative Law Judge
Public Accountants Ltd.;	:	
PricewaterhouseCoopers Zhong Tian	:	
CPAs Limited,	:	
	:	
Respondents.	:	

DECLARATION OF DAVID A. GORDON

I, David A. Gordon, declare:

1. I am over the age of 18 years and a partner of Sidley Austin LLP (“Sidley”), which serves as co-counsel to Respondent Deloitte Touche Tohmatsu Certified Public Accountants Limited (“DTTC”) in this matter. I have personal knowledge of the facts set forth in this declaration. I submit this declaration in support of Respondents’ Motion to Supplement the Record.

2. The above-captioned matter involves requests for DTTC documents relating to two of DTTC’s audit clients, referred to in this proceeding as DTTC Client A and Client G.

3. As set forth below, I understand that, earlier this month, the China Securities Regulatory Commission (“CSRC”) produced DTTC work papers relating to both DTTC Client A and Client G to the United States Securities and Exchange Commission (“SEC”).

DTTC Client A

4. During the hearing, DTTC personnel testified that DTTC provided documents related to DTTC Client A to the CSRC in May 2013, with the expectation that those documents would be provided by the CSRC to the SEC. (*See* Tr. 1636-37 (Testimony of Richard George); *see also* Tr. 1792-93 (Testimony of Chiu Chi Man).)

5. On November 19, I was informed by DTTC that the CSRC recently had sent the DTTC Client A workpapers to the SEC.

Client G

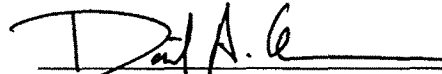
6. During the hearing, DTTC personnel testified that DTTC provided documents related to Client G to the CSRC in July 2013 with the expectation that those documents would be provided by the CSRC to the SEC. (*See* Tr. 1637 (Testimony of Richard George); *see also* Tr. 1793 (Testimony of Chiu Chi Man).)

7. On October 25, 2013, I was informed by DTTC that the CSRC had received UPS labels for Client G workpapers and the CSRC would be sending those workpapers to the SEC at the start of the week of October 28, 2013.

8. On November 6, 2013, I participated in a telephone call between counsel for DTTC and the Division of Enforcement (the “Division”), including Mr. Mendel. Mr. Mendel stated that the SEC had received documents from the CSRC relating to the DTTC former audit client identified as Client G in this matter. Mr. Mendel stated that such documents included five (5) boxes of paper documents, as well as an electronic storage device.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 20, 2013 at Chicago, Illinois.


David A. Gordon

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
FILE NOS. 3-14872, 3-15116

In the Matter of

BDO CHINA DAHUA CPA CO., LTD.;

ERNST & YOUNG HUA MING LLP;

**KPMG HUAZHEN (SPECIAL
GENERAL PARTNERSHIP);**

**DELOITTE TOUCHE TOHMATSU
CERTIFIED PUBLIC
ACCOUNTANTS LTD.;**

**PRICEWATERHOUSECOOPERS
ZHONG TIAN CPAS LIMITED**

RESPONDENTS.

The Honorable Cameron Elliot,
Administrative Law Judge

DECLARATION OF RICHARD A. MARTIN

Pursuant to 28 U.S.C. §1746, I, Richard A. Martin, declare under penalty of perjury that the following is true and correct:

1. I am a member of the firm Orrick, Herrington & Sutcliffe, LLP. Our firm represents Ernst & Young Hua Ming LLP (“EYHM”) in this proceeding, and I submit this declaration in support of the Respondents’ motion to supplement the record to provide the Court with evidence of the production of the audit work papers at issue in this case. This declaration is based on my personal knowledge, except where indicated that I have been advised of certain facts by EYHM.
2. As the Court will recall, the Securities and Exchange Commission (the “SEC” or the “Commission”) sought production of two sets of work papers from EYHM; those relating to Client C and Client B. Although the Commission did not make a request for the production of

either set of work papers to the China Securities Regulatory Commission (the “CSRC”) prior to or during the hearing in this matter, [REDACTED]

3. Client C. As the evidence at the hearing demonstrated, pursuant to the recently executed Memorandum of Understanding (“MOU”) between the PCAOB, the CSRC and the China Ministry of Finance, (Rx. 274), the PCAOB requested that the CSRC produce the work papers of Client C. (See Rx. 632, 632A). The CSRC presented that request to EYHM on July 3, 2013 (Rx. 632, 632A; Testimony of A. Leung at 1477). On July 22, EYHM produced to the CSRC 4 boxes of documents and other materials, as set forth in the receipt signed by a representative of the CSRC on that date. (Rx. 649, 649A; testimony of A. Leung at 1580-81).

4. On October 17, 2013, representatives of the PCAOB informed me that the PCAOB had received 4 boxes of documents and other materials from the CSRC relating to EYHM’s audit work on Client C. I also was informed by those representatives that the documents corresponded with the description of the materials submitted to the CSRC that EYHM had introduced into evidence at the hearing (Rx. 649, 649A) a copy of which was provided to the PCAOB at its request. During the same conversation with the PCAOB representatives, they stated that they had informed relevant personnel at the Division of Enforcement of the SEC (the “Division”) of the delivery of the Client C work papers and were “working with” the Division on the matter.

5. I spoke with David Mendel, Division counsel on November 1, 2013. Mr. Mendel would not confirm whether the Division had received the Client C work papers from the PCAOB, although he acknowledged that the PCAOB had informed him that it had received those documents and materials from the CSRC, and acknowledged that the Commission could obtain those documents from the PCAOB pursuant to Section 105 of the Sarbanes-Oxley Act.

6. Subsequently, on November 5, 2013, in another conversation, Mr. Mendel stated that he did not believe the Division had received the Client C work papers, but also said that the Division had not requested production of the work papers from the PCAOB. However, Mr. Mendel stated that he did anticipate receiving the work papers from the PCAOB, although he did not indicate when that might occur.

7. Accordingly, the Client C work papers have been in the US and in the possession of the PCAOB and available to the Division, if it were to request them, since October 16, 2013.

8. Client B. [REDACTED] the CSRC requested that EYHM produce work papers and other documents to that agency for its production to the Commission in a notice delivered to EYHM on October 15, 2013.
9. Immediately upon receipt of the request from the CSRC, EYHM began the process of producing the materials that the CSRC requested for delivery to the Commission. We have been advised by our client that on November 18, 2013, EYHM delivered two boxes of work papers and other materials corresponding to the request of the CSRC. EYHM obtained a receipt from the CSRC at the time of the delivery of the Client B work papers and other materials identifying those materials. A true and correct copy of the receipt with a certified translation is attached as Exhibit 1.
10. EYHM has advised that it anticipates that, in producing the Client B documents to the Commission, the CSRC will follow the procedures it utilized in connection with its production of the Client C materials to the PCAOB.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: November 20, 2013

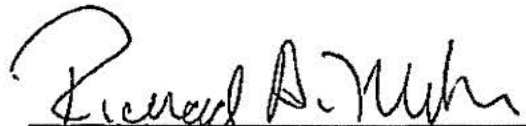

Richard A. Martin

Exhibit 1



GEOTEXT
Translations, Inc.

STATE OF NEW YORK)
)
) SS
COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Chinese into English of the attached Delivery and receipt for EYHM's submission of documents relating to [Client B]

Ken Hetzel, Project Manager
Geotext Translations, Inc.

Sworn to and subscribed before me
this 19th day of November, 2013.

LYNDA GREEN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GR6205401
Qualified in New York County
My Commission Expires May 11, 2017



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Delivery and receipt for EYHM's submission of documents relating to [Client B]

In accordance with the *Introductory Letter on Investigation from the China Securities Regulatory Commission* and the relevant document request on October 15, 2013 and numbered "2103," EYHM (Special General Partnership) has submitted to the CSRC the following working papers and other relevant documents (hereinafter "related documents") relating to the audit of [Client B], as well as the report on screening for issues involving confidentiality and the legal opinion.

1. Submission of 3 relevant reports, the specifics of which are:

- (1) Work report on screening of the [Client B] related documents for issues involving confidentiality (12 pages total)
- (2) EYHM's report on the screening of the [Client B] related documents for issues involving confidentiality (1 page total)
- (3) Fangda's legal opinion on the screening of the [Client B] related documents for issues involving confidentiality (2 pages total)

2. Delivery of 2 boxes of hard copy documentation totaling 5,424 pages in 28 volumes, and one 87-page document list.

3. 2 CDs of electronic document files, including electronic working papers (GAMx) and e-mails and preserved electronic files of personnel in the engagement team, as well as one document list of electronic working papers GAMx (13 pages) and one document list of e-mails and preserved electronic documents of personnel in the engagement team (1 page).

Documents delivered by: [signature] *Wang Hong*

Date: *November 18, 2013*

Documents received by: [signature]

Date: *November 18, 2013*

SRC Beijing Bureau Investigation Department

[signature] *Zhang Weihang*

SRC Department of International Cooperation

November 18, 2013

[signature] *Yuan Yuzhen*

EYHM (Special General Partnership) Representing EYHM
November 18, 2013

[seal:] EYHM (Special General Partnership)
1101030037404

安永华明提供艾瑞泰克相关文件交接单

根据 2013 年 10 月 15 日编号为“2103”的《中国证券监督管理委员会稽查专用介绍信》及有关文件要求，安永华明会计师事务所（特殊普通合伙）向中国证券监督管理委员会提交了安永华明与艾瑞泰克（中国）肥料有限公司（以下简称“艾瑞泰克”）审计等服务有关的工作底稿和其他相关文件（以下简称“相关文件”）以及涉密筛查报告、法律意见书。

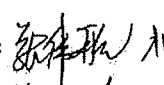
1. 提交相关报告3份，具体为：

- (1) 有关艾瑞泰克相关文件涉密筛查的工作报告（共计 12 页）
- (2) 安永华明对艾瑞泰克相关文件进行涉密筛查的报告（共计 1 页）
- (3) 方达对艾瑞泰克相关文件进行涉密筛查的法律意见（共计 2 页）

2. 提供纸质文件资料两箱共28本，总计5424页，并附87页的文件清单一份。

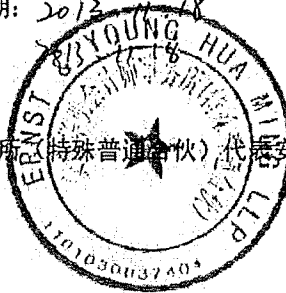
3. 电子文档为光盘两张，包括电子工作底稿（GAMx）及项目组人员的电子邮件及所保存的相关电子文档，并附电子工作底稿GAMx文件清单一份（13页）及项目组人员的电子邮件及所保存的相关电子文档清单一份（1页）。

文件送达人：  日期： 2013. 11. 18

文件接收人：  日期： 2013. 11. 18

证监会国际部 曹玉珍

安永华明会计师事务所（特殊普通合伙）代表安永华明会计师事务所



2013 年 11 月 18 日

**UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
FILE NOS. 3-14872, 3-15116**

In the Matter of

BDO CHINA DAHUA CPA CO., LTD.;
ERNST & YOUNG HUA MING LLP;
**KPMG HUAZHEN (SPECIAL
GENERAL PARTNERSHIP);**
**DELOITTE TOUCHE TOHMATSU
CERTIFIED PUBLIC
ACCOUNTANTS LTD.; AND**
**PRICEWATERHOUSECOOPERS
ZHONG TIAN CPAs LIMITED,**

The Hon. Cameron Elliot
Administrative Law Judge

RESPONDENTS

DECLARATION OF TIMOTHY B. NAGY

I, Timothy B. Nagy, declare:

1. I submit the following declaration in support of the Respondents' Motion to Supplement the Record in the above-captioned mater.
2. I am a counsel with the law firm of Sidley Austin LLP, attorneys for KPMG Huazhen (Special General Partnership) ("KPMG Huazhen").
3. RX 650/650A contains a copy of a request to KPMG Huazhen from the China Securities Regulatory Commission ("CSRC") dated July 19, 2013, requesting work papers and other relevant materials related to the clients identified in this proceeding as Client D and Client F. To my knowledge, to this date, neither the SEC nor the Public Company Accounting Oversight Board ("PCAOB") has requested the CSRC's assistance in obtaining documents related to Client E.
4. KPMG Huazhen has advised that it delivered to the CSRC on or about August 30, 2013, the first phase of work papers and other relevant materials related to Client D.

5. KPMG Huazhen has advised that it delivered to the CSRC on or about October 8, 2013, the remaining work papers and other relevant materials related to Client D that were requested by the CSRC.

6. Attached as Exhibit A are a copy and a certified translation of the *KPMG Huazhen [Client D] Document Transfer List* dated October 8, 2013.

7. KPMG Huazhen has advised that it is preparing for production in accordance with Chinese law and the directives of the CSRC the materials requested by the CSRC related to Client F, and expects to submit the materials to the CSRC on or before December 31, 2013.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Executed on: November 20, 2013

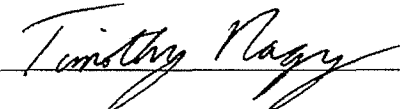

Timothy B. Nagy

EXHIBIT A



STATE OF NEW YORK)
)
) ss
 COUNTY OF NEW YORK)

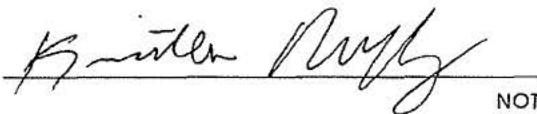
CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Chinese into English of the attached KPMG Huazhen [REDACTED] [REDACTED] Document Transfer List, dated October 8, 2013.



Ken Hetzel, Senior Project Manager
 Geotext Translations, Inc.

Sworn to and subscribed before me
 this 14th day of November, 20 13.



KRISTEN DUFFY
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01DU6121852
 Qualified In Queens County
 My Commission Expires January 31, 2017

KPMG Huazhen [REDACTED] Document Transfer List

According to the requirements of the *China Securities Regulatory Commission Inspectors Exclusive Introduction Letter* (No. 2083), our office submits to the commission the working papers below and other relevant information (“**Relevant Documents**”) related to the second stage (“**Final Stage**”) of [REDACTED];

1. 10 copies of reports requested by the commission;
2. 2 discs of electronic documents placed in box No.1, the content are e-mails under sections III.2.h, III.2.i, and III.2.j related documents;
3. 38 boxes of paper documents, of which there are a total of 516 files, more specifically other related documents excluding the related e-mails mentioned above.

Documents sent by: [signature]

Date: *October 8, 2013*

Documents received by: [signature]

Date: *October 8, 2013*

KPMG Huazhen
(Special General Partnership)
October 8, 2013
[seal:] KPMG Huazhen
(Special General Partnership)





日期: 2013.10.8
日期: 2013.10.8

文件接收人: 张高升
文件发送人: 张高升

1. 证监会要求的相关报告 10 份;
2. 电子文档为光盘 2 张, 放于第 1 号箱, 内容为 III.2.h, III.2.i 及 III.2.j 部分相关文件项下的电子邮件;
3. 纸质文件资料共 38 箱, 其中共有 516 册文件, 具体为除上述电子邮件以外的其他相关文件。

根据《中国证券监督管理委员会稽查专用介绍信》(编号 2083) 的要求, 本
所向证监会提交以下中国综合能源公司(“综合能源”)第二阶段(最终阶段)的有



UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File Nos. 3-14872, 3-15116

-----	x	
)	
In the Matter of)	
)	
BDO China Dahua CPA Co., Ltd.;)	
Ernst & Young Hua Ming LLP;)	
KPMG Huazhen (Special General)	
Partnership);)	The Honorable Cameron Elliot,
Deloitte Touche Tohmatsu Certified)	Administrative Law Judge
Public Accountants Ltd.;)	
PricewaterhouseCoopers Zhong Tian)	
CPAs Limited,)	
)	
Respondents.)	
)	
-----	x	

DECLARATION OF MICHAEL S. FLYNN

Pursuant to 28 U.S.C. § 1746, I, Michael S. Flynn, declare under penalty of perjury that the following is true and correct:

1. I am a partner with the firm of Davis Polk & Wardwell LLP, attorneys for Respondent PricewaterhouseCoopers Zhong Tian CPAs Limited Company (“PwC Shanghai”). I submit this declaration in support of Respondents’ Motion to Supplement the Record.
2. Subsequent to the close of the hearing in this proceeding, the Division of Enforcement of the Securities and Exchange Commission (the “SEC” or the “Commission”) filed a Third Notice of Post-Hearing Production and accompanying exhibit containing additional correspondence between the SEC’s Office of International Affairs (“OIA”) and the China

Securities Regulatory Commission (the "CSRC"). That exhibit was marked as ENF 361 and admitted to the record by Order of this Court dated September 18, 2013.

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED] To my knowledge, to this date, the Commission has not requested the CSRC's assistance in obtaining documents relating to Client H.

5. On October 15, 2013, PwC Shanghai received a formal request from the CSRC, "commissioned by overseas regulators," for documents relating to Client I. A true and correct copy of the CSRC's request to PwC Shanghai and a certified translation of the request are attached hereto as Exhibit 1.

6. My understanding is that the "overseas regulators" referenced in the CSRC's request are the Commission. [REDACTED]

[REDACTED]

[REDACTED]

7. Pursuant to the CSRC's request, and in accordance with the new procedures set forth by the CSRC at a June 19, 2013 meeting that was described at the hearing, *see, e.g.*, D.

Exhibit 1



GEOTEXT
Translations, Inc.

STATE OF NEW YORK)
)
)
COUNTY OF NEW YORK) ss

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from Chinese into English of the attached China Securities Regulatory Commission Notice of Inquiry No. 2013-1-035.

Jeff Cureton, Managing Editor
Geotext Translations, Inc.

Sworn to and subscribed before me
this 14th day of November, 2013.

MORGEN MYRDAL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MY6274933
Qualified in Kings County
My Commission Expires January 14, 2017

China Securities Regulatory Commission

Notice of Inquiry

Serial No.: Shanghai Inquiry No. 2013-1-035

PricewaterhouseCoopers Zhong Tian Accounting Firm:

Having been commissioned by overseas regulators, Our Bureau has determined to gather the following information from Your Firm based on relevant stipulations of the *Securities Law of the People's Republic of China*: 1. All documents, including all work papers, relating to audit reports issued, audit work performed, interim reviews and all other documents relating to all other services provided to [Client I] as of December 31, 2010; 2. All documents relating to [Client I] obtained by Your Firm; 3. All documents related to the resignation of Your Firm as auditor; 4. All communications made between Your Firm and [Client I]. It is requested that you perform classified screening obligations based on relevant laws, regulations, and other requirements, and provide copies of the above-mentioned documents in accordance with requirements within 20 working days after receiving this Notice of Inquiry. Your cooperation is requested.

October 14, 2013

[seal:] China Securities Regulatory Commission, Special Examination Seal (003)

[seal:] PricewaterhouseCoopers Zhong Tian LLP

Law Enforcement Officials (signatures):

Li Nan, Yang Ying

October 15, 2013

Recipient (signature, seal):

Chen Jing

October 15, 2013

(Note: There shall be two copies of this Notice, the law enforcement officials and the recipient shall each retain one copy.)

Stipulations of the *Securities Law of the People's Republic of China* related to Supervision, Inspection and Investigation by the China Securities Regulatory Commission

Article 179 The Securities Regulatory Authority of the State Council shall perform the following tasks during the supervision and management of the securities market: (1) Formulate rules and regulations for the supervision and management of the securities market in accordance with the law, and perform examination and approval or approval authority in accordance with the law; (2) Supervise and manage the issuance, market listing, transactions, registration, custody and settling of securities in accordance with the law; (3) Supervise and manage the securities business activities of securities issuers, market listed companies, securities companies, securities investment capital management companies, securities service organizations, securities exchanges, and securities registration and settlement organizations in accordance with the law; (4) Formulate qualification standards and rules of conduct for personnel engaged in securities business and perform supervision and implementation in accordance with the law; (5) Supervise and examine the public release of information related to the issuance, market listing and trading of securities in accordance with the law; (6) Guide and supervise the activities of the Securities Industry Association in accordance with the law; (7) Investigate actions that violate securities market regulatory laws as well as administrative laws and regulations in accordance with the law; (8) Other duties stipulated by laws and administrative laws and regulations. The Securities Regulatory Authority of the State Council can establish regulatory cooperation mechanisms with the securities regulatory authorities of other nations and regions so as to implement cross-border supervision and management.

Article 180 The Securities Regulatory Authority of the State Council performs its duties in accordance with the law, and it has the right to use the following measures: (1) Carry out on-site inspections of securities issuers, market listed companies, securities companies, securities investment capital management companies, securities service organizations, securities exchanges, and securities registration and settlement organizations; (2) Enter sites suspected of engaging in illegal actions so as to carry out investigations and collection of evidence; (3) Initiate inquiries of persons involved as well as work units and individuals related to an investigated incident, and require them to explain matters related to the investigated incident; (4) Consult and reproduce property rights registrations, communications records, and other materials related to an investigated incident; (5) Consult and reproduce the securities trade records, registration transfer records, financial and accounting materials as well as other related documents and materials of persons involved and work units and individuals connected to an investigated incident; documents and materials that can possibly be transferred, concealed or destroyed can be sealed; (6) Inquire into the capital accounts, securities accounts and bank accounts of work units and individuals related to an investigated incident; when there is evidence that proves there has been or possibly was a transfer or concealment of illegal funds, securities and other property or the concealment, forgery or destruction of important evidence, these may be frozen or sealed after approval by a person in charge at the Securities Regulatory Authority of the State Council; (7) When investigating and handling major illegal securities actions related to the securities market, e.g. insider trading, etc., securities trading by persons involved with an investigated incident may be restricted after approval by a person in charge at the Securities Regulatory Authority of the State Council, but the period of such a restriction may not exceed 15 trading days; this may be extended an additional 15 trading days for complicated cases.

Article 181 The Securities Regulatory Authority of the State Council performs its duties in accordance with the law, it carries out supervision, inspections or investigations, the number of personnel carrying out supervision, inspections and investigations may not be less than two, and legal evidence and notices of supervision, inspections or investigations must be produced. When the number of personnel carrying out supervision, inspections and investigations is less than two or legal evidence and notices of supervision, inspections or investigations are not produced, the unit carrying out inspection and investigation has the right of refusal.

Article 182 The operating personnel of the Securities Regulatory Authority of the State Council must be dedicated to their duties, manage affairs in accordance with the law, be fair and honest, they may not use their positions to facilitate inappropriate personal gain, and they may not knowingly disclose commercial secrets of relevant work units and individuals.

Article 183 The Securities Regulatory Authority of the State Council performs its duties in accordance with the law, it must cooperate with investigated work units and individuals, it should provide related documents and materials strictly based on the facts, and it may not reject, obstruct or conceal in the course of their duties.

When there is a refusal to cooperate with inspections and investigations, administrative and criminal liabilities of relevant personnel can be pursued based on the *Notice for Strengthening Law Enforcement Collaboration by the China Securities Regulatory Commission and Ministry of Public Security in Cracking Down on Securities and Futures Crimes*.

中国证券监督管理委员会

调查通知书

编号：沪调查通字 2013-1-035号

普华永道中天会计师事务所：

因受境外监管机构委托，根据《中华人民共和国证券法》的有关规定，我局决定调取贵所以下资料：1、截止 2010 年 12 月 31 日，贵所就 [REDACTED]（以下简称 [REDACTED]）出具审计报告、对其进行审计和中期审查以及提供所有其他服务相关的所有文件，包括所有审计工作底稿；2、贵所获得的与 [REDACTED] 相关的所有文件；3、与贵所辞任相关的所有文件；4、贵所与 [REDACTED] 相关的所有沟通信息。请你根据相关法律法规等要求履行涉密筛查义务，并于收到本调查通知书之日起 20 个工作日内按要求提供上述文件的副本，请予以配合。

执法人员（签字）：

李楠、杨樱

2013 年 10 月 15 日

（注：本通知书一式二份，由执法人员和接收人各持一份。）



《中华人民共和国证券法》对中国证监会监督检查、调查的有关规定

第一百七十九条 国务院证券监督管理机构在对证券市场实施监督管理中履行下列职责：（一）依法制定有关证券市场监督管理的规章、规则，并依法行使审批或者核准权；（二）依法对证券的发行、上市、交易、登记、存管、结算，进行监督管理；（三）依法对证券发行人、上市公司、证券公司、证券投资基金管理公司、证券服务机构、证券交易所、证券登记结算机构的证券业务活动，进行监督管理；（四）依法制定从事证券业务人员的资格标准和行为准则，并监督实施；（五）依法监督检查证券发行、上市和交易的信息公开情况；（六）依法对证券业协会的活动进行指导和监督；（七）依法对违反证券市场监督管理法律、行政法规的行为进行查处；（八）法律、行政法规规定的其它职责。国务院证券监督管理机构可以和其他国家或者地区的证券监督管理机构建立监督管理合作机制，实施跨境监督管理。

第一百八十条 国务院证券监督管理机构依法履行职责，有权采取下列措施：（一）对证券发行人、上市公司、证券公司、证券投资基金管理公司、证券服务机构、证券交易所、证券登记结算机构进行现场检查；（二）进入涉嫌违法行为发生场所调查取证；（三）询问当事人和被调查事件有关的单位和个人，要求其其对与被调查事件有关的事项作出说明；（四）查阅、复制与被调查事件有关的财产权登记、通讯记录等资料；（五）查阅、复制当事人和被调查事件有关的单位和个人在证券交易记录、登记过户记录、财务会计资料及其他相关文件 and 资料；对可能被转移、隐匿或者毁损的文件和资料，可以予以封存；（六）查询当事人和被调查事件有关的单位和个人的资金账户、证券账户和银行账户；对有证据证明已经或者可能转移或者隐匿违法资金、证券等涉案财产或者隐匿、伪造、毁损重要证据的，经国务院证券监督管理机构主要负责人批准，可以冻结或者查封；（七）在调查操纵证券市场、内幕交易等重大证券违法行为时，经国务院证券监督管理机构主要负责人批准，可以限制被调查事件当事人的证券买卖，但限制的期限不得超过十五个交易日；案情复杂的，可以延长十五个交易日。

第一百八十一条 国务院证券监督管理机构依法履行职责，进行监督检查或者调查，其监督检查、调查的人员不得少于二人，并应当出示合法证件和监督检查、调查通知书。监督检查、调查的人员少于二人或者未出示合法证件和监督检查、调查通知书的，被检查、调查的单位有权拒绝。

第一百八十二条 国务院证券监督管理机构工作人员必须忠于职守，依法办事，公正廉洁，不得利用职务便利牟取不正当利益，不得泄露所知悉的有关单位和个人的商业秘密。

第一百八十三条 国务院证券监督管理机构依法履行职责，被检查、调查的单位和個人应当配合，如實提供有关文件和资料，不得拒绝、阻礙和隱瞞。

对拒不配合检查、调查的，可按照《中国证监会、公安部关于在打击证券期货违法犯罪中加强执法协作的通知》追究相关人员的行政责任和刑事责任。

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

BDO China Dahua CPA Co., Ltd.;

Ernst & Young Hua Ming LLP;

KPMG Huazhen (Special General
Partnership);

Deloitte Touche Tohmatsu Certified Public
Accountants Ltd.;

PricewaterhouseCoopers Zhong Tian CPAs
Limited

Respondents.

The Honorable Cameron Elliot,
Administrative Law Judge

DECLARATION OF DEBORAH R. MESHULAM

Pursuant to 28 U.S.C. § 1746, I, Deborah R. Meshulam, declare under penalty of perjury that the following is true and correct:

1. I submit the following declaration in support of the Respondent's Motion to Supplement the Record in the above-captioned matter.

2. I am a partner with the firm of DLA Piper LLP (US), attorneys for Respondent Dahua CPA Co., Ltd. (formerly known as BDO China Dahua CPA Co., Ltd.)("Dahua").

3. According to documents contained in the Division of Enforcement's Third Post-Hearing production, on or about September 13, 2013, the Securities and Exchange Commission, through its Office of International Affairs, sought the assistance of the China Securities Regulatory Commission ("CSRC") [REDACTED]

[REDACTED]. The request is located in ENF Exh. 361

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Dahua has informed me that on October 16, 2013, the CSRC requested documents related to Client A from Dahua and that the CSRC also requested that Dahua first perform a state secrets review of these documents prior to sending them to the CSRC. A copy of the CSRC's request to Dahua is attached to this declaration. Dahua has advised me that the individuals whose identity cards are attached to the CSRC request are the CSRC representatives who are communicating with Dahua regarding the CSRC's request.

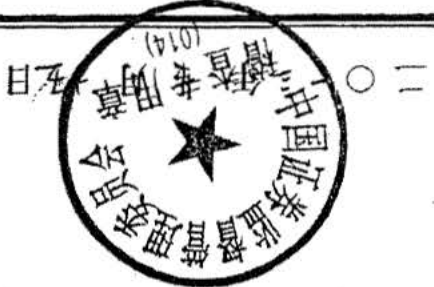
5. Dahua has informed me that it has engaged counsel and is in the process of conducting the state secrets review required by the CSRC. Upon completion of the review, Dahua will deliver the requested documents to the CSRC so that the CSRC can complete its internal processes prior to responding to the SEC [REDACTED].

6. Dahua has also informed me that it expects to complete the state secrets review within the next 3 weeks.

Executed on: November 20, 2013


Deborah R. Meshulam

中国证劵监督管理委员会稽查专用介绍信



二〇〇〇 (有效期 天)

敬礼

此致

请予接洽为荷

前往 贵公司调取中国海洋食品集团有限公司资料，详见附件。

兹介绍 董芳菲、刘伟 同志等 2 人

大华会计师事务所：

编号 2102



附件

资料详单

大华会计师事务所：

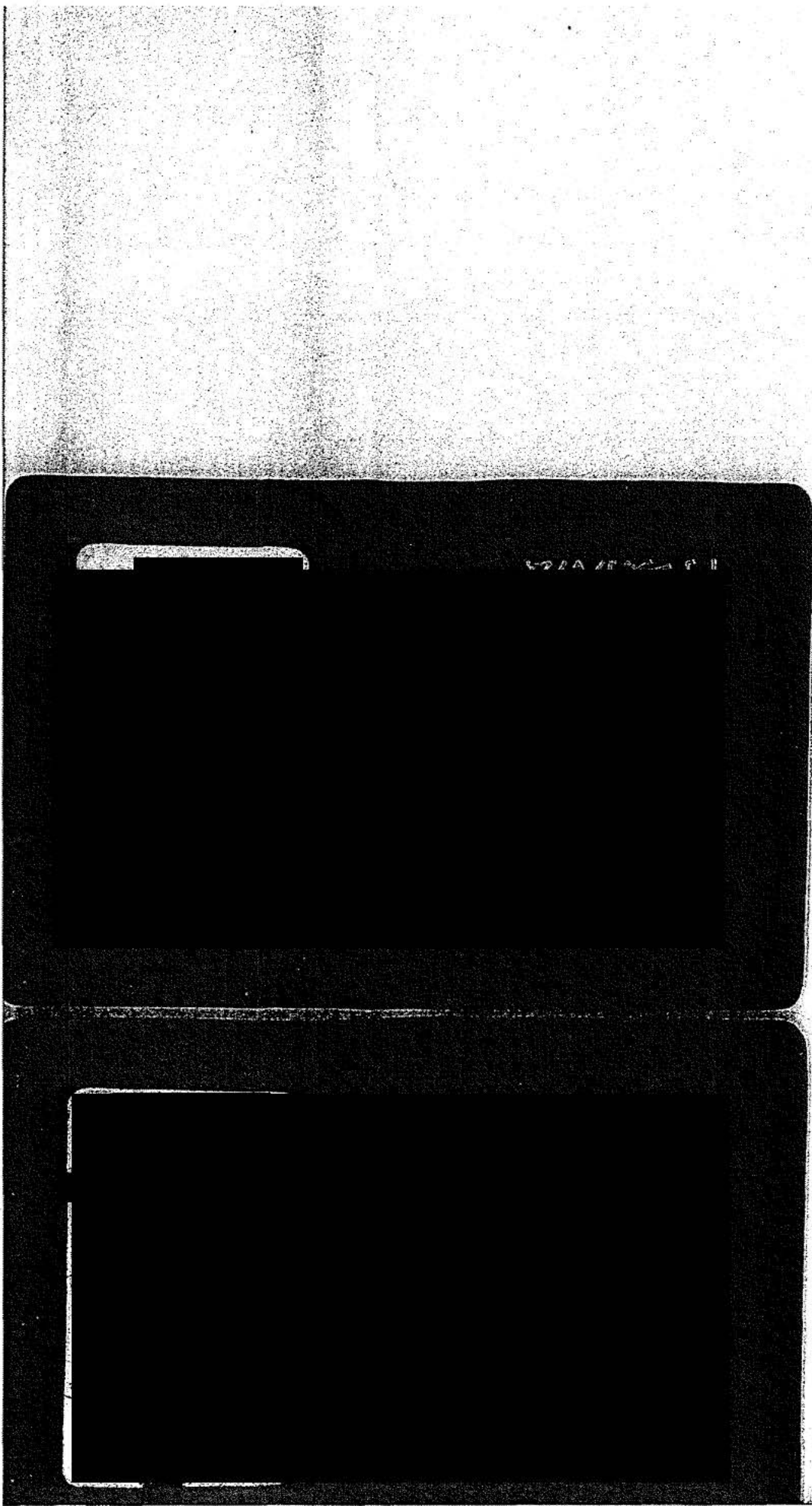
请根据要求提供以下资料：

1、2010年1月1日至2010年12月31日期间，关于中国海洋食品集团有限公司（以下简称海洋食品）的所有审计工作底稿和与对海洋食品进行审计或中期审查相关的所有文件。

2、2011年1月1日至2013年4月30日期间，与对海洋食品的海藻饮料业务进行审计或中期审查相关的所有审计工作底稿和其他文件。

3、2010年1月1日至2013年4月30日期间与对海洋食品的商誉和无形资产进行审计或审查相关的所有文件。

请贵所在收到调查通知书之日起20个工作日内提交经筛选的相关审计工作底稿和材料。



Audit Introduction Letter of CSRC

No. 2102

To Da Hua Certified Public Accountants

Xiwei Dong and Wei Liu, 2 persons from CSRC are arranged to your company to get relevant documents of [REDACTED] Details refer to the attached.

We will be grateful if you arrange with this issue.

Best Regards

Validity _____ days

China Securities Regulatory Commission

15 October, 2013

The attached

The list of requested documents

To Da Hua Certified Public Accountants

Please provide the following documents upon request;

1. All audit work papers of [REDACTED] and all relevant documents of audit work or interim audit work of [REDACTED] during 1 January 2010 to 31 December 2010.
2. All audit or interim audit working papers and other documents of [REDACTED] algae beverage business during 1 January 2011 to 30 April 2013.
3. All documents related to goodwill and intangible assets of [REDACTED] during 1 January 2010 to 30 April 2013.

Please provide the screened audit working papers and documents in 20 working days when you receive this notice of inquiry.

Administrative law enforcement certificate of securities and futures

Name: Wei Liu

Position: Senior staff

Entity/Department: China Securities Regulatory Commission

Issuing date: 2 October 2012

Valid period: 5 years

Certificate No.: 112119

Administrative law enforcement certificate of securities and futures

Name: Xiwei Liu

Position: Senior staff

Entity/Department: China Securities Regulatory Commission

Issuing date: 25 October 2012

Valid period: 5 years

Certificate No.: 112118