

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
PRICWATERHOUSECOOPERS ZHONG
TIAN CPAs LIMITED
The Honorable Cameron Elliot,
Hearing Officer

PARTIES' JOINT MOTION TO AMEND HEARING
AND PREHEARING SCHEDULES

The Division of Enforcement ("Division") of the U.S. Securities and Exchange
Commission ("SEC" or "Commission") and all Respondents jointly move to amend the hearing
and prehearing schedules set by the Court's Order Following Second Prehearing Conference
dated May 29, 2013 ("Order"). As described below, there is one issue about which the parties
have been unable to reach agreement. However, the parties otherwise jointly seek the following
modifications to the schedules:

June 14, 2013: The parties shall exchange and file witness lists, including a
brief summary of the expected testimony of each witness.
On this date, the parties need not list witnesses (nor provide
summaries of their expected testimony) they will later
disclose as expert or summary witnesses as set forth below.
The parties each reserve their right to seek or oppose leave
to name additional witnesses.

- June 17, 2013: The parties shall exchange disclosures of their Chinese law experts on issues that the parties will present in their case-in-chief.
- June 19, 2013: The parties shall exchange and file exhibit lists and exchange pre-marked exhibits. Respondents will file a consolidated exhibit list and set of pre-marked exhibits. The parties will exchange and file lists of any additional experts and/or summary witnesses on remedies or other topics (other than Chinese law), and a brief summary of their expected testimony, subject to the right to provide subsequently the identity of any experts on solely rebuttal issues as set forth below.
- June 24, 2013: The parties shall exchange and file prehearing briefs.
- June 26, 2013: The parties shall exchange and file (i) objections to witnesses and exhibits, and (ii) motions in limine, if any.
- July 1, 2013: The parties shall exchange rebuttal disclosures of their Chinese law experts. The parties also shall exchange disclosures of expert and/or summary witnesses identified on June 19, 2013. The parties also shall exchange and file stipulations, if any, and a final telephonic prehearing conference will be held at 10:30am EDT.
- July 8-12, 2013: The hearing will begin at 9:30am EDT and will continue through July 12, 2013. During this week, the Division will present its case-in-chief. Even if all the time is not used by the Division, Respondents will not begin their case until July 22.
- July 19, 2013: The parties shall exchange rebuttal disclosures of experts and/or summary witnesses on remedies or other topics (other than Chinese law).
- July 22-26, 2013: The hearing will recommence. The period from July 22 to July 26 will be reserved for Respondents' case-in-chief. Even if all the time is not used by Respondents, expert testimony will not begin until July 29.
- July 29 to Aug. 2, 2013: The hearing will continue. The period from July 29 to August 2 will be reserved for expert testimony.

No other modifications to the schedules are sought jointly at this time. The reasons for these modifications are as follows.

First, the parties agree that the Order's deadline of June 10, 2013 for all expert disclosures allows insufficient time for preparation of these disclosures. The Division intends to disclose one proffered expert on Chinese law, while Respondents intend to disclose two proffered experts concerning issues of Chinese law. The June 10, 2013 deadline allows ten (10) days of preparation from the date of the Order. During this time period, the Division's anticipated expert is spending several days traveling to China and attending pre-planned meetings on unrelated business. Respondents' anticipated experts are also occupied with previously planned activities: one expert is currently on a previously planned trip outside of the country and the other is occupied this week on previously scheduled, unrelated business. Accordingly, the June 10, 2013 deadline is not possible to meet for all concerned. The parties respectfully request an extension of seven days for this deadline for their Chinese law experts.

Second, the parties request that the deadline for exchanging disclosures for experts on remedies and other topics (other than Chinese law) be extended until July 1, so that the Division and Respondents can retain such experts and allow them to prepare their disclosures. (This disclosure deadline is subject to the provisions concerning solely rebuttal experts set forth in the next paragraph below). The Division may wish to disclose an expert or summary witness on remedy issues, but this would be impossible to meet under the current schedule. The Division has diligently sought to retain a potential witness on remedy issues, but because of the length of time required for the government contracting process (in this case, approximately six weeks), the potential witness was not retained, and, therefore, was not permitted to start work, until the week of May 28, 2013 (the same week as the Second Prehearing Conference). Now that the potential witness has been retained, the Division seeks a reasonable period of time – until July 1, 2013 – in which the potential witness may conduct its analysis and prepare a suitable disclosure, if any.

Respondents similarly may wish to disclose an expert or summary witness on remedies or other issues (other than Chinese law). And for reasons similar to those facing the Division, Respondents request a reasonable period of time to retain a potential witness and for the witness to conduct its analysis and prepare a suitable disclosure. The parties agree, however, that the identification of any such experts (along with a brief summary of their expected testimony) should be filed on June 19, 2013 to permit the parties' appropriate preparation for trial. Otherwise, any such experts would be identified for the first time just one week before the start of the hearing.

Third, the parties agree that the modified schedule should allow for rebuttal expert disclosures. This will allow a fair opportunity to respond to opposing claims and defenses. Also, by proceeding in a staggered fashion, the parties (without conceding that the subjects of the expert disclosures are legally relevant or otherwise necessary to these proceedings) expect that the disclosures will be more likely to crystallize particular issues for the Court's consideration.¹ The parties agree that two weeks is an appropriate rebuttal period for issues of Chinese law, and approximately three weeks is an appropriate rebuttal period on the remedy issues.

Fourth, to facilitate Respondents' efforts to file a single, consolidated exhibit list—which will eliminate overlap and resulting confusion—the parties agree to extend the deadline for exchanging and filing exhibit lists by two days. The parties agree that the deadline for filing objections to witness and exhibit lists and any motions in limine should therefore also be extended by two days.

Fifth, the parties agree that the most efficient way to structure expert testimony at trial is to have all experts (including experts on Chinese law, remedies, and other topics) testify during

¹ The parties seek this modification to the schedule without conceding that the subjects of the expert of the expert disclosures are legally relevant or otherwise necessary to the proceedings.

the week of July 29, 2013. The week of July 22, 2013 is problematic because the Division's Chinese law expert must be in China the week of July 22 to attend to a pre-planned family matter. Also, it would be very burdensome for the experts to travel twice to the U.S. for the hearing. Further, scheduling all expert testimony for the week of July 29, 2013 would allow the experts to consider fully and incorporate all of the evidence introduced during the hearing. Accordingly, the parties propose to schedule all expert testimony from July 29 to August 2, 2013.

Finally, the parties request an additional four days, until June 14, 2013, in which to exchange witness lists, as well as adding brief summaries of expected testimony pursuant to Commission Rule 222(a). The parties also reserve the right to seek or oppose leave to identify additional witnesses at a later time.

In addition to all of the above points, on which the parties agree, there is one issue on which the parties have not reached agreement. Respondents have proposed (and now request) that the parties should have the option, for any percipient witness, to submit direct testimony in writing in lieu of live testimony so long as such written testimony is provided forty-eight (48) hours in advance of the scheduled testimony. The order currently requires that expert direct testimony be submitted in writing, but does not provide any option to submit percipient witness testimony in writing.² Respondents believe that providing the option of written direct testimony with respect to percipient witnesses will promote clarity of the record and allow for a more efficient hearing, particularly given the potential challenges and inefficiencies that could result from translating live witness testimony from Chinese witnesses into English. Indeed, without the option of submitting written direct testimony, the inefficiencies associated with translated

² The parties have agreed that, with respect to expert witnesses (whose direct testimony will be proffered in writing), the sponsoring party will have the opportunity to "warm the seat" for the witness by conducting direct examination for no more than twenty minutes.

testimony could well prevent the hearing from concluding by August 2, 2013, as currently scheduled. For any and all witnesses whose direct testimony is submitted in writing, the opposing party would still have the opportunity for live cross-examination. Respondents therefore believe that—as with the written direct testimony of experts already provided under the May 29, 2013 Order—the option of submitting written direct testimony for percipient witnesses would promote efficiency and clarity without in any way sacrificing fairness.

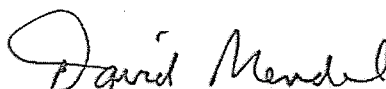
The Division does not agree with this approach, and instead believes that the direct testimony of all percipient witnesses must be live testimony. In the Division's view, now that the Court, at Respondents' urging, has ordered a live hearing to hear evidence on all disputed issues, the hearing should proceed on that basis rather than through the submission of declarations or functional equivalents (unless separately agreed to by the parties). The Division further states that it will proceed as expeditiously as possible with cross-examinations so that the hearing remains on schedule. Should the Court permit written direct testimony by percipient witnesses, the Division respectfully requests that such testimony be provided ninety-six (96) hours in advance of the scheduled testimony.

CONCLUSION

For the reasons set forth above, the Division and Respondents respectfully request that Prehearing and Hearing Schedules be amended as set forth above, and the disagreement regarding possible written direct testimony of percipient witnesses be resolved.

Dated: June 7, 2013

Respectfully submitted,



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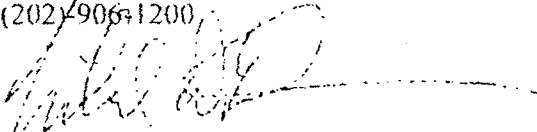
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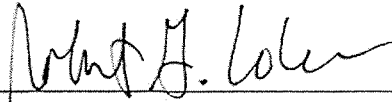
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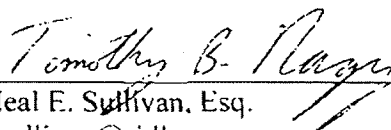
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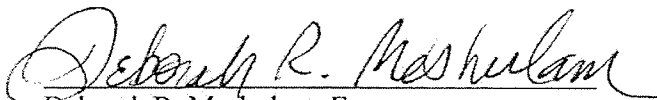
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