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 ACOUNTANTS LTD., and PRICEWATERHOUSECOOPERS ZHONG TIAN CPAs LIMITED	The Honorable Cameron Elliot, Hearing Officer

DIVISION OF ENFORCEMENT'S OBJECTIONS TO WITNESSES AND EXHIBITS AND MOTION *IN LIMINE* AS TO CERTAIN TESTIMONY TOPICS

Pursuant to the Order on Joint Motion to Amend Hearing and Prehearing Schedules dated June 10, 2013, the Division of Enforcement hereby submits these objections to certain of Respondents' witnesses and exhibits, and motion *in limine* as to certain expert testimony and percipient testimony planned by Respondents. Specifically, the Division objects to, or moves to exclude, proffered evidence as follows.

I. EXHIBITS

The Division objects to a number of Respondents' exhibits, as specified in the Attached Appendix 1, for one or more of the following reasons: Relevance, Hearsay, Authenticity, Foundation, and Duplication.

A. Relevance

SEC Rule 320 provides that "The Commission or the hearing officer may receive relevant

evidence and shall exclude all evidence that is irrelevant, immaterial or unduly repetitious." Assuming, *arguendo*, Respondents' assertion of "good faith" is an appropriate topic of inquiry at the hearing, there are a significant number of Respondents' exhibits that, even applying relevancy standards generously, cannot be deemed to be relevant.

1. Registration and Listings Materials of Unrelated China-Based Issuers and non-China-Based Audit Firms

Respondents have included as exhibits a number of documents relating to the registrations and listings of China-based issuers wholly unrelated to any of the issuers in this matter. *See, e.g.* Respondents' Exhibits 253-255, 260, 262-265, 270, 276, 279-282 (relating to Vipshop, YY, Inc. and LightInTheBox). DTTC asserts in its pre-hearing brief that the Commission has recently approved the registrations of other Chinese issuers audited by certain of the Respondents. (DTTC Pre-Hearing Brief at 45). However, the registration and listing materials of any of these issuers is irrelevant to whether Respondents willfully violated Sarbanes-Oxley Section 106, the appropriate remedies for any such violations, or whether, as Respondents assert, they acted in good faith. The document production obligations of registered public accounting firms under Sarbanes-Oxley are separate from, and not controlled by, the requirements for an issuer's registration and listing in the United States. Accordingly, the Division generally objects to the admission into evidence of any of Respondents' exhibits falling in the category of documents relating to the registration and listing materials of unrelated China-based issuers. Similarly irrelevant are Respondents' Exhibits 309-364, all of which are PCAOB Registration forms for non-China-based audit firms variously affiliated with Respondents.

2. SEC and PCAOB Releases Regarding Unrelated Rule Makings

Respondents have similarly included as exhibits a number of lengthy releases relating to

SEC and PCAOB rulemakings wholly unrelated to any SEC or PCAOB rules implicated in these proceedings. *See, e.g.* Respondents' Exhibits 189, 192-193, 207-208, 214, 217-220, 223-225. For example, Respondents' Exhibit 189 is a copy of a 90-page SEC Release, Rel. No 33-6437 Adoption of Foreign Issuer Integrated Disclosure System, which relates, in part, to the SEC's adoption of registration forms F-1, F-2, F-3. This adopting release has no bearing on any of the issues in this proceeding. By way of another example, Respondents' Exhibit 217 is a copy of an 118-page SEC Release 34-55540 Termination of a Foreign Private Issuer's Registration of a Class of Securities Under Section 12(g) and Duty to File Reports Under Section 13(a) or 15(d) of the Securities Exchange Act of 1934. Neither the rule amendments detailed in the adopting release nor any of the discussion in the adopting release bears on the issues in this case. Accordingly, the Division generally objects to the admission into evidence of any of Respondents' exhibits falling in the category of documents relating to SEC and PCAOB releases regarding unconnected rule makings.

B. Authenticity

The Division objects at this time regarding the authenticity of certain of Respondents' exhibits. In particular, Respondents have included as exhibits a number of purported correspondences from Respondents to the Chinese Securities Regulatory Commission and the Chinese Ministry of Finance. *See, e.g.*, Respondents' Exhibits 18-19, 22, 25-26, 30, 32- 33, 52, 54, 56, 92, 104-105, 115-116, 122-123, 128, 132. Some of these exhibits are translated into English and contain certifications relating to the translation accuracy. (Respondents' Exhibits 52, 54, 56). However, others have no translation from Chinese whatsoever (Respondents' Exhibit 132), or appear to be English translations without provision of the original documents. (Respondents'

Exhibits 18-19, 22, 25-26, 30, 32- 33). In addition, Respondents have included purported correspondence from the CSRC. *See, e.g.*, Respondents' Exhibits 20 and 546.

None of the above-referenced exhibits is accompanied by a certification as to its authenticity, and none of the exhibits is signed by an individual. Therefore, it is not sufficiently clear whether any of the witnesses on Respondents' witness list would even be able to authenticate the exhibits. Further, none of the correspondence to the Chinese regulators bears any markings indicating that the correspondence was actually sent. Accordingly, to the extent Respondents cannot provide witnesses to authenticate the exhibits falling within this category – *i.e.*, correspondence to and from Chinese regulators, which is not self-authenticating – the Division objects to their admission into evidence.

Exhibit 20, in particular, and identical copies thereof that may appear as separate Respondents' exhibits, should be excluded as an unreliable translation because: (1) Exhibit 20 has no certification relating to translation accuracy; (2) upon information and belief, it is an inaccurate translation; and (3) it is a different translation than the translation of the same CSRC correspondence ("Department of Accounting Correspondence [2011] No. 437") that is relied upon by Respondents' Chinese law expert Professor Xin Tang, *see* Tang Expert Report, Exhibit 2, Item No. 4 (filed 6/18/13).

II. WITNESSES AND TESTIMONY

A. Testimony via Videoconference

Respondents have identified as a witness Ji Feng, *Principal, Dahua*. Respondents plan to have Mr. Ji testify by video due to "travel restrictions." (Resp. Consol. Witness List, para. 5). In addition, Respondents have generally reserved the right for witnesses to appear for testimony via videoconference (*id.* at page 10). The Division objects to any testimony being conducted via videoconference and moves *in limine* to exclude any video testimony.

At the outset, it should be noted that Respondents themselves requested a live hearing in this matter, as opposed to having the proceedings resolved via written briefs and declarations. Therefore, Respondents should be prepared to make their witnesses available for live, in person testimony. Further, the Division objects to video testimony for other important reasons predominantly based upon (1) the integrity of the Commission's processes with respective to administrative hearings and (2) practicability and logistics.

1. Integrity of the Administrative Hearing

The use of video testimony from China raises significant issues with respect to the ability of the Commission to hold a credible hearing.

a. Administration of Oath

SEC Rule 325 requires that "a witness at a hearing for purposes of taking evidence shall testify under oath or affirmation." However, it appears that neither an ALJ nor Commission staff can lawfully administer an oath to a witness in China. *See generally* http://travel.state.gov/law/judicial/judicial_694.html (laying out restrictions on obtaining evidence in China for use in foreign courts) (Attached as Exhibit 1). Only an official authorized to administer an oath under Chinese law can perform this function. And even if that is accomplished, there are questions with respect to the legality under Chinese law of a witness located in China providing testimony in a U.S. legal proceeding. *See id.* ("China has indicated that . . . obtaining other evidence in China for use in foreign courts may, as a general matter, only be accomplished through requests to its Central Authority under the Hague Evidence Convention.").

b. Credibility of Witnesses

Accepting testimony via video also makes it difficult for the ALJ to make an informed assessment regarding the credibility of witnesses. There is simply no way for the ALJ, nor the

Division, or even Respondents' counsel for that matter, in the United States, to ensure that the witness's testimony is being provided free from external influence (from third-parties or otherwise) that is not visible on camera. Additionally, the Division anticipates that cross-examination may be less effective via video.

c. Fairness

Allowing any witnesses to testify via videoconference from China, because of travel restrictions or other reasons, opens the door for permitting all of the witnesses located in China to argue that they too should be entitled to testify from China. Given that most of Respondents' witnesses appear to be located in China, this could compromise the fairness of these proceedings. Requiring the Division to conduct its cross-examination of witnesses located abroad, while Respondents have the benefit of conducting cross-examination of live witnesses, places the Respondents at an inequitable advantage. The Division is undertaking to bring witnesses from around the U.S., including California, Texas, and elsewhere, to testify in these proceedings. It is only fair that Respondents also produce their witnesses in person for testimony.

2. Practicability and Logistics

Permitting witnesses to testify remotely from China is impracticable, especially in light of the short amount of time remaining before the Hearing in which such testimony would have to be coordinated. Video testimony would make examination of witnesses cumbersome and raise the risk of technical difficulties. There is an approximate 12-hour time difference, and so the Hearing would not be conducted during business hours in China. The Division objects to any imposition of burden of arranging for logistics or coordinating video testimony at this juncture; such burden would consume scarce resources and distract the Division for preparing for the Hearing.

B. Hearsay Testimony

While hearsay evidence may be admitted in an administrative proceeding, in considering its admission, the court should evaluate the evidence's probative value and reliability, as well as the fairness of its use. Hearsay evidence should not be relied upon by the Court if it has low "probative value and reliability." *In the Matter of Rooney A. Sahai*, Admin. Proc. File No. 3-11652, 2005 SEC LEXIS 864, at *24 (Apr. 15, 2005). The Division objects to Respondents' proposed witness testimony that suffers these defects. In particular, the Division provisionally objects to proposed testimony from multiple witnesses regarding their prior, out-of-court communications with Chinese regulators, including, but not limited to, DTTC's "interactions and communications with," PwC Shanghai's "directives from," EYHM's "meetings with," and KPMG Huazhen's "communications with," various PRC government bodies. Respondents' Consolidated Witness List (filed Jun. 14, 2013). Such testimony risks significant lack of probative value and reliability because of witness bias, and the fact that the testimony may concern oral and unsworn statements of others (such as Chinese regulators). Notably, Respondents have not called any Chinese regulators as witnesses.[1]

C. Duplicative Testimony

Rule 320 of the Commission's Rules of Practice mandates that Hearing Officers "shall exclude all evidence that is . . . unduly repetitious." Rule 320. Respondents' Consolidated Witness List describes potential testimony from 18 prospective witnesses, each of whom may address numerous topics. The descriptions of that potential testimony, however, make clear that many, if not most, of these witnesses intend to offer testimony that is duplicative of testimony

[1] The Division has sought to supplement the record in this regard through its Request for Subpoena (filed Jun. 7, 2013), seeking, among other materials, documents constituting, summarizing, describing, or memorializing Respondents' communications with Chinese regulators.

offered by other witnesses. Such redundant testimony will offer no assistance to this Court. The Division therefore moves to exclude, as unduly repetitious, all such unnecessary duplication by barring testimony from more than one witness per Respondent to any specific topic. The specific subject matters, and overlapping prospective witnesses, that should be so limited are listed in Appendix 2.

D. Inappropriate Expert Testimony

The May 29, 2013 Order Following Second Prehearing Conference provided that "Expert disclosures shall be compliant with Federal Rule of Civil Procedure 26, such that they can be used as a substitute for direct testimony." Order, at 1 n.1. On June 17, 2013, Respondents submitted disclosures for two purported experts on Chinese law. Both of these disclosures included material that is inappropriate for expert testimony insofar as it (a) simply summarizes factual matters that require no special expertise and are properly within the domain of percipient witnesses; (b) fails to apply any recognizable expert methodology; or (c) opines on ultimate legal conclusions that are the sole province of the Hearing Officer. Furthermore, Respondents' List of Additional Experts and/or Summary Witnesses on Remedies or Other Topics (other than Chinese Law), filed June 19, 2013, describes potential testimony from former SEC Commissioner Paul S. Atkins, including testimony regarding subject matters that are not appropriate for expert opinions.

1. Reports of Xin Tang and James Feinerman

"While the Federal Rules of Civil Procedure and the Federal Rules of Evidence do not govern the Commission's administrative proceedings, they often provide helpful guidance on issues not directly addressed by the Commission's Rules of Practice." *In the Matter of Barry C. Scutillo, CPA*, 74 S.E.C. Docket 1944, at * 29 (May 31, 2001). Under Federal Rule of Evidence 702, so-called expert "opinion" that actually comprises a bare recitation of purported facts is

improper. *Scott v. Sears, Roebuck & Co.*, 789 F.2d 1052, 1055 (4th Cir. 1986) (Rule 702 "makes inadmissible expert testimony as to a matter which obviously is within the common knowledge of jurors because such testimony, almost by definition, can be of no assistance"); *Therasense, Inc. v. Becton, Dickinson & Co.*, 2008 WL 232856, at *1 (N.D. Cal. May 22, 2008) ("One of the worst abuses in civil litigation is that attempted spoon-feeding of client-prepared and lawyer-orchestrated 'facts' to a hired expert who then 'relies' on the information to form an opinion.").

The Expert Report of Professor Xin Tang filed June 17, 2013 ("Tang Report") is rife with such recitation. The Division moves to exclude, as improper, the following factual recitations in the Tang Report:

- The entirety of ¶¶ 18-32;
- All but the final sentence of ¶ 36; and
- All but the final sentence of ¶ 49.

Not only are these sections improper factual summaries; they contain descriptions that are unsubstantiated by references to specific documents; they plainly mischaracterize the facts; or they assume an argumentative tone inappropriate for an expert. For example:

Statement	Problems
¶23: "The CSRC informed the SEC that the requested audit workpapers could not be directly provided to the U.S. Regulator due to restrictions of relevant Chinese laws and regulations."	Does not cite a particular correspondence. It is also vague insofar as it does not specify from *whom* – the CSRC or the audit firm – the CSRC allegedly said the audit workpapers could not be provided.
¶26: "The Reply indicated the Chinese regulators' position that the Respondents should not provide audit workpapers directly to foreign regulators, whereas foreign regulators should seek such provision through joint-cooperation	Cited Reply does not say this.

mechanisms with their Chinese counterpart."	
¶36: "The CSRC, after consulting with the MOF and following the October 2011 meeting, indicated in the Reply in response to the requests its instruction for the Respondents not to directly provide the Audit Workpapers to the foreign regulators."	Cited Reply does not say this.
¶49: "The CSRC and the SEC have been engaged in active and continued discussions with respect to the provision of the Audit Workpapers as early as 2010. The SEC even applied for a stay of the DTTC Proceeding in July 2012 for the purpose to allow time for the two regulators to continue negotiating on bilateral framework for share of audit workpapers."	Mischaracterizes record, particularly as to events after November 2012. Argumentative tone.

Expert opinion is also improper, and should be excluded, where the expert fails to reliably employ a recognizable expert methodology. Because Rule 702 requires a "sufficiently rigorous analytical connection between that methodology and the expert's conclusions," *Nimely v. City of New York*, 414 F.3d 381, 397 (2d Cir. 2005), such improper expert opinion may take a number of forms. First, an opinion must not be "connected to existing data only by the *ipse dixit* of the expert." *Dev. Specialists, Inc v. Weiser Realty Advisors LLC*, 2012 WL 242835, at *8 (S.D.N.Y. Jan. 24, 2012). *See also General Electric Co. v. Joiner*, 522 U.S. 136, 146 (1997) ("[N]othing in either *Daubert* or the Federal Rules of Evidence requires a district court to admit opinion evidence that is connected to existing data only by the *ipse dixit* of the expert."). Second, expert opinions that lack a "factual basis and are based on speculation or conjecture are . . . inappropriate material for consideration on a motion for summary judgment." *Buckley v. Deloitte & Touche USA LLP*, 2012 WL 3538733, at *6 (S.D.N.Y. Aug. 16, 2012). And third, experts may not "cherry-pick" the support for their opinions by ignoring contradictory evidence. *See In re Oracle Corp. Securities Litig.* 2009 WL 1709050, at *28 (N.D. Cal. June 19, 2009) (finding expert unreliable in part

because expert ignored record evidence that "contradicted his conclusion"). Both the Tang Report and the Expert Report of James V. Feinerman ("Feinerman Report") fail, in a number of places, to apply any recognizable expert methodology in a reliable manner. The Division therefore moves to exclude certain portions of these Reports on that basis.

The following statements from the Tang Report should be excluded for lacking expert methodology:

- The statement that "the Reply is a formal response by the Chinese regulators made to the Respondents and the Respondents must follow the directions set out in the Reply" (¶ 36) is *ipse dixit* offered without any discernible basis, as is the opinion that "given the multiple approvals involved prior to any production to overseas regulators, the Reply indicating the CSRC and MOF's position that no direct provision of audit workpapers should be made to foreign regulators without authorization, clearly makes it unnecessary for the Respondents to seek approval from or report to the other relevant Chinese authorities." (¶ 41)
- The repeated statement that the "SEC recognized and agreed that the CSRC has authority over Chinese accounting firms' provision of audit workpapers to the U.S. Regulator" (¶¶ 43, 49) is offered without any recognizable methodology, and, insofar as it is an assessment of the SEC's conduct, does not relate in any way to Professor Tang's purported expertise in Chinese law.
- The claim that "it is very likely as a matter of Chinese law that certain Audit Workpapers that were requested by the U.S. Regulator from the Respondents contain state secrets of Intelligence and Other Items" (¶ 52) is unduly speculative absent any description, either in the Tang Report or anywhere else in the record, of

the requested documents; indeed, there is no indication that Professor Tang knows what any of the workpapers contain, including the DTTC Client A workpapers on which he opines at great length (¶ 53).

- The Tang Report provides no basis for the statement that "Because of their knowledge of the CSRC's and the MOF's position and the Reply, if the Respondents nevertheless directly provide the Audit Workpapers to the U.S. Regulator, then it is even more likely that the CSRC and the MOF will impose sanctions on the Respondents and that such sanctions would be heavier than normal," (¶ 69) or that "risks for violations . . . are not speculative." (¶ 70)
- Perhaps the most egregious instance of cherry-picking in the Tang Report is its statement that "a means has already been made available under existing Chinese law for the U.S. Regulator to seek the Audit Workpapers, that is, through a co-operative regulation mechanism with the Chinese regulators." This statement that rests entirely on four paragraphs (¶¶ 81-84) that purport to describe a cooperative framework without so much as mentioning the existing IOSCO MMOU,[2] to which both China and the U.S. are signatories. Professor Tang's statement also fails to mention the SEC's extensive and fruitless efforts to obtain the requested documents under the IOSCO MMOU through the CSRC.[3]

In addition, the Tang Report (¶34) references a specific case, "Appellate Case on Disputes Regarding A Dissolving Penalty," in which, according to Professor Tang, sanctions were imposed

[2] "IOSCO MMOU" is the acronym for International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information ("MMOU"). The IOSCO MMOU provides a framework for international cooperation and information sharing in the context of securities investigations and enforcement.

[3] The Division moves to exclude ¶¶ 23-27 of the Feinerman Report for the same reason.

on an accounting firm for violation of certain Ministry of Finance Supervision Measures. However, the Tang Report does not provide sufficient information for other readers to access and review this case. Professor Tang does not list this case in his Exhibit 3, which provides fuller citation information for other case references. The information (in English) that Professor Tang includes in footnote 6 is insufficient for finding the case. Because Professor Tang has not provided such information within sufficient time for the Division and its Chinese law expert to consider it, the case and the last two sentences of Paragraph 34 should be excluded from consideration in these proceedings.[4]

Finally, courts "may preclude an expert from testifying as to the credibility of other witnesses or evidence." *SEC v. Tourre*, 10-cv-03229, at 6 (S.D.N.Y. June 18, 2013). For this reason, the Division moves to exclude (¶¶46-48) of the Feinerman Report, which improperly invades the province of the Hearing Officer by opining on the qualifications of Professor Tang and the reliability of the Tang Report. *See, e.g.*, ¶ 46 ("I am personally well acquainted with Professor Tang Xin. . . . I believe that Professor Tang . . . is an expert with respect to the matter upon which he has rendered his opinions in this case.")

2. Potential Testimony of Paul S. Atkins

The list of topics on which Respondents may call Paul S. Atkins to testify includes the "arbitrariness of the instant enforcement proceeding and inconsistency with the historical approach and effort discussed above" and the "lack of a remedial purpose of potential sanctions." Any testimony along these lines would be improper subject matter for an expert opinion, and should not be permitted by this Court, for two reasons:

[4] On June 21, 2013, counsel for the Division asked counsel for Respondents to provide a copy of the case, or, alternatively, information sufficient to find it, but thus far no additional information has been provided.

First, Mr. Atkins's proffered summary of the Commission's "historical approach and effort" should be excluded. Insofar as Mr. Atkins intends to opine on the meaning and relevance of legal precedent – whether in the form of enforcement actions, rule-makings, or other official decisions of the Commission – he would be offering nothing more than legal opinion, which offers no assistance to this Court and should be excluded. *See Burkhart v. Washington Metropolitan Area Transit Authority*, 112 F.3d 1207, 1212, (D.C. Cir. 1997) ("Expert testimony that consists of legal conclusions cannot properly assist the trier of fact . . . and thus it is not 'otherwise admissible.'"). And to the extent that Mr. Atkins couches his analysis as simply a historical overview of Commission practice, he is unqualified to do so, for Mr. Atkins boasts no credentials whatsoever as a historian. *See Malletier v. Dooney & Bourke, Inc.*, 525 F. Supp. 2d 558, 642 (S.D.N.Y. 2007) ("Testimony on subject matters unrelated to the witness's area of expertise is prohibited by Rule 702.").

Second, Mr. Atkin's assessments of this proceeding's supposed "arbitrariness," and of the "remedial purpose of potential sanctions," both constitute impermissible legal opinions in the guise of expert testimony. "[E]xpert testimony as to legal conclusions that will determine the outcome of the case is inadmissible." *Good Shepherd Manor Foundation, Inc. v. City of Momence*, 323 F.3d 557, 564 (7th Cir. 2003). Whether this proceeding complies with the Administrative Procedure Act would clearly have a determinative effect on its outcome. Expert testimony on that subject is therefore inadmissible. Similarly, Mr. Atkins's opinions on the "remedial purpose of potential sanctions" would "amount[] to no more than an expression of the (witness') general belief as to how the case should be decided," and are therefore improper expert testimony. *Marx & Co., Inc. v. Diners' Club, Inc.*, 550 F.2d 505, 510 (2d Cir. 1977).

CONCLUSION

For the foregoing reasons, the Division objects to, and moves for the exclusion of, the exhibits and testimony described above.

Dated: June 26, 2013

Respectfully submitted,

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COUNSEL FOR DIVISION OF ENFORCEMENT

APPENDIX 1:

Division of Enforcement's specific objections with respect to Respondents' exhibits

Respondents' Exhibit #	Objections
18	Hearsay, Foundation, Authenticity
19	Hearsay, Foundation, Authenticity
20	Hearsay, Foundation, Authenticity
22	Hearsay, Foundation, Authenticity
25	Hearsay, Foundation, Authenticity
26	Hearsay, Foundation, Authenticity
30	Hearsay, Foundation, Authenticity
32	Hearsay, Foundation, Authenticity
33	Hearsay, Foundation, Authenticity
52	Hearsay, Foundation, Authenticity
53	Hearsay, Foundation, Authenticity
54	Hearsay, Foundation, Authenticity
56	Hearsay, Foundation, Authenticity
60	Hearsay, Relevance, Foundation
63	Hearsay, Relevance, Foundation
72	Hearsay, Foundation, Authenticity
73	Relevance
74	Hearsay, Authenticity, Foundation
75	Hearsay, Authenticity, Foundation
92	Hearsay, Authenticity, Foundation
100	Relevance
101	Relevance
103	Relevance, Hearsay, Authenticity, Foundation
104	Relevance, Hearsay, Authenticity, Foundation
105	Relevance, Hearsay, Authenticity, Foundation
106	Relevance
107	Relevance, Hearsay, Authenticity, Foundation
109	Relevance
115	Hearsay, Authenticity, Foundation
116	Hearsay, Authenticity, Foundation
122	Relevance, Hearsay, Authenticity, Foundation
123	Relevance, Hearsay, Authenticity, Foundation
128	Relevance, Hearsay, Authenticity, Foundation
129	Relevance
130	Relevance
131	Relevance, Hearsay, Authenticity, Foundation
132	Hearsay, Authenticity, Foundation
136	Relevance

Respondents' Exhibit #	Objections
145	Relevance
146	Relevance
147	Hearsay, Authenticity, Foundation
152	Relevance, Hearsay, Foundation
179	Relevance
180	Hearsay, Authenticity, Foundation
181	Relevance, Hearsay, Foundation
185	Hearsay, Relevance
189	Relevance
190	Relevance, Authenticity, Foundation
191	Relevance, Authenticity, Foundation
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201	Relevance
202	Relevance
204	Relevance
207	Relevance
208	Relevance
210	Relevance
211	Relevance, Hearsay, Foundation
214	Relevance
215	Relevance, Authenticity, Foundation
216	Relevance
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224	Relevance
225	Relevance
226	Relevance, Hearsay, Foundation
227	Relevance, Hearsay, Foundation
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229	Relevance, Authenticity, Foundation
230	Relevance
231	Relevance, Foundation
234	Relevance, Hearsay, Authenticity, Foundation
237	Hearsay, Relevance, Foundation
238	Hearsay, Relevance, Foundation

Respondents' Exhibit #	Objections
240	Relevance
241	Hearsay
243	Relevance, Foundation
244	Relevance
245	Hearsay, Authenticity, Foundation
246	Hearsay, Authenticity, Foundation
248	Relevance, Hearsay, Foundation
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253	Relevance
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256	Hearsay, Relevance, Foundation
257	Relevance
258	Hearsay, Relevance, Foundation
259	Hearsay, Relevance, Foundation
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266	Hearsay, Relevance, Foundation
268	Hearsay
269	Hearsay, Relevance
270	Relevance
271	Hearsay, Relevance, Foundation
272	Relevance
273	Relevance
274	Relevance, Duplication of Exhibit 273
275	Hearsay, Relevance, Foundation
276	Relevance
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278	Hearsay, Relevance
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Respondents' Exhibit #	Objections
286	Relevance
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295	Relevance
296	Relevance
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332	Relevance, Foundation

Respondents' Exhibit #	Objections
333	Relevance, Foundation
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340	Relevance, Foundation
341	Relevance, Foundation
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362	Relevance, Foundation
363	Relevance, Foundation
364	Relevance, Foundation
414	Relevance
416	Relevance
417	Relevance
418	Relevance
419	Hearsay, Relevance
420	Hearsay, Relevance
421	Hearsay, Relevance
422	Hearsay, Relevance
423	Hearsay, Relevance
424	Hearsay, Relevance
425	Hearsay, Relevance

Respondents' Exhibit #	Objections
426	Hearsay, Relevance
427	Hearsay, Relevance
428	Hearsay, Relevance
429	Hearsay, Relevance
430	Duplication of OIP
431	Hearsay, Relevance
519	Relevance, Authenticity, Foundation
535	Relevance, Authenticity, Foundation
536	Relevance, Authenticity, Foundation
537	Relevance, Authenticity, Foundation
538	Relevance, Authenticity, Foundation
539	Relevance, Authenticity, Foundation
540	Relevance, Authenticity, Foundation
541	Relevance, Authenticity, Foundation
542	Relevance, Authenticity, Foundation
543	Relevance, Authenticity, Foundation
544	Relevance, Authenticity, Foundation
545	Relevance, Authenticity, Foundation
546	Relevance, Authenticity, Foundation
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560	Relevance, Authenticity, Foundation
562	Relevance

APPENDIX 2:
Unduly Repetitious Testimony

DTTC

Subject Matter	Witnesses
"DTTC's background, its structure, the nature of its practice, and the scope of its processional responsibilities"	Chiu, George, Lip, Phipps
"DTTC's good faith in responding to requests by the SEC and CSRC for the production of DTTC documents"	Chiu, George, Lip, Phipps
"DTTC's efforts to comply with applicable laws, regulations, and standards (including those of the U.S. securities laws, the SEC, and the PCAOB)"	Chiu, George, Lip, Phipps
"Potential consequences of any sanctions imposed on DTTC, including to DTTC, its clients and investors"	Chiu, George, Lip, Phipps
"Reasons why DTTC was unable to produce documents directly to the SEC"	Chiu, George, Lip
"DTTC's interactions and communications with the CSRC and/or MOF concerning requests by the SEC and/or the PCAOB for DTTC documents"	Chiu, George, Lip
"DTTC's inability to disregard the directions of the CSRC and MOF and PRC law"	Chiu, George, Lip
"Potential consequences to DTTC, its personnel and its clients if it were to disregard the CSRC, the MOF and PRC law"	Chiu, George, Lip
"DTTC's efforts to facilitate the CSRC's production of documents to the SEC"	Chiu, George, Lip
"DTTC's registration and interactions with the PCAOB"	George, Lip, Phipps
DTTC's engagement for Client G	George, Phipps, White

PwC Shanghai

Subject Matter	Witnesses
"PwC Shanghai's registration with the PCAOB"	Wong, Wu
"PwC Shanghai's efforts to cooperate with the SEC"	Wong, Wu
"PwC Shanghai's good faith, as well as its views regarding these proceedings, its predicament, and the need for a government-to-government resolution"	Wong, Wu
"Directives of PRC regulators regarding the production of audit work papers to foreign regulators"	Wong, Wu
"Potential consequences to PwC Shanghai of violating PRC law or defying the directives of PRC regulators"	Wong, Wu
"Potential consequences of any SEC sanctions to PwC Shanghai, its clients and their investors, the PwC network, and other member firms"	Wong, Wu

EYHM

Subject Matter	Witnesses
"Matters relating to the business of EYHM, including the firm's background, nature of its business and the scope of its professional responsibilities"	Leali, Leung
"Meetings with and communications between EYHM representatives and the CSRC and MOF concerning requests by the SEC and the PCAOB for documents from EYHM"	Leali, Leung
"Good faith efforts made by EYHM to comply with or in anticipation of complying with requests made by the SEC or PCAOB for work papers and related documents"	Leali, Leung
"Effect of possible sanctions that might be imposed on EYHM if EYHM is found to have violated Rule 102(e)"	Leali, Leung
"EYHM's interaction with the PCAOB and the registration process for foreign accounting firms"	Leali, Leung
"EYHM's engagements for Clients B and C, including the nature of the work performed for those clients and EYHM's obligations under Section 10A"	Leali, Leung

KPMG Huazhen

Subject Matter	Witnesses
"Legal status of KPMG Huazhen under PRC law"	Wong, Yan
"Nature of KPMG Huazhen's practice and services provided"	Wong, Yan
"Licensing and registration of accounting firms in the PRC"	Wong, Yan
"Communications with PRC regulators regarding the SEC's and PCAOB's requests for audit work papers related to Clients D, E, and F"	Wong, Yan
"KPMG Huazhen's willingness to comply with US regulators' requests to the extent permitted under PRC law"	Wong, Yan
"Effect of possible sanctions if KPMG Huazhen is found to have violated Rule 102(e)"	Wong, Yan

EXHIBIT 1

China Judicial Assistance

Party to Hague Service Convention?	Yes
Party to Hague Evidence Convention?	Yes
Party to Hague Apostille Convention?	Yes
Party to Inter-American Convention?	No
Service of Process by Mail?	No

DISCLAIMER: THE INFORMATION IS PROVIDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE TOTALLY ACCURATE IN A SPECIFIC CASE. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO THE APPROPRIATE FOREIGN AUTHORITIES OR FOREIGN COUNSEL.

Embassies and Consulates

List of Attorneys

Helpful Links

Service of Process

China is a party to the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters. Complete information on the operation of the Convention, including an interactive online request form are available on the Hague Conference website. Requests should be completed in duplicate and submitted with two sets of the documents to be served, and translations, directly to China's Central Authority for the Hague Service Convention. The person in the United States executing the request form should be either an attorney or clerk of court. The applicant should include the titles attorney at law or clerk of court on the identity and address of applicant and signature/stamp fields. In its Declarations and Reservations on the Hague Service Convention, China formally objected to service under Article 10, and does not permit service via postal channels. For additional information see the Hague Conference Service Convention website and the Hague Conference Practical Handbook on the Operation of the Hague Service Convention. See also China's response to the 2008 Hague Conference questionnaire on the practical operation of the Service Convention.

Service on a Foreign State: See also our Service Under the Foreign Sovereign Immunities Act (FSIA) feature and FSIA Checklist for questions about service on a foreign state, agency or instrumentality.

Service of Documents from China in the United States: See information about service in the United States on the U.S. Central Authority for the Service Convention page of the Hague Conference on Private International Law Service Convention site.

Criminal Matters

Prosecution Requests: U.S. federal or state prosecutors should also contact the Office of International Affairs, Criminal Division, Department of Justice for guidance regarding the U.S. -China agreement on mutual legal assistance in criminal matters.

Defense Requests in Criminal Matters: Criminal defendants or their defense counsel seeking judicial assistance in obtaining evidence or in effecting service of documents abroad in connection with criminal matters may do so via the letters rogatory process.

Obtaining Evidence in Civil and Commercial Matters

China is a party to the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters. The Chinese Central Authority for the Hague Evidence Convention designated to receive letters of request for the taking of evidence is the Ministry of Justice. See the Hague Evidence Convention Model Letters of Request for guidance on preparation of a letter of request. Requests for the taking of evidence under the Hague Evidence Convention are transmitted directly from the requesting court or person in the United States to the Chinese Central Authority and do **not** require transmittal via diplomatic channels. Letters of Request and accompanying documents should be prepared in duplicate and translated into Chinese.

Taking Voluntary Depositions of Willing Witnesses

China does **not** permit attorneys to take depositions in China for use in foreign courts. Under its Declarations and Reservations to the Hague Evidence Convention and subsequent diplomatic communications, China has indicated that taking depositions, whether voluntary or compelled, and obtaining other evidence in China for use in foreign courts may, as a general matter, only be accomplished through requests to its Central Authority under the Hague Evidence Convention. Consular depositions would require permission from the Central Authority on a case by case basis and the Department of State will not authorize the involvement of consular personnel in a deposition without that permission. Participation in such activity could result in the arrest, detention or deportation of the American attorneys and other participants.

Authentication of Documents

China is not a party to the Hague Convention Abolishing the Legalization of Foreign Public Documents. Documents issued in the United States may be authenticated for use in China by (a) contacting the U.S. Department of State Authentications Office and (b) then having the seal of the U.S. Department of State authenticated by the Embassy of China in Washington,

D.C.Documents issued in U.S. states must first be authenticated by the designated state authority, generally the state Secretary of State.