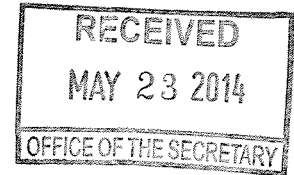


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ORIGINAL

ADMINISTRATIVE PROCEEDING
File No. 3-15389



In the Matter of

Duoyuan Printing, Inc.

Respondent.

**DIVISION OF ENFORCEMENT'S BRIEF IN SUPPORT
OF ITS MOTION TO SERVE RESPONDENT BY ALTERNATIVE
MEANS PURSUANT TO RULE OF PRACTICE 141(a)(2)(iv)**

The Division of Enforcement ("Division"), by counsel, respectfully submits this brief in support of its motion to serve the Order Instituting Proceedings ("OIP") on Respondent Duoyuan Printing Inc. ("Respondent" or "Duoyuan") by publication in the *International New York Times*, pursuant to Rule of Practice 141(a)(2)(iv) and in support of its request that the Court continue the pre-hearing conference by 60 days from the date of its order to permit the Division sufficient time to serve by publication.

BACKGROUND

The instant Administrative Proceeding was commenced on July 26, 2013. Declaration of Junling Ma ("Ma Decl.") ¶ 2. The Order Instituting Administrative Proceedings Pursuant to Section 12(j) of the Securities Exchange Act of 1934 and Notice of Hearing ("OIP") alleges that Duoyuan failed to comply with Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder because it is delinquent in its periodic filings with the Commission for over two years, having failed to file Forms 10-K for the years ended June 30, 2010, 2011 and

2012 and Forms 10-Q for quarters ended September 30, 2010, December 31, 2010, March 31, 2011, September 30, 2011, December 31, 2011, March 31, 2012, September 30, 2012, December 31, 2012, and March 31, 2013. In addition, the Commission ordered a suspension of trading in the securities of Duoyuan for the period commencing at 9:30 a.m. EDT on July 26, 2013 and terminating at 11:59 p.m. EDT August 8, 2013. *Id.*

Following institution of this proceeding, the Division attempted to serve Duoyuan, a China-based issuer, through its outside counsel, Henry Schlueter, Esq., of Schlueter & Associates, P.C., located at 1050 Seventeenth Street, Suite 1750, Denver, Colorado 80265 (OIP delivered on July 29, 2013). *Id.* ¶ 3. The Division was advised by Mr. Schlueter that while he represented Duoyuan, he was not authorized to accept the service on behalf of the company. *Id.*

Because the Division found that Duoyuan had no registered agent for service of process in the United States, the Division attempted to serve Duoyuan at its last address on file with the Commission, found in its last Form 8-K filed on April 16, 2012. *Id.* ¶ 4. The listed address is No. 3 Jinyuan Road, Daxing Industrial Development Zone, Beijing, and People's Republic of China 102600. *Id.*

China is a signatory to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, November 15, 1965, 20 U.S.T. 361 ("Hague Convention").¹ Pursuant to the Hague Convention, service against a person or organization in a signatory country is effected by sending a request to a signatory's designated central authority, which then serves the respondent according to its own internal procedures. China objects to mail service as an affront to its sovereign dignity.² In early August 2013, the

¹ U.S. Department of State, "Service of Legal Documents Abroad," available at <http://travel.state.gov/content/travel/english/legal-considerations/judicial/service-of-process.html> (as of May 19, 2014); U.S. Department of State, "Judicial Assistance China," available at <http://travel.state.gov/content/travel/english/legal-considerations/judicial/country/china.html> (as of May 19, 2014) (guidance on service of process in China).

² China has notified the treaty repository that it objects to Article 10(a) of the treaty that provides for service of documents via registered mail. Hague Conference on Private

Division began attempts to serve Duoyuan with the OIP in China via the provisions of the Hague Convention. *Id.* ¶ 5. The Commission, through the Office of International Affairs, forwarded copies of the OIP in English and Chinese to China's designated central authority for service, the Ministry of Justice, along with forms that lists the name and addresses of the persons to be served, as well as the basis for requesting Hague Convention service, and the service package was received by the Ministry of Justice on August 25, 2013. *Id.*

On September 5, 2013, the Division received correspondence from the Chinese Ministry of Justice requesting that additional documents be translated and forwarded for inclusion in the Hague Convention service package on Duoyuan. *Id.* ¶ 6. The Division had the requested documents translated and on October 3, 2013 forwarded the requested documents for inclusion in the Hague Convention service package on Duoyuan. *Id.* The Division has not received any further correspondence from the Chinese Ministry of Justice regarding the attempt to serve Duoyuan through the Hague Convention provisions. *Id.* The Commission is continuing to work with the Chinese Central Authority to determine whether Hague Convention service can yet be accomplished, but the process has been slow and successful service is not assured.

Accordingly, The Division seeks permission from this Court to serve Duoyuan by alternative means through publication in the *International New York Times* (formerly known as *International Herald Tribune*) once a week for four consecutive weeks pursuant to Rule of Practice 141(a)(2)(iv).

ARGUMENT

The Commission's Rule of Practice 141(a)(2)(iv), which governs service of the OIP on respondents in a foreign country, provides:

Notice of a proceeding to a person in a foreign country may be made by any method specified in paragraph (a)(2) of this rule, or by any other method reasonably calculated to give notice, provided that the method of service used is not prohibited by the law of the foreign country.

International Law website regarding China *available at*
<http://www.hcch.net/upload/wop/2008china14.pdf> (as of May 19, 2014).

17 C.F.R. 201.141(a)(2)(iv). Methods of alternative service pursuant to 141(a)(2)(iv), including service by publication, have previously been authorized by administrative law judges where not prohibited by the law of the foreign country. *See Grant Ivan Grieve*, Admin. Proc. File No. 3-13799, Order (June 18, 2010) (unpublished) (permitting the Division to serve Israeli respondent by publication in Israel and by email where Israeli law so permitted); *Centreinvest, Inc.*, Admin. Proc. File No. 3-13304, Order Directing Service as to Foreign Respondents (Dec. 31, 2008) (“*Centreinvest P*”); *Centreinvest, Inc.*, 2009 SEC LEXIS 2359 (Order Denying Motion for Reconsideration (Feb. 5, 2009) (*Centreinvest II*) (allowing service on respondents in Russia via respondent’s U.S. counsel where not prohibited by Russian law).

Service by publication on Duoyuan is proper under Rule of Practice 141(a)(2)(iv) because it is not prohibited by Chinese law. Moreover, service by publication has not been objected to as a method of service by China under the Hague Convention or any other international treaty. *CITE* Administrative law judges have also found that alternative methods of service on foreign respondents pursuant to Rule of Practice 141(a)(2)(iv), including service by publication, were reasonably calculated to give notice and complied with due process requirements dictated by the U.S. Constitution. “The Constitution does not require any particular method of service of process, only that it is “reasonably calculated . . . to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Centreinvest I*, at 2, *quoting Rio Props., Inc. v. Rio Interlink*, 284 F.3d 1007, 1017 (9th Cir. 2002) (finding that service on U.S. counsel was reasonably calculated to provide requisite notice on respondents); *see also Grant Ivan Grieve*, Inv. Advisors Act of 1940 Rel. No. 3061, 2010 SEC LEXIS 2446, at *1 n.1 (July 29, 2010) (“In this case, service by notice published in the *International Herald Tribune* complies with 17 C.F.R. § 201.141(a)(2)(iv).”).

Federal courts have similarly exercised wide latitude to fashion alternative methods of service pursuant to Federal Rule of Civil Procedure 4(f)(3), which is analogous to Rule of Practice 141(a)(2)(iv), and found that such methods complied with due process requirements. “[T]he only limit on a court’s discretion in applying FRCP 4(h) [service on corporations] is that the method of

service not be prohibited by an international agreement and that it comply with the Due Process Clause of the Fourteenth Amendment.” *Smith v. Islamic Emirate of Afghanistan*, 2001 WL 1658211, at *2 (S.D.N.Y. Dec. 26, 2001), citing *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)); see *SEC v. Anticevic*, 2009 WL 361739 at *3 (S.D.N.Y. Feb. 13, 2009) (permitting alternative service by publication on defendants); *BP Products North America, Inc. v. Dagra*, 236 F.R.D. 270, 271-72 (E.D.Va. 2006) (same).

Federal courts have regularly authorized service by publication, finding that it is reasonably calculated to provide notice and that it complies with due process requirements. *SEC v. Tome*, 833 F.2d 1086, 1094 (2d Cir. 1987) (“Publication of the complaint and summons in the *International Herald Tribune* was ‘reasonably calculated’ to notify the [defendants].”); *SEC v. Anticevic*, 2009 WL 361739, at *4 (“Plaintiff has reasonably calculated that publication of service in the three proposed newspapers will apprise [defendant] of the pendency of this action.”); *U.S. v. Shehyn*, 2008 WL 6150322, at *3 (S.D.N.Y. Nov. 26, 2008) (“Service on a defendant in a foreign country by publication of a summons and complaint in the *International Herald Tribune* once a week for four successive weeks is permissible under Rule 4(f)(3) and comports with notions of due process”)

Service of the OIP by publishing notice in the *International New York Times* is reasonably calculated to provide Duoyuan with adequate notice of this proceeding. The *International New York Times* (formerly known as the *International Herald Tribune*) is an English-language newspaper of general circulation throughout the world. It is an accepted means of publication of the notice of a pending action under Rule 4(f)(3). See, e.g., *Tome*, 833 F.2d at 1091 (2d Cir. 1987) (accepting publication in *International Herald Tribune* as alternative means of service satisfying requirements of due process).

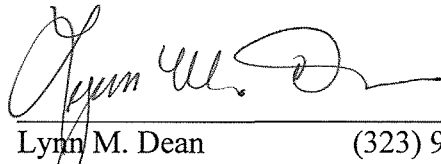
Service by publication on Duoyuan is suitable here because other methods of service have proven impracticable. Service by mail, which is regularly utilized under the Rules of Practice, is prohibited by China in its objection to Article 10(a) of the Hague Convention, disqualifying it as a method of service allowed pursuant to Rule of Practice 141(a)(2)(iv). Hague Convention service, another method used to effect service on foreign nationals, has proven ineffective.

CONCLUSION

For the foregoing reasons, the Division hereby requests that it be permitted to effect service on Respondent Duoyuan by publication of notice substantially similar to the language attached in the Appendix hereto in the *International New York Times* once a week for four consecutive weeks. In addition, the Division requests that the Court continue the pre-hearing conference by 60 days from the date of its order to permit the Division sufficient time to serve by publication.

Dated: May 22, 2014

Respectfully submitted,



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COUNSEL FOR
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APPENDIX

Duoyuan Printing, Inc.

You have been named as a respondent in an administrative proceeding brought by the United States Securities and Exchange Commission (the “Commission”). The name of the Case is *In re Duoyuan Printing, Inc.* Admin. Proc. No. 3-15389 (July 26, 2013). See Securities Exchange Act Release No. 70042.

The Commission alleges in an Order Instituting Proceedings (“OIP”) that Duoyuan failed to comply with Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder because it is delinquent in its periodic filings with the Commission for over two years, having failed to file Forms 10-K for the years ended June 30, 2010, 2011 and 2012 and Forms 10-Q for quarters ended September 30, 2010, December 31, 2010, March 31, 2011, September 30, 2011, December 31, 2011, March 31, 2012, September 30, 2012, December 31, 2012, and March 31, 2013.

YOU ARE HEREBY NOTIFIED that you are required to file an Answer to the allegations contained in the OIP within ten (10) days after the date of publication of this notice, as provided for by Rule 220 of the Commission’s Rules of Practice, 17 C.F.R. § 201.220. Your answer should be sent by mail or facsimile to: Secretary, U.S. Securities and Exchange Commission, 100 F St., N.E., Washington, D.C. 20549, (202) 551-9324 (fax).

Failure to file an Answer within ten (10) days of this publication may result in the entering of a default order by an Administrative Law Judge, and the allegations in the OIP may be deemed true pursuant to Rules 155(a), 220(f), 221(f), and 310 of the Commission’s Rules of Practice [17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310]. Service is complete as of the date of this publication. A copy of the OIP can be found on the Commission’s website, at <http://www.sec.gov/litigation/admin/2013/34-70042.pdf>.