

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 4TH
JUSTICE KIMMEL) DAY OF AUGUST, 2023

B E T W E E N:

BAO YING CAO and 13364097 CANADA INC.

Applicants

and

XIAODONG YANG and USERS OF SUNRISE TECHNOLOGY

Respondents

DISTRIBUTION AND DISCHARGE ORDER

THIS MOTION, made by BDO Canada Limited (“**BDO**”), in its capacity as the Court-appointed receiver (the “**Receiver**”), without security, of the Contested Funds (as defined in the Interpleader Order dated December 7, 2021) held by Bao Ying Cao and 13364097 Canada Inc. (the “**Applicants**”), for an Order for the relief as set out in the Notice of Motion dated July 24, 2023, was heard this day by judicial video conference via Zoom at Toronto, Ontario,

ON READING the Notice of Motion dated July 24, 2023, the Second Report of the Receiver dated July 24, 2023 (the “**Second Report**”) and its appendices, the affidavit of Christopher Mazur sworn July 19, 2023 (the “**BDO Fee Affidavit**”), the affidavit of Danielle

lampietro sworn July 21, 2023 (the “**SH LLP Fee Affidavit**”), and on hearing the submissions of counsel for the Receiver, and any other parties appearing listed on the counsel slip, no one appearing for any other person on the service list, although properly served, as appears from the affidavit of Elizabeth Wise sworn July 25, 2023, filed, which indicates that the Motion Record was served upon those Users of Sunrise Technology listed at Exhibit “A” to the Affidavit (the “**Sunrise Users**”), and upon being advised by counsel for the Receiver that the Sunrise Users are those individuals that had filed claims in accordance with the Claims Process Order, dated June 7, 2022, and that any person who advised the Receiver or its counsel that they wished to participate in and/or observe the motion, were provided with the Zoom particulars for today’s hearing:

1. **THIS COURT ORDERS** that the time and method for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Second Report of the Receiver, dated July 24, 2023, and the activities of the Receiver set out therein, are hereby approved, provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability shall be entitled to rely upon or utilize in any way such approval.

3. **THIS COURT ORDERS** that the Receiver’s Determinations with respect to the Dispute Notices filed by certain Sunrise Users, as described in the Second Report, are hereby approved, and are to be considered final determinations of the claims to the Contested Funds made by those Sunrise Users who filed Dispute Notices.

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and Scarfone Hawkins LLP, as set out in the Second Report, the BDO Fee Affidavit, and the SH LLP Fee Affidavit, are hereby approved.

5. **THIS COURT ORDERS** that the Completion Costs Reserve from the Contested Funds to secure the estimated future fees and disbursements of the Receiver and its counsel, as set out in the Second Report, is hereby approved.

6. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved, including the Completion Costs Reserve, the Receiver shall pay the monies remaining to the Accepted Sunrise Claimants in accordance with the proposed distribution set out in the Second Report.

7. **THIS COURT ORDERS** that, after the distribution to the Accepted Sunrise Claimants is complete, should there be any cheques not cashed by the Accepted Sunrise Claimants, the Receiver shall apply the amounts uncashed to any additional time or fees spent over and above the Completion Costs Reserve amount, if any. If any funds remain once any additional time or fees are paid, or there is any unused portion of the Completion Costs Reserve, the Receiver shall return to Court to obtain an Order with respect to any remaining funds.

8. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements included in the Second Report, filed, is hereby approved.

9. **THIS COURT ORDERS** that, upon payment of the proposed distribution set out herein and in the Second Report (the “**Distribution**”) and upon the Receiver filing a Discharge Certificate, in the form attached to the Second Report as **Appendix “L”**, certifying that it has completed the other activities described in the Second Report (the “**Outstanding Matters**”), the Receiver shall be discharged as Receiver of the Contested Funds, provided however that, notwithstanding its discharge herein, (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals and protections in favour of BDO in its capacity as Receiver.

10. **THIS COURT ORDERS AND DECLARES** that, upon filing the Discharge Certificate, BDO Canada Limited is hereby released and discharged from any and all liability that BDO Canada Limited now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO Canada Limited while acting in its capacity as Receiver herein as described in any of its reports to the Court, save and except for any gross negligence or wilful misconduct on the Receiver’s part. Without limiting the generality of the foregoing, BDO Canada Limited is hereby forever released and discharged from any and all liability relating to matters that were raised, or which

could have been raised, in the within proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

(Signature of Judge)

RCP-E 59A (September 1, 2020)

BAO YING CAO et al.
Applicants

-and- **XIAODONG YANG et al.**
Respondents

Court File No. CV-21-00672880-00CL

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PROCEEDING COMMENCED AT
TORONTO

ORDER

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File Number: 21C0752

RCP-F 4C (September 1, 2020)

