

CAUTION:

The case of *Global Chinese Press v. Zhang* has not yet proceeded to trial.

Robert Fleming Lawyers presents the following decision for the purposes only of illustrating the arguments advanced and the legal principles at issue.

No judicial finding has been made against any of the persons named in the following decision.

The reader should not assume that any of the persons named the following decision are guilty of any misconduct of any kind.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Global Chinese Press Inc. v. Zhang*,
2015 BCSC 874

Date: 20150417
Docket: S148822
Registry: Vancouver

Between:

Global Chinese Press Inc.

Plaintiff

And

**Jane Zhang a.k.a. Yan Zhang, Joanna Zhang a.k.a. Fan Zhang,
Ying Zhang a.k.a. Justin Zhang, Frank Huang a.k.a. Yunrong Huang,
Chin-Hsiung Liu a.k.a. Chil-Hsiung Liu a.k.a. Daniel Liu,
Guoqing Liu a.k.a. George Liu, Jackie Zhang,
GCP Media Group Inc., New Leaf Media Inc. and
3Pawsoft Enterprises Inc.**

Defendants

Before: The Honourable Mr. Justice Macintosh

Oral Reasons for Judgment

In Chambers

Counsel for the Plaintiff:

Robbie S. Fleming
Daniel C.F. Cowper

Counsel for the Defendants Joanna Zhang, Frank Huang,
Chin-Hsiung Liu, Jackie Zhang, GCP Media Group Inc., and
New Leaf Media Inc.:

Ronald G. Pederson

Counsel for the Defendants Jane Zhang
and 3Pawsoft Enterprises Inc.:

George F.T. Gregory

Counsel for the Defendants Ying Zhang and Guoqing Liu:

D. Michael Steinbach

Place and Dates of Hearing:

Vancouver, B.C.
February 12, 13, 16;
April 7, 8, 9, 2015

Place and Date of Judgment:

Vancouver, B.C.
April 17, 2015

Introduction

[1] These reasons address two applications which were argued separately, but which are

CAUTION: This case has not yet proceeded to trial
and the reader should not assume that any of the
persons named are guilty of any misconduct of any kind.

www.robertfleminglawyers.com

closely connected. The applications stem from two of four orders I pronounced *ex parte* for the Plaintiff on November 21, 2014, one granting a *Mareva* injunction and the other appointing a receiver over the Defendant companies GCP Media Group Inc. and New Leaf Media Inc. I will refer to those companies as Media Group and New Leaf. My reasons on November 21, 2014, are indexed in this proceeding at 2014 BCSC 2344. These reasons, at the end, also address three smaller issues: namely, whether an affidavit will be sealed; the particular position of the Defendant George Liu; and the funding of legal fees for the Defendants.

[2] The Plaintiff brought the application addressing the receivership on February 12, 13, and 16, 2015. It appears that there is not enough money to keep funding the receiver in its current capacity. The Plaintiff has argued, in effect, that it should become the receiver. The Defendants have responded that the receivership should be collapsed with control of the two Defendant companies returning to the personal Defendants who controlled them before November 21, 2014. I reserved judgment until after hearing argument in the second application addressed in these reasons, which is the Defendants' application to set aside the *Mareva* order. Sometimes I will refer to that simply as the set-aside application. I reserved judgment because I was concerned that the outcome of the Defendants' set-aside application could influence the correct outcome in the Plaintiff's receivership application. The set-aside application was argued April 7, 8, and 9, 2015, and so both applications can be addressed now. I will address the Defendants' set-aside application first.

The Defendants' Application to Set Aside the *Mareva* Order

Introduction

[3] An introduction for this part of these reasons can be found from reading the reasons given on November 21, 2014, when I granted the *Mareva* order initially. The order enjoined five of the Defendants, Jane Zhang and her sister Joanna Zhang, and the three corporate Defendants. As I noted above, those earlier reasons are found at 2014 BCSC 2344.

[4] Any discussion of *Mareva* orders in this province must occur in the context of the strict warnings against their misuse, found most notably in what Estey J. said in *Aetna Financial Services v. Feigelman*, [1985] 1 S.C.R. 2 at page 37, and in what our Court of Appeal said in *Tracy v. Instalogs Financial Solutions Centres*, 2007 BCCA 481 at para. 46.

[5] That said, a *Mareva* order is a lawful instrument of this Court which provides radical pre-trial relief in the right circumstances. It is ordinarily sought *ex parte*, as it was here, for fear that a Defendant will otherwise hide assets between the time of receiving notice of the application and the pronouncement of the order. The plaintiff proceeding *ex parte* assumes risks. One which arose here is the accusation at the set-aside hearing of non-disclosure of fact or law at the *ex parte*

hearing. Another is that when a defendant gives its side of the story at the set-aside hearing, the *Mareva* order is found to have been unwarranted, even though there was full disclosure at the first hearing as measured against what the plaintiff could reasonably have known at that stage.

[6] In this case, I also granted the Plaintiff an *Anton Piller* order on November 21, 2014. In the result, that enabled the Plaintiff to bolster its case through documents obtained from when the *Anton Piller* order was granted to shortly before the hearing on April 7–9. These reasons will include reference to some of those newly-obtained documents.

Should the original application have been brought *ex parte*?

[7] The applicants on the set-aside application, who are the five Defendants enjoined by the *Mareva* order, argued that the Plaintiff's *Mareva* application last November should have been brought on notice. As I understood their submissions, the fact that the Plaintiff proceeded *ex parte* should itself serve as a ground for setting aside the *Mareva* order. The applicants cited cases setting out the warnings against *ex parte* applications, and the pitfalls associated with them.

[8] Proceeding *ex parte* seems to go against our adversarial system, where we take it as given that hearing from both sides is essential to ensuring fairness. Yet there is a process within our adversarial system for a party to proceed *ex parte*. Proceeding *ex parte* is warranted in limited circumstances. Seeking a *Mareva* injunction usually is one of them. If a *Mareva* application is otherwise sound, it should not ordinarily be denied only because it was brought *ex parte*.

[9] As Huddart J. wrote, as she then was, in *Mooney v. Orr*, [1994] B.C.J. No. 2652 (S.C.) at para. 9:

. . . Applications for *Mareva* injunctions are invariably made *ex parte* because it is implicit in such an application that the plaintiff believes the defendant to be a rogue. Rogues are likely to take notice as an invitation to dispose of, secrete, or dissipate assets. Modern communications has given them the ability to do so within moments.

[10] On the facts of this case, it was necessary for the Plaintiff to proceed *ex parte*. The Defendants were not to be trusted. They had operated behind the Plaintiff's back, keeping information from it which it was entitled to know. Had the application been brought on notice, it was reasonable for the Plaintiff to believe that the Defendants would have taken steps to hide assets or otherwise put them out of the Plaintiff's reach as soon as they received notice of the application. The evidence now shows that the Defendants have destroyed evidence, some of which likely was relevant to locating and quantifying assets. This is one of those instances where unfairness would have resulted from the Plaintiff being obliged to give notice as opposed to proceeding *ex parte* as it did. Fairness is the guiding principle here, as with most questions of procedure.

Did the Plaintiff fail to make adequate disclosure?

[11] When an *ex parte* applicant intentionally holds back from the court evidence or law material to the outcome, equity will almost always deny that applicant further relief, and the matter is at an end. If the applicant, in assembling its *ex parte* case, was honest but less than diligent, and therefore failed by accident to make adequate disclosure, a court may allow the set-aside application to proceed *de novo* on the merits. A court will exercise its discretion, taking all the circumstances into account, again using fairness as the guide. Where there was no failure to disclose in the *ex parte* hearing, the set-aside application proceeds *de novo* in the same way other contested motions are heard, with the party against whom the *ex parte* relief was granted going first, and asking the court to throw out the *Mareva* order on the merits.

[12] Here the Defendants argued that the Plaintiff failed to disclose both material facts and applicable law.

[13] I do not accept that submission.

[14] In my view, in looking at the case, both in broad terms and in a more detailed analysis, the Plaintiff presented *ex parte* the entire factual matrix as it was able to see it, with the evidence available to it at the time. Certainly there was no fact which emerged in the course of the set-aside application which markedly changed the landscape in the Defendants' favour from how it looked when the matter was presented *ex parte*.

[15] The case is complex. Thousands of pages of evidence were filed at each stage, initially in the *ex parte* hearing, with voluminous further evidence filed in the set-aside application. Each of the two hearings occupied three days. The Defendants, of course, came to court seeking to put a different slant on the allegations which the Plaintiff had made *ex parte*. For example, the Plaintiff, *ex parte*, submitted that Jane Zhang had transferred \$107,000 out of the Plaintiff and into the corporate Defendant Media Group, and that there was no explanation for that transfer of funds. That was essentially true. The Plaintiff had sought an explanation for the transfer, but the relevant staff refused to provide one. \$97,000 of the transferred funds were not recorded in the Plaintiff's books. The Defendant on the set-aside application provided evidence offering a partial explanation of why these seemingly unusual transactions occurred, but the story is not yet fully known and, more important, the Plaintiff did not mislead the Court in regard to what is known even to this point.

[16] Several other allegations of the Plaintiff's non-disclosure were also raised in the set-aside application. However, none of them had traction. In each instance, what the Plaintiff submitted *ex parte* was all that it knew or could reasonably have known at the first stage, and the Defendants' further evidence on the points raised did not offer a full explanation of what occurred, let alone

demonstrate that the Plaintiff had failed to disclose material evidence in the first hearing.

[17] The Defendants also argued that the Plaintiff misinformed me at the *ex parte* hearing about the law of *Mareva* injunctions. As I noted at para. 20 of my reasons last November, the Plaintiff in its oral submissions at the *ex parte* hearing focused on eight of the 33 case authorities it had placed before me, and two of those eight were *Mooney v. Orr* and *Tracy v. Instalogs Financial Solutions*, both mentioned earlier in these reasons. I believe *Tracy* is the leading authority in this province addressing *Mareva* injunctions. Certainly it carefully addresses the relevant principles. The Defendants showed me some decisions of this Court where *Mareva* injunctions were not granted or not sustained, but the facts in those cases were very different from those at bar and the legal reasoning in those cases did not purport to reshape the legal principles associated with *Mareva* relief.

[18] I conclude that there has been no material non-disclosure and the analysis here will proceed *de novo*.

The Merits of the *Mareva* Application

[19] A *Mareva* order is injunctive. It enjoins defendants from utilizing what they presumptively own. It is subject to the normal legal analysis for an injunction set out in the leading cases, such as *RJR - MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311. However, because of its severe nature, courts wrestle with making the requirements for obtaining a *Mareva* injunction more rigorous than for most other injunctive relief. The wrestling is over the first of the requirements for injunctive relief: should the applicant have to show a strong *prima facie* case as opposed to merely an arguable case or even a good arguable case. When Saunders J.A. wrote for five judges in *Tracy*, particularly at para. 54, she questioned whether there was any difference between a strong *prima facie* case and a good arguable one. She thought either expression conveyed a requirement stronger than merely an arguable case and less than a case which was bound to succeed.

[20] However it is best expressed, I respectfully adopt the formulation of a strong *prima facie* case as the requirement for a *Mareva* injunction. Because the reach of the order is so great, the applicant must demonstrate a case at the higher end of the array of possible tests when the application is brought. Injunctions almost never, if ever, require an applicant to meet a "bound to succeed" test, and no authority addressing *Mareva* injunctions has imposed that threshold, at least to my knowledge. I proceed here on the basis that the Plaintiff must show a strong *prima facie* case.

[21] *Tracy* also provides guidance from its survey of the law applicable to injunctions generally: see particularly paragraphs 33 and 34 where the reader is reminded of the statutory basis for injunctive relief, often overlooked, found in s. 39(1) of the *Law and Equity Act*, R.S.B.C. 1996,

c. 253, which authorizes an interlocutory injunction in all cases in which it appears to the court to be just and convenient. I note from para. 34 of *Tracy* a reference to *Aetna Finacial*, cited above, and the recognition in *Aetna* that a *Mareva* order may be required in order to prevent fraud, both on the court and on the adversary.

[22] My next and final reliance on *Tracy* is from paragraphs 60–64 of that decision, which show that a plaintiff demonstrating a risk of dissipation of assets meets the irreparable harm test within the balance of convenience analysis for *Mareva* relief.

[23] In summary, the issue is whether the Plaintiff has demonstrated a strong *prima facie* case on the merits and a risk of dissipation of assets which are, directly or indirectly, the subject of the claim.

[24] In my opinion, notwithstanding the able submissions of Mr. Gregory and Mr. Pederson for the Defendants, the Plaintiff has satisfied the obligations upon it to sustain the *Mareva* injunctive relief.

[25] The Plaintiff says that Jane Zhang breached her fiduciary duties to the Plaintiff and conspired with her sister Joanna Zhang by diverting money and opportunities from the Plaintiff to Media Group and New Leaf, and by otherwise diverting money and opportunities out of or away from the Plaintiff. The Plaintiff's *prima facie* case for those allegations is strong.

[26] Jane Zhang and Joanna Zhang tell the court that Jane Zhang devoted herself to running the Plaintiff company and simply gave her sister the opportunity to operate Media Group and New Leaf independently, almost as a hobby, given Jane's expressed view that the ventures assigned to those companies, or which those companies initiated, had no prospect of profitability.

[27] That version of events is unsupported on the evidence available to this point. Schedule A to these reasons is para. 19 of Mr. Cowper's written submissions on behalf of the Plaintiff on April 7–9. That paragraph, with its 39 subparagraphs, sets out the strong *prima facie* case that Jane ran the two Defendant companies as her own for her benefit, with her sister as her accomplice, in violation of her fiduciary obligations to the Plaintiff.

[28] Pursuant to the *Anton Piller* order, the Plaintiff uncovered trust documents which Jane Zhang had initially concealed or at least protected under the label of privilege, and those documents show Jane as the majority owner of Media Group and New Leaf. In her new evidence filed on the set-aside application, Jane's explanation for these previously unavailable trust documents were farfetched and uncorroborated.

[29] The Plaintiff, since November 2014, has also discovered over \$1 million from transactions in China which were never disclosed on the Plaintiff's books when they should have been. Jane

Zhang's explanation in her new affidavit evidence is the unsubstantiated generalization that there are offsetting expenditures.

[30] Jane Zhang submitted that the Plaintiff has nothing to complain about because all her steps involving the Plaintiff and the Defendant companies were an open book for all to see. That does not appear to be true. Jane Zhang obstructed the Plaintiff's other owners from learning the true financial picture of the Plaintiff's operation at every stage that she could. It has been only through the Plaintiff's diligence, particularly since obtaining the *Anton Piller* order, that Jane Zhang's concealment of the Plaintiff's assets, her diversion of assets and opportunities out of the Plaintiff to other entities, and her secret control of Media Group and New Leaf have come to light.

[31] In a case of this complexity, the factual landscape often changes substantially between the time of the initial *ex parte* order and the set-aside application when the defendants are first heard. In this case, the picture has remained consistent. The preliminary findings summarized at para. 25 of my reasons after the *ex parte* hearing last November remain generally undisturbed, and the Plaintiff's new evidence obtained pursuant to the *Anton Piller* order serves to strengthen its position.

[32] In summary, I find that the Plaintiff has demonstrated a strong *prima facie* case against the *Mareva* Defendants and a risk of dissipation of the assets underlying that claim. To dissipate is to cause to be dispelled or dispersed, and I refer to the *Concise Oxford English Dictionary*, 12th Edition, at page 415. The Plaintiff has clearly demonstrated that risk.

The Receivership

[33] As seen above, the Plaintiff obtained the appointment of a receiver over Media Group and New Leaf on November 21, 2014. The Plaintiff now wants, in effect, to take over as the receiver. The Plaintiff's application to replace the receiver is driven, at least partly, by there probably being too little money to continue funding the present receivership. The Defendants want the receivership ended so that they can regain control of their own operations. They point out that the receivership is yet another loss of their normal property rights before there has been a trial.

[34] The legal starting point for authority to appoint a receiver is found in s. 39(1) of the *Law and Equity Act*, cited earlier, in its deceptively simple statement that a receiver may be appointed before trial where a judge concludes it is just and convenient for that to happen.

[35] For the Plaintiff, Mr. Fleming argued that the operation of the Plaintiff's business has been and needs to be integrated with the operation of the corporate Defendants' businesses. Clearly, he said, the personal Defendants cannot be the ones to run the combined operation: first, because they have no claim as against the Plaintiff's assets; and second, because they cannot be trusted.

[36] After stating that predicament, Mr. Fleming set out his legal authorities and argument for either the Plaintiff or an employee of the Plaintiff replacing the current receiver over the assets of Media Group and New Leaf. He concedes that the relief he seeks, that is a party being court appointed as the receiver of an opposite party's assets pre-judgment, is an ambitious request, but he says it is necessitated by the exceptional facts here.

[37] The Plaintiff's application raises two concerns. First, as I have implied above, the legal pathway for allowing it is not without its difficulties. Second, to allow it, in addition to the *Mareva* order I have already sustained above in this judgment, would be to give the Plaintiff a degree of direct and indirect control pre-judgment which is concerning.

[38] However, I am not dismissing the Plaintiff's application in this judgment. The Plaintiff's application will be put on hold in accordance with what is set out below.

[39] Turning to the Defendants' request to have the existing receivership vacated and control of the companies restored to the Defendants, I am not prepared to accede to that. The evidentiary base the Plaintiff has established at this stage against the personal Defendants, particularly Jane Zhang and Joanna Zhang, does not permit them to resume control of the corporate vehicles they have used to dissipate the Plaintiff's value to this point. The reason I appointed the receiver last November was because of the strong *prima facie* case against the personal Defendants that they have conspired to bleed the Plaintiff dry of its assets and rights, in part by illegally transferring those assets and rights into the control of the corporate Defendants.

[40] Accordingly, I direct the parties as follows:

1. An application will be set for one day to determine the control of the Defendant companies, Media Group and New Leaf, pre-trial. That application should be made returnable before me as soon as reasonably possible.
2. In the meantime, the existing receivership needs to continue.
3. In the application, I ask that the receiver appear by counsel.
4. I will hear submissions addressing alternative means of overseeing Media Group and New Leaf pre-trial. Those means might include a continuation of the existing receivership if funds can be obtained for that expense; the existing receiver converting to a monitor who would report to the court periodically, overseeing the control of New Leaf and Media Group by another entity, which might be the Plaintiff; or the Plaintiff's application to become the receiver, which is the application I summarized earlier, along with my two concerns about it. These possible means of

oversight are only suggestions. Counsel can raise other ones.

5. However, to repeat something I said earlier, I am ruling against the personal Defendants as potential operators or overseers of Media Group and New Leaf pre-trial.
6. The trial needs to be scheduled to be heard as soon as reasonably possible. I urge the parties to consider conducting a hybrid trial, by which I mean one combining the key four or so witnesses testifying *viva voce* with other witnesses testifying by affidavit.

Sealing Affidavit Number 10 of Sarah Perkonig

[41] Joanna Zhang asks me to direct that Sarah Perkonig's Affidavit Number 10 be sealed. The affidavit is voluminous; it contains extensive information about Joanna Zhang which is personal. I also would question the relevance of most of the personal information.

[42] No one opposes the sealing of that affidavit. I reserved making a decision on the point only because there is a particular public interest to respect when any step is taken to restrict public access to the court process.

[43] In *R. v. Mentuck*, 2001 SCC 76 at para. 32, Iacobucci J. for the Court considered a court's inherent jurisdiction to issue a publication ban and held that necessity and proportionality are to govern the analysis. He then restated the test from *Dagenais v. Canadian Broadcasting Corporation*, [1994] 3 S.C.R. 835 at 878. The resulting *Dagenais / Mentuck* test has become the leading one to govern judicial discretion when the restriction of public access to court proceedings is in issue: see *Toronto Star Newspapers Ltd. v. Ontario*, 2005 SCC 41 at para. 7.

[44] The test was reformulated in *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41 at para. 53, but not in a way that alters its application here. This Court visited the sealing question in *Blue Line Hockey Acquisition Co. v. Orca Bay Hockey Limited Partnership*, 2007 BCSC 1483 at para. 49 and expressed the governing test by asking the question:

Will a balancing of the competing interests in this case create a "cloud of secrecy" under which justice will wither?

To ask that question is to answer it in this case. It is right and safe to protect Ms. Zhang's privacy interest and the affidavit will be sealed.

The Interests of George Liu

[45] George Liu is married to Jane Zhang. The *Mareva* order is against her, but it is not against

CAUTION: This case has not yet proceeded to trial and the reader should not assume that any of the persons named are guilty of any misconduct of any kind.

him. Yet he is caught by it because, as he deposes, he holds all his significant assets jointly with his wife and those assets are frozen by the *Mareva* order, generally speaking. By Mr. Liu's affidavit, which is not contradicted on the evidence, he is a medical researcher. Since 2001, he has worked in that role at Peking University in China. He comes here usually for less than two months each year.

[46] The Plaintiff seeks to portray Mr. Liu as a co-conspirator with his wife and his sister-in-law, but the Plaintiff did not name him in its request for the *Mareva* order. Nor does the Plaintiff present a case against him for wrongdoing, except by conjecture or innuendo and some possible peripheral activity. That is not enough to burden him financially the way the present order does. The Plaintiff's best case against him is that jointly-owned assets are owned by both owners, such that his notional half-interest of the assets which he and his wife hold together are her assets as well. In my view, that is not enough to prevent him from receiving partial relief from the conundrum he faces. I am ordering that the *Mareva* order be modified so that one-quarter of the assets jointly held by Jane Zhang and George Liu are to be released from the scope of the order. I will leave to counsel how that concept is converted into orders which Mr. Liu can utilize with his bankers or other parties in order to free up that one-quarter portion of the assets jointly held with his wife. I will adjudicate disputes about the content of such orders if that is required.

Funding legal fees

[47] The Defendants argue that they have been hindered by the *Mareva* order from funding their defence.

[48] The *Mareva* order last November provides in para. 9 that it does not prohibit the named Defendants from spending up to \$40,000 on an application to set aside that order.

[49] In reasons I pronounced March 3, 2015, I granted an additional \$35,000 to Mr. Gregory's clients and \$40,000 to Mr. Pederson's clients, for a total to date of \$115,000, which I ordered could be spent on defending the case generally to the conclusion of the proceedings on April 9, 2015.

[50] In the reasons on March 3, I referred to some pronouncements in this Court and the Court of Appeal leaning against ready access for a defendant to funds frozen by court order where there is a strong *prima facie* case of the defendant's fraud. The passages from the Court of Appeal were *dicta*. The decision of this Court left some room for payments to be made.

[51] I am mindful that I have already released one-quarter of the jointly-owned assets of Jane Zhang and George Liu. As a consequence, I am not authorizing further payments to her or Mr. Gregory's other clients at present. If Mr. Gregory's clients seek further funds, they will need to apply for them with evidence showing why the order I have granted for Mr. Liu does not provide

enough defence funding for them. In such an application, any party can further argue the law addressing the extent of a defendant's right to access funds in this way. That law has not been canvassed fully to this point in this case.

[52] As for Mr. Pederson's clients, I hereby release an additional \$20,000 for further legal expense funding out of their assets frozen by the *Mareva* order. However, for more substantial funding, they will need to make application.

"MACINTOSH J."

SCHEDULE A

19. Although the plaintiff has not yet had an opportunity to review much of the electronic evidence seized, the evidence on this application makes it clear that Jane Zhang was always (and remains) the principal owner and manager of Media Group and New Leaf. Evidence includes:
- a. Media Group's ledger records payments diverted to it as early as 2005; [\[11\]](#)
 - b. October 1, 2009, publication of Media Group's first publication (the 60th Anniversary of the PRC); [\[12\]](#)
 - c. November and December 2009, Jane's own notes record her planning the development of the Education Guide and 40th Anniversary of Canada-China Diplomatic Relationship; [\[13\]](#)
 - d. On January 28, 2010, Jane and George changed the registered and records office of Media Group to their personal residence, with GCP's office as the delivery address; [\[14\]](#)
 - e. On February 1, 2010, Jane and George gave Media Group its present name; [\[15\]](#)
 - f. In February, 2010, after Media Group had allegedly been sold to Joanna, the address is changed from GCP's office to Jane and George's residence;
 - g. George continues to sign contracts for Media Group dated through July, 2010 – although these contracts are undoubtedly forgeries, they reflect an earlier version of the defendants' story – the version invented in 2012, that ownership of Media Group had been transferred July 28, 2010. Jane has now moved back the timeline, as the Education and Travel Guide had already been printed by July 28, 2010;
 - h. On August 4, 2010, Jane and George filed Media Group's annual report, [\[16\]](#) reporting themselves as the directors of Media Group, and a 'Notice of Change of Directors'

correcting the spelling of George's Chinese name but confirming that Jane and George were the only directors; [\[17\]](#)

- i. A pamphlet dated December 17, 2010, headed "About Global Media Group" describes GCP's newspaper, website, and mobile website, along with Media Group's publications as the publications of a single business headed by Jane; [\[18\]](#)
- j. Internal year-end report of GCP's "Business Department" equates GCP and Media Group, and report that 2010 was a "breakthrough", with improvements not only in the GCP newspaper, but "New Lady Advertisement: with the effort of Liming Yu and Anchi Tsai, the business performance has increased greatly", "in 2010 we published 7 special editions: 2010 Olympic Special Edition, 2010 Canada Education Guide Spring Special Edition, 2010 Canada Education Guide Fall Edition, 2010 Vancouver Travel and Entertainment Guide, 40th Anniversary Canada-China Diplomatic Relations, 10th Anniversary of GCP, 2010 Christmas Special Edition. These special editions basically accomplished the original business plan, especially the 40th Anniversary of Canada-China Diplomatic Relationship and GCP 10th Anniversary Special Edition", and suggests that for the next year, they create a unified "media kit, so that Global Media Group can have a new image on the market, including our newspaper, website, magazine and special editions"; [\[19\]](#)
- k. An email dated January 6, 2011, from Frank Huang (then Editor-in-Chief of GCP) to Jane and Jackie attached a document headed "2010 Work Performance Review and 2011 Preliminary Plans (Editorial Department)", stated, *inter alia*: [\[20\]](#)

"Based on the efforts accumulated through the past ten years, during the past year, the Global Chinese Press Newspaper has achieved ground-breaking performance... The special for the 40th Anniversary of Sino-Canada diplomatic relationship... independently written and edited by Global Chinese Press ... was widely welcomed by the public and received favourable remarks across the society, which has become a milestone in the development of our Newspaper.

1. Performance Review of 2010

(a) Achieved breakthroughs in publishing special issues and special editions

On the basis of Special Issue in Memory of the 60th Anniversary of the People's Republic of China published in 2009, we achieved breakthroughs in the editorial work of special issues and special editions in the year 2010, which have become the new hit product of the Global Chinese Press Newspaper and are widely welcomed and praised by different sectors in the society, advertisement clients as well as readers.

A. ... the Editorial Department published the "Celebrating the Winter Olympics, Welcoming the Chinese New Year"

special issue...

- B. In March, the editorial department published “Canadian Education Guide (2010 Spring)”. This was the first time Global Chinese Newspaper published a separate special issue independently.
- C. In June, the editorial department published “Vancouver Travel and Shopping Guide”. ...
- D. October 13th is the 40th Anniversary of the establishment of Sino-Canada diplomatic relationship. The Global Chinese Press Newspaper put lots of efforts in publishing the special edition...
- E. In October, under the request of readers, we published the “Canadian Education Guide (2010 Fall)”...
- F. On November 13, we published “Global Chinese Press, Ten Years in Canada” special issue, which has 124 pages...
- G. In December, we published 40-page the “2010 Global Chinese Press Newspaper Christmas Edition”...

...

The editorials of the Global Chinese Press Newspaper have become our brand.

...

In 2010, the editorial department... continued to successfully run the columns including “events in city”, “real estate guide”, “education window”, “Canada and China economics and trade”, “having fun in Greater Vancouver”, “business and employment”, “investment and wealth-management”.

...

(9) Planning and publishing the “Global Chinese Press, 10 Years in Canada” memory special edition

In charge of editing the “Global Chinese Press, 10 Years in Canada” memory special edition, the work of which includes planning, designing, writing, gathering, editing, layout designing and publishing, as well as asking for congratulating letters from the three levels of governments, inviting them to participate (including invitation letters, follow-up and on-day reception), shooting and producing “10 years” feature TV story and anniversary TV advertisements, plus the anniversary celebration publication and publicity (including pre-event publication on Newspapers, interviewing on-site and post-event reporting).

(10) Supporting the editorial work of New Lady

In 2010, we supported the New Lady magazine in interviewing and editorial works, assisted persons in charge with the successful publishing of the magazine.

...

In 2010, the editorial department assisted in different events and works of the company, including the launch of the New Lady Club... and the 2010 children's paintings competition.

2. 2011 Plans

(3) Focus efforts on the publishing of special issues and editions

In the coming year, we expect to publish the following special editions and/or issues: Chinese New Year Celebration Special Edition (February), Canadian Education Guide (2011 Spring) (March), Vancouver Travel and Shopping Guide (April), Greater Vancouver Home Guide (May), Xinhai Revolution 100th Anniversary Memory Special Edition (August), Canadian Health Care Guide (September), Canadian Education Guide (2011 Fall) (October), Christmas & New Year Special Edition (December).

(4) Cooperate with institutions/organizations in China for publishing the Health Care Monthly

- I. A document found at Jane's house, dated January 15, 2011, from GCP's "Business department", and headed "2010 Work Summary, 2011 Work Plan", stated, *inter alia*: [\[21\]](#)

"In 2010, GCP has developed a breakthrough.

Over the past year, the work in the business department can be divided into the following aspects:

- A. Newspaper advertisement business: total performance of the business is increased...
- B. Website advertisement business. ... the website advertisement business has increased...
- C. New Lady Advertisement: with the effort of Liming Yu and Anchi Tsai, the business performance has increased greatly. In October, November, December, it was steady above \$7,000. In the future, it can be expected over 10,000."
- D. Advertisement business of Special Editions. in 2010 we published 7 special editions: 2010 Olympic Special Edition, 2010 Canada Education Guide Spring Special Edition, 2010 Canada Education Guide Fall Edition, 2010 Vancouver Travel and Entertainment Guide, 40th Anniversary Canada-

China Diplomatic Relations, 10th Anniversary of GCP, 2010 Christmas Special Edition. These special editions basically accomplished the original business plan, especially the 40th Anniversary of Canada-China Diplomatic Relationship and GCP 10th Anniversary Special Edition.

E. Children's Painting Competition: ...It had more influence than before...

- m. March 31, 2011, Jane uses her Visa to pay website hosting expenses with GoDaddy for Media Group– the domain name registration for “gcpmedia.ca”, registered under the name of “Yan Zhang Global Chinese Press... gcpnews@yahoo.com”; [\[22\]](#)
- n. April 1, 2011, Jane executed a contract on behalf of Media Group, transferring the ‘New Lady’ publication opportunity from GCP to Media Group – she subsequently deletes this document from her GCP laptop, but it is recovered by a computer forensic professional; [\[23\]](#)
- o. June 29, 2011, Frank sends Jane a proposal for “Real Estate Weekly (Greater Vancouver version) editorial content planning case” – Jane responds with her authorization; [\[24\]](#)
- p. July 2011, Jane and Jackie obtain quote from GCP’s printed for “GCP Real Estate Supplement” – Home & Realty Weekly. [\[25\]](#)
- q. August 9, 2011, Jane applies for and receives Richmond business license for Media Group Inc., to open the Home & Realty Richmond office; [\[26\]](#)
- r. August 15 – September 8, 2011, Jackie (a GCP employee) co-ordinates the printing of the first issue of Home & Realty Weekly, instructing 1,000 copies to be delivered with GCP’s newspaper, and the other 7,000 to GCP’s office; [\[27\]](#)
- s. September 1, 2011, Fasken Martineau invoices Media Group at Jane’s residence “Attention Mrs. Yan Zhang”; [\[28\]](#)
- t. February 20, 2012, Jane Zhang filed the T4 and T4A summaries for Media Group. Both of the forms identify Jane Zhang as the Director of Media Group. Both of the forms identify Media Group’s address as 6565 Linfield Place – Jane and George’s private residence. [\[29\]](#)
- u. March 29, 2012, Jane uses her Visa to pay for corporate filings for both GCP and for Media Group (the filing respects Global Chinese Multimedia Inc., another company controlled by Jane); [\[30\]](#)
- v. March 5, 2012, Jane buys Nikon photo equipment for Media Group using her Visa; [\[31\]](#)

- w. March 29, 2012, Jane uses her Visa to pay website hosting expenses with GoDaddy for Media Group; [\[32\]](#)
- x. Around April 2012, when Bolun Li indicated he would commence litigation, Jane stops signing the majority of Media Group's cheques. From 2010-2012, Jane signed Media Group cheques for printing expenses, payroll, and cheques related to every aspect of the business. Cheques of note include:
- i. Cheque #7, "Gift for Zhejiang Group", signed by Joanna, November 17, 2010; [\[33\]](#)
 - ii. Cheque #15, the printing expense for the Kylin TV guide, formerly published by GCP, signed by Jane, February 3, 2011; [\[34\]](#)
 - iii. Cheque #24, the printing expense for the Chinese New Year Supplement, formerly published by GCP, signed by Jane, March 14, 2011; [\[35\]](#)
 - iv. Payment for "Apr' 2011 New Lady Basic Expense", signed by Jane; [\[36\]](#)
Payment for "Jun 2011 New Lady Basic Expense", signed by Jane; [\[37\]](#)
Payment for "Jul '11 New Lady Basic Expense", signed by Jane; [\[38\]](#) Payment for "Aug '11 New Lady Basic Expense", signed by Jane; [\[39\]](#) Payment for "Nov '11 New Lady Basic Expense", signed by Jane; [\[40\]](#) Payment for "Dec'11 New Lady Basic Expense", signed by Jane; [\[41\]](#) Payment for "Feb'12 New Lady Basic Expense", signed by Jane; [\[42\]](#) Payment for "Mar'12 New Lady Basic Expense", signed by Jane; [\[43\]](#)
 - v. Commissions paid to Jackie Zhang (Cheque 29, March 15, 2011, pg. 140, #43, pg. 136) and Jason Kao (#42, p. 136)
 - vi. "GCP Media Group Office," to CCC Trip Solutions June 28, 2011, signed by Jane, nad #85, (p. 118), also signed by Jane;
 - vii. "Jian Hong Zhang CGA," presumably for the preparation of annual financial statements, [\[44\]](#) June 8, 2011, signed by Jane;
 - viii. \$3,000 to Fasken Martineau DuMoulin LLP, July 8, 2011, signed by Jane [\[45\]](#)
 - ix. "Production Charge for New Lady Ad in FM9", signed by Jane; [\[46\]](#)
 - x. "Tour expense for Zhejiang Group", \$2,321.36 to Amax Business Canada Inc., signed by Jane, August 9, 2011. [\[47\]](#) Amax was a business controlled by Jane and Frank. [\[48\]](#)

- xi. “Room Booking at Redisson Hotel for Zhejia”, \$1,455.96 to Phoenix Travel Ltd., signed by Jane, August 9, 2011; [\[49\]](#)
- xii. “Home & Realty Weekly Printing Fee”, signed by Jane, October 25, 2011; [\[50\]](#)
“Home & Realty Weekly Printing Fee”, signed by Jane, November 24, 2011; [\[51\]](#)
“Home & Realty Weekly Printing Fee”, signed by Jane, November 16, 2011; [\[52\]](#)
“Home & Realty Weekly Printing Fee”, signed by Jane, November 9, 2011; [\[53\]](#)
“Home & Realty Weekly Printing Fee”, signed by Jane, November 3, 2011; [\[54\]](#)
“Oct’11 Home & Realty Weekly Delivery”, signed by Jane, October 31, 2011; [\[55\]](#)
“Oct’11 Home & Realty Weekly Delivery”, signed by Jane, October 31, 2011; [\[56\]](#)
“Oct’11 Home & Realty Weekly Delivery”, signed by Jane, October 31, 2011; [\[57\]](#)
- xiii. “Aug ’11 & Sep’11 Magazine Expense”, signed by Jane, October 25, 2011; [\[58\]](#)
and
- xiv. \$15,000 to George Liu, February 15, 2012; [\[59\]](#)
- y. Not until June 7, 2012 was there any attempt to change Media Group’s registered office which was Jane and George’s residence – or to removed Jane and George as directors. [\[60\]](#) Jane made the filings for Media Group; [\[61\]](#)
- z. “GCP Media Group media Products Summary”, includes GCP’s newspaper, East and West, in addition to New Lady Monthly magazine, Home & Realty Weekly, gcpnews.com, Education Guide, and Travel Guide, and give Jackie as contact; [\[62\]](#)
- aa. December 2, 2012, Joanna writes on Media Group letterhead, referring to “our vice president Jane Zhang” recruiting staff for Media Group, saying that Media Group is attempting to arrange for distribution of its Education Guide in China; [\[63\]](#)
- bb. February 26, 2013, the distribution lists for GCP’s newspaper, Home & Realty, and New Lady, show that both Home & Realty and New Lady rely on GCP’s distribution network; [\[64\]](#)
- cc. March 5, 2013, Joanna wrote on Media Group letterhead that “be adised that Ms. Jane Zhang, our vice president, is currently in charge of all the recuiring work. Jane interviewed Mr. Liu in person and both has discussed the position in details and specifically elaborated on how Mr. Liu can... assist Jane side by side on the future expansion of the magazine products area of company... should you have any questions... please do not hesitate to contact Jane directly...” [\[65\]](#)

- dd. Between February and July, 2013, Jane planned the development strategy for New Leaf, including as a deliberate part of that strategy the transfer of clients from GCP to New Leaf, and oversaw the delegation of tasks for New Leaf; ^[66]
- ee. September 30, 2013, Jane caused Media Group to invoice Zhejiang Daily Newspaper Group (“Zhejiang Today”) one of GCP’s major Chinese customers for GCP’s annual payment of around \$95,000; ^[67]
- ff. December 15, 2013 print-out shows Jane as still receiving insurance benefits as an employee of Media Group; ^[68]
- gg. On February 17, 2014, although GCP’s outstanding contract with entitled GCP to receive RMB480,000 (C\$90,000) for 2014, Jane Zhang signed a new three year contract on similar terms in the name of Media Group, but altered the terms so that the content from Zhejiang would be published in both GCP’s newspaper and New Leaf Weekly, representing that both publications were owned by Media Group. The revenue from the new contract is RMB500,000 annually (C\$100,000). ^[69]
- hh. On April 7, 2014, Jackie and Jason Kao send their customer lists to Jane at Jane’s request. ^[70]
- ii. On May 26, 2014, Jane Zhang writes to Zhejiang in the name of Media Group, saying that GCP’s newspaper is no longer published by Media Group, and requesting the contract be amended to provide for additional publications through New Leaf in lieu of GCP’s newspaper. ^[71]
- jj. On May 26, 2014, Frank and Joanna assist Jane Zhang and George Liu in writing to China Jiangsu ^[72] in the name of Media Group, saying that GCP’s newspaper is no longer published by Media Group, and requesting the contract be amended to provide for additional publications through New Leaf in lieu of GCP’s newspaper.
- kk. July 1, 2014, Media Group invoice directed to Jane and George’s residence; ^[73]
- ll. June 26, 2014, a print-off of Media Group’s Shareholder’s loan account shows the shareholders ^[74] as Jane and George; ^[75] and
- mm. Through August 2014, Jane continued to set targets and plan the development of the Media Group and New Leaf, including planning the development and launch of New Leaf’s newspaper. ^[76]

^[11] Perkonig #9, Ex. 69, p. 389.

^[12] Si #1, Ex. 115A, p. 1031

- [13] Chu #3, Para. 45-46.
- [14] Perkonig #9, Ex. 74, p. 409.
- [15] Perkonig #9, Ex. 75, p. 411.
- [16] Perkonig #9, Ex. 15, p. 75
- [17] Perkonig #9, Ex. 76, 77, p. 413, 415
- [18] Chu #1, para. 34 (j), Chu #2, Ex. "B" (located among office documents) – Jane has now sworn that this document was prepared by an unnamed employee of Media Group who "did not really know" what he was writing about.
- [19] Chu #3, para. 42
- [20] Perkonig #9, Ex. 19, p. 107, 114-125
- [21] Chu #3, para. 42
- [22] Perkonig #9, Ex. 15, p. 81
- [23] Si #1, para. 114 (a) Ex. 36.
- [24] Perkonig #9, Ex. 24, p. 142 - 145.
- [25] Perkonig #9, Ex. 7, p. 43-44
- [26] Perkonig #9, Ex. 7, p. 39-42
- [27] Perkonig #9, Ex. 25, p. 200, 199, .
- [28] Perkonig #9, Ex. 1, p. 16-23.
- [29] S. Perkonig #6, Ex. S, T, pg. 75, 77
- [30] Perkonig #9, Ex. 15, p. 88
- [31] Perkonig #9, Ex. 15, p. 76
- [32] Perkonig #9, Ex. 15, p. 78
- [33] S. Perkonig #6, Ex. V, pg. 146.
- [34] S. Perkonig #6, Ex. V, pg. 143.
- [35] S. Perkonig #6, Ex. V, pg. 143.
- [36] S. Perkonig #6, Ex. V, pg. 135; see also Cheque #9, p. 144, #21, p. 139, "New Lady Delivery", #30, p. 135 (Joanna), "New Lady Dock Fee & Deliver", #55, p. 130 (Joanna), "May '11 New Lady Basic Expense", #54, p. 135 (Jane), "New Lady Handling", #53, p. 129 (Jane)
- [37] S. Perkonig #6, Ex. V, pg. 124
- [38] S. Perkonig #6, Ex. V, pg. 119 (#87)
- [39] S. Perkonig #6, Ex. V, pg. 113 (#101)
- [40] S. Perkonig #6, Ex. V, pg. 106 (#159)
- [41] S. Perkonig #6, Ex. V, pg. 106 (#181)
- [42] S. Perkonig #6, Ex. V, pg. 94 (#220)
- [43] S. Perkonig #6, Ex. V, pg. 89 (#244)
- [44] See e.g. S. Perkonig #6, Ex. X, pg. 158
- [45] S. Perkonig #6, Ex. V, pg. 119 (#20)
- [46] S. Perkonig #6, Ex. V, pg. 115 (#105)

- [47] S. Perkonig #6, Ex. V, pg. 114 (#103)
- [48] To be prepared.
- [49] S. Perkonig #6, Ex. V, pg. 114 (#102)
- [50] S. Perkonig #6, Ex. V, pg. 110 (#144)
- [51] S. Perkonig #6, Ex. V, pg. 108 (#171)
- [52] S. Perkonig #6, Ex. V, pg. 108 (#168)
- [53] S. Perkonig #6, Ex. V, pg. 106 (#160)
- [54] S. Perkonig #6, Ex. V, pg. 105 (#156)
- [55] S. Perkonig #6, Ex. V, pg. 105 (#152)
- [56] S. Perkonig #6, Ex. V, pg. 105 (#153)
- [57] S. Perkonig #6, Ex. V, pg. 104 (#151)
- [58] S. Perkonig #6, Ex. V, pg. 110 (#144)
- [59] S. Perkonig #6, Ex. V, pg. 97 (#233)
- [60] Perkonig #9, Ex. 78, 79, p. 418, 420.
- [61] Perkonig #9, Ex. #3, p. 27.
- [62] Perkonig #6, Ex. Q, p. 70-71
- [63] Perkonig #9, Ex. #4, p. 29-31.
- [64] Perkonig #9, Ex. #4, p. 29-31.
- [65] Perkonig #9, Ex. 6, p. 36-37
- [66] Chu #3, para. 5, Perkonig #9, Ex. 27, p. 216-217 (February 20, 2013 email to printer re “Discussion meeting about a new print job... we plan to have a new weekly magazine coming out in early summer”), Ex. 28 p. 219-224 (Feb 25, 2013 email from Jackie to Jane & Joanna, forwarding printer’s “proposal for the Entertainment Weekly tabloid publication”), Ex. 29, p.226-230, (emails May 28 – June 14, 2013 regarding the printing costs of the “new weekly”), Ex. 30, p. 232-234 (May 27, 2013 emails between Jane, Frank, Joanna, and Jackie, suggesting names for the new publication), Ex. 31, p. 235 (June 17, 2013 email from Jane to Joanna, Frank, and Jackie, suggesting names for the new weekly), Ex. 32, p 236-8 (June 19, 2013 email from Jackie to Joanna & Jane forwarding “updated quote from Van Press on our new weekly newspaper” – the quote is addressed to GCP), Ex. 33, p. 240-243 (Email from Jackie to Van Press and Joanna “Regarding our ‘Saturday Magazine’ (we have a new name, but don’t want to confuse you...”, and forwarding the new quote to Joanna and Jane), Ex. 34, p. 244-245 (Email July 11, 2013, from Jane to Jackie, attaching draft graphics for New Leaf Weekly), Ex. 35, p. 246 -250 (Email July 29, 2013, from Jackie to Jane, copying Frank and Joanna, attaching draft templates for New Leaf advertising contracts, business cards, and masthead – the mast head names GCP employees, including Jason and Jackie as advertising executives for New Leaf), Ex. 36, p. 251 (Email from Frank to Jackie, forwarding “Brief Introduction for New Leaf Weekly”, which he’d emailed to Jane. The “brief description states “New Leaf Weekly is... published by GCP Media Group”),
- [67] Chu #3, para. 17, 19
- [68] Perkonig #9, Ex. 10, p. 53
- [69] M. Chu #1, para. 13 (d), Ex. “8”, pg. 42-45.
- [70] Perkonig #9, Ex. 22, 23, p. 138, 140,
- [71] Chu #3, Para. 33.
- [72] Perkonig #10, Ex. 10, p. 19-25, Ex. 11, p. 26-39
- [73] Perkonig #9, Ex. 11, p. 56
- [74] Perkonig #6, Ex. Y, p. 168

[75] Perkonig #9, Ex. 9, p. 50-51

[76] Chu #3, para. 47