



Australian Government

Australian Financial Security Authority

NOTICE PURSUANT TO SUBSECTION 77C(1) OF THE *BANKRUPTCY ACT 1966* (CTH)

NO: VIC 1215/19/4

RE: YUAN JIA TU

The Proper Officer
Cloud Nine Constructions Pty Ltd
77-79 Main Road
CLAYTON SOUTH VIC 3169

Yuan Jia Tu ('the Debtor') became bankrupt on 13 June 2019.

Daniel Peter Juratowitch ('the Trustee') is the Trustee of the above administration.

I, Andrew Hegarty, of Level 4, Darling Park 3, 201 Sussex Street, Sydney NSW 2000, as delegate of the Official Receiver, in accordance with paragraph 77C(1)(c) of the *Bankruptcy Act 1966* (Cth) ('the Act'), require you to:

Produce all books specified in the schedule attached to this notice within 21 days of receipt of this notice at the office of the Australian Financial Security Authority, Level 16, 300 La Trobe Street, Melbourne VIC 3000 OR GPO Box 548 Sydney NSW 2001.

Please contact Luz Maravillas on 02 8233 6908 or at or.notices@afsa.gov.au to make arrangements for the delivery.

Failure by you, without reasonable excuse to comply with this notice may, upon conviction, render you liable to imprisonment for 12 months pursuant to section 267B of the Act.

If you are a body corporate, failure to comply without reasonable excuse may, upon conviction, render you liable to a pecuniary penalty calculated in accordance with subsection 4B(3) of the *Crimes Act 1914* (Cth).

The books that you are required to produce are required by the Trustee in the performance of his duties under the Act. The books that you provide will be made available to the Trustee.

Where a claim of legal professional privilege is made, the claimant should prepare a schedule of the documents identifying those books and records which the claim of privilege is claimed against and make arrangements to secure them in a sealed container to be lodged with an agreed third party.

Subsection 81G(2) of the Act provides that a refusal or failure to provide the required information or produce any books will render the information not admissible in a 'relevant proceeding'; see subsection 81G(1). Subsection 81G(3) provides that subsection (2) will not apply where the information or book was not in your possession and where there were no reasonable steps you could take to obtain the information or books.

NOTES:

Copies of sections 77C and 267B of the Act are enclosed.

"Books" is defined to include any account, deed, paper, writing or document and any record of information however compiled, recorded or stored, whether in writing, or on microfilm, by electronic process or otherwise.

DATED this 3rd day of June 2020

A handwritten signature in black ink, appearing to be 'A. Hegarty', with a stylized flourish at the end.

Andrew Hegarty
DELEGATE OF THE OFFICIAL RECEIVER

BANKRUPTCY ACT 1966 (CTH)
SCHEDULE TO NOTICE DATED THIS 3RD DAY OF JUNE 2020

BACKGROUND

Yuan Jia Tu ('the Debtor') became bankrupt on 13 June 2019.

Daniel Peter Juratowitch ('the Trustee') is the Trustee of the above administration.

The Trustee submits that:

- The Debtor was previously a director and of Cloud Nine Constructions Pty Ltd (ACN 626 986 758) ('the Company').
- The Debtor is a current shareholder of the Company.
- The Company loaned amounts totalling \$180,000 to the Debtor on 7 June 2019, 9 June 2019 and 10 June 2019.
- Around 13 June 2019 the Debtor's spouse Mr Hao Han ('Mr Han') has alleged to have received \$70,000 from the Company.

Pursuant to Section 5 of the *Bankruptcy Act 1966* (Cth) ('the Act') the Company and Mr Han are associated entities of the Debtor.

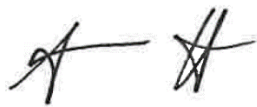
The information and books that you are required to produce are required by the Trustee in the performance of his duties under the Act.

INFORMATION AND BOOKS TO BE PRODUCED:

1. In relation to the Company, you are required to provide the following books and records:
 - a. Bank statements for all accounts operated by the Company for the period 21 June 2018 to the date of this Notice;
 - b. For the financial years ended 30 June 2018 and 30 June 2019 you are required to provide:
 - i. Tax returns;
 - ii. Profit and Loss Statements;
 - iii. Balance Sheets; and
 - iv. Assets registers.
 - c. Management accounts as at the date of this Notice;

- d. For the period 21 June 2018 to the date of this Notice documents in evidence of any loan accounts/agreements for loans between the Company and the Debtor;
- e. For the period 1 May 2019 to 30 June 2019 documents in evidence of any loan accounts/agreements for loans between the Company and Mr Han.

If you are unable to provide the books and information as required by this notice, pursuant to paragraph 77C(1)(a) of the Act you are to advise me by the due date the reason/s why you cannot comply.



Andrew Hegarty

DELEGATE OF THE OFFICIAL RECEIVER

Telephone: 02 8233 6905

Email: or.notices@afsa.gov.au

BANKRUPTCY ACT 1966 – RELEVANT PROVISIONS

Section 77C – Power of Official Receiver to obtain information and evidence

- (1) The Official Receiver may, by written notice given to a person, require the person to do one or more of the following:
- (a) give the Official Receiver information the Official Receiver requires for the purposes of the performance of the functions of the Official Receiver or a trustee under this Act;
 - (b) attend before the Official Receiver, or an officer authorised in writing by the Official Receiver to exercise powers under this paragraph, and do one or both of the following:
 - (i) give evidence relating to any matters connected with the performance of the functions of the Official Receiver or a trustee under this Act;
 - (ii) produce all books in the person's possession relating to any matters connected with the performance of the functions of the Official Receiver or a trustee under this Act.
 - (c) produce all books in the person's possession relating to any matters connected with the performance of the functions of the Official Receiver or a trustee under this Act.

It does not matter whether or not the person is a bankrupt or is employed in or in connection with a Department, or an authority, of the Commonwealth or of a State or Territory.

- (2) The Official Receiver or authorised officer may require the information or evidence to be given on oath, and either orally or in writing, and for that purpose may administer an oath.
- (3) Notes taken down and signed by a person who attends before the Official Receiver or an authorised officer under paragraph (1)(b), and the transcript of the evidence given by the person at the attendance:
- (a) may be used in evidence in any proceeding under this Act whether or not the person is a party to the proceeding; and
 - (b) may be inspected:
 - (i) by the person, without fee; and
 - (ii) if the notes and evidence relate to matters concerning the bankruptcy of the person or of another person--by the trustee and a person who states in writing that he or she is a creditor, without fee; and
 - (iii) by any other person on payment of the fee determined by the Minister by legislative instrument.

Section 267B – Failure of person to provide information

- (1) A person must not refuse or fail to comply with a notice given to the person under subsection 6A(3), subsection 77C(1) or section 139V.
Penalty: Imprisonment for 12 months.
- (2) Subsection (1) does not apply if the person has a reasonable excuse.
Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the Criminal Code).