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COR#04/078

Variation Order

John Terrance Pyper

Section 171 of the Securities Act, RSBC 1996, c. 418

- ¶ 1 In March 2000, we found that John Terrance Pyper contravened section 128 of the Act when he used information that he obtained through his position with a portfolio manager for his own benefit or advantage, by engaging in frontrunning.
- ¶ 2 On May 10, 2000, we ordered, among other things, that any or all of the exemptions described in sections 44 to 47, 74, 75, 98 or 99 of the Act do not apply to Pyper for a period of five years ending May 10, 2005.
- ¶ 3 In March 2004, under section 171 of the Act, Pyper made an application for early termination of our order. We denied the application because Pyper did not supply new and compelling evidence, or a significant change in the circumstances.
- ¶ 4 Pyper now applies, under section 171 of the Act, for specific relief regarding trading for his personal account.

Pyper's submissions

- ¶ 5 Pyper says that he presently has two inactive accounts at Scotia Discount Brokerage, in which he holds cash and securities. One account is a margin account containing cash and two worthless securities, Bro-X Minerals Ltd. and Iriana Resources Corporation. The other is a self-directed RRSP account containing cash and two securities, one of which, Bre-X Minerals Ltd., is worthless and the other, Newport Exploration Ltd., is valued by Pyper at approximately \$300.
- ¶ 6 Pyper has applied to vary the sanctions to:
1. remove the worthless securities and cash from his margin account and close it.
 2. sell the Newport Exploration shares in his RRSP account and transfer out the worthless Bre-X Minerals shares.
 3. transfer the cash in his RRSP account at Scotia Discount Brokerage to a new self directed RRSP account to be opened at TD Canada Trust.

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4. invest the funds in the new RRSP account at TD Canada Trust in TD Canada Trust mutual funds.
5. make new contributions to the RRSP account to be opened at TD Canada Trust.

Commission staff's submission

- ¶ 7 Staff consent to Pyper's application, but point out the only transaction sought to be carried out by Pyper that is actually prohibited by the sanctions is the sale of shares of Newport Exploration Ltd.

Analysis

- ¶ 8 The definition of a trade in section 1(1) of the Act states that a trade is "a disposition of a security for valuable consideration ... but does not include a purchase of a security..."

The sanctions we imposed on Pyper do not, therefore, restrict him from:

1. cash transactions,
2. transferring, or otherwise disposing of the worthless securities for no valuable consideration, or
3. purchasing securities.

- ¶ 9 Accordingly, of the five transactions for which Pyper seeks relief, only the sale of Newport Exploration shares is prohibited. The remainder can be conducted without our consent.

- ¶ 10 In light of the small amount of money involved in disposing of the Newport Exploration shares, we consider that it would not be prejudicial to the public interest to allow Pyper to dispose of them.

- ¶ 11 We make the observation, for Pyper's benefit, that while our order does not prohibit Pyper from purchasing securities, should he wish to sell any of them before our order expires, he must apply to the Commission.

Order

- ¶ 12 In consequence, under section 171 of the Act, we vary our order of May 10, 2000, to allow Pyper to use the exemption described in section 45(2)(7) of the Act to trade the shares of Newport Exploration Ltd. held in his RRSP.

April 30, 2004

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John K. Graf
Commissioner

Roy Wares
Commissioner