



British Columbia Securities Commission

Citation: 2013 BCSECCOM 64

Huntingdon Capital Corp.

and

KEYreit

Securities Act, RSBC 1996, c. 418

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| Panel | Brent W. Aitken Kenneth G. Hanna Don Rowlatt | Vice Chair Commissioner Commissioner |
| Date of hearing | February 28, 2013 | |
| Date of ruling | February 28, 2013 | |
| Date of reasons for ruling | March 1, 2013 | |
| Appearing | | |
| Teresa M. Tomchak Peter M. Roth Matthew Pierce | For Huntingdon Capital Corp. | |
| Stephen R. Schachter, QC Geoffrey B. Gomery, QC Orestes Pasparakis Ava Yaskiel | For KEYreit | |
| Gordon Smith | For the Executive Director | |

Reasons for Ruling

- ¶ 1 After a hearing on February 28, 2013, we declined to exercise our jurisdiction to hear an application by Huntingdon Capital Corp. in connection with its offer for KEYreit. These are our reasons.



Background

- ¶ 2 On January 31, 2013, Huntingdon made a partial bid for units of KEYreit at a price of \$7 per unit. The bid's expiry date was March 7, 2013.
- ¶ 3 On February 8, the KEYreit board of directors adopted a shareholder rights plan (called, in this case, a "unitholder" rights plan) in response to the bid.
- ¶ 4 On February 18, Huntingdon filed an application seeking an order from the Commission to cease trade the KEYreit plan. KEYreit's principal jurisdiction for various securities regulation purposes is Ontario.
- ¶ 5 On February 20, KEYreit requested that we decline to exercise our jurisdiction to hear the Huntingdon application.
- ¶ 6 On February 26, Huntingdon announced its intention not to take up and pay for shares under its January 31 bid and that it would be making a new bid. The new bid would be an all-share bid, would provide for up to 25% of the consideration to be paid in Huntingdon shares (at the election of the tendering unitholder) and would have an expiry date of March 18. The other terms and conditions would be the same as the January 31 bid.
- ¶ 7 On February 28, we heard KEYreit's jurisdiction application and ruled in its favour, for the reasons below.

Reasons

- ¶ 8 Canada's securities regulators have implemented an efficient regime for dealing with matters that involve the jurisdiction of more than one regulator. The regime includes rules, policies and practices.
- ¶ 9 One of the practices is that shareholder rights plan hearings are normally heard in the principal jurisdiction of the target company. Indeed, Huntingdon was unable to point to any cases in which the hearing was held in a jurisdiction other than in the target's principal jurisdiction (with the exception of joint hearings).
- ¶ 10 The practice is a sensible and appropriate one. It provides certainty, logically centers applications in one jurisdiction – that of the target, the common element in all applications – and discourages forum shopping. It is a predictable, practical, and expedient approach for dealing with regulatory applications involving take-over bids, which are almost always very time-sensitive.



¶ 11 In our opinion, it is in the public interest that the practice be followed in the absence of good reasons not to do so. Here we found no good reasons not to follow the practice.

¶ 12 March 1, 2013

For the Commission

Brent W. Aitken
Vice Chair

Kenneth G. Hanna
Commissioner

Don Rowlett
Commissioner