

# 2007 BCSECCOM 176

March 27, 2007

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – Securities Rules, Section 162(3) Exemption from the requirement to include a formal valuation of the offeree issuer in an insider bid circular - An issuer wants relief from the requirement to obtain a formal valuation in connection with its insider bid for the outstanding common shares of a target company - The offeror has not had any board or management representation with the target company in the last 12 months; the offeror does not have access to any material information concerning the target company or its securities that have not been publicly disclosed; the offeror can rely on exemptions from the requirement to obtain a valuation and disclose prior valuations in OSC Rule 61-501 or Québec Policy Q-27

## **Applicable British Columbia Provisions**

*Securities Rules*, B.C. Reg. 194/97, s. 162(3)

In the Matter of  
the Securities Legislation of  
Alberta and British Columbia  
(the Jurisdictions)

and

In the Matter of  
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of  
Mountain Province Diamonds Inc.  
(the Filer)

## MRRS Decision Document

## **Background**

- ¶ 1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempt from the requirement under the Legislation to include a summary of a valuation (the Valuation Requirement) in a take-over bid circular in connection with the Filer's take-over bid for Camphor Ventures Inc. (Camphor) (the Requested Relief).

## 2007 BCSECCOM 176

Under the Mutual Reliance Review System for Exemptive Relief Applications (the MRRS System):

- (a) the British Columbia Securities Commission is the principal regulator for this application; and
- (b) this MRRS decision evidences the decision of each Decision Maker.

### **Interpretation**

- ¶ 2 Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

### **Representations**

- ¶ 3 The decision is based on the following facts represented by the Filer:
1. the Filer is a public corporation continued under the *Business Corporations Act* (Ontario); its head office and principal place of business is located at 401 Bay Street, Suite 2700, PO Box 152, Toronto, Ontario M5H 2Y4;
  2. the Filer is a reporting issuer or the equivalent in each of the Provinces of Alberta, British Columbia and Ontario and is not on the lists of defaulting reporting issuers maintained pursuant to the legislation of these jurisdictions;
  3. the Filer's common shares (the MPV Shares) are listed and posted for trading on the American Stock Exchange and the Toronto Stock Exchange under the symbols "MDM" and "MPV", respectively;
  4. on January 19, 2007, the Filer announced its intention to make an offer (the Offer) to acquire all Camphor common shares (Camphor Shares), all Camphor warrants exercisable to purchase Camphor Shares (Camphor Warrants) and all Camphor options exercisable to purchase Camphor Shares (Camphor Options) (the Camphor Shares, Camphor Warrants, and Camphor Options collectively referred to as the Securities); under the Offer, holders of the Securities (the Securityholders) will be entitled to receive for each whole Camphor Share, Camphor Option or Camphor Warrant, as the case may be, 0.41 of one (1) MPV Share, or 0.41 of one (1) option (where each whole option is exercisable to purchase one (1) MPV Share) or 0.41 of one (1) warrant (where each whole warrant is exercisable to purchase one (1) MPV Share), as the case may be;
  5. on February 23, 2007, the Filer commenced the Offer by filing and mailing a take-over bid circular (the Camphor Offer and Circular) setting out the terms

## 2007 BCSECCOM 176

of the Offer; the Camphor Offer and Circular was delivered to the Securityholders on February 23, 2007;

6. the Offer is an unsolicited offer and the Filer lacks access to relevant information that would enable the Filer to satisfy the Valuation Requirement;
7. none of the officers or directors of the Filer is, or ever has been, an officer or director of Camphor;
8. the filer currently owns 4,992,750 common shares of Camphor, representing approximately 34% of the issued and outstanding Camphor Shares; as the Filer beneficially owns more than 10% of the Camphor Shares, the Offer is technically an "insider bid" for the purposes of the Legislation;
9. the Filer has never had any board or management representation in respect of Camphor, nor, after reasonable inquiry, has knowledge of any material information concerning Camphor or its Securities that has not been generally disclosed;
10. in making the Offer in Ontario and Québec, the Filer intends to rely on the exemption available from the equivalent of the Valuation Requirement in connection with an "insider bid" in subparagraph 2.4(1) 2 of Ontario Securities Commission Rule 61-501 *Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions* (Rule 61-501) and subparagraph 2.4(1) 2 of Autorité des marchés financiers Regulation Q-27 *Respecting Protection of Minority Shareholders in the Course of Certain Transactions* (Q-27);
11. the Filer has provided relevant disclosure in the Camphor Offer and Circular in order to enable it to rely on the exemptions in Rule 61-501 and Q-27;
12. in connection with any second step business combination or going private transaction, the Filer intends to rely on the exemptions available under subparagraph 4.4(1) 5 of Rule 61-501 and subparagraph 4.4(1) 4 of Q-27 in that:
  - (a) the second step business combination or going private transaction will be effected by the Filer following the Offer and will be in respect of the Securities;
  - (b) the second step business combination or going private transaction will be completed no later than 120 days after the date of expiry of the Offer;

## 2007 BCSECCOM 176

- (c) the consideration per Security that the Securityholders will be entitled to receive in the second step business combination or going private transaction will be:
    - (i) at least equal in value to and in the same form as the consideration per Security that is being paid by the Filer under the Offer; and
    - (ii) in Securities of the Filer, which is the same form as the consideration being paid by the Filer under the Offer;
  - (d) the intent of the Filer to effect a second step business combination or going private transaction is disclosed in the Camphor Offer and Circular;
  - (e) the Camphor Offer and Circular discloses:
    - (i) that if the Filer acquires a sufficient number of Securities under the Offer, the Filer intends to acquire the remainder of the outstanding Securities by a second step business combination or a going private transaction; and
    - (ii) the expected tax consequences of the Offer and the second step business combination or going private transaction, to the extent currently known to the Filer; and
13. in accordance with paragraph 6.8 of Rule 61-501, the Filer has disclosed in the Camphor Offer and Circular that, after reasonable inquiry, the Filer is not aware of any prior valuation (as that term is defined in Rule 61-501).

### **Decision**

- ¶ 4 Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers pursuant to the Legislation is the Requested Relief is granted provided that the Filer complies with the other requirements in the Legislation applicable to formal take-over bids made by insiders.

Martin Eady, CA  
Director, Corporate Finance  
British Columbia Securities Commission