

2006 BCSECCOM 657

November 14, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications and Multilateral Instrument 11-101 *Principal Regulator System* - National Instrument 51-102, s. 13.1 - Continuous Disclosure Obligations - BAR – An issuer requires relief from the requirement to include certain financial statements in a business acquisition report – The issuer was delayed in preparing its business acquisition report due to the restatement of its annual financial statements and a change of its auditor. The pro forma income statements required to be included in the BAR would not be useful to investors. The issuer is unable to obtain a compilation report from its former auditor. The issuer's filed audited annual financial statements reflect the balance sheet effect of the acquisition. The BAR will contain alternative financial information about the acquisition.

Applicable British Columbia Provisions

National Instrument 51-102, s. 13.1

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

and

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

and

In the Matter of
Precision Assessment Technology Corporation
(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 is

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exempt from certain requirements of Part 8 of National Instrument 51-102 *Continuous Disclosure Obligations* relating to the business acquisition report (the BAR) to be prepared and filed by the Filer as a result of the Filer's acquisition of the business and assets of Groundwater Protection Inc. (GPI) and all of the issued and outstanding shares of its affiliated sister company, Trenchless Specialties Inc. (TSI) (the Acquisition).

Application of Principal Regulator System

- ¶ 2 Under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101) and the MRRS:
- (a) the British Columbia Securities Commission is the principal regulator for this application;
 - (b) the Filer is relying on the exemption in Part 3 of MI 11-101 in Alberta, Saskatchewan, Manitoba, Quebec and Nova Scotia; and
 - (c) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

- ¶ 3 Defined terms in National Instrument 14-101 *Definitions* have the same meaning in this decision unless otherwise defined in this decision.

Relief sought

- ¶ 4 The Filer seeks an exemption from the requirement to include in the BAR:
- (a) a pro forma income statement for the financial year ended December 31, 2005;
 - (b) a pro forma income statement for the 6 month interim period ended June 30, 2006; and
 - (c) a compilation report, signed by the Filer's auditor and prepared in accordance with the CICA Handbook, concerning the pro forma financial statements included in the BAR;

(the Requested Relief).

Representations

- ¶ 5 This decision is based on the following facts represented by the Filer:

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1. the Filer is a reporting issuer in British Columbia, Ontario, Alberta, Saskatchewan, Manitoba, Quebec and Nova Scotia;
2. effective October 1, 2005, the Filer completed the Acquisition; the consolidated financial statements for TSI include GPI;
3. as the Acquisition constituted a “significant acquisition” under NI 51-102 at the greater than 40% significance level, in accordance with Sections 8.4 and 8.5(1)(b) of NI 51-102 the Filer was required to file a BAR, including certain historical financial information relating to TSI and GPI and certain pro forma financial information, within 75 days after the date of the Acquisition; a delay in filing its annual financial statements for the year ended December 31, 2005 (2005 Financials) and the related decision of the Filer to restate and refile its annual financial statements for the year ended December 31, 2004 (2004 Restatement) has resulted in a delay in the preparation of the BAR relating to the Acquisition;
4. in March 2006 Deloitte & Touche, the Filer's auditors, indicated that they would be unable to finalize their audit opinion relating to the 2005 Financials until an independent valuation, allocating the purchase price for the acquisition of TSI between intangibles, tangibles and goodwill (the Independent Valuation), was conducted and delivered to Deloitte & Touche; the Filer engaged KPMG LLP on April 4th to provide the Independent Valuation, which was completed and delivered to Deloitte & Touche on April 25, 2006;
5. following receipt of the Independent Valuation, Deloitte & Touche continued the audit procedures; in the course of such procedures, Deloitte & Touche determined that there were certain errors in the audited financial statements of the Filer for the year ended December 31, 2004 and met with the Filer to discuss a potential restatement of the audited financial statements for that year; following discussions with Deloitte & Touche, the Filer determined to proceed with the 2004 Restatement;
6. Deloitte & Touche completed their audit and the Filer filed the 2005 Financials, management's discussion and analysis and annual information form for the year ended December 31, 2005 on May 31, 2006; the Filer also filed the 2004 Restatement at that time;
7. to limit the impact on shareholders of the delayed filing of the 2005 Financials, the Filer requested and was granted a Management Cease Trade Order (Management CTO) on April 6, 2005 by the BCSC, under CSA Staff Notice 57-301; under the Management CTO, trading by certain persons

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ceased until the Filer filed its 2005 Financials; the BCSC revoked the Management CTO on June 14, 2006;

8. as a result of the 2004 Restatement and the corresponding delay in finalizing financial statements to be filed with the BAR, the Filer is required under sections 8.4(3)(b)(i) and (ii) and 8.4(3)(d) of NI 51-102 to file pro forma income statements giving effect to the Acquisition, for periods that ended after the date of the Acquisition, accompanied by a compilation report signed by the Filer's auditor;
9. the Filer is not in default of any of the requirements of the applicable securities legislation in any of the provinces in which it is a reporting issuer, other than the requirements to:
 - (a) file the BAR relating to the Acquisition by December 15, 2005; and
 - (b) file the 2005 Financials by March 31, 2006 (the Filer filed the 2005 Financials on May 31, 2006);
10. the Filer did not apply for relief in relation to the BAR requirements prior to becoming in default of its obligation to file the BAR relating to the Acquisition;
11. the Filer will include in the BAR the following financial statements and financial information:
 - (a) audited combined financial statements of GPI and TSI as at December 31, 2004 and 2003 and for the years then ended,
 - (b) unaudited combined interim financial statements of GPI and TSI as at September 30, 2005 and for the nine month periods ended September 30, 2005 and 2004; and
 - (c) unaudited pro forma income statements of the Filer for the year ended December 31, 2004 and the nine months ended September 30, 2005 that give effect to the Acquisition as if it had taken place at the beginning of the respective period

(collectively, the Alternative Financial Disclosure);
12. the balance sheet effect of the Acquisition is reflected in the audited 2005 Financials that have already been filed;

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13. the Filer submits that there is no added benefit to the public of providing pro forma income statements for the year ended December 31, 2005 and the interim period ended June 30, 2006 as any income statement effect relating to the period after the date of the Acquisition is already reflected in the consolidated financial statements of the Filer, which have already been filed;
14. after filing the 2005 Financials, the Filer changed its auditor and, as such, it would be impractical to obtain a letter from Deloitte & Touche concerning the compilation report in relation to the pro forma financial statements.

Decision

- ¶ 6 The Decision Makers being satisfied that each has jurisdiction to make this decision and that the relevant test under the Legislation has been met, the Requested Relief is granted provided that the Filer:

- (a) includes the Alternative Financial Disclosure in the BAR; and
- (b) explains in the BAR why the Filer is not providing pro forma income statements for the financial year ended December 31, 2005 and the six month period ended June 30, 2006, and the compilation report.

Martin Eady, C.A.
Director, Corporate Finance
British Columbia Securities Commission