

# 2003 BCSECCOM 771

## Headnote

Temporary relief from the adviser registration requirement for manager to provide investment management services to venture capital corporations, provided the manager becomes registered within specific time period

## Exemption Order

### Mentor Capital Inc.

#### Section 48 of the *Securities Act*, R.S.B.C. 1996, c. 418

## Background

- ¶ 1 Mentor Capital Inc. (the Manager) applied for an exemption from the adviser registration requirement of section 34(1)(c) of the Act (the adviser registration requirement) in order to provide management services to:
- (a) B.C. Advantage Funds (VCC) Ltd. (BCAF) under a management agreement dated May 1, 2003 and amended October 31, 2003; and
  - (b) Qwest Emerging Biotech (VCC) Fund Ltd. (Qwest) under a management and administration agreement dated May 3, 2001 and an assignment and sale agreement made effective September 29, 2003;

## Representations

- ¶ 2 The Manager represents that:
- 1. it was incorporated under the *Company Act* (British Columbia) on February 20, 2003;
  - 2. its head office is located in Vancouver, British Columbia;
  - 3. BCAF was incorporated under the *Company Act* (British Columbia) on October 1, 2002;
  - 4. BCAF is not a reporting issuer in any jurisdiction;
  - 5. BCAF was registered by the Ministry of Competition, Science and Enterprise on December 12, 2002 as a venture capital corporation under the *Small Business Venture Capital Act* (the SBVCA);
  - 6. BCAF was formed to create and manage a portfolio of investments in early stage technology companies and, to a lesser extent, small and medium-

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sized public companies, all being British Columbia businesses that meet SBVCA criteria, with the objective of maximizing return with an acceptable level of risk;

7. Qwest was incorporated under the *Company Act* (British Columbia) on March 15, 2000;
8. Qwest is not a reporting issuer in any jurisdiction;
9. Qwest was registered by the Ministry of Competition, Science and Enterprise on May 3, 2001 as a venture capital corporation under the SBVCA;
10. Qwest was formed to create and manage a diversified portfolio of equity holdings in early and emerging stage life sciences companies located in British Columbia that meet SBVCA criteria, with the objective of maximizing return with an acceptable level of risk;
11. most of BCAF's and Qwest's investments are mid to long term investments involving a one to five year investment horizon in both illiquid securities of non-public companies, and more liquid public company securities;
12. BCAF and Qwest have retained the Manager under their respective management agreements to provide management advice and services under the supervision and governance of BCAF's and Qwest's Board of Directors;
13. the Manager is responsible for identifying investment opportunities that meet BCAF's and Qwest's objectives and investment strategies, analyzing proposed investments, preparing and making recommendations about investments to BCAF's and Qwest's Board of Directors and structuring and negotiating investments approved by BCAF's and Qwest's Board of Directors;
14. the Manager monitors BCAF's and Qwest's investments, which includes evaluating financial and other key performance indicators and making recommendations as to the timing, terms and methods of realizing on BCAF's and Qwest's investments;
15. the Manager provides value added management services in the form of board participation, business expertise and managerial expertise to the companies that BCAF and Qwest invests in;

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16. the Manager has and will maintain personnel with the necessary business experience and qualifications to competently manage both private and public venture capital investments;
17. BCAF will offer its shares to residents of British Columbia by prospectus;
18. in providing their services to BCAF and Qwest under their respective management agreements, the Manager may be considered to be acting as an adviser under the Act and without this order, could be required to be registered, or otherwise exempt from registration, as an adviser under the Act;
19. there are no exemptions from the adviser registration requirement that the Manager can rely on to act as an adviser to BCAF and Qwest.

### **Order**

- ¶ 3 Because it is not prejudicial to the public interest, the Commission orders under section 48 of the Act that the Manager is exempt from the adviser registration requirement when performing and carrying out its duties under the management agreements until March 31, 2004, provided the Manager applies for registration on or before December 31, 2003.
- ¶ 4 November 14, 2003

L.E. Evans, C.A.  
Director