

2010 BCSECCOM 234

April 30, 2010

Headnote

National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions – Securities Act*, s. 88 – *Cease to be a Reporting Issuer in BC* - The securities of the issuer are beneficially owned by not more than 50 persons and are not traded through any exchange or market - The issuer falls within the definition of “closely held reporting issuer” contained in BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* as the securities of the issuer are beneficially owned by not more than 50 persons and are not traded through any exchange or market

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 88

In the Matter of
the Securities Legislation of
Alberta, British Columbia, Ontario and Québec
(the “Jurisdictions”)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of
Nstein Technologies Inc.
(the “Filer”)

Decision

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the “Decision Maker”) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the Filer is not a reporting issuer (the “Exemptive Relief Sought”).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

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- (a) L'Autorité des marchés financiers is the principal regulator for this application; and
- (b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation governed by the Québec *Companies Act* (the “QCA”). Its head office is located in Montréal, Québec.
2. The Filer is a reporting issuer in the Jurisdictions.
3. The Filer’s authorized share capital consists of an unlimited number of common shares (“Common Shares”) and an unlimited number of preference shares.
4. The Filer has outstanding warrants held by 13 warrant holders in Canada, 11 of which reside in the province of Québec and 2 in the province of Ontario (the “Canadian Warrants”) and also has outstanding warrants held by nine warrant holders residing outside of Canada (the “Non-Canadian Warrants” and, together with the Canadian Warrants, the “Warrants”). Upon exercising the Warrants, the warrant holders will receive common shares (“Open Text Shares”) of Open Text Corporation (“Open Text”).
5. The only outstanding securities of the Filer are the Common Shares, the Canadian Warrants and the Non-Canadian Warrants.
6. All of the Common Shares of the Filer are directly owned by Open Text.
7. On February 22, 2010, Open Text, 9218-8150 Québec Inc. (“Subco”), a wholly-owned subsidiary of Open Text, and Nstein Technologies Inc., a predecessor entity of the Filer, entered into an acquisition agreement, as amended, pursuant to which Open Text agreed to acquire all of the issued and outstanding Common Shares of the Filer by way of amalgamation (the “Amalgamation”) of the Filer and Subco under the QCA. The Filer is the company resulting from the Amalgamation.

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8. The Amalgamation was approved by the shareholders of the Filer at a special general meeting of shareholders held on April 1, 2010.
9. Pursuant to the terms of the Amalgamation, holders of Common Shares received, for each Common Share held, one redeemable preferred share of the Filer (which was automatically redeemed for a cash consideration of \$0.65 in cash on April 6, 2010) other than a Canadian-resident holder of Common Shares who elected to receive, in exchange for a Common Share, a fraction of an Open Text Share having a value of \$0.65 based on the volume weighted average trading price of Open Text Shares on the Toronto Stock Exchange in the ten trading day period immediately preceding April 1, 2010. No fractional Open Text Shares were issued or delivered in connection with the Amalgamation.
10. As at April 1, 2010, the date of the Amalgamation, the Filer became a wholly-owned subsidiary of Open Text, which owns all of the outstanding Common Shares of the Filer.
11. Other than the Warrants, the Filer has no other securities issued and outstanding.
12. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada.
13. Prior to the Amalgamation, the Common Shares of the Filer were listed for trading on the TSX Venture Exchange.
14. At the close of the markets on April 6, 2010, the Common Shares of the Filer were delisted from the TSX Venture Exchange.
15. No securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.
16. The Filer has no current intention to proceed with an offering of its securities in a jurisdiction in Canada by way of private placement or public offering.
17. The Filer is applying for a decision establishing that it is not a reporting issuer in all jurisdictions of Canada in which it is currently a reporting issuer.
18. The Filer is not in default of its obligations set forth by the Legislation as a reporting issuer in the Jurisdictions.

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19. As the Filer is a reporting issuer in British Columbia, the Filer is not eligible to apply for the Exemptive Relief Sought under the simplified procedure in CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer*.
20. The Filer, upon the grant of the Exemptive Relief Sought, will no longer be a reporting issuer in any jurisdiction in Canada.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted.

Alida Gualtieri
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Autorité des marchés financiers