

## 2005 BCSECCOM 450

### Headnote

1996 Securities Act s. 48 Adviser - Exemption from s.34(1)(c) requirement to be registered as an adviser and the obligations of advisers in Part 5 of the Act and rules - A person who resides outside BC wants to advise BC residents. - The person is registered or qualified to provide the advice in the jurisdiction in which they reside; the person will only advise a small number of BC clients; the person will not carry on any other business in BC; the BC clients are sophisticated and have a high net worth; the clients are aware that the person is not registered in BC and the consequences.

### Exemption Order

#### Mellon Equity Associates, LLP

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

### Background

- ¶ 1 Mellon Equity Associates, LLP (MEA) applied for an exemption from the adviser registration requirement in section 34(1)(c) of the Act in order to provide securities advice to a prospective client resident in British Columbia (securities advice).

### Representations

- ¶ 2 MEA represents that:
1. it is a limited liability partnership organized under the laws of the Commonwealth of Pennsylvania, USA;
  2. it is registered with the Securities and Exchange Commission as an investment adviser under the U.S. *Investment Advisors Act of 1940*, as amended;
  3. MEA has carried on business as an adviser in the United States since 1986 and currently has assets under management in excess of US\$20 billion;
  4. it is engaged in advising on the buying and selling of securities; it provides quantitative investment management services to institutional clients including pension plans, profit sharing plans, 401(k) plans, endowments, foundations, and registered investment companies (mutual funds);
  5. it intends to provide securities advice to a British Columbia (BC) resident client, the BC Teachers' Federation (BCTF) Salary Indemnity Fund (Fund) on the U.S. equities portion of the Fund;

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6. BCTF is a sophisticated investor with professional advisers;
7. it has advised BCTF that:
  - (a) it is not registered as an adviser under the Act;
  - (b) it may not have the same proficiency requirements as other persons registered under the Act; and
  - (c) BCTF may not have the same protection that it otherwise might have if MEA were registered as an adviser under the Act;
8. it does not:
  - (a) maintain an office or sales force in BC;
  - (b) have any client other than BCTF resident in BC; or
  - (c) intend to actively solicit other clients in BC;
9. in providing securities advice to the Fund, it would be considered to be acting as an adviser under the Act and without this order would be required to be registered, or otherwise exempt from registration, as an adviser under the Act; and
10. there are no exemptions from the adviser registration requirement that it can rely on to provide securities advice to the Fund.

### **Order**

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that MEA be exempt from the adviser registration requirements of section 34(1)(c) of the Act for securities advice provided to BCTF.

¶ 4 June 30, 2005

L.E. Evans, C.A.  
Director