

# 2007 BCSECCOM 485

June 21, 2007

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – *Securities Act* s. 48, 76 Other - Exemption from registration and prospectus requirements for situations other than a corporate acquisition or reorganization; trades to business associates; debt settlements; or trades involving employee investment plans and consultants - A not-for-profit issuer wants to offer securities through its financing arm - A not-for-profit issuer has established a financing arm to separate its education, benevolent, fraternal, charitable, religious or recreational operations from its financing activities; the financing arm will not operate for the purpose of making a profit, but solely to support the operations of the not-for-profit issuer; the not-for-profit issuer will be the only security holder of the financing arm that receives any benefits from the net earnings of the financing arm; investors will receive an information statement that provides disclosure about both the financing arm and the not-for-profit issuer

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, ss. 34(1)(a), 48, 61 and 76

In the Matter of  
the Securities Legislation of  
Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario,  
Prince Edward Island, Quebec and Saskatchewan  
(the Jurisdictions)

and

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

and

In the Matter of  
Pentecostal Financial Services Group Inc.  
(the Filer)

## MRRS Decision Document

## **Background**

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”) for:

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- an exemption from the dealer registration requirement in respect of trades in fixed income securities issued in connection with the Program (defined below) of capital loans for charitable purposes (the “Notes”); and
- an exemption from the prospectus requirement in respect of the distribution of Notes

(collectively the “Requested Relief”).

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

- (a) the Ontario Securities Commission was selected as the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

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

### **Representations**

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

1. The Pentecostal Assemblies of Canada (the “PAOC”) is a registered charity incorporated under Part II of the *Canada Corporations Act* and is a “charitable organization” for purposes of the *Income Tax Act* (Canada). The PAOC carries on its religious and charitable activities in various provinces in Canada but maintains its head office in Ontario. Member congregations of the PAOC are located in each of the Jurisdictions.
2. The Filer is a corporation incorporated under the laws of Canada on March 29, 2005, and is wholly-owned by the PAOC.
3. The Filer is restricted in the business it may carry on and on the powers it may exercise to engaging exclusively in educational, charitable or religious activities.
4. The principal part of such activities will consist of the issuance and distribution of Notes in respect of a program (the “Program”) under which individuals associated with PAOC congregations and certain pension or other trusts for which the PAOC is the trustee make capital loans to those

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congregations for charitable purposes, such as the building or repairing of churches, that are secured by first mortgages.

5. The Filer would be entitled to rely on the exemption provided by section 2.38 of National Instrument 45-106 *Prospectus and Registration Exemptions* in connection with its participation in the Program, but for the application of paragraph (a) thereof, which provides that such exemption is unavailable if any part of the net profits of the Filer accrue to the benefit of any security holder of the Filer.
6. It is contemplated that the Filer may have net profits which will be paid exclusively to the PAOC, which as a registered charity would itself be using such net profits exclusively in furtherance of its own educational, charitable or religious activities.
7. The Filer will deliver an information statement in the form of BC Form 32-901F to each purchaser before the purchaser agrees to purchase the Notes. The information statement will reflect that it is the Filer, not the PAOC, that is issuing the Notes, provide disclosure about both the Filer and the PAOC and provide disclosure about the risk of the individuals not receiving a fixed rate of return on the Notes.

### **Decision**

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 under the Legislation is that the Requested Relief is granted; provided that:

- (a) at the time of the trade:
  - (i) the Filer is organized exclusively for educational, benevolent, fraternal, charitable religious or recreational purposes and not for profit;
  - (ii) the PAOC is organized exclusively for educational, benevolent, fraternal, charitable religious or recreational purposes and not for profit;
  - (iii) the Filer is wholly-owned by the PAOC;
  - (iv) all net earnings of the Filer are paid to the benefit of the PAOC;

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- (v) no commission or other remuneration was or will be paid in connection with the sale of the Notes;
  - (vi) the Filer has delivered a copy of this decision to the purchaser of Notes and to the PAOC; and
  - (vii) in connection with any trade in British Columbia, the Filer delivered an information statement in the form of BC Form 32-901F to each purchaser before the purchaser agreed in writing to purchase the Notes; and
- (b) the Requested Relief will expire on the date that is ten years after the date of this decision.

Harold P. Hands  
Commissioner  
Ontario Securities Commission

Lawrence E. Ritchie  
Commissioner  
Ontario Securities Commission