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Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from Multilateral Instrument 33-109 *Registration Information* – a registered dealer wants relief from the filing and notification requirements to permit a bulk transfer of business locations and individuals following a reorganization - the applicant is acquiring a significant number of business locations and individuals from another registered dealer in the same jurisdiction - the application provided the information required in Appendix A to Companion Policy 33-109CP

Applicable British Columbia Provisions

Multilateral Instrument 33-109 *Registration Information*

**IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH
COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
NEW BRUNSWICK, NOVA SCOTIA, AND NEWFOUNDLAND AND
LABRADOR**

AND

**IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF GUARDIAN CAPITAL INC., GUARDIAN
CAPITAL LP, GUARDIAN CAPITAL ADVISORS INC. AND GUARDIAN
CAPITAL ADVISORS LP**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the Decision Maker) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia and Newfoundland and Labrador (the Jurisdictions) has received an application from Guardian Capital Inc. (GCI) and Guardian Capital Advisors Inc. (GCA) each of which propose to undergo an internal restructuring process (the Restructuring) whereby all assets and liabilities of GCI and GCA will be transferred to Guardian Capital LP (GC LP) and Guardian Capital Advisors LP (GCA LP), respectively, on or after July 30, 2004 (GCI, GCA, GC LP and GCA LP are collectively referred to as the Applicants) for a decision pursuant to Part 7 of Multilateral Instrument 33-109 *Registration Information* (MI 33-109) exempting the Applicants from certain requirements under MI 33-109 in order to permit bulk transfers of GCI registered and non-registered individuals to GC LP and GCA registered and non-registered

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individuals to GCA LP (such individuals associated with the Applicants are collectively referred to as Representatives), as referred to in Section 3.1 of the Companion Policy 33-109CP to MI 33-109 (the Companion Policy).

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the System), the Ontario Securities Commission is the principal regulator for this application.

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 – *Definitions*.

AND WHEREAS it has been represented by the Applicants to the Decision Makers that:

1. GCI is a corporation incorporated under the laws of Ontario. GCI is currently registered in each of the Jurisdictions as an adviser in the categories of investment counsel and portfolio manager (or the equivalent).
2. GC LP is a limited partnership existing under the laws of the Province of Ontario and is currently registered or is in the process of obtaining registration in each of the Jurisdictions as an adviser in the categories of investment counsel and portfolio manager (or the equivalent).
3. GCA is a corporation incorporated under the laws of Ontario. GCA is currently registered in each of the Jurisdictions, except Newfoundland and Labrador, as an adviser in the categories of investment counsel and portfolio manager (or the equivalent).
4. GCA LP is a limited partnership existing under the laws of the Province of Ontario and is currently registered or in the process of obtaining registration in each of the Jurisdictions, except Newfoundland and Labrador, as an adviser in the categories of investment counsel and portfolio manager (or the equivalent).
5. The Applicants, to the best of their knowledge, are not in default of any of the requirements of the securities legislation of the Jurisdictions.
6. GCI and GC LP have entered into an asset transfer agreement (the GCI Asset Transfer Agreement) which provides for the transfer of the business of GCI to GC LP, subject to obtaining all necessary securities registrations and other required consents or permissions. The GCI Asset Transfer Agreement provides that pending completion of all necessary consents and registrations, the GCI business will be conducted by GCI for the ultimate benefit of GC LP. Once GC LP has obtained all necessary consents, GCI will cease conducting

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the business directly, but will continue to operate the business in its capacity as general partner of GC LP.

7. GCA and GCA LP have entered into an asset transfer agreement (the GCA Asset Transfer Agreement) which provides for the transfer of the business of GCA to GCA LP, subject to obtaining all necessary securities registrations and other required consents or permissions. The GCA Asset Transfer Agreement provides that pending completion of all necessary consents and registrations, the GCA business will be conducted by GCA for the ultimate benefit of GCA LP. Once GCA LP has obtained all necessary consents, GCA will cease conducting the business directly, but will continue to operate the business in its capacity as general partner of GCA LP.
8. The transactions making up the Restructuring do not involve any third parties. GC LP will carry on all of the active securities business of GCI in substantially the same manner with the same Representatives as GCI. GCA LP will carry on all of the active securities business of GCA in substantially the same manner with the same Representatives as GCA.
9. Section 3.2 *Bulk Transfers of Locations and Individuals* of the Companion Policy CP 33-109 to MI 33-109 states that if a registered firm is acquiring a large number of business locations (for example, as a result of an amalgamation or asset purchase) from one or more other registered firms that are located in the same jurisdictions and registered in the same categories as the acquiring firm, and if a significant number of individuals are associated on the National Registration Database with the locations, the securities regulatory authority or regulator will consider exempting the firms and individuals involved in the transaction from certain filing requirements.
10. Given the number of Representatives of GCI and GCA, it would be unduly onerous to individually transfer each Representative to GC LP or GCA LP, as appropriate, in accordance with the requirements set out in the MI 33-109 and there would be no apparent benefit to doing so, given that there is no substantive change in any of the Representatives' employment or responsibilities.
11. Within two months of the date of the Restructuring, the Applicants will arrange for the bulk transfer of all affected individuals and locations as contemplated by the Companion Policy.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the Decision);

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AND WHEREAS each of the Decision Makers is satisfied that the tests contained in MI 33-109 that provides the Decision Maker with the jurisdiction to make the Decision have been met;

THE DECISION of the Decision Makers pursuant to MI 33-109 is that the following requirements of MI 33-109 shall not apply to the Applicants in respect of the Restructuring:

- (i) the requirement to submit a notice regarding the termination of each employment, partner, or agency relationship under section 4.3 of MI 33-109;
- (ii) the requirement to submit a notice regarding each individual who ceases to be a non-registered individual under section 5.2 of MI 33-109;
- (iii) the requirement to submit a registration application for each individual applying to become a registered individual under section 2.2 of MI 33-109;
- (iv) the requirement to submit a Form 33-109F4 for each non-registered individual under section 3.3 of MI 33-109; and,
- (v) the requirement under section 3.1 of MI 33-109 to notify the regulator of a change to the business location information in Form 33-109F3.

July 13, 2004

David M. Gilkes