

# 2002 BCSECCOM 1045

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – Offeror exempt from requirement to take up and pay for securities proportionately according to the number deposited by each security holder

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, ss. 105(g), 114(2)(c)

## **IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC, NOVA SCOTIA, AND NEWFOUNDLAND**

**AND**

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

**AND**

## **IN THE MATTER OF ADEX SECURITIES INC.**

## **MRRS DECISION DOCUMENT**

- ¶ 1 WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (collectively, the “Jurisdictions”) has received an application (the “Application”) from Adex Securities Inc. (“Adex”) for a decision pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that, in connection with the offer by Adex (as varied) to purchase common shares (the “Concord Shares”) of Concord Pacific Group Inc. (“Concord”) pursuant to a take over bid (the “Offer”), Adex be exempt from the requirements in the Legislation to take up and pay for securities proportionately according to the number of securities deposited by each securityholder (the “Proportionate Take up and Payment Requirement”);

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- ¶ 2 AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the British Columbia Securities Commission is the principal regulator for the Application;
- ¶ 3 AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions* or in Québec Commission Notice 14-101;
- ¶ 4 AND WHEREAS Adex has represented to the Decision Makers that:
1. Adex was incorporated on April 22, 1992 under the *Company Act* (British Columbia) and continued under the *Canada Business Corporations Act* on April 12, 2002 and has its registered and record office at 900 – 1095 West Pender Street, Vancouver, British Columbia;
  2. Adex is not a reporting issuer in any of the Jurisdictions and its shares are not listed or posted for trading on any stock exchange;
  3. Terence Hui indirectly controls Adex and is the sole director and President of Adex;
  4. Mr. Hui is also the President and Chief Executive Officer of Concord;
  5. Adex owns 15,289,601 Concord Shares representing 45.1% of outstanding Concord Shares;
  6. Concord was incorporated on March 14, 1997 under the *Yukon Business Corporations Act* and continued under the *Canada Business Corporations Act* on June 17, 1998;
  7. Concord’s head office is located at Suite 900, 1095 West Pender Street, Vancouver, British Columbia;
  8. Concord is a reporting issuer in all provinces and territories of Canada, except Québec;
  9. the Concord Shares are listed for trading on The Toronto Stock Exchange;
  10. on November 8, 2002, Adex mailed to Concord shareholders its Offer to purchase the Concord Shares and on December 9, 2002, Adex mailed to Concord shareholders a Notice of Variation and Change in respect of its Offer;

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11. under the terms of the Offer, Adex is offering to purchase Concord Shares in accordance with the following procedure (the “Procedure”):
  - (a) the Offer is comprised of two alternatives:
    - (i) Adex will acquire all Concord Shares deposited under the Offer at \$3.40 per Concord Share provided that at least 10,000,000 Concord Shares (the “\$3.40 Threshold”) are deposited under the Offer and not withdrawn (the “\$3.40 Alternative”); and
    - (ii) if the number of Concord Shares deposited under the Offer and not withdrawn is less than the \$3.40 Threshold but at least 2,000,000 Concord Shares, Adex will acquire at \$2.75 per Concord Share (the “\$2.75 Alternative”) up to a maximum of 2,000,000 Concord Shares deposited under the Offer, other than those Concord Shares deposited solely under the \$3.40 Alternative;
  - (b) shareholders may elect to deposit their Concord Shares to be taken up and paid for under only the \$3.40 Alternative or under both the \$2.75 Alternative and the \$3.40 Alternative;
  - (c) if Adex takes up Concord Shares deposited for take up under the \$2.75 Alternative, all Concord Shares deposited for take up only to the \$3.40 Alternative will be returned to the shareholders;
  - (d) if the number of Concord Shares so deposited to be taken up and paid for under the \$2.75 Alternative exceeds 2,000,000 shares, such Concord Shares deposited to be taken up under the \$2.75 Alternative will be taken up on a *pro rata* basis (adjusted to avoid taking up fractional shares);
12. the take-over bid circular (the “Circular”) mailed to Concord shareholders in respect of the Offer discloses the mechanics for the take up and payment for, or return of, Concord Shares as described in paragraph 11 above;
13. in the directors’ circular mailed to Concord shareholders, the independent directors of Concord have recommended that shareholders accept the \$3.40 Alternative;
14. the Proportionate Take up and Payment Requirement would require Adex to take up and pay for deposited Concord Shares proportionately, according to the number of Concord Shares deposited by each shareholder, including Concord Shares deposited for take up only under the \$3.40 Alternative;

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- ¶ 5 AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each of the Decision Makers (collectively, the “Decision”);
- ¶ 6 AND WHEREAS 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;
- ¶ 7 THE DECISION of the Decision Makers under the Legislation is that, in connection with the Offer, Adex is exempt from the Proportionate Take up and Payment Requirement, provided that Concord Shares tendered to the Offer and not withdrawn are taken up and paid for in accordance with the Procedure.
- ¶ 8 December 19, 2002

*“Adrienne Salvail-Lopez”*

Adrienne Salvail-Lopez  
Vice Chair