

# 2009 BCSECCOM 2

December 19, 2008

## **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  
Ontario, British Columbia, Alberta, Manitoba and Saskatchewan  
(the Jurisdictions)

and

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

and

In the Matter of  
Garbell Holdings Limited  
(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 in the Jurisdictions (the Exemptive Relief Sought).

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

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- (i) the Ontario Securities Commission is the principal regulator for this application, and
- (ii) 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 *Business Corporations Act* (Ontario), with its head office located at Suite 1770, Standard Life Center, 121 King Street West, Toronto, Ontario M5H 3T9.
2. The issued and outstanding share capital of the Filer consists of 285,900 10.5% cumulative, redeemable first preference shares (the Redeemable Shares), 827, 335 common shares and 76 Second Preference shares.
3. The Redeemable Shares are the only publicly traded securities of the Filer.
4. On November 10, 2008, the directors of the Filer resolved to redeem the Redeemable Shares.
5. On November 10, 2008, the Filer mailed a notice of redemption (the Notice) to the holders of the Shares. The effective date of the redemption specified in the Notice is December 10, 2008.
6. On December 10, 2008, the Filer deposited sufficient funds with its depository, CIBC Mellon Trust Company, to fund cheques for the entire redemption amount due to holders of the Redeemable Shares on that date. After such deposit, by operation of the Filer's articles of incorporation, the holders of such Redeemable Shares ceased to have any rights in respect of such Redeemable Shares except the right to receive the redemption payment for such Redeemable Shares.
7. As a result of the redemption of the Redeemable Shares, the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada.

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8. The outstanding securities of the Filer, are beneficially owned, directly or indirectly, by one shareholder in total in Canada. The shareholder is an estate with eight beneficiaries.
9. The Filer's Redeemable Shares were de-listed from the TSX-Venture exchange upon the confirmation of the redemption on December 10, 2008.
10. The Filer applied for this decision during a 30 day redemption notice period required by the articles of incorporation of the Filer. During that period, the Filer was not able to meet the conditions under the simplified procedure of CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* and BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*.
11. No securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.
12. The Filer has no current intention to seek public financing by way of an offering of securities.
13. The Filer is applying for a decision that the Filer is not a reporting issuer in all the jurisdictions in Canada in which it is currently a reporting issuer.
14. Upon the grant of the Exemptive Relief Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction of Canada.
15. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer.

### **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.

Naizam Kanji  
Manager, Corporate Finance  
Ontario Securities Commission