

2010 BCSECCOM 409

July 12, 2010

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
Alberta, British Columbia and Ontario
(the Jurisdictions)

and

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

and

In the Matter of
Kelman Technologies Inc.
(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) for a decision that the Filer be deemed to have ceased to be a reporting issuer under the Legislation.

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

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- (a) the Alberta Securities Commission is the principal regulator for this application, and
- (b) 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 federal laws of Canada, with its head office in Alberta. The Alberta Securities Commission was selected as Principal Regulator because the Filer's head office is located in Alberta.
2. The Filer is a reporting issuer in the Jurisdictions.
3. The Filer's authorized capital stock includes an unlimited number of common shares (Common Shares), an unlimited number of Class A redeemable preferred shares and an unlimited number of Class B redeemable preferred shares.
4. Pursuant to an amalgamation agreement dated as of March 24, 2010 (the Amalgamation Agreement), in accordance with section 181 of the *Canada Business Corporations Act* (the CBCA), Kelman Technologies Inc. (the Predecessor) amalgamated with 7504314 Canada Inc., a private company formed under the CBCA, to form the amalgamated company, the Filer, effective as of May 13, 2010.
5. Pursuant to the Amalgamation Agreement, former holders of Common Shares of the Predecessor received Class A redeemable preferred shares in the capital of the Filer which were immediately redeemed by the Filer effective as of May 13, 2010 in exchange for cash consideration. Additionally, pursuant to the Amalgamation Agreement, former holders of series C convertible senior preferred shares of the Predecessor received Class B redeemable preferred shares in the capital of the Filer which were immediately redeemed by the Filer effective as of May 13, 2010 in exchange for cash consideration.
6. As a result of the Amalgamation, all of the issued and outstanding shares of the Filer are now beneficially owned by Seyco Operations Limited (Seyco), a

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private company incorporated pursuant to the *Business Corporations Act* (Alberta).

7. Prior to the Amalgamation, the Common Shares of the Predecessor were listed for trading on the TSX Venture Exchange (TSXV).
8. The Predecessor's Common Shares were de-listed from the TSXV at the close of business on May 17, 2010 and the Filer does not have any securities listed on any stock exchange.
9. The Filer did not voluntarily surrender its status as a reporting issuer in British Columbia pursuant to BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* (the BC Instrument) in order to avoid the 10-day waiting period under the BC instrument.
10. The Filer is not in default of any of its obligations as a reporting issuer under the Legislation except for the obligation to file its interim financial statements for the financial period ended March 31, 2010 and accompanying management's discussion and analysis, as required under National Instrument 51-102 *Continuous Disclosure Obligations*, and the related certification of such financial statements as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*, all of which became due on May 31, 2010.
11. The Filer is not eligible to use the simplified procedure under CSA Staff Notice 12-307 *Applications for a decision that an Issuer is not a Reporting Issuer* in order to apply for the Exemptive Relief Sought because it is a reporting issuer in British Columbia and is in default of certain filing obligations under the Legislation as described in paragraph 10 above.
12. 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.
13. No securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.
14. Upon the granting of the Exemptive Relief sought, the Filer will not be a reporting issuer or its equivalent in any jurisdiction in Canada.
15. The Filer has no intention to seek public financing by way of an offering of its securities.

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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.

Blaine Young
Associate Director, Corporate Finance