

2008 BCSECCOM 464

July 30, 2008

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – 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
British Columbia, Manitoba, Ontario, and Quebec
(the Jurisdictions)

and

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

and

In the Matter of
Modatech Systems Inc.
(the Filer or the Company)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (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 deemed to have ceased to be a reporting issuer (the Exemptive Relief Sought).

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

- (a) the British Columbia 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

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined. The term (SEDAR) shall mean the System for Electronic Document Analysis and Retrieval; the term (2005 Meeting) shall mean the meeting of shareholders of the Filer held on November 7, 2005; the term (Share Redemption) shall mean the redemption of all of the issued and outstanding 12,093,522 Class A Preferred Shares pursuant to section 77 of the *Business Corporations Act* (British Columbia) and clause 27.2(n) of the Articles of the Company; and the term (Cease Trade Orders) means the four cease trade orders with respect to the Filer issued by the Jurisdictions.

Representations

- ¶ 3 This decision is based on the following facts represented by the Filer:
- 1. the Filer is a British Columbia corporation incorporated under the *Company Act* (British Columbia), on February 28, 1983 under the name 260827 B.C. Ltd.; the Company changed its name on May 28, 1984 to Modatech Systems Inc.; the head office of the Filer is located in the province of British Columbia;
 - 2. the Filer's authorized capital consists of 40,000,000 shares divided into 25,000,000 Common Shares, 12,500,000 Class A Preferred Shares and 2,500,000 Class B Preferred Shares, of which 6,772,001 Common Shares are issued and outstanding and 2,000,000 Class B Preferred Shares are issued and outstanding;
 - 3. the Filer is a reporting issuer or the equivalent in the Jurisdictions and is currently subject to the Cease Trade Orders in each of the Jurisdictions as a result of its failure to file financial statements; the last financial statements filed by the Company on SEDAR were the audited annual financial statements for the years ended November 30, 2004 and 2003, filed on October 6, 2005;
 - 4. the Filer also remains in default of certain other continuous disclosure requirements under the Legislation and the underlying regulations; the Company made its last filing on SEDAR on November 16, 2005;

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5. during the 2005 Meeting, the shareholders approved certain amendments to the attributes of the Class A Preferred Shares making the Class A Preferred Shares redeemable at the option of the Filer; the redemption price was fixed at \$.025 per share plus all declared and unpaid dividends accrued thereon as at December 31, 2005;
6. in December 2005 the Filer took the corporate steps necessary to redeem the Class A Preferred Shares;
7. in May 2007, the Filer received partial revocation of the Cease Trade Orders from each Decision Maker in the Jurisdictions solely for the purpose of allowing it to carry out the Share Redemption:
 - (a) British Columbia: Partial Revocation Order dated May 18, 2007;
 - (b) Manitoba: Order No. 5367 dated May 22, 2007;
 - (c) Québec: Decision No. 2007-MC-0997 dated May 18, 2007; and
 - (d) Ontario: Order dated May 18, 2007;
8. the Share Redemption has been completed;
9. 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 and less than 51 security holders in total in Canada; specifically, the Common Shares are held by one Ontario resident shareholder and the Class B Preferred Shares are held by one BC resident shareholder;
10. no securities of the Filer are currently traded on a marketplace as defined by National Instrument 21-101 *Marketplace Operations*;
11. the Filer does not intend to seek financing by way of a prospectus offering of its securities in Canada; and
12. the Filer has requested that the Cease Trade Orders be revoked concurrently with the granting of the Exemptive Relief Sought.

Decision

- ¶ 4 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.

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The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted.

Martin Eady, CA
Director, Corporate Finance
British Columbia Securities Commission