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Headnote

1996 Securities Act s. 48,76 Corp Acquisitions & Reorgs - Exemption from s. 34(1)(a) requirement to be registered as a dealer for a trade and s. 61 requirement to file a prospectus for a distribution in connection with a corporate acquisition or reorganization - Trades in securities of an issuer for the acquisition of an asset by the issuer's subsidiary - The asset is an interest in a resource property; in consideration for the issuer's securities, the owner of the asset will transfer the asset to the issuer's wholly-owned subsidiary

Exemption Order

MAG Silver Corp.

Sections 48 and 76 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 MAG Silver Corp. (MAG) applied for an exemption from the requirements to be registered to trade and to file and obtain receipts for a preliminary prospectus and prospectus in sections 34(1)(a) and 61 of the Act (the registration and prospectus requirements) for certain intended trades.

Representations

- ¶ 2 MAG represents that:
1. it was incorporated in British Columbia on April 21, 1999;
 2. its authorized share capital consists of 1,000,000,000 common shares without par value, of which 29,474,443 common shares are issued and outstanding as at July 6, 2005;
 3. it is a reporting issuer under the Act and is not in default of any requirements of the Act or the *Securities Rules*, B.C. Reg. 194/97;
 4. its shares are listed for trading on the TSX Venture Exchange (the Exchange);

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5. it is the recorded owner of 99% of the issued and outstanding Class I shares of Minera Lagartos, S.A. de C.V. (Lagartos); the remaining 1% of the issued Class I shares of Lagartos is owned by Dave Pearce, a director of MAG, in trust for MAG; Lexington Capital Group Inc., the 100% owned subsidiary of MAG, owns 99% of the issued Class II shares of Lagartos and Jose Ruiz holds the remaining 1% of the issued Class II shares of Lagartos, in trust for MAG; as a result, MAG effectively has 100% beneficial ownership of Lagartos;
6. Lagartos is a company incorporated under the laws of the Republic of Mexico and is not a reporting issuer under the Act;
7. MAG and Lagartos entered into an agreement dated February 26, 2004 (the Adargas agreement) with Minera Cascabel, S.A. de C.V. (Cascabel), under which Cascabel granted to Lagartos an option to acquire a 100% interest in certain properties (the Adargas property), subject to a 2.5% net smelter returns royalty;
8. under the Adargas agreement, Lagartos is obligated to make the following payments to Cascabel (the Adargas property payments):
 - (a) \$75,000.00 (US) plus the corresponding value added tax (IVA) on or before July 26, 2005;
 - (b) \$125,000.00 (US) plus the corresponding IVA on or before July 26, 2006;
 - (c) \$175,000.00 (US) plus the corresponding IVA on or before July 26, 2007;
 - (d) \$250,000.00 (US) plus the corresponding IVA on or before July 26, 2008; and
 - (e) \$350,000.00 (US) plus the corresponding IVA on or before July 26, 2009;
9. the Adargas agreement provides that, on behalf of Lagartos, MAG may issue common shares of MAG to satisfy up to 50% of the Adargas property payments; the price for the MAG common shares will be the average price of MAG shares for the 30 calendar days preceding payment;
10. MAG and Lagartos entered into an agreement dated April 5, 2004 (the Cinco de Mayo agreement) with Cascabel, under which Cascabel granted to Lagartos an option to acquire a 100% interest in certain properties (the Cinco de Mayo property), subject to a 2.5% net smelter returns royalty;

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11. under the Cinco de Mayo agreement, Lagartos is obligated to make the following payments to Cascabel (the “Cinco de Mayo property payments”):
 - (a) \$75,000.00 (US) plus the corresponding IVA on or before July 26, 2005;
 - (b) \$125,000.00 (US) plus the corresponding IVA on or before July 26, 2006;
 - (c) \$175,000.00 (US) plus the corresponding IVA on or before July 26, 2007;
 - (d) \$250,000.00 (US) plus the corresponding IVA on or before July 26, 2008;
and
 - (e) \$350,000.00 (US) plus the corresponding IVA on or before July 26, 2009;
12. the Cinco de Mayo agreement provides that on behalf of Lagartos, MAG may issue common shares of MAG to satisfy up to 50% of the Cinco de Mayo property payments; the price for the MAG common shares will be the average price of MAG shares for the 30 calendar days preceding payment;
13. the Exchange conditionally approved the issuance of MAG shares to satisfy 50% of the property payments contemplated by the Adargas agreement and the Cinco de Mayo agreement;
14. if MAG held the options to earn interests in the Adargas property and Cinco de Mayo property directly, rather than through its subsidiary, Lagartos, MAG could rely on the registration and prospectus exemptions in sections 45(2)(21) and 74(2)(18) of the Act to distribute its shares as part of the Adargas property payments and Cinco de Mayo property payments; and
15. it obtained an order on July 26, 2004 granting registration and prospectus relief for certain shares to be issued under the Adargas agreement and the Cinco de Mayo agreement but that relief did not include the shares issuable as part of the Adargas property payments or the Cinco de Mayo property payments.

Order

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders:

1. under sections 48 and 76 of the Act, MAG is exempt from the registration and prospectus requirements for trades of its common shares as Adargas property payments and Cinco de Mayo property payments, provided that MAG files a Form 45-103F4 and pays the required fee within 10 days after each distribution; and

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2. under section 76 of the Act, any trade in the common shares issued under this Order is deemed a distribution unless the conditions in subsection 2.5(2) of Multilateral Instrument 45-102 *Resale of Securities* are satisfied.

¶ 4 July 25, 2005

Noreen Bent
Manager, Corporate Finance
British Columbia Securities Commission