

# 2009 BCSECCOM 99

January 30, 2009

## **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, Alberta, British Columbia, Saskatchewan,  
Manitoba, Quebec, New Brunswick, Nova Scotia,  
Prince Edward Island and Newfoundland & Labrador  
(the Jurisdictions)

and

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

and

In the Matter of  
CDC Acquisition II Corp.  
(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 pursuant to the securities legislation of the Jurisdictions (the Legislation) that the Filer be deemed to have ceased to be 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),

## 2009 BCSECCOM 99

- (a) the Ontario Securities Commission is the principal regulator for the 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**

The decision is based on the following facts represented by the Filer:

1. The Filer was incorporated on October 16, 2008 and is governed by the laws of the Province of Ontario.
2. The Filer's head office is located at 181 Bay Street, Suite 4400, Bay Wellington Tower, Toronto, Ontario M5J 2T3.
3. Pursuant to a plan of arrangement that closed on October 24, 2008 (the Closing Date), the Filer purchased all of the outstanding shares of Q9 Networks Inc. (Q9), which was a reporting issuer on the Closing Date. Of the 20,898,393 shares of Q9 outstanding at the Closing Date, all but 472,236 of such shares were purchased for a purchase price of Cdn \$17.05 in cash. The remaining 472,236 shares were purchased from certain members of management in exchange for shares of the Filer (the Share Exchange).
4. As a result of the Share Exchange, the Filer became a reporting issuer pursuant to the definition of such term as contained in the Legislation of the Jurisdictions.
5. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions in Canada, except in Ontario, where there are 18 shareholders as of the date hereof, and fewer than 51 securityholders in Canada.
6. No securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.
7. The Filer is unable to rely on CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* (CSA Staff Notice 12-307)

## 2009 BCSECCOM 99

since the 18 securityholders of the Filer in Ontario exceed by three the maximum number of securityholders permitted under the simplified procedure contemplated by CSA Staff Notice 12-307.

8. The Filer has no current intention to seek public financing by way of an offering of securities.
9. 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.
10. Upon the grant of the Exemptive Relief Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction in Canada.
11. 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 a Decision Maker to make the decision.

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

Paulette L. Kennedy  
Commissioner  
Ontario Securities Commission

Margot C. Howard  
Commissioner  
Ontario Securities Commission