

# 2004 BCSECCOM 533

## Headnote

Mutual Reliance Review System for Exemptive Relief Application – Securities Act s. 76 – Exemption from the prospectus requirement to permit issuer to rely on the short form offering document system without having a current AIF - issuer permitted to rely on its RTO information circular instead of a CPC information circular

## Applicable British Columbia Provisions

*Securities Act*, R.S.B.C. 1996, c. 418, ss. 61, 76

BC Instrument 45-509 *Short Form Offering of Listed Securities and Units by Qualifying Issuers*

In the Matter of  
the Securities Legislation of  
British Columbia and Alberta (the Jurisdictions)

and

In the Matter of  
the Mutual Reliance Review System  
for Exemptive Relief Applications

and

In the Matter of  
Bishop Gold Inc. (the Filer)

MRRS Decision Document

## Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the prospectus requirement shall not apply to a proposed distribution of securities by the Filer to be conducted pursuant to a short form offering document.
2. Under the Mutual Reliance Review System for Exemptive Relief Applications (the MRRS).
  - 2.1 the Alberta Securities Commission is the principal regulator for this application, and

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- 2.2 this MRRS decision document evidences the decision of each Decision Maker (the Decision).

### Interpretation

3. Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this Decision unless they are otherwise defined in this Decision.

### Representations

4. This Decision is based on the following facts represented by the Filer:
- 4.1 The Filer was continued into Alberta on February 27, 1996 under the name "Bishop Resources Inc." pursuant to the *Business Corporations Act* (Alberta) and changed its name to Bishop Gold Inc. on August 18, 2004.
  - 4.2 The Filer's registered office is located in Calgary, Alberta and its head office is located in Vancouver, British Columbia.
  - 4.3 The Filer is a reporting issuer under the Legislation and is not in default of its obligations under the Legislation.
  - 4.4 The authorized capital of the Filer consists of an unlimited number of common shares (Common Shares) and, as at August 31, 2004, there were 16,111,723 Common Shares issued and outstanding and up to 5,020,888 additional Common Shares issuable upon the exercise of certain options and warrants.
  - 4.5 The Common Shares are listed and posted for trading on the TSX Venture Exchange (the Exchange).
  - 4.6 Pursuant to an acquisition agreement entered into between the Filer and Guardsmen Resources Inc. (Guardsmen), a private British Columbia company, dated July 22, 2003, as amended effective October 31, 2003, March 31, 2004 and August 30 (collectively, the Acquisition Agreement), the Filer agreed to acquire certain epithermal gold prospects from Guardsmen (the Transaction).

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- 4.7 The Transaction constitutes a reverse take-over under Exchange Policy 5.2 *Changes of Business and Reverse Take-overs* (Exchange Policy 5.2).
- 4.8 In conjunction with the Transaction, the Filer proposes to distribute a minimum of 2,500,000 and a maximum of 4,166,667 units (the Short Form Distribution) pursuant to a “Short Form Offering Document” (the Short Form Offering Document) as defined in Alberta Securities Commission Blanket Order 45-507 *Offerings by TSX Venture Short Form Offering Document* (Alberta Order 45-507) and in BC Instrument 45-509 *Short Form Offering of Listed Securities and Units by Qualifying Issuers* (BCI 45-509).
- 4.9 Completion of the Transaction is subject to a number of conditions, including shareholder approval, final acceptance of the Transaction by the Exchange and closing of the Short Form Distribution.
- 4.10 The Filer is unable to rely on the exemption from the prospectus requirement contained in section 3.1 of Alberta Order 45-507 and section 2 of BCI 45-509 for the purposes of distributing the units under the Short Form Offering Document as it has not filed an “AIF” as defined in Alberta Order 45-507 and BCI 45-509 (AIF).
- 4.11 The Filer prepared an information circular in the form required by Exchange Policy 5.2 (the Information Circular) and delivered it to all security holders of the Filer on July 8, 2004.
- 4.12 The Information Circular has been reviewed and approved by the staff at the Exchange and has been filed on SEDAR.
- 4.13 The Information Circular contains financial information for financial years starting before January 1, 2004 but it is not an AIF as clause (a) of the definition of AIF is not applicable because a “current AIF” (Current AIF) as defined in Multilateral Instrument 45-102 *Resale of Securities* effective November 30, 2001 (the Old MI 45-102) does not include an information circular prepared in accordance with the form required by Exchange Policy 5.2.
- 4.14 The disclosure requirements of Exchange Policy 5.2 are substantially the same as the requirements set out in Exchange Policy 2.4 *Capital Pool Companies* (Exchange Policy 2.4) and therefore the Information Circular is substantially similar to an information circular filed pursuant to Exchange Policy 2.4.

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- 4.15 An information circular filed pursuant to Exchange Policy 2.4 that has been reviewed and accepted by the Exchange is one of the items defined as a Current AIF in the Old MI 45-102.
- 4.16 The Short Form Offering Document incorporates the Information Circular by reference.

### **Decision**

- 5. Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met.
- 6. The Decision of the Decision Makers under the Legislation is that the prospectus requirement shall not apply to the Short Form Distribution provided that the Short Form Distribution complies with the requirements of Alberta Order 45-507 and BCI 45-509 other than
  - 6.1 the requirement to have filed an AIF, and
  - 6.2 the requirement to incorporate the AIF into the Short Form Offering Document.

DATED this 14<sup>th</sup> day of September, 2004.

Glenda A. Campbell, Q.C.  
Vice-Chair  
Alberta Securities Commission

Stephen R. Murison  
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