

British Columbia Securities Commission

British Columbia Instrument 45-509

The British Columbia Securities Commission, having considered that to do so would not be prejudicial to the public interest, orders that, effective March 30, 2004, BC Instrument 45-509 entitled *Short Form Offerings of Listed Securities and Units by TSX Venture Listed Issuers* and made on May 2, 2003 is revoked, and the attached BC Instrument 45-509 entitled *Short Form Offerings of Listed Securities and Units by TSX Venture Listed Issuers* is made.

March 26, 2004

Douglas M. Hyndman
Chair

(This part is for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections: *Securities Act*, sections 76 and 171

Other (specify): not applicable

Short form offerings of listed securities and units by TSX Venture listed issuers

Order under section 76 of the *Securities Act*

Definitions

1. In this Instrument

“Act” means the *Securities Act* (British Columbia);

“AIF”,

- (a) for financial years starting before January 1, 2004, means a current AIF as defined in Multilateral Instrument 45-102 *Resale of Securities* effective November 30, 2001, and
- (b) for financial years starting on or after January 1, 2004, means
 - (i) an AIF as defined in NI 51-102,
 - (ii) a prospectus filed in a jurisdiction, other than a prospectus filed under a CPC Instrument, if the issuer has not yet filed or been required to file an AIF or annual financial statements under NI 51-102, or
 - (iii) an information circular or filing statement in respect of a qualifying transaction for a capital pool company under a CPC Instrument, if the issuer has not yet filed or been required to file an AIF or annual financial statements under NI 51-102;

“Commission” means the British Columbia Securities Commission;

“CPC instrument means a rule or regulation of a jurisdiction of Canada, or a rule, regulation or policy of an exchange in Canada, that applies only to capital pool companies;

“Designated Hold Purchaser” means a purchaser that is an insider or promoter of the issuer, the issuer’s underwriter or a member of the underwriter’s professional group (as defined in Multilateral Instrument 33-105 *Underwriting Conflicts*);

“Exchange” means the TSX Venture Exchange/Bourse de croissance TSX Inc.;

“Exchange Policy” means Exchange Policy 4.6 *Public Offering by Short Form Offering Document* and Exchange Form 4H *Short Form Offering Document*, subject to any material amendment that has been filed with the Commission and not objected to by the Commission within 30 days of filing;

“Gross Proceeds” means the gross proceeds that are required to be paid to the issuer for Listed Securities distributed under a Short Form Offering Document;

“Listed Security” means a security of a class listed on the Exchange;

“MD&A”,

(a) for financial years beginning before January 1, 2004, means

(i) a quarterly report in Form 51-901F, or

(ii) a management’s discussion and analysis in Form 51-102F1, and

(b) for financial years beginning on or after January 1, 2004, has the meaning set out in NI 51-102;

“MI 45-102” means Multilateral Instrument 45-102 *Resale of Securities* effective March 30, 2004;

“NI 43-101” means National Instrument 43-101 *Standards of Disclosure for Mineral Projects*;

“NI 51-202” means National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*;

“NI 51-102” means National Instrument 51-102 *Continuous Disclosure Obligations*;

“Prior Offering” means a distribution of securities by an issuer under a Short Form Offering Document that was completed during the 12 month period immediately preceding the date of the Short Form Offering Document;

“Rules” means the British Columbia *Securities Rules*;

“Short Form Offering Document” means a short form offering document that complies with the Exchange Policy, subject to any waiver or variation the Exchange permits;

“Subsequently Triggered Report” means a material change report that must be filed no later than 10 days after a material change under section 85(1)(b) of the Act or Part 7 of NI 51-102 as a result of a material change that occurs after the date the Short Form Offering Document is certified but before a purchaser enters into an agreement of purchase and sale; and

“Warrant” means a warrant of an issuer distributed under a Short Form Offering Document that entitles the holder to acquire a Listed Security, or portion of a Listed Security, of the same issuer.

Exemption

2. Section 61 of the Act does not apply to a distribution by an issuer of securities of its own issue if
 - (a) the issuer has filed an AIF;
 - (b) the issuer is an electronic filer under National Instrument 13-101 *System for Electronic Analysis and Retrieval (SEDAR)*;
 - (c) the issuer has filed
 - (i) all documents that it is required to file under Part 12 of the Act and the Rules, and under Parts 4, 5, 6 and 7 of NI 51-102, including annual and interim financial information, press releases disclosing material changes and material change reports,
 - (ii) all documents required under NI 43-101 and NI 51-101, and
 - (iii) any Subsequently Triggered Report;
 - (d) the distribution is of Listed Securities or units consisting of Listed Securities and Warrants;
 - (e) the issuer has filed with the Exchange, and the Exchange has accepted, a Short Form Offering Document in respect of the distribution, which
 - (i) incorporates by reference the following documents of the issuer filed with the Commission:
 - (A) the AIF,
 - (B) the most recent annual financial statements and the MD&A relating to those financial statements,
 - (C) all unaudited interim financial statements and the MD&A relating to those financial statements, filed after the date of the AIF but before or on the date of the Short Form Offering Document,
 - (D) all material change reports filed after the date of the AIF but before or on the date of the Short Form Offering Document, and
 - (E) all documents required under NI 43-101 and NI 51-101 filed on or after the date of the AIF but before or on the date of the Short Form Offering Document,

- (ii) deems any Subsequently Triggered Report required to be delivered to a purchaser under this Instrument to be incorporated by reference,
 - (iii) grants to purchasers contractual rights of action in the event of a misrepresentation, as required by the Exchange Policy,
 - (iv) grants to purchasers contractual rights of withdrawal, as required by the Exchange Policy, and
 - (v) contains all the certificates required by the Exchange Policy;
- (f) the distribution is conducted in accordance with the Exchange Policy, subject to any waiver or variation the Exchange permits;
- (g) the issuer or the underwriter delivers the Short Form Offering Document and any Subsequently Triggered Report to the purchaser either
 - (i) before the issuer or the underwriter enters into the written confirmation of purchase and sale resulting from an order or subscription for securities being distributed under the Short Form Offering Document, or
 - (ii) not later than midnight on the second business day after the agreement of purchase and sale is entered into;
- (h) the Listed Securities issued under the Short Form Offering Document, when added to the Listed Securities of the same class issued under Prior Offerings, exceed neither
 - (i) the number of securities of the same class outstanding immediately before the issuer distributes securities of the same class under the Short Form Offering Document, nor
 - (ii) the number of securities of the same class outstanding immediately before a Prior Offering;
- (i) the Gross Proceeds under the Short Form Offering Document, when added to the Gross Proceeds from Prior Offerings, do not exceed \$2 million;
- (j) no purchaser acquires more than 20% of the securities distributed under the Short Form Offering Document; and
- (k) no more than 50% of the securities distributed under the Short Form Offering Document are subject to the four month hold period imposed under MI 45-102.

Due diligence report

3. An underwriter who qualifies as a “Sponsor” under the Exchange’s Policy 2.2 *Sponsorship and Sponsorship Requirements* must sign the Short Form Offering Document and comply with Exchange Appendix 4A *Due Diligence Report* in connection with the distribution.

Report on distribution

4. If an issuer distributes a security under a Short Form Offering Document, the issuer must file a report in Form 45-103F4 on or before the 10th day after the distribution, except the issuer may indicate the total number of purchasers by jurisdiction instead of providing the names and residential addresses of each purchaser under Item 5 of the Form 45-103F4.

Resale Restrictions

5. The first trade in a security acquired under this Instrument or any predecessor instrument or order
 - (a) where the seller was, at the time the seller acquired the security, a Designated Hold Purchaser; or
 - (b) that was acquired by any other purchaser in excess of \$40,000is subject to section 2.5 of MI 45-102.