

BRITISH COLUMBIA SECURITIES COMMISSION

BC INSTRUMENT 45-509

On April 3, 2002, the British Columbia Securities Commission made BC Instrument 45-509 entitled "Short Form Offerings of Listed Securities and Units by Qualifying Issuers" (the original instrument).

The Commission, having considered that to do so would not be prejudicial to the public interest, orders that effective May 13, 2002:

1. the attached BC Instrument 45-509 entitled "Short Form Offerings of Listed Securities and Units by Qualifying Issuers" is made; and
2. the original instrument is revoked.

May 13, 2002

Joyce Maykut, Q.C.
Vice 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):-

BC INSTRUMENT 45-509

Short form offerings of listed securities and units by qualifying issuers

Order under section 76 of the *Securities Act*

Definitions

1. In this Instrument

"Act" means the *Securities Act* (British Columbia);

"Commission" means the British Columbia Securities Commission;

"Current AIF" means a current AIF as defined in MI 45-102;

"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 Canadian Venture Exchange Inc. carrying on business as TSX Venture Exchange;

"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;

"MI 45-102" means Multilateral Instrument 45-102 *Resale of Securities*;

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

"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;

"Qualifying Issuer" means an issuer that meets the requirements of a qualifying issuer as set out in MI 45-102;

"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 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 a Qualifying Issuer of securities of its own issue if

- (a) the issuer has filed a Current AIF;
- (b) the issuer has filed
 - (i) all documents that it is required to file under Part 12 of the Act and the Rules, including annual and interim financial information and annual reports, press releases disclosing material changes and material change reports,
 - (ii) all technical reports and consents required under NI 43-101, and
 - (iii) any Subsequently Triggered Report;
- (c) the distribution is of Listed Securities or units consisting of Listed Securities and Warrants;
- (d) 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 Current AIF,
 - (B) the most recent audited annual financial statements,
 - (C) all unaudited quarterly financial statements, quarterly reports and material change reports filed after the date of the Current AIF but before or on the date of the Short Form Offering Document, and
 - (D) all technical reports and consents required under NI 43-101 filed on or after the date of the Current 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;

- (e) the distribution is conducted in accordance with the Exchange Policy, subject to any waiver or variation the Exchange permits;
- (f) 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;
- (g) 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;
- (h) the Gross Proceeds under the Short Form Offering Document, when added to the Gross Proceeds from Prior Offerings, do not exceed \$2 million;
- (i) no purchaser acquires more than 20% of the securities distributed under the Short Form Offering Document; and
- (j) 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 the form required under section 139 of the Rules on or before the 10th day after the distribution.

Resale Restrictions

5. Any 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 \$40,000

is subject to section 2.5 of MI 45-102.