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July 6, 2007

Headnote

Mutual Reliance Review System for Exemptive Relief Applications

Securities Rules, s.162(3) Exemption from the requirement to include a formal valuation of the offeree issuer in an insider bid circular - An issuer wants relief from the requirement to obtain a formal valuation in connection with its insider bid for the outstanding common shares of a target company - The offeror has not had any board or management representation with the target company in the last 12 months; the offeror does not have access to any material information concerning the target company or its securities that have not been publicly disclosed; the offeror can rely on exemptions from the requirement to obtain a valuation and disclose prior valuations in OSC Rule 61-501 or Québec Policy Q-27

Securities Act s. 114(2) Takeover Bids - Exemption from the formal take over bid requirements in Part 13 of the Securities Act - Issuer needs relief from the requirement in s. 107(1) of the *Securities Act* (British Columbia) that all holders of the same class of securities must be offered identical consideration - Under the bid, Canadian resident shareholders may receive shares, cash, or a combination of both; U.S. resident shareholders will receive substantially the same value as Canadian shareholders, in the form of cash paid to the U.S. shareholders based on the proceeds from the sale of their shares; the number of shares held by U.S. residents is de minimis; and the U.S. does not have an identical consideration requirement

Applicable British Columbia Provisions

Securities Rules, s. 162(2), 162(3)

Securities Act, R.S.B.C. 1996, c. 418, ss. 107(1), 114(2)

In the Matter of
the Securities Legislation of
Alberta, British Columbia, Saskatchewan, Manitoba, Ontario,
Nova Scotia, Québec and Newfoundland & Labrador
(the Jurisdictions)

and

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

and

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In the Matter of
Amalgamated Income Limited Partnership
(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:
 - (a) in all of the Jurisdictions, except for Ontario and Quebec, the Filer be exempt from the requirement under the Legislation that the take-over bid circular in respect of an "insider bid" contain a summary of a valuation of the offeree issuer (the Valuation Requirement) in connection with the offer (the Offer) of the Filer to purchase all of the issued and outstanding partnership units (the Deer Valley Units) of Deer Valley Shopping Centre Limited Partnership (Deer Valley) not currently owned by the Filer or its joint offerors; and
 - (b) in all of the Jurisdictions, the Filer be exempt from the requirement in the Legislation to offer identical consideration to all holders of the class of securities subject to a take-over bid (the Identical Consideration Requirement) to all holders of the same class of securities that are subject to a take-over bid in connection with the Offer of the Filer (the Requested Identical Consideration Relief).
2. Under the Mutual Reliance Review System for Exemptive Relief Applications (the System):
 - (a) the Alberta Securities Commission is the principal regulator for this application; and
 - (b) this MRRS decision evidences the decision of each Decision Maker.

Interpretation

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

Representations

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

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- (a) The Filer is a limited partnership registered under the *Partnership Act* (British Columbia) and its business consists of (i) investing in and acquiring, directly or indirectly, income generating securities, assets or businesses; and (ii) the holding, management, reorganization and disposition of such securities, assets or businesses, with a view to making a profit. Amalgamated Income General Partner Ltd., the general partner of the Filer (the General Partner), was incorporated under the *Company Act* (British Columbia), subsequently filed its transition application under the *Business Corporations Act* (British Columbia) and its business is limited to the management of the business of the Filer.
- (b) The Filer is a reporting issuer or has equivalent status in all the provinces and territories of Canada.
- (c) The consideration under the Offer will consist of, at the election of the security holder of Deer Valley, 1,000 limited partnership units of the Filer (the Amalgamated LP Units) or cash in the amount estimated not to exceed \$7,000.00, subject to the maximum available cash amount of \$4,550,000 (the Maximum Cash Amount), in exchange for each Deer Valley Unit tendered under the Offer.
- (d) The Amalgamated LP Units are posted and listed for trading on the Toronto Stock Exchange (TSX).
- (e) The local securities regulatory authorities in each of the provinces of British Columbia, Saskatchewan, Manitoba, Ontario and Quebec have issued orders in accordance with each of their respective legislation, providing that all trading in the securities of Deer Valley cease until Deer Valley files the required records referred to in each respective order (collectively, the Cease Trade Orders).
- (f) The Filer has applied in each of the provinces of British Columbia, Saskatchewan, Manitoba, Ontario and Quebec for orders to vary the Cease Trade Orders (the Partial Revocation Orders) for the purposes of, among other things, the making of the Offer, the tendering of the Deer Valley Units to the Offer by the securityholders of Deer Valley and the taking up and paying for the tendered Deer Valley Units by the Filer.
- (g) The Partial Revocation Orders will be issued prior to the mailing of the Offer circular (the Circular).

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- (h) The Filer beneficially owns approximately 10.08% of the outstanding Deer Valley Units.
- (i) Because the Filer beneficially owns more than 10% of the Deer Valley Units, the Offer technically is an "insider bid" for the purposes of the Legislation.
- (j) The Offer is an unsolicited offer and the Filer lacks access to relevant information that would enable it to satisfy the Valuation Requirement.
- (k) None of the Filer or the General Partner has, or has ever had, any board or management representation in respect of Deer Valley or Deer Valley General Partner Ltd., the general partner of Deer Valley, or Qualico Developments West Ltd., or, after reasonable inquiry, has knowledge of any material information concerning Deer Valley or its securities that has not been generally disclosed.
- (l) In making the Offer in Ontario and Québec, the Filer intends to rely on the exemptions available from the equivalent of the Valuation Requirement in connection with an "insider bid" in subparagraph 2.4(1) 2 of Ontario Securities Commission Rule 61-501 *Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions* (Rule 61-501) and subparagraph 2.4(1) 2 of Autorité des marchés financiers Regulation Q-27 *Respecting Protection of Minority Unitholders in the Course of Certain Transactions* (Q-27).
- (m) The Circular provides relevant disclosure in order to enable the Filer to rely on the exemptions in Rule 61-501 and Q-27.
- (n) The Filer intends to mail the Circular on July 6, 2007.
- (o) The amended limited partnership agreement of the Filer, dated February 21, 2005 (the Amalgamated LP Partnership Agreement), provides that Amalgamated LP Units shall not be held or beneficially owned, directly or indirectly, by any person who is a "non-resident" of Canada, any person in which an interest would be a "tax shelter investment" or, if a partnership, that is not a "Canadian partnership", as such terms are defined in the *Income Tax Act* (Canada) (collectively, Non-Residents).
- (p) Approximately 2.72% of the issued and outstanding Deer Valley Units are currently held by Non-Residents (the Non-Resident Unitholders).

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- (q) Due to the prohibition on ownership of Amalgamated LP Units by Non-Residents as provided in the Amalgamated LP Partnership Agreement, the Filer is unable to issue the Amalgamated LP Units to the Non-Resident Unitholders in connection with the Offer, as any such issuance would be in breach of the Amalgamated LP Partnership Agreement and jeopardize the status of the Filer as a “Canadian partnership” under applicable Canadian tax legislation thereby exposing the limited partners of the Filer to adverse tax consequences under such legislation.
- (r) For Non-Resident Unitholders the Filer proposes to issue and deliver to the depositary designated under the Offer (the Depositary) the Amalgamated LP Units on behalf of Non-Resident Unitholders to be sold on their behalf by a registered broker or investment dealer retained by the Depositary on the TSX through an orderly sale and the net cash proceeds (after paying brokerage commissions and applicable withholding taxes) will be remitted to Non-Resident Unitholders who tender their Deer Valley Units pursuant to the Offer.
- (s) Any sale of Amalgamated LP Units described in the paragraph (r) above will be completed as soon as commercially reasonable following the date on which the Filer takes up the Deer Valley Units tendered by Non-Resident Unitholders under the Offer.
- (t) The Circular and letter of acceptance and transmittal to be prepared by the Filer and sent to all holders of Deer Valley Units will disclose the procedure described in section (r) to be followed for the Non-Resident Unitholders who tender their Deer Valley Units pursuant to the Offer.
- (u) Except to the extent that relief from the Identical Consideration Requirement and Valuation Requirement is granted, the Offer will otherwise be made in compliance with the requirements under the Legislation governing take-over bids.

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. In all Jurisdictions, the decision of the Decision Makers under the Legislation is that, in connection with the Offer, the Requested Identical Consideration Relief is granted so that Non-Resident Unitholders who elect to receive Amalgamated LP Units or who are entitled to receive Amalgamated LP Units due to pro-rationing resulting from the Maximum Cash Amount being

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exceeded, will instead receive cash proceeds from the sale of those Amalgamated LP Units in accordance with the procedure set out in paragraph (r).

William S. Rice, QC, Chair
Alberta Securities Commission

Glenda A. Campbell, QC, Vice-Chair
Alberta Securities Commission

7. In all Jurisdictions, except in Ontario and Quebec, the decision of the Decision Makers pursuant to the Legislation is the Requested Valuation Relief is granted provided that the Filer complies with the other requirements in the Legislation applicable to formal take-over bids made by insiders including the requirement to provide the relevant disclosure in the Circular to enable the Filer to rely on the exemptions under Rule 61-501 and Q-27.

Blaine Young
Associate Director, Corporate Finance
Alberta Securities Commission