

2012 BCSECCOM 58

February 23, 2012

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 51-102 *Continuous Disclosure Obligations*, section 13.1 – An issuer wants relief from the requirement to include prospectus-level disclosure in an information circular to be circulated in connection with an arrangement, reorganization, acquisition or amalgamation - The issuer is gifting to its shareholders shares of a reporting issuer it received as consideration for the sale of certain non-core assets - Shareholders will not be voting on the asset sale - The distribution of the shares is being bundled with a statutory plan of arrangement under which the issuer is spinning out a separate entity - But for a tax benefit to the issuer's shareholders, the issuer could have distributed the shares in a way in which prospectus-level disclosure was not required

Applicable Legislative Provisions

National Instrument 51-102 *Continuous Disclosure Obligations*, s. 13.1
Form 51-102F5 *Information Circular*, s. 14.2

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

and

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

and

In the Matter of
Mawson Resources Limited
(the Filer)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under

2012 BCSECCOM 58

the securities legislation of the Jurisdictions (the Legislation) for exemptive relief from the requirement to include prospectus-level disclosure of Tournigan Energy Ltd. (Tournigan) in the information circular to be sent to the Filer's security holders in connection with the Filer's plan of arrangement (the Exemption Sought).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

- ¶ 3 This decision is based on the following facts represented by the Filer:
- 1. the Filer is a corporation that was incorporated on March 10, 2004 under the BC Act; the head office of the Filer is located in Vancouver, British Columbia;
 - 2. the Filer has authorized capital consisting of 100,000,000 common shares (Common Shares), of which 51,670,753 were outstanding as at January 18, 2012;
 - 3. the Filer is a "reporting issuer" within the meaning of applicable securities legislation in British Columbia, Alberta and Ontario;
 - 4. the Filer's Common Shares are listed on the Toronto Stock Exchange;
 - 5. the Filer is not in default of securities legislation in any jurisdiction;
 - 6. Darwin Resources Corp. (Darwin) was incorporated on August 23, 2011; it is a wholly-owned subsidiary of the Filer;

2012 BCSECCOM 58

7. the Filer proposes to carry out a spin-out transaction pursuant to which its Peruvian assets will be spun out into Darwin (the Spin Out); the Spin Out will be carried out under a statutory plan of arrangement (the Arrangement) under section 288 of the *Business Corporations Act* (British Columbia) (the BCBCA); as a result of the Spin Out, each shareholder of Common Shares of the Filer (a Shareholder) will retain its existing pro-rata interest in the Filer and will become a shareholder of Darwin;
8. prior to the Spin Out, the Filer will carry out an asset sale (the Asset Sale) pursuant to which certain non-core uranium assets (the Assets) will be sold to Tournigan; the Assets represent approximately 4% of the market capitalization of the Filer; as consideration for the Assets, Tournigan will issue to the Filer common shares of Tournigan equal to approximately 20.5% of Tournigan's issued and outstanding share capital (the Tournigan shares);
9. while the Tournigan shares are held by the Filer, the Filer will not have the right to vote the Tournigan shares;
10. under the Legislation, the Filer could distribute the Tournigan shares to the Shareholders as a dividend in specie or distribution out of surplus; however, this would cause a tax burden to the Shareholders; instead, the Filer proposes to pass the Tournigan shares onto Shareholders as a gift or bonus (the Tournigan share distribution); the Tournigan share distribution will be bundled with the Spin Out under the Arrangement;
11. Tournigan is a TSX Venture Exchange listed issuer, reporting in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and the Yukon; to the knowledge of the Filer, Tournigan is not in default of securities legislation in any jurisdiction;
12. the Filer does not control Tournigan and Tournigan is not a party to the Arrangement;
13. the Arrangement is subject to, among other things, the favourable vote of 66 2/3% of the Shareholders at a special meeting and approval of the Supreme Court of British Columbia;
14. the Asset Sale is not subject to Shareholder approval under the Articles of the Filer, the BCBCA, the policies of the TSX or Canadian securities laws; the Asset Sale will occur regardless of whether the Arrangement is approved by the Shareholders;

2012 BCSECCOM 58

15. in advance of the special meeting, the Filer will disseminate an information circular to Shareholders on or around February 29, 2012 (the Circular);
16. under item 14.2(c) of Form 51-102F5, the Filer is required to include prospectus-level disclosure of the Filer, Darwin and Tournigan in the Circular;
17. the Filer proposes not to include prospectus-level disclosure of Tournigan in the Circular; the Circular will include all other information required by Form 51-102F5; the Circular will describe the Tournigan share distribution, including background information on the Asset Sale, a description of the Tournigan shares, details of the mechanics of the Tournigan share distribution and a description of Tournigan based on information known by the Filer; and
18. the Circular will direct Shareholders to Tournigan's public disclosure record on SEDAR and, in particular, the following documents of Tournigan: (i) the audited annual financial statements for year ended September 30, 2011; (ii) the management discussion and analysis for the year ended September 30, 2011; (iii) the annual information form for the year ended September 30, 2011 dated January 9, 2012; and (iv) the management information circular for the annual and special meeting of its shareholders to be held on Wednesday, February 29, 2012 containing information as at January 25, 2012.

Decision

- ¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

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

Martin Eady, CA
Director, Corporate Finance
British Columbia Securities Commission