

2008 BCSECCOM 182

March 31, 2008

Headnote

Mutual Reliance Review System for Exemptive Relief Applications

National Instrument 51-102 *Continuous Disclosure Obligations*, s. 13.1 – General – An issuer wants relief from the requirements in NI 51-102 to prepare, file and deliver annual financial statements, MD&A, and annual information form for a particular period; the issuer will complete an arrangement under corporate legislation on or shortly after the date it is required to file its annual financial statements, MD&A and AIF; under the arrangement, the issuer's security holders will exchange their securities for securities of another reporting issuer and the issuer will become a wholly-owned subsidiary of that other reporting issuer; the issuer's security holders have already approved the arrangement in accordance with the requirements of corporate legislation.

Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*, s.4.5 – An issuer wants relief from the requirement in part 2 of MI 52-109 to file annual certificates - The issuer has applied for and received an exemption from filing its annual financial statements, MD&A and AIF.

Applicable British Columbia Provisions

National Instrument 51-102, ss. 4.1, 4.2, 5.1, 6.1, 6.2, 13.1

Multilateral Instrument 52-109, ss. 2.1, 2.2, 4.5

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

and

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

and

In the Matter of
Cusac Gold Mines Ltd. (the Issuer)

MRRS Decision Document

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Background

- ¶ 1 The local securities regulatory authority or regulator (each a Decision Maker) in each of the Jurisdictions has received an application from the Issuer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Issuer be exempted from the requirements of
- (a) National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) to prepare, file and, where appropriate, deliver to shareholders annual financial statement and audit report (together the Annual Statements), management's analysis and discussion and related annual information form for the year ended December 31, 2007 (with the Annual Statements, collectively referred to as the Annual Filings), and
 - (b) Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) to file certificates (the Officer Certificates) relating to the Annual Statements (together with the Annual Filings the Requested Relief).

Application of Principal Regulator System

- ¶ 2 Under the Mutual Reliance Review System for Exemptive Relief Applications:
- (a) the British Columbia Securities Commission is the principal regulator for this application; and
 - (b) this MRRS decision document 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 This decision is based on the following facts represented by the Issuer:
1. the Issuer is a corporation organized under the laws of British Columbia, with its head office at 1600 – 409 Granville Street, Vancouver, British Columbia, V6C 1T2, and is a reporting issuer in British Columbia and Ontario;
 2. the Issuer's shares are listed on the Toronto Stock Exchange (the Exchange) and are also quoted on the OTC Bulletin Board;
 3. on November 9, 2007 Hawthorne Gold Corp. (Hawthorne) and the Issuer announced the proposed plan of arrangement (the Arrangement), pursuant to

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which Hawthorne will acquire all issued shares and convertible securities of the Issuer in exchange for shares of Hawthorne;

4. the interim court order for the Arrangement was obtained from the British Columbia Supreme Court on February 15, 2008;
5. meetings of debentureholders and shareholders of the Issuer were held March 14, 2008, at which meetings such securityholders approved the Arrangement;
6. details regarding the meetings and the Arrangement, as well as the recent financial difficulties of the Issuer, are set out in the Issuer's information circular dated February 13, 2008 which was distributed to its securityholders and filed on SEDAR;
7. the final court order approving the Arrangement was obtained from the British Columbia Supreme Court on March 25, 2008;
8. the Issuer received one notice of dissent from a shareholder pursuant to the provisions of the *Business Corporations Act* (British Columbia) and has agreed with that shareholder as to the fair market value to be paid to her for her shares of the Issuer;
9. letters of transmittal are expected to be mailed to the Issuer's shareholders during the week of March 24, 2008;
10. the Issuer intends to file the required notice as soon as possible after closing of the Arrangement in order to withdraw its shares from quotation on the OTC Bulletin Board;
11. the conditional approval letter from the Exchange states that it is anticipated that delisting of the Issuer's shares will occur two to three business days after the later of mailing of transmittal letters and submission to the Exchange of the usual closing documentation;
12. it is anticipated that the closing of the Arrangement will occur on or about March 31, 2008 and the Issuer anticipates forwarding closing documentation to the Exchange as soon as practicable thereafter to effect the delisting;
13. as a result of the Arrangement, the Issuer will become a wholly-owned subsidiary of Hawthorne;
14. it is intended that, as soon as practicable after the closing of the Arrangement and the delisting of its shares, the Issuer will voluntarily surrender its reporting

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issuer status in British Columbia under BC Instrument 11-502 and will apply to the Ontario Securities Commission for an order that the Issuer has ceased to be a reporting issuer in Ontario;

15. pursuant to NI 51-102 and MI 52-109 the Issuer is required to make the Annual Filings, and the Officer Certificate thereon, within 90 days after the year end;
16. although the Issuer is endeavouring to prepare its annual financial statements for the year ended December 31, 2007, it is unlikely that those statements will be prepared, or the audit concluded, by the end of March, 2008 and the Issuer expects that it will be unable to finalize its Annual Statements, prepare its annual information form and make the Annual Filings and Officer Certificate within the time required under the Legislation;
17. the Issuer is experiencing significant financial difficulties and is seeking ways to conserve cash and limit expenses and the Requested Relief would allow the Issuer to limit its expenses related to year-end reporting.

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.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted.

Martin Eady
Director, Corporate Finance
British Columbia Securities Commission