

2006 BCSECCOM 379

Headnote

Securities Act s. 48 Dealer - Exemption from s.34(1)(a) requirement to be registered as a dealer to trade securities - A person not registered as a dealer in BC wants to do a trade that requires a BC registered dealer - The filer is a corporation, all of whose directors, officers and shareholders are registered salespersons of a registered mutual fund dealer, family members of those salespersons, corporations directly controlled by the registered salespersons or their family members or trusts whose beneficiaries are those salespersons or their family members; the filer and the registered mutual fund dealer have a written contract under which the dealer is liable for the acts and omissions of the filer that relate to securities business.

Exemption Order

Duncan Davies Financial Services Inc.

Section 48 of the *Securities Act*, RSBC 1996, c. 418

Background

- ¶ 1 Duncan Davies Financial Services Inc. (the Filer) has applied for an exemption from the dealer registration requirement in section 34(1)(a) of the Act to permit the Filer to receive commissions and fees from the Performa Financial Group Limited (Performa) for services provided by Duncan Davies and Cynthia Davies, registered salespersons of Performa.

Representations

- ¶ 2 The Filer represents that:
1. it is incorporated under the *Business Corporations Act* (British Columbia);
 2. Duncan Davies and Cynthia Davies are the sole directors and officers of the Filer;
 3. the only shareholders of the Filer are Duncan Davies, Cynthia Davies and the Davies Family Trust;
 4. the trustees of the Davies Family Trust is Duncan Davies;
 5. the beneficiaries of the Davies Family Trust are: Cameron Andrew Vaughan Davies, Patrick Grant Davies, Rachel Rebecca Heather Davies, Duncan Davies, Cynthia Elizabeth Mary Davies, plus any other corporation designated by the trustee and controlled directly by any of the beneficiaries or

2006 BCSECCOM 379

any other trust established for the sole benefit of any beneficiary or combined group of beneficiaries;

6. Performa is registered under the Act and is a member of the Mutual Fund Dealers Association of Canada;
7. Duncan Davies and Cynthia Davies are each registered under the Act as salespersons of Performa;
8. the Filer and Performa have a written contract under which Performa is liable for the acts and omissions of the Filer that relate to trading or advising in securities;
9. the Filer cannot rely on the exemption from the dealer registration requirement in BC Instrument 32-503 *Registration Exemption for Salespersons' Corporations* because the shareholders of the Filer are not limited to salespersons of Performa and their family members;

Order

¶ 3 Considering that it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that the Filer is exempt from the dealer registration requirement, provided that the Filer:

- (a) has a written contract with Performa under which Performa is liable for the acts and omissions of the Filer that relate to trading or advising in securities; and
- (b) the Filer's directors, officers and shareholders are:
 - (i) registered salespersons of Performa,
 - (ii) family members of those salespersons,
 - (iii) trusts of which all the beneficiaries are those salespersons or their family members, or
 - (iv) corporations directly controlled by those salespersons or their family members.

¶ 4 June 15, 2006

L.E. Evans, CA
Director, Capital Markets Regulation