

# 2002 BCSECCOM 278

ORDER UNDER SECTIONS 48 AND 76 OF THE SECURITIES ACT, R.S.B.C. 1996, c. 418

FORMATION CAPITAL CORPORATION

## Background

[para 1]

Formation applied for an exemption from the requirements to be registered to trade and obtain receipts for a preliminary prospectus and prospectus in sections 34(1)(a) and 61 of the Act (the Registration and Prospectus Requirements), for certain intended trades;

## Representations

[para 2]

Formation represents that:

1. it is incorporated under the laws of British Columbia, is a reporting issuer under the Act and is not in default of any requirement of the Act or the *Securities Rules*, B.C. Reg. 194/97;
2. its common shares trade on The Toronto Stock Exchange (TSE);
3. it is proposing to close a private placement of units which will be sold to purchasers resident outside of Canada; the units will, in aggregate, consist of 7.5%, secured, convertible (at \$0.25 per share), redeemable debentures (Debentures) in the total principal amount of \$800,000 and 2,666,400 non-transferable common share purchase warrants (Warrants), each Warrant entitling the holder to purchase one common share of Formation for five years at \$0.30 per common share;
4. in connection with the private placement, it has agreed to: (i) pay to Clubb Capital Ltd., a United Kingdom based corporate finance company, a commission consisting of a \$60,000 Debenture (Clubb Debenture) and 199,980 Warrants (Clubb Warrants, together with the Clubb Debenture, the Fee Units), and (ii) issue to Clubb Capital 320,000 Warrants (Fee Warrants);
5. Clubb Capital is not an insider of Formation or an associate of an insider of Formation; and
6. on February 27, 2002 and March 25, 2002, the TSE conditionally approved the issuance of the Fee Units and the Fee Warrants;

## Order

[para 3]

Because it is not prejudicial to the public interest, the Executive Director orders that:

1. under sections 48 and 76 of the Act, the trades of Fee Units and Fee Warrants by Formation to Clubb Capital are exempt from the Registration and Prospectus Requirements, provided that Formation:
  - (a) provides Clubb Capital with a copy of this order; and

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(b) files a Form 45-902F on or before the 10<sup>th</sup> day after each distribution of the Fee Units and Fee Warrants to Clubb Capital;

2. under section 76 of the Act, any trade in the Clubb Debenture, the Clubb Warrants, the Fee Warrants or common shares of Formation acquired by Clubb Capital on conversion of the Clubb Debenture or exercise of the Clubb Warrants or Fee Warrants is deemed to be a distribution, unless the conditions in section 2.10 or subsections (2) or (3) of section 2.5 of Multilateral Instrument 45-102 *Resale of Securities* are satisfied.

[para 4]  
April 2, 2002

Derek E. Patterson  
Manager