

2002 BCSECCOM 930

Headnote

Relief from the requirement to be registered to advise for an Ontario registrant advising one sophisticated investor in British Columbia

Exemption Order

Mavrix Fund Management Inc.

Section 48 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 Mavrix applied for an exemption from the requirement in section 34(1)(c) of the Act to be registered as an adviser (the adviser registration requirement) in order to provide securities advice, including portfolio management services (securities advice), to a client resident or otherwise located in British Columbia.

Representations

- ¶ 2 Mavrix represents that:
1. it was incorporated under the laws of Ontario and its head office is in Ontario;
 2. it is registered under the *Securities Act* (Ontario) as an adviser in the categories of investment counsel and portfolio manager, and as a dealer in the category of limited market dealer;
 3. it is the trustee and manager of the eleven Mavrix Mutual Funds and Mavrix Emerging Companies Fund, and provides investment advice, including portfolio management services, to those funds;
 4. its individual advisers are Malvin C. Spooner, William Shaw and Raymond M. Steele, each of whom is an officer and director of Mavrix, and is registered under the *Securities Act* (Ontario) as an adviser in the categories of investment counsel and portfolio manager;
 5. it intends to provide securities advice to Contrarian Resource Fund 2002 Management Limited (Contrarian Management), a company incorporated under the laws of British Columbia, and is a sophisticated investor;
 6. Contrarian Management is the general partner of Contrarian Resource Fund 2002 Limited Partnership (the Fund), a British Columbia limited partnership which has financial assets of approximately \$5,000,000;

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7. it has advised Contrarian Management as follows:
 - (a) Mavrix is not registered as an adviser under the Act;
 - (b) Mavrix may not be subject to the same proficiency requirements as other persons registered under the Act; and
 - (c) Contrarian Management may not have the same protections that it would have if Mavrix were registered as an adviser under the Act;
8. it does not:
 - (a) maintain offices or a sales force within British Columbia;
 - (b) have any other clients resident in British Columbia; or
 - (c) intend to actively solicit other clients within British Columbia;
9. in providing the securities advice to Contrarian Management, it would, without this order, be required to be registered or otherwise exempt from registration as an adviser under the Act; and
10. there are no exemptions from the adviser registration requirement that it can rely on to provide the securities advice to Contrarian Management.

Order

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that Mavrix is exempt from the adviser registration requirement for securities advice provided to Contrarian Management, provided that it maintains its registration as an adviser under the *Securities Act* (Ontario) in good standing.

¶ 4 November 13, 2002.

Noreen Bent
Manager