

2007 BCSECCOM 710

Headnote

The target company has more than 50 shareholders; the bid will satisfy all other conditions required for an exempt issuer bid under s. 99(g); the issuer bid is an integral part of a transaction to facilitate the sale of certain assets of the target company; the issuer bid is not proposed for the purpose of providing preferential treatment to one shareholder; the repurchased shares will be cancelled immediately after the repurchase which will improve the equity position of the shareholders of the target company

Exemption Order

Catalyst Healthcare Ltd.

Section 114(2)(c) of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

Catalyst Healthcare Ltd. (Catalyst) applied for an exemption from the requirements of sections 105 to 108 and 110 of the Act (the issuer bid requirements) in connection with the proposed acquisition by Catalyst of its Common Shares from a current shareholder.

Representations

1. Catalyst is incorporated under the Alberta Business Corporations Act; its head office is located in Kelowna, British Columbia;
2. Catalyst is not a reporting issuer or the equivalent in any jurisdiction of Canada;
3. the authorized share capital of Catalyst consists of:
 - (a) an unlimited number of Common Shares;
 - (b) an unlimited number of First Preferred Shares, issuable in series; and
 - (c) an unlimited number of Second Preferred Shares, issuable in series, of which 10,684,228 Common Shares (the Shares) and no First Preferred Shares or Second Preferred Shares were issued and outstanding as at September 24, 2007;
4. the Shares are not listed or quoted on any stock exchange or other market;

2007 BCSECCOM 710

5. Catalyst currently has 90 registered securityholders, excluding holders who are employed by Catalyst or who were formerly in the employment of Catalyst;
6. Paragon Pharmacies Limited (Paragon), a British Columbia company whose head office is located in Kelowna, British Columbia, holds 2,800,000 Shares (the Paragon Shares), representing 26.2% of the issued and outstanding Shares;
7. Catalyst has two business lines: software sales and wholesale pharmacy; the wholesale pharmacy business is operated through a wholly-owned subsidiary of Catalyst, West Coast Central Fill Ltd. (West Coast);
8. in the information circular of Catalyst dated May 10, 2007 the shareholders of Catalyst were advised that Catalyst had received offers from other retail pharmacy groups to purchase all of the assets related to the operations of West Coast (the Pharmacy Business), including an offer from Paragon, and at the annual and special meeting of shareholders of Catalyst held on May 31, 2007 the shareholders of Catalyst by special resolution approved the sale of the Pharmacy Business;
9. Catalyst and West Coast are proposing to sell the Pharmacy Business (the Pharmacy Asset Sale) to a wholly-owned subsidiary of Paragon (the Pharmacy Assets Purchaser); the purchase price is to be paid in part by cash and in part through the purchase by and return to Catalyst (the Repurchase) of 1,700,000 of the Paragon Shares (the Repurchased Shares), at an agreed value of \$1.00 per Paragon Share (the Deemed Price);
10. the board of directors of Catalyst has determined that the Pharmacy Asset Sale, including the Repurchase, is in the best interests of Catalyst and its shareholders;
11. the Repurchase is an integral part of the Pharmacy Asset Sale; although Catalyst and the Pharmacy Assets Purchaser have agreed that the Repurchased Shares forming part of the consideration for the Pharmacy Business have an agreed value equal to the Deemed Price, Paragon is not receiving any cash purchase price for the Repurchased Shares; instead, as part of the consideration payable by the Pharmacy Assets Purchaser, the Repurchased Shares are to be purchased by and returned to Catalyst, at a deemed value equal to the Deemed Price; no shareholder other than Paragon will be participating in the Pharmacy Asset Sale;
12. the Repurchase will constitute an issuer bid by Catalyst as defined in section 92(1) of the Act;

2007 BCSECCOM 710

13. no shareholder, including Paragon, is receiving any cash consideration for Shares; although the Repurchase will constitute an issuer bid under the Act, in the circumstances, since no other shareholder is acquiring the Pharmacy Business, it is not practical for Catalyst to offer to acquire Shares from all shareholders on the same terms and conditions as contemplated under the Pharmacy Asset Sale;
14. Paragon and Catalyst have become competitors within the same industry, and the board of directors of Catalyst believes that it is in the best interests of Catalyst and its shareholders that Paragon's ownership of shares of Catalyst be reduced; the Repurchase is being proposed as part of, and to facilitate, the Pharmacy Asset Sale; it is not being proposed for the purpose or with the intention of providing preferential treatment to one shareholder; the Repurchased Shares will be cancelled immediately after the Repurchase, which will improve the equity position of the other shareholders;
15. the board of directors of Catalyst considers the Deemed Price to be below the market value of the Shares, and in the circumstances the Repurchase will not adversely affect the financial position of Catalyst or the shareholders to whom the bid is not extended;
16. the Repurchase cannot be made in reliance upon exemptions from the issuer bid requirements contained in the Act; and
17. the Repurchase could be made in reliance on the exemption from the issuer bid requirements contained in section 99(g) of the Act but for the fact that Catalyst has more than 50 securityholders exclusive of employees and former employees.

Order

Because it considers that to do so is not prejudicial to the public interest, the Commission orders, under section 114(2)(c) of the Act, that Catalyst is exempt from the issuer bid requirements in connection with the Repurchase.

November 26, 2007

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