

2002 BCSECCOM 780

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Compulsory acquisition procedure - exemption from the requirement to file and deliver interim financial statements for the second quarter ended June 30, 2002

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 91

Securities Rules, B.C. Reg. 194/97, ss. 144 and 149

IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO, ALBERTA, BRITISH COLUMBIA AND NOVA SCOTIA

AND

IN THE MATTER OF THE MUTUAL RELIANCE SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF ICEBERG MEDIA.COM INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of Ontario, Alberta, British Columbia and Nova Scotia (the “Jurisdictions”) has received an application from Iceberg Media.com Inc. (the “Filer”) for:

1. a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the requirements contained in the Legislation to make up, certify, prepare, file and send and deliver to the registered holders (the “Shareholders”) of the Filer’s common shares (the “Common Shares”), as the case may be, its interim financial statements and quarterly report, as applicable (the “Interim Financials”) for the second quarter ended June 30, 2002 (the “Second Quarter”);

shall not apply to the Filer; and

2. in Ontario only, an order under Ontario Securities Commission Rule 51-501 – AIF and MD&A (“Rule 51-501”), that the requirements contained in Rule 51-501 to prepare, file and send and deliver to the Shareholders, as the case may be, its interim management’s discussion and analysis of financial condition and results of operations (the “Interim MD&A”) for the Second Quarter

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shall not apply to the Filer.

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers as follows:

1. The Filer was amalgamated under the *Business Corporations Act* (Ontario) (the "OBCA") on December 31, 2001 and its principal and registered office is located at 49 Ontario Street, Suite 400, Toronto, Ontario M5A 2V1.
2. Subsequent to the completion of the Offer (defined and more particularly described below), approximately 91.5% of the outstanding Common Shares are held by Standard Radio Inc. (the "Offeror"), a corporation amalgamated under the laws of the Province of Ontario and a wholly-owned subsidiary of Standard Broadcasting Corporation Limited.
3. The Filer is a "reporting issuer" in each of the Jurisdictions and is not in default of the requirements under the Legislation.
4. The Common Shares are listed for trading on the TSX Venture Exchange (the "TSX Venture").
5. On May 27, 2002, the Offeror made a formal offer (the "Offer") by take-over bid to acquire all the issued and outstanding Common Shares for \$0.05 per Common Share.
6. The Offer was originally set to expire on July 3, 2002 but was extended to July 19, 2002 by a Notice of Extension dated July 5, 2002, and further extended to August 2, 2002 by a Notice of Extension dated July 19, 2002.
7. On July 3, 2002, July 19, 2002 and August 2, 2002, the Offeror acquired a total of 23,845,713 Common Shares, or approximately 89.5% of the Common Shares then outstanding, excluding the 5,964,240 Common Shares held by the Offeror prior to the date of the Offer.
8. As disclosed in the Offer, it has been the intention of the Offeror to pursue other means of acquiring, directly or indirectly, all of the Common Shares not deposited under the Offer (a "Subsequent Acquisition Transaction").

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9. The parties have agreed that the Subsequent Acquisition Transaction will be by way of an amalgamation of the Filer and the Offeror (the "Amalgamation"), with the amalgamated corporation ("Amalco") continuing under the name "Standard Radio Inc."
10. Upon the Amalgamation becoming effective:
 - (a) each Common Share (other than those held by the Offeror and by the Dissenting Shareholders (as defined below)) will be converted into one Class A redeemable preferred share in the capital of Amalco (the "Amalco Preferred Shares");
 - (b) each Common Share held by the Offeror will be cancelled;
 - (c) each common share in the capital of the Offeror issued and outstanding immediately prior to the Amalgamation will be converted into one issued and outstanding common share in the capital of Amalco; and
 - (d) a Dissenting Shareholder will be entitled to be paid the fair value for such Dissenting Shareholder's Common Shares by Amalco and the Common Shares held by such Dissenting Shareholder will be cancelled.
11. The terms of the Amalco Preferred Shares will require Amalco to redeem (the "Redemption") all such shares for \$0.05 per share, subsequent to the conversion referred to in paragraph 10(a) above.
12. The net effect of the Amalgamation and the subsequent Redemption is that Shareholders (other than the Offeror) will receive \$0.05 for each of their Common Shares and cease to be Shareholders of the Filer.
13. To obtain the requisite shareholder approvals for the Amalgamation, a special meeting of the Shareholders will be held on August 28, 2002 (the "Meeting").
14. A management proxy circular and related documentation for the Meeting (the "Meeting Materials") were sent to the Shareholders on August 7, 2002.
15. As set out in the Meeting Materials, the Offeror has a sufficient number of Common Shares to ensure approval of the Amalgamation.
16. In accordance with section 185 of the OBCA, a Shareholder may dissent in respect of the shareholders resolution to approve the Amalgamation (a "Dissenting Shareholder").

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17. Upon the Amalgamation becoming effective, the Common Shares of a Dissenting Shareholder who dissents in accordance with section 185 of the OBCA will be cancelled and the Dissenting Shareholder will be entitled to be paid the fair value for such Common Shares in accordance with section 185 of the OBCA.
18. Upon the Amalgamation becoming effective and the subsequent Redemption being completed, the Filer will be amalgamated with the Offeror, with Amalco continuing as a wholly-owned subsidiary of Standard Broadcasting Corporation Limited. This is anticipated to occur on or about September 1, 2002.
19. The Filer intends to seek to de-list the Common Shares from the TSX Venture shortly after the Amalgamation.
20. Assuming the completion of the Amalgamation and the Redemption, the issuance of this decision will allow the Filer to apply for an order deeming it to have ceased to be a reporting issuer in each of the Jurisdictions.
21. Absent the granting of the relief requested hereby, the Filer would be required to prepare, make up, certify, prepare, file and send and deliver to the Shareholders, as the case may be, the Interim Financials and the Interim MD&A by August 29, 2002.
22. Other than as publicly disclosed, there has been no material change in the financial position of Iceberg as represented in the interim financial statements for the period ending March 31, 2002.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the legislation that provides the Decision Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the requirements contained in the Legislation to make up, certify, prepare, file and send and deliver the Interim Financials to the Shareholders shall not apply to the Filer.

DATED this 29th day of August, 2002.

Paul M. Moore

Robert L. Shirriff

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AND IT IS HEREBY ORDERED by the Director under section 5.1 of Rule 51-501 that the requirements contained in Rule 51-501 to file and send and deliver the Interim MD&A to the Shareholders shall not apply to the Filer.

DATED this 29th day of August, 2002.

John Hughes
Manager, Corporate Finance