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Headnote

Mutual Reliance Review System for Exemptive Relief Application - registration and prospectus relief for issuance of securities by foreign issuer to Canadian employees and related trades under stock ownership plans - first trade registration relief for certain trades outside Canada - issuer bid relief for foreign issuer in connection with acquisition of shares under stock ownership plans - issuer with de minimis Canadian presence

Applicable British Columbia Provisions

Securities Act, R.S.B.C.1996, c. 418, ss. 48, 76 and 114(2)(c)

Multilateral Instrument 45-102 *Resale of Securities*

IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO AND BRITISH COLUMBIA

AND

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

AND

IN THE MATTER OF NUANCE COMMUNICATIONS, INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of Ontario and British Columbia (the “Jurisdictions”) has received an application from Nuance Communications, Inc. (“Nuance” or the “Company”) for a decision pursuant to the securities legislation of the Jurisdictions (the “Legislation”) that

- (i) the requirements contained in the Legislation to be registered to trade in a security (the “Registration Requirement”), and the requirement to file and obtain a receipt for a preliminary prospectus and prospectus (the “Prospectus Requirement”) (the Registration Requirement and the Prospectus Requirement are, collectively, the “Registration and Prospectus Requirements”) will not apply to certain trades in securities of Nuance made in connection with the Nuance Communications, Inc. 2000 Employee Stock Purchase Plan (the “ESPP”) and the Nuance Communications, Inc. 2000 Stock Plan (the “2000 SOP”) (the “SOP” together with the ESPP, the “Plans”);

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- (ii) the Registration Requirement will not apply to first trades of shares (“Shares”) acquired under the Plans executed on an exchange or market outside of Canada; and
- (iii) the requirements contained in the Legislation relating to the delivery of an offer and issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, taking up and paying for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, bid financing, identical consideration and collateral benefits together with the requirement to file a reporting form within 10 days of an exempt issuer bid and pay a related fee (the “Issuer Bid Requirements”) will not apply to certain acquisitions by the Company of Shares pursuant to the Plans in each of the Jurisdictions;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Ontario Securities Commission is the principal regulator for this application;

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

1. Nuance is presently a corporation in good standing incorporated under the laws of the State of Delaware. Nuance’s head office is located in Menlo Park, California.
2. Nuance and affiliates of Nuance (“Nuance Affiliates”) (Nuance and Nuance Affiliates are collectively, the “Nuance Companies”) develop, market and support software that enables enterprises and telecommunications carriers to automate the delivery of information and services over the telephone.
3. The Company is registered with the Securities Exchange Commission (the “SEC”) in the U.S. under the U.S. Securities Exchange Act of 1934 (the “Exchange Act”) and is not exempt from the reporting requirements of the Exchange Act pursuant to Rule 12g 3-2.
4. Nuance is not a reporting issuer in any of the Jurisdictions and has no present intention of becoming a reporting issuer in any of the Jurisdictions.
5. The authorized share capital of Nuance consists of: 250,000,000 shares of common stock (“Shares”) and 0 shares of preferred stock (“Preferred Shares”). As of March 31, 2002, there were 33,383,453 Shares, and 0 Preferred Shares issued and outstanding.

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6. The Shares are quoted on The Nasdaq Stock Market (the “Nasdaq”).
7. Nuance intends to use the services of one or more agents/brokers in connection with the Plans (each an “Agent”). Charles Schwab & Co., Inc. (“Schwab”) has initially been appointed by Nuance to act as Agent for the Plans. Schwab is a corporation registered under applicable U.S. securities or banking legislation to conduct retail trades in securities and is not registered in either Jurisdiction to conduct such trades. Nuance may at any time appoint additional or replacement Agents under the Plans. Any Agent appointed in replacement of, or in addition to, Schwab, if not a registrant in the Jurisdictions, would be registered under applicable U.S. legislation.
8. The role of the Agent may include: (a) disseminating information and materials to Participants (as defined below) in connection with the Plans; (b) assisting with the administration of and general record keeping for the Plans; (c) holding Shares on behalf of Participants, Former Participants (as defined below) and Permitted Transferees (as defined below) in limited purpose brokerage accounts; (d) facilitating Option (as defined below) exercises (including cashless exercises and stock swap exercises) under the Plans; (e) facilitating the payment of withholding taxes, if any, by cash or the tendering or withholding of Shares; (f) facilitating the reacquisition of Awards (as defined below) under the terms of the Plans; and (g) facilitating the resale of Shares issued in connection with the Plans.
9. The purpose of the SOP is to attract and retain the best available personnel, to provide additional incentive to Participants and to promote the success of Nuance's business. The purpose of the ESPP is to provide Participants with an opportunity to purchase Shares of the Company through accumulated payroll deductions.
10. Subject to annual adjustments as described in the Plans, the initial maximum number of Shares that may be issued pursuant to the Plans are: 1,000,000 Shares under the ESPP and 7,747,670 Shares under the SOP.
11. The SOP permit grants of: (a) options on Shares (“Options”) and (b) stock purchases rights for restricted stock (“Stock Purchase Rights”) (Options and Stock Purchase Rights are collectively, “Awards”) to employees, including employee officers and directors of the Nuance Companies (“SOP Participants”).

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12. Under the ESPP, employees of the Nuance Companies (“ESPP Participants”) are offered an opportunity to purchase Shares by means of applying accumulated payroll deductions to the purchase of Shares at a discount price determined in accordance with the terms of the ESPP.
13. Employees of the Nuance Companies eligible to participate in the Plans will not be induced to purchase Shares or to exercise Awards by expectation of employment or continued employment.
14. Officers of the Nuance Companies who participate in the SOP will not be induced to purchase Shares or to exercise Awards by expectation of appointment or employment or continued appointment or employment as an officer.
15. As of June 17, 2002, there were 69 persons resident in Canada eligible to receive Shares or Awards under or participate in the Plans: 11 persons resident in Ontario; 1 person resident in British Columbia and 57 persons resident in Quebec.
16. All necessary securities filings have been made in the U.S. in order to offer the Plans to Participants resident in the U.S.
17. A prospectus prepared according to U.S. securities laws describing the terms and conditions of each of the Plans will be delivered to each SOP Participant who receives an Award or Shares under the SOP and to each ESPP Participant who is eligible to participate in the ESPP. The annual reports, proxy materials and other materials Nuance provides to its U.S. shareholders will be provided or made available upon request to SOP Participants and ESPP Participants (together “Participants”) resident in the Jurisdictions who acquire and retain Shares under the Plans at substantially the same time and in substantially the same manner as such documents would be provided to U.S. shareholders.
18. The Plans are administered by a committee appointed by the board of directors of Nuance (the “Committee”).
19. Generally, in order to exercise an Option under the SOP, an optionee must submit a written notice of exercise to Nuance or to the Agent identifying the Option, the number of Shares being purchased and the method of payment.
20. The SOP provides that on exercise of Options, the payment of the exercise price in order to acquire the underlying Shares may be made: (a) in cash; (b) by the surrender of Shares owned by the Option holder to the Company for cancellation (“Stock-Swap Exercises”) or to the Agent for resale; (c) the

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retention of a number of Shares by the Company from the total number of Shares into which the Option is exercised; (d) by a combination of the foregoing; or (e) such other consideration and method of payment permitted by the Committee at an exercise price determined in accordance with the terms of the SOP.

21. Options will vest and will be exercisable as specified in the Option agreement as determined by the Committee. The Option exercise price for each Share purchased under any Option will be specified in the Option agreement and will not be less than the fair market value (as such term is defined in the SOP).
22. The term of each Option will be fixed by the Committee, provided however that the term shall be no more than ten (10) years from the date of the grant. The date of exercise will be chosen by the Option holder.
23. Under the SOP, the Committee may at any time offer to buy out for a payment in cash or Shares, an option previously granted on terms and conditions determined by the Committee ("Option Buyouts").
24. Under the SOP, Options or Stock Purchase Rights may be forfeited or surrendered by SOP Participants to the extent such Awards expire or become unexercisable without having been exercised in full or where the SOP Participant's relationship with Nuance is terminated or where Awards are cancelled on a merger or sale of assets or on the dissolution or liquidation of Nuance or where Awards are surrendered pursuant to an Option Exchange Program (as that term is defined in the SOP) ("Award Cancellations").
25. Under the SOP, on the termination of the SOP Participant's service with Nuance, Shares awarded under Restricted Stock Purchase Agreements (as defined in the SOP) which evidences the terms and restrictions applying to Shares purchased under a Stock Purchase Right may be subject to a Share reacquisition or Share repurchase option in favor of Nuance in accordance with the terms of the SOP ("Repurchase Option").
26. Nuance shall have the right to deduct applicable taxes from any payment under the Plans by withholding, at the time of delivery or vesting of cash or Shares under the Plans, an appropriate amount of cash or Shares ("Share Withholding Exercises") or a combination thereof for a payment of taxes required by law or to take such other action as may be necessary in the opinion of Nuance or the Committee to satisfy all obligations for the withholding of such taxes.

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27. Awards and rights under the Plans are not transferable by a Participant other than by will or beneficiary designation or by the laws of intestacy unless otherwise provided for by the Committee.
28. Following the termination of a Participant's relationship with the Nuance Companies for reasons of disability, retirement, termination, change of control or any other reason ("Former Participants"), and on the death of a Participant where Awards have been transferred by will or pursuant to a beneficiary designation or the laws of intestacy or otherwise ("Permitted Transferees"), the Former Participants and Permitted Transferees will continue to have rights in respect of the Plans ("Post-Termination Rights").
29. Post-Termination Rights may include, among other things: (a) the right to exercise Awards for a period determined in accordance with the SOP; (b) the right of a Participant who receives payment in lieu of notice of termination of employment to continue to participate in the ESPP during the period in which the Participant is subject to such payment in lieu of notice; (c) the right to receive payment of accumulated payroll deductions in his or her account, without interest under the ESPP; and (d) the right to sell Shares acquired under the Plans through the Agent.
30. Post-Termination Rights will only be effective where such rights accrued while the Participant had a relationship with the Nuance Companies.
31. As there is no market for the Shares in Canada and none is expected to develop, it is expected that the resale by Participants, Former Participants and Permitted Transferees of the Shares acquired under the Plans will be effected through the Nasdaq.
32. As of June 17, 2002, Canadian shareholders did not own, directly or indirectly, more than 10% of the issued and outstanding Shares and did not represent in number more than 10% of the shareholders of Nuance. If at any time during the currency of the Plans Canadian shareholders of Nuance hold, in aggregate, greater than 10% of the total number of issued and outstanding Shares or if such shareholders constitute more than 10% of all shareholders of Nuance, Nuance will apply to the relevant Jurisdiction for an order with respect to further trades to and by Participants in that Jurisdiction in respect of the Shares acquired under the Plans.
33. Pursuant to the SOP, the acquisition of Awards by the Company in the following circumstances may constitute an "issuer bid": Stock Swap Exercises, Share Withholding Exercises and the Repurchase Option.

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34. The issuer bid exemptions in the Legislation may not be available for such acquisitions by the Company since such acquisitions may occur at a price that is not calculated in accordance with the "market price," as that term is defined in the Legislation and may be made from Permitted Transferees.
35. The Legislation of all of the Jurisdictions may not contain exemptions from the Prospectus and Registration Requirements for all the intended trades in Awards and Shares under the Plans.
36. When the Agents sell Shares on behalf of Participants, Former Participants and Permitted Transferees, the Agents, Participants, Former Participants and Permitted Transferees may not be able to rely upon the exemptions from the Registration and Prospectus Requirements contained in the Legislation of the Jurisdictions.

AND WHEREAS pursuant to the System, this Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

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

THE DECISION of the Decision Makers pursuant to the Legislation is that:

- (a) the Registration and Prospectus Requirements will not apply to any trade or distribution of Awards or Shares made in connection with the Plans, including trades and distributions involving Nuance, the Nuance Affiliates, the Agents, Participants, Former Participants, and Permitted Transferees, provided that, the first trade in Shares acquired through the Plans pursuant to this Decision will be deemed a distribution or primary distribution to the public under the Legislation unless the conditions in subsection 2.14(1) of Multilateral Instrument 45-102 Resale of Securities are satisfied;
- (b) the first trade by Participants, Former Participants, and Permitted Transferees, in Shares acquired pursuant to the Plans including first trades effected through the Agents, will not be subject to the Registration Requirement, provided such first trade is executed through a stock exchange or market outside of Canada or to a person or company outside of Canada; and

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- (c) the Issuer Bid Requirements will not apply to the acquisition by Nuance of Awards or Shares from Participants, Former Participants or Permitted Transferees provided such acquisitions are made in accordance with the terms of the Plans.

DATED this 19th day of September, 2002.

H. Lorne Morphy

Harold P. Hands