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Headnote

An issuer wants to do a distribution outside British Columbia - The issuer cannot rely on BC Instrument 72-503 *Distribution of Securities Outside British Columbia*- The issuer will comply with alternative conditions that achieve the same regulatory outcome as BCI 72-503 - The proceeds of the distribution will be held in escrow until the issuer's equity securities are listed on a qualified market; if the listing does not occur by a specified date, the distribution proceeds will be returned to the subscribers; the required risk disclosure will be included in a distribution document and each subscriber will be required to acknowledge that it has reviewed the risk disclosure

Exemption Order

Tsar Emerald Corporation

Sections 48 and 76 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 Tsar Emerald Corporation (Tsar) applied under sections 48 and 76 of the Act for an exemption from the requirements to be registered to trade and to file and obtain receipts for a preliminary prospectus and prospectus in sections 34 and 61 of the Act (the Registration and Prospectus Requirements).

Representations

- ¶ 2 Tsar represents that:
1. it is incorporated under the laws of the Yukon with its head office in British Columbia;
 2. its authorized capital consists of an unlimited number of common shares without par value, of which 76,870,349 are issued and outstanding as of April 13, 2006;
 3. it is not a reporting issuer in any jurisdiction of Canada;
 4. it is not an exchange issuer under the Act;

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5. none of its securities are listed for trading on any exchange or quotation system;
6. it seeks to list its common shares on the AIM market of the London Stock Exchange (the Listing);
7. before applying for the Listing, Tsar seeks to complete a brokered private placement of common shares or units (the Securities) to raise between US \$20,000,000 to US \$25,000,000 (the Financing);
8. the Financing will be conducted entirely outside of Canada;
9. the subscribers under the Financing (the Subscribers) will be non-residents of Canada, and there will be no trades in the Securities in North America;
10. all of the Subscribers will be institutional investors;
11. none of Tsar's securities are listed on any exchange or quotation system in Canada, and Tsar has no intention of so listing any of its securities, including the Securities;
12. there is no market in Canada through which the Securities may be sold to Canadian investors;
13. the Financing will be governed by a placing agreement among Tsar, Nabarro Wells as Nominated Advisor (the NOMAD) and ODL Securities Limited as brokers (the Brokers) (the Placing Agreement), and a placing letter among each Subscriber, the NOMAD and the Brokers (each, a Placing Letter);
14. the Placing Agreement and the Placing Letter will be provided to the Subscribers before closing of the Financing;
15. the Placing Agreement and the Placing Letter will contain a condition that the Brokers will hold in escrow all funds raised under the Financing (the Escrowed Funds) pending Listing;
16. the Placing Agreement will require that, if the Listing completes on or before a certain date (the Expiry Date), the Escrowed Funds be released to Tsar, but if the Listing does not complete on or before the Expiry Date, that the Escrowed Funds be released and immediately returned to the Subscribers (the Escrow Provisions);

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17. the Financing and the Listing are inextricably linked, such that if the Listing does not occur, the Financing will effectively not complete;
18. each Subscriber's Placing Letter will contain a requirement to include the Subscriber's address;
19. the Placing Agreement will contain a condition that no Subscriber may be a resident of Canada;
20. Tsar has no reason to believe that any of the Subscribers will be residents of Canada;
21. Tsar will file a report on the Financing in the form required under Section 139 of the *Securities Rules*, on or before the 10th day after the distribution;
22. the Placing Agreement will contain the following disclosure (the Placing Agreement Disclosure): "(i) no securities commission or similar regulatory authority has reviewed or passed on the merits of the securities, (ii) there is no government or other insurance covering the securities, (iii) there are risks associated with the purchase of the securities, (iv) there are restrictions on the purchaser's ability to resell the securities and it is the responsibility of the purchaser to find out what those restrictions are and to comply with them before selling the securities, and (v) the issuer has advised the purchaser that the issuer is relying on an exemption from the requirements to provide the purchaser with a prospectus and to sell securities through a person registered to sell securities under the *Securities Act* (British Columbia) and, as a consequence of acquiring securities pursuant to this exemption, certain protections, rights and remedies provided by the *Securities Act* (British Columbia), including statutory rights of rescission or damages, will not be available to the purchaser";
23. each Subscriber's Placing Letter will contain an acknowledgement that the Subscriber has reviewed the Placing Agreement Disclosure; and
24. the London Stock Exchange Limited, of which AIM is a market, is included in the definition of "qualified market" in British Columbia Instrument 72-503 *Distribution of Securities Outside British Columbia*.

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Order

¶ 3 Because it would not be prejudicial to the public interest, the Commission orders under sections 48 and 76 of the Act that the Registration and Prospectus Requirements do not apply to Tsar in connection with the Financing.

¶ 4 May 19, 2006

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