

# 2003 BCSECCOM 142

## Headnote

Relief from adviser registration requirement to permit a U.S. commodity trading adviser to advise B.C. advisers and dealers

## Exemption Order

### Lake Shore Asset Management, Inc.

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

## Background

- ¶ 1 Lake Shore applied for an exemption from the adviser registration requirement in section 34(1)(c) of the Act in order to provide securities advice to advisers and dealers registered under the Act.

## Representations

- ¶ 2 Lake Shore represents that:
1. it is incorporated under the laws of the State of Illinois;
  2. it is a commodity trading adviser registered with the Commodity Futures Trading Commission and a member of the National Futures Association in the United States, which permits Lake Shore to advise in respect of futures and forward contracts and options on futures and forward contracts in the United States;
  3. it does not maintain an office or sales force in British Columbia;
  4. it proposes to provide securities advice to advisers and dealers registered under the Act (collectively, Registrants), which advice is for the benefit of clients of the Registrants;
  5. it proposes to enter into written agreements with the Registrants which agreements will set out the obligations and duties of Lake Shore;
  6. it will only provide securities advice in circumstances where:
    - (a) the Registrant has agreed, in a document providing rights to the client of the Registrant, to be responsible for any loss that arises out of the failure of Lake Shore to:

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- (i) exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the client; and
- (ii) exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances

(the Standard of Care),

in providing securities advice for the benefit of the client and this responsibility cannot be waived; and

- (b) the prospectus or other offering document discloses that the Registrant is responsible for any loss that arises out of the failure of Lake Shore to meet the Standard of Care in providing securities advice for the benefit of the client of the Registrant.

### **Order**

- ¶ 3 Because it is not prejudicial to the public interest, the Commission orders under s. 48 of the Act that Lake Shore is exempt from the requirements of section 34(1)(c) of the Act, in connection with Lake Shore providing securities advice for the benefit of clients of a Registrant, provided that Lake Shore is registered as a commodity trading adviser with the Commodity Futures Trading Commission and is a member of the National Futures Association in the United States.

- ¶ 4 February 19, 2003

Brent W. Aitken  
Vice Chair