

2005 BCSECCOM 190

March 31, 2005

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act, s. 88 – Cease to be a reporting issuer in BC - Securities of the issuer are beneficially owned by more than 50 persons and are not traded through any exchange or market - The issuer became a wholly owned subsidiary of another company; the issuer has debt securities outstanding that are held by more than 50 holders; there is no market for the debt securities; the issuer is required under the terms of the debt instrument to provide certain continuous disclosure to the holders of the debt securities as long as the securities are outstanding, but is not required to remain a reporting issuer; the issuer does not intend to do a public offering of its securities to Canadian residents; the issuer will not be a reporting issuer in any Canadian jurisdiction

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 88

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Saskatchewan, Ontario, Québec, New Brunswick,
Nova Scotia and Newfoundland and Labrador
(the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System For Exemptive Relief Applications

and

In the Matter of Anthem Works Ltd. (the Filer)

MRRS Decision Document

Background

- ¶ 1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be deemed to have ceased to be a reporting issuer under the Legislation.

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- Under the Mutual Reliance Review System for Exemptive Relief Applications
- (a) the British Columbia Securities Commission is the principal regulator for this application, and
 - (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

- ¶ 2 Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

In this decision,

“Acquisitionco” means Anthem Acquisitionco Ltd.;

“Arrangement” means the arrangement between the Filer and Acquisitionco under which Acquisitionco agreed to acquire all of the Filer’s outstanding common shares;

“Debentureholders” means the holders of the Debentures;

“Debentures” means subordinated debentures issued by the Filer; and

“Trust Indenture” means the trust indenture dated September 30, 1998 in respect of the Debentures.

Representation

- ¶ 3 This decision is based on the following facts represented by the Filer:
1. the Filer is continued under the laws of Canada with its head office in Vancouver, British Columbia;
 2. the Filer is a reporting issuer in each of the Jurisdictions and is not in default of its obligations under the Legislation;
 3. the Filer’s authorized share capital consists of 250,000,000 common shares and 250,000,000 preferred shares, of which 3,055,369 common shares and no preferred shares are outstanding as of March 22, 2005;
 4. the Filer also has approximately \$4.44 million principal amount of Debentures outstanding as at March 22, 2005;
 5. as a result of the Arrangement, which was effective May 31, 2004, Acquisitionco now owns, directly or indirectly, all of the Filer’s outstanding common shares;

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6. effective June 4, 2004, the common shares of the Filer were delisted from the Toronto Stock Exchange;
7. none of the Debentures are, or ever have been, listed on a public exchange;
8. as of March 22, 2005, there are 153 Debentureholders, of which 145 are resident in British Columbia, 5 are resident in Alberta, one is resident in Saskatchewan and one is resident in Ontario;
9. section 6.1(f) of the Trust Indenture provided that the Filer “will use its best efforts to maintain its status as a reporting issuer not in default in the province of British Columbia and in all other provinces where it has such status”;
10. at a meeting of the Debentureholders held on March 17, 2005, the Debentureholders passed a resolution in accordance with the Trust Indenture approving the amendment of the Trust Indenture to delete section 6.1(f); the resolution was approved by 83% of the votes cast on the resolution;
11. for as long as there are Debentures outstanding, the Filer will continue to deliver to the trustee under the Trust Indenture annual and interim financial statements and MD&A prepared in accordance with National Instrument 51-102 *Continuous Disclosure Obligations*; and
12. the Filer does not presently intend to seek public financing by way of an offering of its securities.

Decision

- ¶ 4 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 under the Legislation is that the Filer is deemed to have ceased to be a reporting issuer.

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