

## 2003 BCSECCOM 173

### **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – reporting issuer granted relief from the requirement to send annual audited financial statements to shareholders concurrently with filing the statements, subject to certain conditions

Confidentiality of decision and application granted for limited period of time

### **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, ss. 91, 169(4)

*Securities Rules*, B.C. Reg. 194/97, s. 149

### **IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR**

**AND**

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

**AND**

### **IN THE MATTER OF PLACER DOME INC.**

### **MRRS DECISION DOCUMENT**

- ¶ 1 WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia and Newfoundland and Labrador (the “Jurisdictions”) has received an application from Placer Dome Inc. (the “Applicant”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the requirement contained in the Legislation to send audited annual financial statements to securityholders of a reporting issuer concurrently with the filing of those statements as required by the Legislation (the “Concurrent Delivery Requirement”) will not apply to the Applicant for its Canadian GAAP Statements (as defined below) for the year ending December 31, 2002 and for subsequent financial years;

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- ¶ 2 AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the British Columbia Securities Commission is the principal regulator for this application;
- ¶ 3 AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*;
- ¶ 4 AND WHEREAS the Applicant has represented to the Decision Makers that:
1. the Applicant is the continuing corporation resulting from an amalgamation under the *Canada Business Corporations Act*;
  2. the Applicant is a global mining company with an emphasis on gold;
  3. the head office of the Applicant is located in Vancouver, British Columbia;
  4. as of February 14, 2003, the authorized capital of the Applicant is an unlimited number of common shares (the “Common Shares”) and an unlimited number of preferred shares, issuable in series (the “Preferred Shares”); as of January 31, 2003, the Applicant had 408,622,051.630 publicly traded issued and outstanding Common Shares and no publicly traded issued and outstanding Preferred Shares; as of January 31, 2003, the Applicant also had 7,390,600 publicly traded junior subordinated debentures (the “Debentures”);
  5. the Applicant is a reporting issuer or the equivalent in each of the Jurisdictions; the Common Shares are listed for trading on The Toronto Stock Exchange, the New York Stock Exchange, the Australian Stock Exchange, Euronext-Paris and the Swiss Exchange; the Debentures are listed for trading on the New York Stock Exchange;
  6. to the best of its knowledge, the Applicant is not in default of any requirements of the Legislation;
  7. the Applicant currently intends to file the following documents with the Decision Makers through SEDAR in late February 2003:
    - (a) its Annual Information Form for the year ended December 31, 2002 (the “AIF”), containing the Applicant’s audited financial statements for the year ended December 31, 2002, prepared in accordance with US GAAP (the “2002 US Statements”); and
    - (b) its audited financial statements for the year ended December 31, 2002 (the “2002 Canadian Statements”) and its Management Discussion and

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Analysis for the same period (the “Canadian MD&A”), both prepared in accordance with Canadian GAAP;

8. the 2002 Canadian Statements and the Canadian MD&A will both be incorporated by reference into the AIF;
9. shortly thereafter, the Applicant proposes to make a private placement of at least US\$200 million in unsecured debt securities (the “Private Placement”) to US-based institutional investors, to take the steps necessary to have declared effective a registration statement filed with the Securities and Exchange Commission, registering the debt securities or debt securities for which those debt securities may be exchanged, to file a short form prospectus with the British Columbia Securities Commission pursuant to National Instrument 44-101, incorporating by reference the AIF and the 2002 Canadian Statements, and to file the short form prospectus with the Securities and Exchange Commission pursuant to the Multijurisdictional Disclosure System;
10. the Applicant produces its audited annual financial statements in accordance with both US and Canadian GAAP, in the belief that this provides meaningful information to its securityholders and to potential investors. In the past, the Applicant has sent a copy of its audited annual financial statements, prepared in accordance with US GAAP (the “US GAAP Statements”), to its securityholders as part of its Annual Report, and a copy of its audited annual financial statements, prepared in accordance with Canadian GAAP (the “Canadian GAAP Statements”), to its securityholders as part of its Management Proxy Circular. Both of these documents have been filed with the Decision Makers through SEDAR and mailed to securityholders at the same time;
11. the Applicant proposes to send its Annual Report (containing the 2002 US Statements) and its Management Proxy Circular for its 2003 annual general meeting (containing the 2002 Canadian Statements) to its securityholders at the same time, in March 2003, and to file both those documents with the Decision Makers through SEDAR;
12. the Applicant proposes to issue, on the day it files the 2002 Canadian Statements with the Decision Makers on SEDAR, a press release that will:
  - (a) be posted on the Applicant’s web site and filed on SEDAR;
  - (b) include disclosure relating to the 2002 Canadian Statements, and the approximate date on which the 2002 Canadian Statements will be mailed to securityholders; and

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- (c) state that any securityholder entitled to receive a copy of the 2002 Canadian Statements may obtain a copy in advance on request to the Applicant;
- 13. the Applicant proposes to deliver the 2002 Canadian Statements to securityholders entitled to receive them with the Management Proxy Circular for the Applicant's 2003 annual general meeting; and
- 14. the Applicant has in the past prepared its Canadian GAAP Statements in advance of the filing requirements and expects to continue to do so;
- ¶ 5 AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");
- ¶ 6 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;
- ¶ 7 THE DECISION of the Decision Makers under the Legislation is that:
  - 1. the Concurrent Delivery Requirement will not apply to the Applicant provided that:
    - (a) substantially concurrently with the filing of its Canadian GAAP Statements with the Decision Makers, the Applicant issues a press release that:
      - (i) will be posted on the Applicant's web site, disseminated via a Canadian newswire service, and filed on SEDAR;
      - (ii) includes the approximate date on which the Canadian GAAP Statements will be mailed to securityholders; and
      - (iii) states that any securityholder entitled to receive the Canadian GAAP Statements may obtain a copy of the Canadian GAAP Statements in advance on request to the Applicant and that securityholders will be able to access the Canadian GAAP Statements on the Applicant's website ([www.placerdome.com](http://www.placerdome.com)) and the website maintained by the Canadian securities regulators ([www.sedar.com](http://www.sedar.com)); and

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- (b) the Applicant sends its Canadian GAAP Statements to the securityholders of the Applicant entitled to receive them in accordance with the procedures outlined in National Instrument 54-101 and, in any event, not later than the last date on which they could have been filed in compliance with the Legislation;
- 2. this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after any legislation or rule of that Decision Maker comes into force dealing with the obligation of a reporting issuer to send annual financial statements to its securityholders; and
- 3. the Decision Makers will keep confidential the application for this Decision and this Decision until the earliest of:
  - (a) the date the Private Placement is completed;
  - (b) the date the Applicant notifies the Decision Makers that it will not be proceeding with the Private Placement; and
  - (c) March 31, 2003.

¶ 8 February 26, 2003

Brenda Leong  
Director