

2006 BCSECCOM 432

Headnote

Securities Act s. 48 Adviser - Exemption from s.34(1)(c) requirement to be registered as an adviser - A person who resides in BC wants to advise BC residents - The person is a subsidiary of the client formed for the purpose of managing the client's investments; the person is required to carry out its duties in accordance with other provincial legislation, including the Pension Benefits Standards Act, and is required to report to FICOM.

Exemption Order

UBC Investment Management Trust Inc.

Section 48 of the *Securities Act*, RSBC 1996, c. 418

Background

- ¶ 1 UBC Investment Management Trust Inc. (IMANT) has applied for an exemption from the adviser registration requirement in section 34(1)(c) of the Act to permit IMANT to provide portfolio management services for the UBC Endowment Fund, the UBC Staff Pension Plan (the Pension Plan) and other funds under the administration of the University of British Columbia (UBC) and Royal Trust Company of Canada (RTCC).

Representations

- ¶ 2 IMANT represents that:
1. it is incorporated under the laws of British Columbia;
 2. it is a wholly-owned subsidiary of UBC;
 3. it was formed to carry out the duties previously undertaken by a committee of the Board of Governors of UBC with respect to the UBC Endowment Fund, the Pension Plan and certain other funds (the Funds) that may be designated from time to time by the Board of Governors of UBC and that are under the administration of UBC and RTCC;
 4. the Board of Governors of UBC has appointed the Board of Directors of IMANT as a committee of the Board of Governors with the power and authority to act for the Board of Governors to administer and manage the Funds in accordance with section 27(2)(c) of the *University Act* (British Columbia);

2006 BCSECCOM 432

5. IMANT is required to carry out its duties in accordance with the relevant policies of UBC, as amended from time to time, the *Pension Benefits Standards Act* (British Columbia), the *University Act*, which is UBC's governing legislation, as well as the applicable endowment deeds, pension plans and trust agreements;
6. section 57 of the *University Act* empowers UBC to "invest money belonging to the university and available for investment", provided that it must "make investments that a prudent person would make";
7. the *Pension Benefits Standards Act* sets out the standard of care that UBC must meet in managing the Pension Plan;
8. under the *Pension Benefits Standards Act*, RTCC is required to file triennial reports with the Superintendent of Pensions (FICOM) to confirm that the Pension Plan is adequately funded;
9. if it is found that funding of the Pension Plan is insufficient, then UBC is required under the *Pension Benefits Standards Act* to fund the shortfall;
10. the Pension Benefit Standards Regulation sets out specific pension investment requirements, including requirements to:
 - (a) establish a written statement of investment policies and procedures that must be reviewed and confirmed or amended at least once each fiscal year; and
 - (b) file an annual information return with FICOM that includes a written statement as to whether the Fund is in compliance with the Regulations;
11. IMANT will provide advising services to only two clients, UBC and RTCC;
12. each of RTCC and UBC is an "accredited investor", as that term is defined under National Instrument 45-106 *Prospectus and Registration Exemptions*;
13. RTCC is incorporated under the federal *Trust and Loan Companies Act* and is registered to carry on business in British Columbia;
14. IMANT's Board of Directors and those individuals providing advising activities on behalf of IMANT have relevant and favourable investment management experience and educational background, including at least one individual who is a Chartered Financial Analyst;

2006 BCSECCOM 432

15. IMANT, in providing its services to UBC and RTCC, may be considered to be acting as an adviser under the Act and without this Order could be required to registered as an adviser under the Act; and
16. there are no exemptions from the adviser registration requirement that IMANT can rely on to act as an adviser.

Order

¶ 3 Considering that it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that IMANT is exempt from the adviser registration requirement when providing portfolio management adviser services to UBC and RTCC in connection with the Funds.

¶ 4 July 13, 2006

L.E. Evans, CA
Director, Capital Markets Regulation