

# 2003 BCSECCOM 828

## Headnote

Relief from adviser registration requirement to permit US investment adviser to advise two sophisticated clients

## Exemption Order

### Optimum Investment Advisors LP

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

## Background

- ¶ 1 Optimum Investment Advisors LP (OIA) applied for an exemption from the adviser registration requirement in section 34(1)(c) of the Act in order to provide securities advice to clients resident in British Columbia (securities advice).

## Representations

- ¶ 2 OIA represents that:
1. it is a limited liability company organized under the laws of Illinois and its principal place of business is Chicago, Illinois;
  2. it is currently registered in good standing as an investment adviser with the United States Securities and Exchange Commission under the *Investment Advisors Act of 1940* (the 1940 Act);
  3. it has carried on business as an investment adviser in the United States since 1990 and currently has assets under management of approximately US\$1 billion for over 900 clients;
  4. it specializes in asset management of equities and fixed income securities for high net worth individuals and families;
  5. it intends to provide securities advice to prospective clients, James and Gail Maier (clients), residents in British Columbia;
  6. the clients are sophisticated investors and have professional advisers including legal counsel and accountants;
  7. it has advised the clients that:
    - (a) it is not currently registered as an adviser under the Act,

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- (b) it may not have the same proficiency requirements as persons registered under the Act, and
  - (c) the clients may not have the same protections they would otherwise have if OIA were registered as an adviser under the Act;
- 8. it does not:
  - (a) maintain an office or sales force in British Columbia,
  - (b) have any client other than the clients resident in British Columbia, or
  - (c) intend to actively solicit other clients in British Columbia;
- 9. in providing securities advice to the clients, it would be considered to be acting as an adviser under the Act and, without this order, would be required to be registered, or otherwise exempt from registration, as an adviser under the Act; and
- 10. there are no exemptions in the Act from the adviser registration requirement that it can rely on to provide securities advice to the clients.

### **Order**

- ¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that OIA is exempt from the requirements of section 34(1)(c) of the Act for securities advice provided to the clients, provided that OIA maintains its registration as an investment adviser under the 1940 Act in good standing.
- ¶ 4 December 10, 2003

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Manager