

2008 BCSECCOM 606

Headnote

Securities Act s. 48 Adviser - Exemption from s.34(1)(c) requirement to be registered as an adviser and Securities Act s. 48 Dealer - Exemption from s.34(1)(a) requirement to be registered as a dealer to trade securities - A person who resides outside BC wants to advise and do a trade to BC residents. - The person is registered to provide the services in the jurisdiction in which they reside; the person advises and trades for participants of employer Group RSPs; the participants are employed by businesses headquartered in the jurisdiction where the person is registered; the person will only provide services to a small number of BC clients who participate in the Group RSPs; the person will not carry on any other business in BC; the person will not solicit clients in BC; the clients are aware that the person is not registered in BC and of the consequences.

Exemption Order

Pewter Financial Ltd. and Laszlo Szojka

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

Background

- ¶ 1 Pewter Financial Ltd. (Pewter) applied for an exemption from the requirements in section 34(1)(a)(i) to be registered as a dealer and in 34(1)(c)(i) to be registered as an adviser, and Laszlo Szojka applied for an exemption from the requirements in 34(1)(a)(ii) to be registered as a salesperson and 34(1)(c)(ii) to be registered as an advising employee (collectively, the registration requirements) in order to provide Group RSP services (as defined below) to certain persons resident or otherwise located in British Columbia.

Representations

- ¶ 2 Pewter represents that:
1. it was incorporated under the laws of Alberta and its head office is in Alberta;
 2. it provides investment services, and is registered as a mutual fund dealer under the *Securities Act* (Alberta);
 3. Laszlo Szojka is a registered mutual fund salesperson under the *Securities Act* (Alberta), employed by Pewter;
 4. Laszlo Szojka has been continuously licensed since 1992;

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5. providing the Group RSP services to Alberta residents is within the scope of Laszlo Szojka's mutual fund salesperson registration under the *Securities Act* (Alberta);
6. Laszlo Szojka purchased a book of business from Greg Lindholm, a registered mutual fund salesperson under the *Securities Act* (Alberta) who was granted similar relief from the registration requirements under a previous order;
7. Laszlo Szojka intends to serve clients with Group RSP accounts who are employed by three Alberta based companies and contribute to Group RSP accounts; all payroll and administrative functions for these companies, including account deposits, are performed in Alberta;
8. each employer offers their employees the opportunity to participate in the employer's Group RSP plan;
9. if an employee decides to participate in their employer's Group RSP plan (a plan participant), then the employee is directed to contact Laszlo Szojka;
10. Laszlo Szojka intends to provide Group RSP services to plan participants who are residents or otherwise located in British Columbia (BC plan participants);
11. Laszlo Szojka discusses with each plan participant which Group RSP plan option is most suitable for the plan participant and then facilitates the purchase and sale of mutual fund securities of the Group RSP for the plan participant (the Group RSP services);
12. presently, there are approximately 46 BC plan participants;
13. prior to providing a BC plan participant with Group RSP services, Laszlo Szojka will advise the BC plan participant that:
 - (a) neither he nor his dealer are registered to sell securities or act as an adviser under the Act;
 - (b) he may not be subject to the same proficiency requirements as other persons registered under the Act; and
 - (c) the BC plan participant may not have the same protections that they would have if he was registered as a mutual fund salesperson or an advising employee under the Act;
14. neither Laszlo Szojka nor his dealer:

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- (a) maintain offices or a sales force within British Columbia;
 - (b) intend to actively solicit other clients within British Columbia;
15. in providing securities advice to clients residing in BC, Laszlo Szojka 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
16. there are no exemptions from the registration requirements that Pewter or Laszlo Szojka can rely on to provide the Group RSP services to BC plan participants.

Order

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that Pewter Financial Ltd. and Laszlo Szojka are exempt from the requirements of the Act for Group RSP services provided to BC plan participants, provided that:

- (a) Pewter maintains its registration as a mutual fund dealer under the *Securities Act* (Alberta) in good standing;
- (b) Laszlo Szojka maintains his registration as a mutual fund salesperson under the *Securities Act* (Alberta) in good standing;
- (c) Laszlo Szojka's advising activities are solely incidental to the trading activities he performs as part of the Group RSP services to BC plan participants;
- (d) Laszlo Szojka ensures that all Group RSP services provided to a BC plan participant are suitable for the investment needs and objectives of the BC plan participant; and
- (e) only Laszlo Szojka trades on behalf of Pewter to persons resident or otherwise located in British Columbia.

¶ 4 November 3, 2008

Sandra Jakab
Director, Capital Markets Regulation