

2006 BCSECCOM 471

Headnote

Securities Act s. 114(2) Issuer Bids - Exemption from the formal issuer bid requirements in Part 13 of the Act - An issuer wants to complete an issuer bid to persons who are not employees or consultants - The issuer bid satisfies the conditions of the exemption set out in s. 99(d) except that the bid will be made to individuals who are not employees or former employees of the issuer; the individuals are former directors or officers of the issuer

Exemption Order

Arrow Energy Ltd.

Section 114 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 Arrow has applied for an exemption from the issuer bid requirements in sections 105 to 108 and 110 of the Act (the issuer bid requirements) in connection with the acquisition of warrants from certain holders of warrants in British Columbia.

Representations

- ¶ 2 Arrow represents that:
1. Arrow was incorporated under the laws of Alberta and its head office is located in Calgary, Alberta;
 2. its authorized share capital consists of an unlimited number of common shares and an unlimited of preferred shares, of which 14,138,914 common shares and no preferred shares were issued and outstanding as at July 26, 2006;
 3. it is a reporting issuer in Alberta and British Columbia and is not in default of its obligations as a reporting issuer under the applicable securities legislation in the provinces in which it is a reporting issuer;
 4. the common shares of Arrow are listed and posted for trading on the TSX Venture Exchange;
 5. on May 3, 2005, Arrow amalgamated with 1095862 Alberta Ltd. and Red Chip Inc. (Red Chip), continuing under the name Arrow Energy Ltd.;

2006 BCSECCOM 471

6. as part of the amalgamation, the holders of options to purchase Red Chip shares exchanged each option for 0.125 of a warrant of Arrow, each whole warrant being exercisable to acquire one common share of Arrow at a price of \$0.80 for three years after the amalgamation;
7. a total of four individuals received an aggregate of 60,000 warrants in connection with the amalgamation; two of the individuals were officers of Red Chip before the amalgamation (the former employee warrant holders); the other individuals were the corporate secretary and a director of Red Chip (the other warrant holders); each of the individuals are residents of British Columbia;
8. on July 20, 2006, Arrow entered into an agreement (the Pre-Acquisition Agreement) with Tirmoil Energy Ltd. (Tirmoil); under the Pre-Acquisition Agreement, Tirmoil has agreed to make a take-over bid (the Offer) for all of the common shares of Arrow, including those shares issuable on the exercise of outstanding options and warrants, for \$0.55 in cash per share;
9. the Pre-Acquisition Agreement provides that Arrow must use its reasonable best efforts to ensure that all outstanding warrants have been exercised in accordance with their terms or, in the case of warrants which are not "in-the-money", cancelled on payment of an amount not to exceed \$0.05 per warrant or otherwise cease to exist or to represent a liability or obligation of Arrow before the expiry of the Offer;
10. all of the warrants are, as of July 26, 2006, exercisable at a price that is more than the current market price for Arrow Shares and therefore out of the money;
11. subsection 99(d) of the Act provides an exemption from the issuer bid requirements for securities acquired from a current or former employee of an issuer; Arrow can rely on this exemption to acquire warrants from the two former employee warrant holders;
12. as the other warrant holders are not employees or former employees, no exemption from the issuer bid requirements is available for Arrow to acquire warrants from the other warrant holders;
13. the other warrant holders hold a total of 15,000 warrants and Arrow will pay a total of \$750 to acquire their warrants.

2006 BCSECCOM 471

Order

¶ 3 Because it considers that to do so would not be prejudicial to the public interest, the Commission orders under section 114(2)(c) of the Act that Arrow is exempt from the issuer bid requirements in connection with acquiring the warrants from the other warrant holders.

¶ 4 August 4, 2006

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