

2006 BCSECCOM 494

August 16, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Securities Act s. 114(2) Takeover Bids - Exemption from the formal take over bid requirements in Part 13 of the Act – Identical consideration - Issuer needs relief from the requirement in s. 107 (1) of the Act that all holders of the same class of securities must be offered identical consideration – Under the bid, Canadian resident shareholders may receive securities, cash, or a combination of both; U.S resident shareholders will receive substantially the same value as Canadian shareholders, in the form of cash paid to the U.S shareholders based on the proceeds from the sale of their securities; the number of shares held by U.S residents is de minimis; the U.S does not have an identical consideration requirement

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 107(1) and 114(2)

In the Matter of
the Securities Legislation of
British Columbia, Alberta, Manitoba, New Brunswick, Newfoundland and
Labrador, Nova Scotia, Ontario, Québec and Saskatchewan
(the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
Stornoway Diamond Corporation
(the Filer)

MRRS Decision Document

Background

- ¶ 1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the requirement under the Legislation to offer identical consideration (the

2006 BCSECCOM 494

Identical Consideration Requirement) to all the holders of the same class of securities that are subject to a take-over bid (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the British Columbia Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

- ¶ 2 Defined terms herein contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

- ¶ 3 This decision is based on the following facts represented by the Filer:
- 1. the Filer is a company existing under the *Business Corporations Act* (British Columbia);
 - 2. the Filer's head office is located in British Columbia;
 - 3. the Filer is a reporting issuer in British Columbia, Alberta, Manitoba, Ontario and Québec and is not in default of any of the requirements of the Legislation;
 - 4. the authorized capital of the Filer consists of an unlimited number of common shares (the Filer's Shares), of which, as of July 20, 2006, there were 80,915,671 Filer Shares outstanding;
 - 5. the Filer's Shares are listed on the Toronto Stock Exchange (TSX);
 - 6. on July 24, 2006, the Filer issued a press release announcing its intention to make an offer (the Offer) to acquire all of the outstanding common shares (Ashton Shares) of Ashton Mining of Canada Inc. (Ashton);
 - 7. Ashton is a public company existing under the *Canada Business Corporations Act*;
 - 8. Ashton's head office is located in British Columbia;
 - 9. Ashton is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward

2006 BCSECCOM 494

Island, and Newfoundland and Labrador and, to the knowledge of the Filer, is not in default of any of the requirements of the Legislation;

10. the authorized capital of Ashton consists of an unlimited number of Ashton Shares and an unlimited number of preferred shares (Ashton Preferred Shares), of which, as of July 20, 2006, there were 94,977,661 Ashton Shares outstanding and no Ashton Preferred Shares outstanding;
11. the Ashton Shares are listed on the TSX;
12. under the terms of the Offer, each holder of an Ashton Share may elect to receive consideration per Ashton Share of (i) one of the Filer's Shares and \$0.01 (the Share Alternative) or (ii) \$1.25 cash (the Cash Alternative), subject to adjustment and proration as described in the Offer;
13. the Filer's Shares issuable under the Offer will not be registered or otherwise qualified for distribution under the securities legislation of the United States; the delivery of the Filer's Shares to the holders of Ashton Shares in the United States (Ashton US Shareholders) without further action by the Filer could constitute a violation of the laws of the United States;
14. to the best information of the Filer, as of August 3, 2006, there were 30 registered Ashton US Shareholders and those Ashton US Shareholders held a total of 1,846,090 Ashton Shares, representing 1.9% of the total number of outstanding Ashton Shares;
15. the Filer proposes to deliver to the depositary under the Offer (the Depositary) the Filer's Shares which Ashton US Shareholders would otherwise be entitled to receive under the Offer; the Depositary will sell those Filer's Shares by private sale or on any stock exchange on which the Filer's Shares are then listed after the payment date for the Ashton Shares tendered by the Ashton US Shareholders under the Offer; after completion of the sale, the Depositary will distribute the aggregate net proceeds of the sale, after expenses, *pro rata* among the Ashton US Shareholders who have elected the Share Alternative form of consideration or who have elected the Cash Alternative form of consideration and would otherwise receive some Filer's Shares as a result of prorationing;
16. if the Filer increases the consideration offered to holders of Ashton Shares resident in Canada, the increase in consideration will also be offered to Ashton US Shareholders at the same time and on the same basis;

2006 BCSECCOM 494

17. any sale of the Filer's Shares described in paragraph 15 above will be completed as soon as possible after the date on which the Filer takes up the Ashton Shares tendered by the Ashton US Shareholders under the Offer and will be done in a manner intended to maximize the consideration to be received from the sale by the applicable Ashton US Shareholder and minimize any adverse impact of the sale on the market for the Filer's Shares; as soon as possible after the completion of the sale, the Depositary will send to each Ashton US Shareholder a cheque equal to that Ashton US Shareholder's *pro rata* share of the proceeds of the sale, net of sales commissions and applicable withholding taxes;
18. the takeover bid circular to be prepared by the Filer and sent to all shareholders of Ashton will disclose the procedure described in paragraph 15 to be followed for Ashton US Shareholders; and
19. except to the extent that relief from the Identical Consideration Requirement is granted, the Offer will comply with the requirements under the Legislation concerning take-over bids.

Decision

- ¶ 4 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.

The decision of the Decision Makers under the Legislation is that, in connection with the Offer, the Requested Relief is granted so that Ashton US Shareholders who elect the Share Alternative under the Offer or who elect the Cash Alternative and would otherwise receive some Filer's Shares as a result of prorationing receive instead cash proceeds from the sale of the Filer's Shares in accordance with the procedure set out in representation 15.

Martin Eady, CA
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British Columbia Securities Commission