

2012 BCSECCOM 41

January 30, 2012

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* - National Instrument 44-101, s. 8.1 - *Short Form Prospectus Distributions* - The filer wants to file its short form prospectus less than 10 days after it files its notice of intention to file a short form prospectus - The issuer has a current annual information form; the issuer believed it had filed a notice of intention or was eligible to file a short form prospectus without first filing a notice under the transitional provisions in s. 2.8(4); the issuer could suffer significant prejudice if it has to delay filing its preliminary prospectus

Applicable British Columbia Provisions

National Instrument 44-101, s. 8.1

In the Matter of
the Securities Legislation of
British Columbia and Ontario (the Jurisdiction)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of
Extorre Gold Mines Limited (the Filer)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempted from the requirement in section 2.8 of National Instrument 44-101 *Short Form Prospectus Distributions* (NI 44-101) to file a notice declaring its intention to be qualified to file a short form prospectus (Notice of Intention) at least 10 business days prior to the filings of its first preliminary short form prospectus (the Exemption Sought).

2012 BCSECCOM 41

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application,
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba and New Brunswick, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

- ¶ 3 This decision is based on the following facts represented by the Filer:
- 1. the Filer is a corporation that was incorporated on December 21, 2009 under the *Canada Business Corporations Act*; the head office of the Filer is located in Vancouver, British Columbia;
 - 2. the Filer has authorized capital consisting of an unlimited number of common shares (Common Shares) of which 92,616,939 were outstanding as at January 24, 2012;
 - 3. the Filer is a “reporting issuer” within the meaning of applicable securities legislation in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and New Brunswick (the Reporting Jurisdictions);
 - 4. the Filer’s Common Shares are listed on the Toronto Stock Exchange and NYSE AMEX;
 - 5. on March 29, 2010 the Filer obtained an exemption (the Previous Exemption) in the Reporting Jurisdictions from certain qualification criteria set out in section 2.2(d)(i) of NI 44-101; the Filer no longer needs to rely on the Previous Exemption, as it now meets all of the basic qualification criteria set out in section 2.2 of NI 44-101;
 - 6. section 2.8 of NI 44-101 provides that an issuer is not qualified to file a short form prospectus unless it has filed a Notice of Intention at least ten business

2012 BCSECCOM 41

days prior to the issuer filing its first preliminary short form prospectus (Preliminary Prospectus); the Filer has not yet filed its first Preliminary Prospectus;

7. the Filer believed that it had filed a Notice of Intention at the time of the Previous Exemption; however, on January 24, 2012, on realizing that it had not yet filed a Notice of Intention, the Filer filed the Notice of Intention; in the absence of the Exemption Sought, the Filer will not be able to file a Preliminary Prospectus until February 7, 2012;
8. the Filer has been approached by certain underwriters to enter into an enforceable agreement for a bought deal short form prospectus offering (the Offering);
9. the Filer is not in a position to enter into any enforceable agreement as it would be required to file a preliminary short form prospectus within four business days of execution of the enforceable agreement;
10. should the Filer delay in entering an enforceable agreement, the Offering may collapse causing a negative impact on the business of the Filer; and
11. the Filer is not in default of any requirement of securities legislation in any jurisdiction of Canada.

Decision

- ¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.
- ¶ 5 The decision of the Decisions Makers under the Legislation is that the Exemption Sought is granted.

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