

# 2002 BCSECCOM 724

## Headnote

Relief from the requirement to be registered to advise for an Ontario registrant advising one sophisticated client in British Columbia

## Exemption Order

**Scarthingmoor Asset Management Inc.**

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

## Background

- ¶ 1 Scarthingmoor applied for an exemption from the requirement in section 34(1)(c) of the Act to be registered as an adviser (the adviser registration requirement) in order to advise a client resident or otherwise located in British Columbia on the investment in or purchase or sale of securities (securities advice).

## Representations

- ¶ 2 Scarthingmoor represents that:
1. it was incorporated under, and is governed by, the laws of Canada;
  2. it is registered as an adviser in the categories of investment counsel and portfolio manager under the *Securities Act* (Ontario);
  3. it has been in operation as an adviser since 1996 and was established to provide investment advice, including portfolio management services, to certain select high net worth individuals and institutional clients;
  4. John Weatherall, its president, secretary, sole employee, sole director and sole shareholder, has been registered in various capacities under the *Securities Act* (Ontario) since 1977 and is currently a counselling officer with Scarthingmoor;
  5. it intends to provide securities advice to a certain charitable foundation organized under the laws of British Columbia (the client);
  6. the client has financial assets of over \$30 million;

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7. the client, a sophisticated investor, employs other advisers to manage portions of the client's assets;
8. it has advised the client as follows:
  - (a) it is not registered as an adviser under the Act;
  - (b) it may not have the same proficiency requirements as other persons registered under the Act; and
  - (c) the client may not have the same protections it would have if it were registered as an adviser under the Act;
9. it does not:
  - (a) maintain offices or a sales force within British Columbia;
  - (b) have any other clients resident in British Columbia; or
  - (c) intend to actively solicit other clients within British Columbia;
10. in providing securities advice to the client, it would 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
11. there are no exemptions from the adviser registration requirement that it can rely on to provide securities advice to the client.

### Order

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 48 of the Act that Scarthingmoor is exempt from the adviser registration requirement for securities advice provided to the client, provided that it maintains its registration as an adviser under the *Securities Act* (Ontario) in good standing.

¶ 4 August 16, 2002

Derek E. Patterson  
Acting Director