

2004 BCSECCOM 645

Headnote

The filer became a reporting issuer other than by exchanging its securities with a BC reporting issuer or its shareholders as set out in the item (d) of the definition of "reporting issuer" in section 1(1) of the *Securities Act*. The issuer's securities are traded only on a market or exchange outside of Canada - Canadian residents own less than 2% of the issuer's securities; the issuer does not intend to do a public offering of its securities to Canadian residents; the issuer will not be a reporting issuer in a Canadian jurisdiction; the issuer is subject to the reporting requirements of UK securities laws; and all shareholders receive the same disclosure

Exemption Order

European Diamonds PLC

Section 88 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 European Diamonds applied for an order under s. 88 of the Act to be deemed to have ceased to be a reporting issuer.

Representations

- ¶ 2 European Diamonds represents that:
1. the Filer was incorporated under the laws of the United Kingdom on November 15, 2000 and, through its subsidiaries, is a resource company engaged in the exploration and development of diamond properties located in southern Africa and Finland; its registered office and principal place of business is in London, England;
 2. the Filer's authorized capital consists of 100 million ordinary shares (the Ordinary Shares); as at October 7, 2004, the issued and outstanding capital of the Filer consists of 42,522,561 Ordinary Shares, 1,685,000 options, and 1,655,350 warrants;
 3. on September 29, 2003, the Filer announced that it had made an offer to purchase all of the issued and outstanding common shares of MineGem Inc. (the MineGem Shares) by way of a take-over bid circular (the Take-Over Bid) dated September 26, 2003 on the basis of one Ordinary Share for every ten MineGem Shares;
 4. MineGem is incorporated under the laws of Ontario and its head office is located in Toronto, Ontario;

2004 BCSECCOM 645

5. MineGem's authorized capital consists of an unlimited number of MineGem Shares and an unlimited number of Class B special shares issuable in series; the issued and outstanding capital of MineGem consists of 49,879,585 MineGem Shares as at October 7, 2004;
6. MineGem was a reporting issuer in Alberta, British Columbia and Ontario (the MineGem Jurisdictions), but has, effective March 8, 2004, ceased to be a reporting issuer in the MineGem Jurisdictions and is currently not a reporting issuer in any jurisdiction of Canada;
7. as a result of the Take-Over Bid, the Filer became a reporting issuer in the Jurisdictions; the Filer is not a reporting issuer or the equivalent in any other province or territory in Canada;
8. the Filer received acceptances from MineGem shareholders in respect of approximately 93.2% of the MineGem Shares and has taken up and paid for all MineGem Shares tendered under the Take-Over Bid;
9. on November 7, 2003, pursuant to the provisions of the statutory right of compulsory acquisition (the Compulsory Acquisition) provided by Section 188 of the *Business Corporations Act* (Ontario) (the OBCA), the Filer exercised its right to acquire the remaining MineGem Shares by sending a notice of Compulsory Acquisition to the holders of the remaining MineGem Shares;
10. on November 27, 2003, the Filer delivered to MineGem a notice of provisional allotment of Ordinary Shares irrevocably authorizing the delivery to the remaining holders of MineGem Shares of that number of Ordinary Shares to which they would have been entitled under the Take-Over Bid, in satisfaction of the requirements of Subsection 188(5) of the OBCA;
11. on December 11, 2003, the Filer acquired the remaining MineGem Shares; as a result of the Take-Over Bid and subsequent Compulsory Acquisition, the Filer is the sole beneficial holder of MineGem Shares;
12. the Filer has been in default of its obligations as a reporting issuer under the Legislation since it became a reporting issuer as a result of not filing its quarterly financial statements;
13. the Filer is currently subject to the reporting requirements of the London Stock Exchange Alternative Investment Market, which requires the filing of semi-annual financial statements, rather than quarterly financial statements;

2004 BCSECCOM 645

14. the geographic breakdown of beneficial holders of Ordinary Shares by Jurisdiction immediately after completion of the Take-Over Bid was:

	No. of Beneficial Shareholders	No. of Ordinary Shares held by Beneficial Shareholders
British Columbia	35	159,787
Saskatchewan	2	1,950

15. as of October 7, 2004, 295,512 Ordinary Shares, representing less than 1% of the issued and outstanding Ordinary Shares are held by registered shareholders whose addresses are located in Canada, of whom, 35 have addresses located in British Columbia and 2 have addresses located in Saskatchewan;
16. all Canadian holders of Ordinary Shares have been and will continue to be provided with all continuous disclosure materials distributed to the Filer shareholders resident in the United Kingdom concurrently;
17. the Ordinary Shares are not traded on any stock exchange or organized market in Canada and are listed on the London Stock Exchange Alternative Investment Market;
18. other than the Ordinary Shares, the Filer has no other securities, including debt securities, outstanding in Canada;
19. the Filer does not intend to seek public financing in Canada by way of an offering of its securities.

Order

- ¶ 3 Because it is not prejudicial to the public interest, the decision maker orders, under section 88 of the Act, that European Diamonds is deemed to cease to be a reporting issuer.
- ¶ 4 November 15, 2004

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