

Citation: 2024 BCSECCOM 441

Headnote

National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications - Securities Act* s. 88 - Cease to be a reporting issuer in BC – The securities of the issuer are beneficially owned by more than 50 persons and are not traded through any exchange or market; following an arrangement, all of the issuer’s common shares were acquired by another company that is a reporting issuer and in compliance with its continuous disclosure obligations; the issuer has convertible securities that are beneficially owned by more than 50 persons; the convertible securities are exercisable for securities of the acquirer or redeemable based on the value of the shares of the acquirer; the issuer is not required under the terms of the convertible securities to provide any continuous disclosure to the holders of the convertible securities or to remain a reporting issuer; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents.

Applicable Legislative Provisions

Securities Act, R.S.B.C. 1996, c. 418, s. 88

October 9, 2024

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

and

In the Matter of
the Process for Cease to be a Reporting Issuer Applications

and

In the Matter of
Blackwolf Copper and Gold Ltd.
(the Filer)

Order

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for an order under the securities legislation of the Jurisdictions (the Legislation) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the Order Sought).

Under the Process for Cease to be a Reporting Issuer Applications (for a dual application):

(a) the British Columbia Securities Commission is the principal regulator for this application;

- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta; and
- (c) this order is the order 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 order, unless otherwise defined.

Representations

- ¶ 3 This order is based on the following facts represented by the Filer:

1. the Filer was incorporated under the *Business Corporations Act* (British Columbia) (the BCBCA);
2. prior to the Arrangement (as defined below), the Filer's head office was located in Vancouver, British Columbia;
3. the common shares in the capital of the Filer (the Filer Shares) traded on the TSX Venture Exchange (the TSXV) under the symbol "BWCG" and were quoted on the OTCQB under the symbol "BWCGF"; no other securities of the Filer were listed on any marketplace;
4. immediately prior to the Effective Time (as defined below), the Filer had the following issued and outstanding securities:
 - (a) 144,355,589 Filer Shares;
 - (b) stock options exercisable to purchase 3,785,000 Filer Shares (the Filer Options);
 - (c) common share purchase warrants to acquire 6,126,607 Filer Shares which expired on July 15, 2024;
 - (d) common share purchase warrants to acquire 15,000,000 Filer Shares at a price of \$0.35 per Filer Share (the April 2023 Warrants);
 - (e) common share purchase warrants to acquire 2,506,746 Filer Shares at a price of \$0.20 per Filer Share (the April 2023 Finder Warrants); and
 - (f) common share purchase warrants to acquire 13,870,903 Filer Shares at a price of \$0.35 per Filer Share (the October 2023 Warrants);(the April 2023 Warrants, the April 2023 Finder Warrants and the October 2023 Warrants, collectively, the Filer Warrants);
5. to the best of the Filer's knowledge and belief, upon due diligence searches conducted with the Filer's transfer agent and Broadridge Financial Solutions Inc., the Filer was able to ascertain the residence of 150 beneficial holders of Filer Warrants, 83 of which are in British Columbia, 27 of which are in Ontario, 3 of which are in Saskatchewan, 1 of which is in Alberta, 1 of which is in Quebec, and 35 of which are in a foreign jurisdiction;

6. under the terms and conditions of an arrangement agreement dated May 1, 2024 between the Filer and NexGold Mining Corp. (NexGold), effective at 12:01 a.m. (Pacific Time) on July 3, 2024 (the Effective Time), NexGold acquired all of the issued and outstanding Filer Shares by way of a statutory plan of arrangement under the BCBCA (the Arrangement);
7. NexGold is a corporation existing under the BCBCA, and its authorized share capital consists of an unlimited number of common shares (the NexGold Shares), which are listed on the TSXV under the symbol "NEXG" and are quoted on the OTCQX under the symbol "NXGCF";
8. the notice of special meeting of holders of Filer Shares and Filer Options (the Voting Filer Securityholders) and management information circular dated May 27, 2024 was delivered to the Voting Filer Securityholders entitled to vote at the special meeting of the Voting Filer Securityholders that took place on June 26, 2024 to consider the Arrangement;
9. under the Arrangement:
 - (a) NexGold acquired all of the Filer Shares;
 - (b) all Filer Options were exchanged into stock options of NexGold to acquire NexGold Shares;
 - (c) all Filer Warrant holders became entitled to receive, and NexGold became obligated to provide, upon exercise of such Filer Warrants, such number of NexGold Shares that the holders would have been entitled to receive if the holders had exercised their Filer Warrants immediately prior to the Effective Time;
10. the Filer is not required to remain a reporting issuer in any jurisdiction under any contractual arrangement between the Filer and the holders of the Filer Warrants, and no consents or approvals were required from the holders of the Filer Warrants;
11. the Filer Warrants do not provide the holders thereof with voting rights in respect of NexGold;
12. in connection with the Arrangement, additional NexGold Shares were authorized for issuance upon exercise of the Filer Warrants;
13. the Filer Shares were delisted from the TSXV and withdrawn from the OTCQB in the United States effective at the close of business on July 4, 2024;
14. NexGold is a reporting issuer in each of Alberta, British Columbia and Ontario, and as such, NexGold is subject to the continuous disclosure requirements that are relevant to holders of Filer Warrants, as such holders are entitled to receive NexGold Shares upon exercise of such securities;
15. NexGold is not in default of securities legislation in any jurisdiction;
16. the Filer is not an OTC issuer as that term is defined under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
17. the Filer has no intention to seek public financing by way of an offering of securities;

18. no securities of the Filer, including any debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported; the Filer is applying for an order that it has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is currently a reporting issuer;
19. the Filer is not in default of securities legislation in any jurisdiction other than its obligations to file on or before October 1, 2024 its interim financial statements and related management's discussion and analysis for the interim period ended July 31, 2024, as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings);
20. the Filer cannot rely on the exemption available in section 13.3 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) for issuers of exchangeable securities because the Filer Warrants are not "designated exchangeable securities" as that term is defined under NI 51-102;
21. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* (NP 11-206) because the securities of the Filer, namely the Filer Warrants, are not beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
22. the Filer is not eligible to use the modified procedure under NP 11-206 because, among other things, the Filer is not organized or incorporated in a foreign jurisdiction; and
23. upon the granting of the Order Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction in Canada.

Order

- ¶ 4 Each of the Decision Makers is satisfied that the order meets the test set out in the Legislation for the Decision Maker to make the order.

The decision of the Decision Makers under the Legislation is that the Order Sought is granted.

Melody Chen
Acting Chief, Legal Services, Corporate Finance
British Columbia Securities Commission