



Citation: 2014 BCSECCOM 443

Headnote

Securities Act, s.76 - Professional organization wants to distribute securities of a trust or limited partnership to partners, professionals and executives, and their family trusts, professional corporations, and family members - The distributions and subsequent transfers are of securities of entities related to a business; the distributions will only be to professionals working for the business, and their spouses, professional corporations and family trusts.

October 17, 2014

Exemption Order

Bennett Jones Services Trust

Section 76 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 The Filer has applied to the British Columbia Securities Commission (the Commission) for a decision exempting the Filer from the requirements of Section 61 of the Act in connection with the distribution, by the Filer, of trust units of the Filer (Trust Units) to Permitted Investors (defined below) resident in British Columbia and in connection with the transfer, from time to time, of Trust Units from Permitted Investors to other Permitted Investors or from Permitted Investors to the Filer itself (collectively, the Requested Relief).

Representations

- ¶ 2 The Filer represents that:
1. Bennett Jones LLP (BJ LLP) is a limited liability partnership registered in Alberta on June 12, 2000; BJ LLP was extra-provincially registered in Ontario on March 5, 2001 and in British Columbia on April 10, 2014;
 2. the partners of BJ LLP (the BJ Partners) are individual lawyers or professional corporations the voting shares of which are held by an individual lawyer;
 3. as of the date of this order, there are 187 BJ Partners, of whom 110 BJ Partners reside in Alberta, 74 BJ Partners reside in Ontario, one BJ Partner resides in Quebec and two BJ Partners reside in British Columbia; no BJ Partners reside outside of Canada;

4. the Filer is the sole limited partner of Bennett Jones Services Limited Partnership (BJ SLP), which provides administrative services to BJ LLP and certain of its affiliated entities;
5. BJ SLP is a limited partnership registered in Alberta on July 17, 2001; BJ SLP was extra-provincially registered in Ontario on August 1, 2001 and in British Columbia on April 10, 2014;
6. BJ SLP provides administrative services to BJ LLP and certain affiliated entities; the business activities of BJ SLP are limited to such administrative services;
7. the sole general partner of BJ SLP is Bennett Jones Services Inc. (BJSI), a corporation incorporated under the *Business Corporations Act* (Alberta) on June 15, 2001; BJSI was extra provincially registered in Ontario on July 20, 2001 and in British Columbia on April 8, 2014; all of the issued and outstanding shares of BJSI are owned by nominees of BJ LLP;
8. in 2011, a reorganization (the Reorganization) was completed involving BJ SLP and The Canadian Professional Services Trust (TCPST), an Alberta unit trust that was previously the sole limited partner of BJ SLP; as part of the Reorganization, all of the trust units of TCPST were redeemed, the Filer became the sole limited partner of BJ SLP and BJSI continued as the sole general partner of BJ SLP;
9. Bennett Jones Trustee Inc. (the Trustee) is the sole trustee of the Filer;
10. the Trustee is a corporation incorporated under the *Business Corporations Act* (Alberta) on October 4, 2011; the Trustee was extraprovincially registered in Ontario on October 7, 2011 and in British Columbia on September 8, 2014;
11. the authorized capital of the Trustee consists of an unlimited number of common shares, of which 200 common shares are issued and outstanding; all of the common shares of the Trustee are held by two BJ Partners who reside in Alberta, both of whom are "accredited investors" for purposes of applicable securities laws and who hold such shares in trust for BJ LLP;
12. the Trustee has been incorporated solely to act as trustee of the Filer;
13. each director and officer of the Trustee is, and all of the future directors and officers of the Trustee will be, a BJ LLP lawyer or an Officer (as defined in paragraph 15 below);
14. the Trustee is responsible for the administration of the Filer, including the distribution by the Filer of Trust Units and the processing and recording by the Filer of transfers of Trust Units from Permitted Investors to other Permitted Investors or from any Permitted Investor to the Filer itself;
15. all of the Trust Units are held by Permitted Investors; the Filer is restricted from issuing Trust Units to any person who is not a BJ Partner or closely affiliated with a

- BJ Partner; in particular, under the Trust Indenture, the Filer is restricted from issuing Trust Units to any person who is not a Permitted Investor; Permitted Investors are limited to the following persons: (i) an individual who is a BJ Partner; (ii) a professional corporation that is a BJ Partner; (iii) an individual who owns all of the voting shares of a professional corporation that is a BJ Partner; (iv) an officer of BJSI (Officer); (v) the spouse, common-law partner (as defined in the *Income Tax Act* (Canada)) or adult child of an individual referred to in (i), (iii) or (iv) above; and (vi) a family trust of which an individual referred to in (i), (iii) or (iv) above is a trustee (the foregoing persons are referred to collectively in this Order as the Permitted Investors and each individually as a Permitted Investor);
16. the Trust Indenture provides that Trust Units may only be transferred to a person who is a Permitted Investor or to the Filer itself; it is anticipated that any transfers of Trust Units between Permitted Investors will be infrequent and will be limited to transfers within an affiliated group (for example, by an individual BJ Partner to that person's spouse);
 17. the Trust Indenture requires the Filer to redeem any Trust Units held by a person that ceases to be a Permitted Investor; the redemption amount payable on the redemption of any Trust Unit is \$1.00 per Trust Unit (i.e., the same as the issue price), together with any unpaid distributions on the Trust Unit;
 18. none of the Filer, BJLLP, BJSLP, BJSI, or the Trustee has any securities listed on a stock exchange and there is no intention to list any securities of the Filer on a stock exchange;
 19. none of the Filer, BJLLP, BJSLP, BJSI, or the Trustee is a reporting issuer in any jurisdiction and there is no intention to cause the Filer or any of BJLLP, BJSLP, BJSI, or the Trustee to become a reporting issuer; and
 20. none of the Filer BJLLP, BJSLP, BJSI, or the Trustee is in default of any securities laws of Alberta, Ontario, British Columbia or any other jurisdiction.

Order

¶ 3 Considering that it is not prejudicial to the public interest, the Commission orders that the Requested Relief is granted, provided that:

- (a) before the issuance of Trust Units to any Permitted Investor who does not already hold Trust Units, the Filer will:
 - (i) provide the Permitted Investor with a copy of this Order; and
 - (ii) obtain a written statement from the Permitted Investor acknowledging receipt of a copy of this Order and further acknowledging the Permitted Investor's

understanding that the right to receive continuous disclosure is not available to the Permitted Investor in respect of the Trust Units;

- (b) the Filer provides to each holder of Trust Units audited annual financial statements consisting of a statement of net assets, a statement of operations and a statement of change in assets, together with notes to such audited annual financial statements, for each financial year of the Filer within 120 days of the end of such financial year;
- (c) the Filer provides to each holder of Trust Units unaudited interim financial statements consisting of a statement of net assets, a statement of operations and a statement of change in assets for each interim period of the Filer within 60 days of the end of such interim period;
- (d) the Filer files a report of exempt distribution with the Commission within 10 days of the end of each calendar quarter in which Trust Units are distributed by the Filer to any person resident in British Columbia, together with the filing fees payable to the Commission; and
- (e) any first trade of a Trust Unit will be a distribution under the securities legislation of British Columbia, unless such trade:
 - (i) is made to another Permitted Investor; or
 - (ii) is a redemption, retraction or cancellation of the Trust Unit in accordance with its terms.

Peter Brady
Director, Corporate Finance
British Columbia Securities Commission