

## A.S.C. NOTICE 10

### Cease Trade Orders Issued Due to Delinquency In Filing Financial Statements

Section 123 of the Securities Act (Alberta) (the “Act”) allows a reporting issuer to make an application to the Board of the Alberta Securities Commission (the “Commission”) (which function has in turn been delegated by the Board to the Chief of Securities Administration pursuant to section 14 of the Act) for an order to extend the time periods prescribed by sections 120 and 121 of the Act as the case may be, in which to file its financial statements. This Notice provides guidelines as to when such applications should be made to the Commission and as to the content of the application.

#### Requirement To File Financial Statements

A reporting issuer is required to file:

1. interim financial statements within 60 days after the end of each 3-month, 6-month and 9-month period, as the case may be, pursuant to section 120 of the Act; and
2. audited annual financial statements within 140 days after the end of its latest financial year pursuant to section 121 of the Act.

Failure to so file may result in a cease trade order being issued and remaining in effect until the reporting issuer rectifies the default in filing.

#### Request For An Extension of Time For the Filing of Financial Statements

However, it is the practice of staff of the Commission to allow, in extraordinary circumstances an extension of time for the filing of financial statements. A reporting issuer that will not be able to meet a deadline imposed by section 120 or 121, may apply for an extension of time under section 123 of the Act. An application should be received at least 10 business days before the expiration of the time limits prescribed by section 120 or 121, as the case may be, so as to give staff ample opportunity to review the application before expiration of such time limits.

Applications which are received after the expiration of the time limits prescribed by section 120 or 121 may not be considered by staff and the matter may be referred to the Director, Market Standards for consideration of possible interim cease trade action.

#### Content of Application

When submitting applications issuers must comply with the following:

1. Applications are to be submitted in writing, and divided into parts dealing with each of the following headings, as applicable, including the information, if relevant, indicated below.
2. Summary
  - 2.1 include the name of the issuer, the name of the applicant and the nature of the relief sought.
3. The Issuer
  - 3.1 the name of the issuer;
  - 3.2 jurisdiction and date of incorporation or (in the case of unincorporated entities) organization;
  - 3.3 capital structure - authorized, and issued and outstanding capital and debt obligations;
  - 3.4 the date the issuer became a reporting issuer. If the issuer is a reporting issuer in another jurisdiction so state and disclose the date it became a reporting issuer in that jurisdiction;
  - 3.5 whether the issuer is listed on any exchange or trading over-the-counter, and recent price and volume traded; and
  - 3.6 whether the issuer is in default of securities legislation in Alberta or any other jurisdiction.
4. Arguments and Materials in Support of Application
  - 4.1 the facts on which the application is based;
  - 4.2 the reasons for making the application;
  - 4.3 arguments in support of granting the order requested;
  - 4.4 where the application pertains to the issuer's annual audited financial statements a letter from its auditor as to when it anticipates its Audit Report will be completed;
  - 4.5 a written statement from one of the issuer's senior officers that there have been no material adverse changes in its affairs since the date of its last financial statements filed that has not been generally disclosed by way of a press release, and the filing of a Material Change Report;
  - 4.6 the application fee prescribed by Schedule 1 to the Regulation to the Act;

- 4.7 relevant considerations including case law, prior Board decisions, other applications pending before the Board, conditions or recommendations;
  - 4.8 other relevant circumstances including regulatory decisions by agencies other than the Board, applications pending before other agencies, conditions or recommendations;
  - 4.9 whether the issuer has applied for and received any other Orders pursuant to section 123 in the past and the details of such;
  - 4.10 a statement as to whether similar applications have or have not been made in other jurisdictions (applicants should refer to the Canadian Securities Administrators' Notice #92/2 published in the July 31, 1992 Commission Summary);
  - 4.11 supporting documents may be included as schedules or exhibits to the application. References in the application should be made to such supporting documents.
5. Order or Decision Sought
- 5.1 An applicant shall submit a draft of the order sought. Attached as Schedule "A" to this Notice is a sample form of section 123 Order to assist applicants.

#### Securities Legislation of Other Jurisdictions

The securities legislation of some Canadian jurisdictions is not uniform with the provisions of sections 120 and 121 of the Act in that some jurisdictions do not require the filing of quarterly financial statements and the time limits prescribed for the filing of required financial statements are, in some cases, longer than that provided for under the Act. Notwithstanding that some jurisdictions may allow a longer time period for filing financial statements under their securities legislation, issuers that participate in the Alberta capital market and become reporting issuers under the Act must comply with the provisions of the Act.

A reporting issuer that is delinquent in filing financial statements pursuant to sections 120 and 121 of the Act will be subject to having an interim cease trade order issued against it, notwithstanding that it may be a reporting issuer in another jurisdiction where it is not in default in filing its financial statements. This will also be the case notwithstanding that it may have received an order or agreement to an extension for filing its financial statements from another jurisdiction, or from a stock exchange on which the issuer is listed.

Dated at Edmonton, Alberta, this 10th day of March, 1994.

ORD. #  
APP. #  
REC. #  
FILE #  
DOC. #

ALBERTA SECURITIES COMMISSION

IN THE MATTER OF The Securities Act  
(S.A. 1981, c. S-6.1, as amended) (the "Act")

- and -

IN THE MATTER OF

O R D E R  
(Section 123)

1. WHEREAS (the "Corporation") has applied to the Alberta Securities Commission (the "Commission") for an Order pursuant to section 123(b)(iii) of the Act to extend the time in which to file its financial statements for the \_\_\_\_\_ with the Chief of Securities Administration as required under section \_\_\_\_\_ of the Act and to mail those financial statements to its security holders as required by section 122;
2. AND WHEREAS the Board of the Alberta Securities Commission, pursuant to section 14(3) of the Act has made an assignment to the Director (Deputy Director), Securities Analysis for the granting of Orders under section 123 of the Act;
3. AND WHEREAS it was represented by the Corporation to the Director (Deputy Director) Securities Analysis that:
  - 3.1
  - 3.2
  - 3.3
4. AND WHEREAS the Director (Deputy Director), Securities Analysis is of the opinion that to grant this Order would not be prejudicial to the public interest and is satisfied in the circumstances of this particular case that there is adequate justification for so doing;

5. IT IS HEREBY ORDERED pursuant to section 123(b)(iii) of the Act that the Corporation shall file with the Chief of Securities Administration and mail to its security holders its financial statements for the period ended by .

Dated at the City of EDMONTON )

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in the Province of ALBERTA )

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this day of , 199 . )

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