

ALBERTA SECURITIES COMMISSION

IN THE MATTER OF THE SECURITIES ACT (S.A. 1981, C. S-6.1, AS AMENDED)  
(THE "ACT")  
AND  
THE MATTER OF OFFERING MEMORANDA AND FORM 43 OF THE SECURITIES  
REGULATIONS

*ORDER*  
(*SECTION 185*)

1. WHEREAS the Director (the "Director") of the Alberta Securities Commission (the "Commission") has made an application to the Commission for an order pursuant to section 185 of the Act;
2. AND WHEREAS it appears to the Commission that:
  - 2.1 By reason of section 127(l)(b) of the Securities Regulations, A.R. 46/87, as amended (the "Regulations"), if an offering memorandum is utilized in conjunction with the statutory exemption at section 107(l)(d) of the Act, then that offering memorandum must be completed in accordance with Form 43 of the Regulations;
  - 2.2 Purchasers acquiring securities under the statutory exemption at section 107(l)(d) of the Act should be sufficiently sophisticated so as to not require a specific form of offering memorandum as required by section 127(l)(b) of the Regulations;
3. AND WHEREAS it further appears to the Commission that:
  - 3.1 Item 17(b) of Form 43 of the Regulations requires that where an issuer has completed 1 or more fiscal years, the following financial statements must be included in the offering memorandum:
    - 3.1.1 audited financial statements of the issuer for the most recent fiscal year as at a date not more than 120 days prior to the date securities were first offered for sale pursuant to the offering memorandum; and
    - 3.1.2 if applicable, unaudited financial statements for a stub period ending not more than 90 days prior to the date the securities were first offered for sale pursuant to the offering memorandum;
  - 3.2 The requirement that the audited financial statements of the issuer be not more than 120 days old prior to the first offering of securities under the offering memorandum is overly onerous;

4. AND WHEREAS the Commission is of the opinion that it would not be prejudicial to the public interest to do so;
5. IT IS HEREBY ORDERED pursuant to section 185 of the Act that notwithstanding section 127(l)(b) of the Regulations, any person or company:
  - 5.1 distributing securities pursuant to the statutory exemptions at section 107(i)(d) of the Act; and
  - 5.2 utilizing an offering memorandum in conjunction with such a distribution shall not be subject to the requirements of section 127(l)(b) of the Regulations and shall not be required to prepare the offering memorandum in accordance with Form 43 of the Regulations provided that the offering memorandum shall contain or have incorporated by reference therein:
    - 5.2.1 a description of contractual rights of action substantially as set forth at Item 20 of Form 43 of the Regulations;
    - 5.2.2 a description of the limitation period for exercise of the contractual rights of action substantially as set forth at Item 21 of Form 43; and
    - 5.2.3 a certificate that shall be prepared in accordance with Item 22 of Form 43;
6. IT IS FURTHER ORDERED pursuant to section 185 of the Act that any person or company distributing securities pursuant to any of the statutory exemptions referred to at section 127(l) of the Regulations, where applicable, shall not be subject to the requirements of Item 17(b) of Form 43 of the Regulations provided that where the issuer has completed 1 or more fiscal years the following financial statements prepared in accordance with generally accepted accounting principles are included in the offering memorandum:
  - 6.1 audited financial statements of the issuer for the most recent fiscal year; and
  - 6.2 if the financial statements referred to in 6.1, are at a date which is in excess of 120 days prior to the date the securities were first offered for sale pursuant to the offering memorandum, unaudited financial statements for a stub period ending not more than 90 days prior to the date the securities were first offered for sale pursuant to the offering memorandum.

Dated at the City of EDMONTON  
in the Province of ALBERTA  
this 4th Day of June, 1987

ALBERTA SECURITIES COMMISSION