

“Anyone with money is a friend of mine.”

(Statement given at an investigation interview with the BC Securities Commission)

When raising capital in Canada companies rely on three main exemptions from the registration and prospectus requirements of the securities act and regulations: (1) the friends, family and business associate exemption, (2) the accredited investor exemption; and (3) the offering memorandum exemption. Not all jurisdictions in Canada recognize all three of these exemptions. Ontario for instance only recognizes the accredited investor exemption in this trio.

Over the last year the British Columbia Securities Commission (“**Commission**”) has stepped up its investigation of private issuers using exemptions in *National Instrument 45-106 Prospectus and Registration Exemptions* from the prospectus and registration requirements of the Securities Act in BC. The normal course of an investigation is to issue an order of production to the company who issued the securities and a polite letter and questionnaire to the investors identified in the Schedule “A” of the [Form 45-106F1](#) filed by the issuer. As a result of these recent investigations a number of sanctions and notice of hearings have been issued:

- [William Dorn Beattie, Solara Technologies Inc.](#) 03/26/2010
- [Fine Water Inc. and Alan Geoffrey With](#) 04/07/2010
- [Solara Technologies Inc. and William Dorn Beattie](#) 06/23/2010
- [Notice of Hearing: VerifySmart Corp., Verified Transactions Corp., Daniel Scammell and Casper de Beer](#) 11/24/2010
- [Notice of Hearing: John Arthur Roche McLoughlin, MCL Ventures Inc., Blue Lighthouse Ltd. and Robert Douglas Collins](#) 11/24/2010
- [Notice of Hearing: Photo Violation Technologies Corp., Frederick Lawrence Marlatt, also known as Frederick Lawrence Mitschele, Michael Wallace Minor, and Michael Garfield Timothy Minor, also known as Tim Minor](#)

What did these issuers do wrong? More importantly, how can you avoid an escalation from an order of production to a full on hearing and sanctions being issued?

In this three part series, I will set out the definition and rules of the close personal friend exemption, the accredited investor exemption and the offering memorandum exemption. I will also suggest steps you must and can take to meet your obligation to confirm a particular exemption may be relied upon by you when issuing securities.

- Part One: Relying on the “close personal friend” and “close business associate” exemptions to raise private placement capital;
- Part Two: Relying on the “accredited investor” exemption to raise private placement capital; and
- Part Three: Relying on the “offering memorandum” exemption to raise private placement



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