

Headnote

Securities Act Section 79 Adviser – Exemption from clause 31(1)(c) requirement to be registered as an adviser – A person who resides outside Nova Scotia wants to advise Nova Scotia residents – The person is registered or qualified to provide advice in the jurisdiction in which it resides; The person will only advise two Nova Scotia clients; The person will not solicit any other clients in Nova Scotia; The clients are aware that the person is not registered in Nova Scotia and of the consequences; The person managed the assets for the clients when they were resident in the United States and the clients want the person to continue acting as their adviser.

Applicable Legislative Provisions

Securities Act, R.S.N.S. 1989, chapter 418, as amended, sections 31(1)(c) and 79.

IN THE MATTER OF: **The *Securities Act*, R.S.N.S. 1989, c. 418, as amended**

- and -

IN THE MATTER OF: **Stegent Equity Advisors, Inc.**

RULING (Section 79)

UPON the application by Stegent Equity Advisors, Inc. (the “Applicant”) to the Nova Scotia Securities Commission (the “Commission”) for a ruling pursuant to section 79 of the *Securities Act*, R.S.N.S. 1989, c. 418, as amended (the “Act”) that the Applicant be exempted from the registration requirement of clause 31(1)(c) of the Act to provide securities advice to the Clients, as defined below;

AND UPON reading the application and the recommendation of staff of the Commission;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is incorporated under the laws of the State of Texas. The head office, registered office and principal business address of the Applicant is located at 24 Greenway Plaza, Suite 515, Houston, TX 77046.
2. The Applicant carries on the business of an adviser in the United States and it is registered as an investment adviser under the *Investment Advisers Act of 1940* (the “1940 Act”) with the United States Securities and Exchange Commission (the “SEC”). The Applicant is not registered in any jurisdiction of Canada. The Applicant offers a full range of financial

products and services to assist its clients with their tax planning, retirement planning and estate conservation.

3. Since March, 2007, the Applicant has managed on a discretionary basis the assets of two married individuals (the "Clients"). The Clients were previously resident in Texas before moving to Shelburne County, Nova Scotia, during the fall of 2007. The assets that are being managed by the Applicant pursuant to discretionary investment authority that has been granted by the Clients (the "Client Assets") are held as follows:
 - (a) approximately 78% of the Client Assets are held in the Clients' US individual retirement arrangement accounts ("IRA Accounts") that are maintained by TD Ameritrade Clearing, Inc. (the "U.S. Custodian") in New York and are tax-advantaged retirement savings plans;
 - (b) approximately 13% of the Client Assets are held in an account that is maintained by TD Waterhouse Canada Inc.; and
 - (c) approximately 9% of the Client Assets are held in a registered retirement savings plan account that is maintained by RBC Dominion Securities Inc.
4. As the result of US tax legislation, neither Client can withdraw amounts from his/her IRA Account without incurring significant US tax liability. The Clients have a thorough knowledge of the Applicant's portfolio management style and practices and have advised the Applicant that they would like the Applicant to continue managing all Client Assets on a discretionary basis to achieve optimal portfolio diversification pursuant to a common investment objective and strategy.
5. The U.S. Custodian acts as the correspondent broker for TD Ameritrade, Inc. ("TD Ameritrade"). TD Ameritrade is an introducing broker that is also responsible for maintaining the IRA Accounts. The Applicant places trades on behalf of the Clients with TD Ameritrade. On behalf of TD Ameritrade, the U.S. Custodian thereafter routes the trades to appropriate market centers for execution.
6. Each of the U.S. Custodian and TD Ameritrade is registered as a broker-dealer with the SEC and is a member of the U.S. Financial Industry Regulatory Authority. As regards the IRA Accounts, TD Ameritrade is exempt from the dealer registration requirement in clause 31(1)(a) of the Act pursuant to section 2.1 of National Instrument 35-101 *Conditional Exemption from Registration for United States Broker-Dealers and Agents*.
7. The Applicant will act as an adviser in Nova Scotia in reliance upon this ruling solely to manage the Client Assets for the Clients.
8. The Applicant will not solicit other clients in Nova Scotia and will not maintain an office or representatives in any jurisdiction in Canada.
9. Any acting as an adviser for the Clients in respect of Canadian securities will be incidental to the Applicant's acting as an adviser for the Clients in respect of foreign securities.

10. The Applicant will advise the Clients that it is not registered as an adviser under the Act in Nova Scotia, that it may not have the same proficiency requirements as other persons registered under the Act, that the Clients may not have the same protections they might otherwise have if the Applicant was registered as an adviser under the Act and that there may be difficulty enforcing legal rights against the Applicant because it is resident outside Canada and all or substantially all of its assets are situated outside Canada. The Applicant will also advise the Clients of the name and address of its Nova Scotia agent for service of process.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest;

IT IS RULED, pursuant to section 79 of the Act, that the Applicant is exempted from the registration requirement of clause 31(1)(c) of the Act for securities advice provided to the Clients to manage the Client Assets, provided that:

1. The Applicant maintains in good standing its registration as an investment adviser under the 1940 Act;
2. The Applicant complies with paragraphs 7 to 10 above;
3. Prior to advising the Clients in Nova Scotia in reliance on this ruling, the Applicant and each partner and officer of the Applicant who will be advising the Clients will have filed with the Director of Securities a duly executed submission to jurisdiction and appointment of agent for service of process substantially in the form attached as Appendix A to the Commission's Blanket Order No. 31-504; and
4. The Applicant, in the course of its dealings with the Clients, acts fairly, honestly and in good faith.

SIGNED at Halifax, Nova Scotia, this 19th day of August, 2009.

NOVA SCOTIA SECURITIES COMMISSION

"H. Leslie O'Brien"

H. Leslie O'Brien, Q.C.

"R. Daren Baxter"

R. Daren Baxter