

10/10/12

These are statements (and answers to my questions) from my lawyer. The answers to the questions are self-explanatory so there was no need to post the questions.

Chris Charlwood

"Multilateral Instrument 62-104 (and equivalent provisions of Ontario securities legislation) sets out the basic rules for take-over bids. As well, under Multilateral Instrument 61-101 in certain circumstances where a major shareholder of a company is making a bid for the shares of the company, it is called an insider bid. As such to protect the other shareholders certain procedures must be followed. Essentially these are that certain mandated disclosure be made and a formal valuation be obtained although there are exceptions to these requirements.

Assuming the insider has made a bid which conforms to the rules, certain other rules and procedures then can apply. For example, if Nord is able to acquire 90% or more of the outstanding shares of the class subject to the bid, other than those held by it at the date of the bid, within the earlier of the time limited in the take-over bid for its acceptance and 120 days after the date of the bid, Nord is entitled under the provisions of the Yukon Business Corporations Act to acquire the balance of the shares in a compulsory acquisition procedure. If 90% of the shares are not acquired then another method may be employed if the bidder has 66 2/3% of the shares. In this case it can propose an amalgamation or an arrangement which would result in the minority being bought out for at least the bid price.

The answers to your specific questions are as follows in the order you asked them below:

If Nord acquires 90% or more of the outstanding HRG shares, excluding the HRG shares held by them on the date of the bid, within the earlier of the time limited in the take-over bid for its acceptance and 120 days after the date of the bid, they can avail themselves of compulsory acquisition procedures under corporate law to acquire the balance of the HRG shares held by minority shareholders. Minority shareholders who have not tendered to the bid will have the right to elect to demand payment of the fair value of their shares by applying to court to set the fair value. There are procedural requirements which must be strictly followed in connection with this procedure. A shareholder electing to follow this procedure is still required to deliver his share certificates to HRG prior to conclusion of the court application.

If Nord does not acquire the requisite number of HRG shares to enable them to exercise the compulsory acquisition rights, they will have to do a second stage squeeze-out transaction.

Meanwhile HRG remains listed and trading. With respect to the second stage transaction squeeze-out, it works this way. The HRG shareholder approval required will depend on the percentage of HRG shares held by Nord on the date the squeeze-out transaction is agreed to. If on that date, Nord holds 90% or more of the outstanding HRG shares and HRG shareholders are provided with an appraisal right to demand fair value for their HRG shares, the only HRG shareholder approval required will be a special resolution passed by a 66 2/3% majority. Nord will be able to vote all of its HRG shares in favour of this resolution. Note that the calculation of the 90% threshold for the purpose of the exercise of the compulsory acquisition rights and the application of the minority shareholder approval requirements are different.

If Nord does not hold 90% or more of the outstanding HRG shares on the date the squeeze-out transaction is agreed with HRG, under MI 61-101, a majority of the minority HRG shareholders

must approve the transaction. If the squeeze-out transaction is completed within 120 days after the expiry of the bid, Nord may vote shares which were tendered to the bid to form part of the majority of the minority on compliance with certain conditions including disclosure in the bid circular of Nord's intention to carry out a squeeze-out transaction. In addition, for corporate law purposes they will also require a special resolution which is a 66 2/3% majority. They are able to vote all their shares in this vote.

As a general rule, under Multilateral instrument 62-104 (and equivalent provisions of Ontario securities legislation), Nord cannot buy HRG shares from date of announcement of their intention to make the bid until its expiry otherwise than under the bid. An exemption is available for open market normal course purchases of up to 5% of shares outstanding on the date of bid on compliance with certain conditions including a requirement to issue press releases regarding such purchases. Intention to make such purchases must be disclosed in bid circular or, if Nord's intention changes after the date of the bid, in a press release made at least one business day prior to any such purchase. Disclosure regarding an intention to make normal course open market purchases is invariably made in bid circulars. If Nord makes any such purchases, they must issue a press release immediately after the close of markets on each day a purchase is made under this provision.

There is no time limit to bring the second stage squeeze-out transactions, however, if majority of the minority HRG shareholder approval is required and Nord wishes to avail themselves of the right to vote the shares acquired in the bid, they must complete the transaction within 120 days after the expiry of the bid. At the shareholders' meeting called to approve the amalgamation or arrangement, only those HRG shareholders attending in person or by proxy can vote.

Yes, Nord can vote the HRG shares they acquire in the bid in the minority vote subject to the 120 day time limit noted above and certain other conditions.

With respect to the question as to whether the price per share in a squeeze-out transaction would likely be higher than the bid price, there are a couple of regulatory considerations. If Nord wishes the votes attached to the shares tendered to the bid to be included for minority approval purposes, the price per share in the squeeze-out transaction must be at least equal in value and in the same form as the consideration offered under the bid. Also, under Multilateral Instrument 62-104, for 20 business days after expiry of the bid, Nord can't acquire or offer to acquire HRG shares except by way of a transaction generally available to all HRG shareholders on terms identical to the bid. The practical effect of this is that it is very unlikely that a higher price would be offered for the shares in the squeeze out transaction."