

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA, ONTARIO,
QUEBEC, NOVA SCOTIA AND NEWFOUNDLAND

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF HAWORTH, INC.
AND HAWORTH ACQUISITION CORP. AND SMED INTERNATIONAL INC.

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from Haworth, Inc. ("Haworth") and Haworth Acquisition Corp. (the "Offeror") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that:

1.1 in connection with the cash offer (the "Offer") by the Offeror to purchase all of the issued and outstanding common shares (the "SMED Shares") of SMED International Inc. ("SMED");

1.2 despite the provisions in the Legislation that prohibit an offeror who makes or intends to make a take-over bid or issuer bid and any person or company acting jointly or in concert with the offeror from entering into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value for those securities than that offered to other holders of the same class of securities (the "Prohibition on Collateral Agreements");

1.3 two employment agreements conditionally entered into, respectively, between SMED and each of Mogen F. Smed, Chairman and Chief Executive Officer of SMED, and Andrew R.G. Moor, President and Chief Financial Officer of SMED (collectively, the "Key Executives") are made for reasons other than to increase the value of the consideration to be paid to the Key Executives for their SMED Shares, and so may be entered into;

2. AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Alberta Securities Commission is the principal regulator for this application;

3. AND WHEREAS Haworth and the Offeror has represented to the Decision Makers that:

3.1 Haworth is a privately held corporation existing under the laws of the State of Michigan;

3.2 the Offeror is a wholly-owned subsidiary of Haworth incorporated under the laws of the Province of Alberta for the purposes of making the Offer;

3.3 SMED is a corporation amalgamated under the *Business Corporations Act* (Alberta);

3.4 the authorized capital of SMED consists of an unlimited number of Common Shares (the "SMED Shares"). As at January 24, 2000, 8,427,555 SMED Shares were outstanding and there were outstanding stock options ("Stock Options") granted under the stock option plan of SMED providing for the issuance of 550,308 SMED Shares upon the exercise thereof;

3.5 the SMED Shares are listed and posted for trading on The Toronto Stock Exchange and Nasdaq;

3.6 Mogens F. Smed ("Smed") is the Chairman and Chief Executive Officer of SMED;

3.7 Andrew R.G. Moor ("Moor") is the President and Chief Financial Officer of SMED;

3.8 Smed holds, directly and indirectly, or exercises control or direction over, 505,409 SMED Shares and Stock Options to acquire an additional 97,378 SMED Shares;

3.9 Moor holds, directly and indirectly, or exercises control or direction over, 129,643 SMED Shares and Stock Options to acquire an additional 64,919 SMED Shares;

3.10 Haworth, through the Offeror, has made an all-cash offer to acquire all of the issued and outstanding SMED Shares, including SMED Shares issuable on the exercise of Stock Options;

3.11 the Offer is conditional upon, among other things, there being validly deposited under the Offer and not withdrawn at least $66\frac{2}{3}$ % of the outstanding SMED Shares (calculated on a fully-diluted basis) other than SMED Shares

owned by the Offeror or its affiliates or by persons whose SMED Shares may not form part of any minority approval of a subsequent acquisition transaction;

3.12 Haworth has entered into a pre-acquisition agreement (the "Pre-acquisition Agreement") with SMED pursuant to which, among other things, Haworth agreed to cause the Offeror to make the Offer on the terms and conditions contemplated thereby and SMED represented and warranted that its Board of Directors has determined that the price offered under the Offer is fair from a financial point of view to holders of SMED Shares ("Shareholders") and that the Offer is in the best interests of Shareholders and that SMED's Board of Directors recommends that Shareholders accept the Offer;

3.13 Haworth and the Offeror have also entered into separate lock-up agreements (the "Lock-Up Agreements") with each of the directors and officers of SMED, including the Key Executives, pursuant to which each of such directors and officers have agreed to deposit to the Offer and not withdraw, subject to certain exceptions, all of the SMED Shares (including those issuable on the exercise of Stock Options) owned, or over which control and direction is exercised, by him. The Lock-Up Agreements are all on identical terms;

3.14 each of the Key Executives has conditionally entered into an employment agreement (collectively, the "Employment Agreements") dated January 31, 2000 with SMED providing for the continued full time employment of the Key Executives with SMED, to come into effect on the Offeror taking up and paying for SMED Shares pursuant to the Offer. Pursuant to the Pre-acquisition Agreement, the entering into of the Employment Agreements was a condition to the obligation of the Offeror to make the Offer;

3.15 the principal terms of the Employment Agreements are as follows:

3.15.1 Smed is to continue as Chief Executive Officer of SMED, to be compensated on a reasonable basis appropriate to the industry and the services to be rendered by him;

3.15.2 Moor is to continue as President and Chief Financial Officer of SMED, to be compensated on a reasonable basis appropriate to the industry and the services to be rendered by him;

3.15.3 each of the Employment Agreements is for an initial term expiring December 31, 2001;

3.15.4 each of the Key Executives will be entitled to certain benefits which are commensurate with the benefits which they currently receive as senior officers of SMED; and

3.15.5 the Employment Agreements contain customary termination, severance and non-competition provisions;

3.15.6 the Employment Agreements provide for, and the making of the Offer by the Offeror was conditional upon, the irrevocable waiver by each of the Key Executives of any entitlement to payments to which he may otherwise have been entitled pursuant to existing agreements with SMED on a "change of control" of SMED occurring;

3.15.7 Haworth and the Offeror believe that each of the Key Executives has been an integral part of the successful development of the SMED business and has substantial and valuable experience and expertise in the office furniture industry. The Employment Agreements have been entered into primarily for the purpose of ensuring each of the Key Executive's continued participation in the successful management and development of the SMED business within Haworth's operations following the completion of the Offer;

3.15.8 each of the Employment Agreements were negotiated at arm's length and are on terms that are reasonable;

3.15.9 the compensation provided for in each of the Employment Agreements is reasonable in light of the services to be rendered by the Key Executives to Haworth and SMED following the completion of the Offer; and

3.15.10 the Employment Agreements have been entered into for valid business reasons unrelated to the Key Executives' holdings of SMED Shares and not for the purpose of conferring an economic or collateral benefit on the Key Executives in their capacities as holders of SMED Shares that the other holders of SMED Shares do not enjoy;

4. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

6. THE DECISION of the Decision Makers under the Legislation is that the Employment Agreements are entered into for reasons other than to increase the value of the consideration to be paid to the Key Executives for their SMED Shares and may be entered into notwithstanding the Prohibition on Collateral Agreements.

DATED at Edmonton, Alberta this 25 day of February, 2000.

Ian E.W. McConnan, F.C.A., Member Jerry A Bennis, F.C.A., Member

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the prohibition on collateral agreements in the context of a take-over bid offer, where certain key executives enter into employment agreements

Applicable Alberta Statutory Provisions

Securities Act, S.A., 1981, c.S-6,1, as amended, ss. 136(2) and 144(2)(a)