

ALBERTA SECURITIES COMMISSION

ORDER

Citation: Afexa Life Sciences Inc., Re, 2011 ABASC 503

Date: 20110926

Paladin Labs Inc.

Applicant

and

Afexa Life Sciences Inc.

Respondent

Background

1. On 10 August 2011 Paladin Labs Inc. (**Paladin**) commenced an unsolicited take-over bid for any and all of the outstanding common shares of Afexa Life Sciences Inc. (**Afexa**), which offer was extended by notice of extension dated 14 September 2011 (such offer as it may be further extended, amended or varied being referred to as the **Paladin Offer**).
2. On 30 August 2011 Afexa announced that it had entered into an Acquisition Support Agreement of that date (the **Support Agreement**) with 1625907 Alberta Ltd. and Valeant Pharmaceuticals International, Inc. (together, **Valeant**) pursuant to which Valeant agreed to make an offer to acquire all of the outstanding common shares of Afexa.
3. On 6 September 2011 Valeant made the take-over bid, contemplated in the Support Agreement, for all of the outstanding common shares of Afexa (the **Valeant Offer**).
4. Afexa has in place two shareholder rights agreements: the first dated 25 January 2010, which was approved by Afexa shareholders on 18 March 2010; and the second dated 12 August 2011, which has not been presented for the approval of shareholders (together, the **Rights Plans**).
5. The Paladin Offer is not a "Permitted Bid" under either of the Rights Plans.
6. Under the Support Agreement, Afexa agreed to waive the provisions of the Rights Plans in respect to the Valeant Offer but to take no action to waive the application of the Rights Plans for any bid other than the Valeant Offer. A "go-shop" provision permits Afexa to solicit and pursue with third parties alternatives to the Valeant Offer, until the end of 29 September 2011.

7. Paladin has applied to the Alberta Securities Commission (the "Commission") for orders under sections 198(1)(a), (b) and (c) of the *Securities Act*, R.S.A. 2000, c. S-4 (the **Act**) that would bar trading in, and deny the use of certain exemptions in respect of, any securities issued or to be issued in connection with the Rights Plans (the **Paladin Application**).
8. The Commission has considered the law, the evidence and the submissions of Paladin, Afexa, Valeant (it having been granted standing as a party) and staff of the Commission presented at a hearing into the Paladin Application on 23 September 2011.

Decision

9. The Commission, considering that it is in the public interest to do so, orders, permanently with effect from 12:01 am (Calgary time) on 30 September 2011, that:
 - (a) under sections 198(1)(a) and (b) of the Act, trading must cease in respect of any securities issued or to be issued in connection with the Rights Plans (including, without limitation, rights issued under the Rights Plan (the **Rights**) and any securities of Afexa issuable upon exercise of Rights); and
 - (b) under section 198(1)(c), all exemptions from the prospectus requirement (as defined in National Instrument 14-101 *Definitions*) contained in Alberta securities laws do not apply in respect of any trade in securities pursuant to, or in connection with, the Rights Plans (including, without limitation, the distribution of Rights on the occurrence of the "Separation Time", as defined in the respective Rights Plans, and in respect of the exercise of Rights).

26 September 2011


For the Commission:



Kenneth Potter, QC



Stephen Murison



Richard Shaw, QC