



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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Citation: Issam El- Bouji (Re), 2020 ONSEC 8

Date: 2020-03-10

File Nos. 2018-28 and 2020-7

**IN THE MATTER OF
ISSAM EL-BOUJI**

-and-

IN THE MATTER OF
GLOBAL RESP CORPORATION AND GLOBAL GROWTH ASSETS INC.

ORAL REASONS FOR APPROVAL OF SETTLEMENT

(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)

Hearing: March 10, 2020

Decision: March 10, 2020

Panel: M. Cecilia Williams Commissioner and Chair of the Panel
Mary Anne De Monte-Whelan Commissioner
Craig Hayman Commissioner

Appearances: Derek Ferris
Carlo Rossi
Hanchu Chen

Joseph Groia
Bethanie Pascutto

Kevin Richard For Global RESP Corporation and
Global Growth Assets Inc.

ORAL REASONS FOR APPROVAL OF SETTLEMENT

The following reasons have been prepared for publication in the Ontario Securities Commission Bulletin, based on the transcript of the reasons delivered orally in the hearing, and as edited and approved by the panel, to provide a public record of the oral reasons.

- [1] Staff of the Ontario Securities Commission (**Staff**), Issam El-Bouji (**Bouji**), Global RESP Corporation (**Global RESP**) and Global Growth Assets Inc. (**GGAI**) (collectively the **Respondents**) have jointly submitted that it would be in the public interest to approve a joint settlement between the parties dated March 3, 2020 (**Settlement Agreement**). The Settlement Agreement pertains to allegations described in a Statement of Allegations:
- a. dated May 24, 2018, relating to allegations that Bouji breached a Commission order (**Bouji Allegations**); and
 - b. dated March 4, 2020, relating to allegations of continued non-compliance with Ontario securities law by Global RESP and GGAI (**Global Allegations**).

We conclude that it would be in the public interest to approve the Settlement Agreement.

- [2] The relevant facts are set out in detail in the Settlement Agreement, and we need not repeat them here. The parties have agreed that:
- a. Bouji is the sole shareholder of GGAI and indirectly owns Global RESP through a family trust. Bouji was the CEO and Ultimate Designated Person (**UDP**) at Global RESP and GGAI until he was suspended as UDP and banned for nine years from acting as a director or officer of a registrant as part of a 2014 settlement with the Commission, described further below;
 - b. Global RESP is a registered scholarship plan dealer and sells units in scholarship plans for registered education savings plans (the **Global Plans**);
 - c. GGAI is the registered investment fund manager for the Global Plans;
 - d. Bouji, Global RESP and GGAI have a history of non-compliance with Ontario securities law, which is described in further detail in the Settlement Agreement;
 - e. Bouji, Global RESP and GGAI settled enforcement allegations in 2014 and the Commission imposed sanctions against Bouji, Global RESP and GGAI, including:
 1. A disgorgement order of approximately \$1.9 million against Bouji;
 2. An order requiring Bouji resign as CEO and UDP of Global RESP and GGAI and prohibiting him from acting as a director or officer of any reporting issuer or registrant for nine years;

- 3. an order requiring that GGAI record in its books and records an obligation to reimburse enrolment fees to beneficiaries for investments in the Global Plans purchased pursuant to prospectuses dated between 2002 and 2004 (the **Enrolment Fee Obligation**); and
- 4. terms and conditions on the registration of Global RESP and GGAI (the **2014 Order**);
- f. in 2018, Global RESP settled enforcement allegations that it allowed Bouji to act as a *de facto* officer in contravention of the 2014 Order, agreeing to an administrative penalty, additional terms and conditions on its registration and costs (the **2018 Order**);
- g. despite the 2014 Order, between January 2015 and December 2017 Bouji was in charge of sales at Global RESP, including recruitment, interviewing, hiring and firing, performance reviews, terminations, training, strategic sales planning, participation in meetings, control over expenses and compensation;
- h. compliance reviews of Global RESP and GGAI completed in 2018 revealed that the firms continued to breach Ontario securities laws in areas that underlay the 2014 Order, including:
 - 1. Global RESP's and GGAI's failure to fulfill its Enrolment Fee Obligation to eligible beneficiaries by approximately \$900,000;
 - 2. GGAI's failure to adequately respond to a conflict of interest;
 - 3. Global RESP's failure to fulfill its know-your-client and suitability obligations; and
 - 4. Global RESP's and GGAI's failure to maintain adequate systems of control and supervision.

- [3] The Respondents admit that they have breached Ontario securities law and have acted contrary to the public interest. The details are more fully set out in the Settlement Agreement, but to summarize:
- a. Bouji, acting as a *de facto* officer of Global RESP in violation of the 2014 Order;
 - b. Global RESP failing to deal fairly, honestly and in good faith with its clients, failing to take reasonable steps to ensure that it had sufficient information to enable it to meet its suitability obligations, and failing to deliver to its clients statements including information required under Ontario securities law;
 - c. GGAI failing to act honestly, in good faith and in the best interests of the Global Plans and/or failing to act with the degree of care, diligence and skill of a reasonably prudent person in the circumstances, failing to comply with its obligations respecting conflicts of interest, and failing to keep and retain books, records and other documents as required by Ontario securities law; and
 - d. Global RESP and GGAI failing to establish and maintain systems of control and supervision sufficient to provide reasonable assurance that Global

RESP and GGAI and each individual acting on their behalf complied with securities legislation.

- [4] The breaches here are serious. It must be clear to all who participate in Ontario's capital markets that repeat misconduct, breach of Commission orders, repeated failures to address compliance deficiencies and failure to commit to compliance will have significant consequences.
- [5] The details of the terms under which the parties have agreed to settle the Bouji Allegations and the Global Allegations are contained in the Settlement Agreement and need not be repeated here. To summarize:
 - a. Bouji will be permanently prohibited from acting as a registrant and from becoming or acting as a director or officer of any reporting issuer or registrant;
 - b. Bouji delivered a certified cheque in the amount of \$190,000 to Staff before the commencement of the Settlement Hearing to satisfy the amount of costs set out in the Order;
 - c. Global RESP will surrender its registration; and
 - d. terms and conditions will be placed on GGAI's registration including, approximately \$900,000 will be paid in compensation to eligible beneficiaries, constraints will be placed on GGAI's use of capital until compensation is effected, ownership in GGAI will be placed in an irrevocable blind trust, GGAI will maintain a 100% independent board of directors, GGAI will continue to retain a third-party consultant to make recommendations on its policies, procedures, internal controls and compliance systems and will report on progress in complying with those recommendations to the Commission, GGAI will not permit Bouji or any members of the Bouji family to provide services or to be involved in its operation or management, and GGAI's role in connection with the Global Plans will be limited to servicing only existing subscribers to ensure the least disruption to these subscribers who have invested in long-term scholarship plans for the benefit of their children.
- [6] The Commission's role at a settlement hearing is to determine whether the negotiated result falls within a range of reasonable outcomes, and whether it would be in the public interest to make the order requested.
- [7] We have reviewed this settlement in detail and have had the benefit of a confidential settlement conference with counsel for all parties. We asked questions of counsel and heard their submissions.
- [8] We recognize that the Settlement Agreement is the product of negotiation between Staff and the Respondents. When considering settlements for approval, the Commission respects the negotiation process and accords significant deference to the resolution reached by the parties.
- [9] Approval of this settlement would resolve two proceedings promptly, efficiently and with certainty. A settlement avoids the expenditure of significant resources that would be associated with two lengthy contested merits hearings, one already underway. The payment of costs helps to reduce the burden on market participants to pay for investigations and enforcement proceedings.

- [10] The settlement addresses investor protection, a core mandate of the Commission.
- [11] Bouji and Global RESP will be permanently removed from positions of trust in the capital markets. GGAI will cease accepting new RESP clients and will slowly exit the RESP business as the Global Plans mature.
- [12] The agreement to reimburse the Enrolment Fee Obligation to eligible beneficiaries provides certainty to subscribers about the amounts owed them. The Panel also takes comfort in the significant supervisory role Commission Staff will have under the agreement over GGAI's commitment to enhance and maintain appropriately robust internal controls and compliance systems.
- [13] These are all important factors fostering investor protection and instilling confidence in the capital markets.
- [14] Administrative penalties are not part of the settlement. Staff submits in their written submissions, and we agree, that such penalties are not required in this instance. The features of the Settlement including compensation to beneficiaries, continuing remediation of compliance deficiencies, improved corporate governance along with the other terms and conditions imposed in their entirety achieve specific deterrence and send a strong general deterrence message that this type of misconduct in Ontario's capital markets will have serious consequences.
- [15] In our view, the terms of the settlement fall within a range of reasonable outcomes in the circumstances. The settlement also properly reflects the principles applicable to sanctions, including recognition of the seriousness of the misconduct and the importance of fostering investor protection and confidence in the capital markets.
- [16] For these reasons, we conclude that it is in the public interest to approve the settlement. We will therefore issue an order substantially in the form of the draft attached to the Settlement Agreement.

Dated at Toronto this 10th day of March, 2020.

"M. Cecilia Williams"

M. Cecilia Williams

"Mary Anne De Monte-Whelan"

Mary Anne De Monte-Whelan

"Craig Hayman"

Craig Hayman