



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 19th Floor
20 Queen Street West
Toronto ON M5H 3S8

CP 55, 19^e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF ISSAM EL-BOUJI, GLOBAL RESP
CORPORATION, GLOBAL GROWTH ASSETS INC., GLOBAL
EDUCATIONAL TRUST FOUNDATION AND MARGARET SINGH**

**STATEMENT OF ALLEGATIONS OF
STAFF OF THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission (“Staff”) make the following allegations:

I. OVERVIEW

1. Global RESP Corporation (“Global RESP”) distributes units of the Global Educational Trust Plan (the “Plan”), a scholarship plan. Global Growth Assets Inc. (“GGAI”) is the current registered investment fund manager (“IFM”) of the Plan. Prior to September 28, 2010, Global Educational Trust Foundation (the “Foundation”) was, among other things, the IFM of the Plan.
2. Issam El-Bouji (“Bouji”) is a director and officer of Global RESP, GGAI and the Foundation and the Ultimate Designated Person (the “UDP”) of both Global RESP and GGAI. Bouji is the sole shareholder of both GGAI and Global RESP.
3. Margaret Singh (“Singh”) is the Chief Compliance Officer (“CCO”) of Global RESP.

A. Unauthorized Investments

4. During the period February 2009 to September 2011, despite not being registered to advise in securities, Bouji, the Foundation and GGAI (after September 28, 2010) directed that over \$30,000,000 in funds received from Plan subscribers be used to purchase subordinated notes (the "PWB Notes") of Pacific and Western Bank of Canada ("PWB"), a chartered bank. Global Maxfin Capital Inc. ("GMCI"), a company owned by Bouji, received finders' fees/commissions totalling approximately \$2,000,000 in connection with the purchase of the PWB Notes and a PWB Guaranteed Investment Certificate (the "PWB GIC") (collectively the "PWB Transactions").
5. By directing the purchase of the PWB Notes, each of Bouji, the Foundation and GGAI (after September 28, 2010) engaged in advising without registration contrary to subsection 25(3) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") and subsection 25(1)(c) of the Act in respect of the conduct prior to September 28, 2009 (as that subsection existed prior to September 28, 2009).
6. The PWB Transactions and other transactions giving rise to conflicts of interest were not referred to the Plan's independent review committee ("IRC") by the Foundation or GGAI (after September 28, 2010) in breach of sections 5.1 and 5.3 of National Instrument 81-107 *Independent Review Committee for Investment Funds* ("NI 81-107").
7. The conflicts of interest inherent in the PWB Transactions were not disclosed in the Plan's prospectuses dated August 28, 2009 (the "2009 Prospectus") and August 26, 2011 (the "2011 Prospectus") which prospectuses stated that there were no conflicts of interest

between the Plan and the IFM and any director or executive officer of the manager of the Plan. By signing certificates stating that the 2009 and 2011 Prospectuses contained full, true and plain disclosure of all material facts, each of Bouji, the Foundation, Global RESP and GGAI (in respect of the 2011 Prospectus) breached section 56 of the Act.

8. In addition, GGAI failed to meet its duties to the Plan pursuant to section 116 of the Act by:
 - a. allowing fees totalling \$450,575.34 to be paid to the benefit of GMCI in connection with the purchase of the PWB GIC when these fees were offered by PWB to be paid to the Plan in view of the lower return to the Plan caused by PWB's retraction of a subordinated note; and
 - b. failing to recognize and record certain mandatory payments owing to the nominees of subscribers who purchased units of the Plan pursuant to prospectuses dated November 25, 2002, August 26, 2003 and August 23, 2004 (the "2002 to 2004 Prospectuses").
9. In view of this conduct, Bouji, as the UDP of GGAI commencing on August 2, 2011, failed to fulfill his obligations pursuant to section 5.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103").

B. Poor Compliance

10. Staff of the Commission conducted a compliance review of Global RESP for the period June 1, 2010 to May 31, 2011 (the “Review Period”) which indicated, among other things, that Global RESP: (i) failed to establish and maintain systems of control and supervision in breach of subsection 32(2) of the Act and sections 11.1, 12.3 and 13.15 of NI 31-103; (ii) failed to meet its suitability obligations in breach of section 13.3 and subsection 13.2(2) of NI 31-103; and (iii) failed to deal fairly, honestly and in good faith with its clients in breach of subsection 2.1(1) of OSC Rule 31-505 *Conditions of Registration* (“OSC Rule 31-505”).
11. In view of the above, Bouji, as Global RESP’s UDP and Singh, as Global RESP’s CCO, breached their obligations pursuant to sections 5.1 and 5.2, respectively, of NI 31-103.

II. BACKGROUND

A. The Respondents

12. The Foundation was incorporated on or about November 20, 1996 pursuant to Part II of the *Canada Corporations Act*, R.S.C. 1970, c. C-32, as amended. The Foundation has been the promoter of the Plan since the Plan’s inception and the IFM of the Plan from its inception to on or about September 28, 2010. Bouji has been a director and officer of the Foundation since the Plan’s inception. The Foundation has never been registered with the Commission in any capacity.

13. GGAI was incorporated in Canada on or about August 15, 2008. On or about September 28, 2010, GGAI became the IFM and the administrator of the Plan and GGAI applied to be registered as an IFM. On or about August 2, 2011, GGAI became registered with the Commission as an IFM.
14. Global RESP, formerly known as Global Educational Marketing Corporation, was incorporated in Canada on or about June 11, 1997. Global RESP has been registered with the Commission as a dealer in the category of scholarship plan dealer since on or about October 9, 1998.
15. Bouji is registered with the Commission in connection with a number of registered firms including as:
 - (i) an officer, director, shareholder and the UDP for Global RESP since on or about December 18, 2009;
 - (ii) an officer, director and the UDP for GGAI since on or about August 2, 2011;
and
 - (iii) an officer, director and shareholder of GMCI since on or about March 2, 2006 and as the UDP of GMCI since on or about January 13, 2010. GMCI is a company incorporated in Canada on or about August 29, 1986. GMCI is registered with the Commission as a dealer in the category of investment dealer. GMCI is also a dealer member of the Investment Industry Regulatory Organization of Canada (“IIROC”) in the category Securities, Options and Managed Accounts.

16. Singh is a director of the Foundation and has been registered with the Commission as the CCO of Global RESP since on or about June 8, 2005.

B. The PWB Transactions

17. Bouji, the Foundation and GGAI (after September 28, 2010), directed one of the Plan's portfolio advisers to process the following PWB Transactions involving the Plan's assets:
 - a. the purchase on February 27, 2009 of a subordinated note from PWB with a par value of \$10 million for which GMCI received finders' fees from PWB totalling \$500,000;
 - b. the purchase on April 30, 2009 of a subordinated note from PWB with a par value of \$10 million for which GMCI received finders' fees from PWB totalling \$500,000;
 - c. the purchase on February 24, 2010 of a PWB subordinated note with a par value of \$1.5 million from the Foundation;
 - d. the purchase on March 11, 2011 of a subordinated note from PWB with a par value of \$10 million for which GMCI received finders' fees from PWB totalling \$500,000; and
 - e. the purchase effective July 31, 2011 of a PWB GIC in the amount of \$10 million for which GMCI ultimately received the benefit of fees paid by PWB totalling \$450,575.34.

(i) Advising without registration

18. Each of the PWB Notes constituted a “security” pursuant to subparagraph (e) of the definition of “security” under section 1 of the Act.
19. None of Bouji, the Foundation or GGAI were registered to advise in securities when they directed the purchase of the PWB Notes.
20. None of the PWB Notes were purchased as a result of advice received from a registered portfolio manager. On the contrary, prior to the purchase of the PWB Notes, one of the Plan's registered portfolio advisers, Scotia Asset Management LP ("Scotia") warned the Foundation and/or its representative that: (i) PWB was not on Scotia's approved issuer list; (ii) PWB was not rated by a recognized rating agency; and (iii) PWB Notes would have very little liquidity.

(ii) Failure to refer conflicts of interest to the Plan’s IRC

21. None of the PWB Transactions were approved by the Foundation's board of directors and, in the case of the PWB Transactions occurring after September 28, 2010, none of these transactions were approved by GGAI's board of directors. Despite the conflicts of interests inherent in the PWB Transactions, none of the PWB Transactions were referred to the Plan's IRC.
22. In addition, two other transactions/decisions that gave rise to a conflict of interest were not referred to the Plan’s IRC:

- a. a credit facility of \$4.27 million that was advanced by PWB on December 30, 2010 to Global Maxfin Developments Inc. ("GMDI"), an entity owned by Bouji; and
- b. the decision made in 2012 by GGAI to increase the administrative fee it charged to the Plan from 1% to 1.2%.

(iii) Failure to provide full, true and plain disclosure in the 2009 and 2011 Prospectuses

23. The 2009 and 2011 Prospectuses state that there are no conflicts of interest between the Plan and the IFM and any director or executive officer of the manager of the Plan.
24. Pursuant to subsection 58(2) of the Act and section 5.10 of National Instrument 41-101 *General Prospectus Requirements* ("NI 41-101"), Bouji, on behalf of the Foundation as the promoter and IFM of the Plan and on behalf of Global RESP as the Distributor of the Plan, certified that the 2009 Prospectus contained full, true and plain disclosure of all material facts relating to the securities offered by the 2009 Prospectus.
25. However, the purchase of the PWB subordinated notes on February 27, 2009 and April 30, 2009 referred to in subparagraphs 17(a) and 17(b) above, individually and/or collectively, constituted material conflicts of interest that were required to be disclosed in the 2009 Prospectus pursuant to section 56 of the Act and section 19.3 of Form 2 of NI 41-101 ("Form 41-101F2").
26. Pursuant to subsection 58(2) of the Act and section 5.10 of NI 41-101, Bouji, on behalf of the Foundation as the promoter of the Plan and on behalf of GGAI as the IFM of the

Plan, certified that the 2011 Prospectus contained full, true and plain disclosure of all material facts relating to the securities offered by the 2011 Prospectus. In addition, Bouji, on behalf of Global RESP as the Distributor of the Plan, certified that, to the best of Global RESP's knowledge, information and belief, the 2011 Prospectus contained full, true and plain disclosure of all material facts relating to the securities offered by the 2011 Prospectus.

27. However, the purchase of the PWB subordinated note on March 11, 2011 and the purchase of the PWB GIC on July 31, 2011 referred to in subparagraphs 17 (d) and 17(e) above, individually and/or collectively, constituted material conflicts of interest that were required to be disclosed in the Plan's 2011 Prospectus pursuant to section 56 of the Act and section 19.3 of Form 41-101F2.

(iv) Failure to meet the standard of an IFM

28. In or about August, 2011, PWB advised Bouji that PWB intended to retract the PWB note issued on February 27, 2009 with a par value of \$10 million and an interest rate of 11%. When Bouji complained about the loss of return to the Plan caused by the retraction of the note, PWB offered to replace the note with a 10 year GIC with an interest rate of 4.5% and pay a broker and brokerage fee on the GIC to the Plan in order to enhance the Plan's income in 2011.
29. Thereafter, Bouji caused the Plan to purchase the 10 year PWB GIC. However, no fees were paid to the Plan in respect of this transaction. Rather, GMCI ultimately received the benefit of fees paid by PWB totalling \$450,575.34 in connection with the PWB GIC. By

allowing the \$450,575.34 in fees to be paid ultimately to the benefit of GMCI, GGAI failed to discharge its duties honestly, in good faith and in the best interests of the Plan.

C. Failure to recognize and record the repayment of mandatory Enrolment Fees

30. Since inception, the Plan has been charging enrolment fees to subscribers in the amount of \$60 per unit of \$504 (“Enrolment Fees”).
31. The 2002 to 2004 Prospectuses create an obligation by the Foundation to repay Enrolment Fees to the nominees of subscribers who purchased units in the Plan pursuant to those prospectuses, if the subscribers otherwise meet the requirements set out in those prospectuses for the repayment of Enrolment Fees.
32. Pursuant to an Assignment and Assumption Agreement In Respect of Trust Indenture and Administrative Agreement dated September 27, 2010, GGAI was appointed the IFM of the Plan and the Foundation transferred to GGAI all of its rights, title, interest, duties and obligations that existed under a Trust Indenture and an Administrative Agreement both dated October 14, 1998 (the "Administrative Agreement") and subsequently modified by two agreements dated May 18, 2004, namely (i) the Resignation, Appointment and Assignment Agreement and (ii) the Amending Agreement.
33. Pursuant to the Administrative Agreement, GGAI is required to "ensure all payments required to be made under the Plan have been calculated and paid to Nominees or withdrawn by the Subscribers thereto in accordance with the provisions of the Plan".
34. GGAI has failed to recognize the mandatory obligation to repay Enrolment Fees created by the 2002 to 2004 Prospectuses. By failing to recognize this mandatory obligation

and by failing to record Enrolment Fees in a manner that recognizes the mandatory obligation to repay Enrolment Fees for plans entered into pursuant to the 2002 to 2004 Prospectuses, GGAI has failed to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

D. Significant compliance deficiencies by Global RESP

35. Staff of the Commission conducted a compliance review of Global RESP for the Review Period and prepared a report dated March 7, 2012 (the “Compliance Report”). The Compliance Report set out a number of significant deficiencies occurring during the Review Period which demonstrate, among other things, a failure by Global RESP to:

- a. establish and maintain systems of control and supervision;
- b. comply with its suitability obligations; and
- c. deal fairly, honestly and in good faith with its clients.

E. Failure to meet the obligations of a UDP

36. Bouji was the UDP of Global RESP during the Review Period. Given the significant deficiencies noted in the Compliance Report, Bouji failed in his obligations as UDP of Global RESP to:

- a. supervise the activities of Global RESP that are directed towards ensuring compliance with securities legislation by Global RESP and each individual acting on Global RESP’s behalf; and

- b. promote compliance by Global RESP and individuals acting on Global RESP's behalf with securities legislation.
37. Bouji has been the UDP of GGAI since August 2, 2011. As a result of the conduct by GGAI referred to above occurring after August 2, 2011 and Bouji's failure, after August 2, 2011, to disclose the fees earned by GMCI and/or Global RESP in connection with the PWB investments to those who would need to know that information to ensure compliance with securities legislation, Bouji failed in his obligations as the UDP of GGAI to:
- a. supervise the activities of GGAI that are directed towards ensuring compliance with securities legislation by GGAI and each individual acting on GGAI's behalf; and
 - b. promote compliance by GGAI and individuals acting on GGAI's behalf with securities legislation.

F. Failure to meet obligations of a CCO

38. Singh was the CCO of Global RESP during the Review Period. As a result of the significant deficiencies noted in the Compliance Report, Singh failed in her obligations as the CCO of Global RESP to:
- a. establish and maintain policies and procedures for assessing compliance by Global RESP and individuals acting on Global RESP's behalf; and

- b. monitor and assess compliance by Global RESP and individuals acting on Global RESP's behalf, with securities legislation.

III. BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

39. The specific allegations advanced by Staff are:

- a. Bouji and the Foundation advised in securities in breach of subsection 25(1)(c) of the Act (as that subsection existed prior to September 28, 2009) and, after September 28, 2009, Bouji, the Foundation and GGAI (in respect of transactions occurring after September 28, 2010) advised in securities in breach of subsection 25(3) of the Act and contrary to the public interest;
- b. the Foundation and GGAI breached their obligations under sections 5.1 and 5.3 of NI 81-107 and acted contrary to the public interest by failing to refer the conflicts of interests referred to above to the Plan's IRC and by failing to follow the procedure set out in section 5.3 of NI 81-107 prior to proceeding with the transactions referred to above that should have been referred to the Plan's IRC;
- c. Bouji, the Foundation and Global RESP breached section 56 of the Act and acted contrary to the public interest by failing to provide full, true and plain disclosure of all material facts in the 2009 Prospectus;

- d. Bouji, the Foundation, GGAI and Global RESP breached section 56 of the Act and acted contrary to the public interest by failing to provide full, true and plain disclosure of all material facts in the 2011 Prospectus;
- e. GGAI breached subsection 116(a) of the Act and acted contrary to the public interest by allowing the payment of fees in the amount of \$450,575.34 arising from the Plan's purchase of a PWB GIC in 2011 to be paid ultimately to the benefit of GMCI instead of to the Plan;
- f. GGAI breached subsection 116(b) of the Act and acted contrary to the public interest by failing to recognize the mandatory obligation to repay Enrolment Fees created by the 2002 to 2004 Prospectuses and by not recording the Enrolment Fees payable for plans entered into pursuant to the 2002 to 2004 Prospectuses in a manner that recognizes this mandatory obligation;
- g. Global RESP failed to establish and maintain systems of control and supervision in breach of subsection 32(2) of the Act and sections 11.1, 12.3 and 13.15 of NI 31-103 and contrary to the public interest;
- h. Global RESP failed to comply with its suitability obligations in breach of section 13.3 and subsection 13.2(2) of NI 31-103 and contrary to the public interest;
- i. Global RESP failed to deal fairly, honestly and in good faith with its clients in breach of subsection 2.1(1) of OSC Rule 31-505 and contrary to the public interest;

- j. Singh breached her obligations as the CCO of Global RESP contrary to section 5.2 of NI 31-103 and contrary to the public interest;
 - k. Bouji breached his obligations as the UDP of Global RESP contrary to section 5.1 of NI 31-103 and contrary to the public interest;
 - l. Bouji breached his obligations as the UDP of GGAI contrary to section 5.1 of NI 31-103 and contrary to the public interest; and
 - m. Bouji, as an officer and director of the Foundation, GGAI and Global RESP did authorize, permit and/or acquiesce in the breaches of Ontario securities law by the Foundation, Global RESP and GGAI referred to above pursuant to section 129.2 of the Act.
40. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

Dated at Toronto this 10th day of January, 2013