



Ontario
Securities
Commission

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**IN THE MATTER OF
GLOBAL RESP CORPORATION and GLOBAL GROWTH ASSETS INC.**

STATEMENT OF ALLEGATIONS
(Section 127 and Section 127.1
of the *Securities Act*, RSO 1990, c S.5)

A. OVERVIEW

1. This proceeding relates to continued non-compliance with Ontario securities law by Global RESP Corporation (**Global RESP**) and Global Growth Assets Inc. (**GGAI**).
2. Global RESP is a scholarship plan dealer, and GGAI is a related investment fund manager (**IFM**). Global RESP sells units in scholarship plans (the **Global Plans**) to investors and GGAI manages the plans' investments¹. As of March 31, 2019, these plans had net assets of over \$700 million in over 60,000 individual plans.
3. Global RESP and GGAI have been subject to a variety of past regulatory actions because of persistent and serious regulatory violations. Despite these actions, compliance reviews of the firms completed in 2018 revealed that the firms continued to breach securities laws including in the same areas that were the subject of prior administrative sanctions against them.
4. Registration serves a gatekeeping purpose to protect investors. Registrants must meet high standards of fitness and business conduct and demonstrate a commitment to compliance with securities laws. Operating an effective compliance system is essential to a registered firm's continuing fitness for registration.

¹ The plans' investments are held at a third-party custodian and investment decisions are made by registered third party portfolio managers

B. FACTS

5. Staff of the Enforcement Branch of the Ontario Securities Commission (**Enforcement Staff**) makes the following allegations of fact:

I. The Global Group

6. Global RESP is a registered scholarship plan dealer and acts as the distributor for the Global Plans which are registered education savings plans. The Global Plans are long term financial commitments that involve investors (known as **Subscribers**) contributing to save for a child's post-secondary education. Global RESP representatives sell units in the Global Plans to Subscribers.

7. GGAI is the registered IFM for the Global Plans. Prior to GGAI, the Global Educational Trust Foundation (the **Foundation**) acted as IFM for the Global Plans. The Foundation is also the promoter for the Global Plans.

8. Global RESP, GGAI and the Foundation (the **Global Group**) effectively operate as a single organization. Global RESP carries out all the client-facing operations for the firms, Global RESP and GGAI share the same principal owner, and all three firms operate from the same offices and share the same board of directors.

9. Issam El- Bouji (**Mr. Bouji**) is the sole shareholder of GGAI and indirectly owns Global RESP through the Bouji Trust. Mr. Bouji was the CEO and Ultimate Designated Person (**UDP**) at Global RESP and GGAI until he was suspended as UDP and banned from acting as a director or officer of a registrant for nine years as part of the 2014 settlement, discussed below.

II. The Global Plans

10. Since 2016, Global RESP has distributed units in two plans: the Legacy Education Savings Plan (**LES Plan**) and the Advanced Education Savings Plan (**AES Plan**). Prior to 2016, the LES Plan was named the Global Educational Trust Plan (the **GET Plan**). The Global Plans are offered to Subscribers in units at a cost of \$504 per unit.

11. Global RESP charges enrolment fees² to investors in the GET Plan and LES Plan, which require Subscribers to contribute a scheduled, mandated minimum of funds—sometimes for 18 years or more. Prior to 2016, Global RESP charged enrolment fees of \$60 per unit under the GET Plan. In 2016, GGAI renamed the GET Plan as the LES Plan and changed the fee structure, including lowering the enrolment fees to \$30 per unit.³

12. The enrolment fees are paid to Global RESP as distributor of the Global Plans. Global RESP collects the enrolment fees for all units purchased upfront. This means that up to 100% of a Subscriber’s initial contributions are used to cover the enrolment fees until these fees are paid in full. If a Subscriber is not financially able to continue their plan within the first year, all the Subscriber’s contributions could be lost to the enrolment fees.

III. Regulatory Actions and Decisions

13. Global RESP and GGAI have a history of non-compliance with Ontario securities laws. The following three sections set out a brief overview of Global RESP and GGAI’s (the **Respondents**) regulatory history with the Commission as it relates to the new allegations set out in Part IV below.

1. Global RESP was warned about compliance deficiencies in five compliance reviews between 2003 and 2012

14. Between 2003 and 2009, Staff from the Compliance and Registrant Regulation Branch (**CRR Staff**) completed four compliance reviews of Global RESP. In each case, CRR Staff found deficiencies in its compliance with Ontario securities law. As a result of these deficiencies, the Commission imposed restrictions on Global RESP’s registration three times during this period.

15. In 2012, CRR Staff completed a fifth compliance review of Global RESP which revealed significant compliance deficiencies both at Global RESP and GGAI. As a result, Enforcement Staff brought proceedings for a temporary order against Global RESP and GGAI. These proceedings resulted in the Commission imposing detailed terms and conditions on the

² The GET Plan refers to these fees as “enrolment fees” and the LES Plan refers to these fees as “sales charges.”

³ In addition to these enrolment fees, GGAI charges Subscribers management fees to manage the Global Plans, similar to the management fees that a mutual fund charges its unit holders. These management fees increased from 1.2% under the GET Plan to 1.95% under the LES Plan.

registrations of Global RESP and GGAI. These terms included a requirement that the firms retain a compliance consultant and that a monitor review Global RESP's recent sales to investors.

2. Global RESP and GGAI settled enforcement allegations in 2014 and were sanctioned

16. In 2013, Enforcement Staff brought proceedings against the Respondents for, among other things:

- a) GGAI's failure to refer a conflict of interest to the plan's Independent Review Committee (**IRC**);
- b) GGAI's failure to recognize and record an obligation to reimburse enrolment fees to students for plans purchased pursuant to prospectuses dated between 2002 and 2004 (the **Enrolment Fee Obligation**);
- c) Global RESP's significant compliance deficiencies, including its failure to meet its KYC and suitability obligations; and
- d) Global RESP and GGAI's lack of adequate compliance systems.

17. The proceeding was settled in 2014 (the **2014 Settlement**). In the resulting order, the Commission imposed sanctions against Mr. Bouji, Global RESP and GGAI (the **2014 Order**) including:

- a) a \$1.9 million disgorgement order against Mr. Bouji;
- b) orders requiring that Mr. Bouji resign as CEO and UDP of Global RESP and GGAI and prohibiting him from acting as a director or officer for nine-years;
- c) an order requiring that GGAI record the Enrolment Fee Obligation in its books and records; and,
- d) terms and conditions on the registration of Global RESP and GGAI, including a requirement that they maintain a majority of independent directors on their boards and submit to a review by a compliance consultant.

3. Global RESP settled enforcement allegations that it failed to take steps to ensure compliance with the 2014 Order and was sanctioned

18. In 2018, Enforcement Staff brought proceedings against Global RESP for allowing Mr. Bouji to act as a *de facto* officer between January 2015 and December 2017 in contravention of the 2014 Settlement. Global RESP settled these proceedings and agreed to sanctions that included financial sanctions and additional terms and conditions on its registration. In the settlement agreement, Global RESP admitted that it failed to implement any policies and procedures to provide reasonable assurance of compliance with the 2014 Order prohibiting Mr. Bouji from acting as a director or officer.

19. In its decision approving the 2018 settlement, the Commission expressed concern that Global RESP failed to take its obligations under the 2014 Settlement seriously.

IV. Repeat Misconduct

20. Compliance reviews of Global RESP and GGAI completed in 2018 revealed that the firms continue to breach Ontario securities laws in areas that were the subject of the 2014 Settlement.

1. Failure to Fulfill Commitment to Reimburse Enrolment Fees

21. Prospectuses for the GET Plan dated between 2002 and 2004 (the **2002 to 2004 Prospectuses**), told Subscribers that an amount equivalent to their enrolment fees would be reimbursed to their beneficiaries with their educational assistance payments.⁴

22. As set out above, prior to the 2014 Settlement, GGAI failed to recognize and record the Enrolment Fee Obligation, despite becoming IFM in 2010. As part of the 2014 Settlement, GGAI acknowledged the Enrolment Fee Obligation and the Commission ordered GGAI to record the obligation in its books and records.

⁴ The prospectuses disclosed that “a proportionate amount which is equivalent to the Enrollment Fees paid by [the subscribers] will be paid to the [beneficiaries] directly by the Foundation with each [educational assistance] payment.”

23. However, following the 2014 Settlement, GGAI failed to ensure that the Global Group fulfilled the obligation to reimburse these fees to all eligible beneficiaries. GGAI failed to ensure full reimbursement for some plans that matured prior to *and* after the 2014 Settlement.

24. To date, the Global Group has still not followed through with the commitment to fully refund these fees to all eligible beneficiaries. Instead, the Global Group has disqualified some beneficiaries from receiving the full amounts based on rules that were not disclosed in the 2002 to 2004 Prospectuses.

25. As of December 31, 2019, the Global Group had underpaid eligible beneficiaries by approximately \$900,000.

26. Global RESP certified the 2002 to 2004 Prospectuses and provided them to Subscribers. However, when these Subscribers complained about the Global Group not fulfilling their commitment to refund these fees, Global RESP misrepresented that the repayment of these fees was discretionary and not guaranteed.

2. Failure to Adequately Respond to a Conflict of Interest

27. During the Material Time⁵, GGAI permitted transactions that amounted to a conflict of interest prior to obtaining an independent and impartial recommendation from the Global Plans' IRC. These transactions resulted in a firm owned by Mr. Bouji earning commissions from transactions conducted on behalf of the LES Plan. This is the second time that GGAI has breached its conflict of interest obligations when transacting with this Bouji-owned firm.

28. As part of the 2014 Settlement, GGAI was sanctioned for failing to refer conflicts of interest involving the GET Plan's assets to the plan's IRC. The conflicted transactions resulted in a benefit of over \$1.9 million to Global Maxfin Capital Inc. (**GMCI**), an investment dealer owned by Mr. Bouji. As a result, Mr. Bouji was required to disgorge this \$1.9 million and GGAI was sanctioned as part of the 2014 Settlement.

⁵ Other than in relation to the failure to reimburse enrolment fees, the material time with respect to the misconduct by Global RESP and GGAI is January 1, 2017 to December 31, 2018 (the **Material Time**).

29. Despite these sanctions, GGAI permitted conflicted transactions involving GMCI prior to obtaining an impartial and independent recommendation from the plan's IRC.

30. In 2017, GGAI entered into an agreement with a portfolio manager (**PM**) to trade exchange traded funds (**ETFs**) for the LES Plan. As part of the arrangement, it was proposed that the PM would direct its trades in ETFs through GMCI resulting in GMCI earning commissions from the LES Plan. As the sole shareholder of GMCI, Mr. Bouji stood to benefit from commissions earned by GMCI, thereby creating a conflict of interest. GGAI was required to report this conflict of interest to the plan's IRC for its review and, prior to proceeding with the transactions, GGAI was required to obtain and consider the IRC's recommendation or to obtain standing instructions from the IRC that would permit the transactions to proceed.

31. GGAI reported the proposed arrangement to the IRC at a meeting on November 7, 2016 and suggested that the matter be dealt with through standing instructions. At the meeting, GGAI committed to providing standing instructions to the IRC for its review. On February 28, 2017, GGAI sent proposed standing instructions to the IRC. However, the IRC did not approve the standing instructions until April 2017.

32. Nonetheless, almost two months before the IRC approved the standing instructions, GMCI began clearing ETF trades on behalf of the LES Plan and earning commissions on those trades. These trades were not reported to the IRC for their review and recommendation prior to being executed.

3. Failure to Fulfill Know-Your-Client (KYC) and Suitability Obligations

33. Global RESP has a history of compliance deficiencies related to KYC and suitability. Following the 2012 compliance review, Global RESP was required to retain an independent consultant to review its practices, including having a monitor contact all new clients to confirm the accuracy of the clients' KYC information and that the investment was suitable for the clients. These compliance deficiencies formed part of the 2014 Settlement against Global RESP. Nonetheless, Global RESP has continued to breach its KYC and suitability obligations.

34. During the Material Time, Global RESP failed to take reasonable steps to ensure (i) it collected sufficient and/or accurate financial information on its clients; and (ii) that investments in the Global Plans were suitable for its clients.

35. Global RESP approved some enrolment applications despite red flags in the applications that it should have investigated prior to approving the trades. Examples of these red flags include:

- (a) government assistance and Canada Child Benefit (CCB) as the sole source of income for Subscribers;
- (b) Subscribers relying on food banks;
- (c) income from the CCB recorded in amounts that exceeded the allowable maximums for that benefit;
- (d) unreasonably low annual expenses and/or mandatory deductions;
- (e) the exact same income and expenses listed for multiple Subscribers that were clients of the same dealing representative (DR); and
- (f) representations that a spouse, that was not a Subscriber, paid some or all of the expenses or contributed to the Subscriber's income without obtaining KYC information from the spouse.

36. In these circumstances, Global RESP did not obtain sufficient and/or accurate information from its clients to properly conduct suitability assessments. Nevertheless, Global RESP approved the applications.

37. Further, Global RESP mechanically applied an affordability calculation in its policies that permitted Subscribers to make contributions as long as these contributions were less than 20% of their net income. Global RESP failed to adequately consider other factors bearing on whether the investment was suitable for Subscribers, including the Subscriber's source of income and employment status.

38. In the case of the LES Plan, as discussed above, Global RESP collects frontloaded enrolment fees from up to 100% of a Subscriber's initial contributions. If a Subscriber is not financially able to continue their plan within the first year, all the Subscriber's contributions could be lost to the enrolment fees. As a result, a proper suitability assessment based on accurate KYC information has particular importance for these Subscribers.

39. As a result of not investigating red flags, Global RESP failed to detect the inappropriate sales practices of a DR executing unsuitable trades on behalf of several Syrian refugees (**DR-A**).

40. Once the issues involving DR-A were brought to its attention, Global RESP failed to respond appropriately. Despite several clients (accompanied by a translator) visiting Global RESP's head office to complain about DR-A's sales practices and request that their plans be terminated, Global RESP failed to implement any enhanced supervisory measures over DR-A. DR-A continued to enrol an additional client whose application contained several of the same red flags as the previous clients.

4. Failure to Maintain Adequate Systems of Control and Supervision

41. As noted above, Global RESP has been the subject of five compliance reviews from 2003 to 2012. In each case, it was warned about compliance deficiencies. During that period, the Commission imposed restrictions on Global RESP's registration four times. Both Global RESP and GGAI have been subject to prior enforcement proceedings in respect of their deficient compliance systems and have been sanctioned accordingly. Following Staff's discovery of significant deficiencies in 2012, both firms were required to retain an independent consultant to review their practices. Nonetheless, both firms continued to have inadequate compliance systems.

42. In addition to the breaches referred to above, during the Material Time, Global RESP and GGAI also breached Ontario securities law as follows:

- (a) GGAI allocated income to individual plan accounts based on estimates rather than actual income earned. In 2017 and 2018, the estimates differed (sometimes higher and sometimes lower) from the actual income earned each month, however, GGAI never corrected the allocations. These inaccurate allocations impacted the amounts paid to Subscribers and beneficiaries. This use of estimates was never disclosed to

Subscribers and GGAI maintained no written policies or procedures for the monthly income allocation process;

- (b) Global RESP sent annual account statements to its clients that purported to record the amount of income earned on contributions and government grants. However, these amounts instead reflected the inaccurate income allocations based on the estimates discussed above;
- (c) GGAI failed to maintain adequate controls to ensure that clients who terminated their accounts received all amounts owed to them. As of April 2018, 457 clients who terminated their accounts between 1999 and 2017 are owed approximately \$227,000 in total;
- (d) GGAI failed to retain copies of certain books and records it was required to retain under Ontario securities law. GGAI also failed to implement proper retention practices or procedures to ensure that it kept appropriate records including failing to maintain an appropriate filing system or internal database to store its books and records;
- (e) GGAI continued to outsource many of its functions for the Global Plans to Global RESP despite Global RESP's historical compliance issues; and
- (f) GGAI failed to establish and maintain a formal process to supervise Global RESP in relation to these functions.

C. BREACHES AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

43. Enforcement Staff alleges the following breaches of Ontario securities law and/or conduct contrary to the public interest:

- a) Global RESP failed to deal fairly, honestly and in good faith with its clients contrary to Part 2.1 of OSC Rule 31-505 – *Conditions of Registration*;
- b) Global RESP failed to take reasonable steps to ensure that it had sufficient client information to enable it to meet its suitability obligations, contrary to subsection

13.2(2) of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103);

- c) Global RESP failed to take reasonable steps to ensure that, before it made a recommendation or accepted an instruction from a client to buy or sell a security, the purchase or sale was suitable for the client, contrary to section 13.3 of NI 31-103;
- d) Global RESP failed to deliver to its clients, statements that included the information required under Ontario securities law, contrary to sections 14.14 and 14.16 of NI 31-103;
- e) GGAI failed to act honestly, in good faith and in the best interests of the Global Plans and/or failed to act with the degree of care, diligence and skill of a reasonably prudent person in the circumstances contrary to section 116 of the *Securities Act*, RSO 1990, c S.5 (the **Act**);
- f) GGAI failed to comply with its obligations respecting conflicts of interest contrary to subsections 5.1(1), 5.3(1) and 5.4(2) of National Instrument 81-107 – *Independent Review Committee for Investment Funds*;
- g) Global RESP and GGAI failed 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, contrary to section 11.1 of NI 31-103 and subsection 32(2) of the **Act**;
- h) GGAI failed to keep and retain books, records and other documents as required under Ontario securities law, contrary to section 19 of the **Act** and subsection 11.5(1) and section 11.6 of NI 31-103; and
- i) as set out in subparagraphs (a) through (h) above, Global RESP and GGAI engaged in conduct contrary to the public interest.

44. Enforcement Staff reserves the right to amend these allegations and to make such further and other allegations as Enforcement Staff may advise and the Commission may permit.

D. ORDER SOUGHT

45. Enforcement Staff request that the Commission make an order pursuant to subsection 127(1) and section 127.1 of the Act to approve the settlement agreement dated March 3, 2020 between the Respondents and Enforcement Staff.

DATED at Toronto, March 4, 2020.

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