

## **APPENDIX A**

### **ONTARIO SECURITIES COMMISSION**

**(Applicant)**

**– and –**

### **PURPOSE INVESTMENTS INC. and SOM SEIF**

**(Respondents)**

### **AMENDED APPLICATION FOR ENFORCEMENT PROCEEDING**

(Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

#### **A. OVERVIEW**

1. Amid continuing public interest in environmental, social and governance (**ESG**) investing and the potential for greenwashing, it is critical that investment fund managers ensure that their sales communications accurately describe how they consider ESG factors in making investment decisions on behalf of investors. Investment fund managers must also ensure that their sales communications are consistent with disclosure made in the prospectuses of the investment funds they manage.

2. This matter involves sales communications made by a registered investment fund manager about its consideration of ESG factors that were misleading, untrue, and in conflict with the prospectuses of the funds it managed.

3. Purpose Investments Inc. (**Purpose**) is a registered investment fund manager based in Toronto, Ontario. During the period September 2019 to March 2023 (the **Material Time**), Purpose made sales communications which falsely stated or suggested that: (a) Purpose considered ESG factors when making investment decisions for most or all of the investment funds it managed; (b) Purpose embedded ESG principles across its entire investment process; (c) in making investment decisions, Purpose applied ESG data effectively and in a nuanced way across the full range of industry sectors; and (d) Purpose embedded ESG factors at the foundation of how it built products or invested, and ESG was a core, key, fundamental and/or meaningful consideration for all of the funds managed by Purpose.

4. In reality, Purpose did not consider ESG in making investment decisions for many of the funds it managed. Purpose did not implement any formal policy and did not have documented procedures relating to the consideration of ESG by its portfolio management team for funds managed by Purpose; instead, consideration of ESG at Purpose during the Material Time was *ad hoc*. Until at least the fall of 2020, there were also significant gaps in the amount and quality of ESG data accessible by Purpose personnel. Prior to April 2022, prospectuses filed by Purpose for its investment funds generally did not refer to ESG as a part of the investment objectives or investment strategies of those funds.

## **B. GROUNDS**

The Ontario Securities Commission (the **Commission**) makes the following allegations of fact:

### **i. The Respondents**

5. Purpose is a registered investment fund manager based in Toronto, Ontario and has been registered in that category and others, including exempt market dealer and portfolio manager, since December 2012. Purpose had over \$20 billion in assets under management (**AUM**) as of March 2024.

6. Som Seif, the founder of Purpose, has been the Chairman, Chief Executive Officer, and Ultimate Designated Person (**UDP**) of Purpose since December 2012 and continues to act in those roles. As the UDP of Purpose, Seif was required to supervise the activities of Purpose directed towards ensuring compliance with Ontario securities law by the firm and each individual acting on the firm's behalf, and promote compliance by them with Ontario securities law.

### **ii. The Respondents made false or misleading statements about Purpose's ESG considerations in the investment funds it managed**

#### ***Purpose viewed ESG considerations as helpful for improving sales and for marketing***

7. Prior to and during the Material Time, Purpose personnel, including Seif and other senior members at Purpose, stated in internal communications their intention to market Purpose as considering ESG, and their belief that having ESG considerations would be helpful for improving sales and for marketing.

*The false or misleading statements*

8. During the Material Time, on at least 19 separate occasions, Purpose and/or Seif made public statements that stated or suggested the following:

- (a) Purpose considered ESG factors when making investment decisions for most or all of the investment funds it managed;
- (b) Purpose embedded ESG principles across its entire investment process;
- (c) in making investment decisions, Purpose applied ESG data effectively and in a nuanced way across the full range of industry sectors; and/or
- (d) Purpose embedded ESG factors at the foundation of how it built products or invested, and ESG was a core, key, fundamental and/or meaningful consideration for all of the funds managed by Purpose

(collectively, **ESG Sales Communications**).

9. The ESG Sales Communications were made in the following publicly available media:

- (a) September 16, 2019 – Purpose website post entitled “Why Purpose Premium Yield Fund Is A Proven Guard Against Uncertainty”;
- (b) October 2, 2019 – Purpose website post entitled “Purpose Investments Continues Its Mission to Create Success for Canadians by Fully Integrating Environmental, Social and Governance (ESG) Principles”;
- (c) On or before October 2, 2019 – Purpose webpage entitled “The Purpose Approach to ESG Investing”;
- (d) In October 2019 – the “About” page on the Purpose website, which identified “The principles of Purpose”, including “ESG Always”;
- (e) October 7, 2019 – Purpose website post entitled “Som Seif joins BNN Bloomberg’s Amanda Lang to discuss integrating ESG”, containing a link to a BNN Bloomberg video;

- (f) October 9, 2019 – Purpose website post entitled “Wealth Professional: Seif hopes industry will follow his lead on ESG”, containing a link to a Wealth professional article of the same title;
- (g) November 13, 2019 – Purpose website post entitled “Som Seif turns his focus to responsible investing factors”, containing a link to a Globe and Mail article entitled “ETF pioneer Som Seif turns his focus to responsible investing factors”;
- (h) November 19, 2019 – video interview of Som Seif published on advisoranalyst.com with the headline “What is ESG’s True Purpose?”;
- (i) December 16, 2019 – Purpose website post entitled “The Next Chapter In Our Story: A Brand New Look Reflecting the Principles That Guide Our Way”;
- (j) February 14, 2020 – Purpose website post entitled “Wealth Professional: Why transparency is vital to ESG process”, containing a link to a Wealth Professional article of the same title;
- (k) March 16, 2020 – an interview of Som Seif published in the form of a Wealth Professional article entitled “Architect of innovation”;
- (l) December 2, 2020 – Purpose website post entitled “Freeport McMoran: A Case Study in Using a Multi-Faceted ESG Approach”;
- (m) December 21, 2020 – Purpose website post entitled “Purpose Investments Crosses \$10 Billion in Assets Under Management, Donates to Second Harvest and Commits to Volunteering in Honour of Milestone”;
- (n) April 27, 2021 – Purpose website post entitled “Purpose Investments Launches Global Climate Opportunities Fund, Canada’s New Growth-Focused Climate Fund”;
- (o) June 30, 2021 – Purpose website post entitled “Purpose Investments Inc. Launches Europe’s First Carbon Offsetting ETF in Partnership with HANetf”;
- (p) July 29, 2021 – Purpose website post entitled “Purpose Investments to Launch World’s First Pure Play Enterprise Software ETF in Partnership with HANetf”;

- (q) November 8, 2021 – Purpose website post entitled “Cryptocurrency and ESG: Are They Really at Odds?”;
- (r) November 9, 2021 – Purpose website post entitled “Purpose Investments Launches Carbon Neutral Series for Purpose Bitcoin and Ether ETFs”; and
- (s) March 3, 2022 – Purpose website post entitled “Purpose Investments Divests All Holdings of Russian Companies”.

10. After they were made, the ESG Sales Communications remained publicly available during the Material Time, although the ESG Sales Communication described in paragraph 9(d) above was amended in January 2023.

***The reality***

11. Contrary to the ESG Sales Communications, Purpose did not consider ESG in making investment decisions for many of the funds it managed.

12. As at October 2, 2019, Purpose funds that already considered or were going to consider ESG accounted for only 29% to 35% of total assets under management (**AUM**) of all funds managed by Purpose, despite Purpose claiming that funds representing 75% of total AUM already operated with its new ESG framework.

13. During the Material Time, Purpose did not implement any formal policy to ensure the consideration of ESG factors by its portfolio management team for any funds managed by Purpose. While Purpose appears to have prepared an “ESG Policy” dated January 2023, that policy only purported to apply to a subset of funds managed by Purpose, and was not broadly communicated or known within Purpose, including to its portfolio management team. Purpose also did not have documented procedures for its portfolio management team relating to the consideration of ESG in the investment process.

14. Rather, contemporaneous records at Purpose indicate that the considerations of ESG at Purpose during the Material Time were *ad hoc*, a work in progress that was gradually evolving, and not applied across the board for all Purpose funds.

15. In addition, there were significant gaps in the amount and quality of ESG data accessible by Purpose personnel. These gaps persisted until at least the fall of 2020, when Purpose purchased access to ESG data directly from Sustainalytics. Prior to obtaining direct access to ESG data from Sustainalytics, Purpose personnel had access to ESG scores from Sustainalytics indirectly through Bloomberg Terminal but did not have complete and real-time ESG data otherwise available from Sustainalytics for a significant portion of issuers such that: (a) generally, Purpose personnel had little information on the basis on which Sustainalytics determined its ESG scores for any issuer; and (b) the ESG data available to Purpose personnel for certain portfolio holdings in investment funds managed by Purpose was stale from as far back as 2016.

16. Furthermore, prior to April 2022, the prospectus documents that Purpose filed for the investment funds it managed did not refer to ESG considerations as a part of the investment objectives or investment strategies of those funds (with the limited exception of two investment funds newly launched by Purpose in 2021 and 2022).

17. Beginning on April 14, 2022, Purpose updated the prospectus documents for a subset of the investment funds it managed by adding references to ESG considerations.

18. On February 24, 2023, in response to a review by the Commission, Purpose provided the Commission with two lists of the investment funds it managed. The first list identified that as of October 2, 2019, only 24 of 54 funds integrated ESG considerations. The second list, as of February 24, 2023, labeled only 24 of ~~72~~ 76 funds as “ESG”, on the basis that ESG integration in those funds “rise to the standard of prospectus incorporation.”

19. On March 7, 2023, Purpose issued a press release announcing changes it made to its website, including a change to the “Principles of Purpose” identified on the “About” webpage that replaced “ESG Always” with “ESG Conscious”, clarifying that Purpose integrated ESG factors “into a specific subset of our fund lineup where we believe it fits well with the investment strategy.” That press release also identified 38 funds managed by Purpose that “do not fall under the ESG classification.”

**iii. Seif authorized, permitted or acquiesced in misconduct of Purpose**

20. Despite being aware of the state of ESG integration at Purpose, Seif did not act to prevent Purpose from making false or misleading statements regarding its consideration of ESG factors and allowed the misrepresentations to persist during the Material Time.

21. Seif also provided quotes and reviewed and edited some of the ESG Sales Communications before they were made by Purpose.

**C. BREACHES AND CONDUCT CONTRARY TO THE PUBLIC INTEREST**

22. The Commission alleges the following breaches of Ontario securities law and conduct contrary to the public interest:

- (a) Purpose and Seif made sales communications that were untrue or misleading, contrary to s. 15.2(1)(a) of National Instrument 81-102 *Investment Funds* (**NI 81-102**);
- (b) Purpose and Seif made sales communications that included statements that conflicted with information contained in a preliminary prospectus or prospectus of an investment fund, contrary to s. 15.2(1)(b) of NI 81-102;
- (c) Purpose made statements about a matter that a reasonable investor would consider relevant in deciding whether to enter into or maintain a trading or advising relationship with Purpose that were untrue or omitted information necessary to prevent the statements from being false or misleading in the circumstances in which they were made, contrary to s. 44(2) of the *Securities Act*, RSO 1990, c S.5 (the **Act**);
- (d) Seif, as a director and officer of Purpose, authorized, permitted or acquiesced in Purpose's breaches of Ontario securities law set out above and is therefore liable for those breaches pursuant to s. 129.2 of the **Act**; and
- (e) In addition to breaching Ontario securities law, by engaging in the conduct described above, Purpose and Seif each acted in a manner contrary to the fundamental purposes of the **Act** set out in s. 1.1 of the **Act**, and contrary to the public interest. Specifically, by making statements about Purpose's consideration of ESG factors in investment

funds that were untrue or misleading, they undermined the purposes of the Act to provide protections to investors from unfair, improper or fraudulent practices and to foster fair, efficient and competitive capital markets and confidence in capital markets.

#### **D. ORDER SOUGHT**

23. The Commission requests that the Tribunal make the following orders against the Respondents:

- (a) that their registration or recognition under Ontario securities law be suspended or restricted for such period as is specified by the Tribunal or be terminated, or that terms and conditions be imposed on their registration or recognition, pursuant to paragraph 1 of s. 127(1) of the Act;
- (b) that they cease trading in any securities or derivatives permanently or for such period as is specified by the Tribunal, pursuant to paragraph 2 of s. 127(1) of the Act;
- (c) that they be prohibited from acquiring any securities permanently or for such period as is specified by the Tribunal, pursuant to paragraph 2.1 of s. 127(1) of the Act;
- (d) that any exemptions contained in Ontario securities law do not apply to them permanently or for such period as is specified by the Tribunal, pursuant to paragraph 3 of s. 127(1) of the Act;
- (e) that they submit to a review of their practices and procedures and institute such changes as may be ordered by the Tribunal, pursuant to paragraph 4 of s. 127(1) of the Act;
- (f) that they be reprimanded, pursuant to paragraph 6 of s. 127(1) of the Act;
- (g) that they resign any position they may hold as a director or officer of any issuer, pursuant to paragraph 7 of s. 127(1) of the Act;



- (h) that they be prohibited from becoming or acting as a director or officer of any issuer permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8 of s. 127(1) of the Act;
- (i) that they resign any position they may hold as a director or officer of any registrant, pursuant to paragraph 8.1 of s. 127(1) of the Act;
- (j) that they be prohibited from becoming or acting as a director or officer of any registrant permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8.2 of s. 127(1) of the Act;
- (k) that they resign any position they may hold as a director or officer of any investment fund manager, pursuant to paragraph 8.3 of s. 127(1) of the Act;
- (l) that they be prohibited from becoming or acting as a director or officer of any investment fund manager permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8.4 of s. 127(1) of the Act;
- (m) that they be prohibited from becoming or acting as a registrant, investment fund manager or promoter permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8.5 of s. 127(1) of the Act;
- (n) that they pay an administrative penalty of not more than \$5 million for each failure to comply with Ontario securities law, pursuant to paragraph 9 of s. 127(1) of the Act;
- (o) that they disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law, pursuant to paragraph 10 of s. 127(1) of the Act;
- (p) that they pay costs of the investigation and the hearing, pursuant to s. 127.1 of the Act; and/or
- (q) such other order as the Tribunal considers appropriate in the public interest.

**DATED** this ~~12<sup>th</sup> day of September, 2025~~ 17<sup>th</sup> day of November, 2025.

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