



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

Citation: Global RESP Corporation (Re), 2018 ONSEC 26
Date: 2018-05-25

**IN THE MATTER OF
GLOBAL RESP CORPORATION**

**ORAL REASONS FOR APPROVAL OF A SETTLEMENT
(Sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)**

Hearing: May 25, 2018

Decision: May 25, 2018

Panel: Timothy Moseley Vice-Chair and Chair of the Panel
William Furlong Commissioner
Deborah Leckman Commissioner

Appearances: Derek Ferris For Staff of the Commission
Kevin Richard For Global RESP Corporation

REASONS AND DECISION

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

- [1] In 2014, the Commission approved the settlement of an enforcement proceeding against Global RESP Corporation, a firm registered with the Commission as a scholarship plan dealer. Among other things, the settlement prohibited Global RESP's CEO, Ultimate Designated Person, and controlling shareholder, Mr. Issam El-Bouji, from continuing to be an officer of Global RESP.
- [2] Today's hearing arises because Staff alleged that Global RESP failed to implement policies and procedures designed to provide reasonable assurance that the firm would comply with the 2014 settlement. Staff and Global RESP have entered into a settlement agreement to resolve these new allegations, and they have submitted jointly that it would be in the public interest for us to approve this settlement. We agree. We reach that conclusion for the following reasons.
- [3] The 2014 settlement addressed Global RESP's numerous breaches of Ontario securities law, relating principally to the firm's failure to have an adequate compliance system. As a result of the settlement, Mr. Bouji was permanently suspended as the firm's UDP, was permanently prohibited from being a UDP or Chief Compliance Officer of any registrant, and was prohibited for nine years from being a director or officer of any registrant, including Global RESP.
- [4] The firm itself was required to create and permanently maintain an independent board of directors comprising a majority of at least two independent external directors, who must be approved by a Manager in the Commission's Compliance and Registrant Regulation Branch.
- [5] The Commission's order imposing all of those agreed-upon terms is part of Ontario securities law, as that term is defined in the *Securities Act*.¹
- [6] However, despite the prohibition against Mr. Bouji acting as an officer of Global RESP, the firm failed to implement any policies or procedures designed to ensure that it complied with that restriction. For several years after the settlement, Mr. Bouji was directly involved, at a senior level, in the management of the firm. The details of his involvement are set out in the settlement agreement before us today, and have been referred to in submissions by Staff counsel. We need not review them in these reasons. It is sufficient to highlight, as the firm has admitted, that Mr. Bouji was acting as an officer, and that the firm permitted him to do so.
- [7] The proposed settlement between Staff and Global RESP calls for various terms and conditions to be imposed on the firm's registration, as well as the payment of an administrative penalty of \$50,000, and costs of \$25,000, and a reprimand.
- [8] The terms and conditions, which have been referred to by Staff counsel, set out explicit and detailed limitations on the relationship between the firm and Mr. Bouji. The parties have designed the terms and conditions so as to remove Mr.

¹ RSO 1990, c S.5.

Bouji from the operations and management of the firm, while at the same time acknowledging his legal rights as the controlling shareholder.

- [9] While the terms of the settlement have been agreed to by the parties, we must decide whether the agreement should be approved. In making that decision, we recognize that the agreement is the product of negotiation between Staff and Global RESP, both ably represented by counsel. The Commission respects the negotiation process and accords significant deference to the resolution reached by the parties. Our role is to determine whether the negotiated result falls within a range of reasonable outcomes, and whether it would be in the public interest to order the agreed-upon sanctions.
- [10] In coming to our conclusion, we have taken account of the fact that approval of this settlement would resolve the matter promptly, efficiently and with certainty. A settlement avoids the expenditure of significant resources that would be associated with a contested proceeding.
- [11] As indicated, we have decided to approve this settlement. But we do so reluctantly. Global RESP has shown no commitment to complying with the 2014 settlement. It failed to take its responsibility seriously, even in the face of Staff's continuing concerns, and even in the face of a Commission decision in a related matter,² which decision expressly noted the firm's failure to respond appropriately. It is difficult for us to be confident that this time, Global RESP will comply with the Commission's order.
- [12] The reality is that this settlement provides no such guarantee. However, we recognize that the sanctions available in subsection 127(1) of the *Securities Act* do not lend themselves to that certainty, so long as Global RESP remains a registrant. In our view, given those limitations, and when viewed against the factual background, the terms agreed to by the parties do fall within a range of reasonable outcomes.
- [13] In addition to the terms and conditions on registration, the administrative penalty, and the payment of costs, the settlement calls for a reprimand. The value of a reprimand varies from case to case. In the circumstances of this case, the reprimand is of critical importance. Specific deterrence is central to this settlement, so we want to ensure that Global RESP clearly understands our message.
- [14] We direct the following comments to the firm's representative, Mr. Manickaraj, the acting UDP and CEO. You have heard our comments regarding this settlement and regarding our reluctance to approve it. You have heard about our lack of confidence in the firm's commitment to compliance.
- [15] We appreciate the fact that the membership of the board of directors has recently changed, and that you are in an acting role. You do not bear personal responsibility for Global RESP's past misconduct. However, you and the firm share the responsibility to ensure that Global RESP adheres to the terms of this settlement scrupulously, comprehensively and sustainably, and it is essential that this message be conveyed by you to the new UDP and CEO.

² *Bouji (Re)* (2017), 40 OSCB 8845, 2017 ONSEC 38.

- [16] This Commission has often said that registration is a privilege, not a right. Global RESP must consistently abide by the rules, or its participation in the capital markets may be in jeopardy.
- [17] With those comments in mind, and for all of the reasons I have described, we find that it is in the public interest to approve the settlement and to issue an order that incorporates the agreed-upon terms.

Dated at Toronto this 25th day of May, 2018.

"Timothy Moseley"

Timothy Moseley

"William Furlong"

William Furlong

"Deborah Leckman"

Deborah Leckman