



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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

- AND -

**IN THE MATTER OF
MYRON SULLIVAN II FORMERLY KNOWN AS FRED MYRON GEORGE
SULLIVAN, GLOBAL RESPONSE GROUP (GRG) CORP., and
IMC – INTERNATIONAL MARKETING OF CANADA CORP.**

**REASONS AND DECISION
(Sections 127(1) and 127(10) of the *Securities Act*)**

Decision: January 22, 2014

Panel: James D. Carnwath, Q.C. - Commissioner and Chair of the Panel

Appearances: Donna E. Campbell - For Staff of the Commission

- No one appeared for the Respondents

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I. OVERVIEW

[1] This was a hearing conducted in writing before the Ontario Securities Commission (the “**Commission**”) pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “**Act**”) to consider whether it is in the public interest to make an order imposing sanctions against Myron Sullivan II formerly known as Fred Myron George Sullivan (“**Sullivan**”), Global Response Group (GRG) Corp. (“**GRG**”) and IMC – International Marketing of Canada Corp. (“**IMC**”) and collectively with Sullivan and GRG, the “**Respondents**”).

[2] A Notice of Hearing in this matter was issued by the Commission on March 22, 2013 in relation to a Statement of Allegations filed by Staff of the Commission (“**Staff**”) on March 21, 2013.

[3] On April 25, 2013, the Commission heard an application by Staff to convert this matter to a written hearing in accordance with Rule 11.5 of the Commission’s *Rules of Procedure* (2012), 35 O.S.C.B. 10071 (“**Rules of Procedure**”), and subsection 5.1(2) of the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S. 22, as amended (the “**SPPA**”). The Respondents did not appear at the application hearing, despite being served with the Notice of Hearing, Statement of Allegations and disclosure (the “**Materials**”), and an order dated April 12, 2013 (*Myron Sullivan II formerly known as Fred Myron George Sullivan, Global Response Group (GRG) Corp. and IMC – International Marketing of Canada Corp.* (2013), 36 O.S.C.B. 4223 (the “**April 12 Order**”)) adjourning the first appearance of this matter to April 25, 2013 in order to permit the Respondents time to consider the Materials. Service of the Materials and the April 12 Order on the Respondents was evidenced by the Affidavit of Service of Lee Crann, sworn April 23, 2013.

[4] The Commission granted Staff’s application to proceed by way of written hearing and set a schedule for submission of materials by the parties (*Myron Sullivan II formerly known as Fred Myron George Sullivan, Global Response Group (GRG) Corp. and IMC – International Marketing of Canada Corp.* (2013), 36 O.S.C.B. 4604 (the “**April 25 Order**”).

[5] Staff filed the Affidavit of Service of Lee Crann, sworn May 8, 2013, confirming service of the April 25 Order on Sullivan, personally and on behalf of GRG and IMC.

[6] Staff provided written submissions, a hearing brief and a brief of authorities. The Respondents did not file any responding materials. I am satisfied that the Respondents were served with notice of this hearing. Pursuant to Rule 7.1 of the Commission’s *Rules of Procedure* and subsection 7(2) of the *SPPA*, I may proceed in the absence of the Respondents.

[7] Staff relies on paragraph 4 of subsection 127(10) of the *Act*, which permits the Commission to make an order under subsection 127(1) of the *Act* in respect of a person or company who is subject to an order made by a securities regulatory authority, derivatives regulatory authority or

financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the person or company.

[8] These are my reasons and decision for sanctions imposed pursuant to subsections 127(1) and 127(10) of the *Act*.

[9] On December 13, 2012, a panel of the British Columbia Securities Commission (the “**BCSC**”) made findings on the liability of the Respondents (the “**BCSC Findings**”). (*Myron Sullivan II, Global Response Group (GRG) Corp., and IMC – International Marketing of Canada Corp.*, 2012 BCSECCOM 464 (“*Re Sullivan et. al.*”). None of the Respondents appeared or were represented by counsel at the hearing.

[10] In the BCSC Findings, the panel of the BCSC found that:

- (a) the Respondents distributed securities without filing a prospectus contrary to section 61 of the British Columbia *Securities Act*, R.S.B.C. 1996, c. 418 (the “*BC Act*”);
 - (b) Sullivan made misrepresentations with the intention of effecting a trade in a security contrary to paragraph 50(1)(d) of the *BC Act*; and
 - (c) Sullivan and GRG perpetrated a fraud contrary to section 57 of the *BC Act*
- (*Re Sullivan et. al., supra*, at paras. 18, 20 and 23)

[11] The Respondents are subject to an order made by the BCSC dated December 13, 2012 that imposes sanctions, conditions, restrictions or requirements on them within the meaning of paragraph 4 of subsection 127(10) of the *Act* (the “**BCSC Order**”). (*Re Sullivan et. al., supra*)

[12] In imposing sanctions, I rely on the BCSC Order. It is not appropriate in exercising my jurisdiction to revisit or question the BCSC Order.

II. SANCTIONS OF THE BRITISH COLUMBIA SECURITIES COMMISSION

The BCSC Sanctions

[13] The panel of the BCSC imposed the following sanctions, conditions, restrictions or requirements:

- (a) *Upon Sullivan*
 - i. under section 161(1)(b) of the *BC Act*, that Sullivan cease trading permanently, and is permanently prohibited from purchasing, securities or exchange contracts;

- ii. under sections 161(1)(d)(i) and (ii) of the *BC Act*, that Sullivan resign any position he holds as, and is permanently prohibited from becoming or acting as, a director or officer of any issuer, registrant, or investment fund manager;
- iii. under section 161(1)(d)(iii) of the *BC Act*, that Sullivan is permanently prohibited from becoming or acting as a registrant, investment fund manager or promoter;
- iv. under section 161(1)(d)(iv) of the *BC Act*, that Sullivan is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market;
- v. under section 161(1)(d)(v) of the *BC Act*, that Sullivan is permanently prohibited from engaging in investor relations activities;
- vi. under section 161(1)(g) of the *BC Act*, that Sullivan pay to the BCSC the funds he obtained as a result of his contraventions of the *BC Act*, which the BCSC panel found to be not less than \$1,739,225;
- vii. under section 162 of the *BC Act*, that Sullivan pay an administrative penalty of \$700,000;

(b) ***Upon GRG***

- i. under section 161(1)(b) of the *BC Act*, that all persons cease trading permanently, and are prohibited permanently from purchasing, any securities of GRG;
- ii. under section 161(1)(b) of the *BC Act*, that GRG permanently cease trading in, and be permanently prohibited from purchasing, any securities or exchange contracts;
- iii. under section 161(1)(d)(iii) of the *BC Act*, that GRG is prohibited permanently from becoming or acting as a registrant, investment fund manager or promoter;
- iv. under section 161(1)(d)(v) of the *BC Act*, that GRG is prohibited permanently from engaging in investor relations activities;
- v. under section 161(1)(g) of the *BC Act*, that GRG pay to the BCSC the funds obtained as a result of its contraventions of the *BC Act*, which the BCSC panel found to be not less than \$1,739,225;

(c) *Upon IMC*

- i. under section 161(1)(b) of the *BC Act*, that all persons cease trading permanently, and are prohibited permanently from purchasing, any securities of IMC;
- ii. under section 161(1)(b) of the *BC Act*, that IMC permanently cease trading in, and be permanently prohibited from purchasing, any securities or exchange contracts;
- iii. under section 161(1)(d)(iii) of the *BC Act*, that IMC is prohibited permanently from becoming or acting as a registrant, investment fund manager or promoter;
- iv. under section 161(1)(d)(v) of the *BC Act*, that IMC is prohibited permanently from engaging in investor relations activities;
- v. under section 161(1)(g) of the *BC Act*, that IMC pay to the BCSC the funds obtained as a result of its contraventions of the *BC Act*, which the BCSC panel found to be not less than \$1,739,225;
- vi. that the amounts paid under paragraph 13 (a)(vi), (b)(v) and (c)(v) shall not exceed, in the aggregate, the amount obtained by the respondents' contraventions of the *Act*, and
- vii. that Sullivan, GRG and IMC be jointly and severally liable for the amount in paragraph 13 (a)(vii).

(*Re Sullivan et. al., supra* at para. 29)

III. ANALYSIS

A. Inter-jurisdictional Enforcement

[14] Subsection 127(10) of the *Act* provides in part as follows:

127 (10) Inter-jurisdictional enforcement – Without limiting the generality of subsections (1) and (5), an order may be made under subsection (1) or (5) in respect of a person or company if any of the following circumstances exist:

[...]

4. The person or company is subject to an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the person or company. [...]

[15] The BCSC Order makes the Respondents subject to an order of the BCSC that imposes sanctions, conditions, restrictions or requirements on them, within the meaning of paragraph 4 of subsection 127(10) of the *Act*.

[16] Based on the BCSC Order, the Commission may make one or more orders under subsection 127(1) of the *Act*, if in its opinion it is in the public interest to do so.

[17] In *Re Euston Capital Corp.* (2009), 32 O.S.C.B. 6313 (“*Euston Capital*”), the Commission concluded that subsection 127(10) of the *Act* can be the grounds for an order in the public interest under subsection 127(1) of the *Act*, based on a decision and order made in another jurisdiction:

... we conclude that we can make an order against the Respondents pursuant to our public interest jurisdiction under section 127 of the *Act* on the basis of decisions and orders made in other jurisdictions, if we find it necessary in order to protect investors in Ontario and the integrity of Ontario’s capital markets.

(*Euston Capital, supra*, at para. 46)

[18] I therefore find that I have the authority to make a public interest order under subsections 127(1) and 127(10) of the *Act*, based on the BCSC Findings and the BCSC Order.

B. Submissions of the Parties

Staff’s Submissions

[19] To adequately protect Ontario’s capital markets, Staff seeks to impose sanctions that are consistent with the sanctions imposed pursuant to the BCSC Order, to the extent possible under the *Act*.

[20] Staff requests the following sanctions against the Respondents:

- (a) against Sullivan that:
 - i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Sullivan cease permanently;

- ii. pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Sullivan cease permanently;
 - iii. pursuant to paragraph 7 of subsection 127(1) of the *Act*, Sullivan resign any positions that he holds as a director or officer of an issuer;
 - iv. pursuant to paragraph 8 of subsection 127(1) of the *Act*, Sullivan be prohibited permanently from becoming or acting as an officer or director of an issuer;
 - v. pursuant to paragraph 8.1 of subsection 127(1) of the *Act*, Sullivan resign any positions that he holds as a director or officer of a registrant;
 - vi. pursuant to paragraph 8.2 of subsection 127(1) of the *Act*, Sullivan be prohibited permanently from becoming or acting as a director or officer of a registrant;
 - vii. pursuant to paragraph 8.3 of subsection 127(1) of the *Act*, Sullivan resign any positions that he holds as a director or officer of an investment fund manager;
 - viii. pursuant to paragraph 8.4 of subsection 127(1) of the *Act*, Sullivan be prohibited permanently from becoming or acting as a director or officer of an investment fund manager;
 - ix. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Sullivan be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter; and
- (b) against GRG that:
- i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, all trading in securities of GRG cease permanently; and
 - ii. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by GRG cease permanently;
 - iii. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, GRG be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter; and

- (c) against IMC that:
- i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, all trading in securities of IMC cease permanently;
 - ii. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by IMC cease permanently; and
 - iii. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, IMC be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter.

Respondents' Submissions

[21] The Respondents did not appear and did not make any submissions in this proceeding.

C. Should an Order for Sanctions be Imposed?

[22] When exercising the public interest jurisdiction under section 127 of the *Act*, I must consider the purposes of the *Act*. Those purposes, set out in section 1.1 of the *Act*, are:

- (a) to provide protection to investors from unfair, improper or fraudulent practices; and
- (b) to foster fair and efficient capital markets and confidence in capital markets.

[23] In pursuing these purposes, I must have regard for the fundamental principles described in section 2.1 of the *Act*. That section provides that one of the primary means for achieving the purposes of the *Act* is to restrict fraudulent and unfair market practices and procedures.

[24] I find that it is necessary to protect Ontario investors and the integrity of Ontario's capital markets to order sanctions against the Respondents in the public interest.

D. The Appropriate Sanctions

[25] In determining the nature and duration of the appropriate sanctions, I must consider all of the relevant facts and circumstances before me, including:

- (a) the seriousness of the conduct and the breaches of the *BC Act*;
- (b) the level of a respondent's activity in the marketplace;

- (c) whether or not the sanctions imposed may serve to deter not only the Respondents but any like-minded people from engaging in similar abuses of the Ontario capital markets;
- (d) the effect any sanctions may have on the ability of the Respondents to participate without check in the capital markets; and
- (e) any mitigating factors.

(Re Belteco Holdings Inc. (1998), 21 O.S.C.B. 7743 at 7746; Re M.C.J.C. Holdings Inc. (2002), 25 O.S.C.B. 1133)

[26] The following facts and circumstances are particularly relevant in determining the sanctions that should be ordered against the Respondents:

- (a) the Respondents were found by a panel of the BCSC to have breached British Columbia securities law;
- (b) the sanctions imposed by me under the proposed order are consistent with the sanctions imposed in the BCSC Order to the extent possible under the *Act*;
- (c) the sanctions imposed under the proposed order are prospective in nature, and would impact the Respondents only if they attempted to participate in the capital markets of Ontario; and
- (d) the conduct for which the Respondents were sanctioned in the BCSC Order would constitute contraventions of Ontario securities law if they had occurred in Ontario, including contraventions of subsections 38(3), 53(1) and 126.1(b) of the *Act*.

[27] In my view, there are no mitigating factors or circumstances.

[28] I find that the BCSC Order imposed significant sanctions on the Respondents and that the Commission should exercise its discretion to impose sanctions consistent with those imposed by the BCSC Order to the extent possible under the *Act*.

[29] I find that the sanctions imposed by the BCSC Order are appropriate to the misconduct by the Respondents, and serve as both specific and general deterrence. I further find that a protective order imposing market conduct restrictions on the Respondents that are substantially similar to those imposed by the BCSC Order are required to protect Ontario investors and Ontario capital markets from similar misconduct by the Respondents.

[30] Based on the foregoing, I have concluded that it is in the public interest to make an order under subsection 127(1) of the *Act*.

IV. CONCLUSION

[31] Accordingly, I find it is in the public interest to issue the following orders:

- (a) against Sullivan that:
 - i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Sullivan shall cease permanently;
 - ii. pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Sullivan shall cease permanently;
 - iii. pursuant to paragraph 7 of subsection 127(1) of the *Act*, Sullivan shall resign any positions that he holds as a director or officer of an issuer;
 - iv. pursuant to paragraph 8 of subsection 127(1) of the *Act*, Sullivan shall be prohibited permanently from becoming or acting as an officer or director of an issuer;
 - v. pursuant to paragraph 8.1 of subsection 127(1) of the *Act*, Sullivan shall resign any positions that he holds as a director or officer of a registrant;
 - vi. pursuant to paragraph 8.2 of subsection 127(1) of the *Act*, Sullivan shall be prohibited permanently from becoming or acting as a director or officer of a registrant;
 - vii. pursuant to paragraph 8.3 of subsection 127(1) of the *Act*, Sullivan shall resign any positions that he holds as a director or officer of an investment fund manager;
 - viii. pursuant to paragraph 8.4 of subsection 127(1) of the *Act*, Sullivan shall be prohibited permanently from becoming or acting as a director or officer of an investment fund manager;
 - ix. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Sullivan shall be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter; and

- (b) against GRG that:
- i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, all trading in securities of GRG shall cease permanently;
 - ii. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by GRG shall cease permanently; and
 - iii. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, GRG shall be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter; and
- (c) against IMC that:
- i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, all trading in securities of IMC shall cease permanently;
 - ii. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by IMC shall cease permanently; and
 - iii. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, IMC shall be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter.

Dated at Toronto this 22nd day of January, 2014.

“James D. Carnwath”

James D. Carnwath, Q.C.