



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

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

-AND-

**IN THE MATTER OF
CHILDREN'S EDUCATION FUNDS INC.**

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Children’s Education Funds Inc. (“CEFI”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) agrees to recommend settlement of the proceeding commenced by Notice of Hearing dated March 31, 2014 (the “Proceeding”) against CEFI according to the terms and conditions set out below in this agreement (this “Settlement Agreement”). CEFI agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For this Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, CEFI agrees with the facts as set out in Part III of this Settlement Agreement.

Overview

4. CEFI has been the subject of five compliance field review reports since 2003 by Staff of the Compliance and Registrant Regulation Branch (“CRR Staff”). CEFI also had previous terms and conditions imposed on its registration by CRR Staff from July 9, 2004 to June 16, 2005. The last compliance field review report dated June 14, 2012 (the “2012 Compliance Report”) identified numerous compliance deficiencies. In some cases, CRR Staff found CEFI to be deficient in similar areas to those previously identified as containing deficiencies.
5. On September 14, 2012, the Commission issued a temporary section 127 order (the “Temporary Order”) with CEFI’s consent which imposed terms and conditions (“Terms and Conditions”) on CEFI’s registration. The Terms and Conditions required CEFI to retain an independent consultant (the “Consultant”) to: (a) prepare and assist CEFI to implement a plan to strengthen its compliance system, and (b) retain an independent monitor (the “Monitor”) to use best efforts to contact new clients with an income less than or equal to \$50,000 and a random sample of 20% of new clients with an income greater than \$50,000 pending approval of the Consultant’s plan to, among other things, confirm the accuracy of the client’s KYC information, that the investment is suitable for the client and that the client understands the fee structure of the investment.
6. On October 2, 2012, the Consultant delivered a Consultant’s plan (the “Consultant’s Plan”) which set out a plan to revise CEFI’s compliance policies and procedures including amending CEFI’s application form and KYC processes and to require additional organizational and policy improvements as summarized in paragraph 28.
7. On November 12, 2012, the Consultant delivered an addendum to the Consultant’s Plan (the “Addendum”).
8. The Consultant has confirmed in its attestation letter dated November 5, 2013 that CEFI has implemented the policies and controls recommended by the Consultant that address each of the deficiencies identified in the 2012 Compliance Report and that strengthen the compliance system.
9. CEFI has agreed to adhere to the revised internal controls, supervision and policies and procedures developed during the implementation of the Consultant’s Plan and the Addendum.
10. Given CEFI’s implementation of the Consultant’s Plan, CEFI’s co-operation to date, and CEFI’s agreement to adhere to the revised internal controls, supervision and policies and

procedures set out in the Consultant's Plan, the parties agree to settle this proceeding on the basis that: (i) CEFI will provide the OSC Manager as defined in the Terms and Conditions with a report by the Consultant, based on a work plan to be agreed upon jointly by CEFI, the Consultant and the OSC Manager, no later than June 3, 2015, which reports on whether the revised policies and procedures and internal controls set out in the Consultant's Plan, as well as any subsequent revisions thereto are: (a) being followed by CEFI; (b) working appropriately; and (c) being adequately administered and enforced by CEFI, such report to include a description of the Consultant's testing to support its conclusions for the 12 month period ending April 3, 2015; and (ii) CEFI will receive a reprimand.

The Respondent

11. Children's Education Trust of Canada ("CETC") offers three types of education savings plans (the "Plans"). The Plans are administered by the Children's Educational Foundation of Canada (the "Foundation").
12. CEFI distributes the Plans which are Registered Education Savings Plans ("RESPs") under the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.), as amended.
13. CEFI, formerly known as Education Fund Services Inc. and Educational Trust Services Inc., was incorporated in Ontario on or about March 22, 1990.
14. CEFI became registered with the Commission as a dealer in the category of scholarship plan dealer ("SPD") on or about March 22, 1991. CEFI became registered as an investment fund manager on or about October 29, 2010.

Previous Compliance Reviews and Previous Terms and Conditions

15. CEFI has been the subject of five previous compliance reviews conducted by CRR Staff.
16. A compliance field review report by CRR Staff dated August 26, 2003 identified a number of compliance deficiencies including: (i) failing to collect sufficient Know Your Client ("KYC") information; (ii) compliance officer failing to ensure that trades are properly reviewed for suitability by staff with the required proficiency; (iii) trades not approved by branch managers ("BMs") before being sent to head office; (iv) inadequate maintenance and updating of KYC information to properly assess the suitability of clients' trades; (v) no formal policies and procedures in place for supervision of branch activities; (vi) inadequate supervision of dealing representatives ("DRs") by BMs; (vi)

misleading information in marketing materials; and (viii) inadequate system in place to identify clients who have leveraged scholarship plan purchases.

17. A compliance field review report dated June 23, 2004 by CRR Staff identified some of the same deficiencies identified in the compliance field review report dated August 27, 2003.
18. On July 9, 2004, terms and conditions were imposed on CEFI's registration which included filing monthly progress reports with the Manager, Compliance, to address the identified deficiencies.
19. A third compliance field review report by CRR Staff dated May 31, 2005 identified further compliance deficiencies.
20. A fourth compliance report dated April 15, 2008 identified further compliance deficiencies.

2012 Compliance Report

21. From approximately July 15, 2011 to the end of August 2011, CRR Staff conducted a compliance review at CEFI's head office in Burlington, Ontario and at various branch locations in the Greater Toronto Area. On June 14, 2012, CRR Staff issued the 2012 Compliance Report which identified the following deficiencies: (i) CEFI lacked an adequate system of compliance controls and supervision; (ii) CEFI's head office did not adequately discharge its obligations as a registered firm to supervise DRs; (iii) ineffective branch audits; (iv) failure to adequately monitor the restricted terms and conditions imposed on certain DRs; (v) inadequate collection and documentation for each of CEFI's clients for the purpose of assessing suitability; (vi) inadequate suitability assessment, including inadequate KYC information to assess trade suitability; (vii) ineffective trade review process; (viii) high pressure sales tactics; (ix) insufficient or inadequate knowledge by certain DRs of CEFI's Plans; and (x) misleading and inaccurate claims in marketing materials.

Temporary Order dated September 14, 2012

22. On September 14, 2012, the Commission issued the Temporary Order with CEFI's consent which imposed Terms and Conditions on CEFI's registration. The Terms and Conditions required CEFI to retain an independent consultant (the "Consultant") to: (a) prepare and assist CEFI to implement a plan to strengthen its compliance system within the meaning of

section 11.1 of National Instrument 31-103 - *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“NI 31-103”); (b) make recommendations to rectify all identified compliance deficiencies raised in the 2012 Compliance Report; and (c) retain an independent monitor (the “Monitor”) to use best efforts, pending approval of the Consultant’s Plan, to contact new clients with an income less than or equal to \$50,000 and a random sample of 20% of new clients with an income greater than \$50,000 for the purpose of confirming: (i) the accuracy of the clients’ KYC information; (ii) the investment is suitable for the client; and (iii) that the clients understand the fee structure of the investment.

23. The OSC Manager, as referred to in the Terms and Conditions, approved Compliance Support Services Inc. as both the Monitor and the Consultant.

Consultant’s Plan dated October 1, 2012 and Addendum dated November 12, 2012

24. On October 2, 2012, the Consultant provided Staff with its initial Consultant’s plan to strengthen CEFI’s compliance systems.
25. The Consultant’s Plan was a 22 page document which listed specific recommendations to address the deficiencies set out in the 2012 Compliance Report.
26. After a request from Staff for the Consultant’s Plan to include specific measurable milestones and contain a list of specific actions to achieve those milestones, the Consultant delivered an Addendum on November 12, 2012. The Consultant’s Plan and the Addendum set out recommendations, action items, responsible persons and targeted completion dates for reviews of and/or improvements to:
 - (a) compliance policies and systems;
 - (b) training for CEFI registrants;
 - (c) the suitability assessment process;
 - (d) client statements;
 - (e) website and marketing material;
 - (f) the complaints process;
 - (g) insurance requirements;
 - (h) registration processes;

- (i) conflict of interest policies; and
- (j) referral arrangements.

Implementation of the Consultant's Plan and Addendum

27. The Terms and Conditions required the Consultant to provide monthly progress reports detailing CEFI's progress with respect to the implementation of the Consultant's Plan for each recommendation. The Consultant delivered progress reports to Staff on December 17, 2012, January 15, February 22, March 18, April 8, July 15, and September 16, 2013 which reported on the implementation of the Consultant's Plan and the Addendum.

28. The Consultant's Plan and the Addendum together with the subsequent progress reports noted in paragraph 27 required the following action steps to improve the collection of KYC and suitability information:
 - (a) develop new affordability guidelines focusing on cash flow and debt/contractual investment servicing ratio;
 - (b) develop new supplemental KYC information form capturing information needed for affordability guidelines;
 - (c) develop and roll out usage guide and compliance bulletin for new KYC form;
 - (d) develop plan disclosures for each of three CEFI plan types;
 - (e) conduct KYC form and plan disclosure web training for DRs, BMs, provincial trading officers ("PTOs") and staff;
 - (f) review training material and replace any high pressure sales tactics with material focusing on know your product ("KYP") information outlining risks and benefits of each plan type;
 - (g) develop new trade review assessment and approval processes including those for BMs, PTOs and head office;
 - (h) develop new KYC update and enrolment application review and approval processes;
 - (i) redesign enrolment application and KYC form in order to have all KYC information on the KYC form; and

- (j) conduct web training for revised forms, new trade review procedures, new KYC update procedures and new enrolment application review procedures for DRs, BMs, PTOs and staff.
29. By progress report dated September 16, 2013, the Consultant confirmed that CEFI's compliance systems have been fully remediated and every deficiency raised in the 2012 Compliance Report has been addressed and corrected. The only qualification added by the Consultant is that the product training had not yet been finalized because CEFI was in the midst of negotiating major changes to its Education Assistance Payment ("EAP") structure with staff of the Investment Funds Branch.
30. In the Consultant's attestation letter dated November 5, 2013, the Consultant stated that to the best of its knowledge and belief, CEFI has implemented the procedures and controls recommended by the Consultant to address each of the deficiencies identified in the 2012 Compliance Report and that strengthen CEFI's compliance system.

Role of Monitor

31. From September 24, 2012 to May 13, 2013, the Monitor reviewed 796 New Client applications, called 220 New Clients and CEFI unwound 4 new client applications based on the KYC information gathered by CEFI. In the 4 cases, the Monitor determined based on the new client's KYC Information and CEFI suitability policies, that the 4 investments were not suitable.
32. On May 10, 2013, the Commission ordered the role of the Monitor suspended effective May 10, 2013 after reviewing a letter from the Consultant dated May 7, 2013 stating that the monitoring of CEFI's new client applications was no longer necessary.

CEFI'S POSITION

33. CEFI acknowledges that changes were required to strengthen its compliance system so as to better serve the public interest.
34. Upon receipt of the 2012 Compliance Report, CEFI immediately set out to address the compliance deficiencies highlighted in the report, particularly the KYC and Suitability deficiencies. Initial changes were implemented prior to the Consultants being retained or their plan being reviewed or approved by Staff.
35. CEFI has worked with the Consultant and the Monitor to ensure that the Terms and Conditions imposed by the Commission on September 14, 2012 were fully implemented.

36. As at November 30th, 2013, CEFI had incurred \$696,690.70 in Consultant, Monitor and other consultant costs as a result of the implementation of the Terms and Conditions.
37. CEFI has co-operated with Staff and consented to the Temporary Order which imposed the Terms and Conditions and consented to other Commission orders which extended the Temporary Order and varied the Terms and Conditions.
38. CEFI has agreed to adhere to the revised internal controls, supervision and policies and procedures in all provincial and territorial jurisdictions in Canada in which CEFI is registered and as referenced in the Consultant's Plan and the progress reports.

PART IV – CONDUCT TO BETTER SERVE THE PUBLIC INTEREST

39. By engaging in the conduct described above, CEFI admits and acknowledges that its compliance system did not meet reasonable compliance practices and that changes were required to strengthen its compliance system so as to better serve the public interest.

PART V – TERMS OF SETTLEMENT

40. CEFI agrees to the terms of settlement listed below.
41. The Commission will make an order pursuant to subsection 127(1) of the Act that:
 - (a) this Settlement Agreement is approved;
 - (b) pursuant to clause 4 of subsection 127(1) of the Act, no later than June 3, 2015, CEFI will provide the OSC Manager as defined in the Terms and Conditions with a report by the Consultant, based on a work plan to be agreed upon jointly by CEFI, the Consultant and the OSC Manager, which reports on whether the revised policies and procedures and internal controls set out in the Consultant's Plan and the Addendum as well as any subsequent revisions thereto are: (i) being followed by CEFI; (ii) working appropriately; and (iii) being adequately administered and enforced by CEFI, such report to include a description of the Consultant's testing to support its conclusions for the 12 month period ending April 3, 2015; and

(c) pursuant to clause 6 of subsection 127(1) of the Act, CEFI is reprimanded.

PART VI – STAFF COMMITMENT

42. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law against CEFI in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 43 below.
43. If the Commission approves this Settlement Agreement and, at any subsequent time, CEFI fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against CEFI. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

44. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for April 7, 2014, or on another date agreed to by Staff and CEFI, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.
45. Staff and CEFI agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on CEFI's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.
46. If the Commission approves this Settlement Agreement, CEFI agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.
47. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
48. Whether or not the Commission approves this Settlement Agreement, CEFI will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

49. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule “A” to this Settlement Agreement:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and CEFI before the settlement hearing takes place will be without prejudice to Staff and CEFI; and
 - (b) Staff and CEFI will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.
50. Both parties will keep the terms of this Settlement Agreement confidential until the Commission approves this Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve this Settlement Agreement, both parties must continue to keep the terms of this Settlement Agreement confidential, unless they agree in writing not to do so or if otherwise required by law.

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

51. All parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

52. A fax copy of any signature will be treated as an original signature.

Dated this 31st day of March, 2014.

Children's Education Funds Inc.

"Jeremy Devereux"
Witness

Per: "Allison Haid-Caughey"

"Jeremy Devereux"
Witness

Per: "Al Haid"

"Tom Atkinson"
Director, Enforcement Branch

Schedule “A”



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

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

- AND -

**IN THE MATTER OF
CHILDREN'S EDUCATION FUNDS INC.**

ORDER

WHEREAS on March 31, 2014, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) in relation to the Statement of Allegations filed by Staff of the Commission (“Staff”) on March 31, 2014 with respect to Children’s Education Funds Inc. (“CEFI”);

AND WHEREAS CEFI entered into a Settlement Agreement dated March 31, 2014, (the “Settlement Agreement”) in relation to certain of the matters set out in the Statement of Allegations;

AND WHEREAS the Settlement Agreement acknowledges CEFI’s co-operation with Staff and sets out the costs incurred by CEFI in retaining an independent consultant (the “Consultant”) to prepare and assist CEFI in implementing a plan to strengthen CEFI’s “compliance system” within the meaning of section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

AND WHEREAS the Settlement Agreement sets out that a manager in the Compliance and Registrant Regulation Branch of the Commission (the “OSC Manager”) approved the Consultant’s plan dated October 1, 2012 and the addendum to the Consultant’s plan dated November 12, 2012 and that the OSC Manager reviewed the progress reports detailing CEFI’s

progress with respect to the implementation of the amended Consultant's plan as revised by various progress reports (the "Amended Consultant's Plan");

AND WHEREAS the Settlement Agreement sets out that the Consultant confirmed by letter dated November 5, 2013 that CEFI has implemented the procedures and controls recommended by the Consultant to address each of the deficiencies identified in the 2012 Compliance Report and to strengthen CEFI's compliance system;

AND WHEREAS the Commission issued a Notice of Hearing dated March 31, 2014, setting out that it proposed to consider the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations and upon considering submissions from CEFI's counsel and from Staff of the Commission;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED THAT:

- (a) the Settlement Agreement is approved;
- (b) pursuant to clause 4 of subsection 127(1) of the Act, no later than June 3, 2015, CEFI will provide the OSC Manager as defined in the Terms and Conditions with a report by the Consultant, based on a work plan to be agreed upon jointly by CEFI, the Consultant and the OSC Manager, which reports on whether the revised policies and procedures and internal controls set out in the Amended Consultant's Plan as well as any subsequent revisions thereto are: (i) being followed by CEFI; (ii) working appropriately and (iii) being adequately administered and enforced by CEFI, such report to include a description of the Consultant's testing to support its conclusions for the 12 month period ending April 3, 2015; and

(c) pursuant to clause 6 of subsection 127(1) of the Act, CEFI is reprimanded.

DATED at Toronto, Ontario this day of April, 2014.
