

Citation: 2012 BCSECCOM 464

**Myron Sullivan II a.k.a. Fred Myron George Sullivan,
Global Response Group (GRG) Corp., and
IMC – International Marketing of Canada Corp.**

Securities Act, RSBC 1996, c. 418

Hearing

Panel	Brent W. Aitken Kenneth G. Hanna Suzanne K. Wiltshire	Vice Chair Commissioner Commissioner
Hearing dates	July 23 and 24, 2012	
Submissions completed	September 14, 2012	
Date of Decision	December 13, 2012	
Appearing	Mila Pivnenko For the Executive Director	

Decision

I Introduction

- ¶ 1 This is a hearing under sections 161(1) and 162 of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 2 On April 2, 2012, the executive director issued a notice of hearing alleging that Myron Sullivan II a.k.a. Fred Myron George Sullivan, Global Response Group Corp. (GRG), and IMC – International Marketing of Canada Corp. contravened the Act between 2008 and 2011 by distributing securities without filing a prospectus, making misrepresentations, and perpetrating a fraud.
- ¶ 3 None of the respondents appeared or was represented by counsel at the hearing. We granted the executive director’s request that we consider submissions on both liability and sanction together.
- ¶ 4 During the relevant period Sullivan (who in 2006 legally changed his name from Fred Myron George Sullivan to Myron Sullivan II) was a resident of British Columbia.

- ¶ 5 GRG and its wholly-owned subsidiary, IMC, were both incorporated in British Columbia with registered offices at Sullivan's home. Neither company was ever registered under the Act nor had either ever filed a prospectus.
- ¶ 6 GRG and IMC were essentially Sullivan's alter egos. He was the president and director and officer of both companies. The companies had no employees. Sullivan had sole decision-making authority and had sole signing authority.
- ¶ 7 Sullivan acquired GRG shares from treasury and then sold them to 97 investors for gross proceeds of \$1.74 million. Investors' funds were deposited in bank accounts held by IMC.
- ¶ 8 Sullivan told investors that GRG had oil spill clean-up and fire fighting technology called the MUSKOX system. Sullivan spoke to investors directly, wrote GRG promotional materials that he sent to investors, approved the content of a promotional DVD that he gave to investors, and approved the content of the GRG website.
- ¶ 9 Through all these means, Sullivan told investors that:
- GRG shares would soon be listed on stock exchanges, including the US Over-the-Counter Bulletin Board, the NASDAQ Small Cap Exchange, the Hong Kong Stock Exchange, and the London Stock Exchange
 - once listed, GRG's shares would trade at specified prices (he forecast different prices to different investors; the prices he forecast ranged from \$5 to \$100)
 - GRG had sold the MUSKOX system to the Chinese National Petroleum Company (CNPC)
- ¶ 10 None of these statements was true.
- ¶ 11 Sullivan had done nothing to prepare GRG for a stock exchange listing and had not approached any exchange about a public listing, for good reason: GRG was in no position to go public. It had no audited financial statements. It needed major funding before it could meet listing criteria. Sullivan did not have the skills necessary to take the company public and GRG had no other management with those skills.
- ¶ 12 Sullivan had no reasonable basis for his forecasts of the price at which GRG's shares would trade once listed, nor could he have. GRG was so far from being in a position to go public that there was no basis at all on which to predict its future share price. He just made them up.

- ¶ 13 GRG had not sold the MUSKOX system to CNPC. All he had with CNPC was a letter of intent in which CNPC stated that “On the condition that GRG builds and satisfactorily demonstrates to our engineers the [MUSKOX system] in Canada” it “fully intended to purchase” the system.
- ¶ 14 GRG had no working model of the MUSKOX system and did not have any purchase agreement with CNPC. GRG had no agreements with any manufacturers to build the system, and none of GRG’s products were built.
- ¶ 15 None of the investors received any return. There is no evidence the investors will recover their investments.
- ¶ 16 Of the funds he raised, Sullivan used at least \$58,000 for his own personal purposes. However, the executive director says in his submissions that Sullivan “also spent large portions of investor funds on business-related activities and had patents and technology that could have been a successful business in more capable hands.”

II Findings

A Illegal Distribution

- ¶ 17 Section 61 of the Act says that a person must not distribute a security without filing a prospectus.
- ¶ 18 We find that the executive director proved that the respondents distributed securities without filing a prospectus, contrary to section 61.

B Misrepresentation

- ¶ 19 Section 50(1)(d) says that a person “with the intention of effecting a trade in a security, must not . . . make a statement that the person knows, or ought reasonably to know, is a misrepresentation.”
- ¶ 20 We find that the executive director has proved that Sullivan made misrepresentations with the intention of effecting a trade in a security, contrary to section 50(1)(d).

C Fraud

- ¶ 21 Section 57 says that a person “must not, directly or indirectly, engage in or participate in conduct relating to securities . . . if the person knows, or ought reasonably to know, that the conduct . . . perpetrates a fraud on any person.”

¶ 22 In considering the substantively identical predecessor to section 57, the British Columbia Court of Appeal held in *Anderson v. British Columbia (Securities Commission)* 2004 BCCA 7, that to establish fraud under that section, the elements of fraud must be present, as cited in *R. v. Therou*, [1993] 2 SCR 5. Those elements are a prohibited act (deceit, falsehood, or some other fraudulent means), deprivation caused by the prohibited act (actual loss or placing the victim's pecuniary interests at risk), and subjective knowledge by the perpetrator of both the prohibited act and that it could result in deprivation of another.

¶ 23 We find that the executive director proved that Sullivan and GRG perpetrated a fraud, contrary to section 57.

III Sanctions

¶ 24 The factors relevant to sanction are set forth in *Re Eron Mortgage Corporation*, [2000] 7 BCSC Weekly Summary 22 (see page 24).

¶ 25 Sullivan made misrepresentations to investors about GRG in order to induce them to invest in GRG. He also fraudulently misused some of the funds he raised from investors. Misrepresentation and fraud strike at the integrity and reputation of our markets.

¶ 26 That investors were harmed is obvious. There is no evidence to suggest that they will recover any part of the funds they invested. In these circumstances, we consider it appropriate to order disgorgement.

¶ 27 There are no mitigating factors.

¶ 28 The orders we are making are intended to deter the respondents from future misconduct and to demonstrate the consequences of inappropriate conduct to other market participants.

IV Orders

¶ 29 Considering it to be in the public interest, we order:

Sullivan

1. under section 161(1)(b) of the Act, that Sullivan cease trading permanently, and is permanently prohibited from purchasing, securities or exchange contracts;
2. under sections 161(1)(d)(i) and (ii), 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;
3. under section 161(1)(d)(iii), that Sullivan is permanently prohibited from becoming or acting as a registrant, investment fund manager or promoter;

4. under section 161(1)(d)(iv), that Sullivan is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market;
5. under section 161(1)(d)(v), that Sullivan is permanently prohibited from engaging in investor relations activities;
6. under section 161(1)(g), that Sullivan pay to the Commission the funds he obtained as a result of his contraventions of the Act, which we find to be not less than \$1,739,225;
7. under section 162, that Sullivan pay an administrative penalty of \$700,000;

GRG

8. under section 161(1)(b), that all persons cease trading permanently, and are prohibited permanently from purchasing, any securities of GRG;
9. under section 161(1)(b), that GRG permanently cease trading in, and be permanently prohibited from purchasing, any securities or exchange contracts;
10. under section 161(1)(d)(iii), that GRG is prohibited permanently from becoming or acting as a registrant, investment fund manager or promoter;
11. under section 161(1)(d)(v), that GRG is prohibited permanently from engaging in investor relations activities;
12. under section 161(1)(g), that GRG pay to the Commission the funds obtained as a result of its contraventions of the Act, which we find to be not less than \$1,739,225;

IMC

13. under section 161(1)(b), that all persons cease trading permanently, and are prohibited permanently from purchasing, any securities of IMC;
14. under section 161(1)(b), that IMC permanently cease trading in, and be permanently prohibited from purchasing, any securities or exchange contracts;
15. under section 161(1)(d)(iii), that IMC is prohibited permanently from becoming or acting as a registrant, investment fund manager or promoter;
16. under section 161(1)(d)(v), that IMC is prohibited permanently from engaging in investor relations activities;

17. under section 161(1)(g), that IMC pay to the Commission the funds obtained as a result of its contraventions of the Act, which we find to be not less than \$1,739,225;

18. that the amounts paid under paragraphs 6, 12 and 17 shall not exceed, in the aggregate, the amount obtained by the respondents' contraventions of the Act, and

19. that Sullivan, GRG and IMC be jointly and severally liable for the amount in paragraph 7.

¶ 30 December 13, 2012

¶ 31 **For the Commission**

Brent W. Aitken
Vice Chair

Kenneth G. Hanna
Commissioner

Suzanne K. Wiltshire
Commissioner