



British Columbia
Securities Commission

REPLY TO:

Deborah W. Flood

T: 604-899-6623 / F: 604-899-6633

Email: dflood@bcsc.bc.ca

By Regular Mail

September 14, 2020

Dear Mr. Rochard:

John Byron Rochard
Reciprocal Order Application

I am writing this letter on behalf of the Executive Director of the British Columbia Securities Commission (the Executive Director).

This letter notifies you and the British Columbia Securities Commission (the Commission) that the Executive Director is applying for orders against you under sections 161(6) (c) and 161(1) of the *Securities Act*, RSBC 1996, c. 418 (the Act). The Executive Director is not seeking a financial penalty.

The Executive Director is making this application based on the decision of the Alberta Securities Commission (ASC) finding you had breached sections of the *Securities Act*, RSA 2000, c. S-4 (Alberta Securities Act).

DECISION OF THE ALBERTA SECURITIES COMMISSION

1. On February 1, 2016, the ASC concluded you had contravened the Alberta Securities Act by illegally trading and distributing securities, making prohibited representations to investors, and failing to file required exempt distribution reports.
2. The ASC provided the reasons and decision for liability in [*Re Global Social Capital Partners, Inc.*](#), 2016 ABASC 27 (the Liability Decision).
3. On April 26, 2016, the ASC imposed lengthy market bans and monetary sanctions on you. The reasons and decision for sanction can be found in [*Re Global Social Capital Partners, Inc.*](#), 2016 ABASC 97 (the Sanction Decision).
4. In concluding you breached the Alberta Securities Act, the ASC made the following findings:



- (a) Global Social Capital Partners, Inc. (Global) was an Alberta company with its registered office and records address in Calgary, Alberta.

Liability Decision, para. 9

- (b) Global's sole shareholder is Global Social Holdings Corp (Global Holdings), being a B.C. company for which you were the sole director.

Liability Decision, para. 9

- (c) You identified yourself as Global's president, director and CEO.

Liability Decision, para. 12

- (d) You were also a principal of several Global corporate affiliates, including the founder, sole director and CEO of ThruYou International Inc. (ThruYou), and founder, director and CEO of Give and Go Prepaid, Inc. (Prepaid).

Liability Decision, para. 13

- (e) Global's objective was to invest in and manage "innovative emerging concepts designed to leverage the growing trends in personalized philanthropy, corporate social responsibility, online social media, and innovative micro-giving."

Liability Decision, para. 15

- (f) Global purportedly earned revenue through its affiliates, ThruYou and Prepaid.

Liability Decision, p. 9, para. 1, para. 92

- (g) ThruYou claimed to develop "innovative, partnered consumer products that embed, support and reward giving", and to have signed agreements with at least 10 non-profit organizations.

Liability Decision, para. 16

- (h) ThruYou's products included a credit card that provided users with "points" or credits for each dollar spent using the card, which could then be donated to a registered charity.

Liability Decision, para. 17

- (i) Another product, from Prepaid (identified as "a wholly owned entity" of ThruYou), was a gift card that allowed 20% of the card's face value to be



donated to a registered charity or non-profit organization, with the remaining amount to be used essentially as a prepaid credit card.

Liability Decision, para. 17

Prohibited representations

- (a) Global's capital raising activities including making presentations and providing marketing material to potential investors. You were the primary speaker at presentations promoting investments in Global, and you provided marketing material that was given to prospective investors and used in Global presentations and by sales associates.

Liability Decision, paras. 14, 32, 33

- (b) You played a central role in all aspects of Global's operations and capital-raising activities and was found to be Global's guiding mind.

Liability Decision, para. 14

- (c) At the Global presentations, potential investors were shown a Powerpoint called the Corporate Structure Document. Each version of the Corporate Structure Document represented Global as wholly owning ThruYou, which in turn wholly owned Prepaid. At the presentations, you reiterated Global's ownership of ThruYou, and ThruYou's ownership of Prepaid.

Liability Decision, paras. 39, 40, 89

- (d) The statements about Global's ownership of ThruYou and PrePaid were untrue. The evidence was that Global never held more than a 15% ownership interest in ThruYou during the relevant period.

Liability Decision, para. 90

- (e) Through your roles with Global and ThruYou, you knew or reasonably ought to have known that the statements about the ownership of ThruYou were untrue at the time they were made.

Liability Decision, para. 91

- (f) The evidence was that Global's value depended significantly (if not entirely) on its ownership interests in other companies, notably the revenue generating companies ThruYou and its purportedly wholly-owned subsidiary Prepaid.

Liability Decision, para. 92



- (g) The statements about ThruYou were material, and you and Global knew or reasonably ought to have known the statements were material.

Liability Decision, paras. 92-93

- (h) These statements were found to be untrue and material and would reasonably be expected to have a significant effect on the market price or value of a security, contrary to the Alberta Securities Act.

Sanction Decision, para. 6

Illegal trade and distribution

- (i) The Global shares and warrants offered for sale and sold were “securities” under the Alberta Security Act.

Liability Decision, para. 51

- (j) Global issued more than 2.8 million Global common shares to investors between June 2009 and February 2011, raising approximately \$1.5 million.

Liability Decisions, para. 10

- (k) From June 2009 to September 28, 2009, you and Global traded in Global securities without being registered in contravention of the Alberta Securities Act.

Liability Decision, paras. 53-55, 60-65

Sanction Decision, para. 5

- (l) You and Global did not file a prospectus or have the benefit of an exemption from the prospectus requirement when you distributed Global securities.

Liability Decision, paras. 68-69

- (m) Between June 2009 and February 2011, you and Global contravened the Alberta Securities Act by raising approximately \$1.5 million from investors, almost all of this by illegally distributing Global securities

Liability Decisions, para. 67-70

Sanction Decision, para. 19

- (n) You were at all relevant times a director and senior officer of Global. You played a central role in all aspects of Global’s operations, including its



capital-raising activities. The ASC found you authorized, permitted or acquiesced in Global's contraventions of Alberta securities law.

Liability Decision, para. 99

THIS APPLICATION

5. With this letter, the Executive Director is applying to the Commission for orders against you under section 161 of the Act. I have enclosed a copy of section 161 of the Act for your reference.
6. In making orders under section 161 of the Act, the Commission must consider what is in the public interest in the context of its mandate to regulate trading in securities.
7. Orders under section 161(1) of the Act are protective, preventative and intended to be exercised to prevent future harm.

Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission),
[2001] 2 SCR 132, 2001 SCC 37 (CanLII), paras. 36, 39,
and 56

8. In *Re Eron Mortgage Corporation*, [2000] 7 BCSC Weekly Summary 22, and in subsequent decisions, the Commission identified factors to consider when determining orders under section 161(1).
9. The following factors from *Re Eron* are relevant in this proceeding:
 - (a) the seriousness of the respondent's conduct,
 - (b) the harm suffered by investors as a result of the respondent's conduct,
 - (c) the extent to which the respondent was enriched,
 - (d) the risk to investors and the capital markets posed by the respondent's continued participation in the capital markets of British Columbia,
 - (e) the respondent's fitness to be a registrant or to bear the responsibilities associated with being a director, officer or adviser to issuers,
 - (f) the need to deter those who participate in the capital markets from engaging in inappropriate conduct, and
 - (g) orders made by the Commission in similar circumstances in the past.

Re Eron Mortgage Corporation, [2000] 7 BCSC Weekly
Summary 22

Application of the Factors

Seriousness of the Conduct

10. You and Global illegally traded and distributed securities, and made materially untrue statements to investors. These were contraventions of key provisions of



the Alberta securities laws aimed at protecting investors and fostering a fair and efficient capital market. In the result, some investors made investment decisions without the protection of a registrant's involvement or an available registration exemption, most investors made such decisions without the benefit of a prospectus or an available prospectus exemption, and certain investors made such decisions on the basis of misinformation.

Sanction Decision, para. 13

11. The misconduct was serious, as was your authorizing, permitting or acquiescing Global's serious misconduct. The seriousness of the misconduct argues for significant sanctions against you.

Sanction Decision, para. 14

12. The ASC found that Global had a genuine, albeit largely unsuccessful business apart from its capital-raising activities. This somewhat mitigates its seriousness.

Sanction Decision, para. 28

13. Your contraventions of the Alberta Securities Act are analogous to contraventions of sections 34, 50 and 61 of the Act.
14. Contraventions of section 61 of the Act are inherently serious. This section is one of the Act's foundational requirements for protecting investors and preserving the integrity of the capital markets. It requires those who wish to distribute securities to file a prospectus with the Commission or to have an exemption from this requirement. This is intended to ensure that investors receive the information necessary to make an informed investment decision.

[Re Flexfi Inc.](#), 2018 BCSECCOM 166, para. 45

15. Misrepresentation (under section 50 of the Act) is not far behind fraud in the scale of seriousness of misconduct. Those who operate and profit in the capital markets by misstating material facts (through commission or omission), undermine the confidence of the public in one of the cornerstones of capital markets regulation, the provision of accurate and complete information for investors to make informed investment decisions.

[Michaels \(Re\)](#), 2014 BCSECCOM 457, para. 8

Enrichment

16. Global received financial benefit from its misconduct. Global raised approximately \$1.5 million from investors without providing investors with a prospectus, and by making prohibited representations.



17. The ASC also found that you had the expectation of benefiting, both financially and reputationally, from your role in Global's capital-raising activities. Indeed, there was evidence of you having financially benefited from your misconduct: a former Global consultant testified to you having received approximately \$120,000 from Global, at least some of which the ASC attributed to the misconduct found against you.

Sanction Decision, paras. 19-20

Harm suffered by investors

18. Your misconduct caused substantial harm to identifiable investors and the Alberta capital market. It appears that most, if not all, of the money invested is lost to investors.

Sanction Decision, para. 21

Risk to investors and the capital markets

19. Misconduct of the kind found against you and Global erodes confidence in the integrity of the capital market, rendering it more difficult for law-abiding issuers to raise capital therein.

Sanction Decision, para. 21

20. The ASC discerned no recognition on your part of the seriousness of your misconduct.

Sanction Decision, para. 23

21. The Commission has previously found that the failure to take responsibility for the consequences of misconduct demonstrates a threat to our capital markets.

[Mesidor \(Re\)](#), 2014 BCSECCOM 6, para. 31

22. The ASC found that you and Global (through you) were alert to the existence of securities laws, and the applicability to at least some of Global's capital-raising activities. This heightened the ASC's concerns about the risk of future harm from you.

Sanction Decision, paras. 17-18

23. The ASC believed if you were to go unsanctioned, you would pose a real and substantial risk of future harm to investors and our capital market. You, along with Global, illegally raised, with seeming ease and a measure of guile, approximately \$1.5 million from investors, and you both benefited from the misconduct.

Sanction Decision, para. 23



24. Your misconduct demonstrates that you pose a significant ongoing risk to other investors and the capital markets of British Columbia. There is no basis to believe that you will abide by securities laws in the future and your presence in B.C.'s capital markets represents a risk to investors unless sufficiently deterred.

Fitness to be a registrant or a director or officer

25. Honesty is a critical part of being a registrant or a director or an officer of an issuer. In fact, it is part of the basic duties of those positions.

Re SBC Financial Group Inc., 2018 BCSECCOM 267,
para. 34

26. As director of Global and its affiliates, you occupied a position of trust and responsibility. Ensuring compliance with securities regulations is a critical aspect of the role of those appointed as directors or officers of issuers.
27. Your conduct falls short of that expected of participants in our capital markets. Accordingly, a sanction denying you access to the capital markets for a lengthy period is proportionate to your misconduct.

Participation in our capital markets

28. Participants who engage in the securities industry do so voluntarily and for their own profit. In exchange for the privilege of participating, individuals and companies must comply with securities laws. Compliance is paramount, ensuring the protection of the public and the integrity of the capital markets.
29. Despite having been alert to the applicability of securities laws to at least some of Global's capital-raising activities, you failed to ensure compliance.

Sanction Decision, para. 23

30. Your disregard of compliance with securities regulations shows that your participation in the capital markets would pose a risk if you were to go unsanctioned.

Deterrence

31. You did not participate in the sanctioning proceedings. Further, there was no recognition from you on the seriousness of your conduct. This lack of recognition indicates a need for sanction delivering substantial specific deterrence.

Sanction Decision, para. 15

32. Through the orders we are seeking, we intend to demonstrate the consequences of your conduct, to deter you from future misconduct, and to create an appropriate general deterrent. Lengthy bans are proportionate to your misconduct and are



necessary to ensure that you and others will be deterred from engaging in similar misconduct in the future.

Previous orders

33. We refer to a number of decisions for guidance on the appropriate sanction. The decisions involve similar contraventions as in your case: misrepresentation, trading without being registered, and trading without filing a prospectus.
34. The Commission ordered lengthy or permanent market bans in the decisions below.
 - In [*Royal Crown Ventures Group Ltd. \(Re\)*](#), 2011 BCSECCOM 289, the respondents raised \$1.9 million from investors by making misrepresentations that Royal Crown would be listed on a stock exchange or publicly traded within a short period of time and investors would receive exorbitant rates of returns. The respondents also traded and distributed securities without being registered, without filing a prospectus, and without the benefit of an exemption from those requirements. A panel ordered broad, market bans for 20 years against the respondent, Sears.
 - In [*Re Solara Technologies Inc.*](#), 2010 BCSECCOM 357, the respondents raised \$790,000 from investors by making misrepresentations. The respondents omitted to disclose the compensation paid to its president in its filed offering memoranda. The respondents were also found to have traded securities without being registered and without filing a prospectus. A panel ordered permanent market bans with some carve outs.
 - In [*Re Mountainstar Gold Inc.*](#), 2018 BCSECCOM 317, the respondent raised over \$6.4 million from investors by making misrepresentations in its public filings concerning Mountainstar's key project and principal asset, the ownership of mining claims, and the outcome of related legal proceedings. A panel ordered permanent market bans with some carve outs.

The Davis Consideration

35. In the Court of Appeal decision in [*Davis v. British Columbia \(Securities Commission\)*](#), 2018 BCCA 149, the Court identified that it is incumbent upon a tribunal to consider a respondent's individual circumstances when determining whether measures short of a permanent ban would protect the investing public where a person's livelihood is at stake.
36. The Executive Director is unaware of any individual circumstances that would support orders short of a lengthy or permanent market ban.



ORDERS SOUGHT

37. The ASC imposed broad market bans until the later of April 26, 2031 and the date on which the penalty of \$100,000 ordered against you has been paid in full to the ASC.

Sanction Decision, para. 40

38. Although there is no limitation on the Commission from imposing a capital market sanction that is similar or different to the ASC sanctions, the Commission needs to consider what is reasonable based on the evidence known to it, as well as what is in the public interest.
39. In seeking orders under 161(1) of the Act, the Executive Director has taken the following factors into consideration when applying for orders in this proceeding:
- (a) the circumstances of your misconduct including the facts in the Liability and Sanction Decisions;
 - (b) the factors from *Eron* and *Davis*;
 - (c) the sanctions ordered in previous cases cited above; and
 - (d) the public interest.
40. Based on the factors in paragraph 39, the Executive Director submits the following orders are proportionate to your misconduct and appropriate in the public interest:
- (a) under section 161(1)(d)(i), you resign any position you hold as a director or officer of an issuer or registrant;
 - (b) until the later of April 26, 2031 and the date on which the administrative penalty ordered against you has been paid in full to the ASC, you are prohibited:
 - (i) under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives;
 - (ii) under section 161(1)(c), from relying on any of the exemptions set out in this Act, the regulations or a decision;
 - (iii) under section 161(1)(d)(ii), from becoming or acting as a director or officer of any issuer or registrant;
 - (iv) under section 161(1)(d)(iii), from becoming or acting as a registrant or promoter;



- (v) under section 161(1)(d)(iv), from advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets;
- (vi) under section 161(1)(d)(v), from engaging in promotional activities by or on behalf of
 - (A) an issuer, security holder or party to a derivative, or
 - (B) another person that is reasonably expected to benefit from the promotional activity

41. The Executive Director is not seeking any monetary sanctions against you.

SUPPORTING MATERIALS

42. In making this application, the Executive Director relies on the following, copies of which are enclosed:

- (a) [*Re Global Social Capital Partners, Inc.*](#), 2016 ABASC 27 (the Liability Decision)
- (b) [*Re Global Social Capital Partners, Inc.*](#), 2016 ABASC 97 (the Sanction Decision)
- (c) [*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario \(Securities Commission\)*](#), [2001] 2 SCR 132, 2001 SCC 37 (CanLII)
- (d) [*Re Eron Mortgage Corporation*](#), [2000] 7 BCSC Weekly Summary 22
- (e) [*Re Flexfi Inc.*](#), 2018 BCSECCOM 166
- (f) [*Michaels \(Re\)*](#), 2014 BCSECCOM 457
- (g) [*Mesidor \(Re\)*](#), 2014 BCSECCOM 6
- (h) [*Re SBC Financial Group Inc.*](#), 2018 BCSECCOM 267
- (i) [*Royal Crown Ventures Group Ltd. \(Re\)*](#), 2011 BCSECCOM 289
- (j) [*Re Solara Technologies Inc.*](#), 2010 BCSECCOM 357
- (k) [*Re Mountainstar Gold Inc.*](#), 2018 BCSECCOM 317
- (l) [*Davis v. British Columbia \(Securities Commission\)*](#), 2018 BCCA 149

YOUR RESPONSE

43. You are entitled to respond to this application. To do so, you must deliver any response in writing, together with any supporting materials, to the Commission Hearing Office by **Wednesday, October 21, 2020**.

44. The contact information for the Commission Hearing Office is:

Commission Hearing Office
British Columbia Securities Commission
PO Box 10142, Pacific Centre
12th Floor, 701 West Georgia Street



John Byron Rochard
September 14, 2020
Page 12

Vancouver, BC V7Y 1L2
E-mail: commsec@bcsc.bc.ca
Telephone: 604-899-6500

45. If you do not respond within the time set out above, the Commission will decide this application and may make orders against you without further notice.
46. The Commission will send you a copy of its decision.
47. **If you have any questions regarding this application, please contact Ms. Deborah Flood, at 604-899-6623, or dflood@bcsc.bc.ca**

Yours truly,

Douglas B. Muir
Director, Enforcement

DWF/crc
Enclosures

cc: Hearing Office (by email to commsec@bcsc.bc.ca)