

August 28, 2026

Jeramy Heintz
Texas State Securities Board
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Re: *Texas State Securities Board v. TEXTcoin et al.*, SOAH No. 312-26-14427

Mr. Heintz,

Last week's hearing in the above-captioned matter was revealing. Rather than a good-faith disagreement on whether digital mining activities intersect with the Texas Securities Act, TEX. GOV'T CODE § 4001 *et seq.*, the evidence laid bare the deficiencies in the legal and factual foundation of the Texas State Securities Board's "emergency" order—raising serious concern about its ethical basis as well. This is not rhetoric. It is now a matter of public record. The evidence and testimony formally submitted demand that the Commissioner withdraw the Emergency Cease and Desist Order in its entirety and dismiss this case with prejudice.

Thousands watched as the Board's lead investigator, Phillip Fuselier, testified under oath that the "emergency" cease-and-desist order was based on allegations that he knew to be false before the Order issued. For example, the Board unquestionably knows there is no basis to allege that "[i]nvestors never receive any mining hardware or control over mining hardware." Order ¶ 16. Mr. Fuselier conceded similar falsity of the allegation that Respondents "intentionally fail[ed] to disclose that [Mr.] Gray's company, Mulligan Mint Inc., filed for . . . bankruptcy." *Id.* ¶ 28. As the record now conclusively shows, Mr. Gray fully and repeatedly made this information available to the public, and Mr. Fuselier testified that he was aware of these disclosures before the Order was filed. These facts alone require that the Board withdraw the Order. *See* TEX. COMM. ON PROFESSIONAL ETHICS, Op. 499 (1995) (noting that if a government attorney learns "his statement was untrue, he has a duty . . . to take corrective action"); *Ex parte Cook*, 691 S.W.3d 532, 536 (Tex. Crim. App. 2024), *reh'g denied* (July 31, 2024) (explaining "the State is obligated to pursue the truth to the best of its ability and present its evidence truthfully to the court").

Mr. Fuselier also testified that he was aware, before the Order was issued, that our client, Mr. Gray, voluntarily disclosed additional information he is alleged to have "intentionally" concealed. Mr. Fuselier further acknowledged that Mr. Gray actually

delivered on his only promise: Miners were offered and received computational resources that programmatically produced a digital commodity (TXC, the native token of the TEXTcoin blockchain) whose value was never guaranteed. He also admitted that several of the named Respondents are not actually entities that are capable of ceasing-and-desisting anything; that Mr. Gray filed an “Assumed Name” certification for Blockchain Mint, thus permitting him to do business through that name in Texas; and that information about the relevant digital mining operations was repeatedly and publicly disclosed. These operational disclosures, which were alleged to have been “intentionally” concealed, included the identity and qualifications of personnel associated with the program and information about security and maintenance of the mining sites. Credible, uncontroverted testimony also established Respondents could not have “intentionally” omitted or misrepresented facts that assume the issuance of unregistered securities because Respondents did not believe, could not reasonably have believed, and do not now believe that securities were issued.

In sum, and as Respondents and their counsel promised the Board for months, the evidence conclusively showed that the Board’s allegations are baseless. The Board’s leadership and staff—government representatives and officers of the court—are on notice of the established facts and persist with their claims at great peril.

Frivolous regulatory actions carry a steep price, both literally and ethically. *See* TEX. GOV’T CODE § 2001.903 (allowing up to “\$1 million for reasonable attorney’s fees and costs incurred in defending against a frivolous regulatory action”); TEX. CIV. PRAC. & REM. CODE § 105.005 (same, on judicial review of a contested-case hearing under the APA); *see also, e.g.*, TEX. DISC. R. PROF. CONDUCT 3.01, 3.03, 8.04(a)(3); *see generally* TEX. GOV’T CODE § 2003.0421(a)(2)–(3).

The Board’s frivolous allegations were compounded by the Board’s sanctionable trial strategy and conduct. The Board insisted upon maintaining the baseless position that digital platforms and utilities that are incapable of ceasing or desisting *anything* are properly named Respondents while inappropriately attempting to expand the very referral on which jurisdiction rests. This is sanctionable conduct. *See, e.g.*, TEX. COMM. ON PROFESSIONAL ETHICS, Op. 499 (1995) (“An attorney’s representation to the administrative law judge that a factual basis for jurisdiction existed if the attorney knew that it did not exist is a violation of DR 3.01 and DR 3.03.”); *cf., e.g., State Office of Risk Mgmt. v. Herrera*, 288 S.W.3d 543, 550 (Tex. App.—Amarillo 2009, no pet.) (upholding award of attorney’s fees for improperly joining defendants in suit). The Board declined the opportunity to withdraw the testimony of, or otherwise correct the record after sponsoring, a witness who perjured himself during the course of otherwise-cumulative testimony—instead doubling down by eliciting additional testimony from the same injudicious witness. *See, e.g., Napue v. Illinois*, 360 U.S. 264, 269 (1959) (the State may not knowingly sponsor perjured testimony, “solicit[] false evidence, or allow[] it to go uncorrected when it appears”); *cf. Turner v. State*, No. 13-22-00329-CR, 2023 WL

5611423, at *6 (Tex. App.—Corpus Christi–Edinburg Aug. 30, 2023, pet. ref’d) (“A prosecutor is obligated to correct any perjured testimony given by one of their witnesses, even when the prosecutor does not instigate the perjury.”). The right choice would have cost nothing and, strategy aside, the duty of candor demanded more. *See, e.g., In re City of Lancaster*, 228 S.W.3d 437, 440 (Tex. App.—Dallas 2007, no pet.) (noting this duty “continue[s] until remedial legal measures are no longer reasonably possible” (quoting DISC. R. PROF. CONDUCT 3.03(c))). Further, the Board not only ignored the judge’s pretrial-designation order but also affirmatively misrepresented the video-evidence designations that the Board did share, pursuant to the parties’ written agreement, before objections were due. *Contra* 1 TEX. ADMIN. CODE §§ 155.153(b)(5), .415; *contra also, e.g., Thang v. Defy Intl., LLC*, 712 S.W.3d 647, 664–67 (Tex. App.—Hous. [14th Dist.] 2025, no pet.) (confirming emails meet the standards for a Rule 11 agreement). This, too, justifies sanctions. *See, e.g., Funderburgh v. Funderburgh*, No. 12-08-00428-CV, 2010 WL 2982906, at *3 (Tex. App.—Tyler July 30, 2010) (“A party who makes misrepresentations to the court interferes with [its] core functions.”).

Integrity does not spring from convenience. The Board has an ongoing responsibility to shoulder its obligations to the court and public, as well as to Respondents. The Order did not allege any “emergency” circumstances because none existed and, as we now know, the allegations were not just wrong but lacked any good-faith basis to begin. It should go without saying that there is no room for maintaining allegations known or learned to be false.

The Board has the power to resolve these issues before our closing briefs come due.¹ 1 TEX. ADMIN. CODE § 155.503(a)(1), (b)(2). We therefore ask that the Board shoulder its professional obligations by withdrawing the Order and dismissing this case with prejudice by Friday, September 4, 2026. While we remain optimistic that reason will prevail, it bears repeating that the cost of continued indifference is anything but speculative: We are prepared to formally request that the presiding judge set aside the Board’s tainted order, make findings on the Board’s frivolous allegations and conduct during the hearing, and award any further relief—including sanctions, fees, and other costs—that should reasonably follow. We would much prefer the first course, but the decision on how this matter will proceed is up to you.

Very truly yours,



Avi Perry
QUINN EMANUEL URQUHART & SULLIVAN, LLP



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¹ The “emergency” posture of this case makes no difference. *See, e.g., In the Matter of Aws Mining Pty Ltd, Automated Web Services Mining Aka Aws Mining, Daniel Beduschi, Alexandre Campos, and Mycoideal*, Ord. No. ENF-19-CDO-1784, 2019 WL 3782733, at *3 (Aug. 2, 2019) (unopposed withdrawal of an emergency order upon negotiated resolution).