SOAH DOCKET NO. 312-26-14427

IN THE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF
TEXITCOIN, MINETXC, BLOCKCHAIN MINT, AND ROBERT J. GRAY

BY WAY OF A CHALLENGE TO
EMERGENCY CEASE AND DESIST ORDER NO. ENF-26-CDO-1893

BRIEF OF THE ENFORCEMENT DIVISION OF THE STATE SECURITIES BOARD

FILED ON OCTOBER 9, 2026
ON BEHALF OF THE
ENFORCEMENT DIVISION

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I. INTRODUCTION AND SUMMARY OF THE CASE

The question here is whether the Enforcement Division proved, by a preponderance of the evidence, the allegations set forth in Emergency Cease and Desist Order ENF-26-CDO-1893 ("the Order").[1] The Enforcement Division proved that (1) the Mining Packages are investment contracts and therefore, are securities, (2) the Mining Packages were not registered as required by The Securities Act, (3) Respondent Robert J. Gray ("Respondent Gray") was not registered as a dealer as required by The Securities Act, and (4) Respondent Gray engaged in fraud in connection with the offer for sale and sale of these Mining Packages.

A. What the Hearing Established

The multi-day hearing confirmed the central factual premise of the Order: Respondent Gray created, promoted, and operated an enterprise through which more than 50,000 participants purchased Mining Packages that entitled them to specified allocations of TEXITcoin ("TXC")[2] mining hash power and corresponding daily distributions of TXC generated by Gray's mining operations.[3] Respondent Gray admitted the basic terms of the transactions. Purchasers paid, among other amounts, $995 for a Mining Package which allocated 100 MH/s of hash power to the purchaser ("Mining Package"), but purchasers did not take possession of or exercise control over the mining equipment associated with that hash power.[4]

Respondent Gray's expert confirmed the economic substance of the arrangement. Andrew Sotak ("Mr. Sotak") testified that MineTXC used purchasers' funds to acquire computational

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[1] 1 Tex. Admin. Code § 155.427
[2] Throughout the brief Petitioners will use TXC for the cryptocurrency token, and TEXITcoin for referring to the whole project.
[3] Tr. Vol. 2 at 33:19–34:7 (Gray acknowledged the program grew to over 50,000 miners and made TXC distributions to purchasers automatically each day).
[4] Tr. Vol. 1 at 33:1–34:9, 34:19–25.

power, install equipment, maintain the mining infrastructure, provide the facilities and electricity necessary for operations, and keep the equipment running. He further acknowledged the overwhelming majority of Mining Package purchasers never possessed a mining rig themselves.[5] Additionally, Mr. Sotak's expert report explains that each purchaser's daily mining reward was calculated by multiplying the mine's total daily rewards by the ratio of that purchaser's acquired hash power to the total network hash power.[6]

While the mining of cryptocurrency inherently involves technical terms and processes, the economic realities of Respondent Gray's Mining Package enterprise are simple to understand. Purchasers invested money in Respondent Gray's mining operation by buying Mining Packages. Gray and his staff acquired and operated the equipment necessary to mine TXC. The amount of hash power allocated to each purchaser determined the purchaser's proportional share of TXC generated by this common mining operation. And, as Respondent Gray's mining witness, Steve Walsh, acknowledged, Mining Package purchasers depended on Gray's operations team to keep the necessary, physical equipment functioning for TXC to be mined and profits be distributed to purchasers.[7] For example, MineTXC provided hosting and electricity services as part of its Mining Packages, which were sold for $995, $2,985, and $8,955, corresponding to allocations of 100, 300, or 900 MH/s of mining power respectively.[8]

Respondent Gray also created an affiliate compensation system rewarding purchasers for recruiting additional Mining Package purchasers, and he personally and repeatedly promoted the Mining Package enterprise to the public.[9] The record created at the hearing establishes Respondent

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[5] Tr. Vol. 3 at 211:6–212:13.
[6] Resp't Ex. 38, at RX38_20, ¶ 76.
[7] Tr. Vol. 4 at 30:2–12.
[8] Pet'r Ex. 22, at TSSB 356.
[9] Tr. Vol. 1 at 118:3–15 and 27:7–24

Gray operated a cryptocurrency mining project which he funded by broadly offering and selling Mining Packages through which purchasers committed money in exchange for economic returns generated through Gray's mining operation which the purchasers did not control. Neither the Mining Packages nor Respondent Gray's securities dealer activity was registered in Texas as required by The Securities Act.[10]

The principal questions remaining after the hearing are legal ones: whether the Mining Packages constitute investment contracts under Texas law, whether Respondent Gray's conduct constituted unregistered dealer activity, whether Respondent Gray was engaging, or was about to engage, in a fraud in connection with the sale of a security and whether issuance of the Order was an appropriate enforcement action for these violations of The Securities Act. The economic reality established by Respondent Gray's testimony and records answer these questions in Petitioner's favor.

Additionally, because the hearing's evidentiary record clarified several factual allegations in the Order, Petitioner asks for modification of the Order's factual findings where necessary and affirmation of the Order as to its ultimate legal conclusions as contemplated by Section 4007.104(e) of The Securities Act.

B. Limited Factual Modifications Established at Hearing

First, the evidence clarified the identity and organizational structure of the Respondent's business. TEXITcoin, MineTXC, and Blockchain Mint were not separate legal entities operating independently of Gray. Rather, they were names, brands, or aliases through which Gray conducted different aspects of the enterprise. Respondent emphasized this distinction at the hearing, including

[10] Pet'r Exs. 48–54.

eliciting testimony that MineTXC and Blockchain Mint were not separate legal entities and the MineTXC website was the principal location through which Mining Packages were purchased.[11] Respondent's exhibits further established Blockchain Mint as an assumed-name associated with Respondent Gray.[12] The final findings should reflect the evidence established at the hearing that Respondent Gray, acting as either an individual or a sole proprietorship, conducted business under the aliases TEXITcoin, MineTXC, and Blockchain Mint. As a result, the final Order should modify the named parties by removing TEXITcoin, MineTXC, and Blockchain Mint as individually named "Respondents" and instead identify them as aliases of Respondent Gray for the sake of clarity and to put the public on notice of the names under which Gray operated.

Second, the evidence established that Danagger Resources was another assumed name used by Respondent Gray in connection with the offering. MineTXC expressly instructed purchasers making initial payments by check to make those checks payable to "Danager Resources."[13] Respondent Gray's testimony further established his relationship to Danagger Resources and its use in receiving Mining Package payments.[14] The final Order should therefore identify Danagger Resources as another assumed name through which Respondent Gray conducted relevant activity.

Third, Respondent Gray supplied his current address under oath at the hearing.[15] There is no substantive dispute associated with Gray's assertion of his current address. Accordingly, the final Order should be modified to reflect the address established by Gray's testimony.

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[11] Tr. Vol. 2 at 130:4–132:2.
[12] Resp't Ex. 68.
[13] Pet'r Ex. 1, at TSSB 84. Section 2. Danagger was misspelled on Respondent's website as "Danager" and will be spelled correctly the remainder of the brief where necessary.
[14] Tr. Vol. 1 at 134:3–135:15.
[15] *Id*. at 26:20-21.

Fourth, the hearing established there were two types of purchasers. Most purchasers ("the ordinary purchasers") relied on Respondent Gray and his staff to operate mining equipment to produce returns, but a small number of purchasers received mining equipment which they could operate themselves. Respondent Gray's expert identified 91 users who opted to receive a Mini DOGE III miner and 143 users who opted to receive a DG HOME 1 miner.[16] Purchasers receiving mining equipment represented less than 1% of the purchasers qualifying for the Mini DOGE III offer and approximately 9% of those qualifying for the DG HOME 1 offer.[17] In light of this evidence, Finding of Fact 16 in the Order should be modified to recognize a small minority elected to receive home-mining equipment. Regardless, this refinement does not alter the economic reality of the offering as a whole; indeed, Respondent Gray's expert concluded purchasers generally preferred having MineTXC operate the mining equipment on their behalf.[18]

C. Relief Requested

Petitioner seeks relief tailored to the record developed at the hearing. Accordingly, Petitioner asks the Honorable Administrative Law Judge to recommend the Deputy Commissioner affirm the Order, with limited modifications necessary to clarify the findings of fact supported by the evidentiary record established at the hearing.

Specifically, Petitioner requests the Honorable Administrative Law Judge recommend modification of the final order that (1) identifies the Respondent as Robert J. Gray d/b/a TEXITcoin, MineTXC, Blockchain Mint, and Danagger Resources; (2) changes Respondent Gray's address to the address he provided under oath; and (3) incorporates the limited factual

[16] Resp't Ex. 38, at RX38_19, ¶ 71.
[17] *Id.*, at RX38_19-RX38_20, ¶¶ 71–72.
[18] Tr. Vol. 3 at 191:2-8.

distinction between Mining Package purchasers who received mining equipment and the vast majority of purchasers who relied on Respondent Gray to operate and manage mining operations to create a proportional profit to be returned to purchasers.

Petitioner asks the Honorable Administrative Law Judge to conclude (1) the Mining Packages are securities in the form of investment contracts; (2) Respondent Gray offered and sold those securities without registration or a valid exemption; and (3) Respondent Gray acted as a securities dealer without being registered as required by The Securities Act. Petitioner further requests the final Order preserve the fraud and materially misleading practices findings to the extent supported by the hearing's evidentiary record.

Finally, Petitioner asks the Honorable Administrative Law Judge to recommend the refund relief authorized by The Securities Act. The evidence established purchasers paid substantial sums for the unregistered Mining Packages. Section 4007.108 of The Securities Act allows the Commissioner to order a dealer to pay purchasers refunds when the dealer is subject to an enforcement order regardless of whether fraud is alleged or even proved.

II. GOVERNING STANDARD FOR AFFIRMING OR MODIFYING THE ORDER

A. Petitioner's Burden of Proof

The Securities Act places the burden of proof on the Commissioner at a hearing where a respondent challenges an emergency cease and desist order. Section 4007.104(d) of The Securities Act provides, "[a]t the hearing, the commissioner has the burden of proof and must present evidence in support of the emergency order."[19]

[19] Tex. Gov't Code § 4007.104(d).

B. Authority to Affirm or Modify the Order

The Securities Act expressly gives the Commissioner authority to modify an emergency order to conform the order to the evidentiary record developed at the requested hearing. Section 4007.104(e) of The Securities Act provides, after the hearing, the Commissioner "shall affirm, modify, or set aside, wholly or partly, the emergency order."[20] Further, an order affirming or modifying the Order is immediately final for purposes of enforcement and appeal.[21]

The Securities Act does not constrain the Commissioner to an all-or-nothing choice between affirming the Order exactly as originally written or setting it aside. The Legislature expressly authorized modification of an order, wholly or partly, after the parties had the opportunity to develop a complete evidentiary record. This modification authority is particularly significant in the emergency order context, where the initial order necessarily precedes a full evidentiary hearing due to the Commissioner's determination the conduct threatened immediate and irreparable public harm.[22]

Accordingly, factual refinements developed at a hearing do not require the Order be wholly set aside when the refined evidence establishes conduct constituting violations of The Securities Act. Where the record clarifies the respondent's identity and address and findings of fact sufficient to support the Order's conclusions of law, modification of the Order is the appropriate remedy.[23]

The ultimate question presented here is whether the facts established by the Hearing's evidentiary record prove by a preponderance of the evidence Respondent Gray violated The

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[20] Tex. Gov't Code § 4007.104(e).
[21] *Id*.
[22] Tex. Gov't Code § 4007.104(a).
[23] Tex. Gov't Code § 4007.104(e); *see In the Matter of Advanced Wellness Services, LLC Oba Wellnesstech Health, Recovery Management International, and Randall "Randy" Johnson*, 2020 WL 4458114 (Emergency Cease and Desist Order was upheld with modifications to allegations concerning materially misleading statements).

Securities Act when offering and selling Mining Packages, not whether every sentence of the Order, which was issued in an emergency context before the contested evidentiary hearing, survives word for word. The Legislature expressly provided otherwise as previously discussed. Respondent Gray admitted at the hearing that the Mining Packages had not been registered by qualification, notification or coordination, and no permit has been granted for their sale in Texas,[24] and that Respondent Gray was not registered as a dealer or an agent.[25] The Enforcement Division proved at the hearing Respondent Gray violated The Securities Act by engaging in fraud by intentionally failing to disclose material information to purchasers prior to their investment, and by making materially misleading and deceptive statements. Because of these clear violations of The Securities Act, the appropriate result is to affirm the order with modifications.

III. THE HEARING ESTABLISHED THE IDENTITY OF THE RESPONDENT: ROBERT J. GRAY d/b/a TEXITCOIN, MINETXC, BLOCKCHAIN MINT, AND DANAGGER RESOURCES

A. Gray Founded and Controlled the Mining Enterprise

The evidentiary record leaves little doubt about the individual who created, directed, promoted, and controlled the mining enterprise at issue. That individual is Respondent Robert J. Gray. Respondent Gray testified he founded TEXITcoin, MineTXC, and Blockchain Mint, and Gray's public materials repeatedly identified him as the project's founder and public leader.[26] TEXITcoin's promotional materials described Respondent Gray as its "Founder & Fearless Leader," while MineTXC materials likewise presented him publicly as the founder of

[24] Tr. Vol. 1 at 140:23-141:1.
[25] Pet'r Ex. 53; Tr. Vol. 1 at 140:16-22.
[26] Tr. Vol. 1 at 27:3-29:6.

TEXITcoin.[27] These were not isolated labels. They accurately reflected the role Respondent Gray admitted under oath and the role he performed throughout the enterprise.[28]

Respondent Gray was also the principal public voice of the operation. He appeared repeatedly in videos, weekly updates, promotional presentations, and other communications concerning TEXITcoin and MineTXC. Through those communications, Gray discussed the Mining Packages, mining operations, TXC price and liquidity, exchanges, the development of the TEXITcoin ecosystem, and the project's future.[29] The admitted promotional materials likewise show Gray personally explaining and promoting the mining enterprise to purchasers and prospective purchasers.[30]

The control Respondent Gray exerted over promotion extended to the substance and operation of the mining enterprise as well. Gray and the staff working for him were responsible for the infrastructure necessary to generate the TXC distributed to Mining Package purchasers. Respondent Gray's expert testified MineTXC used purchasers' funds to acquire computational power, install the equipment, maintain the mining infrastructure, supply the facilities and electricity, and keep the equipment operating.[31] The testimony of Respondent Gray's mining witness further established the mining staff were paid by Gray and ordinary purchasers depended upon that operations team to maintain the physical systems necessary for mining.[32]

Respondent Gray likewise exercised control over the mining enterprise's public-facing content. The hearing established Gray authored articles and promotional content, including

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[27] Pet'r Ex. 22, at TSSB 366; Pet'r Ex. 23, at TSSB 435 ("Hi there! I'm Bobby Gray") and 436 ("Team").
[28] Tr. Vol. 1 at 27:3-29:6.
[29] *Id*.
[30] *See, e.g.*, Pet. Exs. 22, 23, 120A-E, 121A, 131.
[31] Tr. Vol. 3 at 211:6–212:13.
[32] Tr. Vol. 4 at 30:2–12.

material prepared with artificial-intelligence assistance, while paid staff managed other portions of Respondent Gray's websites and communications.[33] The use of employees, contractors, technology, or artificial intelligence to assist with promotional content and purchaser communications does not separate the content from Gray's control. Rather, it demonstrates the organizational structure through which Respondent Gray operated: Gray directed the project and supplied or approved substantial public-facing content, while staff working for the enterprise carried out additional website, promotional, administrative, and operational functions.

B. TEXITcoin, MineTXC, and Blockchain Mint Are Trade or Brand Names, Not Separate Legal Entities

Respondent Gray himself established TEXITcoin, MineTXC, and Blockchain Mint are not separately formed legal entities.[34] On cross-examination, Petitioner's investigator agreed the Secretary of State records reflected no separately formed entities under those names and there was no evidence they were incorporated elsewhere.[35] Respondent Gray returned to this point in its closing, arguing that "TEXITcoin, Blockchain Mint[,] and MineTXC are not entities" and asking the case proceed, if at all, against Respondent Gray only.[36] Petitioner does not dispute the factual record established at the hearing that TEXITcoin, MineTXC, and Blockchain Mint are not legal entities separate and apart from Respondent Gray. The hearing clarified the form in which the enterprise operated, and the final Order should reflect that evidence.

The Order should be modified to clarify the identity of the Respondent as Gray doing business as TEXITcoin, MineTXC, and Blockchain Mint. Respondent's request to limit the

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[33] Tr. Vol. 1 at 107–08, 131–32; Vol. 2 at 41–43.
[34] Tr. Vol. 1 at 138:6 – 139:4.
[35] Tr. Vol. 2 at 128:10–129:11.
[36] Tr. Vol. 4 at 57:19–58:4.

Order's named respondent to just Gray would not be sufficient to put the public on notice that Gray operates his mining enterprise using the business aliases of TEXITcoin, MineTXC, and Blockchain Mint. The fact that Gray conducted business through trade, brand, or assumed names, rather than separately organized entities, does not eliminate the fact that Gray personally operated the business. The question is not whether a blockchain, website, or trade name can independently act but rather who acted through those names. The evidentiary record answers that question: Robert J. Gray operated his mining enterprise using the business aliases of TEXITcoin, MineTXC, and Blockchain Mint.

Texas law recognizes an assumed name does not create a separate legal entity distinct from the person conducting business under that name.[37] Respondent's evidence that these names were not separate legal entities clarifies the form through which Gray acted, but it does not separate Gray from the conduct performed under those names.

The evidence shows Gray used all three names, TEXITcoin, MineTXC, and Blockchain Mint, as part of his mining enterprise. Respondent characterized TEXITcoin as the blockchain or digital currency, while MineTXC was the name associated with the mining operation and the website through which Mining Packages were principally purchased.[38] Respondent's expert similarly described MineTXC as offering Mining Packages and operating mining rigs for package holders, while Blockchain Mint manufactured TEXITcoin cold-storage coins, provided wallet software, and performed back-office functions for MineTXC.[39] The Blockchain Mint website, blockchainmint.com, also sold mining packages for a period of time in 2024.[40] In fact, Respondent

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[37] *See Chilkewitz v. Hyson*, 22 S.W.3d 825, 828 (Tex. 1999) (recognizing that an individual may do business under an assumed name and that the individual remains the real party conducting the business).
[38] Tr. Vol. 2 at 129:12–132:2.
[39] Resp't Ex. 38, at RX38_08, ¶¶ 28-29
[40] Tr. Vol. 2 at 4:3-19.

introduced Resp't Ex. 68, a recorded Collin County, Texas Assumed Name Certificate identifying "Blockchain Mint" as an unincorporated business conducted as an "Individual" and identifying Robert Gray as its owner.[41] Thus, Respondent Gray's exhibit confirms Blockchain Mint was an assumed business name through which Gray personally operated.

The absence of separately incorporated entities does not warrant erasing the conduct performed under those names. Under Texas law, a "trade name" has no legal existence if a valid entity was never formed, and the individual behind the "trade name" is personally liable for conduct performed under those names.[42] The proper factual modification is to identify the economic actor established at hearing – Robert J. Gray – and the names through which he conducted his relevant business. The final Order, accordingly, should treat TEXITcoin, MineTXC, and Blockchain Mint as trade, brand, or assumed names associated with Gray rather than as independent respondents.

C. Respondent Gray also used the name Danagger Resources to Conduct the Offering

Danagger Resources is an important detail for purposes of identifying the Respondent in the hearing record. It was another assumed name through which Gray personally received purchasers' funds from sales of the Mining Packages. MineTXC's Help Center instructed purchasers choosing to pay by check to complete their enrollment on MineTXC.com, make the check payable to "Danager Resources,"[43] identify the new miner in the memo line, and mail the

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[41] Resp't Ex. 68.
[42] *See Kahn v. Imperial Airport, L.P.*, 308 S.W.3d 432, 438-39 (Tex. App.—Dallas 2010, no pet.) (a promoter who signs a contract on behalf of an unformed entity is personally liable unless the other party agrees otherwise); *A to Z Rental Ctr. V. Burris*, 714 S.W.2d 433, 435 (Tex. App.—Austin 1986, writ ref'd n.r.e.)("[M]embers of a pretended corporation, that is, neither a "de jure" nor a "de facto" corporation, are held personally and individually liable for the debts of the pretended corporation…").
[43] Pet'r Ex. 1, *supra* note 13, at TSSB 84.

payment to the designated processing address.[44] Gray confirmed these were instructions for purchasers paying for Mining Packages and checks made payable to Danagger Resources were in fact accepted.[45]

Gray's testimony eliminated any uncertainty about Danagger Resources. He testified Danagger Resources was an "assumed name certificate" for him and admitted Mining Package purchasers were instructed to make checks payable to Danagger Resources when purchasing Mining Packages.[46] When asked who owned and controlled Danagger Resources, Gray answered, "I know who owns and controls me. That's me."[47] Respondent's counsel likewise represented during the hearing "there is no entity called Danagger Resources" because it was "an assumed name for [Gray]."[48] Thus, by Respondent's evidence and argument, checks payable to Danagger Resources were payments made to an assumed business name of Gray.

The foregoing evidence establishes Danagger Resources was Gray's assumed name and was used to receive Mining Package purchasers' funds. The final Order should identify Danagger Resources as another name business alias through which Gray conducted the offering of Mining Packages.

D. The Evidence Supports Modification of the Respondent's Identity

The hearing record resolves the issue of Respondent's identity and provides a straightforward basis for modifying the Order. The evidence does not establish four independent legal entities acting alongside Gray. Rather, it establishes Robert J. Gray conducted the relevant

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[44] Pet'r Ex. 1, at TSSB 84. Section 2.
[45] Tr. Vol. 1 at 133:17–134:10.
[46] Tr. Vol. 1 at 134:11–18.
[47] *Id*. at 134:19–25.
[48] *Id*. at 135:16–136:1.

business and promotional activities through the business alias names of TEXITcoin, MineTXC, Blockchain Mint, and Danagger Resources. The final Order should be modified to reflect there is only one Respondent, Robert J. Gray also doing business as TEXITcoin, MineTXC, Blockchain Mint, and Danagger Resources.

As discussed previously, Section 4007.104(e) of The Securities Act expressly permits the Commissioner, after hearing, to modify an emergency order in whole or in part. The hearing established facts concerning the business alias names Gray used in operating his Mining Enterprise and offering Mining Package investments to ordinary purchasers. The appropriate remedy for this corrected factual record is not to set aside the Order in whole, but to modify the Order in part to correct the factual allegations identifying Respondent.

Accordingly, Petitioner requests the final Order identify the Respondent as: "Robert J. Gray d/b/a TEXITcoin, MineTXC, Blockchain Mint, and Danagger Resources." This modification incorporates Respondent's evidence that the business names are not separate legal entities while preserving the substance of Gray's conduct established at the hearing and correctly identifying Gray as the person responsible for the enterprise whether he was using the business name TEXITcoin, MineTXC, Blockchain Mint, or Danagger Resources.[49]

E. Gray's Address Should Be Modified to Conform to His Hearing Testimony

The hearing also revealed updated and undisputed evidence concerning Gray's address. At the outset of his sworn testimony Gray testified he currently resides in Singapore, was in Amsterdam during the hearing, and maintains a residence in Anna, Texas, at 11588 Wild Rose

[49] *See Chilkewitz v. Hyson*, 22 S.W.3d 825, 828 (Tex. 1999) (A party may be sued in its assumed name under Texas Rule of Civil Procedure 28 if there is evidence that the party conducted business under that assumed name).

Lane, Anna, Texas 75409.[50] Gray immediately confirmed he was a respondent in this proceeding and understood he was testifying under oath.[51] There is no substantive dispute associated with this factual update. The purpose of the final Order is to reflect the record established at the hearing, and as discussed previously, Section 4007.104(e) of The Securities Act expressly permits modification after a hearing. Accordingly, to the extent the Order identifies a different or outdated address for Gray, the final Order should be modified to reflect the Texas residence Gray provided under oath, 11588 Wild Rose Lane, Anna, Texas 75409.

IV. THE MINING PACKAGES ARE SECURITIES IN THE FORM OF INVESTMENT CONTRACTS UNDER TEXAS LAW

A. Economic Reality Controls the Investment Contract Analysis

The Texas Supreme Court's decision in *Life Partners, Inc. v. Arnold* supplies the controlling framework for the investment contract analysis.[52] The Court held three principles govern the construction and application of the term "investment contract" under The Securities Act: (1) courts must broadly construe the term to maximize the Act's protection of the investing public; (2) they must focus on the economic realities of the transaction; and, (3) when those economic realities satisfy the investment contract test, they must apply the Act regardless of the labels or terminology the parties chose.[53]

Applying those principles, *Life Partners* defined an investment contract as a contract, transaction, or scheme through which a person pays money to participate in a common venture or enterprise with the expectation of receiving profits, under circumstances in which the success or

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[50] Tr. Vol. 1 at 26:5–21.
[51] *Id*. at 26:22–27:2.
[52] *Life Partners, Inc. v. Arnold*, 464 S.W.3d 660 (Tex. 2015) (applying *SEC v. W.J. Howey Co.*, 328 U.S. 293, 298–301 (1946)).
[53] *Id*. at 681–82.

failure of the enterprise, and therefore the purchaser's realization of the expected profits, is at least predominantly due to the entrepreneurial or managerial, rather than merely ministerial or clerical, efforts of others.[54] The inquiry is therefore functional, not formal. It asks what purchasers paid for, how the transaction actually operated, what economic benefit purchasers expected, and whose efforts determined whether that benefit would be realized.

That framework is particularly important here because Respondent Gray repeatedly described the transaction using the vocabulary of cryptocurrency mining and community participation. The offering was called a "Mining Package."[55] Purchasers were said to acquire "hash power" through a "seat." They were called "miners," "members," and part of a "community."[56] Respondent Gray emphasized participation, referrals, and the broader TEXITcoin ecosystem. However, *Life Partners* makes clear that a party's chosen labels are not dispositive. The analysis turns not on the terminology used by Respondent, but rather on the economic realities of the arrangement and the transaction itself.

This case does not require the Honorable Administrative Law Judge to determine whether (1) TXC, the cryptocurrency itself, is a security, (2) cryptocurrency mining is inherently a securities transaction, or (3) every hosted mining arrangement constitutes an investment contract. The question is narrower: whether the Mining Packages offered and sold by Respondent to ordinary purchasers, as actually structured, offered, sold, and operated, satisfy the elements of an investment contract under Texas law.

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[54] *Id*. at 682, 684–85.
[55] Pet'r Ex. 1, at TSSB 001.
[56] *Id*. at TSSB 029 and 055.

The record demonstrates why substance matters. Ordinary purchasers did not simply buy a piece of computer hardware and take it home to mine cryptocurrency independently. Gray testified a purchaser paying $995 received 100 MH/s of hash power, but generally did not receive physical mining equipment, did not possess a serial-numbered machine, and did not install or operate a miner.[57] Respondent's expert confirmed the economic mechanics: (1) purchasers acquired hash power through a mining seat; and (2) MineTXC then used purchasers' funds to acquire physical computational power, install the ASICs, operate and maintain the mine, supply the facilities and electricity, and continue operating the computational resources.[58]

The overwhelming majority of purchasers never possessed a mining rig.[59] Nor was the purchaser's economic entitlement of a return tied to the operation of a particular machine in the Respondent's possession. Respondent's expert explained daily mining rewards were calculated by multiplying the mine's total daily rewards by the ratio of the ordinary purchaser's acquired hash power to the total network hash power.[60] He further observed on-chain distributions he understood to be pro-rata distributions of mining rewards to users who had acquired hash power.[61] Thus, behind the terminology of "hash power," "seats," and individual "miners" was an economic arrangement in which purchasers paid money for a proportional entitlement of a return generated through a mining operation Gray and his staff acquired, installed, powered, maintained, controlled, and operated.

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[57] Tr. Vol. 1 at 33:1–34:9, 34:19–25; *see also* Resp't Ex. 38, at RX38_19, ¶ 71 (only a total of 234 of the 50,000 purchasers – less than 0.5% of purchasers – received home mining equipment).
[58] Tr. Vol. 3 at 211:3–212:13.
[59] *Id*. at 212:6–13.
[60] Resp't Ex. 38, at RX38_20, ¶ 74.
[61] *Id.*, at RX38_20, ¶¶ 75–76.

That distinction also separates the Mining Packages from protocol mining standing alone. A person who independently contributes computational resources to a proof-of-work network presents a different economic arrangement from a purchaser who pays another person for an allocated interest in hash power while that person acquires, deploys, powers, operates, maintains, and repairs the infrastructure. The investment contract analysis here is determined by the economic reality of Respondent's Mining Packages, not whether proof-of-work mining itself constitutes a securities transaction.

Whether the economic realities of the Mining Packages sold by Respondent and purchased by ordinary purchasers satisfy each element of the *Life Partners* investment contract analysis is addressed below. Respondent Gray cannot avoid this analysis by labeling the transaction as the purchase of "hash power," a "mining seat," membership in a "community," or participation in "cryptocurrency mining." Under *Life Partners*, economic reality controls.

B. Purchasers Invested Money

The first *Life Partners* element is uncomplicated. An investment contract requires a transaction through which a person "pays money" to participate in the enterprise.[62] The Mining Packages plainly satisfy this requirement.

MineTXC sold Mining Packages in defined dollar amounts tied directly to specified allocations of hash power. Respondent Gray testified the basic package price was $995 for 100 MH/s of hash power.[63] Respondent's offering materials likewise advertised packages of $995 for 100 MH/s, $2,985 for 300 MH/s, and $8,955 for 900 MH/s.[64] Respondent's expert confirmed

[62] *Life Partners*, 464 S.W.3d at 682.
[63] Tr. Vol. 1 at 33:1–17.
[64] Pet'r Ex. 22.

Mining Packages were sold at approximately $1,000 per 100 MH/s and treated the purchaser's payment as the transaction price for MineTXC's resulting obligations.[65]

Respondent introduced transaction level sales records reflecting Mining Package purchases and identifying payments through USDC, USDT, ACH, wire transfers, and other payment methods.[66] MineTXC separately instructed purchasers who elected to pay by check to make their checks payable to Danagger Resources, Respondent Gray's assumed name.[67] Ordinary purchasers therefore paid money or transferred value to acquire Mining Packages. The first *Life Partners* investment contract element is satisfied.

C. Purchasers Participated in a Common Enterprise

The common enterprise element of the investment contract analysis can be shown by proof of either horizontal or vertical commonality.[68] "Horizontal commonality is between investors and means that the success of one investor is concomitant with the success of other investors."[69] Vertical commonality exists "between investor and promotor, so that the success of the investor is dependent upon the efforts and success of the promoter."[70] The common enterprise element is established here by the economic realities of the mining enterprise Respondent created and described.

Ordinary purchasers of Mining Packages did not receive economically independent mining operations whose results rose or fell separately. Instead, they acquired quantified allocations of hash power in MineTXC's mining pool, and those allocations determined each purchaser's

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[65] Resp't Ex. 38, at RX38_25, ¶¶ 88–90.
[66] Resp't Ex. 51.
[67] Pet'r Ex. 1, at TSSB 84. Section 2
[68] *Searsy v. Commercial Trading Corp.*, 560 S.W.2d 637, 640 (Tex. 1977).
[69] *Id*.
[70] *Id*.

proportional share of the TXC generated through the whole of the mining operations. Respondent's website and expert evidence explicitly detail the proportional relationship existing among all purchasers (horizontal commonality) and the dependence between purchasers and Respondent's operation of the mine (vertical commonality).

1. Purchased Hash Power Represented a Share of Mine Output

MineTXC's website described each ordinary purchaser's purchased hash power as a share of the mine's output of TXC[71]. Its Help Center explained, "As the total sold hash power of our mine increases, the percentage that your personal hash power represents naturally decreases."[72] That statement captures the reality of the economic structure. An ordinary purchaser's 100, 300, or 900 MH/s was not economically significant in isolation; its significance depended upon (1) the daily results of the mine operated by Respondent (vertical commonality), and (2) the aggregate hash power allocated across all MineTXC participants (horizontal commonality). The website further explained a participant could "increase [their] mining share" by acquiring additional mining power through the rewards program.[73] MineTXC thus described an ordinary purchaser's contractually promised hash power in terms of a share of the total mine's output. As more of the mine's hash power was allocated to other purchasers, an existing purchaser's share of the mine's output declined – the pie was being divided into more, smaller pieces. Purchasers' interests – or pieces of the pie – were therefore relational: the amount of returns promised to a purchaser changed depending on (1) how much TXC was mined by the mining operating Respondent controlled, and (2) how many other purchasers had a share of the mine's output.

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[71] Pet'r Ex. 22, at TSSB 388, ¶ 1.
[72] *Id*.
[73] *Id.*, at TSSB 388, ¶ 4.

Importantly, an ordinary purchaser's returns could not be calculated by using the promised 100, 300, or 900 MH/s alone; the returns could only be calculated in relation to both the output of the mine and all existing purchasers proportional share of the mine's output. This made the number of MH/s promised to each purchaser meaningless on its own. Whether Respondent designated an ordinary purchaser's share as a number of seats, MH/s, units, or shares did not matter. Only the economic reality matters that ordinary purchasers were bound to each other (horizontal commonality) and to the success or failure of Respondent Gray's mining efforts (vertical commonality).

Respondent's expert independently confirmed the same. Mr. Sotak explained that a participant's portion of total mining rewards was calculated by multiplying the mine's total daily rewards by the ratio of that participant's acquired hash power to total network hash power.[74] His report gives the clearest possible example: if a purchaser acquired 100 MH/s and all users collectively held 1,000 MH/s, that purchaser was entitled to 10 percent of the block rewards earned that day through TEXITcoin mining.[75] Mr. Sotak also examined the blockchain and observed daily transactions that he understood to be pro-rata distributions of mining rewards to users who had acquired hash power.[76]

This is the central economic reality of Respondent's Mining Package program. An ordinary purchaser did not receive whatever TXC happened to be generated by an individually assigned ASIC. The purchaser received a pro-rata allocation of the output generated through the mining pool. Respondent's expert described MineTXC's obligation after payment as purchasing,

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[74] Resp't Ex. 38, at RX38_20, ¶ 74.
[75] *Id.*, at RX38_11, ¶ 38.
[76] *Id.*, at RX38_20, ¶¶ 75–76.

deploying, and maintaining the applicable potential hash power "in the MineTXC TEXITcoin mining pool" and computing and remitting TXC distributions to Mining Package purchasers "based on their pro-rata allocation of total potential hash power."[77]

2. Purchasers' Interests Were Therefore Tied to Each Other and the Same Mining Operation

The result is an obvious economic interdependence among purchasers. Money purchased a hash power allocation; the allocation represented a percentage of the aggregate MineTXC hash power; that percentage determined the purchaser's share of the mining pool's daily output; and the purchaser received the resulting TXC distribution. Each purchaser's economic interest was therefore tied to the same pool and measured relative to the interests allocated to the other purchasers. The MineTXC website made it clear as "total sold hash power of our mine" increased, an existing purchaser's percentage decreased and, because daily output remained roughly constant, that purchaser's daily reward decreased.[78] Thus, the economic consequences of one participant's position could not be understood without reference to the entire mine. Purchasers were not simply parallel customers buying unrelated services. Their entitlements were mathematically defined by their proportional participation in the same mining operation—binding all investors together and tying their success to the success of the mine.

Importantly, there was also obvious economic interdependence among purchasers and the Respondent's mining operations. Respondent's expert testified MineTXC used purchaser funds to acquire computational power, install the ASICs, maintain the machines and mining infrastructure, supply the facilities and electricity, and generally maintain the mines.[79] The overwhelming

[77] *Id.*, at RX38_25, ¶ 88.
[78] Pet'r Ex. 22, at TSSB 388, ¶ 1.
[79] Tr. Vol. 3 at 211:3–212:13.

majority of purchasers never took possession of a mining rig and instead left MineTXC to operate the computational resources.[80] The same centralized operation generated the pool output from which purchasers' proportional distributions were calculated and paid.

3. The Disparity Between Sold, Purchased, and Operating Hash Power Reveals the Common Enterprise.

Respondent's website statistics further demonstrate why the purchased "hash power" should not be treated as an individually dedicated machine operating for each purchaser but rather as a common enterprise. At one point, MineTXC simultaneously reported approximately 22.96 TH/s of "Sold HashPower," approximately 29.82 TH/s of "Purchased HashPower," and a "Current Hashrate" of only approximately 4.57 TH/s.[81] The same exhibit's historical dashboard used line graphs to separately chart actual network hash rate in one graph and a separate, "Hash Power" multi-line chart depicting "Purchased HashPower" and "Sold HashPower." As shown by these charts, Respondent distinctly measured "Purchased Hash," "Sold HashPower," and "Hash Rate" within Respondent's own system.[82] Respondent's choice to separately define and track hash rate and these two types of hash power—purchased and sold—matters. It shows (1) an ordinary purchaser's contractual allocation of hash power was not equivalent to a simple allocation of the mine's instantaneous operating hash rate, and (2) an ordinary purchaser did not own or control any specific ASIC—or even a portion of one—producing the exact contractual allocation of hash power at every moment. Ordinary purchasers allocated hash power was not even represented in

[80] *Id.*
[81] Pet'r Ex. 1, at TSSB 001 (top of page and first chart titled "Network Statistics")
[82] *Id.*, at TSSB 013 - 014

the "current hash rate" of the mine, rather allocated hash power represented what share of the mine's production the ordinary purchaser was entitled to receive each day.

In fact, Mr. Sotak testified the miners could have done the computations required to mine TXC with fewer ASICs than what Respondent had plugged in.[83] Mr. Sotak also testified by approximately October 2025, MineTXC had acquired more purchased hash power capacity than hash power sold so it could "pre-fill" future sales.[84] Mr. Sotak's testimony shows the pooled nature of mining resources as it related to Respondent's contractual, sold hash power obligations to individual, ordinary purchasers. Ordinary purchasers' daily TXC return was allocated in proportion to the common pool of TXC mined and allocated by Respondent; the ordinary purchasers' hash power was not tied to any physical mining capacity operating on behalf of any particular purchaser.

4. Purchasers Shared in the Success or Failure of the Enterprise

Finally, ordinary purchasers' economic results rose or fell with the success of the mining enterprise as a whole. Ordinary purchasers' daily distributions depended on the mine functioning and producing TXC. The amount each purchaser received depended on the mine's aggregate daily output and the purchaser's proportional hash power allocation.[85] Additionally, the value of what purchasers received was also tied to the success of the broader TEXITcoin ecosystem that Gray and his staff were attempting to build. MineTXC's website described purchasers' vested interest in its mission described by Respondent as building and managing the mine while creating "a community of passionate individuals that have a vested interest in our growth and continued

[83] Tr. Vol. 3 at 213:8-214:8.
[84] *Id.*, at 212:14–213:2; Resp't Ex. 38, at RX38_11, ¶ 39.
[85] Pet'r Ex. 22, at 386, ¶3; Resp't Ex. 38, at RX38_11, ¶38 and RX38_20, ¶¶ 74–76.

success."[86] Respondent's website reported the mine's scale, membership, revenue, hash power growth, TXC distributions, and expansion plans as collective enterprise metrics.[87] The value of an ordinary purchaser's promised returns from the Mining Packages depended not merely on the output of an isolated computer performing calculations, but on the mine as a whole, the continued operation and development of the mine, and the broader ecosystem surrounding the TXC it produced—an ecosystem that ultimately determined the value of TXC and, therefore, purchasers' returns.

But Texas law does not require Petitioner to show every purchaser's fortunes rose and fell identically. The common-enterprise element may be established through either horizontal or vertical commonality.[88] Respondent Gray defined his relationship with purchasers through vertical commonality. On a Zoom call, Respondent Gray explicitly stated his job was to share the story of TexitCoin, market the project, and promote the coin to ensure it has value.[89] In the same call, Respondent Gray stated TexitCoin would be in bad shape without him, and the project was only successful because of his personal story of starting a currency in 2008.[90] Respondent Gray promoted TXC, the digital currency, and made it known he individually was responsible for increasing its value so if he was successful all purchasers "will be rewarded by getting insanely rich."[91]

Viewed through economic reality rather than labels, as *Life Partners* requires, the common enterprise is evident. More than 50,000 participants did not purchase tens of thousands of

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[86] Pet'r Ex. 1., at TSSB 001 (see paragraph under 'Upcoming Events' graphic).
[87] *Id* at 13.
[88] *Searsy,* 560 S.W.2d at 640.
[89] Pet'r Ex. 74F
[90] Pet'r Ex. 74G
[91] Pet'r Ex. 1, at TSSB 055.

economically independent mining businesses. These ordinary purchasers paid into a MineTXC program in which their respective interests were quantified as hash power allocations, converted into proportional shares of the same mining pool used to divide the daily TXC output of the mining operation controlled and operated by Respondent Gray, who also promoted TXC and attempted to raise its value. The ordinary purchasers' fortunes were linked through the common mining enterprise controlled by Gray as well as Gray's efforts to maintain and increase the value of TXC. The common enterprise element is satisfied.

D. Purchasers Expected Profits From Their Mining Packages

Turning next to the profit expectation element of the *Life Partners* investment contract analysis, the evidence shows ordinary purchasers expected to receive profits from the purchase of Mining Packages. Respondent did not present the Mining Packages merely as a means to acquire cryptocurrency for consumption, utility, or personal use. Respondent instead presented an investment opportunity wherein a one-time payment would produce continuing daily payments of TXC. Respondent discussed the time required to recover the purchaser's initial payment to purchase the Mining Package, published escalating TXC price targets and a strategy for supporting those prices, used investment terminology in sales presentations, represented Mining Package positions could be sold at a profit, and expressly told purchasers after paying for their Mining Package they could "sit back and enjoy the ride."[92] Considered together, these representations show why ordinary purchasers expected returns on their purchase as well as appreciation of the value of those returns since they were paid in TXC.

1. Daily TEXITcoin Returns

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[92] Pet'r Ex. 1, at TSSB 049 (Refund Policy, #6); at TSSB 028 (paragraph starting "*First* once you have made...")

The most immediate economic benefit of a Mining Package was a continuing stream of TXC. Respondent's expert described a Mining Package as a one-time purchase of hash power in exchange for which the holder was entitled to a daily pro-rata allocation of the TXC mined by the pool.[93] MineTXC's promotional materials likewise represented to purchasers, once enrollment was complete, freshly minted TXC would be paid to their wallets "24/7/365."[94] Gray confirmed at the hearing that Mining Package purchasers were entitled to receive TXC every day and the daily distributions were automated.[95]

Respondent did not describe those daily distributions as economically meaningless tokens. Respondent's materials told purchasers to monitor the value of their seats and daily rewards, described cryptocurrency as having "amazing upside," and repeatedly connected mining with wealth creation.[96] One MineTXC article went substantially further: "Every Miner who purchases a seat in the rocket gets daily TXC rewards," and, using an $800-per-TXC target, projected a single seat would yield about $75 per day, nine seats more than $650 per day, and 100 seats approximately $7,500 per day.[97] The same article described Mining Packages as a means of building "generational wealth" through more than a lifetime of daily mining output.[98]

The legal point does not depend on whether every price target was ultimately achieved or whether a particular projection should be characterized as optimistic, aspirational, or puffery for purposes of a separate fraud claim. The investment contract inquiry asks whether the transaction was offered under circumstances in which purchasers expected profits.[99] Respondent's repeated

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[93] Resp't Ex. 38, at RX38_08, ¶ 27.
[94] Pet'r Ex. 1, at TSSB 001 (*see* Unlimited TXC under "What's In It for You?").
[95] Tr. Vol. 2 at 32:23–34:7.
[96] Pet'r Ex. 22, at TSSB 367, ¶ 2; Pet'r Ex. 1, at TSSB 028, ¶ 3.
[97] Pet'r Ex. 1, at TSSB 072, "Your Path to TXC Millionaire".
[98] *Id.*
[99] *Life Partners, Inc. v. Arnold*, 464 S.W.3d 660, 682 (Tex. 2015).

pairing of a one-time payment with continuing daily returns of TXC with an asserted and projected economic value is powerful evidence of that expectation of profits.

2. Return-on-Investment Representations

Gray's testimony removes any doubt that Respondent evaluated the Mining Packages in return-on-investment – ROI – terms. On examination, Gray agreed ROI means "return on investment," he had publicly used ROI when evaluating cryptocurrency mining, and in the admitted presentation he calculated the length of time required for purchasers to recover their initial purchase payment.[100] Gray further admitted that he described a "200 ROI" as the goal.[101] Most importantly, when asked what he understood ROI to mean when discussing a mining opportunity, Gray agreed it referred to "the time required to recover the money someone puts into that opportunity."[102] ROI is universally understood to mean return on investment – a measure of an investment's profitability or loss relative to its cost.

3. TEXITcoin Price-Appreciation Representations

The expected economic return was not limited to the number of TXC distributed each day. Respondent also repeatedly promoted the prospect that the TXC received by purchasers would appreciate substantially in value. TEXITcoin's public materials described the currency as "built for growth & appreciation" and called TXC the purchaser's "rocket to the moon."[103] Although the same page also warned purchasing TXC was highly speculative and should not be treated as an investment, the disclaimer does not erase the surrounding representations concerning appreciation

[100] Tr. Vol. 1 at 86:1–15.
[101] *Id*. at 86:16–17.
[102] *Id*. at 86:18–22.
[103] Pet'r Ex. 23, at TSSB 426, "TEXITcoin is built for growth & appreciation".

and potential gain. It is part of the overall economic reality the Honorable Administrative Law Judge must consider.

MineTXC's Help Center made the appreciation strategy concrete. Its "Path to $16 by February 2026" article identified a stated long-term goal of a $16 market value for TXC and expressly said the figure was not "wishful thinking" but a "strategic move-up schedule."[104] The article explained Respondent would "nudge the market value" upward, observe the balance of buyers and sellers, support the price with their own liquidity when sellers exceeded buyers, and increase the price only when reserves and cash flow were sufficient to "hold the line."[105] The published schedule tied escalating target prices to stated liquidity requirements, including approximately $5.29 per TXC with $10 million of required liquidity in November 2025 and a stated target exceeding $16 by February 2026.[106]

Respondent later published an even more aggressive "Path to $80." That article stated $16 was "just the beginning," argued the "real conversation" was $80, and told readers $80 per TXC was not hype but consistent with how strong projects are valued.[107] It expressly connected that valuation thesis to Respondent's own conduct: raising capital, building the mine, paying commissions, promoting the currency, reinvesting in infrastructure and liquidity, and growing the community.[108] The article also highlighted an early adopter who bought at $0.028 and sold at $2.80 as having "booked a 100x."[109]

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[104] Pet'r Ex. 1, at TSSB 058
[105] *Id*.
[106] *Id*.
[107] Pet'r Ex. 1, at TSSB 063.
[108] *Id*.
[109] *Id*.

Other MineTXC materials pushed the same theme still further, describing a medium-term goal of $800 per TXC, telling purchasers even a single Mining Package could realistically accumulate enough TXC to participate in that appreciation, and presenting specific daily-dollar-value calculations at the $800 target.[110] Petitioner need not prove any particular target was guaranteed. For the profit expectation element, the significance is Respondent repeatedly invited purchasers to evaluate the TXC generated by their Mining Packages not merely by quantity, but by its anticipated future market value.

4. Respondent's Use of Investment Terminology

Respondent's terminology provides additional evidence of how the transaction was presented. Petitioner need not rely solely on the words contained in a video clip. Gray admitted under oath, during a presentation to participants, he expressly used the word "investment" to describe what participants had purchased and specifically stated that they had invested with their money.[111] He also acknowledged he had described the presentation as a "sales call," said what was ultimately being sold was trust, and stated people who trusted the enterprise would provide their "hard-earned money" and put that money "to work."[112] These are all common words used to describe, promote, and sell investments.

5. The Ability to Sell Mining Positions for Profit

Respondent Gray's offering materials also represented a purchaser could profit by selling the Mining Package position itself. MineTXC's refund policy advised participants considering a refund that "waiting a few weeks often allowed them to sell their position at a profit" or benefit

[110] Pet'r Ex. 1, at TSSB 072, "Your Path to TXC Millionaire".
[111] Tr. Vol. 1 at 95:1–8.
[112] *Id*. at 95:9–22.

from other opportunities in the network.[113] Gray confirmed the statement under oath.[114] He further agreed, for ordinary Mining Package holders, the sale of the position did not involve selling or transferring the physical ASIC equipment; the equipment remained under the control of the mining operation.[115]

Taken together and viewed in light of the economic realities, the evidence is considerably stronger than any isolated slogan or price prediction. Respondent sold a one-time Mining Package that generated daily TXC; evaluated the opportunity in ROI terms; calculated recovery of ordinary purchasers' initial purchase price; promoted substantial appreciation targets for the value of TXC and an affirmative liquidity strategy designed to support rising TXC prices; used investment terminology in promotion of selling the Mining Packages; represented Mining Package positions could be sold at a profit; and told purchasers, after purchase, they could sit back while the mine generated TXC for them. Under *Life Partners*, that economic reality establishes an expectation of profits.

E. Purchasers' Profits Depended Predominantly on Respondent's Entrepreneurial and Managerial Efforts

This is the most substantial element of the *Life Partners* investment contract analysis, and the hearing record resolves it in Petitioner's favor. In evaluating this element, it is important to construe Texas securities law "broadly to maximize the protection it provides to investors, while focusing on the economic realities of the transaction regardless of any labels or terminology the parties may have used."[116] The *Life Partners* Court clarified that to meet this efforts of others

[113] Pet'r Ex. 1, at TSSB 049, "Refund Policy" ¶ 6.
[114] Tr. Vol. 2 at 54:10–55:8.
[115] *Id*. at 55:1–8.
[116] *Life Partners*, 464 S.W.3d at 681.

element of the investment contract analysis purchasers' "expectations of receiving profits, under circumstances in which the failure or success of the enterprise, and thus the [purchasers'] realization of the expected profits, [must be] at least predominately due to the entrepreneurial or managerial, rather than merely ministerial or clerical, efforts of others."[117] The *Life Partners* Court described managerial efforts as those involving "oversight, discretion, and control over activities and transactions on which anticipation of profits depends."[118] The record here shows exactly that dependence on others that is a hallmark of an investment contract. Ordinary purchasers were completely dependent on Respondent and his staff to mine TXC and produce the economic returns promised to purchasers. Respondent and his staff selected and acquired the mining equipment; chose and developed the mining sites; installed and powered the equipment; controlled, operated, and maintained the centralized mines; managed the cooling and supporting infrastructure; maintained security; allocated and distributed daily TXC; and responded when equipment failed. Ordinary Mining Package purchasers did not perform any of these functions and could not meaningfully perform or control them.

1. Ordinary Purchasers Provided Money

An ordinary Mining Package purchaser did not arrive with computational equipment and contribute it to an independently existing pool. The ordinary purchaser arrived with money. Respondent then operated the mine he created and paid these ordinary purchasers their proportional amount of the mined TXC from Respondent's mining operation. This entailed Respondent purchasing and operating the necessary mining equipment and providing the necessary managerial and operational services to actually mine TXC. Respondent Gray's expert described

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[117] *Id.* at 681.
[118] *Id*. at 683.

the transaction as a one-time purchase from MineTXC under which MineTXC operated mining rigs on behalf of Mining Package holders.[119] He further explained MineTXC used Mining Package proceeds to cover the common costs of operating the pool.[120]

Respondent Gray attempts to obfuscate the economic reality of its mining enterprise by characterizing ordinary purchasers as "miners" and indicating these purchasers contributed computational resources to the mining operation. Respondent's "miners" label obscures the economic reality of this economic arrangement. Before the purchase of a Mining Package, an ordinary purchaser contributed no machine, electricity, facility, cooling system, networking equipment, maintenance personnel, or other mining infrastructure, equipment, or managerial service. In reality, an ordinary purchaser paid MineTXC for a Mining Package. MineTXC then supplied and operated the infrastructure necessary to mine TXC and allocated a proportional amount of the TXC mined to the purchaser as a return on their investment.

Respondent Gray's expert acknowledged the Mining Package model allowed purchasers to participate without buying their own rig or confronting the technical expertise, downtime, and electrical costs associated with operating one.[121] The overwhelming majority of purchasers chose this passive model rather than taking physical possession of mining hardware.[122] Respondent's marketing said the same thing more simply: "No technical knowledge required."[123] A purchaser created an account, selected a package, and then could "[b]egin earning cryptocurrency immediately with [Respondent's] hosted mining solution."[124] Respondent, not the ordinary

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[119] Resp't Ex. 38, at RX38_08, ¶¶ 27–28.
[120] *Id.*, RX38_17, ¶ 61.
[121] *Id.*, at RX38_19, ¶ 69.
[122] *Id.*, at RX38_19, ¶¶ 69–72.
[123] Pet'r Ex. 1, at TSSB 001, "How It Works".
[124] *Id.* at ¶ 3.

purchaser, created, controlled, and operated the mining operation that produced the TXC returns distributed to purchasers. Respondent's efforts at mining TXC determined the amount of returns purchasers received and whether they received returns at all.

2. Respondent Gray and His Staff Created, Controlled, and Operated the Mine

The evidence showing Respondent supplied the physical means of mining is overwhelming. Respondent's expert testified MineTXC purchased and maintained ASICs for the mining pool and invested in building and installing mining sites across Texas.[125] At the hearing, Mr. Sotak agreed MineTXC used purchasers' funds to acquire computational power, install mining equipment, and maintain the mining infrastructure, facilities, and electricity necessary to operate it.[126]

Additionally, Steve Walsh ("Mr. Walsh"), an employee of Respondent, supplied the operational details at the hearing. He testified decisions concerning where the mining equipment would be located, when facilities would be operational, who would perform the installations, and where the equipment would be purchased were made by Respondent Gray and his mining team.[127] After a Mining Package purchase, the ordinary purchaser depended on Respondent and his mining team to create and maintain the physical mining capacity associated with the package.[128]

Those are entrepreneurial and managerial decisions in the most ordinary sense. The purchaser did not select the ASICs, negotiate their acquisition, select the mining sites, arrange power, decide the deployment schedule, hire installers, or determine how and at what rate the TXC

[125] Resp't Ex. 38, at RX38_18, ¶¶ 64–65.
[126] Tr. Vol. 3 at 211:6–212:13.
[127] Tr. Vol. 4 at 24:6–25:9.
[128] *Id.* at 25:10–18.

would be mined. Respondent and his staff did those things. Without those managerial decisions and expenditures, a purchaser's contractual allocation of hash power could not generate TXC.

The dependency on Respondent's efforts continued after installation. Respondent did not merely deliver equipment, plug it in, and walk away. Respondent's expert characterized MineTXC as the mining pool operator and identified the functions it performed: coordinating computational resources; purchasing and maintaining ASICs; maintaining hardware and software; paying utilities; building and installing high-power mining sites; overseeing physical and digital security; and ensuring miners received their daily pro-rata share of TXC rewards.[129]

Mr. Walsh confirmed the centralized facilities were maintained by Respondent's mining team.[130] The team had access to the secured sites, monitored and maintained the systems, and responded when physical problems arose.[131] All three members of the mining team were paid by Respondent Gray.[132] An ordinary purchaser did not have to travel to the mine or perform physical maintenance to continue receiving the Mining Package TXC return allocation; instead, the purchaser depended on Respondent's operations team to keep the physical systems running.[133]

This is not merely clerical activity incidental to an otherwise self-operating investment. The mining facilities were <u>the</u> productive asset. Their continued operation was necessary to generate the TXC distributed to purchasers, and Respondent and his staff, not the purchasers, operated them.

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[129] Resp't Ex. 38, at RX38_17-RX38_18, ¶¶ 62–68.
[130] Tr. Vol. 4 at 25:10–18.
[131] *Id.* at 24:1–5, 25:10–30:12.
[132] *Id.* at 29:23–30:4.
[133] *Id.* at 30:5–12.

3. Mining Required Continuing Human and Managerial Effort

Mr. Walsh's testimony is particularly important because it dispels any suggestion that, once installed, the mining operation simply ran itself. The centralized mining facilities required materially more work than a home miner. Mr. Walsh described overseeing deliveries, cranes, installation, physical assembly, and the deployment of equipment at the mining sites; when asked whether the centralized facilities required "a lot more work" than setting up home miners, he agreed.[134]

The continuing work required to mine TXC was substantial. The L9 miners were submerged in dielectric cooling fluid. Keeping that system operating required pumps to circulate the fluid and heat exchangers or dry coolers to remove heat. Mr. Walsh expressly agreed immersion cooling did not eliminate maintenance; it added pumps, heat-rejection equipment, plumbing, filtration, and cooling fluid that had to remain functional for the mines to operate properly.[135]

Automation did not eliminate the human efforts required to mine TXC. Mr. Walsh agreed an automated system could not physically remove a failed miner from an immersion tank, replace a failed hash board or power supply, repair a leaking hose, fitting, valve, or seal, or replace a failed circulation pump. When that work was necessary, an actual person had to perform it.[136] The mining team member who was closest and available responded, and all three team members were paid by Respondent Gray.[137]

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[134] Tr. Vol. 4 at 22:18–24.
[135] *Id.* at 28:15–24.
[136] *Id.* at 28:25–29:25.
[137] *Id.* at 29:23–30:4.

This was not an automated machine that magically generated purchaser returns after the purchase. TXC was created only because Respondent Gray and his team made managerial decisions concerning what equipment to buy, install, and operate, where to operate, how to supply, power, monitor, maintain, repair, secure, and replace the physical systems on which the mining depended.

4. Respondent Controlled the Allocation and Distribution of Daily TXC

Respondent Gray also controlled the allocation mechanism by which the common mine's produced TXC became each purchaser's daily share of TXC. Respondent's expert explained Respondent ensured miners were allocated their daily pro-rata share of TXC rewards and provided the portal through which miners selected the wallet receiving those rewards.[138] His analysis of the blockchain showed daily transactions from the primary mining addresses to individual addresses in amounts corresponding to the purchaser's pro-rata share of TXC for that day.[139]

Respondent Gray likewise testified that the daily payouts were automated, while acknowledging developers were responsible for troubleshooting the distribution system when problems arose.[140] Automation therefore describes the mechanism by which Respondent performed part of their obligation; it does not negate the managerial control Respondent exercised over the mining of TXC or transfer managerial control to purchasers in any way. Purchasers did not calculate the mining pool's output, determine the applicable denominator, control the primary mining addresses, administer the payout system, or repair the system when it failed. Respondent did. This automated payment of TXC returns is closely analogous to the post purchase functions

[138] Resp't Ex. 38, at RX38_17, ¶ 67.
[139] *Id.*, at RX38_20, ¶¶ 74–76.
[140] Tr. Vol. 2 at 33:19–34:7.

the Texas Supreme Court found significant in *Life Partners*, where the promoter controlled the process necessary to obtain and distribute the proceeds to purchasers.[141] Here, too, the ordinary purchaser's realization of the promised profits depended on Respondent's mining enterprise continuing to operate, produce TXC, and administer the profit allocation and distribution system.

5. Purchasers Could Not Exercise Meaningful Control Over the Centralized Mining Operation

The absence of any ordinary purchaser control was established through Respondent's mining witness. Mr. Walsh agreed an ordinary purchaser could not simply enter a mining site without someone from Respondent's staff with authorized access.[142] A purchaser could not turn their share of the mining operation on or off, could not identify which physical machine supplied that purchaser's allocation, could not choose where the machine would be located, and could not decide when it would operate or how it would operate.[143]

Those were not trivial details. They were the operational decisions that determined whether computational capacity existed and remained productive enough to mine TXC. Mr. Walsh agreed Respondent Gray and the mining team made the decisions concerning location, deployment timing, installation, and equipment sourcing.[144] The ordinary purchaser depended upon Respondent and his mining team to create and maintain the physical mines.[145]

An ordinary purchaser could monitor a dashboard, hold TXC, refer others, attend calls, participate in events, and promote the project, but none of those activities gave the purchaser managerial authority over the centralized mine that generated the daily TXC. Ordinary purchasers

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[141] *Life Partners*, 464 S.W.3d at 681–82.
[142] Tr. Vol. 4 at 23:18–24:5.
[143] *Id.* at 24:6–22.
[144] *Id.* at 25:4–9.
[145] *Id.* at 25:10–18.

had no operational control over the mine's productive infrastructure – only Respondent Gray and his staff did.

6. The Affiliate Program and Community Engagement Do Not Make Purchasers Into Managers of the Mining Enterprise

Respondent has emphasized purchasers could recruit others and receive affiliate compensation. That evidence does not defeat the efforts of others element. The relevant question under *Life Partners* is not whether a purchaser could perform any economically useful activity. It is whether realization of the expected profits was predominantly dependent on the entrepreneurial or managerial efforts of others.[146] Respondent's welcome materials sharply undercut the contention Mining Package purchasers were expected to generate their economic returns through their own managerial efforts. Gray's MineTXC welcome message told a new purchaser: "once you've made your one-time payment, you've done all that's necessary" to be on the TXC team. The purchaser had a "seat on the rocket ship" and could "simply sit back and enjoy the ride."[147] The message immediately added there was more a purchaser could do, but "everything else from here on out is optional."[148]

The same materials also explained the mine was already active and "making TXC for you," instructed purchasers how to monitor the value of their TXC and daily rewards, and described weekly calls and other community activities as ways to stay informed and become more involved.[149] Respondent encouraged participation, education, referrals, and community involvement, but their onboarding materials told purchasers the act necessary to obtain the core

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[146] *Life Partners*, 464 S.W.3d at 667, 681–82.
[147] Pet'r Ex. 1, at TSSB 028, ¶ 1; Pet'r Ex. 22, at TSSB 366, ¶ 1.
[148] *Id*.
[149] Pet'r Ex. 1, at TSSB 028, "#1 – Keep your Cold Storage Coin safe…" ; Pet'r Ex. 22, at TSSB 366, "#1 – Keep your Cold Storage Coin safe…".

Mining Package benefit, the daily distributions of mined TXC, was the one-time purchase payment. The enterprise would do the mining.

The Fifth Circuit's decision in *SEC v. Koscot Interplanetary, Inc.* is particularly instructive. There, investors themselves solicited prospects, participated in meetings, and attempted to consummate sales. The court nevertheless rejected a literal requirement investors perform no effort and instead asked whether the efforts of others were the "undeniably significant" and "essential managerial" efforts affecting the enterprise's success.[150] The Texas Supreme Court adopted that same practical approach in *Searsy v. Commercial Trading Corp.*, rejecting a "blind and mechanical" application of the requirement profits come solely from others' efforts and holding the proper inquiry is whether the investor performs significant efforts or instead depends upon the essential managerial efforts of others.[151] *Life Partners* later reaffirmed that functional approach and held an investment contract may exist even when purchasers perform some activities of their own.[152]

The distinction is even clearer here. Recruiting a new purchaser might generate a separate affiliate commission or contribute generally to expansion of the community. It did not install an ASIC, energize a mine, circulate cooling fluid, repair a failed pump, maintain the network, secure a facility, or distribute the daily share of TXC due to the Mining Package already purchased. Gray admitted affiliate participants could receive commissions for referrals, but the record does not show an ordinary purchaser had to recruit anyone to receive the core daily Mining Package

[150] 497 F.2d 473, 480, 483 (5th Cir. 1974).
[151] *Searsy,* 560 S.W.2d at 641.
[152] 464 S.W.3d at 679–82.

allocation of TXC.[153] Respondent's welcome materials instead told purchasers after the one-time payment they had done all that was necessary and everything else was optional.[154]

Recruiting activity therefore cannot be substituted for managerial control of the mining enterprise that produced TXC, the Mining Package returns promised to ordinary purchasers. *Koscot* and *Searsy* precisely foreclose this deceptive argument.

Furthermore, Respondent Gray's active-participation argument ultimately applies the wrong legal standard. Texas securities law has long rejected a rule under which any purchaser effort defeats an investment contract.[155] The Texas Supreme Court recognized courts do not continue to require profits to arise "solely" from the efforts of others and adopted the predominant-efforts inquiry instead.[156] The focus is on who performs the entrepreneurial and managerial functions that affect the failure or success of the enterprise, not whether purchasers can perform nominal, promotional, educational, or other ancillary tasks.[157]

The evidence therefore need not show an ordinary purchaser did absolutely nothing. Some ordinary purchasers recruited others. Some attended calls or events. Some promoted TXC. The question remains: who performed the undeniably significant managerial functions on which the Mining Package's success depended. On this record, that was Respondent Gray and his mining team.

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[153] *See* Tr. Vol. 1 at 118:1–15.
[154] Pet'r Ex. 1, at 028, ¶1; Pet'r Ex. 22, at 366, ¶1.
[155] *Searsy,* 560 S.W.2d at 641; *Life Partners*, 464 S.W.3d at 679–82.
[156] *Life Partners,* 464 S.W.3d at 679–82.
[157] *Id.* at 674-75, 682-83.

V. GRAY PERSONALLY OFFERED AND SOLD THE MINING PACKAGE SECURITIES

The evidence identifying the person behind this offering is unusually direct. Respondent Gray did not merely own a passive interest in an enterprise that happened to sell Mining Packages. He founded the project, established the package terms and compensation system, publicly promoted the Mining Packages, authored promotional offering content, communicated with purchasers, used a network of compensated affiliates to bring in additional purchasers, and accepted purchaser funds through an assumed business name he controlled.

A. Gray Created and Controlled the Offering

Respondent Gray exerted control over the terms of the Mining Packages sold. The MineTXC website offered packages at $995 for a 100 MH/s share, $2,985 for a 300 MH/s share, and $8,955 for a 900 MH/s share.[158] Gray admitted he established the $995 package price and determined the payment corresponded to a 100 MH/s share. Purchasers did not negotiate the Mining Package terms; the purchaser either accepted the Mining Package offered or did not purchase it.[159]

Respondent Gray likewise created the affiliate compensation system that accompanied the Mining Packages. When asked who created the rules governing this system, Gray testified the miners did not create it: "It was created by me."[160] Respondent's back-office staff then programmatically tracked the points and forwarded commissions or additional hash power shares

[158] Pet'r Ex. 22, at 356, "3 Packages to Choose From".
[159] Tr. Vol. 1 at 32:5–33:17.
[160] *Id.* at 116:5–18.

according to those rules.[161] The evidence therefore ties Gray personally to both the product offered to purchasers and the compensation structure used to expand its sales.

B. Gray Personally Promoted the Mining Packages

Respondent Gray also personally promoted the offering. He admitted he regularly appeared in project Zoom calls, hosted presentations concerning TEXITcoin, spoke publicly about MineTXC and the Mining Packages.[162] He regularly communicated with existing purchasers, provided weekly updates concerning the project, announced new developments, discussed expansion of the mining operation and future uses for TXC, and publicly addressed TXC's price, liquidity, and exchange listings.[163]

The websites provided the public path from promotion to purchase. Gray identified the MineTXC website as publicly accessible, "available to the entire world," and agreed prospective purchasers could visit it.[164] That website advertised the Mining Packages, displayed their prices and hash power share allocations, provided the enrollment form, and offered a mechanism for purchasers to select a package and payment method.[165] Gray's public presentations and the websites therefore were not detached commentary about cryptocurrency. They were components of the same offering through which Mining Packages were promoted and sold.

C. Gray Controlled Offering Content

Respondent Gray's role also extended to the content used to promote the project and its economic potential. The clearest evidence comes from Gray himself. When shown the MineTXC

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[161] *Id.*
[162] *Id.* at 27:7–24.
[163] *Id.* at 28:5–29:6.
[164] *Id.* at 30:1–16.
[165] *Id.* at 32:5–21; Pet'r Ex. 1, at TSSB 001, "3 Packages to Choose From"; Pet'r Ex. 22, at TSSB 356, "3 Packages to Choose From".

Help Center article titled "The Path to $80 by February 2026," Gray admitted he authored it, explaining: "I wrote it with the assistance of AI."[166] The use of artificial intelligence as a drafting aid does not change authorship or responsibility for the content Gray chose to publish under the MineTXC banner.

The same record contains the article "Your Path to TXC Millionaire." During his testimony, Respondent Gray acknowledged statements in that article comparing the Mining Package opportunity to acquiring Bitcoin early, stating getting into the right project early could change a person's financial destiny, identifying a $16 TXC price target, stating the project was "not stopping at $16," and identifying an $800 target.[167] When asked about the "financial destiny" statement, Gray again confirmed he wrote it with AI assistance.[168]

Although Gray did not personally author every item on Respondent's websites, he admitted Respondent's staff prepared public facing content for the mining enterprise he controlled.[169]

D. Gray Used Affiliates to Solicit Purchasers

Respondent Gray did not rely solely on his own presentations and websites. He created a compensation system designed to encourage existing Mining Package purchasers to bring in additional purchasers. The MineTXC materials defined a "sponsor" as an individual who personally recruited or brought new miners into the network "to help grow the mine," and Respondent Gray agreed with that definition.[170] MineTXC maintained an affiliate program through

[166] Tr. Vol. 1 at 107:4–16; Pet'r Ex. 1.
[167] Tr. Vol. 1 at 111:1–112:22; Pet'r Ex. 1, at TSSB 072.
[168] Tr. Vol. 1 at 111:22–25.
[169] *Id.* at 133:1–23.
[170] *Id.* at 117:7–23.

which miners could refer other people to purchase Mining Packages, and the system awarded commissions or bonuses when the program requirements were satisfied.[171]

The record also establishes the breadth of this solicitation mechanism. Gray testified the affiliate program was open to any miner who had not abused the system.[172] MineTXC did not verify with the State Securities Board whether affiliates were registered before compensating them for Mining Package sales, and Respondent did not tell participants securities registration might be required before offering Mining Packages to prospective purchasers.[173] Respondent's commission records document substantial payments in USDC, TXC, and shares of hash power through the compensation program.[174]

Respondent may characterize the recruiters as members of a "voluntary association" rather than employees or agents.[175] That characterization does not erase the underlying economic reality of the conduct. Respondent Gray created the program, supplied the referral infrastructure, participants solicited prospective purchasers, and Respondent compensated those making successful referrals. Whatever label Respondent gave to individual affiliates does not matter; Respondent Gray used that network as an additional channel through which Mining Packages were offered and sold.

E. Gray Received and Controlled Purchasers' Funds

Respondent Gray's personal connection to the sales proceeds of Mining Packages is concrete. Respondent accepted purchaser payments through multiple mechanisms, including a

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[171] *Id.* at 118:3–15; *see also* Pet'r Ex. 1, at TSSB 097, 100-102, 104; Resp't Ex. 4 (MineTXC Commission Records).
[172] Tr. Vol. 1 at 118:16–24.
[173] *Id.* at 118:16–119:20.
[174] Resp't Ex. 4.
[175] *See* Tr. Vol. 2 at 31:21–32:5.

mailed check option.[176] For purchasers choosing this mailed check option, Respondent instructed they make their checks payable to "Danager Resources."[177] Gray admitted the instructions were used for Mining Package payments, checks were accepted, and Danagger Resources was used to receive purchasers' funds from Mining Package sales.[178]

Danagger Resources was not an independent entity standing between Respondent Gray and this money. Gray testified Danagger Resources was his assumed name and, when asked who owned and controlled it, answered: "That's me."[179] He further explained he maintained a business bank account under the Danagger Resources assumed name.[180] On redirect, Gray estimated between approximately $3 million and $10 million of the roughly $147 million paid into the enterprise came from purchasers who paid by checks made payable to Danagger Resources.[181]

F. Gray Cannot Avoid Liability by Operating Through Alias, Trade, or Brand Names

Accordingly, the evidence supports a direct and straightforward finding: Respondent Robert J. Gray personally participated in, directed, and controlled the offer and sale of the Mining Packages. As discussed in Section III of this brief, TEXITcoin, MineTXC, Blockchain Mint, and Danagger Resources were alias names through which Gray conducted this activity. The economic actor behind all of these alias names was Gray. This provides the factual foundation for the dealer-registration analysis that follows.

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[176] Pet'r Ex. 1, at TSSB 84, Section 2.
[177] *Id.*, *supra* note 13.
[178] Tr. Vol. 1 at 133:17–134:18.
[179] *Id.* at 134:11–25.
[180] *Id.* at 136:10–24.
[181] Tr. Vol. 2 at 28:11–17.

VI. GRAY ACTED AS AN UNREGISTERED SECURITIES DEALER

The dealer-registration violation of The Securities Act follows directly from the findings established in the preceding sections. The Mining Packages sold to ordinary purchasers are securities. Gray personally created, promoted, offered, and sold these Mining Packages; he used a compensated affiliate network to solicit additional purchasers; and he received purchasers' money. The Securities Act defines "dealer" broadly enough to reach each of those activities. Respondent Gray was never registered as a securities dealer in Texas. The resulting violation of Section 4004.051 of The Securities Act is independently significant and, as discussed in Section XVI, supplies an important statutory predicate for refund relief under Section 4007.108 of The Securities Act.

A. The Securities Act Broadly Defines a Dealer

Section 4001.056 of The Securities Act defines "dealer" to include a person or company, other than an agent, who for all or part of the person's or company's time engages in this state, directly or through an agent, in "selling, offering for sale or delivery, soliciting subscriptions to or orders for, undertaking to dispose of, or inviting offers for any security."[182] The definition separately includes a person or company "who deals in any other manner in any security in this state."[183]

The definition is deliberately activity based. A person need not call himself a broker or dealer, maintain a traditional brokerage office, or spend all their time selling securities. Section 4001.056 of The Securities Act expressly applies to a person who engages in the listed activity for

[182] Tex. Gov't Code § 4001.056(a)(1).
[183] *Id.* § 4001.056(a)(2).

only "part" of his time, and it applies to activity performed either directly or through an agent.[184] It also includes the residual category of dealing "in any other manner" in a security.[185] Thus, once the Mining Packages are properly determined to be securities, the dealer inquiry turns on what Gray actually did with respect to the offer and sale of the Packages.

Section 4001.056 of The Securities Act also forecloses an issuer from avoiding dealer registration merely because the securities being sold are the issuer's own. Except where a statutory exception applies, an issuer that directly, or through a person or company other than a registered dealer, offers or sells its own securities is itself deemed a dealer and must comply with The Securities Act.[186] The statutory scheme therefore focuses on the securities activity, not the label chosen by the person conducting it.

B. Gray's Conduct Satisfies the Dealer Definition

Respondent Gray's conduct falls squarely within Section 4001.056 of The Securities Act. Indeed, the record establishes multiple independently enumerated forms of dealer activity by Respondent.

First, Gray offered the Mining Packages for sale. He founded MineTXC, spoke publicly about the Mining Packages, hosted presentations concerning the project, and appeared in recurring communications discussing the mine, TXC's price and liquidity, exchange listings, and future developments.[187] The publicly accessible MineTXC website, available, in Gray's words, "to the

[184] *Id.* § 4001.056(a)(1).
[185] *Id.* § 4001.056(a)(2).
[186] *Id.* § 4001.056(b)–(c).
[187] Tr. Vol. 1 at 27:3–29:6.

entire world," advertised Mining Packages at specified prices and corresponding hash power share allocations.[188] Those are offers for sale within the ordinary and statutory meaning of the term.

Second, Respondent Gray sold the Mining Packages. His offering was not merely proposed or advertised. Ordinary purchasers paid money and received Mining Package share allocations. Gray admitted the $995 price and corresponding 100 MH/s share allocation were terms he established, and purchasers either accepted the offered package or did not purchase.[189] Respondent Gray's own transaction records document repeated Mining Package sales at $995, $2,985, $8,955, and other amounts, including transactions paid in USDC, USDT, TXC, checks, and other payment methods.[190] The evidence therefore establishes completed sales on a massive scale, not merely promotional activity.

Third, Respondent Gray solicited subscriptions or orders and invited offers. His recurring presentations, public discussions of Mining Packages, website content, and direct communications encouraged ordinary purchasers to purchase a share of the MineTXC operation by purchasing hash power share allocations.[191] The MineTXC website supplied the mechanism by which prospective purchasers could select and purchase the offered packages.[192] Gray therefore did more than passively accept unsolicited purchases; he actively promoted the offering and invited purchasers to participate.

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[188] *Id.* at 30:1–16, 32:5–21; Pet'r Ex. 1, at TSSB 001, "3 Packages to Choose From"; Pet'r Ex. 22, at TSSB 356, "3 Packages to Choose From".
[189] Tr. Vol. 1 at 33:1–17.
[190] Resp't Ex. 51.
[191] *See* Tr. Vol. 1 at 27:7–29:6, 86:1–22, 95:1–24; Pet'r Exs. 1 and 22.
[192] Pet'r Ex. 1, at TSSB 001, "3 Packages to Choose From"; Pet'r Ex. 22, at TSSB 356, "3 Packages to Choose From".

Fourth, Respondent Gray expanded those solicitations through affiliates. He personally created the affiliate compensation rules.[193] MineTXC permitted purchasers to refer others to purchase Mining Packages and then paid or credited commissions or bonuses when the program requirements were satisfied.[194] The program was open to any miner who had not abused the system, and MineTXC did not verify dealer or agent registration before paying compensation associated with Mining Package sales.[195] Respondent's commission records document the resulting payments in USDC, TXC, and hash power.[196] Section 4001.056 of The Securities Act expressly applies to dealer activity performed "directly or through an agent," and Gray's use of compensated solicitors – agents – further confirms the commercial character and breadth of the offering.

Fifth, Respondent received and controlled ordinary purchasers' money generated by those sales. MineTXC instructed purchasers paying by check to make their checks payable to Danagger Resources.[197] Gray admitted that Danagger Resources was his assumed name, it was used to receive Mining Package purchasers' funds, and he owned and controlled it.[198] He further testified he maintained a business bank account under his Danagger Resources assumed name.[199] Gray estimated approximately $3 million to $10 million of the roughly $147 million paid into the enterprise came from checks made payable to Danagger Resources.[200]

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[193] Tr. Vol. 1 at 116:5–18.
[194] *Id.* at 118:3–15.
[195] *Id.* at 118:16–119:20.
[196] Resp't Ex. 4 (MineTXC Commission Records).
[197] Pet'r Ex. 1, at TSSB 84, Section 2.
[198] Tr. Vol. 1 at 133:17–134:25.
[199] *Id.* at 136:10–24.
[200] Tr. Vol. 2 at 28:11–17.

C. Gray Was Not Registered as a Dealer

This dealer registration violation is established by certified State Securities Board evidence. Petitioner's Exhibit 53 is the State Securities Board's Verification of Registration Status for Robert J. Gray. It certifies, for the period from February 1, 2021, through the date of the verification, the Board's records fail to reflect Gray was registered as a dealer or agent, registered as an investment adviser or investment adviser representative, or had submitted any applicable notice filing in Texas.[201] This exhibit was admitted with the other registration status certifications during the hearing.[202]

Respondent does not contend he ever held a Texas dealer registration. Instead, his position is he did not need to register as a dealer because he determined the Mining Packages were not securities.[203] Respondent's erroneous belief does not alter the objective registration record or the statutory classification of his conduct. If the Mining Packages are securities, as the evidence establishes, Respondent's activities triggered the dealer-registration provisions regardless of the terminology he used for the product or his personal view of the law.

D. No Dealer-Registration Exemption Applies

The Securities Act contains limited circumstances in which securities activity does not result in dealer status or does not require dealer registration. Section 4001.056(d) of The Securities Act excludes activity involving transactions or conditions specified in Subchapter A of Chapter 4005 of The Securities Act, and Section 4004.051 of The Securities Act incorporates those

[201] Pet'r Ex. 53.
[202] Tr. Vol. 1 at 141.
[203] *See* Tr. Vol. 2 at 30:12–31:5.

statutory exceptions.[204] But an exemption is not presumed. Section 4001.153 of The Securities Act expressly provides a proceeding under The Securities Act need not negate an exemption and "[a] party claiming an exemption under this title has the burden of proof on the exemption."[205]

Respondent did not establish a dealer-registration exemption for his Mining Package activities.[206] The record instead shows a continuing public offering conducted through publicly accessible websites, recurring presentations, standardized package terms, tens of thousands of participants, and a compensated affiliate program designed to bring additional purchasers into the enterprise. Respondent Gray was not selling exclusively to or through a registered dealer acting as fiscal agent, and the evidence does not establish that the Mining Package transactions fell within a Chapter 4005 transaction exemption that would remove Respondent from the dealer definition.[207]

E. Gray Violated Section 4004.051 Requiring Registration of Dealers

Except for the statutory exemptions discussed above, a dealer or other person or company may not, directly or through agents, "offer for sale, sell, or make a sale of any securities in this state" unless first registered under Chapter 4004 of The Securities Act.[208] The elements are therefore straightforward: (1) an offer or sale in or from Texas, (2) of a security, (3) directly or through others, and (4) the absence of the required dealer registration or an applicable exemption.

The record satisfies each element. The Mining Packages are investment contracts and therefore securities for the reasons set out in Section IV of this brief. Respondent Gray personally

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[204] Tex. Gov't Code §§ 4001.056(d), 4004.051.
[205] *Id*. § 4001.153.
[206] Respondent used the word "crowdsourced" during the hearing, Subchapter F of Chapter 4003 covers crowdfunding, but is inapplicable here because as a threshold matter only specific entity types, not individuals, can claim the exemption. Tex. Gov't Code § 4003.252.
[207] *See* Tex. Gov't Code § 4001.056(c)–(d).

[208] Tex. Gov't Code § 4004.051.

offered and sold these Mining Packages and used a compensated affiliate structure to solicit additional purchasers.[209] The offering was conducted through the Texas-centered MineTXC enterprise which included securities activity within this state. Petitioner's Exhibit 53 establishes Respondent Gray was not registered as a Texas securities dealer.[210] No dealer-registration exemption was claimed or proved. Respondent Gray's dealer status also supplies a statutory predicate for the refund relief authorized by Section 4007.108 and addressed in Section XVI.

VII. THE MINING PACKAGES WERE UNREGISTERED SECURITIES

As shown in Section IV of this brief, the Mining Packages are securities in the form of investment contracts under Texas securities law. The Securities Act requires all securities offered or sold in or from Texas to be registered unless an exemption applies. Respondent offered and sold Mining Packages in and from Texas at a time when they were not registered, qualified, or permitted for sale in Texas and Respondent neither proved nor claimed an exemption from registration. Section 4003.001 of The Securities Act therefore prohibited their offer and sale.

A. The Mining Packages Were Not Registered or Permitted for Sale

There is no factual dispute the Mining Packages were not registered as securities in Texas. Gray admitted it directly. When asked whether the Mining Packages were registered as securities, he answered: "The mining packages are not registered as securities."[211] The certified State Securities Board agency records confirm this admission. The State Securities Board's records reflect no securities were issued under the names TEXITcoin, MineTXC, or Blockchain Mint as

[209] *See supra* discussion Section V.
[210] Pet'r Ex. 53.
[211] Tr. Vol. 1 at 140:23–141:1.

having been registered by qualification, notification, or coordination, and did not reflect that a permit had been granted for the sale of those securities in Texas.[212]

B. No Securities-Registration Exemption Applies

Section 4003.001 of The Securities Act does not require registration when a security or transaction falls within a statutory exemption.[213] But Petitioner was not required to negate every possible exemption. The Securities Act expressly places the burden of proving an exemption on the party claiming it.[214] Respondent did not claim or identify any securities registration exemption for their Mining Packages.

C. Respondent Violated Section 4003.001 of The Securities Act

The undisputed facts establish a violation of Section 4003.001 of The Securities Act independent of the disputed fraud allegations. The Mining Packages Respondent issued were securities. Respondent offered and sold the Mining Packages in and from Texas. Respondent Gray admitted the Mining Packages were not registered, the State Securities Board's certified records confirm no registration or permit qualifying the securities for sale existed under the names through which the offering was conducted, and Respondent neither claimed nor proved any exemption from registration.[215]

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[212] Pet'r Exs. 48–50.
[213] Tex. Gov't Code § 4003.001(b).
[214] *Id.* § 4001.153.
[215] Pet'r Exs. 48–50; Tr. Vol. 1 at 140:23–141:19.

VIII. THE HEARING PROVED THE MECHANICS AND SCALE OF THE OFFERING ALLEGED IN THE ORDER

The hearing did more than establish that the Mining Packages were securities offered and sold without registration. It also confirmed the factual descriptions of the offering contained in Findings of Fact 12 through 25 of the Order. After an almost four day evidentiary hearing, the record supplies greater detail and, in a few respects, greater precision regarding the facts surrounding the Mining Packages offering, but the basic mechanics and scale alleged in the Order remain the same: public websites directed potential purchasers to the Mining Package offering; MineTXC publicly reported approximately $147 million in revenue and approximately $65 million in commissions paid; ordinary purchasers paid fixed amounts for specified hash power share allocations and received TXC distributions from the mining enterprise operated and controlled by Respondent; Respondent Gray operated an affiliate compensation program that rewarded recruitment of other purchasers; and the offering was promoted broadly through online and offline channels.[216]

A. Public Websites

Findings 12 and 13 describe the public facing structure of the offering. The Order found "Respondents" operated publicly accessible websites at TEXITcoin.org and MineTXC.com and the TEXITcoin website directed persons interested in the Mining Packages to the MineTXC website.[217] The hearing confirmed those facts.

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[216] *See* Emergency Cease and Desist Order ENF-26-CDO-1893, Findings of Fact ("FOF") 12–25.

[217] *Id.* at FOF 12–13.

Respondent Gray testified the MineTXC website was publicly accessible, "available to the entire world," and agreed prospective purchasers could visit it.[218] Petitioner's Exhibits 1 and 22 are preserved images of the MineTXC website and Help Center materials. Those materials did not merely discuss cryptocurrency mining in the abstract. They described Mining Packages, specified prices and hash power share allocations, explained daily mining rewards, described payment methods, promoted referral compensation, and directed users through the process of joining MineTXC.[219]

B. Representations Concerning Funds Raised and Commissions Paid

Finding 14 of the Order found the MineTXC website claimed "Respondents" had raised more than $147 million and paid approximately $65 million in commissions.[220] The hearing confirmed this claim was a public representation made by Respondent Gray. Respondent's website displayed approximately $147.31 million in "Total Revenue" and approximately $65.56 million in "Total Commission."[221] Financial Examiner Phillip Fuselier ("FE Fuselier"), Petitioner's lead investigator, testified the figures came from Respondent's assertions and he had no reason to doubt the representation that more than $147 million had been raised and approximately $65 million paid in commissions.[222] Respondent Gray likewise used approximately $147 million as the enterprise-wide amount when discussing the portion of purchaser payments received by check through Danagger Resources.[223] Petitioner's Order does not allege these representations are accurate, rather that they were communicated to potential purchasers. MineTXC publicly represented the scale of

[218] Tr. Vol. 1 at 30:1–16.
[219] Pet'r Exs. 1 and 22.
[220] ENF-26-CDO-1893 at FOF 14.
[221] Pet'r Ex. 1, at TSSB 001
[222] Tr. Vol. 2 at 134:17–135:4.
[223] Tr. Vol. 2 at 28:11–17.

the enterprise using those figures. This is precisely what Finding 14 alleges, and the record proves it.

C. Mining Package Terms and Daily TEXITcoin Distributions

Findings 15 through 19 describe the Mining Package sales transactions. The evidence produced at the hearing overwhelmingly confirms the Order's description of these transactions. Respondent offered Mining Packages to ordinary purchasers who paid money for specified shares of the TXC proceeds of Respondent's TXC-mining operation represented as a specific number of hash power.[224] The principal advertised packages included a 100 MH/s share for $995, a 300 MH/s share for $2,985, and a 900 MH/s share for $8,955.[225] Respondent Gray admitted that he established the $995 price and determined it corresponded to a 100 MH/s share; the purchaser did not negotiate those terms.[226]

The hearing also confirmed the economic benefit attached to the Mining Packages. Gray testified that a Mining Package purchaser was entitled to receive TXC every day.[227] Respondent's expert described the same arrangement: once a user purchased a Mining Package or otherwise acquired a share of hash power, the user became entitled to a daily pro-rata allocation of TXC block rewards.[228] Thus, the central package terms alleged in Findings 15 through 19 of the Order, payment, hash power share allocation, participation in MineTXC's mining operation, and TXC

[224] ENF-26-CDO-1893, at FOF 15–19; Pet'r Ex. 1, at TSSB 001, "3 Packages to Choose From"; Pet'r Ex. 22, at TSSB 356, "3 Packages to Choose From".
[225] Pet'r Ex. 1, at TSSB 001, "3 Packages to Choose From"; Pet'r Ex. 22, at TSSB 356, "3 Packages to Choose From".
[226] Tr. Vol. 1 at 33:1–17.
[227] Tr. Vol. 2 at 32:23–33:8.
[228] Resp't Ex. 38, at RX38_11, ¶ 38.

distributions, were established by Respondent's materials, Gray's testimony, Respondent's data, and Respondent's expert.

Finding 16 requires a limited factual refinement, but its central description of the distribution structure was proven. Respondent's website and expert evidence confirmed that purchasers received daily TXC based on their proportional hash power share allocations.[229]

The hearing did establish a narrow qualification to the final sentence of Finding 16. The Order categorically states purchasers "never receive any mining hardware."[230] Respondent offered evidence that a small minority of purchasers elected to receive qualifying home mining machines.[231] As discussed in Section I.B., the overwhelming majority of purchasers did not take possession of mining rigs, and even the home miner exception did not alter the centralized structure of the overall offering.[232] Finding 16 should therefore be modified to reflect that limited exception while otherwise being affirmed.

D. Affiliate Compensation Program

Findings 20 through 22 of the Order describe the affiliate compensation program. The hearing confirmed both the existence of the program and its basic mechanics. Respondent offered purchasers the opportunity to receive compensation in cash-equivalent assets, TXC, or additional hash power shares for referring additional Mining Package purchasers.[233] Respondent Gray's testimony tied the program directly to him; he admitted purchasers' did not create the

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[229] Pet'r Ex. 22, at TSSB 386, ¶¶ 2-3; Resp't Ex. 38, at RX38_20 ¶¶ 74–76; Tr. Vol. 2 at 33:19–34:7.
[230] ENF-26-CDO-1893 at FOF 16.
[231] Resp't Ex. 38, at RX38_19, ¶¶ 71–72.
[232] Tr. Vol. 3 at 211:3–212:13.
[233] ENF-26-CDO-1893 at FOF 20–22; Pet'r Ex. 1, at TSSB 104, "Rapid Rewards Bonus", and at TSSB 105 ¶ 1; Resp't Ex. 4 (MineTXC Commission Records).

compensation rules and testified, "It was created by me."[234] Respondent's system then tracked points and awarded compensation under those rules created by Gray.[235] Respondent Gray also agreed he maintained an affiliate program through which purchasers who referred other persons to purchase Mining Packages could receive commissions or bonuses for doing so.[236]

E. Widespread Promotion and Solicitation

Findings 23 through 25 allege the Mining Packages were promoted broadly across Texas, the United States, and internationally through online and offline channels, including social media, radio, billboards, sponsorships, and other promotional activity.[237] The hearing established widespread promotion, although the final Order need not attribute every advertisement in the record personally to Respondent or treat every promotional item as identical in content.

Respondent Gray regularly appeared in presentations concerning TEXITcoin and MineTXC and publicly discussed Mining Packages, project developments, TXC price and liquidity, and exchange listings.[238] The admitted video record contains numerous examples of Respondent Gray communicating publicly about the project.[239] Respondent Gray also expressly encouraged participants to spread the message and recruit others and the affiliate program financially rewarded successful referrals.[240]

The offline promotional evidence was equally concrete. Respondent Gray testified purchasers sometimes paid directly for airport advertisements and billboards and purchasers also

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[234] Tr. Vol. 1 at 116:5–18.
[235] *Id.*
[236] *Id.* at 117:7–23, 118:3–15.
[237] ENF-26-CDO-1893 at FOF 23–25.
[238] Tr. Vol. 1 at 27:7–29:6.
[239] *See, e.g.,* Pet'r Ex. 120A-E, 121A, 131.
[240] Tr. Vol. 1 at 117:7–23, 118:3–15; Pet'r Ex. 1, at TSSB 104-105

paid for wrapped luxury cars with reimbursements made for the vehicle wraps.[241] The record also contains admitted business records concerning payments for iHeart radio advertising.[242] Actual purchasers encountered the Mining Package offering campaign in the marketplace as well: Marcus Hesse testified he saw a TEXIT billboard in Alabama and later saw TEXIT advertisements throughout the Dallas airport, while Brett Hinson testified he had seen advertisements on television and billboards and heard them on the radio.[243]

Importantly, online solicitation was pervasive. Respondent used recurring video presentations, maintained public websites and Help Center materials, and compensated purchasers referring other prospective purchasers through the affiliate compensation structure. Respondent Gray's counsel acknowledged during the evidentiary dispute over particular promotional materials that there was no dispute people were selling or making referrals for Mining Packages and the record contained ample evidence Respondent Gray encouraged people to "spread the message" and recruit others.[244] The record therefore supports the central substance of Findings 23 through 25: this was a broadly promoted offering, not a private or isolated series of transactions.

G. Purchaser Testimony Corroborates Respondent's Offering Materials

The documentary evidence coupled with Respondent's admissions without consideration of any purchaser testimony is sufficient to establish the facts necessary to prove the Mining Packages issued and sold by Respondent are securities as well as the facts and circumstance surrounding their offer and sale. Nevertheless, the testimony of actual purchasers provides useful corroboration. Petitioners do not rely on any single purchaser's subjective understanding to define

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[241] Tr. Vol. 2 at 48:9–23.
[242] Pet'r Exs. 5–7, 9–10.
[243] Tr. Vol. 2 at 165:8–166:1, 239:8–15.
[244] *Id.* at 91:10–93:16.

the offering, but rather their testimony confirms how the offering materials and sales system operated in practice.

Marcus Hesse testified he saw TEXIT advertising, visited what he understood to be the official MineTXC website, and purchased five $995 Mining Packages, receiving a sixth package through a promotion.[245] He described the offering as essentially a "set and forget" arrangement wherein after signing up, the purchaser would begin receiving "income," and becoming a sales agent was optional.[246] His understanding was purchasing the Mining Packages entitled him to daily TXC rewards, and he testified distributions continued after purchase.[247]

Charles Gamero provided additional corroboration. He understood he would be buying a Mining Package which was a $995 "seat" that would mine TXC for him.[248] Mr. Gamero ultimately purchased ten packages through a combination of referrals and Respondent's website. He testified he continued to receive TXC daily.[249] He also described the recruitment incentives: participants could receive additional hash power shares or cash bonuses for recruiting others.[250]

A Texas purchasers, Bret Hinson, testified he had seen TEXIT advertisements on television and billboards and heard them on the radio before purchasing a Mining Package.[251] After reviewing the TEXITcoin, MineTXC, and Blockchain Mint websites, he understood purchasers would contribute money to the mining operation and receive a share of the TXC mined each day.[252] Mr. Hinson testified he was not involved in the mining operations, believed Gray was responsible

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[245] Tr. Vol. 2 at 165:8–168:2, 170:6–18, 177:21–178:1.
[246] *Id.* at 172:6–173:3.
[247] *Id.* at 174:7–11, 175:2–14.
[248] Tr. Vol. 2 at 204:14–205:17.
[249] *Id.* at 205:15–207:24.
[250] *Id.* at 214:13–215:6.
[251] Tr. Vol. 2 at 239:8–15.
[252] *Id.* at 239:13–240:2.

for the operation, maintenance, and security of the facilities, and in fact received Mining Package payouts daily without being required to do anything beyond purchasing the package.[253]

IX. THE OFFERING CONTAINED MATERIAL OMISSIONS AND MISLEADING STATEMENTS

The registration violations established above are independent of these fraud allegations and on their own establish a threat of immediate and irreparable public harm in that each registration violation is designated as a criminal offense under Section 4007.201 of The Securities Act and is classified as a third-degree felony offense. As shown previously in this brief, the Mining Packages are securities in the form of investment contracts; they were not registered or permitted for sale; and Gray was not registered as a dealer. The fraud and misleading statements findings present a separate question: whether, in connection with an offering in which Respondent Gray affirmatively used his experience, leadership, and the enterprise's operations to promote the Mining Packages, prospective purchasers were given the material countervailing information necessary to evaluate those representations before parting with their money.

Texas courts apply an objective materiality standard to omissions under The Securities Act. An omitted fact is material when there is a substantial likelihood that it would assume actual significance in the deliberations of a reasonable investor and would significantly alter the "total mix" of information available in deciding whether to invest.[254]

Finding 28 should be evaluated using its precise language. It does not allege Respondent never mentioned the Mulligan Mint bankruptcy in any forum or communication. It alleges, "in

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[253] *Id.* at 240:19–242:3.
[254] *Bridwell v. State*, 804 S.W.2d 900, 903–04 (Tex. Crim. App. 1991) (adopting *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976)); *see also In the Matter of the Stamford Group, Inc; Stamford Portfolio Management, LLC; Stamford Group 2004c, LLC; Deborah A. Wilcox; Keith Holcomb; and David R. Jung,* 2010 WL 3342748 at 10-12.

connection with the offer and sale of the Mining Packages," TEXITcoin, MineTXC, and Blockchain Mint touted Gray's experience while intentionally failing to disclose that Mulligan Mint filed for Chapter 11 bankruptcy, was converted to Chapter 7 liquidation, and ultimately closed. The hearing supports that allegation as written.

A. Gray's Touted Experience and the Mulligan Mint Bankruptcy

1. Gray Touted His Experience to Sell Mining Packages

Gray's prior business experience was significant to the offering; Respondent Gray affirmatively made it part of the sales presentation. The TEXITcoin website devoted space to "Who created TEXITcoin?" and highlighted selected events from Gray's history. Gray admitted the website "showcases a couple of key things in my background," including his work with the American Open Currency Standard, creation of a physical Bitcoin coin, testimony before a congressional subcommittee, and creation of a Bitcoin cold-storage coin.[255] The same materials described Gray as the "Founder and Fearless Leader" and represented he had "decades of experience in honest money." Gray agreed with that description at the hearing.[256]

Blockchain Mint used the same selective history. Its public "Our Story" page told prospective customers Gray's team began the American Open Currency Standard in 2008, gave Bitcoin a physical form, testified before Congress, pioneered a Bitcoin cold-storage wallet, and placed more than 100,000 coins into circulation with "100% accuracy."[257] Respondent's TEXITcoin promotional materials likewise represented the project had "the playbook" and "the

[255] Tr. Vol. 1 at 120:5–122:6; Pet'r Ex. 23, at TSSB 428 ("Who Created TEXITcoin?"), at TSSB 431 ("An Intro From Bobby Gray…"), at TSSB 436 ("Core Team").
[256] Tr. Vol. 1 at 122:23–123:6.
[257] Pet'r Ex. 18, at TSSB 295.

leadership," specifically invoking "decades of experience in honest money and alternative currencies."[258]

The significance of this evidence is heightened by Gray's own characterization of his history at hearing. When Respondent Gray's counsel asked why he discussed Mulligan Mint and his prior bankruptcy, Gray did not distance that experience from the credibility he was selling. He testified he viewed "those experiences as being beneficial to the authenticity that I bring to this project."[259] On direct examination the day before, Gray similarly described his history as including "things I did well" and "things I did poorly."[260] Respondent therefore cannot plausibly treat Gray's prior experience as immaterial background after affirmatively presenting selected portions of that experience as evidence of his leadership, expertise, and authenticity.

That affirmative promotion matters to the materiality analysis. Under *Bridwell*, the question is whether omitted information would assume actual significance in the deliberations of a reasonable investor and significantly alter the "total mix" of information available, not whether Respondent Gray was required to catalogue every adverse event in Gray's past.[261]

2. Mulligan Mint Entered Chapter 11 and Was Converted to Chapter 7

Respondent's history included Mulligan Mint, Incorporated. Gray admitted he was not merely associated with Mulligan Mint; he was its founder and, at one time, its president.[262] He also acknowledged the company's 2013 bankruptcy.[263] Petitioner introduced the certified federal

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[258] Pet'r Ex. 23, at TSSB 435, "Come Run With Us."
[259] Tr. Vol. 2 at 9:13–19.
[260] Tr. Vol. 1 at 125:2–13.
[261] *Bridwell v. State*, 804 S.W.2d 900, 903–04 (Tex. Crim. App. 1991) (adopting *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976)).
[262] Tr. Vol. 1 at 123:7–10.
[263] *Id.* at 123:11–25.

bankruptcy records as Petitioner's Exhibit 40 without objection.[264] Those records establish Mulligan Mint entered bankruptcy under Chapter 11 and the proceeding was later converted to Chapter 7.[265]

That history matters in this context. Respondent Gray was not required to publish a catalogue of every adverse event in Gray's life merely because he founded TEXITcoin. But once Respondent Gray affirmatively invoked his prior ventures and "decades of experience" as a reason to trust his leadership of an enterprise taking substantial sums from Mining Package purchasers, the materially adverse outcome of a prior venture he founded and led could not fairly be separated from the favorable history being presented. The issue is the completeness of the picture Respondent chose to present.

The circumstances closely parallel *SEC v. Merchant Capital, LLC*, where the Eleventh Circuit held omission of an organizer's prior bankruptcy was materially misleading because the offering materials had affirmatively touted his business experience and qualifications.[266] The court did not hold every prior bankruptcy must be disclosed. Rather, the bankruptcy was material in light of the favorable experience the promoters themselves chose to emphasize.[267] The same reasoning applies here: Respondent Gray made his history and experience part of the case for purchasing Mining Packages, making materially adverse information related to that touted experience part of the "total mix" a reasonable purchaser would consider.

That principle is particularly applicable here because Respondent Gray chose the portions of his history to present to prospective purchasers. The issue is therefore not whether every

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[264] Tr. Vol. 2 at 118:6–24; Pet'r Ex. 40.
[265] Pet'r Ex. 40, at TSSB 512-515.
[266] 483 F.3d 747, 770–71 (11th Cir. 2007).
[267] *Id.*

bankruptcy must invariably be disclosed. It is whether Respondent Gray could affirmatively present Gray's selected successes, experience, and qualifications as reasons for confidence in the current offering while omitting a materially adverse outcome bearing directly on that same experience. *Bridwell* and *Merchant Capital* support the conclusion they could not.

3. Gray Did Not Literally Remain Silent About the Bankruptcy

The hearing established a factual refinement Petitioner directly acknowledges. Gray did not literally remain silent about Mulligan Mint or the bankruptcy throughout the life of the offering. The record contains recorded calls in which the bankruptcy was discussed. Respondent's Exhibit 26 included a reference to a bankruptcy, although Gray admitted the excerpt did not identify Mulligan Mint by name.[268] Petitioner's Exhibit 131 contains a September 2, 2025 Miner Update in which Gray expressly identified Mulligan Mint.[269] Respondent Gray also introduced an August 19, 2025 Zoom excerpt in which Gray discussed the Mulligan Mint bankruptcy.[270] Gray further testified that Mulligan Mint and his prior bankruptcy came up "from time to time" in calls and Telegram groups, and a Telegram topic called "Philosophy and Character" contained links, videos, and references to bankruptcy-court documents.[271] Petitioner does not dispute that evidence.

However, this evidence does not contradict Finding 28. Finding 28 does not allege that Gray never mentioned Mulligan Mint or the bankruptcy. It alleges, "in connection with the offer and sale of the Mining Packages," Respondent Gray touted his experience while intentionally failing to disclose the bankruptcy. The relevant question is therefore whether the references identified by Respondent Gray establish disclosure of the bankruptcy to prospective purchasers in

[268] Tr. Vol. 1 at 126:10–127:9.
[269] *Id.* at 127:10–128:24.
[270] Tr. Vol. 2 at 4:20–6:10; Resp't Ex. 55A.
[271] Tr. Vol. 1 at 125:2–16; Tr. Vol. 2 at 7:21–9:12.

connection with the favorable experience representations used to offer and sell the Mining Packages. Respondent's haphazard mentions of the Mulligan Mint bankruptcy are not sufficient disclosures under Texas securities law when the failure or success of the mining enterprise depended upon Respondent's abilities to operate such an enterprise.

4. The Telegram Evidence Does Not Establish Disclosure in Connection With the Offer and Sale

The Telegram evidence likewise does not establish a prospective Mining Package purchaser received the Mulligan Mint information before purchase. Gray described the "Philosophy and Character" material as a topic within the Telegram community and testified he directed people there when questions about Mulligan Mint arose.[272] But nothing in the purchase process required a prospective purchaser to review that topic, acknowledge the bankruptcy information, or certify receipt of it before paying for a Mining Package. The same problem existed with the recorded calls. Gray admitted prospective purchasers were not required to watch the Zoom presentations that mentioned the bankruptcy and were not required to acknowledge receiving a Mulligan Mint bankruptcy disclosure before investing.[273] Although FE Fuselier testified potential purchasers could view at least one Telegram chat, the record did not establish the specific bankruptcy information was delivered to or required to be reviewed by prospective purchasers before purchase.[274]

Thus, the Telegram evidence may establish bankruptcy information was available somewhere within Respondent Gray's broader communications, but it does not establish the

[272] Tr. Vol. 2 at 8:5–9:12.
[273] Tr. Vol. 1 at 128:14–129:13.
[274] Tr. Vol. 2 at 151:11–22.

bankruptcy was sufficiently disclosed to prospective purchasers in connection with the favorable representations concerning Gray's experience that were used to offer and sell the Mining Packages.

5. The YouTube References Must Be Evaluated for Timing, Content, and Context

The existence of a public video somewhere on the internet is not *prima facie* evidence of sufficient disclosure under Texas securities law. Timing matters. The September 2, 2025 presentation in Petitioner's Exhibit 131 occurred after Mining Packages were already being sold and after many purchasers had already paid for their Mining Packages. Gray admitted both facts.[275] The presentation was titled a "TEXITcoin Miner Update" and was directed to existing purchasers, although Gray testified the recordings were later shared publicly on YouTube.[276] A disclosure made after a purchaser has already invested cannot inform that purchaser's original decision. On this record, the limited references identified by Respondent does not provide a sufficient, pre-purchase disclosure of the Mulligan Mint bankruptcy considering the favorable experience narrative that was part of the Mining Packages offering. [277]

6. The Limited Bankruptcy References Do Not Contradict Finding 28

Respondent Gray's evidence of limited and haphazard references to the Mulligan Mint bankruptcy does not require modification of Finding 28 because the finding does not allege complete silence in every communication or forum. Its language is narrower. Finding 28 alleges,

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[275] Tr. Vol. 1 at 128:7–19.
[276] *Id.* at 128:20–24.
[277] *See Sec. & Exch. Comm'n v. Haarman*, No. 1:21-CV-235-DAE, 2025 WL 2429058, at *4-6 (W.D. Tex. Mar. 7, 2025), opinion clarified, No. 1:21-CV-235-DAE, 2025 WL 2429047 (W.D. Tex. June 9, 2025) (The court determined the investment offering was materially misleading as a matter of law because the organizers touted their professional experience while failing to disclose one organizer's prior bankruptcy); I*n the Matter of Ecoenergy Group, Inc. Dba Intermodal Wealth; Intermodal Wealth, Inc.; John Patrick Acord; Steven Patrick Jones; and Donald Drabik*, Tex. SOAH 2013 WL 12629538 at 19 (PFD affirming emergency order that failing to disclose filing for bankruptcy was a material fact when accompanied with an offer for securities).

"in connection with the offer and sale of the Mining Packages," Respondent Gray, through MineTXC, TEXITcoin, and Blockchain Mint, touted Gray's experience while intentionally failing to disclose the Mulligan Mint bankruptcy. The timing and context of the disclosure is key.

The hearing evidence supports Finding 28. The Respondent affirmatively promoted selected portions of Gray's history and accomplishments to prospective Mining Package purchasers. Gray admitted the bankruptcy did not appear on the website presentation of his accomplishments.[278] He further admitted prospective purchasers were not required to watch the presentations in which the bankruptcy was discussed and were not required to acknowledge receiving a Mulligan Mint bankruptcy disclosure before purchasing.[279] Many purchasers had already paid by the time of the September 2, 2025 Miner Update in which Mulligan Mint was expressly discussed.[280]

The limited references to this bankruptcy identified by Respondent establish Gray knew of the bankruptcy and was capable of discussing it when he chose to do so. They do not establish Respondent disclosed this adverse history in connection with and at the same time he made the favorable representations concerning Gray's experience that were used to offer and sell the Mining Packages. To the contrary, the record shows a selective presentation: Respondent affirmatively presented favorable portions of his experience to prospective purchasers while omitting the Mulligan Mint bankruptcy from that presentation.

That distinction is consistent with *Bridwell*, *Merchant Capital*, *Haarman*, and the administrative decision in *Ecoenergy*. The issue is not whether the bankruptcy could be discovered

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[278] Tr. Vol. 1 at 125:14–16.
[279] *Tr. Vol. 1* at 128:25–129:13.
[280] *Id.* at 125:14–16, 128:14–129:13, and 128:7–19.

somewhere in the public records or Respondent Gray's broader universe of communications. The issue is whether, having affirmatively placed Gray's experience and qualifications at issue in promoting the offering, Respondent Gray omitted information that would materially alter the total mix of information to a reasonable prospective purchaser. The record supports that conclusion.

B. The Limited Bankruptcy Disclosures Do Not Defeat the Order

Respondent has previously attempted, in argument, to shift the burden of disclosure to prospective purchasers: because the bankruptcy could be found in old public court records, a 2013 news article, selected YouTube recordings, or a Telegram discussion, Respondent Gray contends there was no actionable omission.[281] But the record and the legal analysis must be evaluated in the context of the offering Respondent Gray actually made. Respondent Gray chose to put his experience at the center of the promotional narrative. They highlighted favorable milestones, described "decades of experience," portrayed Gray as the project's "Founder and Fearless Leader," and invoked his background as part of the reason purchasers should have confidence in the project.[282] Having elected to present that affirmative narrative, Respondent Gray cannot cure an incomplete picture merely by showing contrary information was discoverable somewhere else.

Texas securities law likewise does not make materiality turn on whether adverse prior conduct has already produced a formal criminal charge, complaint, or investigation.[283] The inquiry remains whether the omitted information was material to the prospective investor's decision.

Purchaser testimony supplies additional corroboration of that distinction. Mr. Hesse testified that he was not informed of Gray's prior company bankruptcy before purchasing and

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[281] *See* Tr. Vol. 2 at 10:21–12:6; Resp't Ex. 29.
[282] Tr. Vol. 1 at 120:5–123:6; Pet'r Ex. 23, at TSSB 428 ("Who Created TEXITcoin?"), at TSSB 431 ("An Intro From Bobby Gray…"), at TSSB 436 ("Core Team"); Pet'r Ex. 18, at TSSB 295.
[283] *Gant v. State*, 814 S.W.2d 444, 448–50 (Tex. App.—Austin 1991, no pet.).

knowledge of the Mulligan Mint bankruptcy could have affected both whether and how much he purchased.[284] Mr. Hinson likewise testified he was unaware of the Mulligan Mint bankruptcy and the information would have changed his purchase decision.[285] The earliest investor who discussed the bankruptcy on the record, Mr. Walsh, testified he invested on November 23, 2024.[286] Mr. Walsh claimed he first heard about the bankruptcy on a miner's update Zoom meeting held on November 26, 2024.[287] The purchaser testimony admitted at the hearing therefore did not identify a purchaser who received the Mulligan Mint bankruptcy information before making the initial Mining Package purchase. Those witnesses do not establish what every purchaser knew, but their testimony is consistent with the documentary record: limited availability of information somewhere in the broader ecosystem was not the same as a clear disclosure accompanying the standardized sales presentation.

C. Finding 28 Should Be Affirmed

Finding 28 should be affirmed as written. Petitioner acknowledges Gray discussed the Mulligan Mint bankruptcy in certain recorded calls, videos, and Telegram communications. But Finding 28 does not allege the bankruptcy was never mentioned. It addresses Respondent Gray's conduct "in connection with the offer and sale of the Mining Packages."

The hearing established Respondent Gray affirmatively touted Gray's selected experience and accomplishments to prospective purchasers; the Mulligan Mint bankruptcy was omitted from that favorable presentation; Gray knew of the bankruptcy; prospective purchasers were not required to receive or acknowledge bankruptcy information before purchasing; and at least some

[284] Tr. Vol. 2 at 170:23–171:11.
[285] *Id*. at 243:1–7.
[286] Tr. Vol. 3 at 239:10-13.
[287] *Id.* at 239:19-240:2; Resp't Ex. 26; Tr. Vol. 1 at 235:22-236:13.

of the bankruptcy discussions identified at the hearing occurred only after Mining Packages were already being sold and purchasers had already invested. Respondent Gray's reliance on FE Fuselier's acknowledgment that Gray discussed the bankruptcy in certain communications does not establish otherwise. That testimony establishes those communications existed; it does not establish the bankruptcy was disclosed in connection with the favorable presentation of Gray's experience used to offer and sell the Mining Packages. Finding 28 alleges the latter. It does not allege Gray maintained absolute silence concerning the bankruptcy in every communication or forum.

Under *Bridwell*, the omitted bankruptcy information was material because it bore directly on the favorable experience Respondent touted to prospective purchasers and altered the total mix of information available to such purchasers so they could evaluate those experience representations. *Merchant Capital*, *Haarman*, and *Ecoenergy* reinforce this conclusion of materiality in the specific context of omission of information about a prior bankruptcy when experience or qualifications are affirmatively touted. The limited and careless bankruptcy references identified at the hearing therefore do not require modification of Finding 28. They do not contradict this finding. Finding 28 should be affirmed.

D. MineTXC Financial and Operational Disclosures

The hearing also produced evidence that further informed the Order's fraud allegations concerning Respondent's financial condition and mining operations; Respondent Gray disclosed some financial and operational information. Those disclosures, their timing, and the narrower findings supported by the record are addressed in Section XIV.

X. DANAGGER RESOURCES AND THE UNDISCLOSED CONTROL OF PURCHASER FUNDS

The Danagger Resources evidence illustrates the distinction between what Respondent Gray explained at the hearing and what Respondent Gray disclosed to purchasers before accepting their money. The hearing established Danagger Resources was not a separate legal entity but rather an assumed name used by Gray and he had a business bank account bearing the Danagger Resources name.[288] But that explanation came at the contested case hearing. The contemporaneous payment instructions did not tell prospective purchasers "Danagger Resources" meant Robert J. Gray, did not identify Respondent Gray as the owner or principal behind the payee, and did not provide any Danagger specific financial information. Respondent Gray admitted those facts.[289] This is a failure to disclose.

A. Purchasers Were Directed to Make Checks Payable to Danagger Resources

Respondent offered ordinary purchasers multiple ways to pay for Mining Packages. For purchasers who elected to use a mailed paper check, the MineTXC Help Center provided payment instructions. The article instructed purchasers where to send their checks and directed the checks be made payable to "Danager Resources."[290] Respondent Gray did not author the Help Center article himself, but he admitted the people who prepared it worked for MineTXC - "which is me."[291] He further admitted MineTXC accepted money by check, the displayed instructions told purchasers where to send those checks, and the instructions directed the checks to Danagger Resources.[292] Gray testified unequivocally Danagger Resources was an assumed name for him.[293] When asked about Danagger's relationship to MineTXC, Gray testified it had "the same

[288] Tr. Vol. 1 at 134:11–25, 136:17–25.
[289] *Id*. at 135:1–11, 136:10–137:1.
[290] Pet'r Ex. 1, at TSSB 84, Section 2.; Tr. Vol. 1 at 133:1–134:10.
[291] Tr. Vol. 1 at 133:17–25.
[292] *Id.* at 134:1–10.
[293] *Id.* at 134:11–14; Tr. Vol. 2 at 27:15–17.

relationship as MineTXC to me."[294] When asked who owned and controlled Danagger, he answered: "I know who owns and controls me. That's me."[295] Respondent Gray also testified he maintained a business bank account established under the Danagger Resources assumed name.[296] Thus, the name appearing on the check instructions was not the name of an unrelated payment processor, independent custodian, or separate operating company. It was an assumed name through which Gray maintained a business banking relationship and accepted purchaser funds.

B. Danagger Resources Received $3-$10 Million in Purchasers' Funds

The use of Danagger Resources was financially significant. On the second day of the hearing, Respondent Gray estimated somewhere between $3 million and $10 million was paid by check to Danagger Resources for mining packages.[297] He contrasted that amount with approximately $147 million paid into the Mining Package program overall.[298] This is Gray's own ballpark estimate, not an audited accounting, and the final Order should characterize it accordingly. Even at the low end, however, the testimony establishes millions of dollars in purchasers' funds were directed through checks payable to Danagger Resources.

C. The Relationship Between Gray and Danagger Resources Was Not Disclosed to Purchasers

The critical evidence is Gray's testimony about the payment instructions themselves. When shown the Help Center page directing prospective purchasers to make checks payable to Danagger Resources, Gray was asked whether the page identified Danagger's owners or principals. He initially explained Danagger was an assumed name rather than an LLC or corporation. The

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[294] Tr. Vol. 1 at 134:19–22.
[295] *Id*. at 134:23–25.
[296] *Id*. at 136:17–24.
[297] Tr. Vol. 2 at 28:11–17.
[298] *Id.*

question was repeated: the payment instructions did not provide prospective purchasers any information identifying Danagger's owners or principals? Gray answered, "You're absolutely right."[299]

That admission is unusually direct. The payment instructions disclosed the name "Danager Resources"; they did not disclose the fact Danagger Resources was Gray. Even Respondent's counsel acknowledged the distinction during the examination, stating the document disclosed the money was going to Danagger Resources but "does not disclose that it was him."[300] The hearing therefore established both propositions simultaneously: purchasers paying by check were told the name of the payee, but they were not told the payee was an assumed name for Gray.

D. Financial and Custodial Information Concerning Danagger Resources Was Not Disclosed

The same payment page did not provide Danagger specific financial information. When asked whether purchasers were given information concerning Danagger Resources' financial condition, Gray responded purchasers had access to information at the top of the MineTXC website, "which is me," but admitted they were not provided additional financial information concerning him through Danagger.[301] He then explained why the check was made payable to Danagger rather than to Robert Gray: "Because I had a business bank account that was set up for the Danagger Resources assumed name."[302] When asked why that fact was not disclosed on the payment page, Gray answered: "I don't know."[303]

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[299] Tr. Vol. 1 at 135:1–11.
[300] *Id*. at 137:21–138:3.
[301] Tr. Vol. 1 at 136:10–21.
[302] *Id*. at 136:22–24.
[303] *Id*. at 136:25–137:1.

The distinction is material to understanding the transaction. The offering presented MineTXC as the mining operation and instructed certain purchasers to make checks payable to a differently named payee. The hearing established both names ultimately led back to Gray. A reasonable purchaser evaluating who was receiving and controlling the purchase money would consider it important the designated payee was not a separate company or independent custodian but Gray's assumed name and business bank account. The omission bears directly on the identity of the person receiving purchaser funds and the structure through which those funds were controlled.

Respondent Gray emphasizes FE Fuselier did not identify a purchaser who paid by check and testified the Danagger information personally affected that purchaser's decision. But materiality under The Securities Act is objective.[304] The question is not whether Petitioner produced a purchaser who testified to subjective reliance; it is whether the omitted information would assume significance to a reasonable purchaser evaluating the identity of the person receiving and controlling the purchaser's funds.

The final Order should therefore conform the Danagger findings to what the hearing actually proved. It should not describe Danagger Resources as an independent entity with separate undisclosed capitalization. It should find Danagger Resources was Gray's assumed name; MineTXC instructed purchasers using the paper check option to make checks payable to Danagger Resources; Gray estimated between $3 million and $10 million was paid through such checks; the payment instructions did not identify Gray as the owner or principal behind Danagger; and the

[304] *Bridwell v. State*, 804 S.W.2d 900, 903–04 (Tex. Crim. App. 1991).

page did not explain the payee was Gray's assumed name or the associated business bank account was his.[305]

XI. PURCHASERS WERE NOT TOLD THE TRUE ORGANIZATIONAL STRUCTURE OF THE OFFERING

The hearing clarified a basic fact was obscured in the offering: the various names used throughout the project did not represent a collection of separate companies but were instead all aliases used by Gray. TEXITcoin, MineTXC, and Blockchain Mint were names Gray used in connection with different aspects of the project, while Danagger Resources was an assumed name through which Gray accepted purchaser checks. Gray testified the first three were not separate legal entities and Danagger Resources was him.[306] Respondent Gray now relies on those facts to narrow the identity of the proper respondent. But the same evidence establishes the disclosure problem. Prospective purchasers encountered multiple organizational names without being told the simple fact Respondent emphasized at the hearing: the economic actor behind them all was Robert J. Gray.

A. Respondent Presented Multiple Named Operations to Purchasers

The offering operated through several distinct names. Gray founded TEXITcoin, MineTXC, and Blockchain Mint.[307] He was a principal public face of TEXITcoin, spoke publicly about MineTXC and the Mining Packages, and spoke publicly about Blockchain Mint.[308] The MineTXC website was publicly accessible, in Gray's words, "available to the entire world," and

[305] Tr. Vol. 1 at 134:1–137:1; Tr. Vol. 2 at 27:11–28:17.
[306] Tr. Vol. 1 at 134:11–25, 138:6–139:8.
[307] *Id*. at 27:3–28:4.
[308] *Id.*

was available to prospective purchasers.[309] The offering materials likewise used the TEXITcoin and MineTXC names throughout the project and its Mining Package program.[310]

Gray ultimately confirmed these names were in fact used in communications with prospective purchasers. After testifying MineTXC, TEXITcoin, and Blockchain Mint were not separate legal entities, he agreed the names appeared on the websites and calls and were used in communications with prospective purchasers.[311] The multiplicity of names was therefore not merely a pleading artifact created by the Order. It reflected the way the offering was actually presented to the public.

B. The Hearing Established the Named Operations Were Not Separate Companies

As established in Section III, the hearing resolved the organizational question: the named operations were not separate companies, and Gray was the person acting through them.[312] The evidence therefore supports modifying the Order to conform the names to their actual relationship with Gray, not setting aside the conduct proved under those names.

C. The True Relationship Between Gray and the Named Operations Was Not Disclosed

The organizational clarification revealed at the hearing was not disclosed to prospective purchasers before they invested. Gray agreed the names MineTXC, TEXITcoin, and Blockchain Mint appeared in websites, calls, and communications with prospective purchasers.[313] Yet he also agreed that purchasers were not told TEXITcoin and Blockchain Mint were not registered with the Texas Secretary of State, and he did not identify a disclosure telling prospective purchasers

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[309] *Id*. at 30:1–16.
[310] *See* Pet'r Exs.. 1and 22.
[311] Tr. Vol. 1 at 138:6–139:8.
[312] *See* Tr. Vol. 1 at 134:11–25, 138:6–139:8; Resp't Ex. 68.
[313] Tr. Vol. 1 at 138:24–139:8.

MineTXC was an alias he used in business.[314] Petitioner's Exhibits 41 through 47, the certified Secretary of State records, were admitted immediately following that testimony.[315]

This section does not depend on proving purchasers affirmatively believed each name was a separately incorporated company. Respondent Gray chose to conduct the offering through multiple names but did not disclose to prospective purchasers before purchase that these names were all just *alter egos* of Gray.

D. The Omission Was Material to Identifying Who Was Receiving and Controlling **Purchasers' Money**

The omitted organizational information obfuscated the true identity of the counter parties and third parties involved in the transaction; they were all Gray. A purchaser evaluating a Mining Package was entitled to understand whether MineTXC was a company, whether Blockchain Mint was a separate business, why a MineTXC purchase could require payment to Danagger Resources, and who ultimately owned and controlled the operation receiving and deploying the purchase money. Those are not unimportant, minor details divorced from the investment decision. They identify (1) how many entities are involved in an operation and (2) the people responsible for the enterprise and exercising control over purchasers' funds.

The Respondent may argue the public materials prominently identified Gray as founder and therefore purchasers knew he was involved. But identifying Gray as a founder or public leader is not the same as disclosing the legal structure of the offering. The relevant omitted fact was not that Gray participated. It was that the multiple named operations presented throughout the offering were not separate companies and, in Respondent Gray's own account at the hearing, the conduct

[314] *Id*. at 139:9–21.
[315] *Id*. at 139:23–140:8; Pet'r Exs. 41-47.

and control ultimately traced back to Gray. Mr. Gamero testified if he had known all of the mining sites and assets were held in Respondent Gray's name, individually, it would have stopped him from investing.[316] The Danagger payment instructions demonstrate the difference clearly: a purchaser could know who Bobby Gray was and still not know the differently named payee receiving the purchaser's check was simply Gray operating under an assumed name.

The record is especially explicit as to Blockchain Mint and Danagger Resources. Respondent Gray's own evidence identifies Blockchain Mint as an assumed-name business owned by Robert Gray individually.[317] Respondent Gray testified that Danagger Resources was his assumed name and that he maintained a business bank account under that name.[318] As to TEXITcoin and MineTXC, Gray testified that he founded both, that neither was a separate legal entity, and that the names were used in the project and in communications with purchasers.[319] The requested d/b/a formulation captures the economic and evidentiary reality established at hearing without manufacturing separate entities that Respondent Grays insists never existed.

XII. OTHER FINANCIAL AND OPERATIONAL DISCLOSURES

The hearing established Respondent disclosed some financial, operational, personnel, maintenance, and security information. Petitioner therefore does not ask the Honorable Administrative Law Judge to find those subjects were never addressed. The final Order should accurately reflect the facts established at the hearing. However, the legal inquiry focuses on what material information was provided to prospective Mining Package purchasers, in what form and at what time. Disclosures of all material information must be made before purchasers' committed

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[316] Tr. Vol. 2 at 217:5-12.
[317] Pet'r Ex. 1, at TSSB 84. Section 2.; Tr. Vol. 1 at 133:1–134:10.
[318] Tr. Vol 1 at 133:17-25
[319] *Id.* at 134:1–10.

funds, as distinguished from information appearing in later Zoom calls, miner updates, community communications, or other materials a purchaser was not required to review prior to purchase.

A. Assets, Liabilities, and Capitalization

The record does not support an absolute finding Respondent disclosed no financial information. Respondent Gray testified the MineTXC website contained charts showing use of funds and other statistics and prospective purchasers could access "some of our basic financial information" before reaching the enrollment form.[320] FE Fuselier likewise acknowledged the website displayed information he understood to concern income, profits, and accumulated amounts.[321] The final Order should recognize those disclosures.

But the hearing did not establish prospective purchasers received a balance sheet, a statement of assets and liabilities, or a complete disclosure of the financial condition of the person actually conducting the mining enterprise. When Respondent Gray was asked whether purchasers were provided a MineTXC balance sheet before buying, he did not identify one. Instead, he pointed to the website charts and "basic financial information."[322] That distinction matters, particularly after the hearing established MineTXC itself was not a separate legal entity with an independent balance sheet. Respondent Gray's position was MineTXC, TEXITcoin, and Blockchain Mint had no separate assets or liabilities because they were not separate entities.[323] Gray then testified the mining equipment and related assets were owned by him.[324]

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[320] Tr. Vol. 1 at 129:18–130:8.
[321] Tr. Vol. 2 at 152:17–153:5.
[322] Tr. Vol. 1 at 129:18–130:8.
[323] Tr. Vol. 2 at 38:13–21.
[324] *Id.* at 38:22–39:12.

The final Order should therefore avoid the imprecise proposition that MineTXC failed to disclose a corporate balance sheet it did not have. The stronger and record-supported finding is, while Respondent Gray disclosed certain top line figures and use of funds information, the record does not establish prospective purchasers were given a complete pre-purchase picture of the assets, liabilities, capitalization, and ownership structure of the person actually receiving and deploying their funds.

B. Management and Qualifications

The hearing likewise established Respondent did provide some information about Respondent's staff. FE Fuselier acknowledged the website contained information about personnel before the Order, although he characterized it as "very minimal" and neither complete nor extensive.[325] He also acknowledged personnel and qualifications were discussed periodically during optional Zoom calls.[326] The final Order should therefore not categorically find Respondent never identified personnel or discussed qualifications.

At the same time, the record does not establish a standardized pre-purchase disclosure identifying the persons responsible for operating the mining enterprise and explaining their relevant qualifications. The white paper cannot fill that gap for the original offering because FE Fuselier testified it was issued after the Order.[327] The pre-Order website information was, by his testimony, limited.[328] And the Zoom discussions were optional rather than part of a required pre-purchase disclosure process.[329]

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[325] Tr. Vol. 2 at 155:15–156:9.
[326] *Id.* at 156:10–13.
[327] Tr. Vol. 2 at 155:21–156:2.
[328] *Id.* at 156:3–9.
[329] *Id.* at 156:10–13.

The proper finding is therefore a measured one: Respondent Gray disclosed some limited personnel information, but the hearing did not establish that prospective purchasers received a complete or standardized pre-purchase disclosure identifying the operational personnel and their qualifications. Any absolute, contrary language in the Order should be modified to reflect the evidence actually proved.

C. Hardware Failures, Power Outages, and Network Disconnections

Respondent Gray proved operational problems were discussed publicly. FE Fuselier acknowledged Respondent Gray discussed hardware failures, power outages, and network disconnections during Zoom calls and Petitioner was aware of such evidence before issuance of the Order.[330] Respondent Gray also introduced evidence of real time operational statistics on the public dashboard and video discussions in which Gray addressed equipment that was offline or other problems affecting the mine. The final Order should therefore not state Respondent Gray never disclosed any hardware failure, power issue, or network problem.

As discussed previously, the timing of and the audience for disclosed information matters. The fact a problem was later discussed on a Zoom call or appeared on a public dashboard does not establish prospective purchasers were affirmatively informed, before purchase, of the nature and frequency of material operational risks or prior disruptions. The record supports recognizing the disclosures that occurred while preserving a narrower finding that Respondent Gray did not establish a standardized pre-purchase disclosure of material operating risks.

[330] Tr. Vol. 2 at 153:6–25.

D. Facility Security

The record affirmatively disproves any categorical assertion the mining facilities lacked security. Mr. Walsh testified the sites used security cameras, fencing, locks, alarms, barbed wire, and other protective measures.[331] He described badge-controlled access and a security gate at the Conroe facility.[332] He also testified miners had toured certain facilities, including Mansfield, under controlled circumstances.[333] The final Order should be modified to reflect those facts.

The evidence also establishes some security information was discussed publicly. Mr. Walsh testified access controls at Conroe had been discussed on calls.[334] FE Fuselier acknowledged he had seen evidence Gray disclosed information about the location and security of mining premises before issuance of the Order.[335] Accordingly, a finding that Respondent Gray never disclosed location or security information would be too broad.

E. Limited Video Disclosures and the Absence of Established Pre-Purchase Disclosure

The common thread running through these issues is the timing and thereby sufficiency of disclosures. Under Texas securities laws, information being haphazardly disclosed as part of Respondent's broader communications is not enough to make sure prospective purchasers are informed of material information prior to being sold the Mining Packages as required by The Securities Act. Respondent relied heavily at the hearing on Zoom calls, miner updates, YouTube postings, Telegram discussions, dashboards, and post-purchase materials. Some of that evidence

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[331] Tr. Vol. 4 at 10:18–11:15.
[332] *Id*. at 11:16–12:3.
[333] *Id*. at 12:4–18.
[334] Tr. Vol. 4 at 11:16–12:3.
[335] Tr. Vol. 2 at 154:1–11.

plainly narrows the language of the Order, but it does not negate the ultimate conclusion that Respondent violated The Securities Act when offering these mining packages.

FE Fuselier described this distinction when he acknowledged some personnel information appeared on the website and other information was discussed in optional Zoom calls, but the calls varied by audience: some were available to prospective purchasers and others were for existing miners, with different information presented in each.[336] He further noted the practical difference between a defined written disclosure and an hour-and-a-half video from which a prospective purchaser would have to locate relevant information.[337] Miner-only videos were posted publicly only after the fact.[338]

The final Order should therefore be revised with precision. It should recognize Respondent Gray disclosed certain financial metrics, some personnel information, operational problems, mining-site information, and security measures, and it should eliminate or narrow any absolute statement those matters were never disclosed. But it should also preserve the central and better supported finding that Respondent did not establish a standardized, sufficient pre-purchase disclosure process through which prospective Mining Package purchasers were provided complete material financial and operational information before committing funds.

XIII. RESPONDENT RECRUITED PURCHASERS TO OFFER AND SELL SECURITIES WITHOUT DISCLOSING THE REGULATORY CONSEQUENCES

The affiliate program Respondent Gray created was actually an illegal compensation structure for finding new purchasers since the Mining Packages are securities. Respondent did not merely offer the Mining Packages themselves. They created a compensation system that

[336] Tr. Vol. 2 at 156:3–157:8.
[337] *Id*. at 157:1–8.
[338] *Id*. at 157:9–12.

encouraged existing purchasers to recruit additional purchasers, paid or credited those purchasers when Mining Package sales resulted, opened the program broadly to miners, and never verified whether the persons being compensated were registered to sell securities. Respondent Gray admitted he did not tell affiliates securities registration could be required before they offered Mining Packages to prospective purchasers.[339] Because the Mining Packages are securities, Respondent Gray affirmatively incentivized conduct that implicated The Securities Act's dealer-and-agent registration provisions while withholding the regulatory consequence from the very purchasers they encouraged to engage in that conduct.

A. Respondent Encouraged Purchasers to Become Compensated Sales Agents

The evidence concerning the affiliate program is largely undisputed. Gray testified he created the compensation system.[340] He explained a "sponsor" was a person who brought miners into the program and the objective was to grow the number of miners participating in the enterprise.[341] MineTXC maintained an affiliate program through which miners could refer other persons to purchase Mining Packages.[342]

Those referrals were compensated. Gray admitted when a miner satisfied the referral-program requirements, MineTXC's system awarded commissions or bonuses resulting from the referred Mining Package purchase.[343] Respondent Gray's own commission records corroborate that testimony.[344] The program therefore did more than encourage purchasers to speak favorably

[339] Tr. Vol. 1 at 116:5–119:20.
[340] Tr. Vol. 1 at 116:5–18.
[341] *Id*. at 117:7–118:2.
[342] *Id*. at 118:3–9.
[343] *Id*. at 118:10–15.
[344] Resp't Ex. 4 (MineTXC Commission Records).

about TEXITcoin. It attached compensation to conduct designed to produce additional Mining Package sales.

That distinction is important under The Securities Act. Section 4001.052 of The Securities Act defines an "agent" to include a person employed, appointed, or authorized by a dealer to sell, offer for sale or delivery, solicit subscriptions to or orders for, or otherwise deal in securities in this state.[345] The statute does not turn on whether Respondent called a participant an "agent." It turns on what the participant was authorized and encouraged to do. Here, Respondent established a formal referral program, invited miners to bring in additional purchasers, tracked the resulting activity, and paid compensation when the program's requirements were satisfied.

B. Affiliates Offered and Sold Mining Packages

The affiliate program was designed to produce transactions, not merely publicity. Gray agreed purchasers could refer other people to purchase Mining Packages and MineTXC paid or credited commissions or bonuses when the requirements of the referral program were satisfied.[346] The commission records show actual compensation associated with the program, including compensation denominated in USDC, TXC, and hash power shares.[347] The sales data likewise identified Mining Package transactions and sponsor relationships.[348]

Again, the legal conclusion should track the evidence with precision. Petitioner need not prove every affiliate personally closed a sale, handled purchaser funds, or possessed authority to bind Gray. Offering a security and soliciting an order are independently covered activities.[349] An

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[345] Tex. Gov't Code § 4001.052(a).
[346] Tr. Vol. 1 at 118:3–15.
[347] Resp't Ex. 4 (MineTXC Commission Records).
[348] Resp't Ex. 51.
[349] Tex. Gov't Code § 4001.052(a).

affiliate who, with Respondent Gray's authorization, solicited a prospective purchaser to acquire a Mining Package was engaged in the kind of securities activity the agent-registration provisions regulate, regardless of whether the ultimate payment was processed through MineTXC's website.

C. Dealer and Agent Registration Requirements

The statutory structure is straightforward. As established in Sections VI and VII, Gray's own activities made him a "dealer" under Section 4001.056 of The Securities Act. A dealer or other person generally may not offer or sell securities in this state, directly or through agents, without first being registered.[350] Separately, an agent may not sell, offer for sale, or make a sale of securities in this state for a dealer, issuer, or controlling person unless the agent is registered for that dealer, issuer, or controlling person.[351]

The Securities Act defines the relationship functionally. An agent includes a person "employed, appointed, or authorized by a dealer" to sell, offer, solicit orders for, or otherwise deal in securities in this state.[352] Board rules likewise provide the Texas nexus exists when either the person or the person's agent is present in Texas, or the offeree or purchaser (or that person's agent) is present in Texas, at the time of the activity.[353] Thus, compensated solicitation of Mining Packages to Texas purchasers could trigger The Securities Act even if the affiliate was located elsewhere.

Respondent did not build the affiliate program around those requirements. Respondent Gray testified the program was open to any miner who had not abused the system.[354] MineTXC

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[350] Tex. Gov't Code § 4004.051.
[351] *Id*. § 4004.101(a).
[352] *Id.* § 4001.052(a).
[353] 7 Tex. Admin. Code § 115.1(a)(8).
[354] Tr. Vol. 1 at 118:16–24.

did not verify with the Texas State Securities Board whether an affiliate was registered before paying compensation arising from a Mining Package sale.[355] Respondent Gray's explanation was candid: he did not know there was a Texas State Securities Board until recently.[356] That testimony does not excuse the conduct; it confirms securities-registration compliance was not incorporated into the affiliate program at all.

D. The Failure to Disclose Registration Requirements and the Unregistered Status of the Mining Packages

Respondent Gray admitted Respondent did not limit its affiliate program to persons registered as securities dealers or agents.[357] The Respondent did not verify an affiliate's registration before paying compensation connected to a Mining Package sale.[358] And when Respondent Gray was asked whether he or MineTXC told participants that they needed to be registered before offering Mining Packages to prospective purchasers, his answer was unequivocal: "No, I did not."[359]

Respondent Gray did not passively fail to explain an obscure regulatory rule. They affirmatively created a financial incentive for purchasers to bring additional purchasers into an unregistered securities offering. They paid commissions or bonuses when those efforts produced qualifying referrals. Yet they did not screen participants for securities registration, did not tell them offering or soliciting orders for securities could require registration, and did not disclose the Mining Packages they were being encouraged to promote were themselves unregistered securities.

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[355] *Id*. at 118:25–119:7.
[356] *Id*.
[357] Tr. Vol. 1 at 118:16–24.
[358] *Id*. at 118:25–119:7.
[359] *Id*. at 119:8–20.

The Honorable Administrative Law Judge need not decide the individual liability of every affiliate to sustain this portion of the Order.

XIV. THE LIMITED FACTUAL VARIANCES REQUIRE MODIFICATION, NOT SETTING ASIDE THE ORDER

The contested case hearing developed a fuller evidentiary record than was available when the Order was issued. Section 4007.104(e) of The Securities Act expressly contemplates a modification process by directing, after a hearing, the Commissioner "shall affirm, modify, or set aside, wholly or partly" the emergency order. Petitioner therefore does not ask the Honorable Administrative Law Judge to preserve factual statements the hearing proved to be overbroad. It asks the ALJ to correct those discrete statements while affirming the findings and legal conclusions the evidence proved.

The variances concern identity, address, a limited home-mining option, the extent of certain disclosures, and the precise role of Danagger Resources. Those are matters for modification under Section 4007.104(e) of The Securities Act, not grounds to set aside an otherwise supported Order.

A. Respondent Identity

The final Order should therefore conform the respondent's identity to the economic actor established at hearing: Robert J. Gray d/b/a TEXITcoin, MineTXC, Blockchain Mint, and Danagger Resources. As explained in Sections III, this modification accepts Respondent Gray's own evidence concerning identity and organizational form while preserving the names through which the offering was actually presented and conducted.

B. Gray's Address

Respondent Gray supplied updated address information under oath at the beginning of the hearing. He testified he currently resides in Singapore, was physically in Amsterdam at the time of his testimony, and maintains a residence at 11588 Wild Rose Lane, Anna, Texas 75409.[360] The final Order should simply replace or supplement the address stated in the Order with the address information established by Respondent Gray's sworn testimony. This is a ministerial factual correction with no bearing on the merits of the alleged violations of The Securities Act.

C. Home Miners

Finding of Fact 16 should be modified to recognize the limited home-mining option established at the hearing and discussed in Section I. Respondent's expert reported persons who accumulated sufficient hash power shares could qualify to receive certain home-mining equipment.[361] The data supplied to the expert showed at most 91 users who opted to receive a Mini DOGE III miner and an additional 143 users at most who opted to receive a DG HOME 1 miner.[362] Because the record does not establish whether those two groups overlap, Petitioner should not convert those figures into a purported exact count of unique home miners. The important point is that only a small minority of the tens of thousands of Mining Package participants opted to receive home equipment.

Finding 16 therefore should be modified to remove the categorical statement that purchasers "never" received mining hardware. That correction illustrates the distinction between a factual refinement and a failure of the statutory case. The existence of a limited home mining option does not change the economic reality established for the overwhelming majority of Mining

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[360] Tr. Vol. 1 at 26:12–21.
[361] Resp't Ex. 38, at RX38_19, ¶¶ 70–72.
[362] *Id.* ¶ 71

Package transactions or the evidence concerning Respondent Gray's operation and control of the centralized mining enterprise.

D. Danagger Resources

Finding of Fact 30 should likewise be conformed to reflect the new facts developed at the hearing. MineTXC's payment instructions offered mailed checks as a method of making an initial Mining Package payment and directed purchasers to make those checks payable to Danagger Resources.[363] Respondent Gray admitted checks were accepted, Danagger Resources was used to receive purchaser funds in connection with Mining Package sales, and Danagger was his assumed name.[364]

But that clarification does not eliminate the disclosure issue. The payment page told purchasers to make checks payable to Danagger Resources without identifying Gray as the person behind the name. Gray agreed the payment instructions did not identify Danagger's owner or principal.[365] Respondent Gray's counsel ultimately summarized the point accurately: the document disclosed that payment went to Danagger Resources, but "does not disclose that it was him."[366] The final finding should capture both facts: Danagger was Respondent Gray's assumed name, and purchasers using the check option were not shown on the payment instructions the differently named payee receiving their money was Respondent Gray.

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[363] Pet'r Ex. 1, at TSSB 84, Section 2.
[364] Tr. Vol. 1 at 133:17–134:25.
[365] Tr. Vol. 1 at 135:1–11.
[366] *Id.* at 137:21–138:3.

E. Other Limited Disclosure Modifications

Findings of Fact 29 and 31 should be modified only to the extent necessary to recognize disclosures actually established at hearing. As discussed in Section XII, Respondent proved some financial metrics appeared on the MineTXC website; some personnel information was publicly available; hardware failures, power issues, and network disruptions were discussed on calls; and the mining facilities employed physical security measures, including cameras, fencing, locks, alarms, and controlled access. The final Order should not preserve categorical statements those matters were never disclosed or the facilities lacked security where the hearing record establishes otherwise.

F. The Remaining Findings Should Be Affirmed

These limited modifications do not undermine the Order. They demonstrate why the Legislature expressly authorized modification after a contested hearing. Section 4007.104(d) of The Securities Act places the burden on the Commissioner to present evidence supporting the Order. Section 4007.104(e) then directs, after hearing, the Commissioner "shall affirm, modify, or set aside, wholly or partly" the emergency order.[367] The statute therefore contemplates a hearing may confirm the substance of an emergency order while supplying greater factual precision that should be incorporated into the final order. Here, the hearing did precisely that: it supplied greater precision concerning several discrete factual allegations while confirming the central facts supporting the securities registration, dealer registration, fraud, and misleading practices violations.

[367] Tex. Gov't Code § 4007.104(d)–(e).

The choice presented by Section 4007.104(e) of The Securities Act is not between affirming every sentence of an emergency order word-for-word and setting the order aside. "Modify" has independent statutory work to do. The Legislature authorized the final decisionmaker to preserve findings proved at hearing and conform other findings to the fuller evidentiary record. Texas administrative securities practice reflects that approach: findings in an emergency order may be affirmed while discrete factual references are corrected to conform to the hearing evidence.[368]

The appropriate disposition is therefore straightforward. The Honorable Administrative Law Judge should recommend the Order be affirmed except for the limited modifications identified above and elsewhere in this brief. Those modifications make the final Order more accurate. They do not erase the violations of The Securities Act the hearing proved.

XV. THE PROVEN VIOLATIONS SUPPORTED EMERGENCY RELIEF

The issue at the hearing is whether the Enforcement Division presented evidence supporting the Deputy Commissioner's findings in the Order. Section 4007.104 of The Securities Act explicitly authorizes emergency cease-and-desist relief when conduct threatens immediate and irreparable public harm and the Commissioner reasonably believes a person is engaging in, or is about to engage in, fraud or a fraudulent practice in connection with a securities offering; has made an offer containing a materially misleading statement or one otherwise likely to deceive the public; or is engaging in, or is about to engage in, an act or practice that violates the Securities Act or a Board rule.[369] The hearing established each independent statutory basis for relief. Just as

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[368] *See*, *e.g.*, *In the Matter of Kp Financial, LLC; Kevin Vu Pham; Daniel Ajwani; and Gerald Johnson*, 2022 WL 16825808 at 4 (Commissioner's final order making specific factual corrections).
[369] Tex. Gov't Code § 4007.104(a).

importantly, it established why cease-and-desist relief remains necessary. This was not an isolated transaction that ended before the Order issued. It was a large, continuing offering built to add purchasers, accept millions in purchasers' funds, expand mining capacity, distribute TXC every day, and reward existing participants for bringing in still more purchasers.

A. Unregistered Securities Offering

The Mining Packages were not registered or permitted for sale in Texas. Respondent Gray admitted that fact at the hearing.[370] The Board's certified registration records independently established securities issued under the TEXITcoin, MineTXC, and Blockchain Mint names were not registered by qualification, notification, or coordination and had not received a permit for sale.[371] Respondent Gray established no applicable exemption. The offering therefore violated Section 4003.001 of The Securities Act.

That violation falls squarely within Section 4007.104(a)(3) of The Securities Act, which authorizes emergency relief against a person engaging in, or about to engage in, an act or practice that violates the Act or a Board rule. The violation was not merely historical when the Order issued. Respondent Gray's own expert described MineTXC as having offered Mining Packages to prospective customers until issuance of the Order.[372] The Order is what stopped the unregistered offering. Setting it aside would remove the restraint that ended the unlawful offering without any intervening registration, permit, or proven exemption. Continued cease-and-desist relief is therefore directly tied to the violation proved at hearing.

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[370] Tr. Vol. 1 at 140:23–141:1.
[371] Pet'r Exs. 48–50.
[372] Resp't Ex. 38, at RX38_08, ¶ 28.

B. Unregistered Dealer Activity

Respondent was not registered as a dealer or agent. The Board's certified records establish, from February 1, 2021, through the date of the certification, Respondent was not registered as a dealer or agent in Texas.[373] Respondent Gray likewise acknowledged at the hearing he was not registered with the Board as a dealer or securities agent.[374] No dealer-registration exemption was established. His conduct therefore violated Section 4004.051 of The Securities Act.

Again, the scale and structure of the unregistered offering here is significant. This was not a single unauthorized sale. The MineTXC model was designed for repeated sales to a growing participant base. The violation was not isolated: Respondent operated a repeatable sales platform supported by a compensated recruitment network. Continued relief is therefore necessary to prevent renewed unregistered dealer activity.

C. Fraud in Connection With the Offering

The hearing also supported continued relief under Section 4007.104(a)(1) of The Securities Act. As Sections IX through XII explain, Petitioner does not ask the Honorable Administrative Law Judge to preserve factual absolutes the hearing record refined. Respondent did make limited references to the Mulligan Mint bankruptcy. Respondent also disclosed limited financial and operational information on websites, videos, calls, and other communications. The final Order should recognize those facts. But those factual refinements do not eliminate the legal conclusion that fraud was proved by the evidentiary record when the offering is evaluated as it was actually presented to prospective purchasers.

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[373] Pet'r Ex. 53.
[374] Tr. Vol. 1 at 140:16–22.

For the reasons established in Sections IX through XII, the hearing supports Finding 28 as written and supports the remaining fraud findings as modified only to the extent necessary to recognize the disclosures established at hearing. Those findings provide an independent basis for continued relief under Section 4007.104(a)(1) of The Securities Act.

D. Materially Misleading or Deceptive Practices

Section 4007.104(a)(2) of The Securities Act separately authorizes relief when a person has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public. The hearing record supports that basis even apart from any dispute over intent.

As established in Sections V and XI through XV, Respondent Gray – doing business as TEXITcoin, MineTXC, BlockChain Mint, and Danagger Resources – promoted the Mining Packages to prospective purchasers as a financial opportunity for producing returns while consistently not disclosing material information, prior to purchase, necessary for Respondent's description of the offer to not be deceiving. The record supports relief under Section 4007.104(a)(2) of The Securities Act.

E. Immediate and Irreparable Public Harm

The Securities Act gives the Securities Commissioner the authority to determine if there is a threat of immediate and irreparable public harm.[375] The Enforcement Division can show immediate and irreparable public harm by showing the offer is ongoing and necessary for the Respondent's business.[376] Here, Petitioner has shown immediate and irreparable public harm by

[375] Tex. Gov't Code § 4007.104(a).
[376] *In the Matter of the Stamford Group, Inc; Stamford Portfolio Management, LLC; Stamford Group 2004c, LLC; Deborah A. Wilcox; Keith Holcomb; and David R. Jung*, 2010 Tx SOAH WL 3342748, at 16.

showing the ongoing nature of the offering and the necessity of the offering to Respondent's business. By the time the Order was issued, Respondent had already sold the Mining Packages to thousands of purchasers with $147 million in reported revenue.[377] He also testified the program had more than 50,000 miners receiving automated daily TXC payouts.[378] Respondent's expert identified 71,078 Mining Package hash power allocations and confirmed daily pro-rata TXC distributions continued on-chain through July 2026.[379] Respondent Gray told people on Zoom calls Respondent needed to continue to sell seats on the rocket ship to grow the mine, the marketing budget, and liquidity that supports TXC on the market.[380]

Texas courts have not evaluated what constitutes "immediate and irreparable public harm" as it relates to the issuance of Emergency Cease and Desist Orders under the authority of Section 4007.104 of The Securities Act. However, persuasive authority exists that analogous violations of federal securities laws are presumptively injurious to the public making "a specific allegation of public harm . . . unnecessary."[381]. The violations established here concern a continuing public offer and sale of unregistered securities by an unregistered dealer, together with the fraud and misleading practices supported by the record. The relevant public harm therefore includes continuation and expansion of the unlawful offering, not merely whether purchasers received the TXC distributions Respondent Gray promised.

Those facts matter because the potential harm was not confined to money already paid. The enterprise was structured to perpetuate itself. Respondent used purchasers' funds to acquire and operate mining infrastructure; purchasers' proportional shares remained tied to the common pool;

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[377] Tr. Vol. 2 at 28:11–17 and 33:19–34:7; *see* discussion Section VIII.B.
[378] Tr. Vol. 2 at 33:19-34:7.
[379] Resp't Ex. 38, at RX38_10, ¶ 35 and at RX38_20, ¶¶ 74–76.
[380] Pet'r Ex. 107H.
[381] *Fisher v. Samuels*, 691 F. Supp. 63, 73–74 (N.D. Ill. 1988).

the system distributed TXC daily; and the affiliate program rewarded participants for adding new purchasers. Respondent Gray testified he created the compensation system, and the program permitted miners to receive referral-based rewards and additional hash power shares.[382] Respondent's offering materials expressly told participants the easiest way to increase their hash power share and thereby daily TXC rewards was to sponsor additional purchasers and offered continuing hash power share bonuses.[383]

The Securities Act does not require the Commissioner to wait for another round of unlawful sales. It expressly applies to anyone who "is engaging in or is about to engage in" the specified conduct.[384] The hearing established the underlying violations found in the Order, the infrastructure capable of continuing them, the large existing participant network through which the offering grew, and the absence of any regulatory change that would make renewed sales lawful. Those facts satisfy the immediate and irreparable-public-harm standard and support continued cease and desist relief.

The factual refinements concerning individual disclosure allegations also do not affect the independent registration violations. As established above, the Mining Packages are investment contracts, the securities were not registered or permitted for sale, and Gray was not registered as a dealer. Those violations independently support continued cease and desist relief regardless of whether every fraud or misleading practices finding in the Order is sustained without modification.

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[382] Tr. Vol. 1 at 116:5–119:20; Resp't Ex. 4 (MineTXC Commission Records).
[383] Pet'r Ex. 1, at TSSB 097, 100-102, 104; Pet'r Ex. 22, at TSSB 400, 403-405.
[384] Tex. Gov't Code § 4007.104(a).

The Honorable Administrative Law Judge should therefore recommend the Deputy Securities Commissioner modify and affirm the Order. The modifications identified in Section XIV protect the accuracy of the final findings.

XVI. THE HONORABLE ADMINISTRATIVE LAW JUDGE SHOULD RECOMMEND THAT THE DEPUTY COMMISSIONER ORDER REFUNDS

The proven violations here support a remedy that does more than prohibit future conduct. The Legislature expressly authorized the Commissioner to require a regulated entity to return money paid by purchasers for transactions regulated by the Board.[385] That remedy fits this record. Gray acted as a dealer, sold Mining Packages that are securities, did so without registering either the securities or his dealer activity, and received purchaser funds through the enterprise he controlled. The appropriate remedial endpoint is therefore straightforward: purchasers should receive back the amounts they paid for the unlawful, regulated transactions, subject to the statutory cap and appropriate administrative procedures.

A. Section 4007.108 of The Securities Act Authorizes Refund Relief

Section 4007.108(a) of The Securities Act provides the Commissioner may order "a dealer, agent, investment adviser, or investment adviser representative regulated under this title" to pay a refund to a client or purchaser of securities or services from that person or company. The refund may be imposed in an agreed order or an enforcement order and may be ordered "instead of or in addition to" an administrative penalty or other sanctions.[386] The Legislature thus made refund

[385] Tex. Gov't Code § 4007.108.
[386] Tex. Gov't Code § 4007.108(a).

relief an independent administrative remedy available in an enforcement proceeding; it is not merely an adjunct to a private rescission action.

Subsection (b) defines the remedy's monetary boundary. A refund may not exceed "the amount the client or purchaser paid to the dealer, agent, investment adviser, or investment adviser representative for a service or transaction regulated by the Board."[387] The Commissioner may not award other damages or estimate harm.[388] The statute therefore identifies both the relevant transaction and the maximum remedy: the amount paid to the regulated person for the regulated transaction. Because Respondent was a dealer and purchasers paid him for transactions regulated by the Board, the statutory predicate for refund relief is satisfied.

B. Gray Is a Dealer Subject to Refund Relief

The fact Gray never registered as a dealer does not place him beyond Section 4007.108 of The Securities Act. It is the opposite. The Board's certified records establish that Gray was not registered as a dealer or agent,[389] and Gray acknowledged his unregistered status at the hearing.[390] Section 4007.108 of The Securities Act applies to a "dealer . . . regulated under this title," not merely a registered dealer. Reading the statute to exclude an unregistered dealer would produce the anomalous result that a person who complied with the registration law could be ordered to refund a regulated transaction while a person who violated the registration law could not. Nothing in the statutory text supports that result. Gray is therefore a dealer subject to the Commissioner's

[387] Tex. Gov't Code § 4007.108(b).
[388] *Id*.
[389] Pet'r Ex. 53.
[390] Tr. Vol. 1 at 140:16–22.

refund authority. His violation of Section 4004.051 of The Securities Act establishes why the remedy is warranted; it does not immunize him from it.

C. Mining Package Purchases Were Regulated Transactions

As established in Sections IV through IX, the Mining Package purchases were securities transactions regulated by the Board and were the transactions underlying Gray's dealer activity. The record also provides an evidentiary basis for identifying specific refunds. Respondent produced detailed sales information identifying Mining Package transactions, purchase amounts, dates, purchaser or account information, and payment methods.[391] Respondent's expert relied on internal MineTXC sales data and identified 71,078 Mining Package hash power share allocations.[392] Refund relief therefore does not require the Commissioner to reconstruct an unknown class of transactions from speculation; Respondent's own records identify the sales at issue.

D. The Proper Measure of Refund Is the Amount Paid

Petitioners do not ask the Honorable Administrative Law Judge to value TXC, calculate lost profits, determine what a purchaser might have earned, measure depreciation, award consequential damages, or estimate speculative harm. Section 4007.108 of The Securities Act expressly forecloses that exercise. The refund may not exceed the amount the purchaser paid for the regulated transaction, and the Commissioner may not require payment of other damages or estimate harm.[393]

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[391] Resp't Ex. 51; Resp't Ex. 1
[392] Resp't Ex. 38, at RX38_10, ¶ 35.
[393] Tex. Gov't Code § 4007.108(b).

The requested measure is therefore the purchase price actually paid for each Mining Package transaction subject to the refund order. That amount is objective and reflected in Respondent's transaction records.[394] These records allow the Deputy Commissioner to distinguish a purchaser who paid for a Mining Package from a person who received one as a bonus or commission.[395]

This approach keeps the administrative remedy within the exact limits the Legislature imposed. Any prior refund or return of the purchase price can be credited in administration of the remedy so no purchaser receives more than the amount actually paid for the transaction. Likewise, if the final Order requires surrender or cancellation of the corresponding Mining Package rights as a condition of payment, that mechanism can prevent a purchaser from retaining both the refunded purchase price and the contractual or account rights associated with the refunded transaction.[396]

E. Refund Relief Depends on Registration Violations

Refund relief should not rise or fall with every disputed disclosure allegation. Section 4007.108 of The Securities Act does not condition the Commissioner's authority on a finding every transaction was induced by fraud, nor does it require individualized proof of reliance, causation, or damages. Its operative requirements are different: the respondent must be a dealer or other person identified in subsection (a), the claimant must be a client or purchaser of securities or services from that person or company, and the payment must have been for a service or transaction regulated by the Board.[397]

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[394] Resp't Ex. 51; Resp't Ex. 1.
[395] The amount paid column on Resp't Ex. 51 can be used to identify purchasers owed refunds.
[396] *See, e.g.*, *In the Matter of Kp Financial, LLC; Kevin Vu Pham; Daniel Ajwani; and Gerald Johnson*, 2022 WL 16825808 at *3 & *5 (Commissioner ordering refunds for investors who had not yet received them).
[397] Tex. Gov't Code § 4007.108(a)–(b).

Accordingly, refund relief need not depend on every disputed fraud allegation. Even if individual fraud findings are modified, the registration violations independently establish the regulated transactions on which refund relief may rest.

F. Scope of Purchasers Entitled to Refund

Petitioners request the broadest refund relief the refund statute and the proven Texas nexus permit. Section 4007.108 of The Securities Act does not limit the word "purchaser" to a Texas resident. It authorizes a refund to "a client or a purchaser of securities or services" from the regulated person, while subsection (b) limits the amount to what the purchaser paid for a "service or transaction regulated by the Board."[398] The textual limitation therefore concerns whether the transaction is regulated by the Board, not the purchaser's state of residence.

Texas law defines the territorial reach of Gray's dealer activity broadly. Under Board Rule, a person engages in dealer activity "within this state" or "in this state" if either the person or the person's agent is present in Texas, or the offeree or purchaser or that person's agent is present in Texas, at the time of the particular activity.[399] Offers and sales may occur through personal contact, mail, telephone, wireless transmission, electronic communication, or other oral or written communication.[400] Thus, Texas residency of the purchaser is sufficient to establish a Texas nexus, but it is not the only way a transaction may constitute dealer activity in this state.

That distinction matters here. Gray gave a Texas residence under oath, 11588 Wild Rose Lane, Anna, Texas 75409, although he testified his current residence at the time of hearing was

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[398] Tex. Gov't Code § 4007.108(a)–(b).
[399] 7 Tex. Admin. Code § 115.1(a)(8)
[400] *Id.* § 115.1(a)(8)(A), (C).

Singapore.[401] The only filed assumed name certificate was filed in Collin County, Texas.[402] The offering itself was conducted over an extended period through public websites, online presentations, communications, affiliates, and electronic payment mechanisms.[403] To the extent the evidence and Respondent's records establish Gray or a person acting for him was present in Texas when a particular offer, solicitation, sale, or other dealer activity occurred, that activity was "in this state" under the Board's rule even if the purchaser happened to reside elsewhere. The resulting Mining Package purchase is therefore properly treated as a transaction regulated by the Board for purposes of Section 4007.108 of The Securities Act.

Accordingly, the Honorable Administrative Law Judge should recommend refunds to all Mining Package purchasers whose purchases constitute transactions regulated by the Board, without imposing an additional residency restriction that does not appear in Section 4007.108 of The Securities Act. Respondent controlled the records showing when and how the transactions were solicited, processed, and completed; any necessary transaction-level territorial determination can be made during administration of the refund process rather than used to deny the remedy altogether.

Alternatively, if the Honorable Administrative Law Judge concludes the present record does not establish the necessary Texas nexus for every purchaser, the remedy should at minimum extend to every Texas purchaser. For a purchaser present in Texas at the time of the relevant offer or sale activity, the Board Rules expressly treats Gray's dealer activity as occurring "in this state."[404] These Mining Package purchases were therefore transactions regulated by the Board, and

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[401] Tr. Vol. 1 at 26.
[402] Resp't Ex. 68.
[403] *See, e.g.*, Tr. Vol. 1 at 27:3–30:16; Pet'r. Exs. 1, 22; Resp't Ex. 51.
[404] 7 Tex. Admin. Code § 115.1(a)(8)

Section 4007.108 of The Securities Act authorizes return of the amounts paid for them. This alternative requires no extraterritorial application of Texas law and preserves full refund relief for the purchasers whose Texas nexus is independently established by their presence in this State.

G. Administration of Refund Relief

At a minimum, the refund provisions should require production of a complete purchaser and transaction ledger sufficient to identify each purchaser, contact information, transaction date, amount paid, payment method, and any prior refund of purchase price. Respondent's Exhibit 51 demonstrates Respondent maintained detailed transaction-level information. The Order can require Gray to calculate the amount paid for each qualifying Mining Package transaction, subject to verification by Petitioner, and to provide notice to purchasers concerning the refund process.

For purchasers whose identity, current address, payment amount, or eligibility cannot be resolved from the existing records, the Order may provide a claims process and, if necessary given the size of the purchaser population, permit use of an independent claims administrator. Any process should be designed to verify actual payments without imposing unnecessary burdens that would frustrate the statutory remedy. Respondent, not the purchasers, created and maintained the sales platform and are in the best position to produce the underlying transaction data.

The Order should also address prior refunds and the rights associated with refunded Mining Packages. Any amount of purchase price previously returned should be credited against the refund for the same transaction so the total refund does not exceed Section 4007.108(b)'s statutory cap. To the extent appropriate and technically feasible, receipt of a full refund may be conditioned on surrender, cancellation, or termination of the corresponding Mining Package rights or hash power share allocation. The objective is restoration of the purchase price, not a double recovery.

Finally, the Order should impose concrete deadlines and reporting obligations. Respondent should be required to provide the purchaser ledger and proposed refund calculations within a specified period; commence payments within a specified period thereafter; submit periodic reports identifying payments made, amounts outstanding, unsuccessful payment attempts, and disputed claims; preserve all records necessary to administer the remedy; and provide a final accounting subject to Petitioner's review. If an independent administrator becomes necessary, the Order can authorize procedures consistent with these requirements.

XVII. CONCLUSION AND PRAYER

The hearing performed the function contemplated by Section 4007.104 of The Securities Act: it developed a complete evidentiary record from which the Order can be evaluated with greater precision. That record supports modification of several discrete factual findings, but it does not undermine the central statutory violations established at hearing. The Mining Packages are investment contracts; they were offered and sold without registration or a permit; Gray acted as an unregistered dealer; and the record supports the fraud and misleading practices findings identified above. The appropriate result is therefore to affirm the Order as modified to conform to the hearing evidence.

Accordingly, Petitioner respectfully requests that the Honorable Administrative Law Judge recommend that the Deputy Securities Commissioner:

1. AFFIRM the Emergency Cease and Desist Order except to the extent of the limited modifications identified in Petitioner's brief and attached Proposed Findings of Fact and Conclusions of Law;
2. MODIFY the Order as necessary to conform its findings to the evidentiary record developed at hearing;

3. IDENTIFY the Respondent in the final Order as Robert J. Gray d/b/a TEXITcoin, MineTXC, Blockchain Mint, and Danagger Resources;
4. MODIFY the findings concerning Gray's address to reflect the address established by his sworn testimony;
5. CONCLUDE the Mining Packages are investment contracts and therefore securities under the Securities Act;
6. CONCLUDE Gray offered and sold unregistered Mining Package securities in violation of the Securities Act;
7. CONCLUDE Gray acted as a dealer in connection with the Mining Package offering and was not registered as a dealer as required by the Securities Act;
8. AFFIRM, the findings concerning fraud, materially misleading statements, and deceptive practices to the extent supported by the hearing record, with only limited modifications specifically identified in this brief;
9. CONTINUE the cease-and-desist relief necessary to prevent further violations of the Securities Act; and
10. ORDER refunds under Section 4007.108 of The Securities Act to the maximum class of Mining Package purchasers authorized by Texas law, in an amount not exceeding the amount each qualifying purchaser paid for the regulated transactions, subject to appropriate credits and administrative conditions.

The record does not require the Order to be set aside. It requires the opposite: affirmance of the violations proved at hearing, limited modification where the evidence supplied greater precision, and relief commensurate with the scope of the unlawful offering.

Filed on October 9, 2026
on behalf of the
Enforcement Division

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CERTIFICATE OF SERVICE

I hereby certify that on this, the 9th of October 2026, true and correct copies of the foregoing *Brief of the Enforcement Division of the Texas State Securities Board* have been served to Avi Perry, attorney for Respondents, and to the Securities Commissioner's Representative by the means indicated within this Certificate of Service.

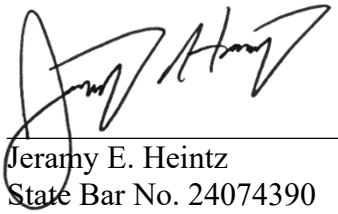
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