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September 22, 2026

The Honorable Greg Abbott
Office of the Governor
P.O. Box 12428
Austin, Texas 78711-2428

Re: Texas State Securities Board v. TEXITcoin, MineTXC, Blockchain Mint, and Robert J. Gray (SOAH No. 312-26-14427)

Dear Governor Abbott:

We represent the Respondents in a Texas State Securities Board enforcement action that threatens to wipe out the fast-growing digital asset mining industry in Texas. The action is literally unprecedented, inconsistent with prevailing national cryptocurrency regulatory trends, and at odds with the interests of Texas and the U.S. in cryptocurrency innovation and leadership.

TSSB Has Persisted in a Misguided, Anti-Crypto, and Anti-Business Enforcement Action

TEXITcoin is a Texas-native digital blockchain. Its native token, TXC, is a digital commodity—like Bitcoin. The TXC token is mined at sites across Texas, it is earned by participants in the mining operations, and it can be purchased or traded on cryptocurrency exchanges. TEXITcoin is also in the process of creating local currencies on its blockchain, to support small businesses and to foster and facilitate community events. Texans who want to participate in the electronic mining of TXC can purchase "mining packages" that give them a percentage of the total daily output of mined TXC.

TEXITcoin's mining operations began in early 2024. Since then, more than 50,000 TEXITcoin mining packages have been purchased—the vast majority by Texans. Every purchaser has received their allotted TXC, and many of them participate in community-building activities, trips, video and text discussions, the maintenance of the physical electronic mines, and other events and communications within the TEXITcoin community. There is no allegation that any of the purchasers have not received the TXC they were entitled to through the mining packages, and no allegation of misspent or misappropriated funds.

Nevertheless, in February 2024, the TSSB issued an Emergency Cease and Desist Order against TEXITcoin and its founder, Bobby Gray. The TSSB alleges that the mining packages are unregistered "securities," and that Mr. Gray committed fraud by failing to sufficiently publicize aspects of his personal history, including the bankruptcy of an unrelated company he owned more than a decade ago and certain particular operational details about the mines.

The Enforcement Action Threatens a Burgeoning Texas Industry

The TSSB's core theory is that digital mining of a commodity like TXC involves a securities transaction. There is no precedent for this case, and for good reason—if the TSSB were to prevail, it would threaten existing cryptocurrency mining operations in Texas and send a clear signal to potential cryptocurrency founders and investors that Texas is closed for business.

Mr. Gray and TEXITcoin have vigorously defended their rights in challenging the Cease and Desist Order, and a multiday hearing was held before an administrative law judge just last month. During that hearing, the TSSB's lead investigator admitted that virtually all of the allegations against Mr. Gray and TEXITcoin were known to be incorrect. To the extent the TSSB's initial action could be chalked up to a rushed investigation or honest misunderstandings, that is no longer the case. The TSSB has been given every opportunity to correct and withdraw allegations it now *knows* to be false, and it refuses—either to send a message or regulate this industry out of existence. With great respect, we do not believe either is in the best interest of Texas.

This case has implications not just for Mr. Gray and TEXITcoin but also for all existing and potential crypto entrepreneurs and innovators in Texas. The TSSB's Order undermines Texas' ability to participate in, much less lead, the national effort to become the crypto capital of the world. Indeed, President Trump has made it a top priority to support U.S. cryptocurrency efforts, including in digital mining. *See* Executive Order 14178, *Strengthening American Leadership in Digital Financial Technology*, January 23, 2025.[1] Texas has likewise sought to support cryptocurrency efforts, including through legislation establishing a strategic Bitcoin Reserve.[2]

Similarly, the U.S. Securities and Exchange Commission continues to revise and update its guidance regarding cryptocurrency assets, including twice just this year and as recently as two weeks ago. In March, Chairman Paul Atkins noted that the SEC was "acknowledg[ing] what the former administration refused to recognize—that most crypto assets are not themselves securities," and providing "an important bridge for entrepreneurs and investors." *See SEC Clarifies the Application of Federal Securities Laws to Crypto Assets*, March 17, 2026.[3] The SEC also has explained that protocol mining of digital currencies "do not involve the offer and sale of securities"

[1] https://www.whitehouse.gov/presidential-actions/2025/01/strengthening-american-leadership-in-digital-financial-technology/.

[2] https://legiscan.com/TX/bill/SB21/2025.

[3] https://www.sec.gov/newsroom/press-releases/2026-30-sec-clarifies-application-federal-securities-laws-crypto-assets.

under applicable federal law, and participants in such efforts "do not need to register transactions" as securities. *See Statement on Certain Proof-of-Work Mining Activities*, March 20, 2025.[4]

Despite national trends and priorities all pointing in the same direction of progress, growth, and deregulation for cryptocurrencies and digital mining, the TSSB is pushing in the opposite direction—to Texas's detriment, we fear. There are at least 27 commercial crypto mining operations in Texas, with more on the way. *See Cryptocurrency in Texas*, August 2022.[5] As just one example, Blockware—an industry leader that is based in Austin—operates a "Mining as a Service" company through which individuals can mine Bitcoin using institutional-grade physical miners. It simply is not feasible to profitably mine Bitcoin at home, because logistics like heating and cooling, electricity costs, etc., need to be scaled. So companies like Blockware provide the mining infrastructure. Suffice it to say that TSSB's position in this case jeopardizes an important and growing sector of the economy, and it will deter other crypto businesses from launching or growing their operations in Texas.

This Enforcement Action Involves Significant, Concerning Conduct by the TSSB

The TSSB's litigation conduct during this case provides additional reason for concern. While we have undertaken serious efforts to deescalate the situation, the hearing in this case was live-streamed to thousands across the world—all of whom witnessed the TSSB's sanctionable enforcement posture.

Among other things, the TSSB asserted allegations in its Order that it knew were baseless at the time and is persisting with additional allegations it now knows to be wrong. The TSSB's lead investigator provided testimony that cannot be reconciled with the underlying Order:

Allegation in Cease & Desist Order	**Contradictory Testimony from TSSB Investigator Philip Fuselier**
"Investors never receive any mining hardware or control over mining hardware." ¶ 16.	Q. The cease and desist order says in the final sentence of paragraph 16, Investors never receive any mining hardware or control over mining hardware. Do you see that? A. Yes. Q. That one is false, right? A. We now know that there were exceptions to that. Q. Let me try to say that again. You now know that allegation is false? A. Correct. Q. Because some purchasers did get at-home mining equipment? A. Yes. August 18, 2026 Hr'g Tr. 136:23-137:11.

[4] https://www.sec.gov/newsroom/speeches-statements/statement-certain-proof-work-mining-activities-032025.

[5] https://comptroller.texas.gov/economy/fiscal-notes/archive/2022/aug/crypto-tx.php.

Allegation in Cease & Desist Order	Contradictory Testimony from TSSB Investigator Philip Fuselier
"In addition to other payment methods, Respondents are offering investors the opportunity to make their initial investment in the Mining Packages by paper check. Investors who select this method are directed to make their check payable to 'Danager Resources.'" ¶ 19. "In connection with the offer and sale of the Mining Packages, Respondents are directing investors that choose to pay via paper check to mail payments to Danager Resources while intentionally failing to disclose … [i]nformation about Danager Resources." ¶ 30.	Q. And then I want to ask you about paragraph 19 because you've got a part in here about checks payable to Danager Resources. Did you interview anyone who actually paid by check? A. No. Q. So there's no one that told you that would have been material to them, this information about Danager Resources? A. No. August 18, 2026 Hr'g Tr. 139:13-21.
"In connection with the offer and sale of the Mining Packages, Respondents are touting Respondent Gray's experience but are intentionally failing to disclose that on or about September 13, 2013, Respondent Gray's company, Mulligan Mint Inc., filed for Chapter 11 bankruptcy in United States Bankruptcy Court." ¶ 28.	Q. One of the pieces of information that is alleged to have been omitted is a Mulligan Mint bankruptcy, correct? A. Correct. Q. Okay. We're not going to go over all of it. You have seen evidence as you sat here over the past two days of statements that Mr. Gray made about the Mulligan Mint bankruptcy, right? A. Right. Q. Okay. Were you aware of those statements before filing the cease and desist? A. Yes. Q. Okay. And notwithstanding those statements, the cease and desist included the allegation that Mr. Gray intentionally concealed the Mulligan Mint bankruptcy? A. Yes. August 18, 2026 Hr'g Tr. 150:17-151:8.
"In connection with the offer and sale of the Mining Packages, Respondents are intentionally failing to disclose information about Respondent MineTXC's assets, liabilities, and capitalization." ¶ 29.	Q. The order alleges that respondents didn't disclose information about MineTXC's assets, liabilities, and capitalization, right? A. Yes Q. So, to the extent that they actually had assets, liabilities, and capitalization, that information was disclosed on their website? A. Yes. August 18, 2026 Hr'g Tr. 151:23-152:1; 153:2-5.
"In connection with the offer and sale of Mining Packages, Respondents are intentionally failing to disclose… [t]heir strategy or procedures for overcoming hardware failures, power outages or network disconnections." ¶ 31B.	Q. Great. Okay. The order alleges that there was a failure – an intentional failure to disclose information about strategies and procedures for overcoming hardware failures, power outages and network disconnections. Are you familiar with that? A. Yes.

Allegation in Cease & Desist Order	Contradictory Testimony from TSSB Investigator Philip Fuselier
	Q. In fact, you're aware of evidence that Mr. Gray did disclose those very same things, correct? A. On the Zoom calls? Q. Yes, sir. A. Yes. Q. Okay. So you are aware of evidence that those were disclosed? A. Yes. Q. But it's still included in the cease and desist order? A. Yes. Q. Were you aware of that evidence before the cease and desist order was filed? A. Yes. August 18, 2026 Hr'g Tr. 153:6-25.
"In connection with the offer and sale of Mining Packages, Respondents are intentionally failing to disclose… [i]nformation about the security of the premises of its cryptocurrency mining farms, its data centers, and any other facility that maintains custody of hardware involved in cryptocurrency mining." ¶ 31C.	Q. The order alleges that respondents failed to disclose information about the location and security of the mining premises. Are you familiar with that? A. Yes. Q. But you are aware of evidence that Mr. Gray disclosed exactly that information, right? A. Yes. Q. So that's information that was disclosed, and did you know about that before the cease and desist was filed? A. Yes. August 18, 2026 Hr'g Tr. 154:1-11.

Including and maintaining allegations that are *known* by the TSSB to be false is far afield of the ethical duties expected of government counsel. Regrettably, the TSSB's approach is consistent with a pattern of regressive attempts to regulate the cryptocurrency industry. In the past two years alone, the TSSB has reached beyond its mandate and jurisdiction to prosecute two other crypto operations: Billionico Academy and Apertum Holdings. In the Billionico case, the presiding administrative law judge at a hearing challenging a cease and desist order found that the TSSB failed entirely to establish jurisdiction over *any* of the nine respondents who challenged the TSSB's order. The court categorically dismissed the cease and desist order. Similarly, in the Apertum case, after the respondents challenged the TSSB's exercise of jurisdiction, the case was dismissed after the TSSB was forced to withdraw its cease and desist order.

The TSSB's conduct in this case appears to be an unfortunate holdover of an intentional, anti-crypto crusade initiated by former TSSB Enforcement Director Joe Rotunda. As you know,

an internal investigation revealed that the former Director "only want[ed] to see crypto orders," even "at the expense of other agency statutory responsibilities." Ex. 1 at 8. It goes without saying that Texans are not well served by shuttering an entire industry, no matter the cost.

* * *

Mr. Gray is loath to raise these issues in a public forum and has made repeated, good-faith efforts to informally resolve this case.[6] But the TSSB has summarily rejected each entreaty and, instead, has invited sanctions while embracing a position that is at odds with national priorities, regulatory trends, and a growing industry in Texas. We continue to hope that cooler heads will prevail, and that this case will be evaluated objectively—both as to the TSSB's baseless accusations and in the broader context of an anti-crypto campaign that threatens Texas' standing in the national crypto economy. And while we are confident that the assigned administrative law judge will rule in our favor, each passing day compounds the reputational harm to our clients and undermines Texas' status as a mecca for compliant crypto companies. We therefore respectfully and urgently request that your Office review the TSSB's conduct before it is memorialized in formal findings of fact and conclusions of law. We believe a fair and objective review of the TSSB's actions will reveal improper conduct and policy goals that should be quelled before the damage to Texas industry is beyond repair.

We thank you for your consideration and are available to meet at your convenience before October 9, at which point we will be forced to formally raise our concerns with the presiding administrative law judge and seek all available relief in our closing briefs.

Respectfully,

Avi Perry
QUINN EMANUEL URQUHART & SULLIVAN, LLP

Joshua C. Fiveson
WRIGHT CLOSE BARGER & GUZMAN, LLP

[6] *See* Ex. 2, Aug. 28, 2026 Letter from A. Perry & J. Fiveson to J. Heintz.

MEMORANDUM

TO: Travis Iles, Securities Commissioner of the State of Texas
CC: Office of the General Counsel and Staff Services
FROM: Cristi Ochoa, Deputy Securities Commissioner
DATE: June 3, 2025
SUBJECT: **Internal Investigation re: Enforcement Formal Complaint – Report Follow-Up of May 20, 2025 Preliminary Report**

On May 6, 2025, the Securities Commissioner for the State of Texas ("Securities Commissioner") received a complaint from at least 11 members of the Enforcement staff concerning the Director of Enforcement ("Director"). A copy of this complaint is enclosed. The complaint was submitted pursuant to the section entitled *Standards of Conduct* in the Agency's Employee Manual, which states that each employee shall perform his or her official duties in a lawful, professional, and ethical manner befitting the State of Texas and the Agency. And ***an employee shall report any conduct or activity that the employee believes to violate this ethics policy to his/her supervisor, Division Director, or the Securities Commissioner.***

Upon receipt, a copy of the formal complaint was provided to the Deputy Securities Commissioner ("Deputy"), Director of Staff Services, and General Counsel. A copy of the complaint was also provided to the Board's Chair. Internal Staff discussions immediately began to determine process and next steps to ensure a fair and meaningful review was undertaken in conformance with Agency policies.

Beginning on Thursday, May 15, 2025, the Deputy and General Counsel began interviewing the 22 staff members of the Enforcement Division (the "Staff"). To date, the Deputy has spoken to 11 Staff members in the Enforcement Division, and the General Counsel has interviewed eight Staff members in the Enforcement Division. The Deputy and General Counsel also interviewed the Director on May 27, 2025, after meeting with the Enforcement Staff. Below is a summary of the allegations made in the complaint as well as the information gathered from the interviews with the Staff and the Director

The following summarizes the ongoing investigation to date (Complaint language topics / excerpts in **bold**).

The Director has fostered a consistently toxic and hostile work environment.

Eleven of 11 of the Staff interviewed by the Deputy stated that the Director has created a toxic and hostile work environment. Specifically, the Staff described their work

environment as “depressing”, “toxic”, “tense”, “volatile”, “abusive”, “inefficient”, “unpredictable”, “unprofessional”, “erratic”, and “tumultuous”. Additionally, Staff mentioned that morale has never been so low in the Enforcement Division. They described an environment that felt like “running to your death” where people are operating out of fear and described the Director as a “tyrant” and “controlling”.

The Staff interviewed by the Deputy also described how the Director’s behavior made them feel. Specifically, Staff stated that the Director’s behavior made him/her feel “distressed”, “emotional”, “anxious”, “exhausted”, “embarrassed”, “burnt out”, “uncomfortable”, “unsafe”, “scared”, and “unable to do his/her job”.

The Director has repeatedly engaged in verbally abusive behavior and workplace bullying.

Every Staff member interviewed by the Deputy described multiple instances of verbal abuse and workplace bullying. Specifically, eleven of 11 of the Staff described lengthy Teams calls where the Director would shout at and berate the Staff, use condescending and patronizing tones towards the Staff, and intimidate the Staff. The instances varied from the Director addressing one Staff member while on an all-staff member call to instances where the beratements were directed at the entire Staff on an all-staff member call.

Multiple instances of the Director shouting that nobody can do their job except for him; that nobody gets anything done besides him; that nobody knows how to do things better than him; that he has been doing this for longer than anybody and therefore “what he says goes”. Additionally, multiple staff members mentioned an instance where the Director used the phrase “when the Director of Enforcement gives you a directive, you do it” even though the Staff felt what he was asking them to do could violate ethical legal standards.

Staff members also described multiple instances where the Director would mute an individual on an all-staff call when he/she would express a dissenting opinion or ask a follow-up question. Other instances where the Director insisted certain Staff leave the call or where the Director disconnected a Staff member from the call for expressing dissenting opinions were also described during the interviews; as well as instances where the Director used condescending facial expressions while on a Teams call, such as an eye roll or a sarcastic smirk.

And finally, the Staff described instances where the Director would call him or her individually to complain about other coworkers and their alleged inability to do their job and his disdain for certain employees.

The Director has repeatedly made excessive, lengthy calls to staff.

Every member of the Staff interviewed by the Deputy described lengthy calls the Director has subjected all of the Staff to multiple times a week with the expectation that the Staff drop everything and participate in the hours-long calls. The Staff stated they felt emotionally drained and exhausted after the calls. Staff also all stated that the calls interfere with their other work and prevent them from getting other work done. These are the calls where the Director would also engage in the yelling and beratement of Staff. Staff described the calls as unproductive and hostile.

The Director has frequently made vague and ambiguous threats of termination during team calls.

The Staff interviewed by the Deputy described multiple instances during the aforementioned lengthy calls where the Director, when referring to certain cases, said that the members of the Board and Governor's Office were aware of the case and "will want people fired if the case was lost". Other statements mentioned were that "if we lose, heads will roll"; "if we lose, changes will be made"; "if this doesn't go well, people will lose their jobs"; "I may have to start firing people." The Deputy views these as false and knows that the Securities Commissioner believes this to be false.

Multiple staff members stated that the Director has told them if they are not dedicating 30-40 hours a week on this one case, they will lose their jobs.

Under the Director's current leadership, all criminal enforcement work has been deprioritized and effectively halted.

The Staff stated that the Director has told them that the Board does not want to prioritize criminal matters and that the Board and the "front office" (Securities Commissioner and Deputy) only want to see administrative orders. He has told staff that they do not have the resources to devote to criminal matters and that the Legislature, Front Office, and the Board only want to see crypto orders. The Deputy views these as false and knows that such assertions are similarly viewed to be false by the Securities Commissioner. As such, the Director has failed to prioritize any criminal work by the Staff and multiple criminal referrals worked up by the Staff have since passed the statute of limitations. And the potential to get money back to Texas investors has failed.

The Staff also expressed the difficult position this has placed them in. As part of an investigation, the Staff regularly conducts victim interviews. As such, victims become aware that the Agency is looking into the alleged theft and/or fraud.
Victims have repeatedly reached out to the Staff for updates and Staff have had to be in the difficult position to relay to the victims that the case has not progressed.

Numerous criminal referrals, investigations and subpoenas were identified by Staff dating back to calendar 2023, which to date have not been reviewed or approved, including instances where the matter was designed to restore funds to Texas investors.

Several staff reported that it takes the Director months to approve subpoenas when it should be taking only a couple weeks. Specific identification of the aforementioned has been excluded from this preliminary report to protect the confidential nature of investigative information.

Other Bullying Behavior

In addition to the behavior outlined in the complaint, Staff reported that the Director fails to respond to work related questions without good reason. One individual reported that he/she contacted the Director asking for guidance on a case via Teams and the Director never responded so that the Team message was ultimately automatically deleted after 30 days. Eventually, the individual closed the case due to lack of receiving any feedback or guidance on it from the Director.

Other Staff reported that the Director is very slow to respond to them when they have questions. One individual remarked that the Director says his “door is always open” but that this is not true because he is always too busy. Several Staff remarked that the Director doesn’t visit the offices to meet with Staff or provide guidance and many had not seen him in person in years.

A couple Staff commented that the Director has a lack of appreciation for the Staff’s work-life balance and that he sends messages to the staff assigning tasks to them at all hours of the day and night and weekends and holidays, even on Christmas day.

The Agency’s Employee Manual condemns this behavior.

Notably, the Board’s Employee Manual contains the following language under the section entitled Workplace Bullying:

Employees should conscientiously perform their duties to the highest standards of competency and efficiency. Employees are required to respond readily to the direction of their supervisors, cooperate fully with all properly constituted authorities, and to do their work promptly and accurately. All interaction with fellow employees and other persons in the work environment must be conducted in a manner which will not needlessly cause dissension or discord among employees or disrupt official business.

The Agency prohibits "bullying"—repeated conduct that a reasonable person could construe as intentional mistreatment of one or more employees through humiliation, intimidation, and/or sabotage of performance…Any employee who violates this policy may be subject to disciplinary action up to and including termination from employment.

The following are examples of inappropriate workplace conduct that may be considered bullying if it is intentional and occurs more than once:

- shouting at an employee in public or private, such that you can be heard by others;
- unwelcome teasing or name-calling that is insulting or humiliating;
- using obscene or threatening gestures to communicate with another employee;
- conspiring with others to intimidate, humiliate, or otherwise undermine another employee;
- during a work-related meeting, eye-rolling or other inappropriate intentional conduct intended to intimidate or undermine the speaker or to communicate displeasure to other attendees;
- socially or physically excluding or disregarding another employee in work-related activities;
- reprimanding another employee in public;
- failing to acknowledge reasonable work-related questions or requests of another employee without good reason;

- refusing to acknowledge or make eye contact with another employee who is speaking to you; and
- refusing reasonable requests for leave in absence of work-related reasons not to grant leave.

This is not an exhaustive list. Similar types of mistreatment may also be considered to be bullying.
The Agency will consider whether the conduct was intentional, the severity of the conduct, how many times, and how often such conduct has occurred to determine the appropriate corrective action.

An employee can report workplace bullying to their immediate supervisor, their Division Director, or to the Securities Commissioner. See Violence under Standards of Conduct.

Other Productivity Issues

The complaint does not mention productivity issues other than the failures to approve or process criminal referrals, investigations and subpoenas, however, Staff also reported that the Director has failed to conduct performance reviews for much of the Division staff for many years. One staff member reported that the Director told their supervisor that "they weren't doing annual reviews anymore," which was news to the supervisor.

In addition, the Director is required to review or delegate financial exploitation reports and potential investigative matters to be assigned to Staff or determine that there is no agency jurisdiction. One Staff member reported that rather than handling these on a routine basis, the Director will instead approve voluminous reports / files previously received at one time which negatively impacts workflow for Staff designated to process the matters and Staff assigned to the new matter.

Another Staff member reported that purchase requests and travel vouchers will take the Director months to approve. Multiple Staff also reported that time sheet approvals required to be performed by the Director also lag by several months limiting Staff ability to utilize accrued overtime was noted..

Staffing levels have been significantly reduced for the Division in recent months. Current Staff need the benefit of additional positions being filled to address workload. However, little movement has occurred to address vital staffing level needs. It has been reported

that the “front office” was responsible for these delays, which the Deputy knows would be a false communication to Division Staff.

Interview with the Director

On Tuesday, May 27, the Deputy and the General Counsel met with the Director of the Enforcement Division to discuss the allegations in the complaint and provide him with an opportunity to respond. During the call, the Director admitted that he had fallen behind of administrative duties that are one of the core functions as Director of the Enforcement Division. He expressed that this was due to him being the only one capable of doing the work related to a pending case involving digital assets. He made multiple disreputable comments about the Staff’s abilities and intelligence and how he was the only one able or willing to do the work. He admitted to instances of his bad behavior and bullying conduct and stated that it was largely due to burnout and overworking and feeling that he was doing all the work. When the Deputy asked how the problems in the Enforcement Division could be resolved, the Director focused only on antiquated processes and systems which, in his opinion, need to be updated so they would not take so much time. He also suggested staff receive better education and training; but did not address any resolutions to the personnel issues.

Following the review of the complaint, consistent and persuasive information from multiple sources within the Enforcement Division suggests that the Director of the Enforcement Division has engaged in multiple, and ongoing instances of workplace bullying which violates the Agency’s Employee Manual and as such, has fostered a toxic and hostile work environment for Staff of the Enforcement Division. The Director’s negative comments about the Staff validate this. As does the Director’s admission to losing his temper and not being able to control emotions.

Furthermore, the Director of the Enforcement Division did not deny the allegations and did not provide either the Deputy or the General Counsel with sufficient information to rebut the claims. Rather, the Director engaged in negative comments about his own Staff while commenting that he was the only one able to do the Division’s work. Additionally, the Director admitted that more and more administrative Director duties are not getting done—as all his time and attention is spent on the work that others are allegedly incapable of doing. As such, the Director is unable to perform core duties of his position.

The Director of the Enforcement Division did not address or refute significant Staff assertions gleaned from interviews contained in the May 20, 2025, Enforcement Complaint – Preliminary Report, which was provided to the Director on May 21, 2025, along with the May 6, 2025, Formal Enforcement Complaint.

These assertions included suggestions of Staff terminations being a potential outcome at the direction of the Board or Governor's Office; assertions that the Front Office and the Board only want to see crypto orders at the expense of other agency statutory responsibilities; and that the Front Office was responsible for staffing levels within the Division.

The Deputy believes these assertions are false and is aware that the Securities Commissioner believes the foregoing are examples of false statements of fact and misrepresentations of information provided by the Director of Enforcement to Enforcement Staff about the positions and sentiment of the Front Office, the Board, the Governor's Office, or other external Leadership.

Conclusion

Based upon information gathered to date, it has been determined that the scope of continuing review of the serious and significant complaints made in the May 6, 2025, Formal Complaint can be concluded with appropriate action to address an abusive, hostile, toxic, and bullying work environment, as well as numerous other issues raised by the complainants.

While the foregoing does not foreclose continued investigation of the allegations, further investigation is unnecessary for significant remedial measures to be undertaken at this time to address multiple violations of the workplace bullying policy.

Attachments: **May 6, 2025, Formal Enforcement Complaint; &**
May 20, 2025, Enforcement Complaint – Preliminary Report

WRIGHT CLOSE BARGER&GUZMAN
Civil Trials & Appeals

JOSHUA C. FIVESON
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August 28, 2026

Jeramy Heintz
Texas State Securities Board
P.O. Box 13167
Austin, Texas 7811-3167
jheintz@ssb.texas.gov

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

Mr. Heintz,

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

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

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

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

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

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

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

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

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

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

Very truly yours,



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