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Cristi Ramón Ochoa
Deputy Securities Commissioner
Texas State Securities Board
P.O. Box 13167
Austin, Texas 78711-3167
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Re: Order No. ENF-26-CDO-1893

Dear Deputy Commissioner Ramón Ochoa:

I represent Respondents TEXITcoin, MineTXC, Blockchain Mint, and Robert J. Gray in connection with the Texas State Securities Board (“TSSB” or the “Board”) Order No. ENF-26-CDO-1893 (the “Order”). My clients are challenging the Order under Tex. Gov’t Code § 4007.104(c). They request a hearing to modify and/or set aside the Order.

The Order’s allegations are fundamentally flawed. The Mining Packages at issue are not securities within the meaning of Section 4001.068 of the Texas Securities Act (the “Act”). We presume (the Order does not specify) the Board’s view is that the Mining Packages constitute an “investment contract” under Section 4001.068(a)(1)(O) of the Act, but neither the barebones allegations in the Order nor the real-life facts satisfy the test set forth in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946), as applied to the Act by *Searcy v. Com. Trading Corp.*, 560 S.W.2d 637, 639-40 (Tex. 1977). And as you are aware, the U.S. Securities and Exchange Commission has determined that cryptocurrency mining activities do not involve the offer and sale of securities because there is “no expectation of profit derived from the entrepreneurial or managerial efforts of others.”¹ Put simply, no court would find that the Mining Packages are securities, and the Order is out of sync with prevailing views on mining activities.

The Order’s fraud allegations are even weaker. The Order does not allege that my clients made even a *single* false statement to *anyone*. Instead, the Order claims that my clients failed to broadcast certain facts—like a decade-old personal bankruptcy—without establishing either that my clients had any plausible duty to disclose the supposedly-omitted facts, or that any reasonable

¹ See U.S. Securities and Exchange Comm’n, “Statement on Certain Proof-of-Work Mining Activities,” Mar. 20, 2025, *available at* <https://www.sec.gov/newsroom/speeches-statements/statement-certain-proof-work-mining-activities-032025>.

person would regard those facts as material. Worse, the Order and the TSSB's accompanying press release accuse my clients of "immediate and irreparable public harm," but there is no allegation about the loss or misappropriation of a single dollar. Because the Order does not plausibly allege any imminent or ongoing investor harm, nor that any funds have been misappropriated or misused by my clients in any way, I request that the Board promptly remove any and all references to investor harm in its press release. I further request that the Board promptly clarify in its press release that my clients are entitled to, and have requested, a hearing to challenge the Order.

The Order also improperly names TEXTcoin and Blockchain Mint as Respondents. The Mining Packages at issue were sold by MineTXC, not TEXTcoin or Blockchain Mint. If the Board is intent on litigating whether the Mining Packages are securities, its fight is with MineTXC and Mr. Gray. The Order should be modified promptly to remove TEXTcoin and Blockchain Mint as Respondents.

Notwithstanding these defects, my clients are complying fully with the Order even while they challenge it. No Mining Packages are currently available for purchase on the MineTXC website. If you have any concerns regarding my clients' ongoing compliance with the Order, please notify me immediately.

My clients recognize that the Board plays an important role in protecting investors in Texas, and that the Enforcement Division staff are dedicated public servants who are committed to the integrity of the securities markets. In this case, however, the Board got it wrong. My clients are proudly a part of the Texas community, and they have developed a useful, community-driven decentralized cryptocurrency ecosystem. What they have not done is offer or sell any security, and they certainly have not engaged in fraud.

I would be happy to meet with the Enforcement Division to discuss our respective positions. If there is interest in such a meeting, please let me know. Either way, please confirm that my clients' right to a hearing has been preserved, and I will work with the Enforcement Division to agree on a proposed hearing date and briefing schedule for proceedings before the State Office of Administrative Hearings.

My clients reserve all rights to amend or supplement the grounds upon which they seek relief and to challenge the Order.

Yours,



Avi Perry