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IN THE MATTER OF BIGWHALE.IO,
SYED SAMEER AND CHRISTOPHER PAGE

§
§

Order No. ENF-23-CDO-1876

BigWhale.io is being served by registered mail addressed to (1) 34 14 D Street, Dubai, AE, and (2) HOSTINGER operations, UAB, the registrar of the domain of the decentralized application described herein, at Švitrigailos str. 34, Vilnius 03230 Lithuania

Syed Sameer is being served by registered mail addressed to (1) 34 14 D Street, Dubai, AE, and (2) HOSTINGER operations, UAB, the registrar of the domain of the decentralized application described herein, at Švitrigailos str. 34, Vilnius 03230 Lithuania

Christopher Page is being served by registered mail addressed to (1) 34 14 D Street, Dubai, AE, and (2) HOSTINGER operations, UAB, the registrar of the domain of the decentralized application described herein, at Švitrigailos str. 34, Vilnius 03230 Lithuania

EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas (the "**Securities Commissioner**") of an EMERGENCY CEASE AND DESIST ORDER pursuant to Section 4007.104 of The Securities Act, Tex. Gov't Code §§ 4001.001-4008.105 (the "**Securities Act**").

The Enforcement Division of the Texas State Securities Board has presented evidence sufficient for the Securities Commissioner to find:

FINDINGS OF FACT

SUMMARY

1. BigWhale.io aka BigWhale ("**Respondent BigWhale**") has been touting its close ties with Russia and it claims to directly work with assets in the Russian government. It is now promoting digital asset lending investments sold through a decentralized application (the "**BigWhale Dapp**").
2. The decentralized application purportedly allows investors to earn interest by authorizing Respondent BigWhale to lend their digital assets to oil producers based in Russia, digital asset exchanges and brokerages, and businesses tied to THC and CBD oil.

3. Respondent BigWhale is telling investors they will earn between 0.8% to 2% per day, that the investment is safe, and that their assets will be returned even if Respondent BigWhale goes out of business.
4. Respondent BigWhale is touting the success of the BigWhale Dapp and claiming that, as of October 3, 2023, it has secured 2,002 total active users and paid returns to investors in digital assets valued at over \$6.5 million.
5. A recent audit of its smart contract, however, shows “[t]he project appears to be using user deposits as other people’s rewards...” This type of scheme is often referred to as a Ponzi scheme.
6. Following the audit of the smart contract, on October 3, 2023, Respondent BigWhale announced it was subject to “a spoofing type or some other type of hack” where assets were moved from the smart contract.
7. It is now threatening to pursue extrajudicial relief if stolen assets are not returned and announcing it “**will go above and BEYOND legal resources, and we will stop short at saying what the Russian government and its contacts are capable of.**” (emphasis in original)
8. The Securities Commissioner is entering this Emergency Cease and Desist Order to protect the public from immediate and irreparable harm.

THE RESPONDENTS

9. Respondent BigWhale is being served by registered mail addressed to (1) 34 14 D Street, Dubai, AE, and (2) HOSTINGER operations, UAB, the registrar of the domain of the decentralized application described herein, at Švitrigailos str. 34, Vilnius 03230 Lithuania.
10. Syed Sameer (“**Respondent Sameer**”) is the owner of Respondent BigWhale’s website and he is being served by registered mail addressed to (1) 34 14 D Street, Dubai, AE, and (2) HOSTINGER operations, UAB, the registrar of the domain of the decentralized application described herein, at Švitrigailos str. 34, Vilnius 03230 Lithuania.
11. Christopher Page (“**Respondent Page**”) is the owner of Respondent BigWhale’s domain and he is being served by registered mail addressed to (1) 34 14 D Street, Dubai, AE, and (2) HOSTINGER operations, UAB, the registrar of the domain of the decentralized application described herein, at Švitrigailos str. 34, Vilnius 03230 Lithuania.

THE DECENTRALIZED LENDING PROTOCOL

12. Respondents BigWhale, Sameer and Page (collectively “**Respondents**”), along with Respondent BigWhale’s unidentified parent company, are operating an online platform accessible at BigWhale.io (the “**BigWhale Platform**”).

13. The BigWhale Platform enables users to access the BigWhale Dapp using a web 3.0 digital asset wallet.
14. Respondents are promoting the BigWhale Dapp by claiming it allows users, referred to as “stakers,” to participate in a decentralized staking protocol deployed on the BNB Smart Chain.
15. Although Respondents are characterizing the BigWhale Dapp as a staking protocol for BNB tokens, users are not actually staking digital assets and participating in proof of stake consensus mechanisms.
16. Instead, users “staking” BNB tokens in the BigWhale Dapp are actually authorizing Respondent BigWhale to lend their BNB tokens to undisclosed borrowers.
17. Respondents are claiming Respondent BigWhale is thoroughly vetting the undisclosed borrowers and the undisclosed borrowers include large-scale cryptocurrency miners, digital asset exchanges and brokerages, THC/CBD oil and hemp producers and oil distributors based in Russia.
18. These undisclosed borrowers purportedly pay daily interest to Respondent BigWhale.io. The daily interest rates purportedly range from 2.2% per day to 5% per day, with the average interest rate equal to approximately 2.5% per day.
19. Respondent BigWhale.io purportedly uses revenue received from the undisclosed borrowers to pay lucrative interest to investors as follows:
 - A. Deposits of 0.1 BNB to 0.8 BNB purportedly earn 0.8% interest per day,
 - B. Deposits of 1 BNB to 10 BNB purportedly earn 1.2% interest per day,
 - C. Deposits of 10 BNB to 30 BNB purportedly earn 1.5% interest per day,
 - D. Deposits of 30 BNB to 80 BNB purportedly earn 1.8% interest per day, and
 - E. Deposits of 80 BNB or more purportedly earn 2% interest per day.
20. The BigWhale Platform and the BigWhale Dapp provide users with a profit calculator that purportedly shows estimated earnings as follows:
 - A. Investors depositing 100 BNB for 90 days without compounding their earnings will purportedly receive 180 BNB, and
 - B. Investors depositing 100 BNB for 90 days compounding their earnings will purportedly receive 494.31 BNB.

THE WITHDRAWAL OF PRINCIPAL AND PROFIT

21. Investors are able to withdraw their principal and interest by accessing the BigWhale Dapp and using its “exit protocol.”

22. After confirming their desire to withdraw their assets through the exit protocol, investors must wait 22 days to withdraw their digital assets, and they do not earn interest on their digital assets during this period of time. Respondents are claiming Respondent BigWhale implemented this process to ensure its protocol remains balanced, fair, and sustainable.
23. Respondent BigWhale is charging investors a fee of 5% of the value of their withdrawals.

THE PURPORTED SUCCESS OF THE PROGRAM AND SAFETY OF INVESTOR ASSETS

24. Respondents are touting the success of Respondent BigWhale's operations, variously claiming that, as of October 3, 2023, it has secured 2,002 total active users and paid out more than 30,000 BNB valued at over \$6.5 million.
25. Respondents are also providing investors and prospective investors with quarterly financial statements that purport to show Respondent BigWhale's income, profits, and losses for Q1 FY 2023 (January-March 2023) and Q2 FY 2023 (April-June 2023).
26. Respondents are highlighting the purported success of Respondent BigWhale's operations in Q1 FY 2023 and Q2 FY 2023 by representing as follows:
 - A. They are representing Respondent BigWhale received net income of \$2.7 million, representing 15% YoY growth, in Q1 FY 2023. They are also representing it received net income of \$2.5 million, representing 21% YoY growth, in Q2 FY 2023.
 - B. Respondents are claiming Respondent BigWhale's lending operations expanded into new business segments in Q1 FY 2023, including oil and petroleum distributors and transporters in Russia, Italy, and Germany. They are also claiming that it made strong loans and advances in growth in THC/CBD oil and hemp sectors in Q2 FY 2023.
 - C. Respondents are representing Respondent BigWhale expanded into the Venezuelan and Colombian THC & CBD markets in Q1 FY 2023 and loan income from Colombian operations increased by 44% in Q2 FY 2023.
27. In addition to touting the success of its operations, Respondents are highlighting the safety of investments sold through the BigWhale Dapp. For example, they are telling investors that their assets are safe, even if Respondent BigWhale goes out of business or its investments fail.

THE FINE AND THE TRANSITION TO OFFSHORE OPERATIONS

28. The financial information presented to investors and prospective investors shows Respondent BigWhale incurred legal costs associated with a \$258,000 fine levied by the Swiss Federal Tax Administration (the "Swiss FTA").

29. The fine and associated legal expenses purportedly drove Respondent BigWhale to incur \$120,000 in costs associated with transitioning its operations offshore. It also purportedly began partnering with offshore banks to minimize tax and risk exposure from the Swiss FTA and European Union.

THE REFERENCES TO BANKS AND BANKING WHEN DESCRIBING RESPONDENT BIGWHALE

30. Respondents are using the term “bank” and “banking” when describing Respondent BigWhale and the BigWhale Dapp. For example, Respondents are representing as follows:
- A. They are claiming “[t]he BigWhale protocol works like a DeFi bank,”
 - B. They are representing that, “[j]ust like a regular bank, our DeFi protocol has the ability to adjust interest rates up or down,”
 - C. They are stating that Respondent BigWhale “aims to be the first truly decentralized finance (DeFi) bank that intends to provide financial services to borrowers from different industries,”
 - D. They are claiming Respondent BigWhale “aims to be a DeFi bank that caters to investors of all kinds,” and “seeks to create a decentralized banking system,” and
 - E. They are representing Respondent BigWhale “aspires to become a transformative force in the world of decentralized finance (DeFi) by positioning itself as a DeFi bank.”
31. Although Respondents are using the term “bank” and “banking” when describing Respondent BigWhale and the BigWhale Dapp, Respondent BigWhale is not licensed with nor obtained a charter from the Texas Department of Banking and the National Multistate Licensing System does not show it has been conferred any state license tied to mortgages, money service businesses or consumer finance.

THE MULTILEVEL MARKETING PROGRAM

32. Respondents are promoting the BigWhale Dapp through a multilevel marketing program.
33. The multilevel marketing program consists of three tiers:
- A. Respondents are using the term “Level 1” to refer to new investors directly recruited by an existing investor. Respondent BigWhale is promising to pay existing investors 10% of Level 1 clients’ daily earnings.
 - B. Respondents are using the term “Level 2” to refer to investors directly recruited by Level 1 clients. Respondent BigWhale is promising to pay existing investors 5% of Level 2 clients’ daily earnings.

- C. Respondents are using the term “Level 3” to refer to investors directly recruited by Level 2 clients. Respondent BigWhale is promising to pay existing investors 2% of Level 3 clients’ daily earnings.
34. Respondents are touting the lucrative nature of the multilevel marketing program, claiming it can “[s]kyrocket your passive income” and that “[s]ome of our top most (sic) promoters make as much as 2-3 BNB (~600 - \$1200 USD) daily just from their referrals alone.” (emphasis in original).

INFLUENCERS AND SOCIAL MEDIA PROMOTIONS

35. Various users are promoting Respondent BigWhale and the BigWhale Dapp through social media and videos published in YouTube, including users acting as MoonShot Max (@moonshotmax3841), SCrypto101 (@Scrypto101), Razz Tafari (@razztafari), Crypto Goshen (@cryptogoshen3579), DeFi Strategy (@defi_strategy), Crypto Kingz (@cryptokingz9915), Scott_The_Investor (@ScottTheInvestor), Crypto Muscle Network (@cryptomusclenetwork1), Crypto Muscle OG Channel (@cryptomusclelegacy), DEFILIFE (@mydefilife), Hippo Crypto (@hippocrypto3675), Jacob Crypto (@jacobcryptoyt) and Mo Crypto 777 (@mocurrency777).
36. Many of these users are providing their audiences with referral links that entitle the party promoting Respondent BigWhale and the BigWhale Dapp to receive commissions through the multilevel marketing referral program.
37. Respondents are also promoting the BigWhale Dapp through social media, including Twitter (@bigwhaleio), YouTube (@bigwhaleofficial) and Telegram (@bigwhaleofficial and @bigwhalechat).

THE SMART CONTRACT AUDIT AND THE USE OF INVESTOR DEPOSITS TO PAY OTHER PEOPLE’S REWARDS

38. The BigWhale Dapp runs on the BSC blockchain and its contract address is 0x30054BB89EDD62F9A57E6d7F02bdf25Db30751e.
39. The contract was created on March 7, 2023, at 11:37:57 p.m. CST by 0x71D9e22a39EC815da9b7819feD1434609f2fCd1C at transaction hash 0xea374b6983958785af1f8a1d500ee931e42cbd19c95de41be8801edba684e397 in block 26248965.
40. As of 9:45 a.m. CST on October 2, 2023, the contract shows 40,249 transactions, including 34,400 internal transactions, and its balance is 7,380.31 BNB, valued at approximately \$1.6 million.
41. Respondents are representing the smart contract was audited by Certified Kernel Tech LLC, also known as CertiK (“**CertiK**”), and it is using this audit to tout the legitimacy of the BigWhale Dapp.
42. CertiK published its audit of the smart contract on its online platform, and the audit purportedly shows CertiK assigned a security score of 66.71 to the smart contract.

43. The audit also identifies a critical finding. The critical finding shows “[t]he project appears to be using user deposits as other people’s rewards...”
44. Respondent BigWhale acknowledged the critical finding and responded by claiming, in part, the smart contract “is frequently re-injected with funds as required from the profits of our overall company...”

RESPONDENT BIGWHALE IS USING A KYC SERVICE TO DEMONSTRATE ITS LEGITIMACY

45. Respondents are claiming Respondent BigWhale was subject to KYC by Solidproof.io (“**Solidproof**”).
46. The KYC performed by Solidproof purportedly verified the identity of owners of Respondent BigWhale and its team members.
47. Solidproof purportedly conferred digital images of certificates showing Respondent BigWhale passed KYC on August 10, 2023. Solidproof purportedly published these images in GitHub and X, formerly known as Twitter.
48. Although Respondents are touting Respondent BigWhale’s satisfaction of Solidproof’s KYC process, neither Respondent BigWhale nor Solidproof are publicly disclosing the identity of the owners of Respondent BigWhale or its team members.
49. Respondents are claiming they are not disclosing this information “[t]o ensure security and address regulatory and tax concerns.” They are also explaining the decision was made “in light of past challenges, including issues with the Swiss FTA and EU [European Union].”

THE ANNOUNCEMENT OF A CYBERSECURITY INCIDENT

50. On October 3, 2023, Respondents announced Respondent BigWhale “suffered what seems to be a spoofing type or some other type of hack.”
51. The announcement reads, in part, as follows:

Unfortunately, we suffered what seems to be a spoofing type or some other type of hack at about 2023-10-03 5:01:14 UTC, with one failed zApproveLoanGrant transaction, followed by a successful one - in addition to this, the 5% dev fees which were there in our dev / contract creator wallet were moved to an address - 0xe6964ba0483b24ca142515345d2dc58820992d7c.

Our own dev / contract creator address also ends in d1c - which is not similar to d7c, but there have been transaction spoofing attacks similar to this we're aware of in the past, where similar addresses are used to "snoop attack" a transaction - although at this point in time details remain unclear

as we await our team to regroup in a few hours from now to get to the bottom of this.

52. Respondent BigWhale is offering a “bounty” of 20% to the hacker in exchange for the return of assets.
53. Respondents are also threatening to pursue extrajudicial relief and leverage contacts in the Russian government. It announced, for example:

Not only are we going to use the fullest extent of the law to go after the person or persons behind this hack / attack, we will also use ALL OTHER MEANS NECESSARY - and we do have such resources at our disposal, to go after the ones who are behind this. (We work with assets within the Russian government directly, among other things, which at this point in time, we're OK to share with you all)...

...not only are we going to use all of our legal resources at our disposal, **but we will go above and BEYOND legal resources, and we will stop short at saying what the Russian government and its contacts are capable of** - but we hope you get the message loud and clear: This is not just money involved, there are lives involved behind this, and we do not take kindly to that - so we offer you a 20% bounty, return it, no questions asked - if that does not happen, we will use our legal resources, but more importantly, we are not responsible for what actions the hacker or hackers may face from agents who may or may not be working directly with us - and we in no way are bluffing about this... we are not responsible for what actions the hacker or hackers may face from agents who may or may not be working directly with us – **and we in no way are bluffing about this.**

(emphasis in original)

REGISTRATION VIOLATIONS

54. The investments described herein have not been registered by qualification, notification or coordination and no permit has been granted for their sale in Texas.
55. Respondent BigWhale has not been registered with the Securities Commissioner as a dealer or agent at any time material hereto.
56. Respondents Sameer and Page have not been registered with the Securities Commissioner as agents of Respondent BigWhale at any time material hereto.

FRAUD AND THE CONCEALMENT OF INFORMATION ABOUT THE PRINCIPALS AND ROUTINE OPERATIONS

57. In connection with the offer of the investments described herein, Respondents are intentionally failing to disclose the following material facts about its personnel and operations:

- A. The identity of Respondent BigWhale’s parent company, as well as any information about its owners, business operations and capitalization,
- B. The identity of Respondent Sameer, Respondent Page, or other directors, officers, managers, or members,
- C. The business repute, qualifications and experience of Respondent Sameer, Respondent Page, and other directors, officers, managers, and members,
- D. The address of the offices of Respondent BigWhale and its parent company, as well as the addresses of the offices used by Respondent Sameer, Respondent Page, and other directors, officers, managers, and members, and
- E. The capitalization, assets, liabilities, and other financial information for Respondent BigWhale.

**FRAUD AND
THE CONCEALMENT OF INFORMATION ABOUT THE LENDING PROGRAM**

58. In connection with the offer of the investments described herein, Respondents are intentionally failing to disclose the following material facts about its lending program:
- A. The identity and location of the borrowers, as well as their capitalization, revenue, and credit risk,
 - B. The criteria used for vetting borrowers and minimizing defaults on loans issued to borrowers, and
 - C. The methodology used to recruit borrowers and the consequences of failing to recruit new borrowers.

**FRAUD AND THE CONCEALMENT OF
INFORMATION ABOUT THE BIGWHALE DAPP**

59. In connection with the offer of the investments described herein, Respondents are intentionally failing to disclose the following material facts about the BigWhale Dapp:
- A. The identity of the party or parties that developed, maintain, and update the BigWhale Dapp,
 - B. The costs associated with developing, maintaining, and updating the BigWhale Dapp,
 - C. Any information about the safety of investor assets in light of the critical finding from the CertiK audit that shows “[t]he project appears to be using user deposits as other people’s rewards...” and

- D. Any information about how a hacking incident or malicious act may negatively impact the ability to use the BigWhale Dapp or withdraw assets.

DECEPTION AND REFERENCES TO BANKS AND BANKING

- 60. As described herein, Respondents are using the words “bank” and “banking” to describe Respondent BigWhale. These statements are materially misleading or otherwise likely to deceive the public because:
 - A. Respondents are offering the investments described herein in Texas and Respondent BigWhale is not licensed with and has not received a charter from the Texas Department of Banking,
 - B. Respondents are offering the investments described herein in Texas and NMLS records do not reflect the issuance of any relevant licenses to Respondent BigWhale, and
 - C. Investors purchasing investments through the BigWhale Dapp are not afforded protection by the Federal Deposit Insurance Corporation and are not protected by laws that regulate banks.

DECEPTION AND THE REFERRAL PROGRAM

- 61. As described herein, Respondents have implemented a multilevel marketing program that compensates parties for recruiting new investors. The statements describing the referral program are materially misleading or otherwise likely to deceive the public because:
 - A. Parties offering the investments sold through the BigWhale Dapp in or from Texas are offering unregistered securities in violation of Section 4003.001 of the Securities Act, and
 - B. Parties offering the investments sold through the BigWhale Dapp in or from Texas are offering securities in violation of Section 4004.051 of the Securities Act unless the parties are registered as dealers or agents.

DECEPTION AND STAKING

- 62. As described herein, Respondents are referring to investors as “stakers” and the BigWhale Dapp as a “staking protocol.” These statements are materially misleading or otherwise likely to deceive the public because:
 - A. Investors are not actually staking digital assets and participating in proof of stake consensus mechanisms, and
 - B. The BigWhale Dapp is not a staking protocol and is instead purportedly acting as a lending protocol.

**FRAUD AND THE CONCEALMENT OF
ITS RELATIONSHIP WITH THE RUSSIAN GOVERNMENT**

63. In connection with the offer of securities, Respondents are intentionally failing to disclose the following material facts:
- A. The identity of the assets within the Russian government that Respondents purportedly work with,
 - B. The nature of the relationship between Respondents and the assets within the Russian government that Respondents purportedly work with, and
 - C. An explanation of how Respondents will work with assets within the Russian government to address the purported hack.

DECEPTION AND THE FINE PURPORTEDLY ASSESSED BY THE SWISS FTA

64. As described herein, the Swiss FTA purportedly assessed a \$258,000 against Respondents. Their description of the fine is materially misleading or otherwise likely to deceive the public because they are not providing a description of the facts giving rise to the fine or the violations of law that gave rise to the fine, and they are not providing sufficient information for investors to independently access the order, judgment or other action that levied the fine.

CONCLUSIONS OF LAW

- 1. The investments sold through the BigWhale Dapp are “securities” as the term is defined in Section 4001.068 of the Securities Act.
- 2. Respondents are violating Section 4003.001 of the Securities Act by offering securities for sale in Texas at a time when the securities are not registered with or permitted by the Securities Commissioner.
- 3. Respondents are violating Section 4004.051 of the Securities Act by offering securities for sale in Texas without being registered pursuant to the provisions of Section 4004.051 of the Securities Act.
- 4. Respondents are engaging in fraud in connection with the offer for the sale of securities.
- 5. Respondents are making offers containing statements that are materially misleading or otherwise likely to deceive the public.
- 6. Respondents’ conduct, acts, and practices threaten immediate and irreparable harm.
- 7. The foregoing violations constitute bases for the issuance of an Emergency Cease and Desist Order pursuant to Section 4007.104 of the Securities Act.

ORDER

1. It is therefore ORDERED that Respondents immediately CEASE AND DESIST from offering for sale any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Texas Securities Act.
2. It is further ORDERED that Respondents immediately CEASE AND DESIST from acting as a securities dealer, agent, investment adviser, or investment adviser representative in Texas until it is registered with the Securities Commissioner or are acting pursuant to an exemption from registration under the Texas Securities Act.
3. It is further ORDERED that Respondents immediately CEASE AND DESIST from making offering of securities in Texas containing statements that are materially misleading or otherwise likely to deceive the public.
3. It is further ORDERED that Respondents immediately CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.

NOTICE

Pursuant to Section 4007.104 of the Securities Act, you may request a hearing before the 31st day after the date you were served with this Order. The request for a hearing must be in writing, directed to the Securities Commissioner, and state the grounds for the request to set aside or modify the Order. Failure to request a hearing will result in the Order becoming final and non-appealable.

You are advised under Section 4007.206 of the Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 4007.104 of the Securities Act is a criminal offense punishable by a fine of not more than \$10,000.00, or imprisonment in the penitentiary for two to ten years, or by both such fine and imprisonment.

SIGNED AND ENTERED by the Securities Commissioner this 4th day of October 2023.



TRAVIS J. ILES
Securities Commissioner