

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the Matter of:

Complaint No. 335195

BLOCKWEATHER HOLDINGS, LLC
Unregistered

Respondent.

_____ /
This ^{sh} 6 day of August, 2018
Issued and entered

NOTICE AND ORDER TO CEASE AND DESIST

Julia Dale, the Director of the Corporations, Securities & Commercial Licensing Bureau (the “Administrator”), pursuant to her statutory authority and responsibility to administer and enforce the Michigan Uniform Securities Act (2002), 2008 PA 551, as amended, MCL 451.2101 *et seq.* (“Securities Act”), hereby orders Blockweather Holdings, LLC (“Respondent”) to cease and desist from offering and selling unregistered securities; to cease and desist from continuing to directly or indirectly make any untrue statements of material fact, or omit to state material facts necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading; and to cease and desist from filing false information with the Administrator, contrary to the Securities Act. Respondent is notified of the opportunity to request a hearing in this matter.

I. BACKGROUND

A. The Respondent

1. Blockweather Holdings, LLC is a Hawaii-organized limited liability company. Blockweather Holdings, LLC is not registered in any capacity pursuant to the Securities Act in Michigan, nor has it registered any securities offerings pursuant to the Securities Act in Michigan.

B. Findings of Fact

1. The Bureau conducted an investigation of Respondent's activities.
2. The investigation developed evidence that Respondent offered or sold limited liability company interests which are "investment contract" securities as that term is defined by the Securities Act to Michigan investor JZ. Investor JZ was older than sixty at the time of the offer and sale.
3. The investment contracts offered or sold were not registered pursuant to the Securities Act, nor has Respondent identified any applicable exemption, exception, preemption, or exclusion from the Securities Act.
4. Respondent provided a "Pitch Book" to Investor JZ which touted the anticipated profits that would result from investing with Respondent, as well as a summary of past returns of generic customers for specific time periods. (Exhibit 1 – Pitch Book). The Pitch Book provided to Investor JZ to induce his investment with Respondents did not identify that Respondent's underlying investments in cryptocurrencies were speculative and involved exceptionally very high risk of total loss.¹ A reasonable investor might consider it important to his or her investment decision that the underlying investments of a fund are speculative and involve a very high risk of total loss.
5. Respondent, through counsel, submitted correspondence to the Bureau in which it stated that Respondent's transaction with Investor JZ could not be a security because Investor JZ did not provide fiat currency to Respondent for the investments. Investor JZ, however, provided the Bureau with copies of wire transfer confirmations showing that Respondent did in fact receive fiat currency from Investor JZ in the form of United State of America Dollars. Respondent's statement regarding the nature of Investor JZ's investment was false and misleading at the time it was submitted, and may have been material to the Bureau's determination of whether the transaction fell within the scope of the Securities Act.

II. RELEVANT STATUTORY PROVISIONS

1. Section 102c(c) of the Securities Act, MCL 451.2102c(c), defines "Security", in part, as:

¹ Respondent provided the Bureau with a copy of a risk disclosure document (Exhibit 2 – Risk Disclosure) that it purportedly provided to investors. Investor JZ indicated that he never received such a document, and that the Pitch Book was the only literature that he received before his purchase of Respondent's securities.

a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest in or based on the value of that put, call, straddle, option, or privilege on that security, certificate of deposit, or group or index of securities, put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, an investment in a viatical or life settlement agreement; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing...

(v) The term includes an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor. As used in this subparagraph, a "common enterprise" means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors...

2. Section 301 of the Securities Act, MCL 451.2301, states:

A person shall not offer or sell a security in this state unless 1 or more of the following are met:

- (a) The security is a federal covered security.
- (b) The security, transaction, or offer is exempted from registration under sections 201 to 203.
- (c) The security is registered under this act.

3. Section 503(1) of the Securities Act, MCL 451.2503(1), states:

In a civil action or administrative proceeding under this act, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the exemption, exception, preemption, or exclusions.

4. Section 501 of the Securities Act, MCL 451.2501, states:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security or the organization or operation of a Michigan investment market under article 4A, to directly or indirectly do any of the following:...

(b) Make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading...

5. Section 505 of the Securities Act, MCL 451.2505, states:

A person shall not make or cause to be made, in a record that is used in an action or proceeding or filed under this act, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading in a material respect, or, in connection with the statement, omit to state a material fact necessary to make the statement made, in the light of the circumstances under which it was made, not false or misleading.

III. CONCLUSIONS OF LAW

1. Respondent, Blockweather Holdings, LLC, offered and sold an investment contract security to Michigan Investor JZ, and has not identified a relevant exemption, exception, preemption, or exclusion from Securities Act registration requirements, contrary to section 301 of the Securities Act, MCL 451.2301.
2. Respondent, Blockweather Holdings, LLC, in connection with the offer or sale of a security to Investor JZ, omitted to state material facts necessary to make other statements made not misleading in light of the circumstances under which they were made. Respondent stated in its Pitch Book that investors could expect large profits and that past investors had experienced significant profits as a result of investing with Respondent; however, Respondent omitted to state that the investments, which involved cryptocurrencies, were speculative and carried with them significant risk of total loss. The statements regarding the speculative nature of the investments and the risk of total loss were material, and were omitted from the Pitch Book used to solicit Investor JZ's investment, contrary to section 501(b) of the Securities Act, MCL 451.2501(b).
3. Respondent, Blockweather Holdings, LLC, made a false or misleading statement in a record submitted to the Bureau when it stated that Investor JZ never provided fiat currency to Respondent for investment. Investor JZ

provided wire transfer confirmations showing transfers of United States Dollars to Respondent. The statement was material because the Bureau may have considered the nature of the capital contribution in its analysis of whether the transaction between Investor JZ and Respondent fell within the scope of the Securities Act, and it was false or misleading when made, contrary to section 505 of the Securities Act, MCL 451.2505.

IV. ORDER

IT IS THEREFORE ORDERED, pursuant to section 604 of the Securities Act, MCL 451.2604, that:

- A. Respondent shall immediately CEASE AND DESIST from continuing to offer or sell unregistered securities; from, in connection with the offer or sale of securities, directly or indirectly making any untrue statements of material fact or omitting to state material facts necessary in order to make other statement made, in the light of the circumstances under which they were made, not misleading; and from submitting false or misleading statements to the Bureau, contrary to the Securities Act.
- B. Pursuant to section 604(2) of the Securities Act, this Notice and Order to Cease and Desist is IMMEDIATELY EFFECTIVE.
- C. In her Final Order, the Administrator, under section 604(4) of the Securities Act, MCL 451.2604(4), intends to impose civil fines of \$60,000.00 against Respondent.
- D. Pursuant to section 508 of the Securities Act, MCL 451.2508, a person that willfully violates the Securities Act, or an order issued under the Securities Act, is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$500,000.00 for each violation, or both. An individual convicted of violating a rule or order under this act may be fined, but shall not be imprisoned, if the individual did not have knowledge of the rule or order.
- E. The Administrator retains the right to pursue further administrative action against Respondent under the Securities Act if the Administrator determines that such action is necessary and appropriate in the public interest, for the protection of investors and is authorized by the Securities Act.

V. NOTICE OF OPPORTUNITY FOR HEARING

Section 604 of the Securities Act, MCL 451.2604, provides that Respondent has 30 days beginning with the first day after the date of service of this Notice and Order to Cease and Desist to submit a written request to the Administrator asking that this matter be scheduled for a hearing. If the Administrator receives a written request in a timely

manner, the Administrator shall schedule a hearing within 15 days after receipt of the request. The written request for a hearing must be addressed to:

Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909

VI. ORDER FINAL ABSENT HEARING REQUEST

- A. Under section 604 of the Securities Act, MCL 451.2604, the Respondent's failure to submit a written request for a hearing to the Administrator within 30 days after the service date of this **NOTICE AND ORDER TO CEASE AND DESIST** shall result in this order becoming a **FINAL ORDER** by operation of law. The **FINAL ORDER** includes the imposition of the fines cited described in section IV.C., and the fine amounts set forth below will become due and payable to the Administrator within sixty (60) days after the date this order becomes final:

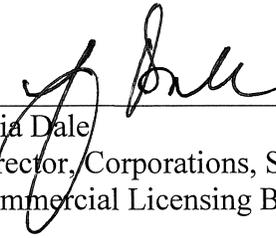
\$60,000.00 – Blockweather Holdings, LLC, under section
604 of the Securities Act, MCL 451.2604.

- B. CIVIL FINE payments should be payable to the STATE OF MICHIGAN and contain identifying information (e.g., names and complaint numbers) and mailed to the following address:

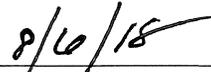
Corporations, Securities & Commercial Licensing Bureau
Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909

- C. Failure to comply with the terms of this Order within the time frames specified may result in additional administrative penalties, including the summary suspension or continued suspension of all registrations held by Respondent under the Securities Act, the denial of any registration renewal, and/or the denial of any future applications for registration, until full compliance is made. Respondent may voluntarily surrender or withdraw a registration under the Securities Act; however, the surrender or withdrawal will not negate the summary suspension or continued suspension of the relevant registrations or any additional administrative proceedings if a violation of this Order or the Securities Act occurred.
- D. Failure to pay the civil fines within six (6) months after this Order becomes final may result in the referral of the civil fines to the Michigan Department of Treasury for collection action against Respondent.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU



Julia Dale
Director, Corporations, Securities &
Commercial Licensing Bureau



Date