

**STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION**

IN THE MATTER OF:)	
)	
POTPONS LLC)	
)	ADMINISTRATIVE ORDER
DAVID REEVES)	NO. CD-2019-0005
)	
<u>RESPONDENTS</u>)	

CEASE AND DESIST ORDER

The Alabama Securities Commission ("Commission"), having the authority to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act ("Act"), upon due consideration of the subject matter hereof, has determined as follows:

RESPONDENTS

1. POTPONS, INC. ("**POTPONS**") is a registered Arkansas for profit corporation (#8111522423) having a primary business address listed as 1805 E. Nettleton Ave, Suite F, Jonesboro, Arkansas 72401.

2. DAVID REEVES ("**REEVES**"), is represented in the **POTPONS** website as the Chief Executive Officer ("CEO") of **POTPONS**, with a business address listed as 1805 E. Nettleton Ave, Suite F, Jonesboro, Arkansas 72401.

STATEMENT OF FACTS

3. On or about October 25, 2018, Commission staff received a complaint from an Alabama resident who stated that they had previously invested with **POTPONS**. The Alabama resident added that REEVES, during a phone conversation, offered to sell a quantity of **POTPONS** Coins and represented the purchase should be made soon as the value was about to "go up".

4. According to the Alabama resident, **REEVES** represented that the value of the coins would go up in the future thus providing an investment opportunity in addition to the

opportunity to utilize the **POTPONS** Coins as a utility token to make purchases of Marijuana from participating merchants.

5. According to the Alabama resident, **REEVES** represented the success of the **POTPONS** venture would be based on the construction of a mobile application and the coins being listed on various coin exchanges. The Alabama resident advised that neither the coins nor the application were ever created.

6. A review of the website www.potporns.com, revealed that it was accessible to Alabama residents and was actively offering the sale of the **POTPONS** Coins.

7. According to the **POTPONS** website, *“**POTPONS** offers a safe and easy to use alternative to cash, complying with individual state MJ banking regulations, for the legal marijuana industry, by providing both consumers and merchants internal access to its proprietary merchant processing system.”*

8. The **POTPONS** website further promoted; *“Starting June 29, 2018, for a period not to surpass 90 days, **POTPONS** is presenting to accredited investors "ONLY" a private placement memorandum pursuant to Rule 506(c) of Regulation D of the Securities Act of 1933; as amended.”*

9. According to the **POTPONS** White Paper; *“**POTPONS** Coins May Be A Security. **POTPONS** user acknowledges, understands, and agrees that if **POTPONS** is to be deemed a “security” by the SEC, then the Issuer will take the appropriate steps working directly with the SEC for the conversion of the **POTPONS** virtual currency from a ‘product’ status to a “security” status.”*

10. On January 25, 2019, a review of the registration files of the Alabama Securities Commission revealed no record of registration, nor any perfected exemption from registration for the securities offered and sold by **POTPONS**. In addition, the **RESPONDENTS** were neither registered to offer or sell securities in Alabama, nor exempt from registration.

11. A January 25, 2019, review of Arkansas Secretary of State online database revealed **POTPONS** as a registered for-profit corporation, which was organized by **REEVES** on December 18, 2017. The corporation’s current status is “Not Current.”

12. A corporation search of the Alabama Secretary of State's online website revealed no registration for **POTPONS** as a business entity or a foreign corporation to do business in the State of Alabama.

CONCLUSIONS OF LAW

13. Pursuant to Section 8-6-2(10), Code of Alabama 1975, the definition of "security" includes investment contracts and profit-sharing agreements. **RESPONDENTS'** software development investment plans require investors to invest money into the common investment plan in order to pool their investments with other investors. Investors share and expect a profit, as represented by **RESPONDENTS**, and the profit is derived from the managerial efforts of **RESPONDENTS**. Therefore, **RESPONDENTS'** software development plans constitute investment contracts and profit sharing agreements and are "securities" as defined by the Act.

14. Pursuant to Section 8-6-4, Code of Alabama 1975, it is unlawful for any person to offer or sell any security in this state unless it is registered or exempt from registration under Section 8-6-10; or the transaction is exempt under Section 8-6-11. The securities, i.e. the investment contracts and/or profit sharing agreements offered and sold by **RESPONDENTS** were neither registered nor subject to a perfected exception from registration in Alabama at the time of solicitation or sale and were offered and sold in violation of the Act.

15. Pursuant to Section 8-6-2(5), Code of Alabama 1975, the definition of an "issuer" includes every person who proposes to issue or has issued any security. **RESPONDENTS**, by issuing securities, to wit: investment contracts and/or profit sharing agreements, is an "issuer" as defined by the Act.

16. Pursuant to Section 8-6-17(a)(2), Code of Alabama 1975, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, to make or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading. **RESPONDENTS** failed to disclose that the investments offered and sold by **RESPONDENTS** were securities, which required registration in the state of Alabama, a material omission, in violation of the Act.

This Order does not prevent the Commission from seeking such other civil or criminal remedies that are available to it under the Act.

This Order is appropriate in the public interest for the protection of investors and is consistent with the purposes of the Act.

Additionally, if the allegations set forth herein are found to be true, through either administrative adjudication, failure of the **RESPONDENTS** to make a timely request for hearing, or default of the **RESPONDENTS**, it is the intention of the Commission to impose sanctions upon the **RESPONDENTS**. Such sanctions may include, inter alia, an administrative assessment imposed on **RESPONDENTS**, an additional administrative assessment for investigative costs arising from the investigation of the violation(s) described herein against **RESPONDENTS**, and a permanent order to bar **RESPONDENTS** from participation in any securities related industry in the state of Alabama.

ACCORDINGLY, IT IS HEREBY ORDERED that **RESPONDENTS** immediately **CEASE AND DESIST** from further offers or sales of any security into, within or from the state of Alabama.

Entered at Montgomery, Alabama, this 25th day of February 2019.



ALABAMA SECURITIES COMMISSION
P.O. Box 304700
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(334) 242-2984

BY:

A handwritten signature in black ink, appearing to read "Joseph P. Borg", is written over a horizontal line. The signature is stylized with long, sweeping strokes, particularly on the right side where the last name "Borg" is emphasized.

Joseph P. Borg
Director