

STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:)
) ADMINISTRATIVE ORDER
CELSIUS NETWORK LLC) NO. CO-2021-0012
)
)
<u>RESPONDENT</u>)

I. PRELIMINARY STATEMENT

WHEREAS, pursuant to the authority granted to the Alabama Securities Commission (the “Commission”) under the Alabama Securities Act, Title 8, Chapter 6, Code of Alabama 1975, and the regulations and rules promulgated thereunder (collectively, the “Act”), the Commission conducted an investigation into the securities-related activities of Respondent Celsius Network LLC (“Respondent” and, together with its debtor affiliates, “Celsius”);

WHEREAS, Celsius was a cryptocurrency firm, which, among other services, offered and sold interest-bearing digital asset accounts called the Celsius Earn Program (“Celsius Earn Program Accounts”), which allowed clients to earn interest on digital assets;

WHEREAS, state securities regulators (the “States”) conducted an investigation into whether Celsius Earn Program Accounts involved the offer and sale of unregistered securities by Celsius to retail investors, among other things;

WHEREAS, Celsius has reached an agreement with the States to resolve the investigation;

WHEREAS, the Commission commenced this matter on September 16, 2021, with the entry of an Order to Show Cause (the “Order”)¹ against Respondent. The Order set forth violations

¹ *In the Matter of Celsius Network LLC*, Adm. Order No. SC-2021-0012.

of the Act by Respondent, specifically violations of the Act's provisions related to the offering and selling of an unregistered security and the making of material misrepresentations and omissions in the offering and selling of a security;

WHEREAS, in light of the fact that Respondent has agreed to this Consent Order, is proposing to distribute or manage substantially all of Celsius's assets, to or for the benefit of their account holders, and is no longer operating any customer-facing business (and will not do so in the future), the Commission has conditionally agreed that although it would have fined Celsius at least \$5,000,000, the Commission has instead agreed to refrain from imposing any administrative fines, subject to the reservation of rights set forth herein;

WHEREAS, on July 13, 2022, Respondent and certain of its affiliates filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code;²

WHEREAS, without admitting or denying the Findings of Fact and Conclusions of Law set forth below, except as to the jurisdiction of the Commission over Respondent and the subject matter of this proceeding, which are admitted, Respondent, having been advised of its rights to counsel, expressly consents to the entry of this Consent Order, which fully resolves the allegations against Respondent set forth herein and in the Order; and

WHEREAS, Respondent elects to waive permanently any right to a hearing and appeal under Ala. Code § 8-6-32, with respect to this Consent Order;

NOW, THEREFORE, the Commission, as administrator of the Act, hereby enters this Consent Order:

II. JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Ala. Code § 8-6-16.

² *In re Celsius Network LLC*, No. 22-10964 (MG) (Bankr. S.D.N.Y. 2022) (also available at <https://cases.stretto.com/Celsius>).

III. RESPONDENT

2. Respondent Celsius Network LLC is a Celsius company incorporated in Delaware and is the subsidiary that, during certain times relevant herein, provided Celsius's user-facing services and activities for customers in the United States.

3. Celsius is a network of affiliated financial services companies that generate revenue through cryptocurrency trading, lending, and borrowing, as well as engaging in propriety trading, mining, and other types of transactions.

4. The Respondent is not presently registered, and it has never been registered, in any capacity with the Commission.

IV. FINDINGS OF FACT

Celsius's Business Operations

5. Respondent, in part, funded its lending operations, proprietary trading, and other revenue generating activities through the sale of unregistered securities in Celsius Earn Program Accounts.

6. Investors invested in Celsius Earn Program Accounts through Celsius's website or smartphone application.

7. Investors opened accounts by transferring eligible cryptocurrency to Celsius to invest in Celsius Earn Program Accounts.

8. Celsius used investors' cryptocurrencies by commingling cryptocurrencies with cryptocurrencies deposited by other investors, investing in traditional financial assets and cryptocurrency assets, lending those cryptocurrencies to institutional and corporate borrowers, and engaging in any other activities at Celsius's discretion.

9. In exchange for customers' investments, Celsius promised lucrative interest rates.

10. Celsius set the interest rates it paid on various cryptocurrencies in advance and on a periodic basis. Celsius set its interest rates based on various considerations and prioritizing Celsius's need for particular types of cryptocurrencies.

11. Celsius incentivized smaller investors to invest in Celsius Earn Program Accounts by paying higher rates of interest on smaller investments of principal for certain cryptocurrencies.

12. The accrual of interest began as soon as any funds were credited to an investor's Celsius account.

13. In the United States, interest payments were generally denominated in the same type of cryptocurrency originally invested.

The Lack of Registration and Public Protections

14. The Respondent was not licensed, registered, qualified, or notice filed with the United States Securities and Exchange Commission.

15. The offering of Celsius Earn Program Accounts was not registered with the Commission or any other securities regulatory authority, nor was it exempt from registration.

16. Celsius failed to disclose to investors in Celsius Earn Program Accounts that Celsius Earn Program Accounts were not registered by federal or state securities regulatory authorities.

17. The deposits contained in Celsius Earn Program Accounts were not protected by the Securities Investor Protection Corporation ("SIPC"), insured by the Federal Deposit Insurance Corporation, or insured by the National Credit Union Administration. This lack of a protective scheme or regulatory oversight subjected the investors in Celsius Earn Program Accounts to additional risks not borne by investors who maintain assets with most SIPC member broker-dealers, or with banks, savings associations, or credit unions.

The Undisclosed Risks

18. Celsius failed to disclose material information necessary for investors in Celsius Earn Program Accounts to make an informed decision, including critical material information about the risks associated with purchasing its unregistered securities.

19. Celsius failed to disclose to investors in Celsius Earn Program Accounts certain material facts regarding the risks associated with its unregistered Celsius Earn Program Accounts.

V. CONCLUSIONS OF LAW

20. Paragraphs 1 through 19 are incorporated by reference as though fully set forth herein.

21. Celsius Earn Program Accounts were securities as defined in Ala. Code § 8-6-2(10).

22. Celsius's offer and sale of securities in Alabama that were not registered or permitted for sale in Alabama violated Ala. Code § 8-6-4.

23. The foregoing violation of the Act set forth above provides the basis for this Consent Order pursuant to Ala. Code § 8-16-16.

24. This Consent Order is appropriate and in the public interest, pursuant to the Act.

VI. ORDER

NOW THEREFORE, pursuant to Ala. Code § 8-6-16, it is hereby **ORDERED** that:

- A. This Consent Order fully resolves the matter commenced by the Commission on September 16, 2021, with the entry of the Order against Respondent.
- B. Respondent shall **CEASE AND DESIST** from engaging, directly or indirectly, in conduct constituting or which would constitute a violation of the Act or any regulation or order under the Act, including, without limitation, offering or selling securities in

this state in contravention of the Act; *provided, however*, that nothing in this Consent Order shall restrain or enjoin the deposit, exchange, distribution, investment or withdrawal of assets owned or held by Celsius and being administered in accordance with the United States Bankruptcy Code and orders of the court in Celsius's bankruptcy.

- C. The Commission shall not impose any administrative fines against Celsius, so long as the Plan³ becomes effective and is fully administered as proposed; *provided* that if the Chapter 11 Cases are closed, dismissed, or otherwise concluded, in each case, without Celsius's bankruptcy estates being fully administered in accordance with the Plan and the Bankruptcy Code, the foregoing restriction on the Commission shall be lifted, and all of the Commission's and Celsius's respective rights are reserved as to the amount of any fines.
- D. This Consent Order shall be binding upon Respondent with respect to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

Upon execution by the Commission, this Consent Order fully resolves the Order as to the Respondent. The Commission further acknowledges and agrees that any remaining pre-Effective Time⁴ claim (as defined in section 101(5) of the Bankruptcy Code) against Celsius that relates to or arises out of this Consent Order or the conduct described in paragraphs 5 through 19 shall be treated as a State Regulatory Claim under Celsius's Plan.⁵

³ "Plan" means the *Modified Joint Chapter 11 Plan of Reorganization of Celsius Network LLC and Its Debtor Affiliates (Conformed for MiningCo Transaction)* [Docket No. 4289] (as may be modified, supplemented, or amended from time to time).

⁴ "Effective Time" shall have the meaning ascribed to it under the Plan.

⁵ "State Regulatory Claim" shall have the meaning ascribed to it under the Plan.

As part of this Consent Order, the Respondent agrees that it: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in this Consent Order or creating the impression that this Consent Order is without factual basis; and (ii) will not make or permit to be made any public statement to the effect that Celsius does not admit the allegations, without also stating that Celsius does not deny the allegations. If Respondent breaches the agreement set forth in this paragraph, the Commission may seek to vacate this Consent Order. Nothing in this paragraph affects Respondent's (i) testimonial obligations or (ii) right to take differing legal or factual positions in litigation or other legal proceedings.

This Consent Order should not be interpreted to waive any (i) criminal cause of action, (ii) private cause of action that may have accrued to investors as a result of the activities detailed herein, or (iii) other causes of action that may result from activities of Celsius not detailed in this Consent Order.

ENTERED, this the 8th day of May, 2024.

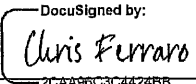


ALABAMA SECURITIES COMMISSION
P.O. Box 304700
Montgomery, AL 36130-4700
(334) 242-2984

BY:

AMANDA L. SENN
Director

Respondent Celsius Network LLC consents to the terms of the above Consent Order:

By: 
Christopher Ferraro, Plan Administrator

Date: 5/3/2024

Reviewed by Counsel for Respondent:

By: /s/ Christopher S. Koenig
Christopher S. Koenig
Counsel for Respondent

Date: May 3, 2024