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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, BUREAU OF SECURITIES
COMPLIANCE AND EXAMINATIONS

PA DEPARTMENT OF
BANKING AND SECURITIES

DOCKET No. 18 CO86 CAO
(SEC-C&D)

v.

APOLLO18, LLC
KIRK DURBIN
JUSTIN MERRELL

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities (“Department”), Bureau of Securities Compliance and Examinations (“Bureau”), has conducted an investigation of certain securities-related activities of Apollo18, LLC (“Apollo 18”), Kirk Durbin (“Durbin”), and Justin Merrell (“Merrell”). Based on the results of its investigation, which included the full cooperation of Durbin and Merrell, the Bureau has concluded that Apollo18, Durbin, and Merrell, acted in violation of Section 201 of the Pennsylvania Securities Act of 1972, 70 P.S. § 1-201. (“1972 Act”). Apollo18, Durbin, and Merrell, in lieu of litigation, and without admitting or denying the allegations herein, and intending to be legally bound, hereby agrees to the terms of this Consent Agreement and Order (“Order”).

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the 1972 Act.
2. The Bureau is primarily responsible for administering and enforcing the 1972 Act for the Department.

3. Apollo18 was, at all times material herein, a Pennsylvania limited liability corporation with an address at 1331 12th Ave, Suite 205B, Altoona, PA 16601.

4. Durbin was, at all times material herein, a co-founder, promoter and manager of Apollo18 and an individual with an address at 1331 12th Ave, Suite 205B, Altoona, PA 16601.

5. Merrell was, at all times material herein, a co-founder, promoter and manager of Apollo18, and an individual with an address at 1331 12th Ave, Suite 205B, Altoona, PA 16601.

6. In or about April of 2018, Apollo18 launched an initial coin offering (“ICO”) of Apollo18 tokens (“Tokens”).

7. In or about April 2018, Apollo18 maintained a website (“Website”) at www.apollo18.co.in. According to the Website, Apollo18 is a cryptocurrency digital mining operation offering for sale the Tokens, which are built in the Ethereum blockchain. Investors must purchase Tokens from Apollo18 using a credit card, Ethereum, or Bitcoin. According to the Website, each time Apollo18 successfully mines a digital coin, it will distribute the profits to the investors.

8. The Website contained the following:

- a. A description of Apollo18’s mission and infrastructure;
- b. A link for an investor to purchase the Tokens;
- c. A “Potential Returns” calculator that an investor could use to estimate a 6-month, 12-month or 18-month return on the Tokens, based upon a 75% annual return.
- d. A description of how Apollo18 will prioritize the payment of dividends to its investors.

9. “Pre-sale” Tokens were offered at \$0.65 per token while “public sale” Tokens were offered at \$0.90 per Token.

10. Apollo18 planned to authorize a maximum of 24,000,000 Tokens, and 79.2% of the Tokens were to be available for distribution during the ICO.

11. Apollo18 utilized social media platforms, including BitcoinTalk, Twitter, Telegram, YouTube, Facebook, Discord, and Reddit, to advertise the sale of the Tokens.

12. Apollo18 offered and sold Tokens to three (3) Pennsylvania residents (“PA Residents”).

13. The PA Residents had no substantive, pre-existing relationship with Apollo18, Durbin, or Merrell.

14. The website does not contain the disclosure set forth in Department Regulation 203.190, 10 Pa. Code §203.190.

15. The Tokens described above are “securities” within the meaning of Section 102(t) of the 1972 Act, 70 P.S. §1-102(t).

16. Apollo18 is the “issuer” of the Tokens described above within the meaning of Section 102(l) of the 1972 Act, 70 P.S. §1-102(l).

17. Durbin acted as an “affiliate” of Apollo18 within the meaning of Section 102(b) of the 1972 Act, 70 P.S. §1-102(b), and, as such, caused and is about to cause Apollo18 to commit the herein stated acts which violated and are about to violate the 1972 Act.

18. Merrell acted as an “affiliate” of Apollo18 within the meaning of Section 102(b) of the 1972 Act, 70 P.S. §1-102(b), and as such, caused and is about to cause Apollo18 to commit the herein stated acts which violated and are about to violate the 1972 Act.

19. The Tokens are (a) not registered under Section 201 of the 1972 Act, 70 P.S. §1-201; (b) not exempt from registration under Section 202 of the 1972 Act, 70 P.S. §1-202; (c) not federally covered securities; and further, the securities transactions relating to the Tokens are not exempt under Section 203 of the 1972 Act, 70 P.S. §1-203.

VIOLATION

20. By engaging in the acts and conduct set forth in paragraphs 1 through 19 above, Apollo18, Durbin, and Merrell offered and sold Tokens to Pennsylvania residents in violation of Section 201 of the 1972 Act, 70 P.S. § 1-201.

RELIEF

21. Apollo18, Durbin, and Merrell, shall pay the Department an administrative assessment in the amount of \$5,000.00. Payment shall be made by certified check or money order made payable to the “Department of Banking and Securities” and shall be mailed or delivered in person to the Bureau of Licensing, Compliance and Examinations located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

22. The administrative assessment shall be paid as follows:

- a. \$833.34 on or before November 28, 2018;
- b. \$833.34 on or before December 28, 2018;
- c. \$833.34 on or before January 27, 2018;
- d. \$833.34 on or before February 28, 2018;
- e. \$833.34 on or before March 28, 2018; and
- f. \$833.30 on or before April 30, 2018.

23. Apollo18, Durbin, and Merrell, are ORDERED to comply with the 1972 Act and Regulations adopted by the Department, and in particular Section 201 of the 1972 Act, 70 P.S. § 1-201.

24. Should Apollo18, Durbin, and Merrell fail to pay the costs and the assessment as set forth in paragraphs 21 and 22 above, the sanctions set forth elsewhere in the Order shall continue in full force and effect until full payment is made. However, this provision shall not be construed as affording Apollo18, Durbin, and Merrell the option of either paying the costs and the assessment or being indefinitely subject to the sanctions.

25. Should Apollo18, Durbin, and Merrell fail to comply with any and all provisions of this Order, the Department may impose additional sanctions and costs and seek other appropriate relief subject to Apollo18, Durbin, and Merrell's rights to a hearing pursuant to the 1972 Act.

FURTHER PROVISIONS

26. Consent. Apollo18, Durbin, and Merrell hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Bureau's authority under the 1972 Act and agree that they understand all of the terms and conditions contained herein. Apollo18, Durbin, and Merrell by voluntarily entering into this Order, waive any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

27. Entire Agreement. This Order contains the entire agreement among the Department, Apollo18, Durbin, and Merrell. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this

Order. This Order may be amended in writing by mutual agreement by the Department, Apollo18, Durbin, and Merrell.

28. Binding Nature. The Department, Apollo18, Durbin, Merrell and all officers, owners, directors, employees, heirs and assigns of Apollo18, Durbin, and Merrell intend to be and are legally bound by the terms of this Order.

29. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

30. Effectiveness. Apollo18, Durbin, and Merrell hereby stipulate and agree that the Order shall become effective on the date the Bureau executes the Order (“Effective Date”).

31. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules, and regulations under its jurisdiction against Apollo18, Durbin, and Merrell in the future regarding all matters not resolved by this Order.

b. Apollo18, Durbin, and Merrell acknowledge and agree that this Order is only binding upon the Department and not any other local, state or federal agency, department, or office regarding matters within this Order.

32. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

33. Counterparts. This Order may be executed in separate counterparts, by facsimile and/or by PDF.

34. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

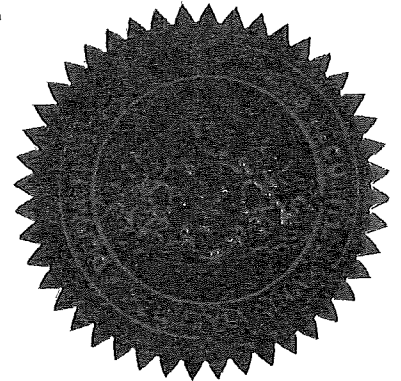
35 Finding. The Department finds that it is necessary and appropriate in the public interest and for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the 1972 Act to issue this Order

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking and Securities, Bureau of Securities Compliance and Examinations, Apollo18, Durbin, and Merrell, intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BUREAU OF SECURITIES COMPLIANCE AND EXAMINATIONS**

Redacted

Joseph J. Mirvisi, Deputy Secretary for Securities
Date: 10/31/18



FOR APOLLO18, LLC

Redacted

(Officer Signature)
Kirk Durbin

(Print Officer Name)
Founder

(Title)
Date: 10-30-18

FOR KIRK DURBIN /

Redacted

~~_____~~
(Signature)

Date. 10-30-18

FOR JUSTIN MERRELL

Redacted

~~_____~~
(Signature)

Date: 10/30/18