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SECURITIES COMMISSIONER



E. WALLY KINNEY
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DEPUTY SECURITIES COMMISSIONER

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AUSTIN, TEXAS 78711-3167

Texas State Securities Board

MELISSA TYROCH
MEMBER

208 E. 10th Street, 5th Floor
Austin, Texas 78701-2407
www.ssb.texas.gov

EJIKE E OKPA II
MEMBER

Phone: (512) 305-8300
Facsimile: (512) 305-8310

SOAH DOCKET NO. 312-22-0160

TEXAS STATE SECURITIES BOARD,
Petitioner

§ BEFORE THE STATE OFFICE

v.

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OF

ADMINISTRATIVE HEARINGS

CELSIUS NETWORK INC.

Service by (1) certified mail, return receipt requested, addressed to 221 River Street, 9th Floor, Hoboken, New Jersey 07030; (2) certified mail, return receipt requested, addressed to The Harley Building, 77-79 New Cavendish Street, London W1W 6XB, United Kingdom; (3) certified mail, return receipt requested, addressed to its counsel John Sikora, Jr., Partner, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611; and (4) electronic mail to its counsel, John Sikora, Jr., at john.sikora@lw.com.

CELSIUS NETWORK LIMITED

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CELSIUS US HOLDING, LLC

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CELSIUS LENDING, LLC

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NOTICE OF HEARING

This is your OFFICIAL NOTICE that a hearing will commence at **9:00 AM on FEBRUARY 14, 2022**, before an Administrative Law Judge. The hearing is being held via videoconference for the purpose of determining whether to issue a proposal for decision for the entry of a CEASE AND DESIST ORDER against Celsius Network, Inc., Celsius Network Limited, Celsius US Holding, LLC, Celsius Network, LLC, and Celsius Lending, LLC (herein collectively referred to as the "Celsius Network" or as "Respondents").

This hearing will be held pursuant to the Securities Act, Tex. Rev. Civ. Stats. Ann. arts. 581-1-581-45 (the "Securities Act"), the Rules and Regulations of the State Securities Board, 7 Tex. Admin. Code §§101.1-139.27 (2019) (Tex. State Sec. Bd.) (the "Board Rules"), the Administrative Procedure Act, Tex. Gov't Code Ann. §§2001.001-2001.902 (the "Administrative Procedure Act"), and the Rules of Practice and Procedure of the State Office of Administrative Hearings, 1 Tex. Admin. Code Chapter 155 (2019) (State Ofc. of Admin. Hearings) (the "SOAH Rules").

CELSIUS AND THE CRYPTO INTEREST ACCOUNTS

1. Celsius Network, Inc. is incorporated in Delaware and owns several subsidiaries including an approximately 82.81% interest in Celsius Network Limited.
2. Celsius Network Limited is incorporated in England and Wales and wholly owns many subsidiaries, including Celsius US Holding, LLC.

3. Celsius US Holding, LLC is the holding company for Celsius Network's subsidiaries in the United States and two of its wholly owned subsidiaries are Celsius Network, LLC and Celsius Lending, LLC.
4. Celsius Network, LLC is a Celsius Network company incorporated in Delaware and is the subsidiary providing Celsius Network's user-facing services and activities for customers in the United States.
5. Celsius Lending, LLC is a Celsius Network company incorporated in Delaware and is the subsidiary providing consumer fiat and stablecoin loans secured by cryptocurrency deposits to Celsius Network's customers in the United States.
6. The Celsius Network 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.
7. Respondents are, in part, illegally funding their lending operations, proprietary trading, and other revenue generating activities through the sale of unregistered securities in the form of cryptocurrency interest-earning accounts.
8. Respondents refer to the unregistered cryptocurrency interest-earning accounts as Celsius Network's "Earn Rewards" program ("Celsius Earn Interest-Bearing Account").
9. Respondents permit Texans and other investors at least eighteen years old to apply to purchase the Celsius Earn Interest-Bearing Account through the Celsius Network's website or smartphone application.
10. Investors open accounts by transferring eligible cryptocurrency to the Celsius Network to invest in Celsius Earn Interest-Bearing Accounts. Investors relinquish control over their cryptocurrency and the Celsius Network takes full legal and beneficial ownership of the investors' cryptocurrency.
11. The Celsius Network is free to use investors' cryptocurrencies consistent with the terms of the Celsius Earn Interest-Bearing Accounts, including 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 the Celsius Network's discretion.
12. In exchange for consideration received in the present, the Celsius Network is promising to pay lucrative interest rates in the future. The Celsius Network is currently promoting the interest rates through its website, which recently advertised an annual return of up to 17.78 percent on certain cryptocurrencies for retail

investors - well in excess of the rates currently being offered for short-term, investment grade, fixed income securities or for bank savings accounts.

13. The Celsius Network sets the interest rates it pays on various cryptocurrencies in advance and on a periodic basis. The Celsius Network sets its interest rates based on various considerations and prioritizing the Celsius Network's need for particular types of cryptocurrencies.
14. The Celsius Network incentivizes smaller investors to invest in the Celsius Earn Interest-Bearing Accounts by paying higher rates of interest on smaller investments of principal for certain cryptocurrencies. As an example, the Celsius Network has paid higher rates of interest on investments up to 1 Bitcoin and up to 100 Ethereum and lower rates of interest on investments of more than 1 Bitcoin and more than 100 Ethereum.
15. The accrual of interest begins "as soon as any funds are credited to [an investor's] Celsius account." Investors transfer cryptocurrencies to the Celsius Network and the transaction is timestamped with the hour, minute, and second. Interest is payable on or around the first business day of each week.
16. In the United States, interest payments are denominated in the same type of cryptocurrency originally invested. In other jurisdictions, subject to certain conditions, the Celsius Network may make interest payments denominated in its native digital token, CEL.
17. Retail investors may withdraw their cryptocurrencies at any time, subject to certain processing times.
18. As of September 3, 2021, the Celsius Network claims it has more than \$24,000,000,000 in assets under management, more than 1,000,000 community members, and more than \$8,200,000,000 in loans processed.
19. As of August 18, 2021, the Celsius Network had 348,158 active users worldwide invested in Celsius Earn Interest-Bearing Accounts with global assets under management exceeding \$12,500,000,000. As of the same date, the Celsius Network had 139,054 active users in the United States invested in Celsius Earn Interest-Bearing Accounts with United States-based assets under management exceeding \$7,000,000,000.
20. As of June 9, 2021, the Celsius Network has more than \$344,000,000 in assets under management from more than 9,000 Texas residents and businesses.

CELSIUS' API PARTNER PROGRAM

21. The Celsius Network offers an Application Programming Interface ("API") that allows certain institutional users, known as Celsius "API Partners," ("Celsius API")

Partners") to integrate with the Celsius Network's platform. Celsius API Partners can then offer and sell the unregistered Celsius Earn Interest-Bearing Accounts to their clients.

22. The Celsius Network provides two different types of accounts whereby Celsius API Partners' clients can access Celsius Earn Interest-Bearing Accounts called segmented accounts ("Segmented API Accounts") and omnibus accounts ("Omnibus API Accounts").
23. Investors who invest in Celsius Earn Interest-Bearing Accounts through a Celsius API Partner's Segmented API Account or Omnibus API Account are subject to the same rights, benefits, terms, and conditions as investors who invest in Celsius Earn Interest-Bearing Accounts directly from the Celsius Network.
24. Segmented API Accounts allow Celsius API Partners to offer Celsius Earn Interest-Bearing Accounts through their own platforms. For Segmented API Accounts:
 - A. Investors create their own Celsius Network accounts through the Celsius API Partner's platform;
 - B. The Celsius Network performs the onboarding and customer due diligence for investors from Celsius API Partners;
 - C. Investors must accept the Celsius Network's terms and conditions; and
 - D. The Celsius API Partners receive a fee based on the percentage of interest payable by the Celsius Network to the investor.
25. Omnibus API Accounts allow Celsius API Partners to offer and sell Celsius Earn Interest-Bearing Accounts to their investors on an aggregated basis. For Omnibus API Accounts:
 - A. The Celsius API Partner maintains one account with the Celsius Network where it transfers the aggregated funds of its investors;
 - B. The Celsius Network performs no customer due diligence on the Celsius API Partner's investors, has no relationship with the investors, and does not know their identities;
 - C. The Celsius Network's only contractual relationship is with the Celsius API Partner; and
 - D. The Celsius Network pays a fee to the Celsius API Partner which is in addition to the interest paid on investments in the Celsius Earn Interest-Bearing Accounts.

THE LACK OF REGISTRATION AND PUBLIC PROTECTIONS

26. Respondents are not licensed as a Money Service Business in Texas to conduct currency exchange or money transmission activities defined by Chapter 151 of the Texas Finance Code.
27. Respondents are not licensed with the United States Securities and Exchange Commission. Additionally, they are not registered with the Texas State Securities Board to offer or sell securities in Texas, as required by Section 12 of the Securities Act, and the Celsius Earn Interest-Bearing Accounts are not registered or permitted for sale in Texas, as required by Section 7 of the Securities Act. Accordingly, Respondents are violating laws designed to protect Texans.
28. The Celsius Earn Interest-Bearing Accounts are also not protected by Securities Investor Protection Corporation, otherwise known as the SIPC, a federally mandated, non-profit, member-funded United States corporation created under the Securities Investor Protection Act of 1970 that mandates membership of most US-registered broker-dealers.
29. The Celsius Earn Interest-Bearing Accounts are also not insured by the Federal Deposit Insurance Corporation, otherwise known as the FDIC, an agency that provides deposit insurance to depositors in the United States, or the National Credit Union Administration, otherwise known as the NCUA, an agency that regulates and insures credit unions.

THE UNDISCLOSED RISKS

30. Respondents are not disclosing material information necessary for investors to make an informed decision, including critical material information about the risks associated with purchasing its unregistered securities.
31. This material information includes, without limitation, the amount of money or cryptocurrency devoted to permissive uses, the identity, nature, and creditworthiness of borrowers, the type and nature of transactions involving digital assets, equities, options, and futures, the risks associated with individual digital assets, equities, options, and futures, the profits and/or losses derived from transactions, and financial information reflecting the assets and liabilities and cashflow.

THE VIOLATIONS OF THE SECURITIES ACT

32. The Securities Act regulates the offer and sale of securities in Texas.
33. Section 4.A of the Securities Act defines the term securities to include traditional products such as stocks and bonds. The statute also broadly defines the term securities to include investment contracts, notes, and evidences of indebtedness

– broad categories of products that capture the endless number of unique and innovative investment schemes continuously introduced into the market.

34. The mere fact an investment is tied to a cryptocurrency, blockchain technology, or some type of digital asset does not remove it from securities regulation if it constitutes an investment contract, note, evidence of indebtedness, or other type of security.
35. Based on the information and allegations set forth herein, the Celsius Earn Interest-Bearing Accounts constitute investment contracts, notes, or evidences of indebtedness regulated as securities as that term is defined by Section 4.A of the Securities Act.
36. Based on the information and allegations set forth herein, Respondents are violating Section 7 of the Securities Act by offering and selling securities in Texas that are not registered or permitted for sale in Texas.
37. Based on the information and allegations set forth herein, Respondents are also violating Section 12 of the Securities Act by offering and selling securities in Texas without first being registered as dealers or agents.

THE NOTIFICATION AND REQUEST FOR COMPLIANCE

38. On or about May 14, 2021, the Enforcement Division of the State Securities Board (the “Enforcement Division”) notified Respondents that Respondents may have offered securities in Texas that may not comply with the Securities Act.
39. The Enforcement Division also explained the regulation of the securities market in Texas, including the identification of laws that require the registration of securities, the registration of dealers and agents, and the truthful disclosure of all known material facts.
40. Nevertheless, Respondents have continued to offer the Celsius Earn Interest-Bearing Accounts to Texans in violation of Sections 7 and 12 of the Securities Act.

REMEDIES

41. The Enforcement Division is praying for a proposal for decision for the entry of an order that Respondents immediately cease and desist from violating Sections 7 and 12 of the Securities Act.
42. Although this Notice of Hearing is praying for a proposal for decision for an order to cease and desist from violating Sections 7 and 12 of the Securities Act, nothing set forth herein shall preclude the Enforcement Division, consistent with applicable law and rule, from pursuing other enforcement remedies, such as filing an amended Notice of Hearing praying for a proposal for decision that orders the

assessment of an administrative fine or the payment of a refund/restitution to Texans.

EXISTING CLIENT ACCOUNTS

43. This Notice of Hearing, and the prayers contained herein, do not preclude Respondents from paying interest or returns to existing clients, refunding principal to investors consistent with the terms of the Celsius Earn Interest-Bearing Accounts, or otherwise lawfully dealing with existing clientele.

THE HEARING

44. The hearing will be held before the State Office of Administrative Hearings. It will commence at **9:00 AM on FEBRUARY 14, 2022.**
45. The State Office of Administrative Hearings may conduct the hearing via Zoom. Zoom is a video conferencing platform for meetings held through the internet. The State Office of Administrative Hearings will provide instructions for accessing the hearing via Zoom.
46. At the hearing, the Enforcement Division will present testimony and other admissible evidence in support of its prayer for a proposal for decision for the entry of a CEASE AND DESIST ORDER against Respondents. Respondents will be afforded the right to present such testimony and other evidence related thereto.

LEGAL NOTIFICATIONS

47. Legal authority and jurisdiction for this matter exist under Section 23 of the Securities Act, Section 2003.021(b) of the Texas Government Code and Rule 155.51 of the SOAH Rules.
48. **IF YOU DO NOT FILE A WRITTEN ANSWER OR OTHER WRITTEN RESPONSIVE PLEADING TO THIS NOTICE OF HEARING ON OR BEFORE THE 20TH DAY AFTER THE DATE ON WHICH THIS NOTICE WAS MAILED TO YOU OR PERSONALLY SERVED ON YOU, THE FACTUAL ALLEGATIONS IN THIS NOTICE COULD BE DEEMED ADMITTED, AND THE SECURITIES COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT A HEARING AND MAY GRANT THE RELIEF SOUGHT IN THIS NOTICE. THE RESPONSE MUST BE FILED IN AUSTIN, TEXAS, WITH THE SECURITIES COMMISSIONER AND THE STATE OFFICE OF ADMINISTRATIVE HEARINGS, AND ALSO SERVED ON THE STAFF OF THE STATE SECURITIES BOARD. IF YOU FAIL TO ATTEND THE HEARING, EVEN IF A WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING HAS BEEN FILED AND SERVED, THE FACTUAL ALLEGATIONS IN THIS NOTICE COULD BE DEEMED ADMITTED, AND THE SECURITIES COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT A HEARING AND MAY GRANT THE RELIEF SOUGHT IN THIS NOTICE.**

- 49. PARTIES THAT ARE NOT REPRESENTED BY AN ATTORNEY MAY OBTAIN INFORMATION REGARDING CONTESTED CASE HEARINGS ON THE PUBLIC WEBSITE OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AT WWW.SOAH.TEXAS.GOV, OR IN PRINTED FORMAT UPON REQUEST TO THE STATE OF ADMINISTRATIVE HEARINGS.**
50. Respondents may access the Securities Act and the Board Rules through the website of the State Securities Board at www.ssb.texas.gov. Respondents may also access the SOAH Rules through the website of the State Office of Administrative Hearings at www.soah.texas.gov and the Administrative Procedure Act through Texas Legislature Online at statutes.capitol.texas.gov.
51. The Securities Act authorizes the Texas State Securities Board to pursue administrative, civil, or criminal enforcement cases. The Securities Act and Board Rules also authorize the Texas State Securities Board to share information with and refer cases to other governmental agencies with administrative, civil, or criminal jurisdiction. These other governmental agencies include, without limitation, state and federal regulatory agencies, law enforcement agencies and prosecutors' offices. Therefore, any information provided, filed, or otherwise supplied by Respondents may be shared with these other government agencies and/or used in other cases. Whether the Texas State Securities Board makes its files available to other governmental agencies or refers cases to other government agencies is typically confidential pursuant to Section 28 of the Texas Securities Act.
52. Pursuant to Board Rule 105.13, the Enforcement Division is now respectfully requesting and will continue to respectfully request the State Office of Administrative Hearings order all costs charged to the Texas Securities Board by any court reporting service be assessed against Respondents.
53. Persons with disabilities who need special accommodations at the hearing, whether held at the State Office of Administrative Hearings or through an audio or video conferencing platform, should contact the Docketing Department of the State Office of Administrative Hearings at 512-475-4993 at least one week prior to the hearing.

CONTACT AND FILING INFORMATION

54. The Enforcement Division is represented by Rachel Anderson Rynders, Attorney, Enforcement Division. Ms. Anderson Rynders' State Bar Card Number is 24103132, her work address 208 E. 10th Street, 5th Floor, Austin, Texas 78701, her telephone number is 512-305-8392, her facsimile number is 512-355-0404, and her email address is rrynders@ssb.texas.gov.

55. The Docketing Office of the State Office of Administrative Hearings is located at 300 W. 15th Street, Austin, Texas 78701, and it may be contacted by telephone at 512-745-3445 and by facsimile at 512-475-4994.
56. The State Office of Administrative Hearings may conduct the hearing via audio or video conferencing. The audio and video conferencing platforms are secure, free meetings held telephonically or through the internet. The State Office of Administrative Hearings will provide instructions for all hearings held telephonically or through a video conferencing platform.
57. Persons with disabilities who need special accommodations at the hearing, whether held at the State Office of Administrative Hearings or through an audio or video conferencing platform, should contact the Docketing Department of the State Office of Administrative Hearings at 512-475-4993 at least one week prior to the hearing.
58. Pursuant to Board Rule 105.8, all documents filed by any party, other than business records and transcripts, must be contemporaneously served upon Marlene Sparkman, General Counsel and Securities Commissioner's Representative. Ms. Sparkman's address is 208 E. 10th Street, 5th Floor, Austin, Texas 78701, her telephone number is 512-305-8300, her facsimile number is 512-305-8336, and her email address is msparkman@ssb.texas.gov.

Signed on this, the 17th day of September
2021

By: /s/ Joe Rotunda
Joe Rotunda
State Bar No. 24029808
Division Director, Enforcement Division
Texas State Securities Board
208 E. 10th Street, 5th Floor
Austin, Texas 78701
T: 512-305-8392
F: 512-355-0404
E: jrotunda@ssb.texas.gov

CERTIFICATE OF SERVICE

I hereby certify that on this, the 17th day of September 2021, true and correct copies of this Notice of Hearing are being served on the following parties through the means set forth below:

MARLENE SPARKMAN

General Counsel for the State Securities Board and the Securities Commissioner's Representative, is being served by electronic mail addressed to msparkman@ssb.texas.gov.

CELSIUS NETWORK INC.

Service by (1) certified mail, return receipt requested, addressed to 221 River Street, 9th Floor, Hoboken, New Jersey 07030; (2) certified mail, return receipt requested, addressed to The Harley Building, 77-79 New Cavendish Street, London W1W 6XB, United Kingdom; (3) certified mail, return receipt requested, addressed to its counsel John Sikora, Jr., Partner, Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611; and (4) electronic mail to its counsel, John Sikora, Jr., at john.sikora@lw.com.

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By: /s/ Joe Rotunda
Joe Rotunda
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