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SECURITIES COMMISSIONER



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## *Texas State Securities Board*

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IN THE MATTER OF	§	
MIND CAPITAL AKA MIND CAPITAL OÜ	§	
AKA MIND CAPITAL TECH SL	§	
GONZALO GARCIA-PELAYO; OSCAR	§	
GARCIA-PELAYO; RUBÉN ARCAS;	§	Order No. ENF-20-CDO-1814
MANUEL ARNIZ; CRISTINA KELLY	§	
LOPEZ; ALEJANDRO MEJÍA; AND	§	
CRAIG KINTZEL	§	

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### **Mind Capital AKA Mind Capital OÜ AKA Mind Capital Tech SL**

Calle de Juan de Mariana, 15, 28045 Madrid, Spain  
Lõõtsa tn 5-11, 11415 Tallinn, Estonia

### **Gonzalo Garcia-Pelayo**

Calle de Juan de Mariana, 15, 28045 Madrid, Spain  
Lõõtsa tn 5-11, 11415 Tallinn, Estonia

### **Oscar Garcia-Pelayo**

Calle de Juan de Mariana, 15, 28045 Madrid, Spain  
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### **Rubén Arcas**

Calle de Juan de Mariana, 15, 28045 Madrid, Spain  
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### **Manuel Arniz**

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### **Cristina Kelly Lopez**

Calle de Juan de Mariana, 15, 28045 Madrid, Spain  
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### **Alejandro Mejía**

Calle de Juan de Mariana, 15, 28045 Madrid, Spain  
Lõõtsa tn 5-11, 11415 Tallinn, Estonia

### **Craig Kintzel**

733 Armstrong Drive, Georgetown, Texas 78633  
1530 Sun City Boulevard, Suite 120, PMB 489, Georgetown, Texas 78633

## EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas (“**Securities Commissioner**”) of an EMERGENCY CEASE AND DESIST ORDER pursuant to Section 23-2 of The Securities Act, Tex. Rev. Civ. Stats. Ann. arts. 581-1-581-45 (the “**Texas Securities Act**”).

The Enforcement Division of the Texas State Securities Board has presented evidence sufficient for the Securities Commissioner to find that:

### FINDINGS OF FACT

1. Mind Capital AKA Mind Capital OÜ AKA Mind Capital Tech SL (“**Respondent Mind Capital**”) is a Spanish and Estonian domiciled company. It maintains last known addresses of Calle de Juan de Mariana, 15, 28045 Madrid, Spain, and Lõõtsa tn 5-11, 11415 Tallinn, Estonia.
2. Gonzalo Garcia-Pelayo (“**Respondent Gonzalo Garcia-Pelayo**”) is President and CEO of Respondent Mind Capital. He has last known addresses of Calle de Juan de Mariana, 15, 28045 Madrid, Spain, and Lõõtsa tn 5-11, 11415 Tallinn, Estonia.
3. Oscar Garcia-Pelayo (“**Respondent Oscar Garcia-Pelayo**”) is Vice-President of Respondent Mind Capital. He has last known addresses of Calle de Juan de Mariana, 15, 28045 Madrid, Spain, and Lõõtsa tn 5-11, 11415 Tallinn, Estonia.
4. Rubén Arcas (“**Respondent Arcas**”) is the Network Construction Consultant of Respondent Mind Capital. He has last known addresses of Calle de Juan de Mariana, 15, 28045 Madrid, Spain, and Lõõtsa tn 5-11, 11415 Tallinn, Estonia.
5. Manuel Arniz (“**Respondent Arniz**”) is the Expansion Manager of Respondent Mind Capital. He has last known addresses of Calle de Juan de Mariana, 15, 28045 Madrid, Spain, and Lõõtsa tn 5-11, 11415 Tallinn, Estonia.
6. Cristina Kelly Lopez (“**Respondent Lopez**”) is the Social Media Director of Respondent Mind Capital. She has last known addresses of Calle de Juan de Mariana, 15, 28045 Madrid, Spain, and Lõõtsa tn 5-11, 11415 Tallinn, Estonia.
7. Alejandro Mejía (“**Respondent Mejía**”) is the Brand and Creative Director of Respondent Mind Capital. He has last known addresses of Calle de Juan de Mariana, 15, 28045 Madrid, Spain, and Lõõtsa tn 5-11, 11415 Tallinn, Estonia.
8. Craig Kintzel (“**Respondent Kintzel**”) is a resident of Texas and an agent of Respondent Mind Capital. He has last known addresses of 733 Armstrong Drive, Georgetown, Texas 78633 and 1530 Sun City Boulevard, Suite 120, PMB 489, Georgetown, Texas 78633.

## THE PUBLIC SOLICITATION

9. Respondents Mind Capital, Gonzalo Garcia-Pelayo, Oscar Garcia-Pelayo, Arcas, Arniz, Lopez, and Mejía, maintain a website at <https://mind.capital> which describes how to participate in the investment program.
10. Respondents Mind Capital, Gonzalo Garcia-Pelayo, Oscar Garcia-Pelayo, Arcas, Arniz, Lopez, and Mejía, through their agent Respondent Kintzel (collectively "**Respondents**"), published an advertisement in the jobs section of the Craigslist website targeting residents of Houston, Texas; and Austin, Texas.
11. The advertisement claims Respondent Mind Capital is averaging returns of 16% per month by "using Artificial Intelligence (AI) and robots (bots)" to trade in foreign currency exchange ("**Forex**") and cryptocurrency.
12. While the advertisement states that no "referral fees or commissions" will be paid, the advertisement also touts an "attractive profit-sharing program."

## THE INVESTMENTS IN THE CRYPTO-FIAT ARBITRAGE TRADING PROGRAM

13. Respondents are offering for sale investments in Respondent Mind Capital's crypto-fiat arbitrage trading program, telling prospective investors to use Bitcoin to purchase Respondent Mind Capital's exclusive "internal use" utility token, MCcoin.
14. Respondents claim MCcoin is unalterable and is always equal to \$1.00.
15. Respondents claim investors are allowed to participate in the crypto-fiat arbitrage trading program for as little as 40 MCcoins.
16. Respondents represent that by using "advanced algorithms," they are able to analyze "the evolution of the main crypto assets and their sale price in different currencies and find the optimum moments of buying and selling."
17. Respondents claim that the crypto-fiat arbitrage trading program is earning between 0.5% and 1.5% returns daily.

## THE REFERRAL PLAN

18. Respondents are representing that in addition to receiving daily returns between 0.5% and 1.5%, investors may also receive additional funds by participating in Respondent Mind Capital's referral plan.
19. Under the referral plan, investors are encouraged to solicit additional investors to invest in the crypto-fiat arbitrage trading program.
20. If a new investor makes an investment in the crypto-fiat arbitrage trading program based on the solicitation of an existing investor, the existing investor receives a percentage of the profits earned by the new investors.

21. Respondents claim that existing investors will receive a commission equal to 8% of the profits earned by a new investor that invested based on the direct solicitation of an existing investor.
22. This referral plan operates like a "pyramid scheme" and continues up through the tenth level of new investors, earning an investor between 2% and 8% of the daily profits for each level.

#### REGISTRATION VIOLATIONS

23. Respondents have not been registered with the Securities Commissioner as a dealer or agent at any time material hereto.
24. The investments in the crypto-fiat arbitrage trading program have not been registered by qualification, notification, or coordination at any time material hereto, and no permit has been granted for their sale in Texas.

#### FRAUD AND THE UNDISCLOSED RISKS ASSOCIATED WITH FOREX

25. In connection with the offer of investments in the crypto-fiat arbitrage trading program, Respondents are promising profitability while intentionally failing to disclose material facts, including the following risks associated with Forex trading:
  - A. Fluctuations in a country's interest rates may lead to fluctuations in a currency's value, thereby negatively impacting the ability to close a trade for profit;
  - B. Fluctuations in the foreign exchange rate between the time of placing a trade and the time of closing a trade may negatively impact the price of Forex; and
  - C. A system or technical failure in a platform used for executing trades may negatively impact the ability to close a trade for profit.

#### FRAUD AND THE UNDISCLOSED RISKS ASSOCIATED WITH CRYPTOCURRENCY INVESTMENTS

26. In connection with the offer of investments in the crypto-fiat arbitrage trading program, Respondents are intentionally failing to disclose the following material facts relating to the risks associated with cryptocurrency investments:
  - A. Governments may adopt legislation or regulation that may negatively impact the use, transfer, exchange or price of cryptocurrencies;
  - B. Cryptocurrencies are volatile and the price of a cryptocurrency as it relates to fiat currency may decrease over a short period of time, resulting in significant loss to the owners of cryptocurrencies;

- C. A system or technical failure, or deficient source code, may negatively impact the ability to exchange cryptocurrencies for fiat currencies as well as the price of cryptocurrencies;
- D. A hacking incident or malicious attack may negatively impact the price of cryptocurrencies; and
- E. Cryptocurrencies compete with other cryptocurrencies, and this competition may negatively impact the price of a specific cryptocurrency.

#### FRAUD AND THE STRATEGIES FOR GENERATING PROFITS

27. In connection with the offer of investments in the crypto-fiat arbitrage trading program, Respondents are intentionally failing to disclose the following material facts relating to its strategy for trading in crypto-fiat arbitrage and generating profits:
- A. The business repute and history of the persons responsible for the management of the crypto-fiat arbitrage trading program, including information on prior cryptocurrency investment schemes managed or promoted by the Respondents;
  - B. Information about the algorithm used to analyze cryptocurrencies and their exchange rates;
  - C. Information about the security of the crypto-fiat arbitrage trading platform, as well as its strategies of protecting against malicious cyberattacks; and
  - D. Information about the recent halving of Bitcoin, including strategies for dealing with changes to the price of Bitcoin or cryptocurrencies correlated with Bitcoin that result from the decrease in the number of Bitcoins introduced into the marketplace through mining.

#### FRAUD AND DECEIT AND THE REFERRAL PLAN

28. In connection with the offer of investments in the crypto-fiat arbitrage trading program, Respondents are representing that no "referral fees or commissions are paid on deposits" and this constitutes a misrepresentation of a relevant fact.
29. Respondents are touting Respondent Mind Capital's referral plan as a means of compensating investors for soliciting other prospective investors. These statements are materially misleading or otherwise likely to deceive the public in light of the following undisclosed information:
- A. Persons who offer and sell securities in Texas, including investments in the crypto-fiat arbitrage trading program, are typically required to be registered pursuant to Section 12 of the Securities Act.

- B. Persons who offer and sell investments in the crypto-fiat arbitrage trading program are offering and selling securities in violation of Section 7 of the Securities Act.

### FRAUD AND DECEIT AND THE STATEMENTS REGARDING REGISTRATION

- 30. Respondents are claiming Respondent Mind Capital is “legally registered and act within the regulatory framework of Estonia.” Respondents are further claiming the program “meets all S.E.C. rules for the U.S. and the European Union.” These statements are materially misleading or otherwise likely to deceive the public in light of the following:
  - A. Respondents have not been registered with the Securities Commissioner as dealers or agents and investments in the crypto-fiat arbitrage trading program have not been registered by qualification, notification, or coordination and no permit has been granted for their sale in Texas.
  - B. On or about January 13, 2020, the Comisión Nacional del Mercado de Valores, or the National Securities Market Commission, of Spain issued a public warning that Respondent Mind Capital was not authorized to provide investment services per Article 140 and 141 of the Securities Markets Law of Spain.
- 31. Respondents Mind Capital, Gonzalo Garcia-Pelayo, Oscar Garcia-Pelayo, Arcas, Arniz, Lopez, and Mejía are intentionally failing to disclose that on or about January 13, 2020, the Comisión Nacional del Mercado de Valores, or the National Securities Market Commission, of Spain issued a public warning that Respondent Mind Capital was not authorized to provide investment services per Article 140 and 141 of the Securities Markets Law of Spain, said information being a material fact.

### CONCLUSIONS OF LAW

- 1. The investments in the crypto-fiat arbitrage trading program are securities as the term is defined by Section 4.A of the Securities Act.
- 2. Respondents are violating Section 7 of the Securities Act by offering securities for sale in Texas at a time when the securities are not registered with the Securities Commissioner.
- 3. Respondents are violating Section 12 of the Securities Act by offering securities for sale in Texas without being registered pursuant to the provisions of Section 12 of the Securities Act.
- 4. Respondents are engaging in fraud in connection with the offer for sale of securities.
- 5. Respondent has made an offer containing a statement that is materially misleading or otherwise likely to deceive the public.

6. Respondents' conduct, acts, and practices threaten immediate and irreparable public harm.
7. The foregoing violations constitute bases for the issuance of an Emergency Cease and Desist Order pursuant to Section 23-2 of the Securities Act.

### ORDER

1. It is therefore ORDERED Respondents immediately CEASE AND DESIST from offering for sale any security in Texas until the security is registered with the Securities Commissioner or is offered pursuant to an exemption from registration under the Securities Act.
2. It is further ORDERED Respondents immediately CEASE AND DESIST from acting as a securities dealer or agent in Texas until Respondents are registered with the Securities Commissioner or are acting pursuant to an exemption from registration under the Securities Act.
3. It is further ORDERED Respondents immediately CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.
4. It is further ORDERED Respondents immediately CEASE AND DESIST from offering securities in Texas through an offer containing a statement that is materially misleading or otherwise likely to deceive the public.

### NOTICE

Pursuant to Section 23-2 of the Texas Securities Act, you may request a hearing before the 31st day after the date you were served with this Order. The request for a hearing must be in writing, directed to the Securities Commissioner, and state the grounds for the request to set aside or modify the Order. Failure to request a hearing will result in the Order becoming final and non-appealable.

You are advised under Section 29.D of the Texas Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 23-2 of the Texas Securities Act is a criminal offense punishable by a fine of not more than \$10,000, or imprisonment in the penitentiary for two to ten years, or by both such fine and imprisonment.

SIGNED AND ENTERED by the Securities Commissioner this 16<sup>th</sup> day of July, 2020.



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TRAVIS J. ILES  
Securities Commissioner