

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10841 / September 15, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-20003

<p>In the Matter of</p> <p style="text-align:center">Unikrn, Inc.</p> <p>Respondent.</p>

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, MAKING FINDINGS, AND IMPOSING PENALTIES AND A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) against Unikrn, Inc. (“Unikrn” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant To Section 8A of the Securities Act of 1933, Making Findings, and Imposing Penalties and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

Summary

1. Between June and October 2017, Unikrn, an operator of an online eSports gaming and gambling platform, conducted a securities offering (“the Offering”) in two phases – a so-called pre-sale and an initial coin offering (“ICO”) – in which it raised \$31 million through the sale of UnikoinGold (“UKG”), a digital token. Unikrn represented to investors that they would be

able to access a variety of products and services with their UKG tokens, including placing bets on professional eSports and video game matches, and that over time Unikrn would make more features available. Unikrn further represented that it would facilitate a secondary trading market for the tokens and that its efforts to increase the usages for the UKG token would increase the demand for and in turn, the value of the tokens. Unikrn did not register the offer and sale of the tokens pursuant to federal securities laws, nor did the offering qualify for an exemption from the registration requirements.

2. Based on the facts and circumstances set forth below, UKG tokens were offered and sold as investment contracts, and therefore securities, pursuant to *SEC v. W. J. Howey Co.*, 328 U.S. 293 (1946) and its progeny, including the cases discussed by the Commission in its *Report of Investigation Pursuant To Section 21(a) of the Securities Exchange Act of 1934: The DAO* (Exchange Act Rel. No. 81207) (July 25, 2017) (the “DAO Report”). A purchaser in the offering of UKG tokens would have had a reasonable expectation of obtaining a future profit based upon Unikrn’s efforts, using the proceeds from the offering to create applications for UKG tokens that would increase the token’s value. Unikrn violated Sections 5(a) and 5(c) of the Securities Act by offering and selling these securities without having a registration statement filed or in effect with the Commission or qualifying for an exemption from registration.

Respondent

3. Unikrn is a privately owned Delaware corporation with its principal place of business in Washington State. Unikrn is not registered with the Commission in any capacity.

Other Relevant Entity

4. Unikrn Bermuda Ltd. (“Unikrn Bermuda”) is a Bermuda-based, wholly-owned subsidiary of Unikrn.

Facts

Background

5. Established in 2014, Unikrn operates an international eSports gaming and gambling platform. Prior to and during the Offering, Unikrn platform users could place bets on eSports events or participate in jackpots using tokens called “Unikoins.” Unikoin tokens were earnable only on Unikrn’s platform and could not be purchased, sold, transferred, or exchanged for anything of value outside of the platform. Unikoin tokens also had no utility outside the platform, nor were they tradeable on any secondary market.

6. In June 2017, Unikrn decided to pursue a token offering to raise capital to develop further the Unikrn platform, as well as, to address complex payment issues impacting gambling operators. On June 11, 2017, Unikrn sent an email to Unikrn shareholders announcing plans to create a new digital token – UnikoinGold – and inviting investors to participate in a “pre-sale” phase of the Offering, during which investors could purchase UKG tokens through a purported Simple Agreement for Future Tokens (“SAFT”). Unikrn marketed the pre-sale to Unikrn shareholders, wealthy individuals and digital asset investment funds through September 20, 2017. Starting on June 19, 2017, Unikrn advertised its Offering to the

public through media outlets and a website dedicated to the Offering, UnikoinGold.com, and by disseminating the UnikoinGold White Paper (the “White Paper”).

7. UKG tokens were intended to facilitate users’ access to products and services on the Unikrn platform and according to the White Paper “to power the most immersive live-betting platform for eSports.” The existing Unikoin was to be rebranded as UnikoinSilver.

8. According to the White Paper, 60% of the offering proceeds would be used for platform development. The White Paper provided a timeline with projected dates for development of certain UKG functions, including spectator gambling on professional eSports matches (“spectator betting”), skills-based gambling in which platform users could compete in eSports games and bet on themselves (“skills-based betting”), jackpots, trading for in-video game virtual items (“skins”), and paying gratuities to eSports personalities. The White Paper also claimed that over time Unikrn would develop additional applications for the UKG tokens, such as bingo, casino games, and eSports tournaments. Unikrn provided no information regarding the number of UKG tokens necessary to use the platform functions. For “spectator betting” and “skill-based betting,” UKG could be used as an alternative to fiat currency.

9. The White Paper indicated that the one billion UKG tokens created by Unikrn would be used as follows: 20% would be distributed in the Offering (pre-sale and public ICO), 35% would be dedicated to user growth and development, 20% would be held by Unikrn for Unikrn’s account in cold storage, 15% would be placed in a betting reserve, and 10% would be distributed to Unikrn’s founding team and employees. Ultimately, other than the approximately 150 million tokens distributed in the Offering, the bulk of the tokens created remained in cold storage.

Unikrn and its Agents Promoted UKG Tokens and Purchasers had a Reasonable Expectation of Obtaining a Future Profit

10. Although the terms of the public token sale agreement required purchasers to agree that they were buying UKG tokens for their utility and not as an investment, Unikrn’s promotion of the Offering to investors suggested otherwise, resulting in Offering participants having a reasonable expectation of profit through Unikrn’s efforts to expand the token’s uses and increase its value. Unikrn highlighted its founders’ success in previous business ventures and its existing investors’ record of “picking winners.” In addition, the company touted its technological capabilities and experience with international regulatory compliance.

11. In communications to investors, Unikrn described how the company’s efforts to expand the UKG token’s functionality would increase the value of the tokens. Unikrn explained that as the company added and improved the products and services for use with the UKG tokens, the betting volume and turnover of the UKG tokens on Unikrn’s platform would increase. In turn, by increasing turnover and betting volume, the value of the tokens would also increase.

12. Unikrn similarly emphasized to purchasers that it was committed to maintaining a “stable ecosystem” for UKG and that the company would limit the number of tokens sold in the

Offering in order to “maintain value in UnikoinGold and limit the number of tokens in the market.”

13. Unikrn’s promotional efforts for the Offering were not directed to expected users of Unikrn’s platform and were broadly aimed at digital token investors and enthusiasts, further demonstrating the company’s efforts to emphasize potential profits as opposed to any consumptive use for the token.

14. Unikrn hired a blockchain marketing firm to promote the UKG Offering in forums focused on investments in digital assets. The marketing firm posted hundreds of messages touting the Offering, including describing the UKG token as a “good long-term hold” and claiming that, although the token does not confer voting rights or equity in Unikrn, “that does not mean a token purchaser would not get a good return on it.”

Unikrn Offering of UKG Tokens

15. On October 6, 2017, Unikrn Bermuda filed a Form D with the Commission incorrectly claiming that its pre-sale phase of the Offering was exempt from registration under SEC Rule 506(c) of Regulation D and that Unikrn Bermuda raised approximately \$16 million in U.S. Dollars and Ether (“ETH”), a digital asset, from 75 accredited investors, some of which were U.S. persons. These investors paid between \$0.15 and \$0.30 per token.

16. Between September 22 and October 23, 2017, Unikrn also offered UKG tokens directly to the public, raising an additional approximately \$15 million in ETH from approximately 6,600 investors, including approximately 3,300 investors in the United States. Some of these investors were unaccredited. Unikrn set the minimum contribution at 0.1 ETH and the maximum contribution at 961 ETH. UKG tokens were allocated to the public sale purchasers for approximately \$0.30 per token in proportion to the ETH provided by the purchasers. The token sale publicly was advertised to, among others, Unikrn platform users, eSports and video game communities, and digital token investors and enthusiasts.

17. Through the Offering, Unikrn raised a total of \$31 million, as measured in U.S. Dollars and its equivalent value in ETH at the close of the offering. UKG tokens were distributed to, without any transfer restrictions, all UKG token sale purchasers on November 5, 2017.

18. On November 5, 2017, when Unikrn initially distributed UKG tokens to Offering participants, the tokens could not yet be used on Unikrn’s platform. Approximately one week later, UKG tokens could be used to participate in jackpots or to trade for skins and could be earned on the platform from gameplay. Skills-based betting with UKG tokens became available in early 2018, and spectator betting was not available until October 2018 and only then to users outside of the United States.

19. Before and after the UKG tokens were distributed to investors, Unikrn sought to have UKG tokens “listed” on various digital asset trading platforms. Following the Offering, UKG tokens were traded on multiple digital asset trading platforms. Offering participants were not required to use the tokens on Unikrn’s platform before trading them on the secondary market.

In the year following the Offering, less than 3% of Offering participants used their tokens on Unikrn's platform.

Violations

20. As described above, Unikrn offered and sold securities to the general public, including investors in the United States. No registration statements were filed or in effect for the UKG token offers and sales and the Offering did not qualify for any exemption from registration.

21. As a result of the conduct described above, Unikrn violated Section 5(a) of the Securities Act, which states that unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

22. Also as a result of the conduct described above, Unikrn violated Section 5(c) of the Securities Act, which states that it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security.

Undertakings

23. Respondent has undertaken to:

- A. Permanently disable UKG within 10 days of the date of this Order.
- B. Publish notice of the Order on Unikrn's website and social media channels, in a form not unacceptable to Commission staff, within 10 days of the date of this Order.
- C. Take reasonable steps to convey this Order to digital asset trading platforms that offer trading of UKG and request the removal of UKG from the platforms, and publish notice of such requests on Unikrn's website and social media channels, in a form not unacceptable to Commission staff, within 10 days of the date of this Order.

24. Respondent shall certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Carolyn M. Welshhans, Associate Director, Division of Enforcement, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than thirty (30) days from the date of the completion of the undertakings.

25. Respondent may apply to the Commission staff for an extension of the deadlines set forth above before their expiration and, upon a showing of good cause by Respondent, the Commission staff may, in its sole discretion, grant such extensions for whatever time period it deems appropriate.

26. In determining whether to accept the Offer, the Commission has considered these undertakings, Unikrn's current financial condition, and that the penalty represents substantially all of Unikrn's assets.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Pursuant to Section 8A of the Securities Act, Respondent Unikrn cease and desist from committing or causing any violations and any future violations of Sections 5(a) and (c) of the Securities Act.

B. Respondent shall comply with the undertakings enumerated in Paragraph 23(B)-(C) above.

C. Respondent shall pay a civil money penalty in the amount of \$6,100,000 to the Securities and Exchange Commission. Payment shall be made in the following installments:

1. Within thirty (30) days of the entry of this Order, Respondent will pay \$3,100,000.
2. Within ninety (90) days of the entry of this Order, Respondent will pay (i) \$1,060,000; (ii) the proceeds from the sale of investment assets previously identified to the Commission currently valued at approximately \$1,940,000; and (iii) within 120 days of the entry of this Order, Respondent will pay any balance due on the penalty of \$6,100,000.

If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of the civil penalty, plus interest which then shall begin to accrue pursuant to 31 U.S.C. § 3717 shall be due and payable immediately, at the discretion of the Commission staff.

Payment must be made in one of the following ways:

1. Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

2. Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
3. Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Unikrn as a Respondent in this proceeding, and the file number of this proceeding; a copy of the cover letter and check or money order must be sent to Carolyn M. Welshhans, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

D. The Division of Enforcement ("Division") may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of a penalty should not be ordered; (3) contest the imposition of the maximum penalty allowable under the law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

E. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended by the Dodd-Frank Act of 2010 [15 U.S.C. § 7246(a)], a Fair Fund is created for the penalty referenced in paragraph IV.C above. The Commission will appoint a Fund Administrator who will develop a distribution plan (the "Plan") and administer the Plan in accordance with the Commission Rules on Fair Fund and Disgorgement Plans. The Fair Fund shall be used to compensate harmed investors for losses resulting from the violations determined herein. Any amount remaining in the Fair Fund after all distributions have been made shall be transmitted to the U.S. Treasury.

F. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary