

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 10817 / August 13, 2020

SECURITIES EXCHANGE ACT OF 1934

Release No. 89548 / August 13, 2020

ADMINISTRATIVE PROCEEDING

File No. 3-19913

In the Matter of

**KELVIN BOON, LLC AND
RAJESH PAVITHRAN,**

Respondents.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Kelvin Boon, LLC (“Boon.Tech” or “the Company”) and Rajesh Pavithran (“Pavithran”) (collectively “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted an Offer of Settlement (the “Offer”) which 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V as to Pavithran, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offer, the Commission finds that:

Summary

1. From November 2017 through January 2018, Kelvin Boon, LLC, doing business as Boon.Tech, which was in the early stages of developing a software platform to connect employers posting jobs with freelancers seeking work, and its founder Rajesh Pavithran, offered and sold digital assets in the form of tokens called "Boon Coins" through an online initial coin offering ("ICO"). Boon.Tech issued the Boon Coins on a blockchain, or distributed ledger, and raised approximately \$5 million in the ICO, the purpose of which was to raise capital to fund its business. In promoting the ICO, Respondents touted the value of Boon Coins to investors, highlighted their efforts to make Boon Coins available for trading on digital asset trading platforms, and claimed that Boon Coins would increase in price as a result of their efforts. Respondents did not register the offer and sale of Boon Coins pursuant to the federal securities laws, nor did the offer and sale qualify for an exemption from the registration requirements.

2. Based on the facts and circumstances set forth below, Boon Coins were offered and sold as investment contracts, and therefore securities, under *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 Boon Coins would have had a reasonable expectation of obtaining a future profit based upon Respondents' efforts, including efforts to incentivize the adoption of the platform and create demand and market appreciation for Boon Coins independent of any consumptive value for the tokens. Boon.Tech and Pavithran 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.

3. Respondents also violated the antifraud provisions of the federal securities laws with respect to the offering because the offering website, a whitepaper describing the offering, and promotional materials on social media contained materially false and misleading statements concerning Boon Coins and the platform's capabilities. Respondents claimed that Boon Coins were stable and secure because Boon.Tech's platform eliminated volatility inherent in the digital asset markets by using patent-pending technology to hedge Boon Coins against the U.S. dollar. In fact, Boon.Tech had no such patent-pending technology. Respondents also misrepresented to investors in the ICO that Boon.Tech's platform was superior to competitors' because it was based on its own independent blockchain and therefore more scalable, when in reality the platform was being developed on the same public blockchain as its competitors. As a result, Boon.Tech and Pavithran violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

Respondents

4. Kelvin Boon, LLC, is a Virginia limited liability company headquartered in Herndon, Virginia, and does business under the name Boon.Tech. Neither Boon.Tech nor its securities are registered with the Commission. Boon.Tech is a small business, with less than \$5 million in assets.

5. Rajesh Pavithran, age 47, is the founder and Chief Executive Officer of Boon.Tech and a resident of Herndon, Virginia. Pavithran has never held securities licenses or been associated with any entity registered with the Commission in any capacity.

Facts

6. On its website and in internet forums and social media posts, Boon.Tech describes itself as a “block chain based freelance marketplace” where “entrepreneurs and freelancers meet to facilitate freelance transactions with crypto currency rewards.” Boon.Tech and Pavithran controlled the content on multiple web pages, including but not limited to its website, a Facebook page, a group on Telegram, and posts on various social media message boards.

7. On or about September 19, 2017, Boon.Tech released a White Paper (the “White Paper”) on its website describing its business model and planned sale of Boon Coins. At the time Boon.Tech published the White Paper, the Boon.Tech platform was not fully functional.

8. The White Paper stated that “Boon.Tech aims to become the world’s first Artificial Intelligence powered job marketplace to utilize the massive computation power and data analytics to gain valuable percentage points of accuracy, giving our users a much higher ROI compared to a traditional platform.” The White Paper described Boon.Tech as a “decentralized platform and collection of smart contracts forming a decentralized job marketplace.”

Boon.Tech Planned to Use the ICO Proceeds to Build the Platform

9. Respondents offered Boon Coins in the ICO to raise capital to build a profitable enterprise. Boon.Tech’s White Paper stated that “Funds raised during the Contribution Period will be used solely for the development and benefit of the Boon Platform” and that “the progress we have already made reaching our alpha suggests that the viability of these technologies is reaching widespread mobile use, but we are keenly aware of the tremendous amount of work ahead of us.”

10. In a July 16, 2017 YouTube interview titled “Boon.Tech For Investors #1 – What is Boon.Tech?,” Pavithran stated that the purpose of the token sale was for marketing, to fund outreach, and to get the token into users’ hands. He further stated “I would say it’s the full commercialization of the product” because the product “needs work still to take it to the point where [the] average consumer . . . [will] comfortably use it every day.”

Respondents Offered and Sold Boon Coins to the General Public

11. From November 15, 2017 to January 16, 2018, Respondents offered and sold Boon Coins to the general public in an ICO.

12. Respondents advertised Boon Coins as being available for purchase by individuals in the United States and worldwide through websites and social media pages, including but not limited to the Boon.Tech website. Boon.Tech also posted the White Paper on its website and discussed it on various social media platforms.

13. Boon Coins could be purchased in the ICO in exchange for Ether, Bitcoin or fiat currency.

14. Per Boon.Tech's website and White Paper, Boon.Tech generated a total of 500 million Boon Coins. Of this amount, Boon.Tech earmarked 250 million for sale, of which 125 million were sold in the ICO and 125 million were unsold. Boon.Tech raised approximately \$5 million in the ICO, as measured in the U.S. Dollar equivalent of Ether and Bitcoin at the close of the offering. Approximately 1,500 investors purchased Boon Coins, including persons in the United States.

15. On February 23, 2018, Boon Coins were issued on the ethereum blockchain using the ERC20 protocol. A total of 125 million tokens were distributed to purchasers in the ICO and the remaining 375 million tokens were retained by Boon.Tech.

Respondents Made Materially False and Misleading Statements and Omissions in the ICO

16. In the White Paper, on Boon.Tech's website, and in social media posts, Respondents made materially false and misleading statements about the platform's capabilities.

17. For instance, the White Paper states "Boon.Tech address[es] the volatility of the crypto currencies by a patent pending technology to eliminate the volatility of the cryptocurrency market and obtain stability in the platform." The White Paper further assures investors that "[h]edging addresses the fluctuation in cryptocurrency market, enabling our users to trust our platform and engage our platform without any fear of monetary loss."

18. Pavithran also stated in promotional YouTube videos that "[w]e hedge the volatility of cryptocurrency using Coinbase API and GDAX API, so that people who get hired or who hire people don't have any effects of crypto volatility which is very high in this market." He also stated that Boon.Tech has an "escrow system so employees are more safe."

19. This claimed patent-pending technology to hedge Boon Coins against the U.S. dollar and eliminate the volatility in the digital asset markets did not exist. Pavithran converted the funds deposited to other digital assets, including some purporting to be "stablecoins," through his personal digital asset wallets on digital asset trading platforms, and then converted them back to

Boon Coins or the freelancer's preferred digital asset for payment at the completion of a job booked on the Boon.Tech platform. Rather than securing the funds with a proprietary hedging technology, this practice subjected the funds to the risk of decline or collapse in the value of the digital assets Pavithran purchased. Respondents concealed this information and the associated risks from investors.

20. Respondents also misrepresented to investors in the ICO that Boon.Tech's platform was more advanced than platforms offered by competitors. The White Paper states in comparing Boon.Tech's platform to one competitor that "Boon.Tech created our own blockchain to make transaction[s] faster and scalable." In comparing the Boon.Tech platform to two other competitors, the White Paper states that Boon.Tech's platform is more scalable because it is based on Boon.Tech's "independent blockchain" while the others are "dependent on the Ethereum platform." In reality, Boon.Tech did not have its own independent blockchain and the Boon.Tech platform was being developed on the same ethereum platform as its competitors.

Respondents Promoted Boon Coins as an Opportunity to Obtain Future Profits from the Efforts of Boon.Tech and its Agents

21. Boon.Tech highlighted the credentials, abilities and management skills of its team in the White Paper, on the Boon.Tech website, and in blogs, online videos and online forums. CEO and founder Pavithran's professional biography in the White Paper highlighted his 19 years of software development experience, his qualification as an "IBM Certified Technical Architect," and his work on a blockchain-related project in 2017, among other qualifications. The White Paper also listed the experience of the Boon.Tech management team, including 60 plus years of combined software development experience from Oracle Corp., Thomson Reuters, IBM, and General Electric, a former CTO of a start-up company with annual revenue of \$1 million, and a former COO of a company with five mobile app products with more than 500,000 downloads.

22. Respondents marketed the Boon Coins to investors who would have reasonably viewed the tokens as a speculative, tradeable investment vehicle that might appreciate based on Boon.Tech's managerial and entrepreneurial efforts. The White Paper included a section titled "Why Invest In the Boon Coin" and described the tokens as "ownership in the community." The White Paper also explained Boon.Tech's planned efforts to increase use of Boon Coins, "thus increasing the market cap of Boon Coin."

23. Respondents designed and marketed the Boon.Tech platform to create demand and market appreciation for Boon Coins independent of any consumptive value for the tokens. Boon.Tech took several steps to promote the value of Boon Coins to investors despite the fact that the platform was not yet operational. The White Paper stated that "Boon Coin holders will have the liberty to sell their Boon Coin on the market at their discretion after the token sale ends. If the Token Sale is mostly successful, the price of the Boon Coin will automatically increase."

24. Pavithran stated in an October 26, 2017 YouTube video that "it is very important for our coin to get listed on exchanges because I have seen a lot [of] coins with just amazing

concept and amazing team, but they are not on any exchange, so I wanted to make sure that our coin will be on an exchange.” In a December 5, 2017 YouTube interview, Pavithran stated “for investors especially, we need to be listed on [an] exchange to have value for the investment.”

25. When asked on social media on January 9, 2018 how soon Boon Coins would be traded on a secondary digital asset trading platform, Pavithran stated “exchanges are our highest priority.” In an interview on CNBC on February 25, 2018, Pavithran stated that Boon.Tech was “targeting US exchanges, that is our primary goal.”

26. Between April and October 2018, Pavithran contacted at least twenty digital asset trading platforms requesting that they make Boon Coin available for trading on the platforms.

27. Boon Coin was listed and traded on at least four digital asset trading platforms in 2018, and Boon.Tech did not request or impose any trading restrictions on Boon Coins. By mid-2019, Boon Coins had been removed from several of these trading platforms due to low trading volume.

28. Due to challenges in developing and operating the platform, Boon.Tech determined that its business plan would not be viable and is in the process of winding down its operations entirely. The company does not plan to continue developing, operating, or marketing the platform.

Legal Analysis

29. Boon Coins were offered and sold as “investment contracts,” and therefore securities under the federal securities laws during the relevant time period. Under Section 2(a)(1) of the Securities Act and Section 3(a)(10) of the Exchange Act, a security includes “an investment contract.” *See* 15 U.S.C. §§ 77b, 78c. An investment contract is an investment of money in a common enterprise with a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others. *See SEC v. Edwards*, 540 U.S. 389, 393 (2004); *SEC v. W.J. Howey Co.*, 328 U.S. 293, 301 (1946); *see also United Housing Found., Inc. v. Forman*, 421 U.S. 837, 852-53 (1975) (The “touchstone” of an investment contract “is the presence of an investment in a common venture premised on a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others.”). The Boon Coins were offered in exchange for the investment of money or other contributions of value, including other digital assets. The representations in the online offering and promotional materials created a reasonable expectation of profits derived from the efforts of others, namely from the platform to be developed by Boon.Tech and Pavithran and from the opportunity to trade the Boon Coins on secondary trading platforms.

30. No registration statements were filed or in effect for Respondents’ offers and sales of securities, and the offers and sales did not qualify for an exemption from registration under the Securities Act.

31. As a result of the conduct described above, Respondents violated Section 5(a) of the Securities Act, which states that “[u]nless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, (1) to make use of any means or

instruments of transportation or communication in interstate commerce or of the mails to sell such a security through the use or medium of any prospectus or otherwise, or (2) 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.”

32. As a result of the conduct described above, Respondents violated Section 5(c) of the Securities Act, which states that “[i]t 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.”

33. Section 17(a) of the Securities Act prohibits any person from employing any “device, scheme, or artifice to defraud” in the offer or sale of a security, or engaging in any “transaction, practice, or course of business” which operates as a fraud or deceit upon any purchaser, or obtaining money or property “by means of” an untrue or materially misleading statement, in the offer or sales of securities. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit fraud in connection with the purchase or sale of securities. Violations of Section 10(b) and Rule 10b-5, and Section 17(a)(1) require a showing of scienter. As described above, Pavithran and Boon.Tech made materially false and misleading statements in the Boon.Tech ICO. Pavithran knew or was reckless in not knowing that these statements about Boon.Tech were materially false and misleading. As Boon.Tech’s control person, Pavithran’s scienter is imputed to the company. *See SEC v. Manor Nursing Ctrs.*, 458 F.2d 1082, 1089 n.3 (2d Cir. 1972).

34. As a result of the conduct described above, Boon.Tech and Pavithran violated Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

Undertakings

35. Respondents have undertaken to:

A. Destroy all Boon Coins in their possession or control within 10 days of the date of this Order.

B. Publish notice of the Order on Boon.Tech’s website and social media channels, in a form not unacceptable to Commission staff, within 10 days of the date of this Order.

C. Issue requests to remove Boon Coins from any further trading on all digital asset trading platforms where Respondents are aware Boon Coins are trading, including any that Respondents previously contacted to request trading of Boon Coins, and publish notice of such requests on Boon.Tech’s website and social media channels, in a form not unacceptable to Commission staff, within 10 days of the date of this Order.

D. Refrain from participating, directly or indirectly, in any offering of any digital asset security.

36. Respondents 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 Respondents agree to provide such evidence. The certification and supporting material shall be submitted to Kristina Littman, Chief, Cyber Unit, 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.

37. Respondents 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 Respondents, the Commission staff may, in its sole discretion, grant such extensions for whatever time period it deems appropriate.

38. Respondent Boon.Tech has submitted financial records and other evidence and asserted its inability to pay a civil penalty. In determining whether to accept the Offer, and to not impose a civil penalty against Respondent Boon.Tech, the Commission has considered these undertakings and Respondent Boon.Tech's financial condition.

IV.

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

Accordingly, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondents Boon.Tech and Pavithran shall cease and desist from committing or causing any violations and any future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Pavithran be, and hereby is:

prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 781, or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

C. Respondent Pavithran shall, within thirty (30) days of entry of this Order, pay a civil money penalty in the amount of \$150,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

D. Respondent Boon.Tech shall, within thirty (30) days of entry of this Order, pay disgorgement of \$5,000,000 plus prejudgment interest of \$600,334.50 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents 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) Respondents 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 Pavithran or Boon.Tech as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Kristina Littman, Chief, Cyber Unit, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

E. Respondents shall comply with the undertakings enumerated in Paragraphs 35 and 36 above.

F. 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 Boon.Tech 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 Boon.Tech was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent Boon.Tech 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.

G. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they 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 a 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.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent Pavithran, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Pavithran under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent Pavithran of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary