

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11233 / September 13, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21655

In the Matter of

Stoner Cats 2, LLC,

Respondent.

**ORDER INSTITUTING CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 8A
OF THE SECURITIES ACT OF
1933, MAKING FINDINGS, AND
IMPOSING 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 Stoner Cats 2, LLC (“SC2” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has 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 the Respondent 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 a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

SUMMARY

1. On July 27, 2021, Stoner Cats 2, LLC (“SC2”) conducted an unregistered offering of crypto asset securities in the form of non-fungible tokens called Stoner Cats (hereinafter “Stoner Cats NFTs” or “NFTs”). SC2 offered and sold to the public, including U.S. investors, 10,320 NFTs for 0.35 ETH (approximately \$800) each. The offering sold out in 35 minutes and generated gross proceeds in ETH equal at the time to approximately \$8.2 million.

2. The purpose of the Stoner Cats NFT offering was to fund the production of an animated web series called Stoner Cats. SC2 told investors it would develop the Stoner Cats web series based upon the managerial and entrepreneurial efforts of SC2 and its agents. SC2 promised investors in the Stoner Cats NFTs exclusive access to the web series and an online community, as well as access to unspecified, future entertainment content. SC2 offered and sold the Stoner Cats NFTs as an investment into SC2’s efforts to create this content. SC2’s public communications tied the success of the show to the value of the NFTs and thus led investors reasonably to expect to profit from the managerial and entrepreneurial efforts of SC2.

3. Each Stoner Cats NFT was associated with a unique still image of one of the characters in the Stoner Cats web series, with different expressions, apparel, accessories, and backgrounds, resulting in a multitude of NFTs. Purchasers could not choose their NFT in the offering, but instead received a random allocation. Over 62% of the purchasers in the offering bought more than one Stoner Cats NFT. In addition, at least 20% of the Stoner Cats NFTs purchased in the offering were resold in the secondary market before the first episode of the Stoner Cats series aired, two days after the offering, and the majority of the NFTs purchased in the offering were resold in the secondary market before the release of the second episode on November 15, 2021.

4. SC2 offered and sold the Stoner Cats NFTs as investment contracts, and therefore securities, pursuant to the test laid out by the U.S. Supreme Court in *SEC v. W.J. Howey Co.*, 328 U.S. 293, 298-99 (1946) and its progeny, including the cases referenced 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). Investors in Stoner Cats NFTs had a reasonable expectation of obtaining a profit based on SC2’s managerial and entrepreneurial efforts. SC2 was required to, but did not, register the offer and sale of Stoner Cats NFTs with the Commission, and no exemption from registration was available. SC2 thus violated Sections 5(a) and 5(c) of the Securities Act.

RESPONDENT

5. **Stoner Cats 2, LLC** (“SC2”) managed and produced the Stoner Cats web series and issued, offered, and sold the Stoner Cats NFTs to the public. SC2 is incorporated in Delaware. Neither SC2 nor its securities are or ever have been registered with the Commission in any capacity.

FACTS

6. SC2 offered and sold the NFTs to the public to finance the production of an animated web series called Stoner Cats. SC2 engaged in an extensive media campaign to promote the Stoner Cats NFTs both before and after the offering when the NFTs traded in the secondary market. SC2 engaged in this conduct without registering the offering of the Stoner Cats NFTs or qualifying the offering for an exemption from registration.

Financing the Stoner Cats Web Series

7. Stoner Cats is an adult animated television show about house cats that become sentient after being exposed to their owner's medical marijuana. In 2021, SC2 financed the show by offering and selling NFTs to the public—an approach that it publicly stated could revolutionize the financing and production of entertainment content.

8. The Stoner Cats NFTs are ERC-721 tokens recorded on the Ethereum blockchain. They each link to a uniquely-generated image of one of the Stoner Cats characters. One purported purpose of non-fungible tokens in general is to authenticate ownership of the linked image in an automated manner that will facilitate trading the tokens on a secondary market. While purchasers may “own” their particular Stoner Cats NFT, SC2 specifically reserved all commercial rights to the underlying intellectual property, including the images of the characters. SC2 hired a contractor to write computer code that produced these unique images from animations created by the primary animator. Purchasers in the offering could not choose their NFT, but instead received a random allocation.

9. The Stoner Cats NFTs provide holders with exclusive access to view the Stoner Cats series on the internet. There are six episodes of Stoner Cats, each of which is approximately five to seven minutes long. SC2 released the first episode on July 29, 2021 and the last episode on December 23, 2022.

10. SC2 configured the Stoner Cats NFTs so that it received a 2.5% royalty for each transaction in them on a certain secondary market platform. The royalties created incentives for SC2 to encourage individuals to buy and sell the Stoner Cats NFTs in the secondary market. The royalties also helped to assure owners of the NFTs that SC2 would remain committed to the animated show after receiving the Stoner Cats NFTs offering proceeds. If the Stoner Cats show was successful, the price of the NFTs could rise and so could the amount of royalties.

11. On its website, SC2 promised that if 100% of the NFTs were sold (which happened), it would facilitate the creation of a decentralized autonomous organization (“DAO”) comprised of Stoner Cats NFT holders and that it would commit to working with the DAO to “develop at least one new animation project a year for the next three years.” The website promised that NFT holders would have access to this additional content.

12. The production of Stoner Cats involved well-known writers, animators, and voice actors. The team of writers and animators were recognized for their work on major animated films and motion pictures. As compensation, SC2 paid the actors and artists (as well as the producers and managerial and technical professionals on the project) all of the offering proceeds and all of the royalties it generated from secondary market sales in the Stoner Cats NFTs. SC2

donated approximately one percent of the offering proceeds and royalties to an Alzheimer's disease-related charity.

13. SC2 paid others to code the smart contract underlying the Stoner Cats NFTs on the Ethereum blockchain and execute the sales of the NFTs to the public from StonerCats.com (a process known as "minting"). The smart contract minted the NFTs through an automated function that transferred purchaser funds to a wallet controlled by SC2 and transferred the NFT to the purchaser. SC2 contracted with other programmers and web developers to work on both StonerCats.com and the NFTs. SC2 also paid others to manage a channel on Discord, a social media website, exclusively for owners of the Stoner Cats NFTs.

The Unregistered Public Offering

14. SC2 issued, offered, and sold 10,320 of the NFTs to the public on July 27, 2021 for 3,647 ETH (then valued at approximately \$8.2 million). The offering sold out in 35 minutes. Extraordinarily high demand for the Stoner Cats NFTs during the offering caused "gas" fees² on the Ethereum network to spike more than 1,000%. SC2 was the counterparty from which purchasers in the offering bought their NFTs.

15. The offering was publicly available in the United States and rest of the world to any investor willing to pay the purchase price of 0.35 ETH for each NFT plus the gas fee. SC2 did not limit the offering to accredited investors. Despite advertising a nominal limit of twenty NFTs per transaction, investors were able to buy as many NFTs as they wished, with some purchasing hundreds of Stoner Cats NFTs in the offering, even though a purchaser needed only one NFT to view the show.

16. SC2 utilized the proceeds from the offering to pay producers, voice actors, writers, animators, a composer, web designers, programmers, and other expenses.

17. Apart from those sold in the offering, SC2 minted an additional 100 Stoner Cats NFTs and retained them after the offering. SC2 transferred some of these NFTs to third parties and continues to hold the remainder.

The Media Campaign

18. SC2 engaged in an extensive media campaign to promote the Stoner Cats NFTs both before *and* after they were sold to the public. The NFTs were promoted on StonerCats.com and on social media, including on podcasts, YouTube, Twitter, Instagram, and Discord as well as during interviews on prominent network and cable television shows. Through these communications, SC2 and its representatives stated, among other things, that the proceeds of the offering would fund the production of the Stoner Cats web series. SC2 highlighted specific benefits of owning the Stoner Cats NFTs, including: (a) exclusive access to Stoner Cats content,

² "Gas" is the fee to record transactions, such as minting NFTs, on the Ethereum blockchain. Approximately 100 would-be purchasers paid gas fees in ETH, equivalent at the time to more than \$780,000, but ultimately failed to mint a Stoner Cats NFT. Individuals associated with SC2 later reimbursed these investors directly for the ETH they lost.

along with additional access to any other content that the Stoner Cats producers created “in perpetuity”; (b) exclusive access to the Stoner Cats community on Discord, which included events, contests, and opportunities to engage with the creators of the animated show; and (c) the option for holders to resell their NFTs on the secondary market.

19. SC2 emphasized that its team had the right credentials to execute the project plan. The show was largely incomplete at the time of the offering. (The final episode was not released for another fifteen months.) SC2 sought to persuade investors that both the show and the NFTs would be successful as a result of SC2’s entrepreneurial and managerial efforts. The media campaign highlighted the special skills and experience the Stoner Cats team brought to the project. It emphasized their expertise as Hollywood producers as well as the reputations of the animators, writers, and editors, whose credits included highly-regarded animated films. It publicized the deep knowledge certain of them had regarding crypto projects, especially NFTs. In doing so, it led investors to expect profits from their entrepreneurial and managerial efforts, because a successful web series could cause the resale value of the Stoner Cats NFTs to rise in the secondary market.

20. Investors were told that the Stoner Cats NFT was analogous to a “ticket” and that “if people don’t appreciate it, you can take that ticket and sell it.” Investors were also told that “the more successful the show, the more successful your NFT” will be.

21. After the initial offering, the Stoner Cats Twitter account tweeted frequently to tout the sales of NFTs in the secondary market and encourage the public to buy them. For example:

- a) @StonerCatsTV tweeted on September 7, 2021 a meme suggesting that the smartest thing to do during a dip in the crypto markets would be to “Buy more ETH & sweep the Stoner Cats floor.”



- b) @StonerCatsTV tweeted on August 9, 2021 to highlight four recent sales of NFTs, priced in ETH at the equivalent of \$137,493, \$124,994, \$31,134, and \$17,123.
- c) @StonerCatsTV tweeted on August 9, 2021 the statement: “3376 unique holders” along with the then-current floor price (0.5 ETH) and the volume traded (“3.7k”).

Trading of the Stoner Cats NFTs in the Secondary Market

22. Prior to the offering, one of the programmers working for SC2 contacted a platform for trading NFTs to “verify” the Stoner Cats NFT collection. Doing so ensured that SC2 would receive royalties from resale transactions and, importantly, assured purchasers in the secondary market that they were buying authentic Stoner Cats NFTs. This facilitated secondary market transactions in Stoner Cats NFTs. The Stoner Cats NFTs began to trade in the secondary market immediately after they were minted. Between July 27, 2021 and June 2, 2022, there were at least 10,475 secondary market transactions in Stoner Cats NFTs. In these transactions, thousands of purchasers spent ETH worth more than \$20 million to acquire the Stoner Cats NFTs.

VIOLATIONS

23. As described above, Respondent offered and sold securities worth at least \$8.2 million by means of interstate commerce to investors in more than one U.S. state. No

registration statement was filed or in effect for the Stoner Cats NFT offering, and no exemption from registration was available.

24. As a result of the conduct described above, Respondent 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 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.”

25. As a result of the conduct described above, Respondent violated Section 5(c) of the Securities Act, which states in relevant part 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.”

UNDERTAKINGS

26. Respondent has undertaken to:

- a. destroy all Stoner Cats NFTs in Respondent’s possession, custody or control within 10 days of this Order;
- b. publish notice of the Order on SC2’s website and social media channels, in a form not unacceptable to Commission staff, within 10 days of the date of this Order;
- c. assist the Commission staff in the administration of a distribution plan, including any and all efforts to distribute to affected investors the monetary relief described in Section IV, paragraph C below, including, without limitation, providing the Commission with a list of crypto asset wallet addresses for Stoner Cats holders within 10 days of the date of this Order and promptly publishing on SC2’s website and social media channels, upon request by the Commission staff, notice of a distribution and/or claims process, in a form not unacceptable to the Commission staff. In connection with such assistance, Respondent will produce, without service or notice of subpoena, any and all documents and other information reasonably requested by the Commission staff; and
- d. Respondent shall certify in writing compliance with the undertakings set forth in this paragraph. 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 the Chief Counsel of the Enforcement Division, no later than thirty (30) days from the date of the completion of the undertakings.

IV.

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

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

- A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act.
- B. Respondent shall comply with the undertakings enumerated in paragraph 26 above.
- C. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$1,000,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.
- D. Payments 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 the party as a Respondent in these proceedings, and noting the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Carolyn M. Welshhans, Division of Enforcement, Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549.

E. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the penalties referenced in paragraph C above. 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