

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

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SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

LBRY, INC.,

Defendant.

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Civil Action No.

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Securities and Exchange Commission (the “Commission”) alleges the following against Defendant LBRY, Inc. (“LBRY”).

**SUMMARY**

1. This case concerns LBRY’s failure to register an offering of securities pursuant to the Securities Act of 1933 (“Securities Act”). From 2016 through the present, LBRY offered and sold millions of dollars’ worth of unregistered securities to investors, in the form of a digital asset called LBRY Credits (“LBC”), which LBRY told investors was to be used to fund its business and build its product – a digital content marketplace or network offering video and audio recordings, images, and other information (“LBRY Network”).

2. LBC were offered and sold as investment contracts and, therefore, securities. LBRY offered and sold the LBC in exchange for U.S. dollars, bitcoins, and other consideration such as non-monetary contributions to its enterprise. LBRY pooled the money it raised such that the successes (or failures) of the LBC holders were inextricably intertwined with other holders of LBC, the largest of whom was LBRY itself. And LBC holders reasonably would have expected a return on their investment based on the entrepreneurial or managerial efforts of LBRY.

3. Beginning in mid-2016, LBRY offered and sold LBC to the public in exchange

for contributions designed to allow LBRY to build the LBRY Network. Similarly, to pay for LBRY's construction and development of the LBRY Network, LBRY offered and sold LBC to investors. In particular, between 2016 and 2020, LBRY sold more than 13 million LBC to the general public through accounts it controlled at two online digital asset trading platforms (i.e., online platforms that allow buyers and sellers to trade a range of digital assets). LBRY sold the LBC on the digital asset trading platforms in exchange for bitcoin then valued at more than \$5 million.

4. Concurrently, LBRY offered LBC to institutional investors at a discount to the secondary market trading price. As early as July and August 2016, LBRY offered to sell LBC directly to institutional investors, but LBRY did not consummate any sales of LBC to institutional investors at that time. Instead, it obtained investment funding from venture capitalists.

5. From October 2017 through April 2018, LBRY made multiple direct sales of LBC to a series of investment funds focusing on digital assets. In total, the investment funds paid LBRY more than \$250,000 for LBC from October 2017 through April 2018. In May 2018, LBRY agreed to sell 2 million LBC (then worth approximately \$360,000) to an institutional investor rather than transferring LBRY common stock to the investor. The terms of LBRY's sale to the institutional investor required the investor to wait one year before selling the 2 million LBC.

6. LBRY used the capital it raised from sales of LBC to pay for the operational costs to grow the LBRY Network, which, as LBRY publicly represented, would cause the price of LBC held by investors to appreciate. Because LBRY was the largest holder of LBC, it also expected to profit from any appreciation in value of LBC. At various times, LBRY represented to venture capital investors that it projected the LBC that it held itself would eventually be worth

billions of dollars once it built the LBRY Network to its anticipated scale.

7. LBRY did not register its offer and sale of LBC with the Commission. As a result, LBRY violated, and unless restrained and enjoined will continue to violate, Sections 5(a) and 5(c) of the Securities Act.

8. The Commission seeks a permanent injunction enjoining LBRY from engaging in the transactions, acts, practices, and courses of business alleged in this Complaint, and a conduct-based injunction prohibiting LBRY from participating, directly or indirectly, in any unregistered digital asset securities offering. The Commission also seeks disgorgement of all ill-gotten gains from the unlawful conduct set forth here together with prejudgment interest, civil penalties, and such other relief as the Court may deem appropriate.

#### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)].

10. Venue lies in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)]. Certain of the acts, practices, transactions, and courses of business alleged in this Complaint occurred within the District of New Hampshire, and were effected, directly or indirectly, by using means or instrumentalities of transportation or communication in interstate commerce, or the mails. Among other things, LBRY is headquartered in Manchester, NH, and LBRY's founder and current president, resides in Manchester, NH.

#### **THE DEFENDANT**

11. LBRY, Inc. is a privately owned Delaware corporation with its principal place of business in Manchester, New Hampshire. LBRY was incorporated in April 2015, and its securities are not registered with the Commission in any capacity.

## **SECTION 5 OF THE SECURITIES ACT**

12. Congress enacted the Securities Act to regulate the offer and sale of securities. In particular, Congress enacted a regime of full and fair disclosure, requiring those who offer and sell securities to the investing public to provide sufficient, accurate information to allow investors to make informed decisions. Such disclosures are ordinarily set forth in a registration statement, which provides investors with financial and managerial information about the issuer of the securities, details about the terms of the securities offering, the proposed use of investor proceeds, and an analysis of the risks and material trends that would affect the enterprise.

13. Section 5(a) of the Securities Act provides that, unless a registration statement is in effect as to a security, it is unlawful for any person, directly or indirectly, to sell securities in interstate commerce. Section 5(c) of the Securities Act provides a similar prohibition against offers to sell or offers to buy, unless a registration statement has been filed. Thus, Sections 5(a) and 5(c) of the Securities Act prohibit the unregistered offer or sale of securities in interstate commerce.

## **FACTS**

### **A. Background.**

14. LBRY describes itself as a company founded to create a way to distribute and purchase digital content that would be open to the public and would not involve an intermediary. LBRY first targeted video distribution and sought to compete with YouTube, Amazon, and other video entertainment platforms.

15. To accomplish its business objectives, LBRY represented that it would use blockchain-related technology (a blockchain is an electronic distributed ledger or list of entries maintained by various participants in a network of computers) as follows: (a) LBRY would create a blockchain “protocol” (i.e., a set of rules or procedures that govern the transfer of data

between electronic devices); (b) LBRY would create a user application; (c) LBRY would create the software that would enable the user application to use the LBRY protocol; (d) LBRY would recruit creators and producers to publish their videos, shows, and movies to the LBRY protocol; and (e) LBRY would publicize the protocol and application to attract consumers.

16. To financially support its operations and promotional efforts, LBRY planned to offer and sell LBC to investors. In March 2016, LBRY represented to the public on its website:

In the early days of our protocol, LBRY Inc. will be making a concerted effort to deploy LBC in a non-neutral way. We will be incentivizing early adopters, amazing content publishers, and even nonprofits which share our vision of a free and open internet. We will be retaining a portion to finance the continued development of the ecosystem. LBRY Credits will work on behalf of development of the LBRY content distribution network, not the other way around.

17. LBRY launched its protocol in June 2016. By its design, LBRY held the first 400 million LBC in its possession, representing 40% of the total allowable supply of LBC under the protocol. LBRY divided its LBC into three self-described “funds” and used the LBC in those funds to raise money and develop its network at various times.

18. In particular, LBRY divided the 400 million LBC that it held into accounts that it called the “Operational Fund,” the “Community Fund,” and the “Institutional Fund.” LBRY used the LBC from each fund slightly differently in hopes of achieving its goals of building the Network, increasing the value of LBC, and profiting from selling LBC that had increased in value. LBRY explained the following on its publicly-available website:

- a. “The Community Fund is [200 million] LBC reserved for spreading usage and adoption of the LBRY protocol. The more people that use and love LBRY, the stronger the LBRY network is . . . . this fund will be used for . . . . [s]eeding consumers with initial credits . . . [r]ecruiting producers to use LBRY... [r]ewarding community contributors.”

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