

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-against-

IAN BALINA,

Defendant.

Civil Action No. 1:22-CV-950

ECF CASE

(Jury Trial Demanded)

COMPLAINT

Plaintiff United States Securities and Exchange Commission (the “Commission” or “SEC”), for its Complaint, alleges as follows:

SUMMARY OF THE ACTION

1. This action concerns Ian Balina’s unregistered offering and promotion in 2018 of crypto asset securities called SPRK Tokens. Balina, a self-described crypto asset investor, promoter, and influencer, who claimed he could help people “make millions with initial coin offerings,” failed to disclose the compensation he received from the issuer while he publicly promoted the tokens. He also failed to file a registration statement with the SEC for the tokens that he re-sold using an investing pool that he organized.

2. Sparkster, Ltd. (“Sparkster”), a software development company incorporated in the Cayman Islands, and its Chief Executive Officer (“CEO”), conducted an unregistered securities offering (“Sparkster Offering”) of crypto asset securities called SPRK Tokens. This unregistered offering took place between April and July 2018, raising approximately \$30 million from nearly 4,000 investors located abroad and in the United States.

3. Balina signed a contract to invest approximately \$5 million in the Sparkster Offering and promoted the offered SPRK tokens on YouTube, Telegram, and other social media platforms. Although he agreed to receive a 30% bonus from Sparkster on the tokens he purchased in the Sparkster Offering, Balina never publicly disclosed the consideration he received for his promotion.

4. Balina also organized on Telegram an investing pool of about fifty individuals. After he agreed to purchase the SPRK tokens from Sparkster, Balina offered members of the investing pool the opportunity to purchase SPRK tokens from him upon their release, and at least fifty members of the pool, including U.S. residents, contracted with Balina to purchase tokens that Balina had purchased from Sparkster. Balina did not file a registration statement with the Commission for his offering and sale of SPRK tokens, and no exemption from registration was applicable. As a result, Balina conducted his own unregistered offering of SPRK Tokens.

5. By engaging in this conduct, as set forth more fully herein, Balina violated Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a), 77e(c)], and Section 17(b) of the Securities Act [15 U.S.C. § 77q(b)]. Balina will continue to violate the federal securities laws unless restrained or enjoined by this Court.

6. The SEC seeks injunctive relief, disgorgement, civil penalties, and other appropriate and necessary equitable relief.

JURISDICTION AND VENUE

7. The SEC brings this action, and this Court has jurisdiction, pursuant to 28 U.S.C. § 1331 and Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)].

8. Defendant Balina, directly or indirectly, singly or in concert with others, made use of the means or instruments of transportation and communication in interstate commerce, or of the mails, in connection with the acts, transactions, practices, and courses of business alleged in this Complaint.

9. Venue is proper in the Western District of Texas pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] because Balina currently resides in the district.

DEFENDANT

10. **Ian Balina**, age 33, is currently a resident of Austin, Texas, where he works as CEO of a company that provides crypto investment research. At all relevant times for the allegations in this complaint, Balina was a resident of Potomac, Maryland. Balina’s YouTube page describes him as “an influential Blockchain and Cryptocurrency Investor, Advisor, and Evangelist.” Balina, a self-described “crypto millionaire,” offered his advice to investors regarding how to make money investing in crypto asset offerings based on his experience. Balina organized an investing pool through which he distributed SPRK tokens he had promoted and purchased from Sparkster.

RELEVANT ENTITY

11. **Sparkster, Ltd.**, is a corporation organized under the laws in the Cayman Islands with activities in multiple countries, including the United States. In 2018, Sparkster described itself as a developer of software to allow users to write their own software applications in “plain English” using a “drag and drop” graphical interface instead of writing code.

BACKGROUND ON CRYPTO ASSETS

12. An “Initial Coin Offering” or “ICO” is a fundraising event in which an entity offers participants a unique crypto asset – often described as a “coin” or “token” – in exchange for

consideration, often in the form of a crypto asset such as Bitcoin or Ether (“ETH”), and sometimes in fiat currency. The tokens are issued and distributed on a “blockchain,” a cryptographically secured ledger that is spread across a decentralized computer network.

13. The Sparkster Offering was conducted on the Ethereum blockchain (“Ethereum”). Ethereum, which is second to only the Bitcoin blockchain in terms of market capitalization, uses ETH as its crypto asset and allows the use of “smart” contracts, which are, essentially, computer programs designed to automatically execute the terms of a contract when certain triggering conditions are met, without the involvement of an intermediary.

14. ICOs are generally announced and promoted through public internet channels or other marketing methods. An ICO issuer usually releases a “whitepaper” describing the project and promoting the ICO, often in technical terms, and promotes the ICO elsewhere, including on its website, social media, and other internet sites. To participate in the ICO, investors are generally required to transfer consideration, often in the form of crypto assets, to the issuer’s blockchain address, online “wallet,” or other account.

15. At some point after the completion of the ICO, the issuer distributes the tokens to each participant’s unique “wallet” address on the blockchain. Tokens can be transferred between users and are often listed on online crypto asset trading platforms to allow investors to trade the tokens for other crypto assets or fiat currency in a secondary market.

16. ICO issuers often pay social media influencers with large online followings to promote their ICOs by endorsing them on social media. These influencers or promoters can include celebrities from unrelated industries like sports, music, and entertainment or individuals who have active followings specifically related to technology, crypto assets, and/or ICOs.

17. As described more fully herein, Sparkster’s offer and sale of SPRK tokens from April 2018 to July 2018 constituted an unregistered offering of crypto securities.

REGULATORY FRAMEWORK

18. Congress passed the Securities Act in order to regulate the offer and sale of securities, and in doing so, enacted a regulatory regime of full and fair disclosure, requiring issuers who offer and sell securities to provide certain important information to potential investors to enable them to make informed decisions before investing.

19. The definition of a “security” includes a broad range of investment vehicles and instruments, including “investment contracts.” Investment contracts are investments by individuals of money in a common enterprise, with a reasonable expectation of profits or returns derived from the entrepreneurial or managerial efforts of others. Congress defined “security” broadly to encompass a “flexible rather than a static principle” that is capable of adapting to various schemes where the money of others is collected on the promise of future profits.

20. Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)] prohibit the unregistered offer or sale of securities in interstate commerce. Specifically, Section 5(a) of the Securities Act [15 U.S.C. § 77e(a)] provides that, unless a registration statement is in effect as to a security, it is unlawful for any person, directly or indirectly, to sell the security in interstate commerce. Section 5(c) of the Securities Act [15 U.S.C. § 77e(c)] provides a similar prohibition against offers to sell or offers to buy securities, unless a registration statement has been filed as to that security.

21. The registration statements contemplated by the Securities Act are filed with the Commission and require disclosures of essential facts that provide potential investors with information necessary to make informed investment decisions. These required disclosures

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