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*Counsel for the Commissioner of Securities and Insurance*

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,  
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF

VBIT TECHNOLOGIES CORP, a  
Delaware Corporation (a.b.n  
ADVANCED MINING); ADVANCED  
MINING GROUP; VBIT MINING, LLC,  
a Delaware Limited Liability Corporation;  
VBIT DC CORP, a Delaware  
Corporation; Danh “Don” Cong Vo; Jin  
Gao; Sean Tu; and Lilian Zhao;

Respondents.

Case No. SEC-2023-00018

**FINAL AGENCY ACTION AND  
DEFAULT ORDER**

On February 10, 2023, the Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), served a Notice of Proposed Agency Action and Opportunity for Hearing (NOPAA) and Temporary Cease and Desist Order (C&D) on VBit Technologies Corp, VBit Mining LLC, Advanced Mining, Danh “Don” Cong Vo, and Sean Tu. The NOPAA and C&D were delivered to Respondents on February 16, 2023.

Copies of the NOPAA tracking receipts are attached and marked as Exhibit A. A copy of the NOPAA and C&D is attached to this Order and marked as Exhibit B.

On August 23, 2023, CSI served an Amended NOPAA and C&D on VBit Technologies Corp, VBit Mining LLC, Advanced Mining, Danh “Don” Cong Vo, Jin Gao, Sean Tu, and Lilian Zhao (collectively, Respondents).

Copies of the Affidavits of Process Server serving the Amended NOPAA are attached and marked as Exhibit C. A copy of the Amended NOPAA and C&D is attached to this Order and marked as Exhibit D.

The Amended NOPAA and C&D provided Respondents an opportunity to request an administrative hearing within 15 days of the date of the Amended NOPAA and C&D. More than 15 days have elapsed since service of the Amended NOPAA and no request for a hearing has been received. The Commissioner of Securities and Insurance (Commissioner) considered the evidence and exhibits and makes the following determinations:

### **FINDINGS OF FACT**

#### **Parties**

1. Respondent VBit Technologies Corp (VBit Technologies), is a general corporation organized under the laws of the state of Delaware, with its principal place of business located at 1625 Washington Avenue, Philadelphia, Pennsylvania. VBit Technologies has never registered any business activity with the Montana Secretary of State or CSI. VBit Technologies’ assumed business name is “Advanced Mining.”

2. Respondent Advanced Mining Group has been identified as an “Asian-based” foreign entity and identified in a corporate disclosure filed by VBit Technologies in September 2022 as VBit Technologies’ parent company.

3. Respondent VBit Mining LLC (VBit Mining) is a limited liability company organized under the laws of the state of Delaware, with its principal place of business located at 1625 Washington Avenue, Philadelphia, Pennsylvania. VBit Mining LLC is a subsidiary of VBit Technologies. VBit Mining LLC has never registered with the Montana Secretary of State or CSI.

4. Respondent VBit DC Corp (VBit DC) is a general corporation organized under the laws of Delaware, with its principal place of business reported as 1625 Washington Avenue, Philadelphia, Pennsylvania. Montana Property Record Cards as reported on Cadastral list VBit DC Corp's address as 919 N. Front St., Apt. F, Philadelphia, PA 19123-1715. A news article that identified VBit Technologies as the source stated that VBit DC is a subsidiary of VBit Technologies. VBit DC has never registered with the Montana Secretary of State or CSI.

5. Unless otherwise designated by their specific names, VBit Technologies Corp a/b/n Advanced Mining, VBit Mining LLC, VBit DC, and Advanced Mining Group will be collectively referred to herein as "VBit."

6. Respondent Danh "Don" Cong Vo (Vo) co-founded VBit Technologies in 2018 and served as the Chief Executive Officer from its founding through January 2022. As discussed in more detail below, Vo is also identified on SEC filings as the CEO and founder of VBit DC. UCC filings with the Montana Secretary of State list Vo's address as 919 N. Front St., Apt. F, Philadelphia, PA.

7. Respondent Jin Gao is a co-founder of VBit Technologies and has served as the CEO of VBit Technologies. Gao is also listed on UCC filings with the Montana Secretary of State as a co-debtor on a security interest with Vo and VBit DC. Gao's address is listed as 623 N. 10<sup>th</sup> Street, Philadelphia, PA 19123-2601.

8. Respondent Sean Tu served as VBit's Chief Technology Officer, was identified in a training video as VBit's Chief Operations Officer. Recent email correspondence from Sean Tu is from a "vbittech.com" email address, and his signature line identifies him as "Executive Consultant (Contractor) to the CEO" of VBit and Advanced Mining.

9. Respondent Lilian Zhao is believed to be the current CEO of VBit.

#### **Nature of the Business**

10. Vo founded VBit Technologies in 2018 with the intent to rent and sell Bitcoin mining equipment and provide "hosting" services to customers, a.k.a. investors. VBit

offered mining packages with two primary components: (a) computer hardware, or “hashboards” specialized for Bitcoin mining, and (b) accompanying services, called “hosting” services, which enable the investor to mine Bitcoin with little to no effort on the investor’s part. VBit advertised these hosting services as “[y]ou don’t need to do anything regarding the setup or maintenance of your hardware. We take care of logistics, installing and updating software, providing affordable electricity, and keeping your equipment cool and in working order.”

11. VBit posted YouTube videos about the structure of the company starring Vo. *See e.g.* VBit Tech Team PH – Training with CEO Danh Vo, <https://www.youtube.com/watch?v=biF65sUW4Ug> (last visited on Jan. 31, 2023).

12. VBit sold its mining packages partly using a multilevel marketing framework through which purchasers of the mining packages can act as salespersons, recruit other salespersons, and allegedly earn commissions based on their sales and the sales of their recruits. VBit referred to its investor recruiters as “affiliates.”

13. VBit employees posted videos on YouTube about how to recruit affiliates to increase the hardware and computing power available to investors. *See e.g.* VBIT Tech Team PH – Compensation Plan, [https://www.youtube.com/watch?v=BPPCT\\_KkjUs](https://www.youtube.com/watch?v=BPPCT_KkjUs) (last visited Jan. 26, 2023).

14. The video provides that when VBit affiliates recruited new VBit investors “under them,” the recruiting affiliate received a referral commission in cash or Bitcoin and could receive a “boosted hashrate” on their own machines, which would purportedly increase mining power.

15. Affiliates were also told they would earn cash commissions based on the price the recruited investor paid for a mining package. VBit investors that sold mining packages to their own contacts were told they would receive a cash commission of 6% from sales to their direct recruits and commissions ranging from .75%-4.5% for sales made by recruits further down the chain.

16. Just like the cash bonuses, investors could also receive hashrate bonuses not only from personally-recruited investors, but also from investors up to “seven levels” down the chain of recruitment.

17. VBit also offered an incentive program called the “Infinity Team,” which provided recruitment incentives based on an investor’s total sales volume from all investors they recruited or that were recruited under the affiliate. Incentives were in the form of cash or Bitcoin to be used on shopping sprees, as well as luxury vacations, BMW sports cars, and new houses purported to be worth up to \$1 million.

18. CSI has no records that VBit filed the notice and consent to service forms required of multilevel marketing companies operating in Montana.

19. To attract investors, VBit advertised on its website “Start mining Bitcoin in as little as 24hrs! It’s super simple, your mining equipment is maintained by VBit and hassle-free to you! So you don’t have to worry nothing [sic]. Just set it and forget it! Learn more . . . About VBit Tech? DON’T MISS OUT THE [sic] BITCOIN REVOLUTION. YOU NEVER KNOW WHAT THE FUTURE MIGHT HODL [sic]!”

20. VBit also promoted its mining packages to individuals with little mining experience or expertise. VBit’s website has claimed that its “service makes mining Bitcoin accessible to everyone,” and that purchasers do not need “to buy expensive equipment and waste [their] time on setting it up.”

21. VBit advertised on its website that the equipment it sold or leased was “cutting-edge equipment that will enable efficient, high ROI Bitcoin mining operations.”

22. VBit purportedly deposited its investors’ Bitcoin earnings into a so-called “virtual wallet.” Investor testimonials posted on VBit’s website touted “no hassle” Bitcoin withdrawal and stated that investors could access their Bitcoins when they want, anytime they want.

23. Advanced Mining (the assumed business name of VBit Technologies) marketing and advertising touted that it “operate[s] some of the largest and most efficient

mining facilities in the world, with unprecedented access to clean, cheap power and expert staff.”

### **VBit’s Offer and Sale of Securities**

24. Relying on these advertising and marketing pitches, Montana residents entered into agreements with VBit for Bitcoin mining. CSI received complaints from these residents as described below, and CSI investigated the complaints.

25. Montana resident E.D. entered into a “Payment and Hosting Agreement Contract” (Agreement) with “VBit Technologies Corp and its subsidiary VBit Mining LLC,” described in the Agreement as the “Service Provider.” Under this Agreement, E.D. paid \$8,105 up front for use of VBit’s mining hardware and hosting services and committed to an “initial fixed hosting term” of three years. At the time E.D. entered into the agreement and paid the money, he was at least 60 years of age.

26. E.D. also coached his wife, C.D., to set up her own VBit account in hopes of capitalizing on VBit’s multilevel marketing framework. At the time C.D. set up her own account, she was at least 60 years of age.

27. Montana resident D.S. also entered into a “Payment and Hosting Agreement Contract” with “VBit Mining LLC,” described in the Agreement as the “Service Provider.” Other than the description of the “Service Provider,” the terms of D.S. and E.D.’s Agreements are the same. Pursuant to his Agreement with VBit, D.S. paid \$78,964 up front for use of VBit’s mining hardware and hosting services and committed to an “initial fixed hosting term” of three years. At the time D.S. entered into the agreement and paid the money, he was at least 60 years of age.

28. In the Agreement, VBit represented that it would be utilizing individualized mining equipment for the benefit of its investors, including D.S. and E.D., as follows:

The first payment will be due 30 days after the first day *your* equipment is **installed and actively running . . . .**

\* \* \*

## 1. Service

1.1. Facility. Service Provider will provide server hosting facility, electrical power, and Internet access to Investor at Service Provider's and partner facilities (the "Facility") for the purposes of **installing, maintaining, and operating Investor's leased or owned servers** and ASIC chips (the "Equipment"), which may be updated from time to time to add or delete Equipment with written notification to the Investor.

(Emphasis added.)

29. E.D. purchased VBit's "Platinum" package, which consisted of leasing "*dedicated* Antminer S19 series computer server hashboards with an average of 110,000 GH/s computer computational power, hereafter known as Equipment." (Emphasis added.)

30. D.S. purchased VBit's "Black Diamond" package, which consisted of leasing "*dedicated* Antminer S19 series computer server hashboards with an average of 880,000 GH/s computer computational power, hereafter known as 'Equipment.'" (Emphasis added.)

31. Even though the Agreement stated the equipment was individualized for VBit investors' use and benefit, it limited access to the equipment by providing that "[o]nly those persons specifically authorized by Service Provider may access the Facility" where the equipment was located. The Agreement also prohibited investors from removing "any of the Equipment from the facility without the prior written authorization of Service Provider."

32. The Agreement provided that VBit's invoice is "sent to email address on file and must be paid through Investor's corresponding QABU account." A QABU account is a Bitcoin wallet, referred to as a "virtual wallet." In an article identifying VBit Technologies as the source, the QABU wallet was described as a "custodial wallet designed to provide safe asset and mining management and decentralized apps for miners worldwide."

33. The Agreement provided that E.D., D.S., and VBit's other investors "can allocate the Equipment's computational power to their desired pool with written

notification to [VBit].” However, if VBit’s investors did “not provide a desired pool prior to installation of Equipment, [VBit] will allocate the Equipment’s computational power to any pool of its choice on behalf of Customer.” Investors were required to request a change in the allocation 72 hours prior to the desired change.

34. E.D. told CSI that VBit provided no training or true understanding of the process of Bitcoin mining.

35. Between March 2021 and June 2022, E.D. made monthly payments as agreed upon. In or about June 2022, E.D. discovered he was unable to gain full access to or perform transactions from his virtual wallet. The same was true for his wife, C.D., who had made 9 monthly payments for her mining package. E.D. reported to CSI that he made many attempts to contact VBit’s principals and his upline sponsor, Hugh Benjamin, to resolve the “lockdown” of his virtual wallet, to no avail.

36. E.D.’s total loss, including his upfront and monthly payments, is \$16,073. C.D.’s total loss is \$11,147.00.

37. Despite the fact that, on February 10, 2023, the Commissioner ordered VBit to cease and desist operating in Montana, “Advanced Mining” continued to send E.D. invoices for the “Platinum Package Miner,” 3 Year Hosting, and Admin Fee.

38. In addition to the upfront payment mentioned above, D.S. made 10 monthly installment payments. VBit provided D.S. with a link that he used to send 8 out of the 10 monthly payments but was unable to make a cash payment in January 2022. To satisfy the January 2022 obligation, D.S. sent 0.0597005 of Bitcoin to VBit on January 25, 2022. D.S.’s total loss is \$101,123.96.

39. For investors like E.D., C.D., and D.S., who leased rather than owned their mining machines, there was no legitimate opportunity to exercise control over the Equipment’s performance, and subsequently, the success or failure of their investments. Investors like E.D., C.D., and D.S. relied on the entrepreneurial and managerial efforts of Respondents to realize their expected profits because their computing power was pooled together and controlled by Respondents.



### **Advanced Mining Group's "Buy Out" and Washington Securities Action**

40. In January 2022, VBit Technologies announced it had been acquired by Advanced Mining Group for \$105 million. In the press release announcing the buyout, in which VBit Technologies is identified as the "source," Advanced Mining Group is touted as a company that has been "thriving in the crypto mining sector since 2015 and operating 12 data centers dedicated to bitcoin mining in Europe and Asia." Vo stated in the announcement that Advanced Mining Group had "extensive expertise in the field."

41. There is no evidence that Advanced Mining Group is registered to do business in any jurisdiction in the United States.

42. On or about June 18, 2022, six months after Advanced Mining Group "bought out" VBit, the Securities Division for the State of Washington entered into a Consent Order with VBit Technologies.

43. By virtue of the signature of its CEO, Lilian Zhao, on the Consent Order, VBit Technologies admitted its Bitcoin mining hardware and service packages are "securities," and that its business practices violated the securities laws of the State of Washington because the securities were not registered.

44. Shortly after the Washington Consent Order was signed, an email identified as being from Advanced Mining Group was sent to "members." The email provided that "Advanced Mining . . . can no longer service the United States market." The email stated that Advanced Mining had "worked diligently with multiple law firms to ensure that our products and services are not unregistered securities. However, the United States Securities and Exchange Commission (US SEC) disagrees; therefore, Advanced Mining must take measures to abide by US SEC and all applicable laws." The email promised investors that VBit would be processing withdrawal requests, which VBit never did for E.D., C.D., or D.S.

### **VBit's Montana Mining Facility**

45. In a February 2021 article that identifies VBit Technologies as the source announced:

VBit Technologies . . . expands its mining business in Montana. Known as the “Known Technology Frontier”, Montana provides access to cheap electricity along with cooler conditions making it an ideal place to turn disused manufacturing plants into server farms into Bitcoin mining. . . . Montana with its cheap and extensive quantities of hydroelectric power and large empty facilities that have their own power substations and is a great location for expansion into Bitcoin mining. VBit will deploy its new mining hardware in a data center that is 100% powered by hydroelectricity.

The article concludes with the statement that “VBit Technologies has a brand called VBit Mining that provides Bitcoin mining services to thousands of people worldwide and is on its way to becoming one of the largest Bitcoin mining operations in the world.”

46. On January 13, 2023, the Daily Inter Lake reported that one of VBit’s data centers was located in Columbia Falls, Montana. D.S. confirmed this to CSI and provided the address of the facility (hereinafter referred to as “the Property”).

47. CSI confirmed with the Flathead County Treasurer’s Office that the owner of the Property at the address provided by D.S. is VBit DC. A background report identifies VBit DC Corp as the owner of the Property, and that the date of sale was March 17, 2021. Montana Cadastral website also lists VBit DC Corp as the current owner of the Property.

48. CSI obtained documents related to VBit DC’s purchase of the Property. This includes a warranty deed dated March 17, 2021, conveying the Property from Columbia Mountain Holdings LLC to VBit DC. The Final Settlement Statement from the transaction dated March 18, 2021, is signed by Vo as the President of VBit DC.

49. CSI learned through online news articles that VBit Technologies uses VBit DC to raise funds for the construction of VBit’s mining centers. VBit then markets these facilities as decreasing operating costs and increasing efficiency which, in turn, increases returns on investment for investors.

50. On August 20, 2023, the Daily Inter Lake published an article about Danny McCargar, who worked at the Columbia Falls mining facility maintaining computers from December 2022 until March 2023. CSI interviewed McCargar, who reported that he never

saw individual computers labeled or identified as belonging to individual investors and that there was no indication that the funds generated were being sent to separate accounts. On McCargar's last day, he showed up to work and the lights were off and the power was disconnected. McCargar told CSI the computers were disconnected and packaged for shipment to a mining company located in Texas.

### **CONCLUSIONS OF LAW**

51. The Commissioner has jurisdiction over this matter pursuant to § 30-10-101, *et seq.*, MCA.

52. It is unlawful for a person to offer or sell any security in the state of Montana unless that security has been registered under the Securities Act of Montana or, in the case of a federal covered security, by following the procedure set forth in § 30-10-211, MCA. Section 30-10-202, MCA.

53. A "person" means, among other things, an individual, corporation, partnership, or association. Section 30-10-103(17), MCA.

54. A "vulnerable person" means, in pertinent part, a person who is at least 60 years of age. Section 30-10-103(27), MCA.

### **Selling unregistered securities**

55. A "security" includes, among other things, any "investment contract." Section 30-10-103(24), MCA.

56. An investment contract is "an investment in a common venture premised on a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others." *Redding v. Mont. First Judicial Dist. Court*, 2012 MT 144A, ¶ 25, 365 Mont. 316, 281 P.3d 189 (citing *State v. Duncan*, 181 Mont. 382, 593 P.2d 1026, 1033 (1979) (adopting standard set forth in *United Housing Foundation, Inc. v. Forman*, 421 U.S. 837, 95 S.Ct. 2051 (1975))).

57. Respondents' mining packages sold to E.D., C.D., and D.S., were an investment contract because of the following:

- a. Investment - E.D., C.D., and D.S. invested money with Respondents.

- b. Common venture - E.D.'s, C.D.'s, and D.S.'s investment was not for individualized use of the equipment as advertised but pooled with other investors who were also making payments for fractions on mining equipment. In addition, E.D., C.D., and D.S. were dependent on Respondents' expertise and efforts for the returns.
  - c. Reasonable expectation of profit - Respondents promised a rate of return to E.D., C.D., and D.S.
  - d. Derived from the entrepreneurial or managerial efforts of others - The rate of return was dependent on Respondents management of the machines and pooling of the computing power.
58. Because the Agreement is an investment contract under *Redding* and *Duncan*, it is a security.
59. Moreover, Respondents stipulated that the combined Bitcoin mining hardware and service packages were securities in the Consent Order with the Washington Securities Division.
60. Respondents did not register these securities under the procedures prescribed in § 30-10-202(1) or (2), MCA.
61. Respondents offered and/or sold the unregistered securities to Montanans in violation of § 30-10-202, MCA.

### **Securities Fraud**

62. It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from Montana to do the following:
- a. employ any device, scheme, or artifice to defraud;
  - b. make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or,
  - c. engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

Section 30-10-301(1), MCA.

63. Respondents violated § 30-10-301(1), MCA, by, in connection with the offer and sale of securities in Montana:

- a. employed a scheme to defraud that consisted of repeatedly making promises to investors through their marketing and promotional products they did not deliver or failed to deliver upon;
- b. misrepresented material facts related to the individualized nature of the mining operations, the level of investment returns from their hosting services and purported mining operations, and investors' control over their Bitcoins; and,
- c. engaged in conduct that operated as a fraud and deceit on VBit investors E.D., C.D., and D.S., who invested with Respondents and suffered financial loss relying on Respondents' misrepresentations.

**Operating an unregistered MLM**

64. A "multilevel marketing company" means a person that:

- a. sells, distributes, or supplies goods or services through independent agents, contractors, or distributors at different levels of distribution; or pursuant to a formula for compensating participants in whole or in part based on purchases of sales by or recruitment of other participants;
- b. permits participants to recruit other participants in the company; and,
- c. provides for commissions, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of the sale of goods or services or the recruitment for the performance or actions of other participants.

Section 30-10-324(4), MCA.

65. Prior to obtaining a participant that is a Montana resident, multilevel marketing companies are required to file with the Commissioner certain forms providing (i) notice that the company intends to operate in Montana; and (ii) irrevocable consent

designating the Commissioner as the company's agent for service of process for any alleged violation of § 30-10-325, MCA. Section 30-10-327(1), MCA.

66. Respondents operated a multilevel marketing company in Montana because they (1) sell their Bitcoin mining equipment and hosting services through the recruitment of affiliates and had a formula for compensating the affiliates base on their recruitment of others with cash and hashrate bonuses; (2) permitted and encouraged affiliates to recruit other investors through online videos and other promotions; and (3) did compensate affiliates with cash, Bitcoin hashrate bonuses, and other bonuses in the form of expensive cars, vacations, and homes, in consideration for direct recruiting and recruits down the chain.

67. Because Respondents failed to submit the requisite notice and consent forms to CSI before recruiting E.D., C.D., and D.S., Respondents violated § 30-10-327, MCA.

#### **Cease and Desist Order, Fine, and Restitution**

68. If it appears to the Commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Title 30, chapter 10, parts 1 through 3, Montana Code Annotated, or any rule or order under chapter 10, the Commissioner may issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. Section 30-10-305(1)(a), MCA.

69. The Commissioner's temporary cease and desist order, issued on February 10, 2023, became final when Respondents failed to request a hearing within 15 days after receipt of the Amended NOPAA. Section 30-10-305(a)(ii), MCA.

70. The Commissioner may, after conducting a hearing, require a person found to have committed a violation of § 30-10-301, MCA, to make restitution for all financial losses sustained by any person as a result of the violation. The Commissioner may further require such a person to pay 10% annual interest on the amount of restitution from the date of the violation, reasonable attorney fees, and costs associated with bringing the administrative action. Section 30-10-309, MCA.

71. The Commissioner may also impose a fine not to exceed \$5,000 per violation upon a person found to have engaged in any act or practice constituting a violation of any provision of or any rule or order issued under Title 30, chapter 10, parts 1 through 3, Montana Code Annotated. Section 30-10-305(3)(a), MCA.

72. If the Commissioner finds that a person has willfully engaged in an act or practice in violation of Title 30, chapter 10, parts 1 through 3, Montana Code Annotated, and the act or practice affected a vulnerable person, the Commissioner may impose a fine not to exceed \$20,000 per violation. Section 30-10-305(3)(b), MCA.

73. A fine as set forth herein is in addition to all other penalties imposed by the laws of Montana. Section 30-10-305(3)(c), MCA.

74. Respondents' willful violation of three provisions of the Securities Act as explained above affected three victims, all of whom were over the age of 60. A fine of \$20,000 per violation per victim is therefore appropriate.

### **ORDER**

THEREFORE, based on the forgoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that:

1. Respondents are prohibited from offering or selling unregistered securities.
2. Respondents are prohibited from engaging in fraudulent and other prohibited practices as defined in § 30-10-301, MCA.
3. Respondents are prohibited from operating a multilevel marketing company without following procedures in § 30-10-327, MCA.
4. Respondents shall pay a fine of \$180,000 to the State of Montana within 15 days of the date of this Order. Payment must be made by check or money order payable to "State of Montana," and sent in accordance with the instructions in paragraph 6, below.
5. Respondents must pay restitution for all financial losses sustained by E.D., C.D., and D.S., resulting from Respondent's violation of § 30-10-301, MCA, plus 10% annual interest, as follows:

- a. Respondents shall pay restitution in the amount of \$16,073.29, plus 10% annual interest of \$3,796.16 to E.D. (calculated from each date of E.D.'s payments up to September 19, 2023), within 15 days of the date of this Order. Payment must be made by check or money order payable the full name of the individual identified herein by the initials "E.D."
  - b. Respondents shall pay restitution in the amount of \$11,147.00, plus 10% annual interest of \$2,512.45 to C.D. (calculated from each date of C.D.'s payments up to September 19, 2023), within 15 days of the date of this Order. Payment must be made by check or money order payable the full name of the individual identified herein by the initials "E.D."
  - c. Respondents shall pay restitution in the amount of \$101,123.96, plus 10% annual interest of \$23,855.10 (calculated from the date of D.S's first payment to September 19, 2023) to D.S within 15 days of the date of this Order. Payment must be made by check or money order payable to the full names of the individual identified herein by the initials "D.S."
  - d. Respondents should know from their investor lists the full names of the Montana investors identified herein by their initials. If Respondents are unsure about the names of these individuals, they can contact CSI who will supply the full names of these investors.
6. All fine and restitution payments shall be sent to the Commissioner of Securities and Insurance Office of the Montana State Auditor, Attn: Tiffany Hoffman, Paralegal, 840 Helena Avenue, Helena, MT 59601.

DATED this \_\_25th\_\_ day of September, 2023.



**TROY DOWNING**  
Commissioner of Securities and Insurance,



CERTIFICATE OF SERVICE

I hereby certify that on September 25<sup>th</sup>, 2023, I caused a copy of the foregoing, *Final Agency Action and Order*, to be served on the following persons by mail:

Advanced Mining Group  
VBit Technologies Corp a/b/n Advanced Mining  
VBit Mining LLC  
VBit DC Corp  
Danh "Don" Cong Vo  
Jin Gao  
Sean Tu  
Lilian Zhao  
c/o Legalinc Corporate Services Inc., Registered Agent  
651 N. Broad St., Suite 201  
Middletown, Delaware 19709



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TIFFANY HOFFEMAN  
Paralegal

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VBit Technologies Corp  
VBit Mining LLC

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## Advanced Mining

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Danh "Don" Cong Vo

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*Counsel for the Commissioner of Securities and Insurance*

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,  
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF

VBIT TECHNOLOGIES CORP, a  
Delaware Corporation; VBIT MINING,  
LLC, a Delaware Limited Liability  
Corporation; ADVANCED MINING, a  
foreign entity; Danh “Don” Cong Vo;  
Sean Huynh Tu;

Respondents.

Case No. SEC-2023-00018

**NOTICE OF PROPOSED AGENCY  
ACTION, TEMPORAY ORDER TO  
CEASE AND DESIST, AND  
OPPORTUNITY FOR HEARING**

TO: VBit Technologies Corp  
c/o Legalinc Corporate Services Inc., Registered Agent  
651 N. Broad St., Suite 201  
Middletown, Delaware 19709

VBit Mining LLC  
c/o Legalinc Corporate Services Inc., Registered Agent  
651 N. Broad St., Suite 201  
Middletown, Delaware 19709

Advanced Mining  
1625 Washington Ave.  
Philadelphia, PA 19146

Danh “Don” Cong Vo  
919 N. Front Street, Apt. F  
Philadelphia, Pennsylvania 19123

Sean Guynh Tu  
1800 Lasalle Avenue, Unit 305  
Minneapolis, Minnesota 55403

The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI or Commissioner), has cause to believe that VBit Technologies Corp, VBit Mining LLC, Advanced Mining, Danh “Don” Cong Vo, and Sean Guynh Tu (collectively referred to as Respondents) have violated the Securities Act of Montana, § 30-10-101, *et seq.*, MCA. The Commissioner proposes to order Respondents to cease and desist from offering or selling unregistered securities, engaging in fraudulent and other prohibited practices, and operating their unregistered multilevel marketing company in Montana. The Commissioner has the authority to undertake this action pursuant to the Securities Act of Montana, including § 30-10-101, *et seq.*, MCA.

Acceptance of the proposed actions will resolve this matter and it will be deemed a Final Agency Action based on the facts and law set out below. If Respondents choose not to accept the proposed actions, an administrative hearing must be requested; that request must be in writing and received by the Commissioner **within 15 days** of the date this Notice, as described in the Statement of Rights below. Failure to timely request a hearing can result in entry of a default order as stated in the Possibility of Default section below.

Pursuant to § 30-10-305(1)(a), MCA, the Commissioner concurrently issues a Temporary Order for Respondents to **immediately cease and desist** their unlawful actions in Montana as laid out in the allegations below.

## **FACTUAL ALLEGATIONS**

### **Parties**

1. Respondent VBit Technologies Corp, is a general corporation organized under the laws of the state of Delaware, with its principal place of business located at 1625

Washington Avenue, Philadelphia, Pennsylvania. VBit Technologies Corp has never registered any business activity with the Montana Secretary of State or CSI.

2. Respondent VBit Mining LLC is a limited liability company organized under the laws of the state of Delaware, with its principal place of business located at 1625 Washington Avenue, Philadelphia, Pennsylvania. VBit Mining LLC is a subsidiary of VBit Technologies Corp. VBit Mining LLC has never registered with the Montana Secretary of State or CSI. Unless otherwise designated by their specific names, VBit Technologies Corp and VBit Mining LLC will be collectively referred to herein as “VBit.”

3. Respondent Advanced Mining described itself in a press release as an Asia-based, foreign entity. In *Huntley v. VBit Technologies Corp., Inc. et al.*, 1:22-cv-01164-CFC-CRF (D. Del.), VBit attested that Advanced Mining is “doing business as VBit.”

4. Respondent Danh “Don” Cong Vo (Vo) co-founded VBit in 2018 and served as the Chief Executive Officer of VBit from its founding through January 2022.

5. Respondent Sean Guynh Tu (Tu) co-founded VBit, served as VBit’s Chief Technology Officer, and presently serves as the Chief Operations Officer of Advanced Mining.

#### **Nature of the Business**

6. “Bitcoin mining” refers to the use of a person’s computer (either their personal computer or, more commonly, a computer dedicated specifically to mining) to aid in the processing of Bitcoin transactions. Bitcoin transactions are organized by “blocks,” which together form the “blockchain,” a public ledger of all transactions using Bitcoin. The first Bitcoin miner to complete a given block is rewarded with a number of Bitcoin. Many Bitcoin miners purchase specialized hardware to mine more quickly and efficiently. Bitcoin miners also commonly join public “mining pools,” which combine multiple users’ computing power and distribute any Bitcoin rewards to users of the pool in proportion to their contribution of mining power.

7. Vo and Tu founded VBit in 2018 with the intent to rent and sell Bitcoin mining equipment and “hosting” services to customers. VBit offered packages with two

primary components: (a) computer hardware, or “hashboards” specialized for Bitcoin mining, and (b) accompanying services, called “hosting” services, which enable the customer to mine Bitcoin with little to no effort on the customer’s part. VBit advertised these hosting services as “[y]ou don’t need to do anything regarding the setup or maintenance of your hardware. We take care of logistics, installing and updating software, providing affordable electricity, and keeping your equipment cool and in working order.”

8. VBit posted YouTube videos about the structure of the company starring Respondent Vo. *See e.g.* VBit Tech Team PH – Training with CEO Danh Vo, <https://www.youtube.com/watch?v=biF65sUW4Ug> (last visited on Jan. 31, 2023).

9. VBit sold its mining packages partly using a multilevel marketing framework through which purchasers of the mining packages can act as salespersons, recruit other salespersons, and allegedly earn commissions based on their sales and the sales of their recruits. VBit referred to its customer recruiters as “affiliates.”

10. VBIT employees posted videos on YouTube about how to recruit affiliates to increase the hardware and computing power available to customers. *See e.g.* VBIT Tech Team PH – Compensation Plan, [https://www.youtube.com/watch?v=BPPCT\\_KkjUs](https://www.youtube.com/watch?v=BPPCT_KkjUs) (last visited Jan. 26, 2023).

11. The video provides that when VBit affiliates recruited new VBit customers “under them,” the recruiting affiliate received a referral commission in cash or Bitcoin and could receive a “boosted hashrate” on their own machines, which would purportedly increase mining power.

12. Affiliates were also told they would earn cash commissions based on the price the recruited customer paid for a mining package. VBit customers that sold mining packages to their own contacts were told they would receive a cash commission of 6% from sales to their direct recruits and commissions ranging from .75%-4.5% for sales made by recruits further down the chain.



13. Just like the cash bonuses, customers could also receive hashrate bonuses not only from personally-recruited customers, but also from customers up to “seven levels” down the chain of recruitment.

14. VBit also offered an incentive program called the “Infinity Team,” which provided recruitment incentives based on a customer’s total sales volume from all customers they recruited or that were recruited under the affiliate. Incentives were in the form of cash or Bitcoin to be used on shopping sprees, as well as luxury vacations, BMW sports cars, and new houses worth up to \$1 million.

15. CSI has no records that VBit filed the notice and consent to service forms required of multilevel marketing companies operating in Montana.

16. To attract customers, VBit advertised on its website “Start mining Bitcoin in as little as 24hrs! It’s super simple, your mining equipment is maintained by VBit and hassle-free to you! So you don’t have to worry nothing [sic]. Just set it and forget it! Learn more . . . About VBit Tech? DON’T MISS OUT THE [sic] BITCOIN REVOLUTION. YOU NEVER KNOW WHAT THE FUTURE MIGHT HODL [sic]!”

17. VBit also promoted its mining packages to individuals with little mining experience or expertise. VBit’s website has claimed that its “service makes mining Bitcoin accessible to everyone,” and that purchasers do not need “to buy expensive equipment and waste [their] time on setting it up.”

18. VBit advertised on its website that the equipment it sold or leased was “cutting-edge equipment that will enable efficient, high [rate of interest] Bitcoin mining operations.”

19. VBit purportedly deposited its customers’ Bitcoin earnings into a so-called “virtual wallet.” Customer testimonials posted on VBit’s website touted “no hassle” Bitcoin withdrawal and stated that customers could access their Bitcoins when they want, anytime they want.

20. Advanced Mining marketing and advertising touted that it “operate[s] some of the largest and most efficient mining facilities in the world, with unprecedented access to clean, cheap power and expert staff.”

21. A news article dated January 13, 2023 reported that one of VBit’s data centers is located in Columbia Falls, Montana.

### **VBit’s Offer and Sale of Securities**

22. Relying on these advertising and marketing pitches, Montana resident E.D. entered into a Payment and Hosting Agreement Contract (“Agreement”) with VBit. Under this Agreement, E.D. paid \$8,105 up front for use of VBit’s mining hardware and hosting services, and committed to an “initial fixed hosting term” of three years.

23. In the Agreement, VBit represented that it would be utilizing individualized mining equipment for the benefit of E.D. as follows:

The first payment will be due 30 days after the first day ***your equipment is installed and actively running . . . .***

\* \* \*

#### 1. Service

1.1. Facility. Service Provider will provide server hosting facility, electrical power, and Internet access to Customer at Service Provider’s and partner facilities (the “Facility”) for the purposes of **installing, maintaining, and operating Customer’s leased or owned servers** and ASIC chips (the “Equipment”), which may be updated from time to time to add or delete Equipment with written notification to the Customer.

(Emphasis added.)

24. E.D. purchased VBit’s “Platinum” package, which consisted of leasing “dedicated Antminer S19 series computer server hashboards with an average of 110,000 GH/s computer computational power, hereafter known as Equipment.”

25. The Agreement provided E.D. the option to buy out the Equipment “at any time by submitting a written request of buyout execution and shipment of said equipment.

Upon such request Customer shall pay the shipping and handling fee described in section 2.1 of this agreement in additional [sic] to a \$1.00 USD buyout and the balance of all payments described above.”

26. Even though the Agreement stated the equipment was individualized for E.D.’s use and benefit, it limited access to the equipment by providing that “[o]nly those persons specifically authorized by [VBit] may access the Facility” where the equipment was located. The Agreement also prohibited E.D. from removing “any of the Equipment from the facility without the prior written authorization of [VBit].”

27. E.D. selected the “Monthly Invoice for Bitcoin (BTC)/Cryptocurrency Payment.” With this option, VBit’s invoice is “sent to email address on file and must be paid through Customer’s corresponding QABU account.” A QABU account is a Bitcoin wallet, referred to as a “virtual wallet.”<sup>1</sup> VBit issued a press release describing the QABU wallet as a “custodial wallet designed to provide safe asset and mining management and decentralized apps for miners worldwide.”

28. The Agreement provided that E.D. and VBit’s other customers “can allocate the Equipment’s computational power to their desired pool with written notification to [VBit]”. However, if VBit’s customers, including E.D., did “not provide a desired pool prior to installation of Equipment, [VBit] will allocate the Equipment’s computational power to any pool of its choice on behalf of Customer.” Customers like E.D. were required to request a change in the allocation 72 hours prior to the desired change.

29. E.D. told CSI Financial Examiner Emily Nichols that VBit provided no training or true understanding of the process of Bitcoin mining.

30. Between March 2021 and June 2022, E.D. made monthly payments as agreed upon. In or about June 2022, E.D. discovered he was unable to gain full access to or perform transactions from his virtual wallet. The same was true for his wife, C.D., who

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<sup>1</sup>See <https://www.codezeros.com/work/qabu>. A YouTube video showing how the QABU wallet was used by VBit is found at <https://www.youtube.com/watch?v=Qp3vn134tAg> and [https://www.youtube.com/watch?v=m2zd6fi\\_o04](https://www.youtube.com/watch?v=m2zd6fi_o04) (last accessed on Jan. 31, 2023).

was coached by E.D. to set up her own VBit account in hopes of capitalizing on VBit's multilevel marketing framework.

31. E.D. reported to Examiner Nichols he made many attempts to contact VBit's principals and his upline sponsor, Hugh Benjamin, to resolve the "lockdown" of his virtual wallet, to no avail. E.D. estimated his total household loss to be \$24,310.96.

#### **Advanced Mining "Buy Out" and Washington Securities Action**

32. In January 2022, VBit announced it had been acquired by Advanced Mining for \$105 million. In the press release announcing the buyout, in which VBit Technologies is identified as the "source," Advanced Mining is touted as a company that has been "thriving in the crypto mining sector since 2015 and operating 12 data centers dedicated to bitcoin mining in Europe and Asia." Vo stated in the announcement that Advance Mining had "extensive expertise in the field."

33. There is no evidence that Advanced Mining is registered to do business in any jurisdiction in the United States.

34. On or about June 18, 2022, six months after Advanced Mining "bought out" VBit, the Securities Division for the State of Washington entered into a Consent Order with VBit.

35. In the Consent Order, VBit admitted its Bitcoin mining hardware and service packages are "securities," and that its business practices violated the securities laws of the State of Washington because the securities were not registered.

36. Shortly after the Washington Consent Order was signed, Advanced Mining informed its customers that it "can no longer service the United States market." The email Advanced Mining sent to customers stated that Advanced Mining had "worked diligently with multiple law firms to ensure that our products and services are not unregistered securities. However, the United States Securities and Exchange Commission (US SEC) disagrees; therefore, Advanced Mining must take measures to abide by US SEC and all applicable laws."

37. For customers like E.D., who leased rather than owned their mining machines, there was no legitimate opportunity for customers to exercise control over the Equipment's performance, and subsequently, the success or failure of their investments.

38. Because Respondents were engaged in "cloud mining," where customers' computing power was pooled together and controlled by Respondents, customers relied on the entrepreneurial and managerial efforts of Respondents to realize their expected profits.

39. Respondents also misrepresented the nature of their business in that, instead of selling individualized mining equipment, Respondents effectively sold fractions of machines. Thus, when Respondents' investment scheme unraveled, Respondents could not maintain their promises of high returns and access to virtual wallets because they did not have the volume of mining equipment and computing power they had marketed and promised to customers.

#### ASSERTIONS OF LAW

40. The Commissioner has jurisdiction over this matter pursuant to § 30-10-101, *et seq.*, MCA.

41. It is unlawful for a person to offer or sell any security in the state of Montana if that security has not been registered under the Securities Act of Montana or, in the case of a federal covered security, by following the procedure set forth in § 30-10-211, MCA. Section 30-10-202, MCA.

42. A "person" is, among other things, an individual, corporation, partnership, or association. Section 30-10-103(17), MCA.

43. A "vulnerable person" means, in pertinent part, a person who is at least 60 years of age. Section 30-10-103(27), MCA.

44. A "security" includes, among other things, any "investment contract." Section 30-10-103(24), MCA.

45. An investment contract is "an investment in a common venture premised on a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others." *Redding v. Mont. First Judicial Dist. Court*, 2012 MT 144A, ¶ 25, 365

Mont. 316, 281 P.3d 189 (citing *State v. Duncan*, 181 Mont. 382, 593 P.2d 1026, 1033 (1979) (adopting standard set forth in *United Housing Foundation, Inc. v. Forman*, 421 U.S. 837, 95 S.Ct. 2051 (1975))).

46. Respondents' Agreement with E.D. was an investment contract because of the following:

- a. Investment - E.D. paid Respondents money upon signing the contract.
- b. Common venture - E.D.'s investment was not for individualized use of the equipment as advertised but pooled with other customers who were also making payments for fractions on mining equipment. In addition, E.D. was dependent on Respondents' expertise and efforts for the returns.
- c. Reasonable expectation of profit - Respondents promised a rate of return to E.D.
- d. Derived from the entrepreneurial or managerial efforts of others - The rate of return was dependent on Respondents management of the machines and pooling of the computing power.

47. Because the Agreement is an investment contract under *Redding* and *Duncan*, it is a security.

48. Moreover, Respondents stipulated that the combined Bitcoin mining hardware and service packages were securities in the Consent Order with the Washington Securities Division.

49. Respondents did not register these securities under the procedures prescribed in § 30-10-202(1) or (2), MCA.

50. Respondents offered and/or sold the unregistered securities to Montanans in violation of § 30-10-202, MCA.

51. It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from Montana to do the following:

- a. employ any device, scheme, or artifice to defraud;

- b. make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or,
- c. engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

Section 30-10-301(1), MCA.

52. Respondents violated § 30-10-301(1), MCA, by, in connection with the offer and sale of securities:

- a. employed a scheme to defraud that consisted of repeatedly promising to investors through their marketing and promotional products they did not deliver or failed to deliver upon;
- b. misrepresented material facts related to the individualized nature of the mining operations, the level of investment returns from their hosting services and purported mining operations, and customers' control over their Bitcoins; and,
- c. engaged in conduct that operated as a fraud and deceit on VBit customers E.D. and C.D. who invested \$24,310.96 relying on Respondents' misrepresentations.

53. A "multilevel marketing company" means a person that:

- a. sells, distributes, or supplies goods or services through independent agents, contractors, or distributors at different levels of distribution; or pursuant to a formula for compensating participants in whole or in part based on purchases of sales by or recruitment or other participants;
- b. permits participants to recruit other participants in the company; and,
- c. provides for commissions, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of the sale of goods or services or the recruitment for the performance or actions of other participants.

Section 30-10-324(4), MCA.

54. Prior to obtaining a participant that is a Montana resident, multilevel marketing companies are required to file with the Commissioner certain forms providing (i) notice that the company intends to operate in Montana; and (ii) irrevocable consent designating the Commissioner as the company's agent for service of process for any alleged violation of § 30-10-325, MCA. Section 30-10-327(1), MCA.

55. Section 30-10-325, MCA, provides that a person may not conduct or promote or cause to be conducted or promoted a pyramid promotional scheme in Montana. A "pyramid promotional scheme" means a "sales plan or operation in which a participant gives consideration for the opportunity to receive compensation derived primarily from obtaining the participation of other persons in the sales plan or operation rather than from the sale of goods or services by the participant or the other persons induced to participate in the sales plan or operation by the participant." Section 30-10-324(7)(a), MCA.

56. Respondents appeared to have operated a multilevel marketing company in Montana because they (1) sell their Bitcoin mining equipment and hosting services through the recruitment of affiliates; (2) permit and encourage affiliates to recruit other customers; and (3) pay affiliates cash and Bitcoin bonuses and other consideration for direct recruiting and recruits down the chain. Accordingly, Respondents violated § 30-10-327, MCA, by failing to file the requisite notice and consent forms before recruiting E.D. and likely other Montana residents.<sup>2</sup>

57. If it appears to the Commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Title 30, chapter 10, parts 1 through 3, Montana Code Annotated, or any rule or order under chapter 10, the Commissioner may issue an order directing the person to cease and desist from continuing

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<sup>2</sup>Because Respondents have not filed the required form, CSI is unable to exclude the possibility that Respondents' compensation structure meets the definition of a pyramid promotional scheme. CSI reserves the right to make such a determination if circumstances warrant.



the act or practice after reasonable notice and opportunity for a hearing. Section 30-10-305(1), MCA.

58. The Commissioner may also impose a fine not to exceed \$5,000 per violation upon a person found to have engaged in any act or practice constituting a violation of any provision of or any rule or order issued under Title 30, chapter 10, parts 1 through 3, Montana Code Annotated. Section 30-10-305(3)(a), MCA.

59. If the Commissioner finds that a person has willfully engaged in an act or practice in violation of Title 30, chapter 10, parts 1 through 3, Montana Code Annotated, and the act or practice affected a vulnerable person, the Commissioner may impose a fine not to exceed \$20,000 per violation. Section 30-10-305(3)(b), MCA.

60. A fine as set forth herein is in addition to all other penalties imposed by the laws of Montana. Section 30-10-305(3)(c), MCA.

#### **PROPOSED AGENCY ACTION**

WHEREFORE, the Commissioner proposes to order the following:

1. Pursuant to § 30-10-305, MCA, a permanent order prohibiting Respondents from offering or selling unregistered securities.
2. Pursuant to § 30-10-305, MCA, a permanent order prohibiting Respondents from engaging in fraudulent and other prohibited practices as defined in § 30-10-301, MCA.
3. Pursuant to § 30-10-305, MCA, a permanent order prohibiting Respondents from operating a multilevel marketing company without following procedures in § 30-10-327, MCA.
4. Pursuant to § 30-10-305(3), MCA, imposition of a fine of \$15,000.
5. Pursuant to § 30-10-309, MCA, require Respondents to pay restitution for all financial losses sustained by any person resulting from Respondent's violation of § 30-10-301, MCA, plus 10% annual interest, reasonable attorney fees and costs associated with bringing the administrative action.

## **STATEMENT OF RIGHTS**

Respondents are entitled to contest the Commissioner's proposed action by requesting an administrative hearing. To do so, **within 15 days of the date this Notice**, Respondents must submit a written hearing request to CSI at 840 Helena Avenue, Helena, MT 59601 or [CSI.LegalService@mt.gov](mailto:CSI.LegalService@mt.gov). A hearing request may, but does not have to, include a response to the allegations set forth above. If a hearing is requested, Respondents will be provided notice of the time, place, and nature of the hearing. Respondents will be entitled to attend this hearing and respond and present evidence and arguments on all issues involved in this action.

Respondents have the right to retain legal counsel to represent, accompany, and advise them at any and all stages of this proceeding or may also elect to represent themselves; however, a business entity may not appear on its own behalf or through an agent other than an attorney licensed to practice law. Admin. R. Mont. 1.3.231.

Administrative hearings are conducted by an impartial hearing examiner appointed by the Commissioner under the provisions of the Montana Administrative Procedures Act. Formal proceedings may be waived pursuant to § 2-4-603, MCA.

## **CONTACT WITH COMMISSIONER'S OFFICE**

If there are questions or concerns, please contact CSI at 406-444-2040 or [CSI.LegalService@mt.gov](mailto:CSI.LegalService@mt.gov). If represented by an attorney, please ensure this contact is made by the attorney.

## **POSSIBILITY OF DEFAULT**

Failure to timely provide a written hearing request shall result in the entry of a default order imposing the Commissioner's proposed action, without additional notice, pursuant to Admin. R. Mont. 1.3.214.

DATED this 10<sup>th</sup> day of February, 2023.

  
\_\_\_\_\_  
KATE McGRATH ELLIS

*Counsel for Commissioner of Securities & Insurance*

## **TEMPORARY CEASE AND DESIST ORDER**

Pursuant to § 30-10-305, MCA, and in light of the factual allegations and assertions of law above, it appears to the Commissioner that Respondents have engaged, are engaged, and may in the future engage in acts or practices constituting a violation of the Securities Act of Montana, § 30-10-301, *et seq.*, MCA.

Therefore, it is hereby ORDERED that Respondents **immediately cease and desist** from offering or selling unregistered securities, engaging in fraudulent and prohibited practices in connection with the offering and selling of securities, and operating as multilevel marketing company in Montana.

### **PENALTIES**

Pursuant to § 30-10-305, MCA, a violation of this Order is a separate violation for which the CSI may impose a fine not to exceed \$5,000 per violation in addition to any other penalties imposed by law.

If you request a hearing pursuant to the procedures stated in the attached Notice, this temporary cease and desist order remains in effect until 10 days after the hearings examiner issues proposed findings of fact, conclusions of law, and a proposed order. Alternatively, if you do not request a hearing within 15 days after receipt of the attached Notice, this temporary cease and desist order will become final without further notice. Section 30-10-305(1)(a), MCA.

DATED this 10 day of February, 2023.



**TROY DOWNING**  
Commissioner of Securities and Insurance,  
Montana State Auditor

**CERTIFICATE OF SERVICE**

I hereby certify that on February 10<sup>th</sup>, 2023, I caused a copy of the foregoing, *Notice of Proposed Agency Action and Opportunity For Hearing: Temporary Cease and Desist Order*, to be served on the following persons by mail:

VBit Technologies Corp  
c/o Legalinc Corporate Services Inc., Registered Agent  
651 N. Broad St., Suite 201  
Middletown, Delaware 19709

VBit Mining LLC  
c/o Legalinc Corporate Services Inc., Registered Agent  
651 N. Broad St., Suite 201  
Middletown, Delaware 19709

Advanced Mining  
1625 Washington Ave.  
Philadelphia, PA 19146

Danh “Don” Cong Vo  
919 N. Front Street, Apt. F  
Philadelphia, Pennsylvania 19123

Sean Guynh Tu  
1800 Lasalle Avenue, Unit 305  
Minneapolis, Minnesota 55403



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TIFFANY HOFFEMAN  
Paralegal



## **CERTIFICATE OF SERVICE**

I, Kate McGrath Ellis, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit of Service to the following on 08-23-2023:

VBIT DC Corp (Defendant)  
Service Method: First Class Mail

VBIT Technologies Corp (Defendant)  
651 N. Broad St. Suite 201  
Middletown 19709  
Service Method: First Class Mail

VBIT Mining LLC (Defendant)  
Service Method: First Class Mail

Advanced Mining Group (Defendant)  
Service Method: First Class Mail

Electronically signed by Tiffany Hoffman on behalf of Kate McGrath Ellis  
Dated: 08-23-2023

# Affidavit of Process Server

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

COMMISSIONER OF SECURITIES AND INSURANCE, OFFICE OF THE MONTANA STATE AUDITOR VS VBIT TECHNOLOGIES CORP., (a.b.n. ADVANCED MINING), ET AL. DV-15-2023-958(E)

PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, KEVIN S. DUNN being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service. RECEIVED 08/23/2023

Service: I served VBIT MINING LLC NAME OF PERSON / ENTITY BEING SERVED  
AMENDED NOTICE OF PROPOSED AGENCY ACTION, TEMPORARY ORDER TO CEASE AND DESIST, AND OPPORTUNITY FOR HEARING; TEMPORARY RESTRAINING ORDER; ORDER SCHEDULING SHOW CAUSE HEARING AND EXTENDING TEMPORARY RESTRAINING ORDER; BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION AND REQUEST FOR SHOW CAUSE HEARING; AFFIDAVIT OF SECURITIES EXAMINER PATRICK MURPHY; MOTION FOR PRELIMINARY INJUNCTION AND REQUEST FOR SHOW CAUSE HEARING;

with (list documents) DIANE GIBBS (MANAGING AGENT) At

Residence NAME RELATIONSHIP

Business ADDRESS CITY / STATE  
C/O LEGALINC CORPORATE SERVICES INC., 651 N. BROAD ST., SUITE 201, MIDDLETOWN, DE 19709  
ADDRESS CITY / STATE

On 08/23/2023 AT 2:20 PM  
DATE TIME

Thereafter copies of the documents were mailed by prepaid, first class mail on \_\_\_\_\_ DATE  
from \_\_\_\_\_ CITY STATE ZIP

**Manner of Service:**

- CORPORATE
- Personal: By personally delivering copies to the person being served.
- Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of \_\_\_\_\_ and explaining the general nature of the papers.
- Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
- Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.
- Non-Service: After due search, careful inquiry and diligent attempts at the address (es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):
- Unknown at Address     Moved, Left no Forwarding     Service Cancelled by Litigant     Unable to Serve in Timely Fashion
- Address Does Not Exist     Other

Service Attempts: Service was attempted on: (1) \_\_\_\_\_ (2) \_\_\_\_\_  
DATE TIME DATE TIME

(3) \_\_\_\_\_ (4) \_\_\_\_\_ (5) \_\_\_\_\_  
DATE TIME DATE TIME DATE TIME

AGE 55 Sex FEMALE Race BLACK Height 5'5 Weight 140 HAIR BLACK

KEVIN S. DUNN  
 SIGNATURE OF PROCESS SERVER  
 KEVIN S. DUNN  
 BRANDYWINE PROCESS SERVERS, LTD., PO  
 BOX 1360, WILMINGTON, DE 19899

SUBSCRIBED AND SWORN in the State of Delaware, New Castle County before me this 23RD day of AUGUST, 2023.

DENORRIS ANGELO BRITT  
 NOTARY PUBLIC  
 STATE OF DELAWARE  
 My Commission Expires on May 1, 2024

\_\_\_\_\_  
 SIGNATURE OF NOTARY PUBLIC  
 NOTARY PUBLIC for the state of DELAWARE

## **CERTIFICATE OF SERVICE**

I, Kate McGrath Ellis, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit of Service to the following on 08-23-2023:

VBIT DC Corp (Defendant)  
Service Method: First Class Mail

VBIT Technologies Corp (Defendant)  
651 N. Broad St. Suite 201  
Middletown 19709  
Service Method: First Class Mail

VBIT Mining LLC (Defendant)  
Service Method: First Class Mail

Advanced Mining Group (Defendant)  
Service Method: First Class Mail

Electronically signed by Tiffany Hoffman on behalf of Kate McGrath Ellis  
Dated: 08-23-2023



# Affidavit of Process Server

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

COMMISSIONER OF SECURITIES AND INSURANCE, OFFICE OF THE MONTANA STATE AUDITOR **VS** VBIT TECHNOLOGIES CORP., (a.b.n. ADVANCED MINING), ET AL. DV-15-2023-958(E)

PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, KEVIN S. DUNN being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service. RECEIVED 08/23/2023

Service: I served VBIT TECHNOLOGIES CORP., (a.b.n. ADVANCED MINING)  
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) AMENDED NOTICE OF PROPOSED AGENCY ACTION, TEMPORARY ORDER TO CEASE AND DESIST, AND OPPORTUNITY FOR HEARING; TEMPORARY RESTRAINING ORDER; ORDER SCHEDULING SHOW CAUSE HEARING AND EXTENDING TEMPORARY RESTRAINING ORDER; BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION AND REQUEST FOR SHOW CAUSE HEARING; AFFIDAVIT OF SECURITIES EXAMINER PATRICK MURPHY; MOTION FOR PRELIMINARY INJUNCTION AND REQUEST FOR SHOW CAUSE HEARING;

by leaving with DIANE GIBBS (MANAGING AGENT) At  
NAME RELATIONSHIP

Residence \_\_\_\_\_ ADDRESS CITY / STATE

Business C/O LEGALINC CORPORATE SERVICES INC., 651 N. BROAD ST., SUITE 201, MIDDLETOWN, DE 19709  
ADDRESS CITY / STATE

On 08/23/2023 AT 2:20 PM  
DATE TIME

Thereafter copies of the documents were mailed by prepaid, first class mail on \_\_\_\_\_ DATE

from \_\_\_\_\_  
CITY STATE ZIP

**Manner of Service:**


- CORPORATE
- Personal: By personally delivering copies to the person being served.
- Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of \_\_\_\_\_ and explaining the general nature of the papers.
- Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
- Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.
- Non-Service: After due search, careful inquiry and diligent attempts at the address (es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- Unknown at Address  Moved, Left no Forwarding  Service Cancelled by Litigant  Unable to Serve in Timely Fashion
- Address Does Not Exist  Other

Service Attempts: Service was attempted on: (1) \_\_\_\_\_ (2) \_\_\_\_\_  
DATE TIME DATE TIME

(3) \_\_\_\_\_ (4) \_\_\_\_\_ (5) \_\_\_\_\_  
DATE TIME DATE TIME DATE TIME

AGE 55 Sex FEMALE Race BLACK Height 5'5 Weight 140 HAIR BLACK

  
SIGNATURE OF PROCESS SERVER  
KEVIN S. DUNN  
BRANDYWINE PROCESS SERVERS, LTD., PO  
BOX 1360, WILMINGTON, DE 19899

SUBSCRIBED AND SWORN in the State of Delaware, New Castle County before me this 23RD day of AUGUST, 2023.

**DENORRIS ANGELO BRITT**  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires on May 1, 2024

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC  
NOTARY PUBLIC for the state of DELAWARE

## **CERTIFICATE OF SERVICE**

I, Kate McGrath Ellis, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit of Service to the following on 08-23-2023:

VBIT DC Corp (Defendant)  
Service Method: First Class Mail

VBIT Technologies Corp (Defendant)  
651 N. Broad St. Suite 201  
Middletown 19709  
Service Method: First Class Mail

VBIT Mining LLC (Defendant)  
Service Method: First Class Mail

Advanced Mining Group (Defendant)  
Service Method: First Class Mail

Electronically signed by Tiffany Hoffman on behalf of Kate McGrath Ellis  
Dated: 08-23-2023

**KATE McGRATH ELLIS**  
Legal Counsel  
Commissioner of Securities & Insurance,  
Office of the Montana State Auditor  
840 Helena Avenue  
Helena, MT 59601  
Phone: (406) 444-2040  
Fax: (406) 444-3497  
Email: kate.ellis@mt.gov  
**E-Service: CSI.LegalService@mt.gov**

*Counsel for the Commissioner of Securities and Insurance*

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,  
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF

VBIT TECHNOLOGIES CORP, a  
Delaware Corporation (a.b.n  
ADVANCED MINING); ADVANCED  
MINING GROUP; VBIT MINING, LLC,  
a Delaware Limited Liability Corporation;  
VBIT DC CORP, a Delaware  
Corporation; Danh “Don” Cong Vo; Jin  
Gao; Sean Tu; and Lilian Zhao;

Respondents.

Case No. SEC-2023-00018

**AMENDED NOTICE OF PROPOSED  
AGENCY ACTION, TEMPORAY  
ORDER TO CEASE AND DESIST,  
AND OPPORTUNITY FOR  
HEARING**

TO: Advanced Mining Group  
VBit Technologies Corp a/b/n Advanced Mining  
VBit Mining LLC  
VBit DC Corp  
Danh “Don” Cong Vo  
Jin Gao  
Sean Tu  
Lilian Zhao  
c/o Legalinc Corporate Services Inc., Registered Agent  
651 N. Broad St., Suite 201  
Middletown, Delaware 19709

The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI or Commissioner), has cause to believe that VBit Technologies Corp a/b/n Advanced Mining, Advanced Mining Group, VBit Mining LLC, VBit DC Corp, Danh “Don” Cong Vo, Jin Gao, Sean Tu, and Lilian Zhao (collectively referred to as Respondents) have violated the Securities Act of Montana, § 30-10-101, *et seq.*, MCA. The Commissioner proposes to order Respondents to permanently cease and desist from offering or selling unregistered securities, engaging in fraudulent and other prohibited practices, and operating their unregistered multilevel marketing company in Montana. The Commissioner has the authority to undertake this action pursuant to the Securities Act of Montana, including § 30-10-101, *et seq.*, MCA.

CSI issued the original Temporary Cease and Desist Order and Notice of Proposed Agency Action (NOPAA) on February 10, 2023. After additional investigation, CSI hereby amends the NOPAA which adds factual allegations, legal assertions, and proposed penalties related to its discovery of information regarding respondents, victims, and property owned by Respondents located in Montana.

Acceptance of the proposed actions will resolve this matter and it will be deemed a Final Agency Action based on the facts and law set out below. If Respondents choose not to accept the proposed actions, an administrative hearing must be requested; that request must be in writing and received by the Commissioner **within 15 days** of the date this Notice, as described in the Statement of Rights below. Failure to timely request a hearing can result in entry of a default order as stated in the Possibility of Default section below.

This Amended NOPAA does not have any effect on the already-issued Temporary Order for Respondents to **immediately cease and desist** their unlawful actions, made by the Commissioner on February 10, 2023, pursuant to § 30-10-305(1)(a), MCA. The cease-and-desist order continues in full force and effect until, if a hearing is requested, 10 days after the hearing examiner issues proposed findings of fact, conclusions of law, and a proposed order. Alternatively, if no hearing is requested, the Temporary Cease and Desist Order will become final without further notice. Section 30-10-305(1)(a), MCA.

## **FACTUAL ALLEGATIONS**

### **Parties**

1. Respondent VBit Technologies Corp (“VBit Technologies”), is a general corporation organized under the laws of the state of Delaware, with its principal place of business located at 1625 Washington Avenue, Philadelphia, Pennsylvania. VBit Technologies has never registered any business activity with the Montana Secretary of State or CSI. VBit Technologies’ assumed business name is “Advanced Mining.”

2. Respondent Advanced Mining Group has been identified as an “Asian-based” foreign entity and identified in a corporate disclosure filed by VBit Technologies in September 2022 as VBit Technologies’ parent company.

3. Respondent VBit Mining LLC (“VBit Mining”) is a limited liability company organized under the laws of the state of Delaware, with its principal place of business located at 1625 Washington Avenue, Philadelphia, Pennsylvania. VBit Mining LLC is a subsidiary of VBit Technologies. VBit Mining LLC has never registered with the Montana Secretary of State or CSI.

4. Respondent VBit DC Corp (“VBit DC”) is a general corporation organized under the laws of Delaware, with its principal place of business reported as 1625 Washington Avenue, Philadelphia, Pennsylvania. Montana Property Record Cards as reported on Cadastral list VBit DC Corp’s address as 919 N. Front St., Apt. F, Philadelphia, PA 19123-1715. A news article based on a press release from “VBit Technologies” identified VBit DC as a subsidiary of VBit Technologies. VBit DC has never registered with the Montana Secretary of State or CSI.

5. Unless otherwise designated by their specific names, VBit Technologies Corp a/b/n Advanced Mining, VBit Mining LLC, and VBit DC will be collectively referred to herein as “VBit.”

6. Respondent Danh “Don” Cong Vo (Vo) co-founded VBit Technologies in 2018 and served as the Chief Executive Officer from its founding through January 2022. As discussed in more detail below, Vo is also identified on SEC filings as the CEO and

founder of VBit DC. UCC filings with the Montana Secretary of State list Vo's address as 919 N. Front St., Apt. F, Philadelphia, PA.

7. Respondent Jin Gao is a co-founder of VBit Technologies and has served as the CEO of VBit. Gao is also listed on UCC filings with the Montana Secretary of State as a co-debtor on a security interest with Vo and VBit DC. Gao's address is listed as 623 N. 10<sup>th</sup> Street, Philadelphia, PA 19123-2601.

8. Respondent Sean Tu (Tu) served as VBit's Chief Technology Officer, was identified in a training video as VBit's Chief Operations Officer. Recent email correspondence from Sean Tu is from a "vbittech.com" email address, and his signature line identifies him as "Executive Consultant (Contractor) to the CEO" of VBit and Advanced Mining.

9. Respondent Lilian Zhao is believed to be the current CEO of VBit.

#### **Nature of the Business**

10. "Bitcoin mining" refers to the use of a person's computer (either their personal computer or, more commonly, a computer dedicated specifically to mining) to aid in the processing of Bitcoin transactions. Bitcoin transactions are organized by "blocks," which together form the "blockchain," a public ledger of all transactions using Bitcoin. The first Bitcoin miner to complete a given block is rewarded with a number of Bitcoin. Many Bitcoin miners purchase specialized hardware to mine more quickly and efficiently. Bitcoin miners also commonly join public "mining pools," which combine multiple users' computing power and distribute any Bitcoin rewards to users of the pool in proportion to their contribution of mining power.

11. Vo founded VBit Technologies in 2018 with the intent to rent and sell Bitcoin mining equipment and "hosting" services to customers. VBit offered packages with two primary components: (a) computer hardware, or "hashboards" specialized for Bitcoin mining, and (b) accompanying services, called "hosting" services, which enable the customer to mine Bitcoin with little to no effort on the customer's part. VBit advertised these hosting services as "[y]ou don't need to do anything regarding the setup or

maintenance of your hardware. We take care of logistics, installing and updating software, providing affordable electricity, and keeping your equipment cool and in working order.”

12. VBit posted YouTube videos about the structure of the company starring Vo. *See e.g.* VBit Tech Team PH – Training with CEO Danh Vo, <https://www.youtube.com/watch?v=biF65sUW4Ug> (last visited on Jan. 31, 2023).

13. VBit sold its mining packages partly using a multilevel marketing framework through which purchasers of the mining packages can act as salespersons, recruit other salespersons, and allegedly earn commissions based on their sales and the sales of their recruits. VBit referred to its customer recruiters as “affiliates.”

14. VBit employees posted videos on YouTube about how to recruit affiliates to increase the hardware and computing power available to customers. *See e.g.* VBIT Tech Team PH – Compensation Plan, [https://www.youtube.com/watch?v=BPPCT\\_KkjUs](https://www.youtube.com/watch?v=BPPCT_KkjUs) (last visited Jan. 26, 2023).

15. The video provides that when VBit affiliates recruited new VBit customers “under them,” the recruiting affiliate received a referral commission in cash or Bitcoin and could receive a “boosted hashrate” on their own machines, which would purportedly increase mining power.

16. Affiliates were also told they would earn cash commissions based on the price the recruited customer paid for a mining package. VBit customers that sold mining packages to their own contacts were told they would receive a cash commission of 6% from sales to their direct recruits and commissions ranging from .75%-4.5% for sales made by recruits further down the chain.

17. Just like the cash bonuses, customers could also receive hashrate bonuses not only from personally-recruited customers, but also from customers up to “seven levels” down the chain of recruitment.

18. VBit also offered an incentive program called the “Infinity Team,” which provided recruitment incentives based on a customer’s total sales volume from all customers they recruited or that were recruited under the affiliate. Incentives were in the

form of cash or Bitcoin to be used on shopping sprees, as well as luxury vacations, BMW sports cars, and new houses worth up to \$1 million.

19. CSI has no records that VBit filed the notice and consent to service forms required of multilevel marketing companies operating in Montana.

20. To attract customers, VBit advertised on its website “Start mining Bitcoin in as little as 24hrs! It’s super simple, your mining equipment is maintained by VBit and hassle-free to you! So you don’t have to worry nothing [sic]. Just set it and forget it! Learn more . . . About VBit Tech? DON’T MISS OUT THE [sic] BITCOIN REVOLUTION. YOU NEVER KNOW WHAT THE FUTURE MIGHT HODL [sic]!”

21. VBit also promoted its mining packages to individuals with little mining experience or expertise. VBit’s website has claimed that its “service makes mining Bitcoin accessible to everyone,” and that purchasers do not need “to buy expensive equipment and waste [their] time on setting it up.”

22. VBit advertised on its website that the equipment it sold or leased was “cutting-edge equipment that will enable efficient, high [rate of interest] Bitcoin mining operations.”

23. VBit purportedly deposited its customers’ Bitcoin earnings into a so-called “virtual wallet.” Customer testimonials posted on VBit’s website touted “no hassle” Bitcoin withdrawal and stated that customers could access their Bitcoins when they want, anytime they want.

24. Advanced Mining (the assumed business name of VBit Technologies) marketing and advertising touted that it “operate[s] some of the largest and most efficient mining facilities in the world, with unprecedented access to clean, cheap power and expert staff.”

#### **VBit’s Offer and Sale of Securities**

25. Relying on these advertising and marketing pitches, Montana residents entered into agreements with VBit for Bitcoin mining. CSI received complaints from these residents as described below, and the investigation of the complaints was initially assigned



to Financial Examiner Emily Nichols, and then Securities Examiner Patrick Murphy after Nichols left the agency. The facts alleged herein are based on their investigation into this matter.

26. Montana resident E.D. entered into a “Payment and Hosting Agreement Contract” (“Agreement”) with “VBit Technologies Corp and its subsidiary VBit Mining LLC,” described in the Agreement as the “Service Provider.” Under this Agreement, E.D. paid \$8,105 up front for use of VBit’s mining hardware and hosting services and committed to an “initial fixed hosting term” of three years. At the time E.D. entered into the agreement and paid the money, he was at least 60 years of age.

27. Montana resident D.S. also entered into a “Payment and Hosting Agreement Contract” with “VBit Mining LLC,” described in the Agreement as the “Service Provider.” Other than the description of the “Service Provider,” the terms of D.S. and E.D.’s Agreements are the same. In his Agreement, D.S. paid \$78,964 up front for use of VBit’s mining hardware and hosting services and committed to an “initial fixed hosting term” of three years. At the time D.S. entered into the agreement and paid the money, he was at least 60 years of age.

28. In the Agreement, VBit represented that it would be utilizing individualized mining equipment for the benefit of its customers, including D.S. and E.D., as follows:

The first payment will be due 30 days after the first day *your equipment is installed and actively running* . . . .

\* \* \*

#### 1. Service

1.1. Facility. Service Provider will provide server hosting facility, electrical power, and Internet access to Customer at Service Provider’s and partner facilities (the “Facility”) for the purposes of **installing, maintaining, and operating Customer’s leased or owned servers** and ASIC chips (the “Equipment”), which may be updated from time to time to add or delete Equipment with written notification to the Customer.

(Emphasis added.)

29. E.D. purchased VBit's "Platinum" package, which consisted of leasing "dedicated Antminer S19 series computer server hashboards with an average of 110,000 GH/s computer computational power, hereafter known as Equipment."

30. D.S. purchased VBit's "Black Diamond" package, which consisted of leasing "dedicated Antminer S19 series computer server hashboards with an average of 880,000 GH/s computer computational power, hereafter known as 'Equipment.'"

31. The Agreement provided its customers, including E.D. and D.S., the option to buy out the Equipment "at any time by submitting a written request of buyout execution and shipment of said equipment. Upon such request Customer shall pay the shipping and handling fee described in section 2.1 of this agreement in additional [sic] to a \$1.00 USD buyout and the balance of all payments described above."

32. Even though the Agreement stated the equipment was individualized for E.D. and D.S.'s use and benefit, it limited access to the equipment by providing that "[o]nly those persons specifically authorized by Service Provider may access the Facility" where the equipment was located. The Agreement also prohibited E.D. and D.S. from removing "any of the Equipment from the facility without the prior written authorization of Service Provider."

33. Both E.D. and D.S. selected the "Monthly Invoice for Bitcoin (BTC)/Cryptocurrency Payment." With this option, VBit's invoice is "sent to email address on file and must be paid through Customer's corresponding QABU account." A QABU account is a Bitcoin wallet, referred to as a "virtual wallet."<sup>1</sup> In an article identifying VBit Technologies as the source, the QABU wallet was described as a "custodial wallet designed to provide safe asset and mining management and decentralized apps for miners worldwide."

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<sup>1</sup>See <https://www.codezeros.com/work/qabu>. A YouTube video showing how the QABU wallet was used by VBit is found at <https://www.youtube.com/watch?v=Qp3vn134tAg> and [https://www.youtube.com/watch?v=m2zd6fi\\_o04](https://www.youtube.com/watch?v=m2zd6fi_o04) (last accessed on Jan. 31, 2023).

34. The Agreement provided that E.D., D.S., and VBit's other customers "can allocate the Equipment's computational power to their desired pool with written notification to [VBit]." However, if VBit's customers, including E.D. and D.S., did "not provide a desired pool prior to installation of Equipment, [VBit] will allocate the Equipment's computational power to any pool of its choice on behalf of Customer." Customers like E.D. and D.S. were required to request a change in the allocation 72 hours prior to the desired change.

35. E.D. told CSI that VBit provided no training or true understanding of the process of Bitcoin mining.

36. Between March 2021 and June 2022, E.D. made monthly payments as agreed upon. In or about June 2022, E.D. discovered he was unable to gain full access to or perform transactions from his virtual wallet. The same was true for his wife, C.D., who was coached by E.D. to set up her own VBit account in hopes of capitalizing on VBit's multilevel marketing framework. At the time C.D. set up her own account, she was at least 60 years of age.

37. E.D. reported to CSI that he made many attempts to contact VBit's principals and his upline sponsor, Hugh Benjamin, to resolve the "lockdown" of his virtual wallet, to no avail. E.D. estimated his total household loss to be \$27,518.29.

38. Despite the fact that, on February 10, 2023, the Commissioner ordered VBit to cease and desist operating in Montana, "Advanced Mining" continued to send E.D. invoices for the "Platinum Package Miner," 3 Year Hosting, and Admin Fee.

39. In addition to the upfront payment mentioned above, D.S. made 10 monthly installment payments that totaled \$22,159.96. VBit provided D.S. with a link that he used to send 8 out of the 10 monthly payments, but was unable to make a cash payment in January 2022. To satisfy the January 2022 obligation, D.S. sent 0.0597005 of Bitcoin to Vbit on January 25, 2022.

40. For customers like E.D. and D.S., who leased rather than owned their mining machines, there was no legitimate opportunity to exercise control over the Equipment's

performance, and subsequently, the success or failure of their investments. Customers like E.D. and D.S. relied on the entrepreneurial and managerial efforts of Respondents to realize their expected profits because their computing power was pooled together and controlled by Respondents.

41. On August 20, 2023, the Daily Inter Lake published an article about a former employee of VBit. The employee told the reporter that when he showed up to work in December, the lights were off, and the power disconnected. Among other things, the employee reported that he never saw individual computers labeled or identified as belonging to individual customers, and that the funds generated by the computers were all fed into one account.

#### **Advanced Mining Group’s “Buy Out” and Washington Securities Action**

42. In January 2022, VBit Technologies announced it had been acquired by Advanced Mining Group for \$105 million. In the press release announcing the buyout, in which VBit Technologies is identified as the “source,” Advanced Mining Group is touted as a company that has been “thriving in the crypto mining sector since 2015 and operating 12 data centers dedicated to bitcoin mining in Europe and Asia.” Vo stated in the announcement that Advanced Mining Group had “extensive expertise in the field.”

43. There is no evidence that Advanced Mining Group is registered to do business in any jurisdiction in the United States.

44. On or about June 18, 2022, six months after Advanced Mining Group “bought out” VBit, the Securities Division for the State of Washington entered into a Consent Order with VBit Technologies.

45. In the Consent Order, VBit Technologies admitted its Bitcoin mining hardware and service packages are “securities,” and that its business practices violated the securities laws of the State of Washington because the securities were not registered.

46. Shortly after the Washington Consent Order was signed, an email identified as being from Advanced Mining Group was sent to “members.” The email provided that “Advanced Mining . . . can no longer service the United States market.” The email stated

that Advanced Mining had “worked diligently with multiple law firms to ensure that our products and services are not unregistered securities. However, the United States Securities and Exchange Commission (US SEC) disagrees; therefore, Advanced Mining must take measures to abide by US SEC and all applicable laws.” The email promised investors that VBit would be processing withdrawal requests, which VBit never did for E.D., C.D., or D.S.

### **VBit’s Montana Mining Facility**

47. In a February 2021 article that identifies VBit Technologies as the source announced:

VBit Technologies . . . expands its mining business in Montana. Known as the “Known Technology Frontier”, Montana provides access to cheap electricity along with cooler conditions making it an ideal place to turn disused manufacturing plants into server farms into Bitcoin mining. . . . Montana with its cheap and extensive quantities of hydroelectric power and large empty facilities that have their own power substations and is a great location for expansion into Bitcoin mining. VBit will deploy its new mining hardware in a data center that is 100% powered by hydroelectricity.

Vo is quoted as touting the environmental benefits of the energy source and stating that “VBit” was exploring liquid immersion colling technology. The article concludes with the statement that “VBit Technologies has a brand called VBit Mining that provides Bitcoin mining services to thousands of people worldwide and is on its way to becoming one of the largest Bitcoin mining operations in the world.”

48. On January 13, 2023, the Daily Inter Lake reported that one of VBit’s data centers was located in Columbia Falls, Montana. D.S. confirmed this to CSI and provided the address of the facility (hereinafter referred to as “the Property”).

49. CSI confirmed with the Flathead County Treasurer’s Office that the owner of the Property at the address provided by D.S. is VBit DC. A TLO report identifies VBit DC Corp as the owner of the Property, and that the date of sale was March 17, 2021. Montana Cadastral website also lists VBit DC Corp as the current owner of the Property.

50. CSI obtained documents related to the real estate transaction related to VBit DC's purchase of the Property. This includes a warranty deed dated March 17, 2021, conveying the Property from Columbia Mountain Holdings LLC to VBit DC. The Final Settlement Statement from the transaction dated March 18, 2021, is signed by Vo as the President of VBit DC.

51. CSI learned through online news articles that VBit Technologies uses VBit DC to raise funds for the construction of VBit's mining centers. VBit then markets these facilities as decreasing operating costs and increasing efficiency which, in turn, increases returns on investment for investors.

### **ASSERTIONS OF LAW**

52. The Commissioner has jurisdiction over this matter pursuant to § 30-10-101, *et seq.*, MCA.

53. It is unlawful for a person to offer or sell any security in the state of Montana unless that security has been registered under the Securities Act of Montana or, in the case of a federal covered security, by following the procedure set forth in § 30-10-211, MCA. Section 30-10-202, MCA.

54. A "person" means, among other things, an individual, corporation, partnership, or association. Section 30-10-103(17), MCA.

55. A "vulnerable person" means, in pertinent part, a person who is at least 60 years of age. Section 30-10-103(27), MCA.

56. A "security" includes, among other things, any "investment contract." Section 30-10-103(24), MCA.

57. An investment contract is "an investment in a common venture premised on a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others." *Redding v. Mont. First Judicial Dist. Court*, 2012 MT 144A, ¶ 25, 365 Mont. 316, 281 P.3d 189 (citing *State v. Duncan*, 181 Mont. 382, 593 P.2d 1026, 1033 (1979) (adopting standard set forth in *United Housing Foundation, Inc. v. Forman*, 421 U.S. 837, 95 S.Ct. 2051 (1975))).

58. Respondents' Agreement with E.D. and D.S. was an investment contract because of the following:

- a. Investment - E.D. and D.S. paid Respondents money upon signing the contract.
- b. Common venture - E.D.'s and D.S.'s investment was not for individualized use of the equipment as advertised but pooled with other customers who were also making payments for fractions on mining equipment. In addition, E.D. and D.S. were dependent on Respondents' expertise and efforts for the returns.
- c. Reasonable expectation of profit - Respondents promised a rate of return to E.D. and D.S.
- d. Derived from the entrepreneurial or managerial efforts of others - The rate of return was dependent on Respondents management of the machines and pooling of the computing power.

59. Because the Agreement is an investment contract under *Redding* and *Duncan*, it is a security.

60. Moreover, Respondents stipulated that the combined Bitcoin mining hardware and service packages were securities in the Consent Order with the Washington Securities Division.

61. Respondents did not register these securities under the procedures prescribed in § 30-10-202(1) or (2), MCA.

62. Respondents offered and/or sold the unregistered securities to Montanans in violation of § 30-10-202, MCA.

63. It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from Montana to do the following:

- a. employ any device, scheme, or artifice to defraud;

- b. make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or,
- c. engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

Section 30-10-301(1), MCA.

64. Respondents violated § 30-10-301(1), MCA, by, in connection with the offer and sale of securities in Montana:

- a. employed a scheme to defraud that consisted of repeatedly making promises to investors through their marketing and promotional products they did not deliver or failed to deliver upon;
- b. misrepresented material facts related to the individualized nature of the mining operations, the level of investment returns from their hosting services and purported mining operations, and customers' control over their Bitcoins; and,
- c. engaged in conduct that operated as a fraud and deceit on VBit customers E.D. who invested at least \$27,518.29 and C.D. who invested at least \$78,964.00 plus monthly payments, relying on Respondents' misrepresentations.

65. A "multilevel marketing company" means a person that:

- a. sells, distributes, or supplies goods or services through independent agents, contractors, or distributors at different levels of distribution; or pursuant to a formula for compensating participants in whole or in part based on purchases of sales by or recruitment of other participants;
- b. permits participants to recruit other participants in the company; and,
- c. provides for commissions, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as



a result of the sale of goods or services or the recruitment for the performance or actions of other participants.

Section 30-10-324(4), MCA.

66. Prior to obtaining a participant that is a Montana resident, multilevel marketing companies are required to file with the Commissioner certain forms providing (i) notice that the company intends to operate in Montana; and (ii) irrevocable consent designating the Commissioner as the company's agent for service of process for any alleged violation of § 30-10-325, MCA. Section 30-10-327(1), MCA.

67. Section 30-10-325, MCA, prohibits a person from conducting or promoting or causing to be conducted or promoted a pyramid promotional scheme in Montana. A "pyramid promotional scheme" means a "sales plan or operation in which a participant gives consideration for the opportunity to receive compensation derived primarily from obtaining the participation of other persons in the sales plan or operation rather than from the sale of goods or services by the participant or the other persons induced to participate in the sales plan or operation by the participant." Section 30-10-324(7)(a), MCA.

68. Respondents appeared to have operated a multilevel marketing company in Montana because they (1) sell their Bitcoin mining equipment and hosting services through the recruitment of affiliates; (2) permit and encourage affiliates to recruit other customers; and (3) pay affiliates cash and Bitcoin bonuses and other consideration for direct recruiting and recruits down the chain. Accordingly, Respondents violated § 30-10-327, MCA, by failing to file the requisite notice and consent forms before recruiting E.D., D.S., and likely other Montana residents.<sup>2</sup>

69. If it appears to the Commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Title 30, chapter 10, parts 1 through 3, Montana Code Annotated, or any rule or order under chapter 10, the

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<sup>2</sup>Because Respondents have not filed the required form, CSI is unable to exclude the possibility that Respondents' compensation structure meets the definition of a pyramid promotional scheme. CSI reserves the right to make such a determination if circumstances warrant.

Commissioner may issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. Section 30-10-305(1)(a), MCA.

70. The Commissioner may also impose a fine not to exceed \$5,000 per violation upon a person found to have engaged in any act or practice constituting a violation of any provision of or any rule or order issued under Title 30, chapter 10, parts 1 through 3, Montana Code Annotated. Section 30-10-305(3)(a), MCA.

71. If the Commissioner finds that a person has willfully engaged in an act or practice in violation of Title 30, chapter 10, parts 1 through 3, Montana Code Annotated, and the act or practice affected a vulnerable person, the Commissioner may impose a fine not to exceed \$20,000 per violation. Section 30-10-305(3)(b), MCA.

72. A fine as set forth herein is in addition to all other penalties imposed by the laws of Montana. Section 30-10-305(3)(c), MCA.

### **PROPOSED AGENCY ACTION**

WHEREFORE, the Commissioner proposes to order the following:

1. Pursuant to § 30-10-305, MCA, a permanent order prohibiting Respondents from offering or selling unregistered securities in violation of § 30-10-202, MCA.

2. Pursuant to § 30-10-305, MCA, a permanent order prohibiting Respondents from engaging in fraudulent and other prohibited practices in violation of § 30-10-301, MCA.

3. Pursuant to § 30-10-305, MCA, a permanent order prohibiting Respondents from operating a multilevel marketing company without following procedures in § 30-10-327, MCA.

4. Pursuant to § 30-10-305(3), MCA, imposition of a fine of \$180,000.

5. Pursuant to § 30-10-309, MCA, require Respondents to pay restitution for all financial losses sustained by any person resulting from Respondents' violation of § 30-10-301, MCA, plus 10% annual interest, reasonable attorney fees and costs associated with bringing the administrative action.

## **STATEMENT OF RIGHTS**

Respondents are entitled to contest the Commissioner's proposed action by requesting an administrative hearing. To do so, **within 15 days of the date this Notice**, Respondents must submit a written hearing request to CSI at 840 Helena Avenue, Helena, MT 59601 or [CSI.LegalService@mt.gov](mailto:CSI.LegalService@mt.gov). A hearing request may, but does not have to, include a response to the allegations set forth above. If a hearing is requested, Respondents will be provided notice of the time, place, and nature of the hearing. Respondents will be entitled to attend this hearing and respond and present evidence and arguments on all issues involved in this action.

Respondents have the right to retain legal counsel to represent, accompany, and advise them at any and all stages of this proceeding or may also elect to represent themselves; however, a business entity may not appear on its own behalf or through an agent other than an attorney licensed to practice law. Admin. R. Mont. 1.3.231.

Administrative hearings are conducted by an impartial hearing examiner appointed by the Commissioner under the provisions of the Montana Administrative Procedures Act. Formal proceedings may be waived pursuant to § 2-4-603, MCA.

### **CONTACT WITH COMMISSIONER'S OFFICE**

If there are questions or concerns, please contact CSI at 406-444-2040 or [CSI.LegalService@mt.gov](mailto:CSI.LegalService@mt.gov). If represented by an attorney, please ensure this contact is made by the attorney.

### **POSSIBILITY OF DEFAULT**

Failure to timely provide a written hearing request shall result in the entry of a default order imposing the Commissioner's proposed action, without additional notice, pursuant to Admin. R. Mont. 1.3.214.

**TEMPORARY CEASE AND DESIST ORDER**

Effective February 10, 2023, Respondents are ordered by the Commissioner to **cease and desist** from offering or selling unregistered securities, engaging in fraudulent and prohibited practices in connection with the offering and selling of securities, and operating as multilevel marketing company in Montana. The Commissioner so ordered pursuant to § 30-10-305, MCA, because it did appear and continues to appear, based on the factual allegations and assertions of law above, that Respondents have engaged, are engaged, and may in the future engage in acts or practices constituting a violation of the Securities Act of Montana, § 30-10-301, *et seq.*, MCA.

The cease-and-desist order continues in full force and effect until, if a hearing is requested, 10 days after the hearing examiner issues proposed findings of fact, conclusions of law, and a proposed order. Alternatively, if no hearing is requested, the Temporary Cease and Desist Order will become final without further notice. Section 30-10-305(1)(a), MCA.

**PENALTIES**

Pursuant to § 30-10-305, MCA, a violation of the cease-and-desist Order is a separate violation for which the CSI may impose a fine not to exceed \$5,000 per violation in addition to any other penalties imposed by law.

DATED this 23rd day of August, 2023.

  
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KATE McGRATH ELLIS

*Counsel for Commissioner of Securities & Insurance*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 23<sup>rd</sup>, 2023, I caused a copy of the foregoing, *Amended Notice of Proposed Agency Action and Opportunity For Hearing; Temporary Cease and Desist Order*, to be served on the following persons by personal service:

Advanced Mining Group  
VBit Technologies Corp a/b/n Advanced Mining  
VBit Mining LLC  
VBit DC Corp  
Danh “Don” Cong Vo  
Jin Gao  
Sean Tu  
Lilian Zhao  
c/o Legalinc Corporate Services Inc., Registered Agent  
651 N. Broad St., Suite 201  
Middletown, Delaware 19709



TIFFANY HOFFMAN  
Paralegal