

Unofficial English Translation

**FINANCIAL MARKETS  
ADMINISTRATIVE TRIBUNAL**

CANADA  
PROVINCE OF QUEBEC  
MONTRÉAL

FILE NO.: 2017-023

DECISION NO.: 2017-023-012

DATE: September 20, 2018

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**BEFORE:** **Maître LISE GIRARD**  
**Maître ELYSE TURGEON**

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**AUTORITÉ DES MARCHÉS FINANCIERS**

Applicant

v.

**PLEXCORPS**

and

**PLEXCOIN**

and

**DL INNOV INC.**

and

**GESTIO INC.**

and

**DOMINIC LACROIX**

and

**SABRINA PARADIS-ROYER**

Respondents

and

**ROYAL BANK OF CANADA**, with a place of business at 4250, 1ere Avenue, Québec, QC, G1H 2S5

and

**SHOPIFY INC.**, a properly constituted corporate entity headquartered at 150 Elgin Street, 8th Floor, Ottawa, ON, K2P 1L4, with a place of business at 490, rue de la

Gauchetière Ouest, Montréal, QC H2Z 0B2

and

**SHOPIFY PAYMENTS CANADA INC.**, a properly constituted corporate entity headquartered at 150 Elgin Street, 8th Floor, Ottawa, ON, K2P 1L4, with a place of business at 490, rue de la Gauchetière Ouest, Montréal, QC H2Z 0B2

and

**WELLS FARGO CANADA CORPORATION**, the address of its elected domicile in Québec being Gowling WLG (Canada) LLP, Ltd., 3700-1, Place Ville-Marie, Montréal, QC H3B 3P4

and

**FACEBOOK CANADA LTD**

Impleaded parties

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## DECISION

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### BACKGROUND

[1] Pursuant to two *ex-parte* decisions by the Financial Markets Administrative Tribunal (“Tribunal”), respondents DL Innov inc. (“DL Innov”), Gestio Inc. (“Gestio”), Dominic Lacroix (“Lacroix”) and Sabrina Paradis-Royer (“Paradis-Royer”) are contesting the said decisions as permitted by law in the circumstances.

[2] In response to these contestations, the Tribunal must answer the following questions at issue:

1. Is the publicly offered “PlexCoin” a security within the meaning of the Act?

In the affirmative:

2. Does a preponderance of the evidence show apparent violations of the law or acts contrary to the public interest?

In the affirmative:

3. Is it appropriate, in the public interest, to maintain, amend or rescind the Tribunal’s orders of July 20, 2017 and September 21, 2017, as subsequently amended?

## BACKGROUND

[3] On July 20, 2017,<sup>1</sup> following an *ex parte* application by the Authority, the Tribunal issued orders requiring Respondents PlexCorps, PlexCoin, DL Innov, Gestio and Lacroix to cease trading in securities and, orders related to the PlexCorps and Plex Coin Internet sites and Facebook pages, requiring them to shut down or to take down advertisements and solicitations. On September 13, 2017,<sup>2</sup> the Tribunal gave the reasons for its decision.

[4] On July 24, 2017, Respondents DL Innov, Gestio and Lacroix filed a notice of contestation against the decision in question.

[5] On August 3, 2017, Facebook Canada Ltd. (“Facebook”) also filed a notice of contestation against the decision.

[6] On September 7, 2017, the Authority filed an amended application.

[7] On September 21, 2017,<sup>3</sup> following a second *ex parte* application by the Authority, the Tribunal issued a decision granting freeze orders and a cease trade order in respect of Respondent Paradis-Royer. Detailed reasons for this decision were given on October 31, 2017.

[8] On September 28, 2017, Respondents DL Innov, Gestio, Lacroix and Paradis-Royer filed an urgent application with the Tribunal to partially lift the freeze orders issued by this Tribunal on September 21, 2017.

[9] The next day, on September 29, 2017, the Tribunal dismissed the application for urgent action on said application.<sup>4</sup>

[10] On September 29, 2017, Respondents DL Innov, Gestio, Lacroix and Paradis-Royer filed a notice of contestation against the *ex parte* decision of September 21, 2017.

[11] The Authority filed a re-amended application on October 26, 2017.

[12] The contestation by Facebook of the *ex parte* decision was scheduled to proceed on October 17, 2018.

[13] A hearing on the merits of the contestation regarding the decisions dated July 20, 2017 and September 21, 2017 initially took place on November 2 and 8, 2017.

[14] On November 16, 2017, while the Tribunal was deliberating, the Authority filed an application to amend one of the conclusions it was seeking. This application, which was contested, was heard on January 24, 2018.

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<sup>1</sup> *Autorité des marchés financiers v. PlexCorps*, 2017 QCTMF 88.

<sup>2</sup> *Autorité des marchés financiers v. PlexCorps*, 2017 QCTMF 88.

<sup>3</sup> *Autorité des marchés financiers v. PlexCorps*, 2017 QCTMF 107.

<sup>4</sup> *Autorité des marchés financiers v. DL Innov inc.*, 2017 QCTMF 108.

[15] During the hearing in question, the Tribunal allowed the Respondents to adduce additional evidence. The application for amendment and the contestation were taken under advisement.

### **APPLICATION FOR AMENDMENT**

[16] On January 24, 2018, the application for amendment was heard in the presence of Counsel for the Authority and the new Counsel for Respondents Gestio, DL Innov and Lacroix.

[17] In its application, the Authority sought leave to amend its application to include clarifications in the conclusions sought in order to bring the requested orders in compliance with the law and with the evidence heard at the November 2017 hearings.

[18] For that purpose, the Authority asked that the following words be stricken from the second part of the third conclusion:

[TRANSLATION] “failing which, to make the sites inaccessible to any IP address in Québec so that Québec residents are unable to consult the sites and to order that the order issued by the Financial Markets Administrative Tribunal be posted on the home pages of these sites.”

[19] This application by the Authority was made in accordance with the Rules of Procedure,<sup>5</sup> which state: “*During a hearing, no amendment shall be made without the authorization of the tribunal.*”

[20] The Authority alleges that the evidence adduced at the hearing showed that the Respondents had traded in securities from Québec to locations outside of Québec.

[21] It relied on section 12 of the *Securities Act*, which provides:<sup>6</sup>

12. Every person intending to make, from Québec, a distribution of securities to persons established outside Québec shall prepare a prospectus and obtain a receipt therefor from the Authority.

[...]

[22] According to Counsel for the Authority, the conclusion as originally worded would run counter to this statutory provision. Counsel therefore asked to have it removed.

[23] Counsel for the Respondents said that she would have asked additional questions at the hearing had such application been made at the outset. She therefore asked that the hearing be reopened in order to examine the investigator.

[24] The Authority had no objection to reopening the hearing provided that it was limited to the application for amendment and would not reopen the debate on the whole.

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<sup>5</sup> *Rules of Procedure of the Financial Markets Administrative Tribunal Regulations*, CQLR, c. A-33.2, r.1, art. 38.

<sup>6</sup> CQLR, c. V-1.1

[25] After considering these submissions, the Tribunal granted permission to reopen the hearing<sup>7</sup> so that the Respondents could examine the Authority's investigator on matters pertaining to the application for amendment.

[26] Counsel for the Respondents examined the investigator in regard to the accessibility of PlexCorps' Internet sites and Facebook page at various times following the *ex parte* decision on July 20, 2017,<sup>8</sup> whether from Québec or from locations outside Québec.

[27] In her submissions, Counsel for the Authority contended that the Authority's application for an amendment should be granted given that the new wording of the orders would prevent the Respondents from making any distribution, including from Québec to locations outside Québec.

[28] Counsel for the Respondents objected to the amendment application stating that, in her opinion, the evidence adduced before the Tribunal at the November 2017 hearings had shown that the Respondents had not violated the law since October 2017 considering that no PlexCoin had been issued since then.

[29] Counsel therefore considered it inappropriate to allow the amendment, which would effectively require the closure of Internet sites and Facebook pages, when evidence of the facts subsequent to the initial order showed that the Respondents had committed no unlawful act.

[30] In her opinion, the Tribunal lacked the jurisdiction to issue such a conclusion since the Respondents had not violated the law at the time of its decision.

[31] Herein, considering the evidence and the submissions made before it, the Tribunal deems it appropriate to allow the requested amendment.

[32] Indeed, despite the case being taken under advisement, the Authority was within its rights to ask the Tribunal to amend its procedure.<sup>9</sup>

[33] Moreover, section 40 of the *Rules of Procedure of the Financial Markets Administrative Tribunal* states:

No amendment shall be permitted if the Tribunal or tribunal considers it to be unnecessary or contrary to the interests of justice or if the amendment results in an entirely new application unrelated to the original application.

[34] In the Tribunal's opinion, this situation is similar to the one described in *Hydro-Québec v. A.M.C. Renault Canardière Inc.*,<sup>10</sup> where an amendment application was filed

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<sup>7</sup> Pursuant to section 87 of the *Rules of Procedure of the Financial Markets Administrative Tribunal Regulations*, CQLR, c. A-33.2, r.1.

<sup>8</sup> *Autorité des marchés financiers v. PlexCorps*, *supra*, note 1.

<sup>9</sup> *Rules of Procedure of the Financial Markets Administrative Tribunal Regulations*, CQLR, c. A-33.2, r.1, art. 38.

<sup>10</sup> 1987 CanLII 953 (QC CA).

after the case had been taken under advisement. The Court of Appeal stated the following:

[TRANSLATION]

[17] On the merits of the appeal with respect to the application for amendment, I consider the judge correct in allowing the amendment. In fact, such amendment does not result in an entirely new application unrelated to the original application, and does not impugn the interests of justice.

[Emphasis added]

[35] This principle was also confirmed in *Emballage 2M inc. v. Multi-Portion inc.*,<sup>11</sup> where the Superior Court judge added:

[TRANSLATION]

[15] In matters of amendments, permission remains the rule as soon once the relevance seems plausible.

[36] The Tribunal finds that the requested amendment is relevant to this dispute, related to the evidence adduced and not contrary to public interest. The amendment in question is neither unnecessary nor an entirely new application.

[37] The purpose of the amendment is strictly to amend in part a conclusion of the Authority's application in order to expand its scope and thus facilitate compliance with section 12 of the *Securities Act*.

[38] The Tribunal will then have to decide whether to allow such conclusion or not, based on the evidence adduced before it.

[39] The Tribunal would further point out that the conclusion to shut down Internet sites and Facebook pages is one means available to enforce compliance with the general cease trade order provided in the conclusions sought.

[40] The Tribunal considers the general cease trade order to include distributions in Québec as well as those from Québec to locations outside Québec, in accordance with section 12 of the *Securities Act*<sup>12</sup> and the *Gregory*,<sup>13</sup> *Crowe*<sup>14</sup> and *World Stock Exchange*<sup>15</sup> decisions.

[41] In the Tribunal's view, the addition of this amendment would ensure compliance with the general cease trade order, provided such order is again maintained under this decision, although the Tribunal believes that the *Act* already addresses this situation in section 12 of the *Securities Act* concerning the general prohibition issued in *ex parte* decisions.

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<sup>11</sup> 2015 QCCS 5751.

<sup>12</sup> *Supra*, note 6.

<sup>13</sup> *Gregory & Co. Inc. v. Quebec Securities Commission*, [1961] SCR 584.

<sup>14</sup> *Crowe v. Ontario Securities Commission*, 2011 ONSC 6918.

<sup>15</sup> *Re: World Stock Exchange*, (2009), 9 ASCS 658.

[42] The Tribunal rejects the arguments of Counsel for Respondents Gestio, DL Innov and Lacroix whereby the amendment application should be dismissed because, in her opinion, the evidence heard to date does not show that the order in question was violated.

[43] At this stage of the amendment application, the Tribunal is not required to decide on the merits, that is, whether or not the order was violated.

[44] Consequently, the Tribunal allows the amendment proposed by the Authority.

### **THE HEARING OF NOVEMBER 2 AND 8, 2017**

[45] This hearing was held in the presence of Counsel for the Authority and Counsel for Respondents DL Innov, de Gestio, Lacroix and Paradis-Royer.

[46] Counsel for Facebook was present in the room but did not participate in the debate.

[47] First of all, the Tribunal was informed that Respondent DL Innov had been placed in receivership in the week prior to the hearing. Counsel for Respondents DL Innov and Gestio stated that they nonetheless represented DL Innov despite the receivership of the previous week.

[48] Counsel for the acting receiver, syndic Jean Lelièvre, was contacted by telephone. He confirmed before the Tribunal that Counsel for Respondent DL Innov had been instructed to proceed with this contestation.

[49] Accordingly, the Tribunal heard the contestation of the decisions given on July 20, 2017 and September 21, 2017.

[50] During preliminary submissions in this case, Counsel for the Respondents said that his arguments were primarily in law considering that, in his opinion, the PlexCoin cryptocurrency offering project was not an investment contract within the meaning of the *Securities Act*.

[51] Counsel for the Authority also informed the Tribunal that since the Respondents had made no admission, she would present her evidence, *de novo*.

### ***De novo* evidence**

[52] At the hearing on November 2 and 8, 2017, Counsel for the Authority called an investigator assigned to this case to adduce the evidence, *de novo*.

[53] In his testimony, the investigator essentially gave an account of the facts described in the re-amended application and adduced Exhibits D-1 to D-64 in support of his statements.

[54] Evidence concerning the public offering of PlexCoin is generally similar to the evidence adduced at the *ex parte* hearing on July 20, 2017, at least with respect to the facts as they stood prior to such date. This was not disputed by the Respondents who, as it happens, called no witnesses.

[55] At the time of the decision on July 21, 2017, Respondents Lacroix and DL Innov were preparing to issue PlexCoin, whereas at the hearing in November 2017, this project in question had allegedly been executed in that, the same Respondents, had allegedly issued the PlexCoin as advertised.

[56] According to the investigator's testimony, the parties herein are as follows.

### **PlexCorps and PlexCoin**

[57] PlexCorps allegedly owns the [www.PlexCorps.com](http://www.PlexCorps.com) Internet site, accessible to members of the public residing in Québec, as shown by the excerpt from the [www.PlexCorps.com](http://www.PlexCorps.com) site and the source code for the said Internet site, adduced into evidence.<sup>16</sup>

[58] On the said Internet site, PlexCorps refers to the [www.plexcoin.com](http://www.plexcoin.com) site through a link, as shown by the screen shots adduced into evidence.<sup>17</sup>

[59] In addition to PlexCoin, PlexCorps advertises a range of services on its Internet site under the names of PlexWallet, PlexCard and PlexBank.

[60] According to PlexCorps' Internet site, PlexCorps identifies itself as a group of 40 individuals spread around the world, all independent and focused on the same goal, namely, to improve access to cryptoservices, including those offered by PlexCoin:<sup>18</sup>

PlexCorps is a group of forty people (programmers, engineers, cryptocurrency specialists, etc.) all independent throughout the world and oriented towards the same goal: To increase accessibility to cryptoservices by simplifying its managing processes. You want to join and work and work with the PlexCorps team? [info@plexcorps.com](mailto:info@plexcorps.com) | Facebook.

[61] Pursuant to section 6 of the *Securities Act*, the Tribunal considers this group of 40 individuals who make up PlexCorps and PlexCoin to be a patrimony, exercising a degree of autonomy but lacking the status of a juridical personality. The provisions of the *Securities Act* apply to the persons in charge of its administration, their identities established in the evidence. Therefore, PlexCorps and PlexCoin are named as Respondents in these proceedings.

[62] The PlexCoin Internet site<sup>19</sup> defines PlexCoin as a cryptocurrency, in other words, monetary currency with its value based on a certain market.

[63] The Authority's investigator testified that PlexCoin is an active participant in discussions on the <https://cryptofr.com> forum.<sup>20</sup>

[64] According to the *Registraire des entreprises du Québec* and Corporations Canada,<sup>21</sup> PlexCorps and PlexCoin are not registered and have no known address.

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<sup>16</sup> Exhibit D-3.

<sup>17</sup> Exhibit D-4.

<sup>18</sup> Exhibit D-3.

<sup>19</sup> Exhibit D-4.

<sup>20</sup> Exhibit D-7.

[65] Moreover, despite searches by the Authority's investigators in various registries, including the Opencorporates site,<sup>22</sup> they were unable to determine whether PlexCorps or PlexCoin had a juridical personality of some kind.

[66] PlexCorps and PlexCoin had never registered with the Authority to act as a securities dealer in accordance with the *Securities Act*, as shown by the attestation of an absence of the right to practise adduced into evidence by the Authority's investigator.<sup>23</sup>

[67] The same investigator also testified that neither PlexCorps nor PlexCoin had filed a prospectus, received a receipt for a prospectus or obtained a prospectus exemption from the Authority.<sup>24</sup>

### **DL Innov**

[68] Respondent DL Innov was incorporated on December 12, 2012 under the *Business Corporations Act*.<sup>25</sup> Its declared economic activity is "holding company."

[69] DL Innov is headquartered at 404-815 Boulevard Lebourgneuf in Québec City, and its first shareholder is Respondent Lacroix, according to the *Registre des entreprises du Québec* (Enterprise Register).<sup>26</sup>

[70] The company DL Innov is also purported to be the first shareholder of FinaOne.<sup>27</sup>

[71] DL Innov never registered with the Authority as a securities dealer, as shown in the attestation of right to practise adduced into evidence.<sup>28</sup>

[72] The DL Innov company did not file a prospectus, receive a prospectus receipt or obtain a prospectus exemption from the Authority.<sup>29</sup>

### **Gestio**

[73] The Respondent Gestio is a corporation that registered in Québec on February 21, 2013, numbered 1168915248, as shown in a copy of the enterprise information statement in the Enterprise Register file.<sup>30</sup> Its sector of activity is "Computer Services" and "Management Software Design and Leasing."

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<sup>21</sup> Exhibit D-1.

<sup>22</sup> Exhibit D-2.

<sup>23</sup> Exhibit D-8.

<sup>24</sup> Exhibit D-9.

<sup>25</sup> CQLR, c. S-31.1

<sup>26</sup> Exhibit D-11

<sup>27</sup> Exhibit D-19.

<sup>28</sup> Exhibit D-12.

<sup>29</sup> Exhibit D-17.

<sup>30</sup> Exhibit D-15.

[74] The company is headquartered at 404-815 Boulevard Lebourgneuf in Québec City. Its first shareholder is Respondent DL Innov and its President, Secretary and Treasurer is Respondent Lacroix.<sup>31</sup>

[75] At the hearing, the investigator testified that Gestio had never registered with the Authority as a securities dealer, as shown by the attestation of right to practise.<sup>32</sup>

[76] Gestio did not file a prospectus, receive an investment prospectus receipt or obtain a prospectus exemption, as shown by the attestation issued by the Authority and adduced into evidence by the investigator.<sup>33</sup>

### **Dominic Lacroix**

[77] In addition to acting as a director of DL Innov and Gestio, Respondent Lacroix was apparently the director of FinaOne Inc., located at 404-815 Boulevard Lebourgneuf in Québec City, of InterAxe Inc., located at 307-815 Boulevard Lebourgneuf in Québec City, and of Micro-Prêts inc. (also operating under the name Mini-Prêts inc.), located at 404-815 Boulevard Lebourgneuf in Québec City.

[78] In addition, Respondent Lacroix is seemingly the first majority shareholder of InterAxe Inc., Micro-Prêts Inc. and Respondent DL Innov, as shown by the statement of enterprise information contained in the Enterprise Register of Québec adduced into evidence by the investigator at the hearing.<sup>34</sup>

[79] Respondent Lacroix never registered with the Authority to act as a securities dealer, as shown by the attestation of right to practise adduced into evidence by the investigator.<sup>35</sup>

[80] Respondent Lacroix is currently the subject of various orders issued by the Tribunal.

[81] In 2011, Respondent Lacroix was also the subject of various conservatory orders issued by this Tribunal regarding alleged violations of the law.<sup>36</sup>

[82] Furthermore, in 2013, Respondent Lacroix pleaded guilty to six counts of unlawful investments and practices, as well as submitting false or misleading securities information to the Court of Québec, Criminal and Penal Division.

### **Sabrina Paradis-Royer**

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<sup>31</sup> Exhibit D-15.

<sup>32</sup> Exhibit D-16.

<sup>33</sup> Exhibit D-17.

<sup>34</sup> Exhibit D-19.

<sup>35</sup> Exhibit D-21.

<sup>36</sup> See in particular *Autorité des marchés financiers v. Micro-Prêts inc.*, 2011 QCBDR 60, *Autorité des marchés financiers v. Micro-Prêts inc.*, 2011 QCBDR 70 (lifting), *Autorité des marchés financiers v. Lacroix*, 2017 QCTMF 63.

[83] Respondent Paradis-Royer is the spouse of Respondent Lacroix. She resides at the same address as Respondent Lacroix, namely, 355 Rue Gaudias-Villeneuve, Québec City.

[84] According to the investigator, Respondent Paradis-Royer is the Director of Finance for Respondent DL Innov. She allegedly has workspace at DL Innov's place of business.

### **Chronology of Facts**

[85] According to the investigator's testimony, on or about July 10, 2017, the Authority was informed that an entity named PlexCorps was about to issue a public offer to invest in the purchase of PlexCoin "cryptocurrency."

[86] On July 11, 2017, after consulting the PlexCorps Internet site, the investigator noticed that the site<sup>37</sup> offered anyone interested in the PlexCoin "cryptocurrency" project the opportunity to register in order to invest on its imminent launch.

[87] The investigator adduced into evidence a screenshot of the site visited.<sup>38</sup>

[88] It mentions that such investment would generate a four-stage return on investment of up to 1,354%, depending on the time of purchase.

[89] PlexCorps' Internet site refers to the PlexCoin Internet site, self-described as a guaranteed investment opportunity.<sup>39</sup>

[90] The Internet site in question promises investors various bonuses or rewards, depending on the amount of their investment and the referrals made,<sup>40</sup> notably a PlexCard VISA card under the heading "*Récompenses pour les acheteurs importants*" (rewards for major buyers).

[91] According to the PlexCoin Internet site, PlexCoin buyers could potentially complete transactions using their PlexCards and pay for them with PlexCoin. They could also exchange their PlexCoin for foreign currencies, such as Canadian or U.S. dollars or Euros, or other cryptocurrencies like Bitcoin, Ethereum, Litecoin and PlexWallet, the latter also managed by PlexCorps.

[92] Additionally, a discount of up to 10% on purchases made with the PlexCard card was promised along with a 5% referral bonus, and a 5% bonus on PlexCoin purchase referrals.

[93] The investigator said he had contacted Visa to verify whether PlexCoin or PlexCorps representatives had been in touch with Visa to inquire about issuing a Visa "PlexCard." Visa representatives informed him that no such steps had been taken with

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<sup>37</sup> Exhibit D-3.

<sup>38</sup> Exhibit D-4.

<sup>39</sup> Exhibit D-4, p.2.

<sup>40</sup> Exhibit D-4, p.10.

Visa and, furthermore, that Visa had asked PlexCorps to remove any mention of the Visa brand name from its publications.

[94] The PlexCoin site also stated that investors could invest cryptocurrency safe from markets fluctuations if they wished, with guaranteed returns through PlexBank, the first private cryptobank.

[95] The site also stated that it was intended for people with limited cryptocurrency experience.<sup>41</sup>

[96] Accordingly, the PlexCoin site indicated that it had assembled four products under one banner, all interrelated: PlexCoin, PlexCard, PlexWallet and PlexBank, to facilitate the use of cryptocurrency.

[97] During the PlexCoin pre-sale, the project was presented on its Internet site as an "initial coin offering" or "ICO."

[98] The "Register" tab on the PlexCoin site included a spreadsheet that calculates the number of pre-sale registrations and it states:

[TRANSLATION]

Reserve your place on the list as soon as possible to maintain your PlexCoin purchasing priority. This way, you have a better chance to access Sale stage 1 (\$0.13 per PlexCoin), which offers a 1,354% profit potential."

[99] According to information on the site, the PlexCoin pre-sale was scheduled for August 7, 2017. It also said that three days ahead of the pre-sale, on August 4, 2017, a "whitepaper" would be made available on this site.

[100] Purportedly, this "whitepaper" would explain the business plan surrounding the investment. On this matter, the PlexCoin Internet site reads:

[TRANSLATION]

Why isn't the whitepaper available?

PlexCoin is based on a revolutionary new technology that simplifies access to cryptocurrency by people less experienced with this type of technology with functions and operating processes currently unavailable anywhere else. For confidentiality reasons and to prevent other companies from plagiarizing the revolutionary PlexCoin system prior to its launch, we will make the whitepaper available for downloading by everyone on August 4, 2017. We want to make sure that everyone understands our business plan before they invest in PlexCoin.

[101] The following information is posted under the heading, "Frequently Asked Questions":

[TRANSLATION]

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<sup>41</sup> Exhibit D-4, p.2.

What is an ICO? An ICO (Initial Coin Offering) is a term derived from the better known "IPO" (Initial Public Offering, with the launch of a publicly-traded company), which refers to fundraising through cryptocurrency.

An ICO can be used to fund a new blockchain, but more often involves issuing a token or coin, or creating a decentralized application based on an existing blockchain such as Bitcoin or Ethereum.

[...]

How do I invest?

To take advantage of sale stage 1 and thus save on your PlexCoin purchase, enter your email address in the registration section. You will then be prompted to confirm your email address. When the pre-sale begins on August 7, you can purchase your PlexCoin at a discount and with priority to take advantage of a 1,354% return on your purchase!

You will receive an email outlining the simple, precise and detailed purchase procedure prior to the launch of the pre-sale.

What is the expected return on investment (ROI)?

It depends on the package in effect at the time of your PlexCoin purchase. For example:

Sale Stage 1: Return on Investment after 29 days or less 1,354%

Sale Stage 2: Return on Investment after 29 days or less 629%

Sale Stage 3: Return on Investment after 29 days or less 332%

Sale Stage 4: Return on Investment after 29 days or less 200%.<sup>42</sup>

[102] The following information is posted under the heading, "Calculator":

[TRANSLATION]

A worthwhile contribution

Unlike other ICOs, the sooner you buy your PlexCoin at the time of the pre-sale, the more profitable its resale value. See for yourself using the calculation tool provided below.

(...)

If I buy \$100 worth

I get 769.23 PLX

at an estimated value of \$1,353

I'm thinking of investing more.

This calculation tool is based on the Stage 1 pricing scale in effect during the pre-sale (\$0.13 per PlexCoin). The estimated value (\$1.76 per

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<sup>42</sup> Exhibit D-4.

PlexCoin) is based on the sale of all PlexCoin available during the pre-sale period. In this case, your initial purchase would increase by 1,354% in 35 days or less.<sup>43</sup>

[103] The PlexCoin issue was initially planned for August 7, 2017, but the site offered the possibility of registering as early as July 3, 2017.

[104] According to the investigator's testimony, on or about July 10, 2017, an Authority investigator registered on the [www.plexcoin.com](http://www.plexcoin.com) Internet site to see if he could subscribe to its advertised pre-sale.<sup>44</sup>

[105] The investigator was able to register for the offer. He received confirmation of his PlexCoin purchase date, in other words, the time when he could buy PlexCoin on the site.<sup>45</sup>

[106] Thus, according to the information in his account, his purchase date was August 6, 2017 at 11:00 a.m., at which time the investigator could click on links to "Buy PlexCoin", "Sell PlexCoin" or "Trade PlexCoin," making it possible for anyone from Québec or outside Québec, consulting this Internet site, to effectively click on the "Registration" tab and add his/her name to the list of prospective buyers waiting to invest in PlexCoin on August 7, 2017.

[107] According to the investigator, on July 10, 2017, the PlexCoin site posted 27,380 names on the pre-sale waiting list, while barely four days later, on July 14, 2017, the number exceeded 37,000 and by July 19, it reached more than 50,216, as shown in screenshots of the "pre-sale registration" heading on July 14 and 19, 2017.<sup>46</sup>

[108] Testimony by the Authority's investigator showed that since early July 2017, the number of potential investors registered for the pre-sale had increased exponentially on a daily basis, and that many of the registrants were residents of the Province of Québec.

[109] Moreover, the PlexCoin Internet site<sup>47</sup> referred to PlexCoin and PlexCorps Facebook pages, which he consulted.<sup>48</sup>

[110] The PlexCorps Facebook page,<sup>49</sup> created in 2016, provided instructions on how to contact PlexCorps and connect to the PlexCoin Facebook page.<sup>50</sup>

[111] According to the investigator's testimony, the number of people who "liked" PlexCoin's Facebook account also increased exponentially on a daily basis.

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<sup>43</sup> Exhibit D-4.

<sup>44</sup> Exhibit D-30.

<sup>45</sup> Exhibit D-30.

<sup>46</sup> Exhibit D-25, bundled.

<sup>47</sup> Exhibit D-4, p.11.

<sup>48</sup> Exhibits D-5 and D-6.

<sup>49</sup> Exhibit D-5.

<sup>50</sup> Exhibit D-6.

[112] This Facebook account had 37,141 “likes” on July 13, 2017, and 49,254 by July 18, 2017, including many by residents of Québec and others outside of Québec, as shown by screenshots of PlexCoin’s Facebook profile adduced into evidence.<sup>51</sup>

[113] According to the investigator, the “About” section of this Facebook account contained information on the company, its contact information, a description of its activities and its history. Among other things, it states that:

- the company was launched in February;
- registration for the PlexCoin pre-sale started on July 3, 2017;
- the PlexCoin pre-sale was scheduled to begin August 7, 2017;
- the official PlexCoin launch was scheduled for September 5, 2017.

[114] In addition, under the arrangement proposed by PlexCorps and PlexCoin, as well as Respondents Lacroix and DL Innov, the evidence shows that Facebook was purported to serve as a facilitator in recruiting potential investors, particularly by such means as referral rewards promised to investors who shared the link.

[115] In the course of his work, the investigator also located references to PlexCorps and PlexCoin in a discussion forum called Cryptofr,<sup>52</sup> for people interested in cryptocurrency.

[116] Some users of this forum published the IP addresses used by PlexCoin and PlexCorps, which the investigator verified. It was noted that these addresses were linked to several Respondent Lacroix’s companies, namely Respondent DL Innov, Micro-Prêts inc., Respondent Gestio, FinaOne inc. and InterAxe inc.<sup>53</sup>

[117] Moreover, one user of this forum apparently made a positive identification of Respondent Lacroix as instigator of the PlexCoin project.

[118] At the hearing, the investigator testified that he had checked and traced the identity of IP addresses that had acted on behalf of PlexCoin on cryptofr.com. The IP addresses used by PlexCoin were owned by a U.S. company named Linode LLC, which he was unable to trace, but also belonged to Respondent DL Innov and companies associated with Respondent Lacroix, namely, Micro-Prêts inc., Mini-Prêts inc., FinaOne inc., InterAxe inc. and Respondent Gestio.

[119] In addition, the testimony of the Authority’s investigator revealed that discussions on the cryptofr.com forum related to PlexCoin apparently came from one IP address associated with Respondent DL Innov, as shown by the Whois for IP 207.236.63.226 entered into evidence.<sup>54</sup>

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<sup>51</sup> Exhibits D-28 and D-29.

<sup>52</sup> Exhibit D-7.

<sup>53</sup> Exhibit D-7, p.3.

<sup>54</sup> Exhibits D-7 and D-10.

[120] During the investigation, the investigator found that some entries on the Cryptofr site had vanished.

[121] He therefore contacted the cryptofr.com moderator to ask why certain postings identifying Respondents Lacroix and DL Innov as the persons behind PlexCorps and PlexCoin had been taken down from the forum. He was told that he had received a notice of default to do so from the originators of the posts.

[122] This notice of default was forwarded to the investigator by the cryptofr.com moderator, a copy of which has been adduced into evidence.<sup>55</sup>

[123] The notice of default mentions that it had been drafted on the instructions of Respondents DL Innov and Lacroix. It alleged an attack on their reputation. Finally, it required the removal of all allegations related to Respondents DL Innov and Lacroix from all Internet platforms and social networks,<sup>56</sup> referring more specifically to references to them on the discussion forum cryptofr.com.

[124] The investigator's searches and checks of the Cryptofr forum on July 13, 2017 and the information that the investigator received from the informant established that the live chat licence used on that date on the PlexCoin site was the same used on various Internet sites of companies connected to Respondent Lacroix, including InterAxe inc., FinaOne inc. and Mini-Prêt.<sup>57</sup>

[125] On July 17, 2017, after the investigator made further checks, he found that the live chat licence had apparently been changed to licence 8952309, which is linked to www.interaxe.com, www.mini-prets.com, www.finaone.com and www.plexcoin.com.<sup>58</sup>

### **Facts occurring since the July 20, 2017 decision**

[126] As noted above, an *ex parte* hearing was held before this Tribunal on July 20, 2017, and the first decision giving rise to the contestation at hand was given on the same day.

[127] According to the investigator's testimony, Respondents Lacroix and DL Innov were notified of this decision on July 21, 2017.<sup>59</sup>

[128] However, it has been shown during the present hearing that on the very day after such notification, on July 22, 2017, a text was published on a discussion forum entitled "redflag deals" indicating that PlexCorps was located in Singapore.<sup>60</sup> The text also stated that the Authority had no jurisdiction over PlexCorps, and that it could not require closure of the web sites in the absence of any infrastructure in the province of Québec.

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<sup>55</sup> Exhibit D-18.

<sup>56</sup> Exhibit D-18.

<sup>57</sup> Exhibit D-26 and Exhibit D-27, page 17, line 815; page 25, line 407; page 29, line 194.

<sup>58</sup> Exhibit D-27, pages 30 and 52.

<sup>59</sup> Exhibit D-31.

<sup>60</sup> Exhibit D-32.

[129] The text also indicated that the PlexCorps project had seemingly hired a Québec company to manage its social media. PlexCorps had allegedly terminated its contract with this company because of information the Authority had published about it. It also mentioned that it regretted not having vetted the company's background more thoroughly.

[130] It said that the PlexCoin and PlexCorps projects were moving ahead as planned and would not be affected by the events in question.

[131] The investigator was unable to specifically identify the author of this post. However, the person in question mentioned having been in touch with one of the co-founders of the Respondent PlexCorps, who had allegedly provided this information.

[132] In the course of his investigation and following a search on August 2, 2017 at the home of Respondent Lacroix and at the offices of Respondent DL Innov, the investigator tracked down in Respondent Lacroix's computer a series of text messages exchanged on July 26, 2017 using "Skype" software.

[133] In the exchange, Respondent Lacroix sent a draft text to one of his employees that he had corrected and that was almost identical to the bulletin published on the "redflag deals" forum, mentioned above.<sup>61</sup>

[134] In this exchange, Respondent Lacroix told his employee that he intended to send the bulletin privately to everyone who asked him questions about PlexCorps or PlexCoin.

[135] In addition, the Authority searched numerous text messages over the period from July 25 to 28, 2017 between the Respondent and one of his employees using "Skype" software as preparations for the launch of the PlexCoin project in the coming days were being finalized.<sup>62</sup> These exchanges concerned, notably:

- the implementation of payment solutions using credit cards, virtual currencies or payment solutions known by the names "PayPal" and "Stripe";
- the search for solutions making it possible to open bank accounts to deposit proceeds from the sale of PlexCoin in different countries, such as Indonesia, Latvia, New Zealand and France;
- their efforts to try to find as many subscribers as possible in the aim of signing on over 100,000 subscribers;
- their efforts to remove, computers and technological equipment from their premises and their residence in the event of a police seizure;
- the transfer of all computer data about the project to external hard drives which they could "throw out the window" or "hide in their pants" if police arrived at their premises;

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<sup>61</sup> Exhibit D-64, p.10.

<sup>62</sup> Exhibit D-64.

- how to avoid being traced and/or how to avoid being caught by the Authority;
- technical adjustments required to finalize systems and ensure the smooth launch of PlexCoin.

[136] The Tribunal also considers it highly disturbing that this conversation appears to show that the employee in question made two copies of the keys to virtual portfolios containing the PlexCoin, one for himself and one for Respondent Lacroix.<sup>63</sup>

[137] During the search, the Authority's investigators found documents at the residence of Respondents Lacroix and Paradis-Royer used to implement PlexCoin payment solutions, and on a table, the "whitepaper" allegedly linked to the PlexCoin but as then still not posted.<sup>64</sup>

[138] The Authority's investigators seized a text message chat on the cell phone of Respondent Paradis-Royer in which she told Respondent Lacroix during the Authority's search that she thought the police were at the door of their residence and that the "whitepaper" was on the kitchen table.<sup>65</sup>

[139] According to the investigator, the "whitepaper" was described to investors as a document explaining the business plan surrounding the PlexCoin investment, and that it should not be made publicly available prior to the launch.

[140] Among other things, the draft "whitepaper" found in the searched premises presents PlexCoin as an investment with the potential to generate returns of up to 1,354% and referral rewards.

[141] This draft "whitepaper" also specified the original project development target dates. It mentions:

- registration for the PlexCoin pre-sale starting on July 3, 2017;
- start of pre-sale on August 7, 2017;
- planned official launch on September 5, 2017
- distribution of rewards to members planned for September 7, 2017;
- scheduled PlexCoin launch on trading platforms on September 10, 2017;
- PlexWallet to be ready in the fourth quarter of 2017;
- in the first quarter of 2018, launch and shipment of Plex Visa cards; and finally,
- opening of PlexBank in the third quarter of 2018.

[142] The draft "whitepaper" stated that the Respondents PlexCorps and PlexCoin wished to remain anonymous for as long as possible. This anonymity was allegedly

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<sup>63</sup> Exhibit D-64, p.9.

<sup>64</sup> Exhibit D-33.

<sup>65</sup> Exhibit D-44.

necessary to protect investors. It indicated that software was being used to keep the location of their computer servers a secret.

[143] The investigator also pointed out that certain English passages from this “whitepaper” project were copied from the whitepaper allegedly used to issue another cryptocurrency in the United States, known as the DDF Token.<sup>66</sup>

[144] Among the documents seized during the search, Authority investigators also found documents at the residence of Respondents Lacroix and Paradis-Royer used to create the www.plexcoin.com Internet site.<sup>67</sup>

[145] During the search of Respondent DL Innov’s place of business, investigators noticed the presence of a wall-mounted countdown clock showing the number of days, hours and minutes until the PlexCoin pre-sale on August 7, 2017.<sup>68</sup>

[146] The investigators also seized invoices<sup>69</sup> dated May 24, 2017 addressed to Respondent Lacroix for “Go Daddy” registrations of certain domain names, including PlexBank.org, PlexWallet.com, PlexCoinfoundation.org, PlexCoinfoundation.com, PlexCoin.org and PlexCoin.com.

[147] The investigators searched the computer used by Respondent DL Innov’s employee, Yan Ouellet, whose hard drive was unusual in that it had been partitioned in two, one section containing the Windows operating program and the other, a Linux operating program, where a list of 91,445 persons registered for the PlexCoin pre-sale was found.

[148] According to the investigator’s testimony, the disk, not visible when the computer was on, was detected following an analysis of hard disk storage space of the seized computer.

[149] On the same computer, investigators found a chat between this employee and Respondent Lacroix dated July 27, 2017, which reads as follows:

[TRANSLATION of transcript]

It’s not confidential enough, more easily traceable, the Authority can make a purchase with their card and see where their money’s going. So not safe for other card buyers.<sup>70</sup>

[150] Moreover, according to the investigator’s testimony, a search of a cell phone belonging to another employee of Respondent DL Innov apparently led investigators to the following text message from Respondent Lacroix, sent on June 14, 2017:

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<sup>66</sup> Exhibit D-33, p.81.

<sup>67</sup> Exhibit D-33.

<sup>68</sup> Exhibit D-34.

<sup>69</sup> Exhibit D-35.

<sup>70</sup> Exhibit D-36.

[TRANSLATION of transcript] Don't forget when you talk about Plex, it's not me that did that! You don't know, you just saw it somewhere. Keep it super private.<sup>71</sup>

[151] According to the investigator, on August 4, 2017, a few minutes before the launch of the "whitepaper," the Authority issued a warning<sup>72</sup> to the 91,000 people whose addresses it had identified during the search.

[152] Within minutes, PlexCoin had posted a message<sup>73</sup> on Facebook stating that the Authority's email concerned Québec residents only, and that it intended to take action against the Authority for the theft of personal information.

[153] This email also indicates that its authors were aware of and objected to the Tribunal's orders of July 20, 2017.

[154] According to the investigator, on August 4, 2017, the "whitepaper" was placed online and made available to the public.<sup>74</sup> The online "whitepaper" is the finalized version of the one uncovered by the Authority during the search.

[155] The message from the president in this "whitepaper" mentions the financial flexibility that the project allows in investing in high-yield projects to ensure the project's success and growth.<sup>75</sup>

[156] The "whitepaper" states that PlexCorps' offices are based in Singapore and that its founders choose to remain anonymous for security reasons.<sup>76</sup> It also addresses the scope of the project, which apparently encompasses a host of financial products,<sup>77</sup> including PlexCoin, PlexWallet, PlexBank and PlexCard.

[157] The "whitepaper" states that the maximum amount of PlexCoin issued will be 1 billion,<sup>78</sup> with 400 million issued during the pre-sale and 600 million paid out in PlexCoin rewards for using the PlexCard.<sup>79</sup>

[158] The "whitepaper" states how the funds raised during the pre-sale will be allocated:

- 10% to develop PlexCorps products;
- 5% to secure transactions and protect their infrastructure from attack;
- 5% for marketing;

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<sup>71</sup> Exhibit D-64, p.50, line 18 and Exhibit D-37.

<sup>72</sup> Exhibit D-38.

<sup>73</sup> Exhibit D-39.

<sup>74</sup> Exhibit D-43.

<sup>75</sup> Exhibit D-43, p.8.

<sup>76</sup> Exhibit D-43, p.9.

<sup>77</sup> Exhibit D-43, p.17.

<sup>78</sup> Exhibit D-43, p.29.

<sup>79</sup> Exhibit D-43, p.30.

- 7% for operating costs to optimize network and redundancy architecture around the world;
- 3% for legal fees;
- 70% to maintain the market with their team, which will take care to [translation] “limit any loss of value when prices fall and sell when prices rise.”

[159] According to the “whitepaper,” the PlexCoin pre-sale was expected to generate \$249,500,000.00 USD from 400 million PlexCoin.<sup>80</sup>

[160] Section 4.9 of the “whitepaper” discusses social networks, indicating that they had concentrated their activities on the Facebook social network, targeting a total of [TRANSLATION] “1.8 billion people worldwide, with the exception of Québec, Canada and the United States.”

[161] According to this document, Facebook’s social network was used to target people who liked their page. It allowed them to run a contest and implement their 5% referral strategy with a 5% reward on purchases.

[162] The project was expected to grow exclusively through their Facebook page.<sup>81</sup>

[163] The “whitepaper” explained the reason for a pre-sale:

[TRANSLATION]

An ICO, or Initial Coin Offering, is an unregulated means of social funding.

[...]

For PlexCoin to become a global phenomenon that everyone is talking about, we had to create a pre-sale buzz. The means used was a percentage of the return (forecast) expected by sale stage (ROI), a standard procedure in the CGI market.

The PlexCoin pre-sale will raise \$249,500,000.00 USD. These funds will be used to develop PlexCorps’s products and used to maintain the market.

[...].

[164] According to this “whitepaper,” the promised return on investment would always vary between 200% and 1,354% depending on the different sale stages at which the PlexCoin was bought.

[165] The investigator also testified that, despite the Tribunal’s orders of July 20, 2017, on August 9, 2017, an Authority investigator was able to invest a nominal \$5 USD over the PlexCoin Internet site using a pre-paid credit card.

[166] On August 25, 2017, the same investigator received a bulletin<sup>82</sup> under the alias he used to make the investment that contained the following information:

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<sup>80</sup> Exhibit D-43, p.51.

<sup>81</sup> Exhibit D-43, p.33.

<sup>82</sup> Exhibit D-40.

[TRANSLATION]

We're still here and always will be;

August 11, 9:00 GMT. Our team is starting to work on the new payment solution. It will offer you more than 15 options. This new technology must be analyzed, created and evaluated. We are confident that with this new offer, we will be able to sell 400 million PlexCoin before the end of the pre-sale;

August 11, 19:00 GMT. Over 100,000 members are supporting our project. We have the motivation to keep going!

August 15, 20:00 GMT. All Bitcoin transactions pending since the launch have now been approved. Future transactions will be approved automatically, according to the blockchain stat;

Please note that we are currently using the Facebook platform to keep our members updated. We are working on developing a blog and a service status and server status platform. We expect to have profiles on different social networks shortly;

We removed the exclusion clause from our terms and conditions because it was causing a lot of confusion. Instead, we added a clause that asks you to verify the laws in force in your country before purchasing PlexCoin;

We have developed a flawless, user-friendly system that lets you purchase your PlexCoin with no transaction or purchase limits;

Unlike other platforms that limit purchase amounts to \$100 or \$200, our options will be unlimited. You can buy \$100,000 if you want;

As mentioned in one of our latest Facebook posts, we are extending the pre-sale by about 14 days. This is exactly the same number of days you would have waited before obtaining access to card payments. We want to meet our commitment to give your 30 days to buy your PlexCoin with the option of using all of our methods of payment;

So far, we have sold over 20,000,000 PlexCoins. Three-quarters were bought within the first (sic) days. We realize that sales have slowed because of the problems we encountered and the limited number of payment options. We getting back on track and ready for a fantastic take off;

A combination of strength, transparency, card payments and advertising will ensure that sell 400 million PlexCoin. We are sure of it. [...].

[167] On September 7, 2017, the investigator received another bulletin<sup>83</sup> indicating that the plexcoin.com domain name would be back online by September 27, 2017 and that the PlexCorps.com domain name would be functioning by October 11, 2017.

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<sup>83</sup> Exhibit D-45.

[168] The bulletin stated that PlexCard cards would soon be available and that eventually, all PlexCoin, PlexCard, PlexWallet and PlexBank products would be together on one Internet site and one Facebook page, despite the Tribunal's orders of July 20, 2017, which ordered the said site and page shut down.

[169] It stated that PlexCards are vital to members who own PlexCoin. It announced the creation of a potential PlexCoin Foundation that would help develop the PlexCoin project and support the PlexCorps community and its members.

[170] According to the investigator's testimony, on September 11, 2017, an Authority investigator again used a Québec-based IP address to invest in PlexCoin on the <https://www.plexcoin.tech/> site using a prepaid credit card. He was then directed to the <https://sidepay.ca/> site where he was able to enter his credit card number, expiry date and security code.<sup>84</sup>

[171] Later, this investigator received an alphanumeric code sent to his alias, and subsequently used the code on the PlexCoin site to confirm the purchase of 38.46 PlexCoin for \$6.21.<sup>85</sup>

[172] The investigator testified that he had conducted a search concerning the <https://sidepay.ca> Internet site source code. The search revealed that the site is an online store that apparently uses the Shopify Inc. ("Shopify") computer platform to receive payments.<sup>86</sup>

[173] Shopify is a web-based platform that creates online stores with payment processors that serve as a web-based outlet for online credit card purchases.

[174] The investigator then contacted Shopify to obtain information about Sidepay.ca. On September 14, 2017, he obtained the account opening documents and emails exchanged with the client who had opened the Sidepay.ca online store.<sup>87</sup>

[175] However, the documents received included a chat session between Shopify's representative and a client using the alias "San" who was asking questions about how Shopify's operation.

[176] Among other things, "San" wanted to know whether Shopify's services could accommodate the kind of business he intended to operate, like as gaming companies, whether transactions were subject to a daily limit, and if the company had a special department to serve its major customers.

[177] Finally, during the conversation, the Shopify representative asked the caller to identify himself. The person identified himself as Dominic Lacroix.

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<sup>84</sup> Exhibit D-46.

<sup>85</sup> Exhibit D-46.

<sup>86</sup> Exhibit D-47.

<sup>87</sup> Exhibit D-48.

[178] The Shopify account for the Sidepay.ca store was apparently opened by Respondent Lacroix and the fees owed to Shopify were paid using a credit card belonging to Respondent Paradis-Royer.<sup>88</sup>

[179] A few emails were subsequently exchanged between certain Sidepay representatives, Respondent Lacroix and a person calling herself "Sabrina," identified by the investigator as Respondent Paradis-Royer.

[180] The investigator's checks revealed that most of the exchanges with Sidepay were made from the IP address of Respondent DL Innov.<sup>89</sup>

[181] It has been shown that investors seemingly used the online store Sidepay.ca and Shopify to purchase PlexCoin until September 11, 2017.

[182] According to the documentation entered by the investigator, on or about September 11, 2017, Shopify allegedly wrote to Respondent Lacroix at doom.lacroix@hotmail.com to inform him that Shopify could no longer accept his business after it discovered that the products offered for sale resembled cryptocurrency.<sup>90</sup>

[183] Then, according to the investigator's testimony, additional checks<sup>91</sup> enabled him to identify the bank accounts used by Sidepay.ca and Respondent Lacroix to deposit funds apparently invested in PlexCoin, as indicated in the documents received from Shopify.

[184] These accounts were purportedly held with the Royal Bank of Canada (RBC), Galeries Charlesbourg branch, located at 4250, 1e Avenue, Québec City, Québec, numbered 00775-003 5096912 and 00775-003 4504189:

[185] These two RBC bank accounts were held by Respondent Paradis-Royer, the spouse of Respondent Lacroix. The first account was apparently used until September 1, 2017, and the second, since September 14, 2017.<sup>92</sup>

[186] Between September 8, 2017 and September 23, 2017, more than \$2,201,154.92 was allegedly collected by the online store at Sidepay.ca to purchase PlexCoin.<sup>93</sup> Over 10,000 transactions were apparently made during this period.

[187] According to the investigator, Shopify uses Stripe Payments Canada Ltd. and Wells Fargo Bank, N.A, Canadian Branch<sup>94</sup> to process payments.

[188] Thus, amounts of \$427,836.89 and \$399,858.36 were allegedly deposited into the RBC bank accounts between September 13, 2017 and September 21, 2017, the

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<sup>88</sup> Exhibit D-48.

<sup>89</sup> Exhibit D-48.

<sup>90</sup> Exhibit D-48.

<sup>91</sup> Exhibit D-49.

<sup>92</sup> Exhibit D-56.

<sup>93</sup> Exhibit D-54, page 305.

<sup>94</sup> Exhibit D-52.

date on which this Tribunal issued a freeze order, particularly in respect of impleaded party Stripe Payments Canada Ltd.<sup>95</sup>

[189] Following the deposit of \$399,858.36 into Respondent Paradis-Royer's US bank account by Shopify, an analysis of transactions in held in the said bank account led the investigator to find that \$300,000 Canadian had been transferred from Respondent Paradis-Royer's U.S. account to her Canadian RBC account.

[190] Shortly after making the \$300,000 deposit, Respondent Paradis-Royer drew several cheques, payments or and transfers against the amount, including:<sup>96</sup>

- a transfer of \$1,372.50 to one of Respondent Paradis-Royer's Desjardins accounts;
- a \$2,252.57 payment on a credit card held by Respondent Paradis-Royer;
- a \$30,000 as payment of a loan from Respondent Paradis-Royer;
- cheques for employees of Respondent DL Innov in various amounts;
- a payment of \$55,000 to a company named Unique Credit with reference made to FinaOne Inc., one of Respondent Lacroix's companies;
- two cheques in payment of professional services to lawyers and accountants;
- several cheques to various suppliers in connection with the construction of a residence, including \$52,143.79 for aluminum siding and \$75,000 for ceramic work. These cheques are marked, "rue du Manitobain," a street name matching the residence under construction by Respondents Lacroix and Paradis-Royer, according to the investigator's testimony.

[191] According to the investigator, several of these cheques and payments could not be processed because of the Tribunal's freeze order of September 21, 2017, which occurred while these payments were in transit.

[192] On September 27, 2017, by accessing the PlexCoin site, the investigator was able to observe the PlexCoin sales and the method of payment used.<sup>97</sup> Therefore:

- September 5, 2017: \$333,779.89 USD in PlexCoin was purportedly sold to the public;
- September 20, 2017: \$2,857,374 USD in PlexCoin was purportedly sold to the public.

[193] The investigator found that, as of September 25, 2017, more than \$1.1 million of the amounts transacted through Shopify and Sidepay had been transferred to bank accounts held by Respondent Paradis-Royer with the RBC.<sup>98</sup>

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<sup>95</sup> *Autorité des marchés financiers v. PlexCorps*, supra, note 3.

<sup>96</sup> Exhibit D-56.

<sup>97</sup> Exhibit D-53.

<sup>98</sup> Exhibit D-56.

[194] The investigator testified that from July 20, 2017 to September 29, 2017, he had consistently been able to access the Internet sites of plexcoin.com and PlexCoin.tech, PlexCoin.org, as well as the PlexCorps Facebook page, from an IP address in Québec.

[195] After September 29, 2017, the investigator indicated that he tried but could not access these sites using a Québec IP address.

[196] He was also able to access<sup>99</sup> PlexCorps' Facebook pages and PlexCoin.tech, PlexCorps.com and PlexCorps.tech pages from an IP address in a territory other than Québec.<sup>100</sup>

[197] Starting on September 29, 2017, when he tried to access the PlexCoin and PlexCorps Internet site using a Québec IP address a warning message appeared on screen indicating that these pages were not accessible from Québec.<sup>101</sup>

[198] According to the investigator's testimony, on October 3, 2017, the Authority filed a contempt summons in the Superior Court against Respondent Lacroix for violating the orders issued by this Tribunal.

[199] On October 4, 2017, the investigator indicated that he had been able to access the PlexCoin.tech, PlexCoin.com and PlexCorps.com site from an IP address in Québec,<sup>102</sup> but the link to the PlexCorps Facebook page via the PlexCoin.tech Internet site was not working.

[200] He also indicated during cross-examination that another investigator in his department had tried to access the site from his workstation but could not.

[201] On noting this situation, he asked other investigators in his department to try to access the site. They were able to reach the site on that date.

[202] On the same date, the investigator said that all of the sites, including the PlexCorps Facebook page, were accessible from an IP address outside Québec.<sup>103</sup>

[203] On accessing the www.PlexCorps.com site on October 4, 2017, the investigator found the following information:<sup>104</sup>

- The pre-sale had ended;
- The official launch of PlexCoin will be October 13, 2017;
- The proposed PlexBank would allow investors to shelter their PlexCoin from market fluctuations and receive guaranteed returns;
- Over 128,028 people had purchased PlexCoin during the pre-sale;

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<sup>99</sup> Exhibit D-57.

<sup>100</sup> Exhibit D-59.

<sup>101</sup> Exhibit D-57.

<sup>102</sup> Exhibit D-58.

<sup>103</sup> Exhibit D-59.

<sup>104</sup> Exhibit D-58.

- People were encouraged to follow them on social networks.

[204] In the course of his work and after consulting the “Facebook business record,” the investigator said he had determined on cross-referencing IP addresses, email addresses, phone numbers, page access identifications, credit card numbers and postal codes, that the person who registered and controlled PlexCoin’s Facebook page was Respondent Lacroix.<sup>105</sup>

[205] On October 17, 2017, the Superior Court of Québec held Respondent Lacroix in contempt of court for violating the orders of this Tribunal issued in July 2017.<sup>106</sup>

[206] The Authority’s investigator was at this hearing and made a positive identification of Respondent Dominic Lacroix based on the photos of “Dom Lacroix” he had seen on PlexCoin’s Facebook page.

[207] The investigator said that his searches had shown that at least four employees of Respondent DL Innov also had access to the PlexCorps Facebook page, including one person working for Respondent DL Innov who was responsible for correcting the “whitepaper.”

[208] According to the investigator, PlexCorps’ Facebook page was still very active and showed a well-fuelled news feed on October 25, 2017.<sup>107</sup>

[209] The investigator also noted that on October 25, 2017, new information about PlexCorps and PlexCoin was accessible by Québec residents through the Telegram Internet site.<sup>108</sup>

[210] The Telegram Internet site stated that PlexCorps plans to develop its own social platform to operate exactly like the Facebook platform. In this way, members would be able to trade and transact PlexCoin amongst themselves.<sup>109</sup>

[211] It also discusses the matter of rewards. It mentions that PlexCoin will soon be exchangeable on a cryptocurrency exchange platform, and that the PlexWallet would also be available.

[212] As of November 8, 2017, the date of this hearing, PlexCorps’ Facebook page was not accessible from an IP address in Québec, but was accessible from an IP address outside Québec.

[213] On that date, the investigator testified that PlexCoin’s value ranged from \$0.03 to \$0.09 USD based on the value of Ether cryptocurrency by PlexCoin according to the PlexCoin Telegram page,<sup>110</sup> and that the purchase price of PlexCoin bought at Stage 1 was \$0.13 USD.

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<sup>105</sup> Exhibit D-60.

<sup>106</sup> Exhibit D-61.

<sup>107</sup> Exhibit D-62.

<sup>108</sup> Exhibit D-63.

<sup>109</sup> Exhibit D-63.

<sup>110</sup> Exhibit D-65, p.10.

[214] He said that the investigation was ongoing at the time of the hearing.

[215] Under cross-examination, the investigator testified that PlexCoin could be bought or sold on a person-to-person market over the Telegram site.

[216] The investigator also said that during his August 2017 PlexCoin purchase transaction, the site posted a message stating that a restriction applied to Québec residents.<sup>111</sup> Despite this restriction, he said that he had been able to complete his transaction on the site by checking a box indicating that he was not a Québec resident.

[217] The investigator also stated that this address was no longer accessible from his work station by the end of the day.

[218] He said that the same restriction did not appear on the site during his September 2017 transaction.

[219] Counsel for the respondents did not call any witnesses and did not adduce any evidence. He did cross-examine the Authority's investigator.

[220] Attorneys for the Authority concluded essentially by asking the Tribunal, in the public interest, to uphold the decisions of July 20, 2017 and September 21, 2017, as subsequently renewed and amended.

[221] The submissions of Counsel for the Respondents essentially argued that PlexCoin does not constitute a security within the meaning of the *Securities Act*.

[222] In addition, at the January 24, 2018 hearing on the amendment sought by the Authority, the Respondents' new Counsel added that, since the violations argued by the Authority had ceased, the Tribunal allegedly had no jurisdiction to issue the orders sought.

## **ANALYSIS**

[223] This case concerns the contestation of two decisions given following *ex parte* hearings.

[224] After receiving an *ex parte* decision, the parties have 15 days<sup>112</sup> to file a notice of contestation.

[225] At such time, a *de novo* hearing is scheduled to hear the Authority's evidence again and allow the party that filed the notice of contestation to submit its evidence and/or arguments before the Tribunal, which then assesses whether the conservatory orders issued *ex parte* are justified or not, based on a preponderance of the evidence, in the public interest.

[226] The Tribunal specifically defined it in Baazov:<sup>113</sup>

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<sup>111</sup> Exhibit I-1.

<sup>112</sup> *Autorité des marchés financiers Act*, CQLR, c. A-33.2, as in force at the time the disputed decisions were issued.

<sup>113</sup> *Autorité des marchés financiers v. Baazov*, 2017 QCTMF 103.

[TRANSLATION]

[80] A *de novo* hearing is a hearing where all parties have the opportunity to hear the Authority's evidence for the first time, to contest it and to present any evidence or arguments against it in order to enlighten the Tribunal on all of the facts allowing it to determine whether or not the conservatory-type orders issued *ex parte* are justified, in the public interest, based on the preponderance of the evidence.

[81] The Tribunal notes that, at the conservatory measure stage, there is no need to conclude definitively whether or not violations or acts against the public interest were committed or not by the respondents and/or the impleaded parties, or to determine whether or not any means of defence to these breaches and acts are admissible.

[82] Given the nature of the orders sought and the fact that the Authority's investigation is still ongoing, the Tribunal must instead determine at the time of the contestation whether it confronts any apparent violations of the law or acts contrary to the public interest that require its intervention in order to maintain, repeal or amend the conservatory measures already issued in the public interest.

[Emphasis added]

### Questions in issue

[227] In this case, the Tribunal must answer the following questions in issue:

1. Is the PlexCoin, as offered to the public, a security within the meaning of the Act?

In the affirmative:

2. Does a preponderance of the evidence show apparent violations of the law or acts contrary to the public interest?

In the affirmative:

3. Is it appropriate, in the public interest, to maintain, amend or rescind the Tribunal's orders of July 20, 2017 and September 21, 2017, as subsequently amended?

### Question 1: Is the PlexCoin, as offered to the public, a security within the meaning of the Act?

[228] The *Securities Act* applies to all forms of investment described in section 1, including the investment contract referred to in paragraph 7°, defined as follows:

This Act applies to the following forms of investment:

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[...]

7° an investment contract;

[...] An investment contract is a contract whereby a person, having been led to expect profits, undertakes to participate in the risk of a venture by a contribution of capital or loan, without having the required knowledge to carry on the venture or without obtaining the right to participate directly in decisions concerning the carrying on of the venture.

[229] Interpretation of the “investment contract” concept has been addressed numerous times by the courts.

[230] Moreover, the courts have repeatedly held that the *Securities Act* must be interpreted in a broad and liberal manner.<sup>114</sup>

[231] The Tribunal notes that a broad and liberal interpretation is necessary to protect the public. In this regard, *Thorne Riddell* states:<sup>115</sup>

[TRANSLATION]

Let us first point out that Parliament intended the M.V.A.Q. to protect ordinary people from undue exploitation by certain promoters who promised astronomical benefits and profits from the investment of savings sometimes set accumulated over long periods of time [...].

Ordinary investors pay no heed of these legal and tax distinctions. They sometimes too naively trust the people who prepared, examined, studied and sometimes teased advertising brochures to present them in their best light and who would often “browbeat” a large number of people who easily took the bait into acceptance.

Parliament, unable and for that matter unwilling to make provision for every individual case, has defined certain terms in a relatively general and broad manner to cover everything that might directly or indirectly constitute or resemble an investment contract in an effort to protect the greatest number of people required to deal with investment professionals as it can.

[Emphasis added]

[232] In short, in the case at hand, the public was offered an opportunity to invest in “cryptocurrency” in exchange for a return on investment amounting to as much as 1,354%.

[233] In addition to this potential return, the public was offered referral rewards, the possibility of obtaining a credit card that included various rewards and that could be used to make and pay for purchases in cryptocurrency.

<sup>114</sup> *Pacific Coast Coin Exchange of Canada Limited v. Ontario (Securities Board)*, (1978) 2 S.C.R. 112, pp. 126 to 128; *Infotique Tyra Inc. v. Québec (Commission des valeurs mobilières)*, 1994 CanLII 5940 (QC CA), pp.11 to 16; *Autorité des marchés financiers v. Battah*, 2012 QCBDR 81.

<sup>115</sup> *Commission des valeurs mobilières v. Thorne Riddell Poissant Richard, C.A.*, Court of the Sessions of the Peace, Terrebonne, No. 700-27-007847-849, April 17, 1985, Judge Lagarde, 15 pages.

[234] The project also involved developing a virtual wallet for exchanging the cryptocurrency, and creating a virtual bank offering investors a place to invest their virtual currency sheltered from market fluctuations.

[235] Accordingly, the plan was to use amounts raised from the PlexCoin sale to develop the different components of the project, market it and maintain the money market in a way that would maximize liquidity and convertibility into cash over a period of approximately two years.

[236] According to the evidence on record, more than 108,028<sup>116</sup> people allegedly participated in the PlexCoin pre-sale and subsequent purchases of “cryptocurrency” between July 3, 2017 and October 4, 2017.

[237] In light of this information and to determine whether an investment contract exists, each aspect of its definition must be analyzed in relation to the offer made to the public in the current case.

[238] This brings us to the first element of the definition of an investment contract:

A contract whereby a person enters an undertaking

[239] In the case of *Corporation Première Équité*,<sup>117</sup> the former Québec Securities Commission stated the following with respect to the concept of the undertaking inherent in an investment contract, a passage later cited and taken up by the Québec Court of Appeal in *Infotique Tyra*:<sup>118</sup>

[TRANSLATION]

The client here agreed to subscribe to the proposed investment plan. Although he did not sign a document, he entered an undertaking, while retaining the ability to withdraw. The mandate (Exhibit P-6) merely sets out the general terms for the type of project agreed upon. The notarized contract concludes the financial transaction and the inherent transfer of property.

[240] In the Tribunal’s opinion, an individual’s decision to register for the PlexCoin pre-sale and/or subsequent purchases thereof constitutes an undertaking within the scope of the definition of an investment contract.

[241] This brings us to the second element of the investment contract definition:

In expectation of the profit presented

[242] On analyzing this evidence *de novo*, the Tribunal reaffirms the following in this regard, as mentioned in the decision of September 13, 2017:<sup>119</sup>

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<sup>116</sup> Exhibit D-58, p.15.

<sup>117</sup> *Corporation Première Équité A.C.P. Inc. et al., Commission des valeurs mobilières*, Montreal, No. 8307, May 29, 1987, R. Côté, M. Cusson and P. Dussault, p.12.

<sup>118</sup> *Infotique Tyra Inc. v. Québec (Commission des valeurs mobilières)*, 1994 CanLII 5940 (QC CA).

<sup>119</sup> *Autorité des marchés financiers v. PlexCorps*, *supra*, note 1.

[100] In this case, the expectation of profits is at the heart of the PlexCoin marketing scheme.

[101] Indeed, as demonstrated at the hearing on July 20, 2017, the product is presented to the public as an investment opportunity.

[102] The Internet site promises profits on their investment of up to 1,354% to the first buyers.

[103] The product in question will apparently be sold in instalments. Each instalment is associated with a percentage of profits that falls to 200%.

[104] For the Tribunal, the expectation of profits test would therefore clearly be met in accordance with the definition of investment contract.

[105] In addition, beyond the promised percentage return, the referral program promises additional returns to potential buyers of PlexCoin or to users of the future PlexCard.

[106] These promises of additional returns also qualify as “profits” within the definition of investment contract.

[107] In the Tribunal’s view, an investor could easily be interested or encouraged to purchase PlexCoin on this expectation of profit offered by the issuer and its promoters.

[243] It has been shown that this expectation of profit appeared explicitly in several places, such as the PlexCorps Internet site,<sup>120</sup> accessible to the general public from Québec at least until September 29, 2017, and then accessible again on October 4, 2017, and at all times accessible from outside Québec.

[244] Moreover, according to the *de novo* evidence, this expectation of profit was confirmed in the “whitepaper”<sup>121</sup> posted online on August 4, 2017, and in the bulletins sent to investors.<sup>122</sup>

[245] The “whitepaper” referred to this potential profit as a “ROI” or a return on investment and stated the following:

[TRANSLATION]

Return on Investment (ROI) is the estimated amount of earnings on your PlexCoin purchase given that you will have to resell your PlexCoin to receive your money.

The anticipated returns on investment based on the assumption that all PlexCoins are sold during the pre-sale are:

Sale stage 1: ROI after 29 days or less: 1,354%

Sale stage 2: ROI after 29 days or less: 629%

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<sup>120</sup> Exhibits D-4, D-58, D-59 and D-63.

<sup>121</sup> Exhibit D-43.

<sup>122</sup> Exhibit D-45.

Sale stage 3: ROI after 29 days or less: 332%

Sale stage 4: ROI after 29 days or less: 200%.<sup>123</sup>

[246] The Tribunal also noted that referral rewards were mentioned on the PlexCoin and PlexCorps Facebook page as well.<sup>124</sup>

[247] In the case at hand, the expectation of profit was clearly presented to potential PlexCoin investors.

[248] This brings us to the next element of the investment contract definition:

To participate in the risk of a venture through the contribution of capital or a loan

[249] On this point, the Tribunal again refers to paragraphs 109 to 119 of the decision on September 13, 2017,<sup>125</sup> where an analysis of the *de novo* evidence leads to the same observation:

[109] This concept of “venture” in relation to an investment contract has been extensively interpreted by case law and adapted to the different types of investments and financial arrangements proposed to investors. It is well summarized and illustrated in *Corporation Premier Equity*:

[TRANSLATION]

“The venture is all of the steps that make up a plan, a comprehensive program of mutual investment in any project or business. In this case, the venture involves a basic and experimental research project on a computer system forecasting cardiac dysfunction.”

[110] The decision also states:

[TRANSLATION]

“Carrying on the venture involves all aspects of the project, from the selection of the building to the assessment, improvement, design and legal and financial structure, the group of co-investors and the subsequent organization and control, not just the day-to-day administration of the building. Very few investors, other than specialists, have the necessary knowledge. However, it is the general public that is being solicited and to whom a share in this venture is being proposed.”

[111] This concept of venture was later developed in case law of the Tribunal, including in *Biolux*, which adds:

[TRANSLATION]

“The “carrying on of the venture” and its financial success does not depend only on the scientific outcomes but also on the quality of each of the necessary steps: from design to planning, the financial, legal and tax structure, securing funds, organizing and controlling the project, and future commercialization.”

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<sup>123</sup> Exhibit D-43, p. 39.

<sup>124</sup> Exhibit D-62.

<sup>125</sup> *Autorité des marchés financiers v. PlexCorps*, *supra*, note 1.

[112] At first glance, some might argue that we are simply dealing with the acquisition of a cryptocurrency, namely PlexCoin, which in itself would not be a “venture” within the definition of investment contract.

[113] In the Tribunal’s view, one must go beyond examining the simple acquisition of an alleged cryptocurrency.

[114] In this case, to assess the “venture”, we must extend that examination to the public offering as a whole.

[115] Thus, in what is proposed to the investor, the “venture” is the entire arrangement offered to the investor, including its creation, promotion, the issuing of PlexCoin to the public, its marketing, the management of the related bonus returns, management of its liquidity, its security and the establishment of a viable market for that cryptocurrency.

[116] In this arrangement, the Respondents’ expertise and involvement extend beyond the stage of the PlexCoin offering and are essential to the carrying on of the venture.

[117] According to the investigator’s statements on the record, this is a centralized cryptocurrency, unlike Bitcoin, which is a decentralized cryptocurrency.

[118] For the Tribunal, the person who registers on the PlexCoin site to buy PlexCoin is participating in the risk of a venture within the intended meaning of the definition of investment contract in the *Securities Act* because there is a venture, and the potential investor is participating in or sharing the risk associated with that venture. Thus, the investor may make less profit than hoped, which constitutes a risk, or may simply lose his investment despite representations that his investment is guaranteed.

[119] In addition, participation in this risk by way of “a contribution of capital or loan” represents an expenditure of money or other assets to acquire PlexCoin. Whether that purchase is made by credit card, or through another virtual currency, it constitutes a contribution of capital within the definition of investment contract.

[References omitted]

[250] The Tribunal adds, with respect to the notion of “business” contained in the definition of an investment contract, that PlexCoin distinguishes itself precisely in this regard from cryptocurrency, such as Bitcoin.

[251] In fact, PlexCoin has a human organization controlled by a few specific individuals behind the project comprising a joint undertaking.

[252] In this case, the “whitepaper” provided to investors on August 4, 2017 indicates how the proceeds from the sale of PlexCoin will be allocated, some of it used to promote the product, maintain the market and fund various projects in progress.

[253] This shows that the funds obtained from “PlexCoin” investors would be used to finance the “business,” in other words, promote the product, maintain the market and

support various related projects designed to foster its liquidity and convertibility into cash.

[254] The Tribunal notes that the “whitepaper” often refers to the word PlexCoin “project,” particularly in the introduction.

[255] At the time of the pre-sale, the project was embryonic. The investors’ expectation was that product promotion efforts and implementation of the project as a whole would generate the anticipated profit. The infrastructure announced by the project promotor is thus central to the success of the investment.

[256] In the Tribunal’s view, investors in this project accept a share of the business risk through their contribution toward purchasing PlexCoin.

[257] Moreover, the investigator’s testimony reveals that this risk somehow materialized given that, at the time of the hearing, the PlexCoin he had bought for \$0.13 was worth no more than \$0.03 and \$0.09 USD each.

[258] Consequently, the Tribunal considers that PlexCoin purchasers bore some of the business risk by making a contribution as provided in the definition of an investment contract.

[259] This brings us to the final element of the investment contract definition.

Lacking the knowledge to carry on the business or without obtaining the right to participate directly in carrying on the business

[260] According to the *de novo* evidence adduced and as mentioned in the September 13, 2017 decision, in the Tribunal’s opinion:

[125] [...] the only decision that a potential buyer of PlexCoin can make is to invest or not invest; thus, at no time does the prospective buyer participate in any decision concerning the carrying on of the venture.<sup>126</sup>

[261] The Respondents have full control of the business and the buyers do not participate in decisions.

[262] In fact, they are informed of decisions made by the business promotors through bulletins and/or the PlexCoin and PlexCorps Facebook pages, used as channels of communication.

[263] Moreover, the evidence adduced<sup>127</sup> specifically states that PlexCoin is intended for investors with limited knowledge of cryptocurrency or the financial field.

[264] Accordingly, the Tribunal finds that PlexCoin buyers do not have the knowledge required, and do not participate in decisions concerning the carrying on of the business.

[265] Now, beyond the notion of an investment contract, the Tribunal must examine the economic reality arising from the offer made to the public under this project.

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<sup>126</sup> *Autorité des marchés financiers v. PlexCorps*, *supra*, note 1.

<sup>127</sup> Exhibits D-4, p.4 and 5 and D-64, p.23.

### Economic reality

[266] The Tribunal's analysis of the *de novo* evidence leads it to underscore the following observations made in the September 13, 2017 decision<sup>128</sup>:

[126] Finally, in addition to the criteria set out in the definition of investment contract, the Tribunal must look at the economic reality behind the offer made to the public, the substance of which prevails over the form, as recognized by the Supreme Court in *Pacific Coast*:

Such remedial legislation must be construed broadly, and it must be read in the context of the economic realities to which it is addressed. Substance, not form, is the governing factor. As noted in *Tcherepnin v. Knight [9]*, at p. 336:

*...in searching for the meaning and scope of the word 'security' in the Act, form should be disregarded for substance and the emphasis should be on economic reality.*

In the search for the true meaning of the expression "investment contract", another guideline must also be present in the forefront of our thinking. In the words of the Supreme Court of the United States in *SEC v. W.J. Howey Co. [10]*, any definition must permit (at p. 299):

*...the fulfillment of the statutory purpose of compelling full and fair disclosure relative to the issuance of 'the many types of instruments that in our commercial world fall within the ordinary concept of a security.'...It embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits.*

[References omitted]

[127] In Québec, in *Lantech Communications Inc. and Réjean Lamothe*, the *Commission des valeurs mobilières du Québec* ("**CVMQ**") concluded that investment contracts frequently involve a component of the sale of tangible property and participation in an investment. We must go beyond the appearance of the sale of the product to assess the economic reality of the venture:

[TRANSLATION]

"The Commission must go beyond the appearance of the software sale contract to assess its economic reality and, more specifically, to consider the fact that this purchase allows the purchaser to participate in Promotion "A" set up by Lantech. Participation in Promotion "A" is strongly advertised in the sales documentation (particularly in Exhibit D-1) and is certainly one of the key factors that might lead a person to pay \$500 to purchase the *Stratège* software since that purchase may generate \$5,010 of miscellaneous profits. Although part of the payment represents the purchase of physical property (the disk(s) containing the software) or a license to use an intellectual right (software), it is clear to us that a substantial portion of the payment is

<sup>128</sup> *Autorité des marchés financiers v. PlexCorps*, *supra*, note 1.

attributable to a contribution of capital to participate in a venture. Under the guise of software sales, the contract deals in essence with participation in the venture established by Lantech. The fact that an investment is accompanied by a sale of actual property is not enough to exclude the transaction from the *Securities Act*.

Investment contracts frequently consist of tangible property and participation in an investment.”

[128] More recently, in the United States, the Securities and Exchange Commission (the “**SEC**”) rendered a decision that adapted to some degree this principle to the world of technology in *SEC v. Traffic Monsoon*.

[129] This was a case where an advertising company sold products to its members via the Internet that promised a certain number of visits on their websites. However, one of these products, sold at a cost of \$50, allowed for the purchase of a specified number of visits on the purchasing company’s site and also allowed the buyer to share the revenue of Traffic Monsoon if the buyer undertook to click on a specified number of ads belonging to other people. Referral commissions were also paid to buyers.

[130] In the above case, the SEC characterized this scheme as a Ponzi scheme since Traffic Monsoon used the money received from the most recent buyers to pay royalties to the earlier buyers. It also commented at length on the issues of territoriality and jurisdiction as the majority of the activities had taken place outside the United States.

[131] In addition to these considerations, the SEC commented in its decision on the economic reality behind these transactions involving an acquisition, but also potential returns, characterizing them as investment contracts:

The fact that members received some services for their AdPack purchases, however, does not mean that the AdPack was not an investment. The same services available through the AdPack could be purchased à la carte for just \$10.95. The only explanation for why members would pay an additional \$39.05 for the same services was that they wanted to invest their money to obtain the generous returns obtained by early investors. The evidence clearly points to the fact that Traffic Monsoon’s explosive growth was driven by members purchasing and repurchasing AdPacks in order to obtain the incredible returns on their investment, not by intense demand for Traffic Monsoon’s services. Indeed, many AdPack purchasers had no interest in the web site visits Traffic Monsoon offered, and Traffic Monsoon only ever delivered a fraction of the clicks it promised to deliver. In short, the economic reality of the AdPack purchases is that they were investments.

[132] In public offering of PlexCoin before us, the economic reality of this arrangement is that what was offered to the public was an investment with potential returns of 1,354%.

[133] The entire marketing of the product is based on the possibility of making a profit with that product.

[134] In addition to the announced referral bonuses, amazing returns are promised on the investment. This is how the public is encouraged to purchase PlexCoin. In addition, the early investors buy, the more they will benefit from a substantial return.

[135] In this case, even if the currency proposed to the investor can be used with the PlexCard or invested later with the PlexBank or even exchanged for Euros or dollars, the fact remains that, at the time this product is being offered to the public, none of these services exists, and the only reason for an investor to buy PlexCoin is for the investment opportunity as it has been shown that it cannot be used for any other purpose at this time.

[267] In addition, the Tribunal adds that, beyond the economic reality that existed when the PlexCoin was initially issued, the *de novo* evidence shows that investors could exchange their PlexCoin person to person following the initial PlexCoin offering.

[268] In this regard, Counsel for the respondents mentioned in his submissions that PlexCoin is a cryptocurrency and not an investment contract.

[269] In the Tribunal's view, the possibility of exchanging PlexCoin after acquiring it does not alter its nature at the time it was issued.

[270] The Tribunal also had occasion to decide on this question in its recent judgment in *CreUnite*<sup>129</sup>:

[TRANSLATION]

[137] The primary issuance of the CUT token and, separately, of the CreUnite platform project would then be followed by the possibility of trading it on an exchange platform. The latter would become its secondary market, much like a securities exchange on which securities would be traded. Throughout the CUT token's life cycle, there would apparently also be a "person to person" market where people would be able to trade CUT tokens person to person.

[138] In the Tribunal's view, the ultimate registration of the CUT token on a cryptocurrency platform would not in itself change the nature of the product that would be exchanged on such a platform, which would remain a security if it were deemed to be fundamentally a security.

[271] Counsel for the Respondents compared Bitcoin to PlexCoin, alleging that the two products are similar. This would mean that PlexCoin is not a security. According to him, people who buy PlexCoin eventually intend to use it as currency through the PlexCard credit card.

[272] The nature of Bitcoin is briefly explained in an article submitted in the respondents' notes and authorities.<sup>130</sup> This article states:

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<sup>129</sup> *Autorité des marchés financiers v. CreUnite*, 2018 QCTMF 8.

<sup>130</sup> STUART HOEGNER ET JERRY BRITO, *The Law of Bitcoin*, Bloomington, iUniverse, 2015, p.69.

Bitcoins as currency are not issued by any person or company but through the running of open source software that rewards computers with bitcoins for contributing power to supporting and securing the network, a crucial task needed to enable and verify transactions.

[273] Unlike Bitcoin, which continues to be created through a mining process by unrelated third parties around the world, at the end of which a maximum number of Bitcoins will eventually be issued, PlexCoin was issued for a limited time and is seemingly controlled entirely by the Respondents.

[274] At the end of the PlexCoin pre-sale, the Respondents' computers contained a list of the persons who participated in the pre-sale. In addition, they distributed the referral bonuses themselves to the buyers' portfolios.<sup>131</sup> As a result, the respondents had very great control over operations.

[275] In the case of PlexCoin, and unlike Bitcoin, behind the project is a human organization controlled by a few specific persons.

[276] The Tribunal notes that even the President's Message in the "whitepaper" mentions that, to ensure the project's success and growth, the amounts invested will allow them the financial flexibility to invest in promising projects.<sup>132</sup>

[277] As analyzed, and contrary to the claims of Counsel for the Respondents, the Tribunal finds that this structure differs significantly from that of Bitcoin.

[278] In fact, PlexCoin is not appreciably different from any other security, such as shares purchased to invest in a business that will grow and eventually produce profits or losses.

[279] Thus, on examining the substance of the PlexCoin offer as a whole, it appears that the resulting economic reality makes it an investment.

[280] Indeed, in December 2017, the United States Securities and Exchange Commission also described the PlexCoin project as an investment contract.<sup>133</sup>

[281] Following its analysis, the Securities and Exchange Commission concluded that the contract was an investment contract by applying the principles set out in *SEC v. W.J. Howey Co.*,<sup>134</sup> *inter alia*, often followed in Canadian law.

[282] *Howey* is a fundamental decision on the concept of investment contracts in the United States. It was cited by the Supreme Court of Canada in *Pacific Coast Coin Exchange*,<sup>135</sup> for example, leading Canada to examine American law on this question.

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<sup>131</sup> Exhibit D-40, p.7.

<sup>132</sup> Exhibit D-43, p.8.

<sup>133</sup> *Securities and Exchange Commission v. PlexCorps*, 17 Civ. 7007 (CBA) (E.D.N.Y. Dec. 14, 2017). See also: <https://www.sec.gov/litigation/complaints/2017/comp-pr2017-219.pdf>.

<sup>134</sup> *Securities and Exchange Commission v. W. J. Howey Co.*, 328 U.S. 293 (1946).

<sup>135</sup> *Pacific Coast Coin Exchange of Canada Limited c. Ontario (Securities Board)*, *supra*, note 114.

[283] Since its PlexCoin decision, the Securities and Exchange Commission has ruled similarly in other cases that a cryptocurrency offering may qualify as an investment contract, depending on the circumstances surrounding its issuance.<sup>136</sup>

[284] Also, on August 15, 2017, the *Autorité des marchés financiers* and the Ontario Securities Commission in *Impak Finance Inc.* decided to allow a registration and prospectus exemption for an initial public offering of cryptocurrency, Impak coin in accordance with the provisions of the law.<sup>137</sup>

[285] This establishes that the legislative framework of the *Securities Act* applies to offerings of certain cryptocurrencies in order to provide the oversight needed for public protection of the public.

[286] In this case, after analyzing and considering the *de novo* evidence adduced, the Tribunal finds that the PlexCoin project, including the public offering, constitutes securities, namely, an investment contract within the meaning of the *Securities Act*.

**Question 2: Does a preponderance of the evidence show apparent violations of the law or acts contrary to the public interest?**

[287] According to the Authority, the Respondents violated the *Securities Act* by distributing a security without registering and without the prospectus required by the Act.

[288] Section 5 of the *Securities Act* defines the term “investment” as follows:

“distribution”:

1° the endeavour to obtain, or the obtaining, by an issuer, of subscribers or acquirers of his securities;

[...]

4° the endeavour to obtain, or the obtaining, by a subscriber or purchaser of securities which he acquired through a transaction for which no prospectus was prepared as required by law and no exemption was granted, of purchasers for such securities;

[...]

7° the endeavour to obtain, or the obtaining, by an agent, of subscribers or purchasers of securities being distributed in accordance with subparagraphs 1 to 6;

[289] The Tribunal wishes to point out that the mere fact of seeking, soliciting or finding subscribers or purchasers of securities constitutes a distribution within the meaning of the *Securities Act*, even through the web.

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<sup>136</sup> *Securities and Exchange Commission v. Munchee Inc.*, File No. 3-18304, online: <https://www.sec.gov/litigation/admin/2017/33-10445.pdf>;

Centra Tech inc., <https://www.sec.gov/news/press-release/2018-53>.

<sup>137</sup> (2017) Bull. Authority, vol. 14, n° 32, p. 184, online:

[https://lautorite.gc.ca/fileadmin/lautorite/bulletin/2017/vol14no32/vol14no32\\_6-6.pdf](https://lautorite.gc.ca/fileadmin/lautorite/bulletin/2017/vol14no32/vol14no32_6-6.pdf).

[290] In his submissions, Counsel for the respondents argued that at certain times the PlexCoin and/or PlexCorps web sites and/or Facebook pages were not accessible to Québec residents.

[291] In the Tribunal's view, this point deserves consideration, but there is more.

[292] Under the law, any distributions made in Québec without a prospectus, registration or exemption, and a distribution made from Québec to locations outside Québec, are prohibited.

[293] Between July 3, 2017 and October 4, 2017, the evidence shows that the Respondents allegedly made distribution involving 108,028 investors,<sup>138</sup> even after the Tribunal had prohibited them from proceeding with such distribution in its decision on July 20, 2017.<sup>139</sup>

[294] This solicitation was allegedly made from Québec to investors from Québec and outside of Québec.

[295] The *Securities Act* provides several obligations incumbent on persons distributing securities, including the obligation to prepare a prospectus subject to a receipt issued by the Authority and the obligation to register as a dealer.

#### Prospectus obligation

[296] Pursuant to paragraph 1 of section 11 of the *Securities Act*:

Every person intending to make a distribution of securities shall prepare a prospectus that shall be subject to a receipt issued by the Authority. The application for a receipt must be accompanied with the documents prescribed by regulation.

[297] Section 12 of the *Securities Act* also provides that any person who intends to distribute securities from Québec to persons living outside Québec must prepare a prospectus and obtain a receipt therefor issued by the Authority.

[298] The *de novo* evidence adduced before the Tribunal shows that a distribution was made without any prospectus with a receipt therefor, or the applicable prospectus exemption, as provided by the *Securities Act*.

[299] Accordingly, the Tribunal notes apparent violations of sections 11 and 12 of the *Securities Act*.

#### Obligation to register

[300] Section 148 of the *Securities Act* requires any person acting as a dealer to register with the Authority. This section states that:

No person may act as a dealer, adviser or investment fund manager unless the person is registered as such.

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<sup>138</sup> Exhibit D-58, p.15.

<sup>139</sup> *Autorité des marchés financiers v. PlexCorps*, *supra*, note 1.

[301] The concept of “dealer” is defined in section 5 of the *Securities Act* and includes the following activities:

“dealer” means a person engaging in or holding themselves out as engaging in the business of

1° trading in securities as principal or agent;

2° distributing a security for their own account or for another’s account; or

3° any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of an activity described in paragraph 1 or 2;

[302] Yet, the Authority showed that none of the Respondents are registered as securities investment dealers, thus, seeming constituting a violation of the law.

[303] In the Tribunal’s opinion, for the purposes of the contestation at hand, a preponderance of the evidence indicates that we are faced with apparent violations of the law, particularly the obligation to prepare a prospectus subject to a receipt issued by the Authority and the obligation to register as a securities dealer.

[304] The Tribunal notes that, at the conservatory measure stage, it is unnecessary to reach a final determination concerning whether or not a violation or an act contrary to the public interest was committed<sup>140</sup> since the Authority’s investigation is ongoing.

**Question 3: Is it appropriate, in the public interest, to maintain, amend or rescind the Tribunal’s orders of July 20, 2017 and September 21, 2017, as subsequently amended?**

[305] First, and before reviewing each of the orders issued, the Tribunal notes that the factual evidence surrounding this matter was not challenged at the hearings of November 2 and 8, 2017 or January 24, 2018. Respondents’ Counsel made only a few clarifications concerning accessibility at different times to the web sites. The Respondents’ argument primarily centred on a question of law, namely, whether or not the PlexCoin project was a security.

**Orders dated July 20, 2017**

The prohibition order

[306] As noted above, on July 20, 2017, the Tribunal issued prohibition orders against the Respondents PlexCorps, PlexCoin, DL Innov, Gestio and Lacroix under section 265 of the *Securities Act*, which provides:

265. The Financial Markets Administrative Tribunal may order a person to cease any activity in respect of a transaction in securities.

The Financial Markets Administrative Tribunal may, furthermore, order any person or category of persons to cease any activity in respect of a transaction in a particular security.

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<sup>140</sup> See paragraphs [225] and [226] of this decision in relation to the *Baazov decision*, *supra*, note 113.

[307] This prohibition applied not only in Québec, but specifically stated that it included the solicitation of and prospecting for investors in Québec or from Québec in locations outside Québec.

[308] Counsel for the Respondents argued before the Tribunal that such a prohibition was no longer necessary since no PlexCoin had been issued since October 2017.

[309] In view of the apparent violations shown on a preponderance of the evidence before the Tribunal and as noted above, the Tribunal considers it in the public interest to maintain the prohibition order as given in July 2017 against the Respondents Lacroix and DL Innov, Gestio, PlexCorps and PlexCoin.

Order to remove any advertisement or solicitation from Internet sites

[310] As mentioned earlier, on July 20, 2017, the Tribunal ordered the Respondents PlexCorps, PlexCoin, DL Innov Inc., Gestio Inc. and Dominic Lacroix to remove any advertising or solicitation similar in nature to those posted on the [www.PlexCorps.com](http://www.PlexCorps.com) and [www.plexcoin.com](http://www.plexcoin.com) Internet sites and Facebook pages from any Internet discussion or other site or related to securities investments or any form of investment, advertised or distributed, through the Internet or otherwise, directly or indirectly, by the said Respondents.

[311] The order is based on section 94 of the *Autorité des marchés financiers Act*, which reads as follows:

94. At the request of the Authority, the Tribunal may take any measure conducive to ensuring compliance with an undertaking given [...] the Securities Act (chapter V-1.1) or compliance with those Acts.

[312] An analysis of the evidence leads the Tribunal to note that from the very start of the project, the solicitation to purchase PlexCoin had always occurred primarily through the Internet using PlexCorps and PlexCoin web pages or Facebook pages.

[313] As for Gestio, some of its IP addresses were used in connection with PlexCorps and PlexCoin domain names.

[314] With respect to DL Innov, the evidence seemingly shows that investment and solicitation activities were carried out and initiated in Québec by the Respondents and by employees of DL Innov.

[315] In the Tribunal's opinion, this justifies the order made in the public interest to remove any advertisement or solicitation from these Internet sites.

[316] In light of the *de novo* evidence submitted, the Tribunal notes that not only was this order disregarded, but the solicitation apparently continued after its orders of July 20, 2017 had been issued.

[317] Moreover, even when the Authority issued a bulletin to investors who had expressed an interest in the PlexCoin project not to follow through on their purchase plans, the Respondents apparently retorted with a message stating again that the

PlexCoin offering would proceed as planned and that legal action would be taken against the Authority.

[318] In view of the foregoing, the Tribunal finds that this order should be maintained in the public interest.

[319] In addition, based on the evidence, an additional web site must be added to the existing orders, namely, [www.plexcoin.tech](http://www.plexcoin.tech), given the use of this new [www.plexcoin.tech](http://www.plexcoin.tech) site since the July 2017 orders.

#### Web site closure order

[320] On July 20, 2017, the Tribunal also ordered the Respondents PlexCorps, PlexCoin, DL Innov Inc., Gestio and Lacroix to shut down the [www.PlexCorps.com](http://www.PlexCorps.com) and [www.plexcoin.com](http://www.plexcoin.com) Internet sites or any similar site, published or distributed, directly or indirectly, by the latter or, alternately, to render them inaccessible to any IP address in Québec in order to prevent persons residing in Québec from consulting the Internet sites in question. The Tribunal also ordered that its order be posted on the home pages of these sites.

[321] This order was also made under section 94 of the *Autorité des marchés financiers Act*.

[322] The *de novo* evidence has shown on a preponderance of the evidence that the Internet sites which the Tribunal ordered be closed were seemingly not closed.

[323] The Tribunal notes that certain steps were apparently taken to restrict access by Québec residents at times, but the investigator was nevertheless able to access them from an IP address at another workstation in Québec and complete his investment. He also had ready access to these sites from IP addresses outside Québec.

[324] The Tribunal notes that while the Respondents may have complied with the conclusion of this order that they make the site inaccessible to Québec residents, they were not subsequently entitled to accept investments from investors outside Québec given the general investment prohibition issued by the Tribunal under section 265 of the *Securities Act* above.

[325] Since the Authority has amended the conclusions of its application, the Tribunal considers it appropriate to modify the conclusion of this order as requested by the Authority and to strike the following words from the second part of the third conclusion to its proceedings, which states:

[TRANSLATION]

“failing which, to make the sites inaccessible to any Internet address in Québec so that Québec residents be unable to consult the Internet sites and to order that the order issued by the Financial Markets Administrative Tribunal be posted on the home pages of these sites.”

[326] The Tribunal hereby orders the closure of the [www.plexcorps.com](http://www.plexcorps.com), [www.plexcoin.com](http://www.plexcoin.com) and [www.plexcoin.tech](http://www.plexcoin.tech) Internet sites, or any other Internet site similar in nature to such sites, published or distributed, directly or indirectly, by them.

[327] Section 12 of the *Securities Act* makes it illegal to distribute in securities from Québec, to persons established outside Québec, without a prospectus.

[328] The evidence adduced before the Tribunal shows that the distribution made by the Respondents was arranged at a location in Québec, namely, the offices of DL Innov.

[329] The exchanges between Respondent DL Innov's employee, Yan Ouellet, and Respondent Lacroix<sup>141</sup> allegedly show that distribution activities were carried out and initiated in Québec by the Respondents and DL Innov's employees.

[330] As noted in the Supreme Court of Canada decision in 1961 in *Gregory*, a "distribution made from Québec to locations outside of Québec" occurs when a distribution is initiated in Québec and then directed outside the province. On this matter, the Supreme Court stated the following:

The fact that the securities traded by appellant would be for the account of customers outside of the province or that its weekly bulletins would be mailed to clients outside of the province, does not, as decided in the Courts below, support the submission that appellant was not trading in securities or acting as investment counsel, in the province, within the meaning and for the purposes of the Act Respecting Securities.<sup>142</sup>

[331] Also, as this decision states:

The paramount object of the Act is to ensure that persons who, in the province, carry on the business of trading in securities or acting as investment counsel, shall be honest and of good repute and, in this way, to protect the public, in the province or elsewhere, from being defrauded as a result of certain activities initiated in the province by persons therein carrying on such a business. For the attainment of this object, trading in securities is defined in s. 14; registration is provided for in s. 16 as a requisite to trade in securities and act as investment counsel particularly; investment counsel is defined in s. 1; the business is regulated and certain actions or omissions in its conduct constitute infractions subject to sanctions.<sup>143</sup>

[332] Accordingly, the Tribunal grants the Authority's application to amend the order originally issued to ensure protection of the public and reissue an order against the Respondents PlexCorps, PlexCoin, DL Innov, Gestio and Lacroix, to close Internet sites.

### Orders against Facebook

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<sup>141</sup> Exhibit D-64.

<sup>142</sup> *Gregory & Co. Inc. v. Quebec Securities Commission*, *supra*, note 13.

<sup>143</sup> *Id.*

[333] At the time of the July 20, 2017 decision, the Tribunal issued certain orders against Facebook Canada. Given that Facebook filed a contestation separate from that of the Respondents, which will be heard at a later time, the Tribunal has not taken it into account in this decision, which shall remain in force until a decision is reached on the merits of the other said contestation.

#### **Orders dated September 21, 2017**

##### Freeze orders

[334] As previously mentioned, on September 21, 2017, the Tribunal issued freeze orders against Respondents Lacroix, DL Innov and Paradis-Royer and against the impleaded parties Royal Bank of Canada, Shopify Inc., Shopify Payments Canada and Wells Fargo Canada Corporation under section 249 of the *Securities Act*, which provides:

249. The Authority may, for the purposes of or in the course of an investigation, request the Financial Markets Administrative Tribunal to:

- (1) order the person who is or is about to be under investigation not to dispose of the funds, securities or other assets in his possession;
- (2) order the person who is or is about to be under investigation to refrain from withdrawing funds, securities or other assets from any other person having them on deposit, under control or in safekeeping;
- (3) order any other person not to dispose of the funds, securities or other assets referred to in paragraph 2.

[335] The purpose of these orders is to protect the public and prevent any squandering of funds obtained through the PlexCoin investment.

[336] The Tribunal restates the purpose of a freeze order by citing the following passage from *Nechi Investment Inc.*<sup>144</sup>:

[TRANSLATION]

“The purpose of a freeze order has already been set out in the case law. For example, in *Amswiss* the British Columbia Securities Commission made it clear in 1992 that “the purpose [...] is to preserve property for persons who may have common law or statutory claims to or interests in it, for example by way of rescission or damages.”

[...]

Under securities legislation, *Amswiss* states the purpose of a freeze order:

The immediate effect of a freeze order is to maintain the status quo, ensuring that the frozen property is not dissipated or destroyed before the commission is in a position to determine what, if any, further steps or orders in the public interest should be made under the Act.

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<sup>144</sup> *Nechi Investments Inc. v. Autorité des marchés financiers*, 2009 QCBDRVM 22.

In our view, the Legislature has recognized that, with the reality of modern technology and instantaneous securities transactions, securities commissions need tools that can respond accordingly if they are to properly effect the purpose Of the legislation.

[References omitted]

[337] According to the *de novo* evidence adduced by the Authority, Respondent Paradis-Royer was allegedly involved in the PlexCoin investment, notably through the use of her personal RBC bank accounts to hold the funds invested by the investors and then divert a portion of such investments to make payments unrelated to PlexCoin, such as personal payments on her home and that of Respondent Lacroix, then under construction.

[338] It seems that the money purportedly received from investors by Sidepay on the Shopify platform was then transferred to the bank accounts of Respondent Paradis-Royer. These funds were allegedly used for personal purposes and to pay the employees of Respondent DL Innov.

[339] Moreover, the evidence also showed the Tribunal that DL Innov's premises and employees were also used to market the project.

[340] Respondent Lacroix and Respondent Paradis-Royer were apparently involved namely in implementing the Shopify payment solution using the Sidepay site.

[341] In view of the foregoing, and based on the preponderance of the evidence, the Tribunal is satisfied that maintaining its freeze order of September 21, 2017 against Respondents Paradis-Royer, Lacroix and DL Innov and the impleaded parties Royal Bank of Canada, Shopify Inc., Shopify Payments Canada and the Wells Fargo Canada Corporation is justified in the public interest.

#### The prohibition order against Respondent Paradis-Royer

[342] As mentioned earlier, on September 21, 2017, the Tribunal also issued a prohibition order against Respondent Paradis-Royer under section 265 of the *Securities Act*.<sup>145</sup>

[343] The *de novo* evidence led the Tribunal to note that the Respondent was allegedly involved in the PlexCoin investment project, particularly by using her personal RBC bank accounts to collect funds invested by investors and then divert a portion of such funds to pay DL Innov employees and make other personal payments unrelated to PlexCoin.

[344] Moreover, various email exchanges with Sidepay in order to implement the payment solution for PlexCoin purchases, apparently originated with Respondent Paradis-Royer.

[345] The *de novo* evidence adduced by the Authority also shows that Respondent Paradis-Royer's credit card was seemingly used to pay certain PlexCoin and

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<sup>145</sup> *Supra*, note 6.

PlexCorps-related expenses, including the fees payable to Shopify to register the Sidepay online store.

[346] During a search of her home, Respondent Paradis-Royer apparently knew that the PlexCoin “whitepaper” was on the table and immediately informed Respondent Lacroix.

[347] The Tribunal points out that Respondent Paradis-Royer was apparently director of administration for the Respondent DL Innov.

[348] According to the evidence adduced by the Authority, a wall-mounted countdown clock was kept in plain sight in DL Innov offices showing the number days remaining until the PlexCoin investment.

[349] In the Tribunal’s opinion, the alleged involvement of Respondent Paradis-Royer in brokering the PlexCoin deal, justifies maintaining the freeze order issued by the Tribunal on September 21, 2017, in the public interest.

[350] In the circumstances, the Tribunal considers it appropriate to maintain the freeze order it issued on September 21, 2017 against Respondent Paradis-Royer in orders to protect the public interest.

## CONCLUSION

**CONSIDERING** the *de novo* evidence adduced by the parties and the representations of counsel, the Financial Markets Administrative Tribunal, pursuant to sections 93 and 94 of the *Financial Sector Supervision Act*<sup>146</sup> and sections 249 and 265 of the *Securities Act*<sup>147</sup>:

**ALLOWS** the amendment application of the *Autorité des marchés financiers*;

**ALLOWS** the reamended application by the *Autorité des marchés financiers* in the case at hand, as follows:

**MAINTAINS** the cease trade orders issued by the Tribunal against Respondents PlexCorps, PlexCoin, DL Innov inc., Gestio inc., Dominic Lacroix and Sabrina Paradis-Royer;

**MAINTAINS** the freeze orders, as since renewed, issued by the Tribunal against Respondents DL Innov inc., Dominic Lacroix and Sabrina Paradis-Royer and against impleaded parties the Royal Bank of Canada, Shopify Inc, Shopify Payments Canada and Wells Fargo Canada Corporation in its decisions of July 20, 2017 and September 21, 2017;

**MAINTAINS** the order regarding the impleaded party Facebook Canada LTD to close the PlexCorps and PlexCoin Facebook accounts;

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<sup>146</sup> In *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions*, SQ, 2018, c 23.

<sup>147</sup> *Supra*, note 6.

And issues the following new orders to replace orders having the same effect in the July 20, 2017 decision:

**ORDERS** PlexCorps, PlexCoin, DL Innov inc., Gestio inc. and Dominic Lacroix to shut down the www.PlexCorps.com, www.plexcoin.com and www.plexcoin.tech Internet sites or any other site of the same nature as such sites, posted or distributed, directly or indirectly, by them;

**ORDERS** PlexCorps, PlexCoin, DL Innov inc., Gestio inc. and Dominic Lacroix to withdraw all advertisement or solicitation of the same nature as that made on www.PlexCorps.com, www.plexcoin.com and www.plexcoin.tech Internet sites, on Facebook or on any internet discussion or otherwise, or concerning securities, posted or distributed, through the Internet or otherwise, directly or indirectly, by them.

The Tribunal notes that the freeze orders of September 21, 2017 have been extended several times. The last extension was issued on September 10, 2018 for a period of 9 months ending on June 13, 2019.

This decision shall not be interpreted as preventing the application of decision no. 2017-023-008 given on July 5, 2018,<sup>148</sup> which allows a partial lifting of the freeze order, with respect to acting receiver Emmanuel Phaneuf of the firm Raymond Chabot.

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**Lise Girard, Administrative Judge**

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**Elyse Turgeon, Administrative Judge**

Maître Annie Parent and Maître Nathalie Chouinard  
(Legal Services, *Autorité des marchés financiers*)

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<sup>148</sup> *Raymond Chabot Administrateur provisoire inc. v. Lacroix*, 2018 QCTMF 70.

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Hearing dates:       November 2 and 8, 2017  
                          January 24, 2018