

BUREAU OF SECURITIES
P.O. Box 47029
Newark, New Jersey 07101
(973) 504-3600

IN THE MATTER OF:

TRADESTATION CRYPTO, INC.,

Respondent.

CONSENT ORDER

BEFORE AMY KOPLETON ACTING, BUREAU CHIEF

Pursuant to the authority granted to Amy Kopleton, Acting Bureau Chief of the New Jersey Bureau of Securities (the “Bureau Chief”), under the Uniform Securities Law (1997), 49:3-47 to -89 (“Securities Law”), and after investigation, careful review, and due consideration of the facts and statutory provisions set forth below, the Bureau Chief hereby finds that there is good cause, and it is in the public interest to enter into a Consent Order (the “Consent Order”) with TradeStation Crypto, Inc. (hereinafter “TCI”), and TCI hereby agrees to resolve any and all issues in controversy regarding the specific conduct described herein on the terms set forth in this Consent Order.

INTRODUCTION

WHEREAS, TCI is part of a group of companies that engage in financial services;

WHEREAS, TCI has offered, and continues to offer, digital asset trading accounts to clients to purchase and sell digital assets;

WHEREAS, from approximately August 2020 until June 30, 2022, TCI’s digital asset trading accounts had a feature that accrued and paid interest to customers on certain digital asset balances in their accounts (the “Interest Feature”);

WHEREAS, the New Jersey Bureau of Securities (the “Bureau”) is the State agency with the responsibility to administer and enforce the Securities Law;

WHEREAS, N.J.S.A. 49:3-67 authorizes the Bureau Chief from time to time to issue such Orders as are necessary to carry out the provisions of the Securities Law, upon a finding that the action is necessary and appropriate in the public interest or for the protection of investors or consistent with the purposes fairly intended by the provisions of the Securities Law;

WHEREAS, the Bureau has conducted an investigation into the sale of unregistered securities by TCI, as set forth in this Consent Order;

WHEREAS state securities regulators, as part of a North American Securities Administrators Association (“NASAA”) Working Group that includes regulators from the states of Alabama, California, Mississippi, North Carolina, Ohio, South Carolina, Washington and Wisconsin (the “NASAA Working Group”), have conducted an investigation into whether the Interest Feature involved the offer and sale of unregistered securities by TCI to retail investors, among other things; and

WHEREAS, without admitting or denying any findings of fact or conclusions of law, TCI has reached an agreement with the NASAA Working Group to resolve the investigation with respect to the 47 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands (collectively, the “51 Jurisdictions”) as follows:

TCI has advised the NASAA Working Group of its agreement to resolve the securities investigation pursuant to the terms specified in this Consent Order and pursuant to the multistate resolution recommended by the NASAA Working Group;

TCI shall cease and desist offering, selling, or renewing the Interest Feature or any security that is not registered, qualified, or exempt to new clients in the 51 Jurisdictions, unless and until the Interest Feature or other securities are registered, qualified, or otherwise exempt;

As of the date of entry of this Consent Order, TCI has amended and updated the terms of service, and any other terms or conditions of TCI's relationship with residents of the 51 Jurisdictions, to reflect that such residents are the title, beneficial, and legal owners of all assets held in their digital asset trading accounts with TCI;

TCI shall pay up to a total of one million five hundred thousand dollars (\$1,500,000) in settlement payments divided equally among the 51 Jurisdictions and paid to each of the 51 Jurisdictions that enter into a consent order pursuant to the terms of TCI's agreement with the NASAA Working Group;

TCI and the Bureau Chief wish to resolve the Bureau's investigation regarding the specific conduct described herein without the expense and delay that formal proceedings would involve;

TCI consents to the form, content, and entry of this Consent Order. Accordingly, TCI waives the following rights:

- a. To be afforded an opportunity for a hearing on the Bureau Chief's findings of fact and conclusions of law in this Consent Order; and
- b. To seek judicial review of, or otherwise challenge or contest, the validity of this Consent Order;

TCI agrees that solely for the purposes of settling this matter, or any future proceedings by the Bureau regarding the specific conduct described herein, this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to N.J.S.A. 52:14B-1 to -31;

This Consent Order concludes the investigation and action by the Bureau Chief and any civil or administrative action that could be commenced, pursuant to the Securities Law, on behalf of the Bureau Chief, as it relates to seeking civil monetary penalties or other relief against TCI for the specific conduct described herein solely as it relates to TCI;

TCI admits to the jurisdiction of the New Jersey Bureau of Securities in this matter; and

Solely for the purpose of terminating the NASAA Working Group's securities investigation and in settlement of the issues contained in this Consent Order, TCI, without admitting or denying the findings of fact or conclusions of law contained herein, consents to the entry of this Consent Order. Notwithstanding the foregoing, TCI will admit to the findings of fact and conclusions of law solely for the purposes of exceptions to discharge in bankruptcy proceedings under any jurisdiction, including the proceedings set forth in Sections 523 and 1192 of the Bankruptcy Code, 11 U.S.C. §§ 523; 1192 (1978).

NOW, THEREFORE, the Bureau Chief, as administrator of the Securities Law, hereby enters this Consent Order:

I. FINDINGS OF FACT

1. The Bureau has jurisdiction over this matter pursuant to the Securities Law.
2. TCI is a Florida corporation that was formed in June 2018 and is in the business of providing online digital asset trading accounts to self-directed retail and institutional investors and traders for the purpose of buying, selling, trading, and holding certain digital assets, which today include Bitcoin (BTC), Ether (ETH) and USD Coin (USDC).
3. TCI is a subsidiary of TradeStation Group, Inc., which is headquartered in Plantation, Florida. Since 2011, TradeStation Group, Inc. has been a wholly-owned subsidiary of Monex Group, Inc. ("Monex"), a publicly traded Japanese corporation listed on the Tokyo Stock

Exchange. TradeStation Group, Inc. is also the parent company of TradeStation Securities, Inc., and TradeStation Technologies, Inc. which also have their principal place of business in Plantation, Florida.

4. These affiliates, specifically TCI, TradeStation Securities, Inc., and TradeStation Technologies, Inc., all use brand messaging under the “TradeStation” trademark to advertise their respective platforms and services.

5. TCI is a registered Money Transmitter Licensee with the New Jersey Department of Banking and Insurance.

The Offer and Sale of Securities in New Jersey and Nationwide

6. TCI began offering its digital asset trading accounts in or around August 24, 2021 to New Jersey residents. From August 24, 2021 to June 30, 2022 (the “Offering Period”), TCI offered the Interest Feature to at least 142 New Jersey investors. Through the Interest Feature, TCI paid interest to customers who held digital asset balances in their TCI digital asset trading accounts. To pay the interest, TCI generated revenue through lending both firm-owned and customer-owned digital assets to institutional borrowers, from commissions earned by TCI customer trading activity in their digital asset trading accounts, and from capital that was contributed to TCI in connection with the start-up of its business operations. On June 30, 2022, at the end of the Offering Period, there were 182 active New Jersey digital asset trading accounts with TCI, collectively valued at over \$631,433 USD. Nationally, at the end of the Offering Period, there were a total of 11,958 active digital asset trading accounts with TCI, with assets under custody totaling \$98,214,155.40 USD.

TCI's Interest Feature

7. During the Offering Period, TCI advertised that customers could “actively trade and earn interest on eligible crypto assets simultaneously.” TCI described the Interest Feature as “passive income.” TCI advertised that customers could earn up to 6 percent interest on eligible digital assets that customers held in digital asset trading accounts with TCI. TCI paid interest on several types of digital assets, including Bitcoin, Ether, Litecoin, Bitcoin Cash, and USDC Stablecoin.

8. TCI offered its digital asset trading accounts to the general public through the TradeStation website (www.TradeStation.com). The website supports TradeStation Securities, Inc., TradeStation Technologies, Inc. and TCI. TCI also offered a mobile version of its web application for trading digital assets.

9. TCI promoted the Interest Feature in internet ads that would appear in search engine results based on certain terms searched by customers. TCI promoted the Interest Feature by advertising, for example: “Automatically Earn Interest on Eligible Crypto Balances with No Limits or Lockups,” “Easily Customize the Trading Interface, Analyze Prices & Keep Track of Interest Income,” “We Put the Power in Your Hands to Buy, Sell, Invest, and Earn Cryptocurrencies,” and “Join the New Digital Economy with TradeStation Crypto to Learn, Invest, and Earn Crypto.”

10. TCI allowed eligible customers to apply for a digital asset trading account by utilizing a unified TradeStation online account opening process (the “AOP”) that allowed prospective customers to select and apply for the desired account type. As part of the AOP, prospective customers provided personal information for the purpose of Know Your Customer (KYC) and Anti Money Laundering (AML) checks. Socure, a third-party identity verification

provider, then verified customer-provided information against Socure-sourced information, including public records.

11. TCI set interest rates and credited TCI customer accounts with earned interest on a monthly basis. According to TCI, the interest “accumulates daily and is paid and compounds monthly directly in your TradeStation Crypto account.” TCI based interest rates on a number of factors, including, but not limited to, the rates TCI earned from borrowers, economic, and competitive factors.

12. TCI commingled customers’ like-kind digital assets together and rehypothecated, or used, the customers’ digital assets to lend to “trusted institutional or corporate borrowers,” such as BlockFi Lending LLC and Genesis Global Capital, LLC—both of which have since filed for bankruptcy protection. TCI represented that notwithstanding, no borrower failed to return all digital assets lent by TCI to it, and none of TCI’s customers lost money from the Interest Feature.

13. TCI represented that it implemented various risk mitigation strategies towards its lending activities and that all loans made by it were fully secured. TCI set the amount of crypto assets that it was willing to lend to individual borrowers depending on the borrower’s credit profile. TCI further represented that it utilized its “automated risk management system” to “monitor positions 24/7” and maintained a reserve balance to fulfill TCI customer withdrawal demands. Further, TCI claimed to maintain an internal risk committee to evaluate, among other things, credit and market risks that may affect its business. Customer account balances with TCI were not protected by the Securities Investor Protection Corporation or insured by the Federal Deposit Insurance Corporation.

14. During the account opening process, TCI required customers to agree to the rehypothecation of their digital assets when the customer accepted the TCI Terms, including the

Customer Account Agreement, during account set-up. Specifically, TCI required that customers agree that TCI may hold the digital assets in TCI's name, that their digital assets could be commingled with other customers' digital assets, and that TCI could "pledge, repledge, hypothecate, rehypothecate, loan or invest" the digital assets. Further, the agreements provided that TCI was under no obligation to share with its customers any of the interest revenue generated by TCI's lending arrangements.

15. Customer deposits into TCI's digital asset trading accounts during the period when the Interest Feature was offered were passive investments. TCI alone determined how customer assets were deployed; TCI customers had no control over how their assets were invested. TCI required that customers give up certain rights to their assets—specifically, that customers agreed to allow TCI to "pledge, repledge, hypothecate, rehypothecate, loan or invest" digital assets.

16. On or about June 30, 2022, TCI discontinued the Interest Feature and ceased all lending activities of customer assets.

Failure to Comply with Registration Requirements

17. The Interest Feature is a security as defined in N.J.S.A. 49:3-49(m).

18. During the Offering Period, TCI offered and sold securities in New Jersey that were not registered with the Bureau, federally covered, or exempt from registration, in violation of N.J.S.A. 49:3-60.

II. CONCLUSIONS OF LAW

19. The offer and/or sale of the Interest Feature within digital assets trading accounts maintained by customers as described above constitutes the offer and/or sale of a security as defined in N.J.S.A. 49:3-49(j) and N.J.S.A. 49:3-49(m), respectively.

20. During the Offering Period, TCI's offer and sale of securities in New Jersey that were not registered, federally covered, or exempt violated N.J.S.A. 49:3-60.

21. Each and every one of the foregoing violations of N.J.S.A. 49:3-60 constitutes the basis for the assessment of a civil monetary penalty against TCI pursuant to N.J.S.A. 49:3-70.1.

III. ORDER

Based on the Findings of Fact, Conclusions of Law, and TCI's consent to the entry of this Consent Order, IT IS HEREBY ORDERED:

22. This Consent Order concludes the securities investigation by the Bureau with respect to TCI's Interest Feature and resolves any other securities action the Bureau could commence against TCI and its affiliates concerning the Findings of Fact and Conclusions of Law, including as it relates to the offer and sale of the Interest Feature without registration, qualification, or otherwise complying with an exemption.

23. This Consent Order is entered into solely for the purpose of resolving the Bureau's and the referenced multi-state securities investigation with respect to the Interest Feature and is not intended to be used for any other purpose. Other than the obligations and provisions set forth herein, this Consent Order does not limit or create liability for TCI nor limit or create defenses for TCI to any claims.

24. This Consent Order is not intended to subject any Covered Person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, Guam, or the U.S. Virgin Islands, or under the rules or regulations of any securities or

commodities regulator or self-regulatory organization, including, without limitation, any disqualification from relying upon the state or federal registration exemptions or safe harbor provisions. “Covered Persons” means TCI, all of its parent companies, and all of its affiliates and their current or former officers, directors, employees, contractors, or other persons that could otherwise be disqualified as a result of this Consent Order.

25. TCI is hereby ORDERED to cease and desist from offering, selling or renewing the Interest Feature or any security that is not registered, qualified, or exempt to investors in New Jersey.

26. TCI is hereby ORDERED to pay a civil monetary penalty in the amount of \$29,411.76 to the Bureau, which shall be payable to the State of New Jersey, Bureau of Securities, and shall be deposited in the Securities Enforcement Fund pursuant to N.J.S.A. 49:3-66.1.

27. Full payment in the amount of \$29,411.76 (in United States dollars) shall be tendered on or before entry of this Consent Order.

28. Payment must be made in one of the following ways:

- a. TCI may transmit payment electronically to the Bureau, which will provide detailed ACH transfer instructions upon request; or
- b. TCI may pay by certified check, bank cashier’s check, or United States postal money order, made payable to the State of New Jersey, Bureau of Securities and hand delivered or mailed to: Bureau of Securities, 153 Halsey Street, 6th Floor, Newark, New Jersey 07102.

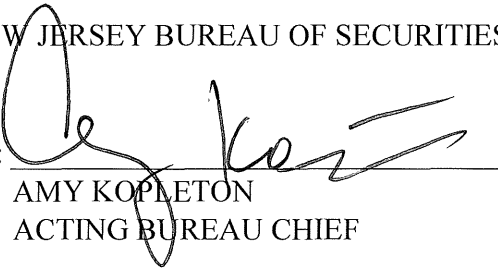
29. Payments must be accompanied by a cover letter identifying TCI (with relevant tax identification numbers).

30. This Consent Order shall be binding upon TCI, its parent and affiliates, and their respective successors and assigns with respect to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

SIGNED AND ENTERED BY THE ACTING BUREAU CHIEF this 10th day of January, 2024.

NEW JERSEY BUREAU OF SECURITIES

By:



AMY KOPLETON
ACTING BUREAU CHIEF

**CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY TRADESTATION
CRYPTO, INC.**

TradeStation Crypto, Inc. (TCI), hereby further understands, acknowledges, and agrees to the following (the Bureau and TCI are referred to below (i) individually as “party” and (ii) together as “parties”):

Waiver of Hearing Rights. TCI acknowledges that it has been served with a copy of the Consent Order, has read the foregoing Consent Order, is aware of its right to a hearing and appeal in this matter, and has waived the same. TCI hereby waives the right to any hearings, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to N.J.S.A. 49:3-68.1(b), or any other provision of law.

Failure to Comply with Order. TCI agrees that if it fails to comply with the terms of the Consent Order, the Bureau may seek any and all remedies under the law.

Information Willfully Withheld or Misrepresented. The Consent Order may be revoked and the Bureau may pursue any and all remedies available under the law against TCI if the Bureau discovers that TCI knowingly or willfully withheld or misrepresented information used for and relied upon in the Consent Order.

Future Actions by the Bureau. If TCI fails to comply with the terms of the Consent Order, the Bureau may institute proceedings for any and all violations otherwise resolved under the Consent Order. The Bureau reserves the right to bring any future actions against TCI, or any of its partners, owners, officers, shareholders, directors, employees or successors for any and all violations of any law over which the Bureau has jurisdiction other than violations resolved under this Consent Order.

Jurisdiction & Findings. TCI admits to the jurisdiction of the Bureau, neither admits nor denies the Findings of Fact and Conclusions of Law contained in the Consent Order, and consents to entry of the Consent Order by the Bureau as settlement of the issues contained in the Consent Order. Notwithstanding the foregoing, TCI will admit to the Findings of Fact and Conclusions of Law solely for the purposes of exceptions to discharge in bankruptcy proceedings under any and

all jurisdictions, including the proceedings set forth in Sections 523 and 1192 of the Bankruptcy Code, 11 U.S.C. §§ 523; 1192.

No Tax Deduction or Credit. TCI agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for any administrative fine or investigative costs that TCI shall pay pursuant to the Consent Order.

Assisting Other Agencies. Nothing in the Consent Order limits the Bureau's ability to assist any other government agency (city, county, state or federal) with any prosecution, administrative, civil or criminal action brought by that agency against TCI or any other person based on any of the activities alleged in this matter or otherwise.

No Presumption Against Drafter. Each party acknowledges that it has had the opportunity to draft, review, and edit the language of the Consent Order. Accordingly, the parties intend no presumption for or against the drafting party will apply in construing any part of this Settlement. For the avoidance of doubt, the parties agree that the doctrine of contra proferentum, which provides that in cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist is not applicable to the Consent Order.

Independent Legal Advice. Each of the parties represents, warrants, and agrees that it has had the opportunity to receive independent advice from an attorney(s) and/or representatives with respect to the advisability of executing the Consent Order.

Headings. The headings to the paragraphs of the Consent Order are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof.

Binding. The Consent Order is binding on all of TCI's heirs, assigns, and/or successors in interest.

Reliance. Each of the parties represents, warrants, and agrees that in executing the Consent Order, it has relied solely on the statements set forth herein and the advice of its own legal counsel, if represented. Each of the parties further represents, warrants, and agrees that in executing the Consent Order it has placed no reliance on any statement, representation, or promise of any other party, or any other person or entity not expressly set forth herein, or upon the failure of any party

or any other person or entity to make any statement, representation, or disclosure of anything whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute the Consent Order; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of the Consent Order.

Waiver, Amendments, and Modifications. No waiver, amendment, or modification of the Consent Order will be valid or binding unless it is in writing and signed by each of the parties. The waiver of any provision of the Consent Order will not be deemed a waiver of any other provision. No waiver by either party of any breach of, or of compliance with, any condition or provision of the Consent Order by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

Full Integration. The Consent Order is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the parties, their respective representatives, and any other person or entity, with respect to the subject matter covered hereby.

Governing Law. The Consent Order will be governed by and construed in accordance with the laws of the State of New Jersey. Each of the parties hereto consents to the jurisdiction of a state or federal court located in New Jersey and thereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such court.

Counterparts. The Consent Order may be executed in one or more separate counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall together constitute a single document.

Effect Upon Future Proceedings. If TCI applies for any license, permit, or qualification under the Bureau' jurisdiction, or is the subject of any future action by the Bureau to enforce the Consent Order, then the subject matter hereof shall be admitted for the purpose of such application(s) or enforcement proceeding(s); provided, however, that, for the avoidance of doubt,

such admission of the subject matter hereof shall not be construed as any admission or denial by TCI of any Findings of Fact or Conclusions of Law contained herein.

Voluntary Agreement. TCI hereby enters into the Consent Order voluntarily and without coercion and acknowledges that no promises, threats, or assurances have been made by the Bureau or any officer, or agent thereof, about the Consent Order to induce TCI to enter into the Consent Order. The parties each represent and acknowledge that he, she or it is executing the Consent Order completely voluntarily and without any duress or undue influence of any kind from any source.

Notice. Any notice required under the Consent Order shall be provided to each party at the following email addresses:

To TCI: David Schubauer
General Counsel, TradeStation Crypto, Inc.
dschubauer@tradestation.com

Gary DeWaal
Katten Muchin Rosenman LLP
50 Rockefeller Plaza
New York, NY 10020
(212) 940-6558
gary.dewaal@katten.com

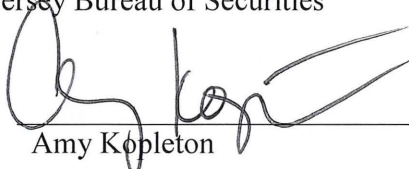
To the Bureau: Evan A. Showell
Deputy Attorney General
State of New Jersey
Division of Law, Securities Fraud Prosecution
124 Halsey Street, 2nd Floor
Newark, NJ 07101

Signatures. A fax or electronic mail signature shall be deemed the same as an original signature.

Public Record. TCI hereby acknowledges that the Consent Order is and will be a matter of public record.

Effective Date. The Consent Order shall become final and effective when signed by all parties and delivered by the Bureau's agent via e-mail to TCI's counsel for this matter, Gary DeWaal, at the following email address: gary.dewaal@katten.com.



Authority to Sign. David Schubauer represents that he is General Counsel of TCI and that, as such, has been authorized by TCI to enter into the Consent Order for and on behalf of TCI.

New Jersey Bureau of Securities
Dated this 18th day of January, 2024.
New Jersey Bureau of Securities
By: 
Amy Kopleton
Title: Acting Bureau Chief

~~SUBSCRIBED AND SWORN TO before
me this ___ day of ___, 2024.
[Affix seal]

Notary Public in and for the State of

My Commission expires:
_____~~

TradeStation
Dated this 4th day of January, 2024.
TradeStation Crypto, Inc.
By: David Schubauer  01/04/2024 01:05 PM EST
David Schubauer
Title: General Counsel
Approved as to form by:
Gary DeWaal  01/04/2024 01:08 PM EST
Katten Muchin Rosenman LLP
SUBSCRIBED AND SWORN TO before
me this 4th day of January, 2024.
[Affix seal]
Tamara McLendon-Coleman  01/04/2024 01:22 PM EST
Notary Public in and for the State of
Florida
My Commission expires:
07/26/2025


Online Notary Public. This notarial act involved the use of online audio/video communication technology. Notarization facilitated by SIGNIX®