

STATE OF NORTH DAKOTA

SECURITIES DEPARTMENT

In the Matter of Magma Foundation,	)	<b>CEASE AND DESIST ORDER,</b>
a/k/a Magma Coin, a/k/a Magma,	)	<b>NOTICE OF CIVIL PENALTY,</b>
and their Officers, Directors, Agents,	)	<b>ORDER FOR RESCISSION,</b>
and Employees,	)	<b>AND</b>
Respondents.	)	<b>NOTICE OF RIGHT TO</b>
	)	<b>REQUEST A HEARING</b>

.....

**THE SECURITIES COMMISSIONER OF THE STATE OF NORTH DAKOTA TO:**

**MAGMA FOUNDATION, a/k/a MAGMA COIN, a/k/a MAGMA, and their OFFICERS, DIRECTORS, AGENTS, and EMPLOYEES, RESPONDENTS.**

The North Dakota Securities Commissioner has a reasonable basis to believe that the Respondents have engaged in, are engaging in, or are about to engage in, acts, practices or transactions, as more fully described below, which are prohibited under Chapter 10-04 of the North Dakota Century Code (N.D.C.C.). It is necessary and appropriate in the public interest and for the protection of investors to restrain these acts, practices, or transactions of the Respondents.

1. Respondent Magma Foundation, a/k/a Magma Coin, a/k/a Magma ("Magma") is a company that alleges via its website that its "Headoffice" is located in Manchester, United Kingdom, and its Development Office is located in Denver, Colorado. A physical address is not provided for either location.
2. Respondent Magma conducts its business primarily on the internet and maintains a website accessible at [www.magmacoin.org](http://www.magmacoin.org), (the website). According to the website, the only way to contact the company is through its email addresses: [investment@magmacoin.org](mailto:investment@magmacoin.org) and [ico@magmacoin.org](mailto:ico@magmacoin.org).

3. Through the website, Respondent Magma is offering the general public, including residents of the state of North Dakota, an Initial Coin Offering, (ICO), for a token named "MGM" which is allegedly backed by gold and/or Exchange Traded Funds (ETFs). The website also includes instructions on how to participate and purchase the tokens, which mandates that purchasers must buy MGM tokens with Ethereum ("ETH") tokens.
4. The website states that there are four ICO phases:
  - a. The Pre-ICO, which purportedly already took place, resulted in the sale of \$3.4 million worth of tokens. During this phase, the MGM token price was \$0.22.
  - b. Stage 1 of the ICO purportedly took place from March 16 through March 31, 2018. During this phase, the MGM token price was \$0.35.
  - c. Stage 2 of the ICO purportedly took place from April 1 through April 15, 2018. However, the website states that this stage of the ICO is still active. During this phase, the MGM token price was \$0.45.
  - d. Stage 4 of the ICO purportedly took place from April 16 through May 1, 2018. During this phase, the MGM token price was \$0.60.
5. The website states that the MGM token allegedly enables users to take delivery of gold at Magma's purported custodial vault, or through customized gold coins that can be shipped to them.
6. The website states that after the ICO ends, MGM tokens will be sold on crypto exchanges HitBTC and C-Cex.
7. Magma's Whitepaper, which explains the token offering and is posted on the website, contains the following:
  - a. The Whitepaper states that the "cryptoasset" it offers is called "GOLD", which is used to help owners trade, loan, invest in, and generally use for profit.
  - b. It further states that the company uses Exchange Traded Funds (ETFs) or physical gold as its "security", and it uses ETFs for liquidity and elasticity.

- c. The Whitepaper also states that investors may want to buy GOLD as cryptocurrency or as a type of security.
  - d. The Whitepaper lists London Bullion Market Association ("LBMA") as the provider for certified gold bullion bars, and authenticator of the reported gold assets. However, a representative of LBMA has stated that Magma is not a member of LBMA, and therefore it doesn't provide gold to Magma.
8. None of the offering materials on the website contemplate that purchasers of MGM tokens would have an eventual role in the management of the company.
9. Respondent Magma willfully fails to disclose material facts when offering the MGM and GOLD investments and makes fraudulent misrepresentations including the following:
  - a. The identity of the principals of Magma and the actual location of its operations and management (pictures of the "team" were stolen from another site and assigned fake names);
  - b. Information about the assets and liabilities of Respondent Magma and any other information describing the means by which Respondent will provide investors with the promised return on investments;
  - c. Information about its trading platform, allegedly under development, proof of its existence, and the risk factors associated with its use; and
  - d. That the investments offered by Respondent are securities and not properly registered as such with state and federal regulators.
10. The investments offered for sale by Respondent Magma are securities as defined in N.D.C.C. §10-04-02(19).
11. The subject securities have not been registered with the Securities Department under N.D.C.C. §§ 10-04-07.1, 10-04-08, or 10-04-08.1; are not exempt securities under N.D.C.C. § 10-04-05; and have not been offered for sale or sold in exempt transactions under N.D.C.C. § 10-04-06; and are not federal covered securities or have not been properly filed as federal covered securities under N.D.C.C. § 10-04-

08.4. All offers and/or sales of the subject investments were made in violation of N.D.C.C. § 10-04-04.

12. The Respondent Magma was not registered as a broker-dealer or issuer-dealer with the Securities Department at the time of the offers and/or sales of the subject investments, in violation of N.D.C.C. § 10-04-10(1).
13. The Officers, Directors, Agents and Employees of the Respondent Magma were not registered as an agent with the Securities Department at the time of the offers and/or sales of the subject investments, in violation of N.D.C.C. § 10-04-10(2).
14. The Respondent Magma has offered and/or sold the above-referenced securities by use of material misrepresentations and/or omissions, has engaged in a scheme or artifice to defraud investors and/or has otherwise engaged in fraudulent or deceptive practices in violation of N.D.C.C. § 10-04-15.

**NOW, THEREFORE, IT IS ORDERED**, pursuant to N.D.C.C. § 10-04-16, that the Respondents shall immediately **CEASE AND DESIST**:

1. From offering for sale or selling in North Dakota the subject securities, or any other securities however denominated, unless and until such securities have been registered with the Securities Department or offered for sale pursuant to an exemption from registration.
2. From offering for sale or selling securities, or effecting transactions in securities, in North Dakota unless and until they have registered with the Securities Commissioner as broker-dealers, issuer-dealers or agents.

3. From using material misstatements or omissions, engaging in a scheme or artifice to defraud investors, or from engaging in any fraudulent or deceptive practices, in connection with the offer and/or sale of securities in this state.

**YOU ARE NOTIFIED that any willful violation of this order is a Class B Felony pursuant to N.D.C.C. § 10-04-18(1). Pursuant to N.D.C.C. § 12.1-32-01(3), a Class B Felony is punishable by a \$20,000 fine and 10 years' imprisonment, with respect to a natural person. Pursuant to N.D.C.C. § 12.1-32-01.1(2), a Class B Felony is punishable by a \$70,000 fine with respect to an organization.**

**YOU ARE FURTHER NOTIFIED that, pursuant to N.D.C.C. § 12.1-09-03, a person is guilty of a criminal offense if that person intentionally "alters, destroys, mutilates, conceals, or removes a record, document, or thing with intent to impair its verity or availability" in an official proceeding. As such, intentional destruction of any documents related to this matter may result in criminal prosecution.**

#### **NOTICE OF CIVIL PENALTY**

**YOU ARE NOTIFIED that the above-cited violations are sufficient grounds for the imposition of civil penalties pursuant to N.D.C.C. § 10-04-16(1). The Securities Commissioner does not herein assess a civil penalty, but the Commissioner expressly reserves the authority to assess civil penalties, not to exceed \$10,000 per violation, regarding the violations outlined above, any other violations subsequently discovered, or any future securities violations or violations of this order.**

#### **ORDER FOR RESCISSION**

The Securities Commissioner further Orders that the Respondents shall, within sixty days of the date of this Order, make rescission of any transactions previously made

with residents of the State of North Dakota, for the full amount paid for the securities, plus interest at the statutory rate, and less the amount of any income received on the securities by said resident, pursuant to the provisions of N.D.C.C. §§ 10-04-16(1) and 10-04-17.

**NOTICE OF RIGHT TO REQUEST A HEARING**

**YOU ARE NOTIFIED** that pursuant to N.D.C.C. § 10-04-12 you may request a hearing before the Securities Commissioner if such a request is made in writing WITHIN FIFTEEN (15) DAYS AFTER THE RECEIPT OF THIS ORDER. The Respondents have the right to be represented by legal counsel at the hearing.

**IN TESTIMONY WHEREOF,** witness my hand and seal this 19<sup>th</sup> day of September, 2018.



  
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Karen J. Tyler, Securities Commissioner  
North Dakota Securities Department  
600 East Boulevard Ave.  
State Capitol – Fifth Floor  
Bismarck, ND 58505-0510  
(701) 328-2910

STATE OF NORTH DAKOTA

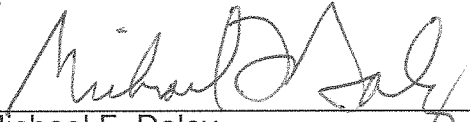
SECURITIES DEPARTMENT

In the Matter of Magma Foundation, )  
a/k/a Magma Coin, a/k/a Magma, )  
and their Officers, Directors, Agents, )  
and Employees, )  
Respondents. )

**CERTIFICATE OF SERVICE**

.....  
I, Michael F. Daley, hereby certify that on the 19<sup>th</sup> day of September, 2018, I served the above-named Respondents, via email at ico@magmacoin.org, with true and correct copies of the Cease and Desist Order, Notice of Civil Penalty, Order for Rescission, and Notice of Right to Request a Hearing, and this Certificate of Service.

Dated this 19<sup>th</sup> day of September, 2018.

By:   
Michael F. Daley  
Special Assistant Attorney General  
State Bar ID No. 03656  
North Dakota Securities Department  
600 East Boulevard Avenue  
State Capitol – 5<sup>th</sup> Floor  
Bismarck, ND 58505-0510  
Telephone (701) 328-4701  
Facsimile (701) 328-2946

## Daley, Michael F.

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**From:** Daley, Michael F.  
**Sent:** Wednesday, September 19, 2018 2:19 PM  
**To:** 'ico@magmacoin.org'  
**Cc:** Mathias, Kelly W.; Corina E. Abbatoye (ceabbatoye@nd.gov)  
**Subject:** In the Matter of Magma Foundation, a/k/a Magma Coin, a/k/a Magma, Respondents  
**Attachments:** Signed Magma Foundation ICO Cease and Desist Order and Certificate of Service.pdf

I, Michael F. Daley, hereby certify that on the 19<sup>th</sup> day of September, 2018, I served the above-named Respondents, via email at ico@magmacoin.org, with true and correct copies of the Cease and Desist Order, Notice of Civil Penalty, Order for Rescission, and Notice of Right to Request a Hearing, issued by the North Dakota Securities Commissioner this date and a Certificate of Service, all as attached hereto.

Michael F. Daley  
Enforcement Attorney  
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