

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
ADMINISTRATIVE ACTION NO. 2022-AH-0014



DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

FLAMINGO CASINO CLUB

RESPONDENT

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**EMERGENCY ORDER TO CEASE AND DESIST**

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The Department of Financial Institutions (hereinafter referenced as the “Department”), pursuant to Kentucky Revised Statute (KRS) 292.470, KRS 292.500, and 808 Kentucky Administrative Regulation (KAR) 10:225, hereby enters this **Emergency Order to Cease and Desist** against Flamingo Casino Club (hereinafter referenced as “Respondent” or “Flamingo”). In support thereof, the Department states as follows:

**PARTIES**

1. The Department of Financial Institutions is responsible for administering the provisions of KRS Chapter 292, the Securities Act of Kentucky (“the Act”), as well as any applicable rules, regulations and orders entered pursuant to the Act.
2. Flamingo Casino Club is an entity in the business of virtual gaming. Respondent is not affiliated with the similarly named Flamingo Las Vegas, a casino hotel owned and operated by Caesars Entertainment.
3. Flamingo purports the following people serve in management roles for the Respondent, though Respondent has not provided any further information material to verify this information:

a. Flamingo's co-founder is David Aaronson, aka David Aarson, which Flamingo represents is an experienced lawyer, seasoned financial expert, and vice president of a large financial company. Any other co-founder is unknown as of the date of this Order.

b. Flamingo's casino manager is Waldo Lorenzo.

c. Flamingo's social media manager is Julia Munn.

d. Flamingo's community manager is Sebastian Ruspoli.

4. Due to the nature of Flamingo's online business model and, upon information and belief, Flamingo's concealment of its address and location, Respondent does not have a readily ascertainable principal office or agent for service of process. Upon information and belief, the following address is the last known address by which the Department may serve Flamingo:

a. 4440 Cherry Ridge Drive, Rochester, New York 32746. This is the address that Flamingo purports to operate out of, however, it is an address that does not appear to exist.

b. Privacy Protect LLC, 10 Corporate Drive, Burlington, MA 01803. This is the address for the company providing Flamingo with identity protection services by serving as the registrant, administrative contact, and technical contact for the Flamingo Casino Website.

c. Hostinger UAB, Jonavos g. 60C, Kaunas, 44192 Lithuania. This is an address of the firm providing webhosting services on behalf of Flamingo.

d. Hostinger UAB, J. Basanaviciaus g. 26, Vilnius, 03224 Lithuania. This is an address of the firm providing webhosting services on behalf of Flamingo.

e. Hostinger International LTD, 61 Lordou Vironos Street, 6023 Larnaca, Cyprus. This is an address of the firm providing webhosting services on behalf of Flamingo.

f. VK LLC, Leningradsky Prospekt 39 p. 79, 125167 Moscow, Russia. This is the address for the social media and communication firm that administers Flamingo's purported email address.

### STATEMENT OF FACTS

5. On or about April 15, 2022, the Department began investigating Flamingo's activities, determining the facts and circumstances described herein.

6. On or about March 2022, Flamingo began operating in Russia. On March 3, 2022, Flamingo used an application programming interface ("API"), desktop computer, and a mobile device with IP addresses traceable to Moscow, Russia and interacted with Hostinger UAB, a Lithuanian firm that provided webhosting services for Flamingo's website, <https://flamingocasino.io>. Flamingo represented to Hostinger UAB that its email address was [flamingocasinoclub@mail.ru](mailto:flamingocasinoclub@mail.ru), which was administered by VK LLC, a social media and communication firm operating in Moscow, Russia. Flamingo also represented to Hostinger UAB that its operating address was 4440 Cherry Ridge Drive, Rochester, New York 32746.

7. The address that Flamingo provided to Hostinger UAB is not a valid mailing address in Rochester, New York or otherwise verifiable when searching for the address online.

8. Flamingo purports to be developing a casino in the metaverse, a virtual world focused on social connections, interactivity, commerce, entertainment, and business. Metaverses typically incorporate technological innovations such as blockchain, augmented reality ("AR"), virtual reality ("VR"), digital assets, and non-fungible tokens ("NFTs"). Metaverses have also popularized a virtual real estate industry, where purchasers buy plots of "virtual land" in a particular metaverse, which allows businesses to construct spaces to conduct activities in the metaverse.

9. On or about May 2022, Flamingo plans to purchase virtual land for its metaverse casino in the Sandbox metaverse, a metaverse governed by a decentralized autonomous organization (“DAO”). In the Sandbox metaverse, there is no centralized leadership; instead, members of the Sandbox metaverse may participate in governing decisions of that metaverse by acquiring “\$SAND” cryptocurrency tokens.

10. Flamingo’s metaverse casino operates by customers utilizing metaverse avatars. These avatars can visit the virtual location and avail customers with online versions of horse racing, cinemas, fashion shows, bowling, tennis, polo, poker, lotteries, craps, palace baccarat, mini-baccarat, blackjack, and roulette.

11. Flamingo has a name substantially similar to Flamingo Las Vegas, a famous casino hotel located on the Las Vegas Strip of Paradise, Nevada. Flamingo’s metaverse casino is not owned or operated by Caesars Entertainment, the company that owns and operates the real-world Flamingo Las Vegas. Nevertheless, Respondent states under the “Partners” section of its website that “We are the part of the best and oldest casino hotel in Las Vegas Flamingo Las Vegas” (quoted verbatim without correction). Flamingo also publishes images of Flamingo Las Vegas on its website. Flamingo has further represented other casinos operating in or near Las Vegas, Nevada partnered with Respondent, however, no information has been provided to identify or verify these casinos.

12. Flamingo plans to fund the development and administration of its metaverse casino through the sale NFTs to the public.

13. NFTs are tokens purportedly representing ownership of a unique item, such as a digital work of art, and are secured by the Ethereum blockchain, a decentralized peer-to-peer network platform. The Ethereum blockchain can run “smart contracts”, which are programs that automatically execute a specific transaction if certain conditions are met.

14. Flamingo's VIP NFTs, which Respondent describes as a "probably-rare piece of art", are 11,111 "hand-drawn" artistic works that are generated from over 300 "traits" so that each NFT is unique. For example, if a particular set of NFTs depict a clothed humanoid figure with foreground and background elements, the NFT traits could be variations on the figure's head, what the figure is wearing, what activity the figure appears to be performing, what objects are featured in the foreground, or a particular NFT could simply be a variation of any or all of the colors and patterns used in the depiction of an otherwise identical image.

15. Flamingo states on its website that owners of Flamingo Casino Club VIP NFTs will benefit from "becoming a casino owner" and "50% of the generated profits in the Flamingo casino club will be distributed VIP NFT holders Holding your VIP NFT will generate passive income, which can be used in the online (with rake back benefits) or paid out of your wallet" (quoted verbatim without correction).

16. Flamingo reemphasizes in its FAQ that "We will distribute 50% of all profits generated in the FlamingoCasinoClub to our NFT holders. The more NFTs you hold, the more share you will receive" (quoted verbatim without correction).

17. As of the date of this order, 10,711 NFTs out of a total of 11,111 NFTs have been offered, with the remaining NFTs reserved for marketing surrounding the metaverse casino launch, metaverse casino prizes, and the team that manages the Respondent. Flamingo directed purchasers to mint its NFTs through its own website and to purchase its NFTs through Ozone Networks, Inc. (dba "OpenSea") and Rarible, both of which are online marketplaces for discovering, buying and selling NFTs.

18. On March 17, 2022 and March 23, 2022, respectively, Market Watch and Yahoo Finance published articles on their websites wherein Flamingo described its investment as safe and

described an 80% profit distribution to NFT holders, contradicting the 50% profit distribution stated on Flamingo’s own website. Flamingo’s website links directly to these Market Watch and Yahoo Finance articles.

19. Flamingo promotes its profit-sharing NFT program through use of platforms such as Discord, Instagram, YouTube, Twitter, and Telegram.

20. Flamingo’s NFT offerings and statements about its business are freely available online and accessible to citizens of the Commonwealth of Kentucky.

21. As of the date of this Order, Flamingo has never been registered with the Department and has never sought registration for itself or its NFTs.

22. As of the date of this Order, Flamingo has not provided investors with material information regarding its physical location, telephone number, email address, or business addresses for its team of managers. It appears the only way for investors to contact Flamingo is through social media platforms.

23. Flamingo has recruited social media influencers to market its NFTs and services to the public.

24. Flamingo states on its website that, on or about June – September 2022, the company plans to build the casino club in the Sandbox multiverse and “mak[e] sure all regulatory legal requirements are met” despite already offering and selling its NFTs.

### **STATUTORY AUTHORITY**

25. KRS 292.310(15) defines “Person” as:

[A]n individual, a limited liability company, a corporation, a partnership, a limited partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government[.]

26. KRS 292.310(17) defines “Sale” or “sell” as including:

[E]very contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. “Offer” or “offer to sell” includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security[.]

27. KRS 292.310(19) defines a “security”, in pertinent part, as:

[A]ny note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, life settlement investment, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a “security[.]”

28. KRS 292.320(1) states,

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

29. KRS 292.340 states,

It is unlawful for any person to offer or sell any security in this state, unless the security is registered under this chapter, or the security or transaction is exempt under this chapter, or the security is a covered security.

30. KRS 292.470 states, in pertinent part,

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order under this chapter, the commissioner may in his or her discretion bring any or all of the following remedies:

- (1) Issue a cease and desist order, with or without a prior hearing, appealable to Franklin Circuit Court, against the person or persons engaged in the prohibited activities directing that person or persons to cease and desist from illegal activity. In order to issue an order without prior hearing, the commissioner must find that the delay in issuing a final cease and desist order will cause harm to the public.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

31. Flamingo plans on developing metaverse casinos in the multiverse, funding its business venture through the sale of NFTs.

32. Flamingo's NFTs are "securities" under KRS 292.310(19) because the NFTs entitle purchasers to part ownership and a pro rata share of profits generated by Flamingo's metaverse casino. Furthermore, cryptocurrency market fluctuations determine the value of Flamingo NFTs.

33. The substance of Flamingo's NFT offerings constitute investment contracts as described in S.E.C. v. W.J. Howey Co., 328 U.S. 293 (1946).

34. Flamingo offers and advertises its NFTs and casino services online throughout various forums, which are accessible to citizens of the Commonwealth of Kentucky. As of the date of this order, Flamingo has no measures in place to prevent the offer or sale of securities to citizens of the Commonwealth of Kentucky.

35. Flamingo has never been registered with the Department and has never sought registration for its NFTs.

36. Flamingo's NFTs do not qualify for an exemption from registration.

37. Based on the facts set forth above, Flamingo is offering and/or selling unregistered securities in Kentucky through publicly available channels online, in contravention of KRS 292.340.

38. Flamingo claims an affiliation with Flamingo Las Vegas, a famous real-world casino business, which is a material misrepresentation and fraud in contravention of KRS 292.320(1).



39. Delay in issuing a final order to cease and desist in this case would cause direct harm to the public due to Flamingo's current and foreseeable conduct. Failure to enter an emergency order to cease and desist in this case could result in extensive financial losses to citizens of the Commonwealth with a possibility of consumers having minimal recourse to recoup losses. The emergency nature of this order is essential to protect the interests of the citizens of the Commonwealth due to Flamingo's material misrepresentations, the high volume of assets involved in Respondent's business model, and the volatile nature of NFTs valued in a metaverse by reference to cryptocurrency.

### ORDER

Based on the foregoing, IT IS HEREBY ORDERED that:

1. Respondent shall **CEASE AND DESIST** from soliciting or selling any security in Kentucky unless that security is registered with the Department pursuant to KRS 292.340; and
2. Respondent shall **CEASE AND DESIST** from any and all activity which would otherwise violate the Act.

**SO ORDERED** on this the 11<sup>th</sup> day of May, 2022.

          /s/ Charles A. Vice            
CHARLES A. VICE  
COMMISSIONER

**Charles  
A. Vice**

Digitally signed by: Charles A.  
Vice  
DN: CN = Charles A. Vice email =  
charles.vice@ky.gov C = US O =  
Dept. of Financial Institutions OU  
= PPC/DFI/Commissioner  
Date: 2022.05.11 09:49:39 -05'00'

## **NOTICE TO RESPONDENT**

You are hereby notified that you are entitled to request an emergency hearing. If requested, an administrative hearing shall be held within ten (10) days pursuant to the provisions of KRS Chapter 13B.125. Please submit any request for hearing, in writing, to Brandon Adcock, Staff Attorney, Kentucky Department of Financial Institutions, 500 Mero Street 2 SW 19, Frankfort, Kentucky 40601. Alternatively, you may also have the right to the judicial review of this Order in Franklin Circuit Court pursuant to KRS 292.470(1).

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Emergency Order to Cease and Desist was sent on this the 11 day of May, 2022 by the method indicated below to the following:

*Via certified mail, return receipt requested:*

Flamingo Casino Club  
4440 Cherry Ridge Drive  
Rochester, New York 32746  
*Respondent*

Flamingo Casino Club  
c/o Privacy Protect LLC  
10 Corporate Drive  
Burlington, MA 01803  
*Respondent*

*Alternate addresses via registered mail:*

Flamingo Casino Club  
c/o Hostinger UAB  
Jonavos g. 60C  
Kaunas, 44192 Lithuania  
*Respondent*

Flamingo Casino Club  
c/o Hostinger UAB  
J. Basanaviciaus g. 26  
Vilnius, 03224 Lithuania  
*Respondent*

Flamingo Casino Club  
c/o Hostinger International LTD  
61 Lordou Vironos Street  
6023 Larnaca, Cyprus  
*Respondent*

Flamingo Casino Club  
c/o VK LLC  
Leningradsky Prospekt 39 p. 79  
125167 Moscow, Russia  
*Respondent*

*Via email:*

Brandon Adcock, Staff Attorney III  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
500 Mero Street, 2 SW 19  
Frankfort, KY 40601  
*Counsel for Department of Financial Institutions*

Kentucky Department of Financial Institutions

Name: Allison Reed, by Victoria Word

Title: Executive Staff Advisor