

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101028 / September 16, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-21585

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In the Matter of	:	ORDER APPOINTING FUND
	:	ADMINISTRATOR, SETTING
Impact Theory, LLC,	:	ADMINISTRATOR’S BOND AMOUNT,
	:	AND AUTHORIZING THE APPROVAL
Respondent.	:	AND PAYMENT OF FEES AND
_____	:	EXPENSES OF ADMINISTRATION

On August 28, 2023, the Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order (the “Order”)¹ against Impact Theory, LLC (the “Respondent”). In the Order, the Commission found that from October 13, 2021, to December 6, 2021, Impact Theory, a media and entertainment company, offered and sold crypto asset securities known as Founder’s Keys (“KeyNFTs”) in the form of purported non-fungible tokens (“NFTs”), raising approximately \$29.9 million worth of ether (“ETH”) from at least hundreds of investors, including investors across the United States. In advance of the offering, Impact Theory publicly stated that it would deliver “tremendous value” to KeyNFT purchasers. Impact Theory also stated that it would use the offering proceeds for “development,” “bringing on more team,” and “creating more projects.” Consistent with the foregoing, Impact Theory collected the

¹ Securities Act Rel. No. 11226 (Aug. 28, 2023).

proceeds from the KeyNFT sales in a single crypto asset wallet and used a portion of those proceeds to pay certain vendors providing services related to Impact Theory's business.

Based on the facts and circumstances set forth below, KeyNFTs were offered and sold as investment contracts, and therefore securities, pursuant to the test laid out in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946) and its progeny, including the cases referenced by the Commission in its Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO (Exchange Act Rel. No. 81207) (July 25, 2017). Purchasers in the KeyNFT offering had a reasonable expectation of obtaining a future profit based on Impact Theory's managerial and entrepreneurial efforts. Impact Theory violated Sections 5(a) and 5(c) of the Securities Act by offering and selling these securities without having a registration statement filed or in effect with the Commission or qualifying for an exemption from registration. The Commission ordered the Respondent to pay \$5,120,718.27 in disgorgement, \$483,195.90 in prejudgment interest, and a \$500,000.00 civil money penalty, for a total of \$6,103,914.17, to the Commission. The Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty collected, along with the disgorgement and prejudgment interest collected, can be distributed to harmed investors (the "Fair Fund").

The Fair Fund consists of the \$6,103,914.17 collected from the Respondent. The Fair Fund has been deposited in a Commission-designated account at the U.S. Department of the Treasury, and any accrued interest will be added to the Fair Fund.

The Division of Enforcement (the "Division") now seeks the appointment of Simpluris, Inc. ("Simpluris") as the Fund Administrator and requests that the administrator's bond be set at \$6,103,914.17. Simpluris is included in the Commission's approved pool of administrators.

The Division further requests that the Commission authorize the Office of Financial Management (“OFM”), at the direction of an Assistant Director of the Office of Distributions, to pay the Fund Administrator’s fees and expenses from the Fair Fund, so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

Accordingly, IT IS HEREBY ORDERED that:

- A. Simpluris is appointed as the Fund Administrator, pursuant to Rule 1105(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”);²
- B. Simpluris shall obtain a bond in accordance with Rule 1105(c) of the Commission’s Rules³ in the amount of \$6,103,914.17;
- C. the Fund Administrator will submit invoices to the Commission staff for services rendered, in accordance with Rule 1105(d) of the Commission’s Rules;⁴ and

² 17 C.F.R. § 201.1105(a).

³ 17 C.F.R. § 201.1105(c).

⁴ 17 C.F.R. § 201.1105(d).

D. at the direction of an Assistant Director of the Office of Distributions, OFM is authorized to pay the Fund Administrator's fees and expenses from the Fair Fund, in accordance with Rule 1105(e) of the Commission's Rules⁵ so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁶

Vanessa A. Countryman
Secretary

⁵ 17 C.F.R. § 201.1105(e).

⁶ 17 C.F.R. § 200.30-4(a)(17) and 17 C.F.R. § 200.30-4(a)(21)(vi).