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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

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IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Securities Act of Washington by:

Order No.: S-18-2467-22-CO01

CONSENT ORDER

Coinme Inc.;  
Up Global SEZC;  
Neil Bergquist;

Respondents.

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**INTRODUCTION**

Pursuant to the Securities Act of Washington, RCW 21.20, the Securities Division of the Department of Financial Institutions (“Securities Division”) and Respondents Coinme Inc., Up Global SEZC, and Neil Bergquist (collectively, “the Respondents”) hereby enter into this Consent Order in settlement of the matters alleged herein. The Respondents neither admit nor deny the Findings of Fact and Conclusions of Law as stated below.

**FINDINGS OF FACT**

**Respondents**

1. Coinme Inc. (“Coinme”) is a Delaware entity formed on February 28, 2017, with its principal place of business in Seattle, Washington. Prior to July 2019, Coinme’s primary business was developing and placing its own physical kiosks, similar to ATMs, for transacting cryptocurrencies.

2. Up Global SEZC (“Up Global”) is a Cayman Islands corporation formed in 2017 and a wholly owned subsidiary of Coinme. As described further below, in late 2017, Up Global offered and sold to the public a cryptocurrency token called UpToken, which, as described further below, was designed to be used on Coinme’s kiosks.

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1 3. Neil Bergquist (“Bergquist”) is a Washington resident and the CEO of Coinme.

### 2 **Overview**

3 4. From October 2017 to December 2017, Up Global conducted an unregistered sale of UpToken,  
4 facilitated through Coinme, raising several million dollars from the sale. Up Global and Bergquist also  
5 misrepresented or failed to disclose material facts to potential purchasers of the token, namely by misleadingly  
6 inflating the amount of UpToken they had sold and thereby misleading the public as to the prospects for  
7 UpToken’s success.

### 8 **Background Concepts**

9 5. “Cryptocurrency” refers to a type of digital asset which is designed as a store of value and can  
10 be used for various types of transactions with other users of the cryptocurrency. The best-known  
11 cryptocurrency ecosystems are Bitcoin and Ethereum. In the last several years, cryptocurrencies have often  
12 been marketed and sold to the public in large, time-limited sales known as Initial Coin Offerings (“ICOs”) or  
13 token sales.

14 6. A “blockchain” is a decentralized ledger system which uses collective computing power to  
15 record transactions. Most cryptocurrencies are based on a blockchain system. Generally, an initial group of  
16 developers will create the concept for a particular cryptocurrency and the underlying blockchain system, then  
17 market the token to the public in a “whitepaper” describing the use for the cryptocurrency, the persons  
18 involved in creating it, and future development plans. The degree of subsequent involvement by the initial  
19 developers can vary widely depending on the particular cryptocurrency, with some cryptocurrencies designed  
20 to require further expansion and maintenance efforts by the developers and some designed to be run by users  
21 through, e.g., decentralized voting mechanisms.

22 7. Because many ICOs and token sales are marketed as investments, they have been a significant  
23 focus of securities regulators over the past several years. For instance, in July 2017, the Securities and

1 Exchange Commission (“SEC”) released a report commonly known as the “DAO Report,” in which it laid  
2 out the application of the federal securities laws to cryptocurrency offerings. In the DAO Report, the SEC  
3 explained that the *Howey* test for investment contracts, derived from a 1946 Supreme Court case, applies to  
4 the offer and sale of cryptocurrencies. Thus, if the fundamental economic arrangement of a cryptocurrency  
5 offering involves an investment of money in a common enterprise with a reasonable expectation of profits  
6 based on the efforts of others, the offering is an “investment contract” and is subject to both state and federal  
7 securities laws. SEC staff has also released more recent guidance on digital asset offerings, describing  
8 particular facts of a cryptocurrency offering which make it more likely to be a security.

### 9 UpToken Overview

10 8. Coinme began operating in early 2014, with the goal of creating a network of cryptocurrency  
11 ATMs which would allow users to buy and sell Bitcoin for cash. In approximately early 2017, Coinme began  
12 the development of UpToken, a digital asset which would carry various benefits related to Coinme’s ATM  
13 network. Coinme subsequently incorporated Up Global in the Cayman Islands and Up Global conducted a  
14 sale of UpToken from October 16, 2017 to December 15, 2017. Initially, Up Global advertised that it would  
15 sell a maximum of 8 billion UpToken in the offering, and retain 25% of the total amount sold (for instance, if  
16 it sold 4 billion UpToken, it would retain 1 billion), and would destroy any unsold tokens.

17 9. Coinme planned to pool and use the proceeds raised from the sale of UpToken to support the  
18 continued development and expansion of its ATM network. In advance materials before the UpToken  
19 offering, Up Global represented that by October 2017, Coinme would have “a network of 39 Crypto ATMs  
20 located throughout the western United States.” Up Global represented in UpToken offering materials that  
21 Coinme “plans to have a broader network of Crypto ATMs located across the United States, with international  
22 deployments planned to begin in the middle of 2018 or later.” As Up Global advertised, UpToken users  
23 received several benefits: (1) a 30% discount on ATM transaction fees; (2) a cashback-style program which

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1 would give users 1% of their ATM transaction amounts in UpToken; (3) the ability to vote on new  
2 cryptocurrencies for the ATM platform, and (4) the ability to sell UpToken at Coinme ATMs. Coinme  
3 implemented these benefits throughout 2018, but pivoted away from the ATM business model in January  
4 2019. Since then, Coinme’s business, including money transmission, operates fully independently of  
5 UpToken, and UpToken has no role in Coinme’s business. As of the date of this order, UpToken has been  
6 retired and no longer functions for any of Coinme’s services.

7 10. Although the UpToken offering materials included clauses that disclaimed its status as an  
8 investment, its public statements and broader marketing campaign would have led a reasonable purchaser to  
9 view the token as an investment. Most prominently, the economic structure for UpToken meant that, if  
10 Coinme was successful in its business efforts, UpToken would almost inevitably rise in price. The offering  
11 materials for UpToken stated that Coinme “may give customers UpToken from the Coinme UpToken Vault  
12 or, if it so decides in its discretion, a Coinme UpToken wallet which Coinme can replenish on an as needed  
13 basis by purchasing UpToken.” Because Up Global had intentionally limited the total supply of UpToken  
14 and UpToken would become increasingly scarce as the original group of purchasers used it for the rewards  
15 described above, a reasonable investor would have viewed Coinme’s buyback program as likely to increase  
16 the price of the token over time.

17 11. In communications with large potential purchasers, Bergquist was explicit about the upward  
18 price pressure on UpToken from both the buyback program and from Coinme’s expansion efforts more  
19 generally. For instance, in an email to one potential investor, Bergquist stated that “[t]he 1% buyback is the  
20 least of the demand pressure that will be placed on the token after the sale. The bigger demand pressure will  
21 come from our tens of thousands, soon to be millions, of customers who will buy UpToken on the machines  
22 for remittances, peer-to-peer payments, storage and speculation purposes.” In an email to another potential  
23 investor, Up Global wrote that UpToken would be traded on well-known cryptocurrency exchanges, and that

1 “[s]ince we have an opportunity to distribute UP to our customer base they will in turn promote it and drive  
2 the price. Also our customers will be able to buy UP on the ATMs within 30 days which will also drive the  
3 price.”

4 12. In internal communications, Up Global employees and contractors characterized UpToken as  
5 an investment. For instance, in an email with the subject line “Token Sale Investors,” Up Global employees  
6 and contractors discussed targeting several Seattle-area organizations with potential interest in digital assets.  
7 Up Global also targeted the category of “investors” in Facebook ads for the UpToken sale, placed  
8 advertisements on a cryptocurrency investing website, cryptocurrencyinvesting.news, and tailored specific  
9 messages for Chinese investors and investors more broadly.

#### 10 **Material Misrepresentations or Omissions**

11 13. During the UpToken offering, Up Global publicly advertised the amount raised, using a  
12 counter on its website which reflected the amount of money sent in to Up Global for UpToken sold. This  
13 counter was generally updated automatically when purchasers moved cryptocurrency into the appropriate  
14 wallet, but Up Global staff updated it manually at Bergquist’s direction in some cases near the end of the  
15 offering. Up Global claimed that it had raised approximately \$18.9 million in US dollars, and communicated  
16 that amount via the Up Global website counter near the end of the token sale. This post did not disclose that  
17 the total dollar value of tokens sold reflected the then-current value of the Bitcoin and Ether used to purchase  
18 UpToken (rather than the value at the time of purchase) and did not state explicitly that it included purchases  
19 made by Coinme. These omissions made the counter misleading.

20 14. More specifically, Up Global included two transactions which substantially inflated the  
21 amount it had actually raised in order to arrive at the \$18.9 million figure. First, approximately \$8.8 million  
22 of this amount raised came from a transaction in the final hours of the token sale with an unaffiliated Hong  
23 Kong-based company. Those funds were repaid to that company by mutual agreement shortly after the

1 completion of the token sale. Up Global did not disclose this agreement to potential purchasers, and continued  
2 using the \$18.9 million figure in public statements even after the funds were repaid. Second, Up Global  
3 included a \$1 million Uptoken purchase by Coinme itself in the total, even though that transaction did not  
4 result in new funds for either Coinme or Up Global. These statements concerning the amount raised could  
5 have misled a reasonable investor as to both (a) the overall size and success of the UpToken offering, and (b)  
6 the amount of funds that would be available to Coinme to support its development efforts described above.

### 7 **Registration Status**

8 15. Up Global is not, and has never been, registered to sell securities in the State of Washington,  
9 nor has it filed a claim of exemption from registration.

10 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

### 11 **CONCLUSIONS OF LAW**

12 1. The offer and sale of UpToken, as described above, constitutes the offer and sale of a security  
13 as defined in RCW 21.20.005(14) and (17).

14 2. Up Global SEZC, Coinme Inc. and Neil Bergquist have each violated RCW 21.20.140,  
15 because, as set forth in the Tentative Findings of Fact, they offered and sold securities for which no registration  
16 is on file with the Securities Administrator.

17 3. Up Global SEZC and Neil Bergquist have each violated RCW 21.20.010(2) because, as set  
18 forth in the Tentative Findings of Fact, they omitted to state material facts necessary to make the statements  
19 made, in light of the circumstances in which they were made, not misleading.

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21 Based upon the foregoing and finding it in the public interest:  
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1 **CONSENT ORDER**

2 IT IS AGREED AND ORDERED that Respondents Up Global SEZC, Coinme Inc., and Neil  
3 Bergquist, and their agents and employees, shall cease and desist from violating RCW 21.20.140, the  
4 securities registration section of the Securities Act of Washington.

5 IT IS FURTHER AGREED AND ORDERED that Respondents Up Global SEZC and Neil Bergquist,  
6 and their agents and employees, each shall cease and desist from violating RCW 21.20.010, the anti-fraud  
7 section of the Securities Act of Washington.

8 IT IS FURTHER AGREED AND ORDERED that in light of the Respondents' settlement with the  
9 Securities and Exchange Commission in Administrative Proceeding No. 3-21398 and the creation of a Fair  
10 Fund as set forth in the SEC's April 28, 2023 order in that proceeding, the Securities Division shall not impose  
11 a fine against Respondents Coinme Inc., Up Global SEZC, and Neil Bergquist.

12 IT IS FURTHER AGREED AND ORDERED that Respondents Coinme Inc., Up Global SEZC, and  
13 Neil Bergquist shall be liable for and shall pay investigative costs of \$10,000 on or before entry of this Consent  
14 Order.

15 IT IS FURTHER AGREED AND ORDERED that this Consent Order is not intended to be used as an  
16 admission of or evidence of any fault, omission or liability of the Respondents in any civil, criminal,  
17 arbitration, or administrative proceeding not involving the Washington State Department of Financial  
18 Institutions Securities Division.

19 IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent Order.

20 IT IS FURTHER AGREED that Respondents Coinme Inc., Up Global SEZC, and Neil Bergquist  
21 entered into this Consent Order freely and voluntarily and with a full understanding of its terms and  
22 significance.

1 IT IS FURTHER AGREED that in consideration of the foregoing, Respondents Coinme Inc., Up  
2 Global SEZC, and Neil Bergquist waive their right to a hearing and to judicial review of this matter pursuant  
3 to RCW 21.20.440 and Chapter 34.05 RCW.

4 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

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7 Signed this 1st day of August, 2023.

8 Signed by:  
9 Coinme Inc.

10 /s  
11 Brian Reisbeck  
12 Chief Compliance Officer

13 Signed by:  
14 Up Global SEZC

15 /s  
16 Neil Bergquist  
17 Chief Executive Officer

18 Signed by:

19 /s  
20 Neil Bergquist, Individually

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