



**STATE OF TENNESSEE  
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE**

<b>TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Matter No. 2023-0037</b>
	)	
<b>ALAN COSENS AND PASSIVE PROFIT MACHINES,</b>	)	
	)	
<b>Respondents.</b>	)	

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**EX PARTE ORDER TO CEASE AND DESIST**

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This Order issues as the result of a Petition, and its Exhibits attached thereto, filed by the Securities Division of the Tennessee Department of Commerce and Insurance (“Division”) against Alan Cosens (“Respondent”) and Passive Profit Machines (“PPM”), collectively (“Respondents”). This Order is based upon the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”) is responsible for the administration of the Act. The Division, pursuant to Tenn. Code Ann. § 48-1-115, is the lawful agent through which the Commissioner discharges this responsibility.

2. Tenn. Code Ann. § 48-1-116 establishes that the Commissioner may execute Orders as are necessary to carry out the Act when the Commissioner finds that the action is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

3. Respondent is doing business as and under the fictitious name of Passive Profit Machines.

4. PPM has a channel on YouTube under the web address <https://www.YouTube.com@PassiveProfitMachines>. PPM has an internet website under the link [passiveprofitmachines.net](http://passiveprofitmachines.net). PPM is solely under the control of the Respondent.

5. Alancosens.com is an internet website owned and operated by the Respondent using the address of 462 Pole Hill Rd, Goodlettsville, 37072. That same address was provided by the Respondent for the issuance of a Tennessee Driver's License.

6. In or around September 2023, the Division received information concerning a Multi-level Marketing ("MLM") scheme that the Respondent promoted for a company called NovaTech.

7. NovaTech is registered in Saint Vincent and the Grenadines with a principal place of business at Griffith Corporate Centre, Suite 305, Beachmont, Kingstown, St. Vincent and the Grenadines.

8. In or about November 2022, the State of California Department of Financial Protection and Innovation ("DFPI") issued a Desist and Refrain Order against NovaTech for the selling of unregistered securities in the State of California and for making untrue statements of material fact and material omissions to investors and potential investors.

9. As part of its solicitation efforts, NovaTech rewarded investors by paying referral bonuses for inducing others to send money to NovaTech.

10. Respondent took advantage of NovaTech's referral program and posted videos to Alancosens.com, YouTube, and social media accounts controlled by him to recruit others to invest in NovaTech, for which he was compensated by NovaTech.

11. In at least May of 2022, the Respondent, through his Facebook account, provided investment advice regarding NovaTech in order to induce and solicit persons to contribute money to the NovaTech MLM in the anticipation of receiving future value.

12. On or about September 27, 2022, California DFPI issued a Desist and Refrain Order against Cryptos OTC Trading Platform Limited (“COTP”) for the selling of unregistered securities in the State of California through, including, but not limited to, investment contracts.

13. COTP held itself out as a cryptocurrency trading platform. The purported purpose of the securities offerings was for COTP to use investor funds to engage in cryptocurrency trading, which in turn would generate returns for investors who purchased investments.

14. COTP also had a referral program that operated in the manner of a pyramid scheme. The referral program promised to pay investors to recruit new investors. According to this referral program, investors would be paid a commission based on the amount of funds deposited by the investors that they recruited. Investors would also be paid additional commissions when the investors that they recruited, in turn, recruited new investors.

15. In at least April and May of 2022, the Respondent took advantage of COTP’s referral program by creating and posting content on his Facebook page to recruit others to invest in COTP.

16. On or about November 3, 2023, the Division opened an investigation into the Respondents.

17. The Division’s Financial Services Investigation Unit (“FSIU”) assigned the investigation of the matter to Investigator Winnie Forrester (“Investigator Forrester”).

18. Investigator Forrester’s investigation included the following findings:

- a. There were no FINRA or SEC registrations for Respondent or PPM, nor any filings on the EDGAR website.
- b. A review of the following websites and social media accounts, all of which belong to or are under the control of the Respondent:
  - i. Website: [www.alancosens.com](http://www.alancosens.com)
  - ii. Website: <https://passiveprofitmachines.net/>
  - iii. YouTube:  
<https://www.youtube.com/@PassiveProfitMachines>
  - iv. Facebook: <https://facebook.com/alan.cosens>
  - v. <https://www.facebook.com/alancosens.marketing/>
  - vi. Twitter: [twitter.com/PassProfMachine](https://twitter.com/PassProfMachine)
  - vii. OnMeWe: [mewe.com/i/alancosens](https://mewe.com/i/alancosens)
- c. Emails sent to Investigator Forrester from the Respondent.

19. A review of Respondent's website (<https://www.alancosens.com/>) during the months of September 2023 and October 2023 showed a tab labelled "Passive Income Deals," and when clicked on, led to the main page of <https://passiveprofitmachines.net/>. From there, <https://passiveprofitmachines.net/passive-deals>, offered links to various social media and requested an email address on a page titled, "Deals I'm Into." After signing up for his email blasts on September 19, 2023, Investigator Forrester began to receive daily "Deals I'm Into" emails with links to lists of passive income deals that are updated frequently.

20. The Respondent is currently promoting a deal called "On Passive." The September 19, 2023, email from the Respondent reflected in Exhibit F contained a link to <https://passiveprofitmachines.net/onpassive>. This website leads to OnPassive's websites found in

<https://op53.onpassive.com> and promotional videos. The Respondent also promotes OnPassive on his YouTube Channel.

21. From the email that was sent on September 19, 2023, Investigator Forrester was directed to a link showing “Here are some deals that I’m currently involved with.” This link directs the user to a Google document [https://docs.google.com/document/d/1z4XKXvq-aEdwru0UYKPMqCwsJfkYPxX\\_HKQaLuqpM/edit](https://docs.google.com/document/d/1z4XKXvq-aEdwru0UYKPMqCwsJfkYPxX_HKQaLuqpM/edit).

22. The Respondents make statements that are investment advice in the Google document. Such statements indicate that the Respondents are engaged in the business of advising as to the investment, buying, or selling of securities. These statements include but are not limited to the following:

- a. “no one gets hurt”
- b. “every single person wins”
  - i. There is a hyperlink that directs an individual to <https://tranzactcard.com/?refID=1315973> where Respondent is the digital Branch Officer of a banking platform.
- c. “company is doing everything right”
- d. “unlimited income potential”
- e. “instant lifestyle improvement without having to learn any new skill”

23. The Google document includes statements that attempt to lessen the effect of the advice such as, “this list is only shared with personal friends/contacts who ask me what deals I’m personally involved in. Nothing in this document should be construed to be a recommendation, suggestion or implication that anyone should participate, or not participate, in any of these deals. See full disclosure for each deal on the relevant page for that deal. These may be very high risk.”

24. The email from the Respondent dated September 19, 2023, includes a disclaimer that states, “This is not investment advice or financial advice. Seek the counsel of a qualified financial advisor for such. The speaker is sharing only opinion and observations for informational, educational or entertainment purposes. This information may represent exceptional, not typical results. Trading/investing/arbitrage/business carries risk. Past performance is not an indication of future results.”

25. On August 11, 2023, the SEC filed a complaint against Ashraf Mufareh and OnPassive, LLC a/k/a Gofounders and Ofounders, alleging a one hundred and eight-million-dollar (\$108,000,000) fraudulent and unregistered offering of securities targeting over 800,000 investors in the United States and around the world through an MLM pyramid scheme.

26. Based on FSIU’s investigation, OnPassive is a pyramid scheme that promotes a “passive” income opportunity by emphasizing that investors did not have to do anything, other than make a one-time purchase of product and pay monthly subscription fees. The scheme allows the purchasers to receive commissions and incentivizes them to recruit other participants through the MLM structure. The participant’s recruits would be placed under the participant and be sources of commissions paid to the participant.

27. The Respondent took advantage of the offer by OnPassive and became an investor, after which he began promoting OnPassive on his and PPM’s various internet and social media platforms, recruiting other participants (investors) to similarly invest in OnPassive, for which he is and/or was compensated by OnPassive.

### APPLICABLE LAW

28. Tenn. Code Ann. § 48-1-102(4) states in pertinent part:

(4) “Broker-dealer” means any person engaged in the business of effecting transactions in securities for the account of others, or any person engaged in the

business of buying or selling securities issued by one (1) or more other persons for such person's own account and as part of a regular business rather than in connection with such person's investment activities. "Broker-dealer" does not include:

- (A) Issuers, except to the extent provided in § 48-1-110(f);
- (B) An agent;
- (C) An institutional investor;
- (D) A person who has no place of business in this state and who is registered as a broker-dealer with the securities and exchange commission or the Financial Industry Regulatory Authority (FINRA) or any successor regulatory entity if:
  - (i) The person effects transactions in this state exclusively with or through:
    - (a) The issuers of the securities involved in the transactions;
    - (b) Other broker-dealers; or
    - (c) Institutional investors; or
  - (ii) During any period of twelve (12) consecutive months, the person does not effect more than fifteen (15) transactions in securities from, in, or into this state (other than to persons specified in subdivision (4)(D)(i)); or
- (E) Such other persons not within the intent of this subdivision (4) as the commissioner may by rule exempt from this definition as not in the public interest and necessary for the protection of investors

29. Tenn. Code Ann. § 48-1-102(13) states, in pertinent part:

(13) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, buying, or selling securities, or who for compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities. "Investment adviser" includes a financial planner or other person who, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or who holds oneself out as providing investment advice to others for compensation. "Investment adviser" does not include:

- (A) A bank (unless it is acting as an investment adviser for a registered investment company), savings institution, or trust company;
- (B) A lawyer, accountant, engineer, or teacher whose performance of investment advisory services is solely incidental to the practice of such lawyer's, accountant's, engineer's, or teacher's profession;
- (C) A broker-dealer whose performance of investment advisory services is solely incidental to the conduct of such person's business as a broker-dealer and who receives no special compensation for such services;
- (D) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

- (E) A person who has no place of business in this state if:
  - i. The person's only clients in this state are other investment advisers, broker-dealers, or institutional investors; or
  - ii. During any period of twelve (12) consecutive months, the person does not direct business communications into this state in any manner to more than five (5) clients (other than those specified in subdivision (13)(E)(i)), whether or not such person or any of the persons to whom the communications are directed are then present in this state; or
- (F) Such other persons not within the intent of this subdivision (13) as the commissioner may by rule exempt from this definition as not in the public interest and necessary for the protection of investors;

30. Tenn. Code Ann. § 48-1-102(14) states, in pertinent part:

- (A) “Investment adviser representative” means any partner, officer, or director of (or person occupying a similar status or performing similar functions) an investment adviser, or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser and does any of the following:
  - i. Makes any recommendation or otherwise renders advice regarding securities;
  - ii. Manages accounts or portfolios of clients;
  - iii. Determines which recommendation or advice regarding securities should be given;
  - iv. Solicits, offers, or negotiates for sale of or sells investment advisory services;
  - v. Supervises employees who perform any such actions; or
  - vi. Provides investment advice or holds oneself out as providing investment advice;

31. Tenn. Code Ann. § 48-1-102(20)(A) and (B) state in pertinent part:

- (A) “Sale” or “sell” includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.
- (B) “Offer” or “offer to sell” includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value;

32. Tenn. Code Ann. § 48-1-102(21)(A) states in pertinent part:

(21)(A) “Security” means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, a life settlement investment or any fractional or pooled interest in a life insurance policy or life settlement investment, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or



participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a “security,” or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing;

33. Tenn. Code Ann. § 48-1-104 states, in pertinent part:

(a) It is unlawful for any person to sell any security in this state unless:

- (1) It is registered under this part;
- (2) The security or transaction is exempted under § 48-1-103; or
- (3) The security is a covered security.

(b) The commissioner may, after notice and opportunity for a hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, impose a civil penalty against any person found to be in violation of this section, or any rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation, or in an amount not to exceed twenty thousand dollars (\$20,000) per violation if an individual who is a designated adult is a victim.

34. Tenn. Code Ann. § 48-1-116(a) and (e)(2)(A) state in pertinent part:

(a) The commissioner may from time to time make, promulgate, amend, and rescind such rules, forms, and orders as are necessary to carry out this part, including rules, forms, and orders governing registration statements, applications, reports, and filing fees, and defining any terms, whether or not used in this part, insofar as the definitions are not inconsistent with this part. For the purpose of rules and forms, the commissioner may classify securities, persons, and matters within the commissioner's jurisdiction, and prescribe different requirements for different classes;

...

(e)

(2)

(A) Notice to the affected parties (which shall be prior notice unless the commissioner determines that prior notice would not be in the public interest and would be detrimental to the protection of investors)

35. Tenn. Code Ann. § 48-1-109(a) provides that:

- (a) It is unlawful for any person to transact business from, in, or into this state as a broker-dealer or agent unless such person is registered as a broker-dealer or agent under this part, except that:
  - (1) A bank shall be exempt from registration as a broker-dealer to the extent its activities are excepted under either the definition of “broker” in § 3(a)(4)(B) of the Securities Exchange Act of 1934 (15 U.S.C. § 78c(a)(4)(B)), or the definition of “dealer” in § 3(a)(5)(C) of the Securities Exchange Act of 1934 (15 U.S.C. § 78c(a)(5)(C));
  - (2) A person who limits such person's activity as a broker-dealer to acting solely as a broker-dealer with regard to charitable gift annuities, as that term is defined by § 56-52-102, shall be exempt from registration as a broker-dealer;
  - (3) A person who limits such person's activity as an agent to acting solely as an agent on behalf of a person who is eligible for the exemption from broker-dealer registration in subdivision (a)(2) shall be exempt from registration as an agent.

36. Tenn. Code Ann. § 48-1-109(c) provides that:

- (c) It is unlawful for any person to transact business from, in, or into this state as an investment adviser or investment adviser representative unless:
  - (1) The person is registered as an investment adviser or investment adviser representative under this part;
  - (2) The person is required to register as an investment adviser pursuant to § 203 of the Investment Advisers Act of 1940 (15 U.S.C. § 80b-3); provided, however, that an initial notice filing, consisting of any documents filed with the securities and exchange commission, a consent to service of process, and a nonrefundable fee of one hundred dollars (\$100) shall be filed with the commissioner or the commissioner's designee, with payment of any reasonable costs charged by the designee for processing such filings, ten (10) days prior to the person acting as an investment adviser; and a renewal notice filing containing such information as the commissioner by rule requires and a nonrefundable fee of one hundred dollars (\$100) shall be filed with the commissioner or the commissioner's designee, with payment of any reasonable costs charged by the designee for processing such filing for each successive year in which such person acts as such investment adviser; every notice filing of an investment adviser expires annually, unless timely renewed, on December 31 of each year; or
  - (3) The person's only clients in this state are insurance companies.

37. Tenn. Code Ann. § 48-1-109(e) provides that:

The commissioner may, after notice and an opportunity for a hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, impose a civil penalty against any person found to be in violation of this section, or any rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation, or in an amount not to exceed twenty thousand dollars (\$20,000) per violation if an individual who is a designated adult is a victim.

38. The Division is authorized to bring this action based on a finding by the Commissioner that the action is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Tenn. Code Ann. § 48-1-116(b). In addition, the Commissioner may forgo prior notice of this Order of Cease and Desist upon a finding that prior notice is not in the public interest and would be detrimental to the protection of investors. Tenn. Code Ann. § 48-1-116(e)(2)(A).

#### **CONCLUSIONS OF LAW**

39. The Commissioner finds that this Ex Parte order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act pursuant to Tenn. Code Ann. § 48-1-116(b). In addition, the Commissioner finds that prior notice to the Respondents of this Cease and Desist Order would not have been in the public interest and would have been detrimental to the protection of Tennessee securities consumers pursuant to Tenn. Code Ann. § 48-1-116(e)(2)(A).

***A. The Respondents are engaging in investment adviser services while not registered as an investment adviser or an investment adviser representative.***

40. The Findings of Fact demonstrate that Respondents are offering investment adviser services in Tennessee and the Respondents are not registered with the Division as an investment adviser or investment adviser representative as required under the Act.

41. The Respondents, in providing information to the public, for a referral fee, on their social media accounts, websites, and YouTube channels constitutes acting as investment advisers

as defined in Tenn. Code Ann. § 48-1-102(14).

42. The Respondents' actions of providing investment adviser services in Tennessee in violation of the Act creates an imperative risk of harm to consumers who would rely on Respondents as fiduciaries in providing financial advice. The Respondents' unlawful conduct in violation of Tenn. Code Ann. § 48-1-109(c) provides grounds under Tenn. Code Ann. § 48-1-116(a) and (e)(2)(A) for the immediate entry of an Order to Cease and Desist all securities activity.

43. The Respondents' unlawful conduct in violation of Tenn. Code Ann. § 48-1-109(c) provides grounds under Tenn. Code Ann. § 48-1-109(e) for the assessment of civil penalties.

***B. The Respondents are engaging in activity as broker-dealers by effecting the sale of unregistered securities in Tennessee.***

44. The Findings of Fact demonstrate that the Respondents facilitated the sale of securities in the State of Tennessee, acting as a broker-dealer. The Respondents' acts in effecting and attempting to effect the sale of securities through their websites and social media platforms, facilitating consumers to invest in NovaTech, COTP, and On Passive show that Respondents acted as broker-dealers in Tennessee. Such securities effected were investment contracts as defined in Tenn. Code Ann. § 48-1-102(20)(A).

45. The promotion and solicitation of selling NovaTech, COTP, and On Passive products qualify as an investment contract, which is a security. These products were not registered within Tennessee, nor did they meet a registration exception to the security registration requirement. The Respondents' actions in effecting and attempting to effect the sale of such securities through its website links and social media accounts for NovaTech, COTP, and On Passive constitutes acting as a broker-dealer of unregistered securities in Tennessee in violation of Tenn. Code Ann. §§ 48-1-104(a) and 48-1-109(a).

46. The Respondents' unlawful conduct in violation of Tenn. Code Ann. § 48-1-104(a)  
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provides grounds under Tenn. Code Ann. § 48-1-116(a) and (e)(2)(A) for the immediate entry of an Order to Cease and Desist all securities activity.

47. The Respondents' unlawful conduct in violation of Tenn. Code Ann. §§ 48-1-104(a) and 48-1-109(a) provides grounds under Tenn. Code Ann. §§ 48-1-104(b) and 48-1-109(e) for the assessment of civil penalties.

### **ORDER**

**NOW, THEREFORE**, in consideration of the foregoing, it is **ORDERED** that:

1. The Respondents **SHALL COMPLY** with the provisions of the Act.
2. The Respondents **SHALL CEASE AND DESIST** from engaging in any further unregistered conduct as an investment adviser, investment adviser representative, broker-dealer, or agent from or in the State of Tennessee until such time they are effectively registered with the Division to engage in such activity.
3. The Respondents **SHALL CEASE AND DESIST** from further conduct as an investment adviser, investment adviser representative, broker-dealer or agent in Tennessee while not being registered, including, but no limited to, providing investment advice to the public for any compensation via their social media accounts, websites, YouTube channels, or any other medium, and further from effecting or attempting to effectuate the sale of securities through its social media accounts, websites, YouTube channels, or any other medium.
4. Any persons aiding or otherwise acting in concert with the Respondent or facilitating the unlawful activities of the Respondent through operation of its social media accounts, websites, and YouTube channels to and from Tennessee, and any successor entities or individuals, **SHALL IMMEDIATELY CEASE AND DESIST** from aiding such unlawful conduct of the Respondents.

5. This Order to Cease and Desist is not intended to prohibit any lawful conduct in which the Respondents might be engaged.


6. Entry of this Order to Cease and Desist shall not in any way restrict the Division or the Commissioner from taking further action, including the imposition of maximum civil penalties allowed under the Act, with respect to these or other possible violations of the Act, or any of the rules promulgated thereunder, by the Respondents.

7. The Respondents are advised that the right to a hearing as to all matters raised in this Order to Cease and Desist is available. If the Respondents wish to exercise the right to a hearing, please notify:

**ELIZABETH H. BOWLING**  
**ASSISTANT COMMISSIONER FOR SECURITIES**  
**STATE OF TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**  
**500 JAMES ROBERTSON PARKWAY**  
**DAVY CROCKETT TOWER, 10<sup>th</sup> FLOOR**  
**NASHVILLE, TENNESSEE 37243**

8. Such request must be received within thirty (30) days from the date of entry of this Order to Cease and Desist. This Order to Cease and Desist shall become a Final Order thirty (30) days from the date of its entry, unless written notification requesting a hearing is made within that thirty (30) day period.

**ENTERED** this 29th day of April, 2024.

  
Carter Lawrence (Apr 29, 2024 16:19 CDT)  
Carter Lawrence, Commissioner

**APPROVED FOR ENTRY:**

  
Elizabeth H. Bowling (Apr 23, 2024 11:50 CDT)

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Elizabeth H. Bowling  
Assistant Commissioner for Securities  
Department of Commerce and Insurance

  
Courtney Smith (Apr 22, 2024 10:15 CDT)

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Courtney Smith, BPR #032367  
Associate General Counsel  
500 James Robertson Parkway  
Davy Crockett Tower  
Nashville, TN 37243  
(615) 253-9910  
[courtney.anne.smith@tn.gov](mailto:courtney.anne.smith@tn.gov)

**CERTIFICATE OF SERVICE**


The undersigned hereby certifies that a true and correct copy of this Petition for Ex Parte Order to Cease and Desist and Ex Parte Order to Cease and Desist will be served upon the Respondent via overnight mail and email to the below enclosed address on 30th day of April, 2024.

**Federal Express No.** \_\_\_\_\_

Alan Cosens  
108 Elizer Court  
Hendersonville, TN 37075

**United States Postal Service No.** \_\_\_\_\_

Passive Profit Machines  
P.O. Box 2187  
Goodlettsville, TN 37072

  
Courtney A. Smith (Apr 22, 2024 10:15 CDT)  
\_\_\_\_\_  
Courtney A. Smith