

**LEGAL OPINION
THE PROJECT: GREENWORLD PROJECT**



Legal Kornet

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Legal Kornet LLC

I. Introduction, Background and Nature of Blockchain Tokens

There are many types of blockchain tokens, each with its own characteristics. For example, one type of blockchain tokens may be used to support functioning of an application designed for it. That is utility token. In contrast with other types of tokens, which do not have any assets of any kind underlying them and which value is based purely on mass psychology, the utility token has an underlying contractual right. And in this sense its value is determined not only by mass psychology but also by the value of the underlying right attached to it.

Another type of tokens may be utilized as a virtual (digital) currency (protocol token) that serves as a certain medium of exchange not only within the specific blockchain platform but also beyond that. To put it simply, this token is called protocol token because what makes it special is the new or different protocol it uses. Its underlying blockchain serves nothing more than keeping a ledger of transactions between token holders.

Finally, security token. That is a digital asset, the purchase of which vests the owner with a number of rights which are similar to securities such as bonds or stocks.

An inherent feature of any token is to be tradable on a “secondary market” of tokens on a cryptocurrency exchange market. That is to say, a token is free for sale and once it has been issued, a token is subject to market speculations according to the rules of supply and demand.

However, there are a number of complicated legal issues concerning tokens since some of them may fall under the definition of security instrument and, therefore, be subject to US federal or state securities laws. This means that sale of such tokens may be unlawful for US residents.

In many jurisdictions, there may also be issues related to anti-money laundering laws and general consumer protection laws as well as to specific laws depending on the token type.

Based on our analysis of the current case law, regulations of the competent governmental institutions in different parts of the world, including such agencies as SEC (Security and Exchange Commission) or CFTC (Commodity Futures Trading Commission), MAS (Monetary Authority of Singapore), ECB (European Central Bank) as well as based on various facts and materials derived from a plethora of ICOs conducted in different parts of the world, we come to the conclusion that the appropriately designed token may not entail risks of being recognized as an investment instrument.

Nevertheless, it has to be clearly understood that we cannot provide a thorough review aimed at checking the compliance with the regulatory regime of each jurisdiction. Hence, in this legal opinion we will focus on the United States security law.



This memorandum is devoted to examination of a token (hereinafter - “**Token**” or “**GWP Tokens**”) posted on the website (hereinafter also “**Founders**” or “**Owners**”) to develop its product (hereinafter “**Platform**” or “**Ecosystem**”, or «**GreenWorld Project**», **PROJECT**» «**GWP PROJECT**») with regard to its risks of being considered as an investment instrument.

In Section I, we introduce to you a general concept of the Project and blockchain token. Section II describes a security law framework for blockchain tokens in light of SEC Report. In Section III, we analyze whether Token meets the Howey Test, and then, in Section IV, we sum up whether Tokens fall under the definition of security instruments or not.

It should be noticed that the legal analysis herein may be updated in the future as the law in this area continues to develop. Furthermore, the below analysis is strictly theoretical, as no cases, that we are aware of and that are relevant to the subject matter, have been tested yet in courts as of today.

II Security Law Framework for Blockchain Tokens in Light of SEC Report

In re SEC v C.M. Joiner Leasing Corp., 320 U.S..344, 351 (1943) it is established that

“The reach of the Securities Act does not stop with the obvious and commonplace. Novel, uncommon, or regular devices, whatever they appear to be, are also reached if it be proved as a matter of fact that they were widely offered or dealt in under terms or courses of dealing which established their character in commerce as “investment contract”, or any interest or instrument commonly known as security.”

The same was held in Reves v. Ernst and Young, 494 U.S. 56, 61 (1990):

“Congress purpose in enacting the securities laws was to regulate investments, in whatever form they are made and whatever name they are called”.

The U.S. Securities and Exchange Commission adheres to this position and declares that any new forms of investments via smart contracts or blockchain technology fall under the purview of US federal securities laws and on July 25, 2017, it issued a Section 21(a) investigative report, Release No. 81207 (“the Report”) on investigation of DAO case. Among others, the Report distinguishes projects where tokens represent securities as described above.

Hence, in this analysis we shall investigate and provide our legal opinion as to whether GWP Platform is the type of crowd funding that triggers prospectus requirements and any of security laws provisions of the United States.

III. Security Law Analysis for the GREENWORLD PROJECT and Its GWP TOKEN

- A. Understanding the model of Project’s work will help us to understand the nature of GWP Tokens. Therefore, we start with the fact-based part of the analysis of this Legal Opinion with an attempt to delve into the matter of business, which is not possible without comprehending the difficulties the system users are trying to overcome, and to reveal solutions that are suggested in the WP itself.

For the purpose of this analysis, we have examined the White Paper (hereinafter the “**WP**”) of the Project, studied and scrutinized marketing content available on Project and revealed the following.



In the White Paper the founders say that the atmosphere has been deteriorating for a long time considering that the world does not have the planet «B» to migrate so far. There are many ICO and some of them are very interesting and worth being noted, however just a few projects are paying attention to the environmental state. That is about the increase in amount of CO2 emissions, lack of funding of environmental research and transparent reporting and many other issues that have yet to be addressed.

«The environmental state of our planet is deteriorating, and there is no Planet B. While there are many complex and irrelated issues, we believe the following matters most significantly impact the global and environmental health currently and in the immediate future».

However, in the White Paper Founders have manifested to discover the way to address issues using blockchain technology. That is the GWP PROJECT that makes possible to facilitate the growth of environmental researches, increase transparency of funding, control statistic gathering and even build a hardware platform to replace the current use of fossil resources consumption.

Founders proclaim the goal of the project is to provide the digital ecosystem to heal the climate on the planet.

«As a grass-roots movement, the Green World Project has been initiated to help resolve these problems. GWP will form a digital ecosystem as a foundation for helping to build an environmental and climate-friendly planet. The Green World Project will initially focus on three key areas:

Building a digital platform for funding verified (research projects that aim to improve our environment and global health; (short to mid – term)

Building a green (eco-friendly) energy hardware platform to replace the current use of fossil resources; (short to long term)

Developing a blockchain ecosystem and information base capable of storing information regarding «green» projects and their assets; (mid to long-term). »

As it is stated in the White Paper, GWP Platform consists of three components. These are Digital platform, Hardware platform and blockchain. Each of the parts plays its own role that we come back later **to**.

«In our vision, our three core components (digital platform, hardware platform and blockchain) create a self-sustaining ecosystem, capable of expanding to any required level and involving any number of verified projects, people and components. »

While we have to move forward, necessary to mention that only the core features of the Project that will help us to analyze the GWP Token for the Howey test were prepared and introduced here.

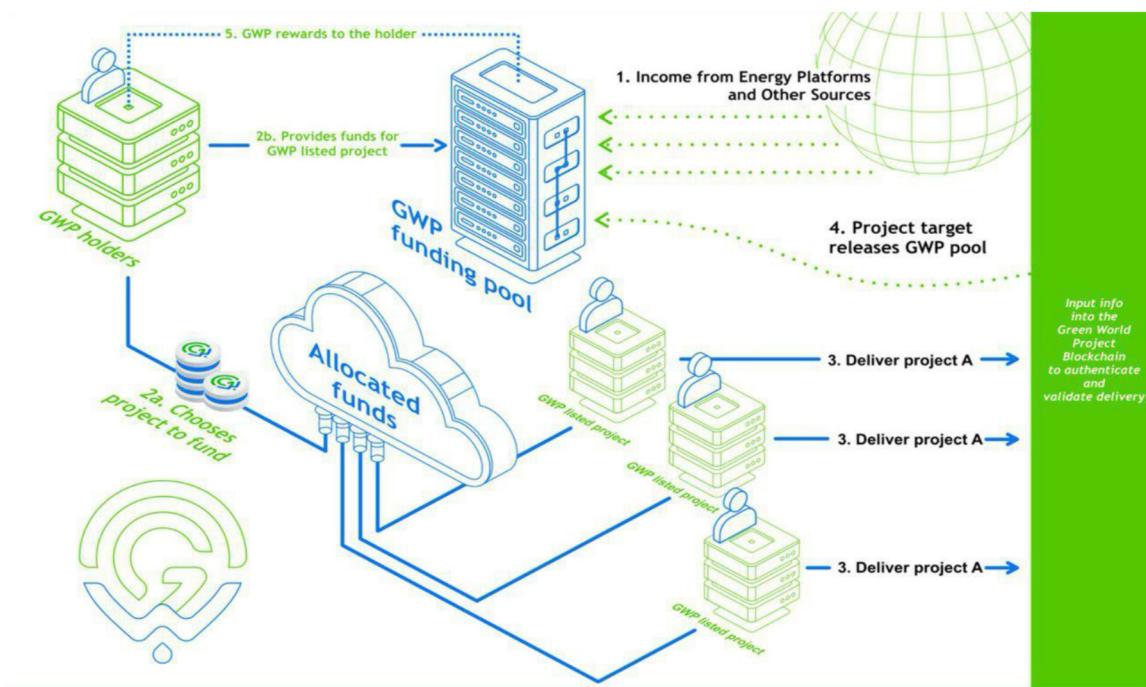
At this point, we start our evaluation with the major participants of the Platform to understand relations between GWP TOKEN holders and Founders on the one side, and between GWP TOKEN holders themselves (participants of the Platform) on the other side.



Taking this into account, it is fair to declare that relations between GWP TOKEN holders mentioned above will eventually determine relations between GWP TOKEN holders and Project Founders and, as a result, these relations will lead to the final conclusion of this Legal Opinion.

There are several core participants in the Ecosystem: This concept of participants division is very general and is introduced here only for the purposes of this Legal Opinion.

- Green Projects
- Digital Platform
- GWP Holders



While GWP holders participate in the Project choosing the one most appealing for them, the latter build the relevant Green Project in a transparent manner as described above.

What is more, there is a marketplace on the Platform where participants and individuals form the market for rendering services.

Participants are:

- GWP Partners
- Individuals

«GWP Green Marketplace is a Platform where individuals and GWP partners offer services and products in exchange for GWP tokens. Assessed on all payments made through the Green Marketplace is a small fee of 0.1%. This small fee helps to find future projects.»

Analyzing the Ecosystem, Founders act in the market of the Platform as independent players seeking their own benefits. And in this regard, the form of relationships between the members of the GWP Platform and the Founders reminds legal relations between a licensor and licensee.

What is more, it may be concluded that all members of the Platform are deeply involved in development of the Platform's network being incentivized with rewards produced by the latter. What is more, the more users of the Platform undertake operations on the Platform, the more complex and flexible the network becomes.

There is no evidence revealed that the Platform has already been developed. However, it can be inferred from the White Paper that the last version of the System will be tested in the last quarter of 2019.

Obviously, no legal opinion on Howey Test may obviate the token analysis and we will scrutinize it not only in this part hereof.

The primary function of GWP TOKEN in the Ecosystem is to provide the Project's members with the means of payment within the Platform and with each other. That is a well-known use of a utility token that is accepted in most jurisdictions as an internal medium of exchange that has value only within the Platform.

«Used as a payment method, the Green World Project token enables «green» transactions (low/zero emissions), supporting projects that perform research, and projects that offer «green» products and services. »

«Our token will play a vital role in our ecosystem, becoming a method of funding, a utility and a means of improving our planet by fueling our ecosystem. »

Thorough investigation of the WP has not determined that the Founders offer any distribution of dividends to prospective GWP TOKEN holders derived from the use of the Platform or any other form of investments return. Marketing materials of the Project do not contain any aggressive promotion of the GWP TOKEN as an investment instrument to speculate on the exchange market.

The Founders also supply the WP's reader with several disclaimers:

«The GWP tokens are not intended to constitute securities in any jurisdiction. Our Whitepaper does not constitute a prospectus or offer document of any sort and is not intended to constitute an offer of securities or a solicitation for investment in securities in any jurisdiction. »

B. Howey Test and Its Adoption by the Federal Courts

In accordance with Section 2(a)(1) of the Securities Act, security is an:

"any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement ... investment contract ... 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..”

Exchange and Securities Acts tend to control issuing of investment instruments and to testify particular interests attached to them. However, Security Law promotes a priority of the substance over the form. Therefore, if the Security and Exchange Commission reveals any type of cooperation promising any future profits merely out of signing particular contract, it may investigate the case and declare this contract a security instrument. Under such circumstances, promoters of such instrument shall disclose particular information and submit it to SEC.

The Supreme Court case for determining whether an instrument meets the definition of security is SEC v. Howey, 328 U.S. 293 (1946). In that case, a promoter offered to purchase certain services (cultivation of land) for the fixed price and cost of services. It is important to note that further the promoter was delegated to distribute the net profits derived from the sale of fertile land among the holders of land plots during the harvesting period. There were only 42 investors interested in purchasing the land.

Analyzing the fact pattern, the Court construes the “*investment contract*” term within the definition of security and notes that it has been used to classify those instruments that are of a “*more variable character*” that may be considered as a form of “*contract, transaction, or scheme whereby an investor lays out money in a way intended to secure income or profit from its employment.*” 11 Howey, 328 U.S. at 298; Golden v. Garafolo, 678 F.2d 1139, 1144 (2d. Cir. 1982).

More specifically, the court comes to the conclusion that the contract between the promoter and investor constitutes an investment contract. The court explains the definition of the security transaction as follows:

“a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party.”

Moreover, the court said that this definition was “*crystallized*” in the state courts cases long before adoption of the federal act. The Supreme Court continues that the term

“had been broadly construed by state courts so as to afford the investing public a full measure of protection. Form was disregarded for substance and emphasis was placed on economic reality.”

The Court stated that its definition of investment contracts

“embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits.”

Eventually, to determine that this is an investment contract, the court has to establish that the following applies: four- (i) *investment of money*; (ii) *common enterprise*; (iii) *expectation of profits*; (iv) *solely from the efforts of others* (e.g., from a promoter or third party).



With regard to the first prong “*investment of money*”, there is no basis for disagreement. The only issue that may arise here is whether cryptocurrency may constitute viable consideration interest in lieu of the obtained interests attached to the token. This issue is addressed by the Supreme Court itself holding that the first prong requires only

“*tangible and definable consideration in return for an interest that had substantially the characteristics of a security.*”

However, the Supreme Court fails to specify the definition of a common enterprise. Federal circuits developed two different concepts to analyze underlying contractual relationships of the parties. The first doctrine is “*horizontal commonality*” and the second is “*vertical commonality*”.

Horizontal commonality is found when a) investors’ contributions are pooled together (and according to some courts, there is a pro rata sharing of profits) b) the fortune of each investor depends on the success of the overall enterprise.

In contrast, vertical commonality presupposes that common enterprise may be found where the investors’ fortune is dependent on the expertise of the promoter or third parties. In case of narrow vertical commonality, investors’ profits shall be tied to the profits of promoters.

It is not necessary that the funds of investors are pooled; what must be shown is that the fortunes of the investors are linked with those of the promoters, thereby establishing the requisite element of vertical commonality. Thus, a common enterprise exists if a direct correlation has been established between success or failure of the promoter’s efforts and success or failure of the investment.

According to this view, the test is satisfied if the promoter and the investor are both exposed to risk and the profits and losses of investor and promoter are correlated.

In broad vertical commonality, investors’ success depends on the efficacy of the managers or third parties. Both the Fifth Circuit and the Eleventh Circuit follow this view. If the investor relies on the promoter’s expertise, then the transaction or scheme represents a common enterprise and satisfies the second prong of the Howey test.

As it was mentioned above, the circuits now disagree over the term “*common enterprise*”.

The third prong is an “*expectation of profit derived from the entrepreneurial or managerial efforts of others*”. Analyzing this prong, courts consider whether potential investors 1) expect to receive profits from their own efforts (use of rights or services obtained from promoters) or 2) from the efforts (managerial expertise) of the founders.

Even though in re Howey, the Court used the phrase “solely” from the efforts of others, the lower courts relaxed this prong, adopting concepts of “*undeniably significant*” or “*predominantly*” (Rivanna Trawlers Unlimited v. Thompson Trawlers, Inc., 840 F.2d 236, 240 n.4 (4th Cir. 1988) SEC v. Life Partners, Inc., 87 F.3d 536, 545 (D.C. Cir. 1996); SEC v. Int’l Loan Network, Inc., 968 F.2d 1304, 1308 (D.C. Cir. 1992). SEC v. Koscot Interplanetary, Inc., 497 F.2d 473, 483 (5th Cir. 1974) (quoting SEC v. Glenn W. Turner Enters., Inc., 474 F.2d 476, 482 (9th Cir. 1973)).

In United Housing Foundation, Inc. v. Forman, the Supreme Court stated, “*The touchstone is the presence of an investment in a common venture premised on a reasonable expectation*



of profits to be derived from the entrepreneurial or managerial efforts of others.” 421 U.S. 837, 852 (1975)

Since that time, some courts are investigating whether there is de minimis efforts of investors and whether efforts of them are insubstantial factor for the investor to participate in the contract.

Other courts have a look whether the efforts of offerors of the contract are predominant and more significant in comparison with those of investors in light of future expectation of profits or that efforts of those other than the investors are “*the undeniably significant ones*”.

Finally, some courts hold that the forth prong is satisfied when the expectations of profits derive from the managerial and entrepreneurial efforts of the offerors, “*in unspecified measure and unspecified comparative weight as to the relative significance with investors’ efforts and offerors’ or third parties’ efforts.*”

C. Analysis Under the Howey Test

We provide our analysis of GWP Token below based on each Howey test factor.

(1) Investment of Money

As we can see in the case law analysis above, it was not difficult for courts to establish the “*investment money*” prong, and it was not difficult for us either.

GWP TOKEN has been offered to public predominantly with cryptocurrency such as Bitcoin or Ethereum. These are not money as such but on August 6th, 2013, the U.S. District Court for the Eastern District of Texas held that Bitcoin was within the definition of “*money*”.

It is stated in the court’s decision that Bitcoin may be used to purchase goods or services or to pay for individual living expenses. The only limitation of Bitcoin is that it is limited to those places that accept it as the currency.

Since Bitcoin or any other cryptocurrency has all functions inherent to a real currency, it can be considered as the “*money*” when it is used as consideration in forming an investment contract.

In the case at bar, purchasers acquire GWP TOKEN for real currency or virtual as it follows from the WP, website, and the terms and conditions.

Therefore, this element of the test is straightforward for us and push the scale towards GWP TOKEN being an investment instrument.

(2) Common Enterprise

In contrast with the “*Investment of Money*” prong, GWP TOKEN does not satisfy either common enterprise or vertical element of the Howey Test.

According to the abovementioned rules, the horizontal common enterprise is found where investors combine their investments in one pool and the fortune of each investor depends



on the success of the overall enterprise. And in some courts, judges are seeking to decide whether a pro rata sharing of profits takes place.

The key essence of this approach is that investors are tied together in their risks either to receive or to lose everything. That is not the case in our circumstances.

Beyond the doubt, the one would definitely fail to argue that investments are not pulled together. The founders of the project are those who undeniably promote gathering of funds not only for further development of the Platform but for marketing and personal purposes also. The WP proclaims that funds must be collected and used in accordance with their business plan. The road map and funds distribution is provided in the WP.

Another element for the horizontal common enterprise that has to be found is the dependence or, on the contrary, independence of the enterprise founders and each token holder. Under our circumstances, it cannot be inferred that the fortune of each investor depends on the success of the overall enterprise.

The one would definitely argue and will be right that in respect of launching the Platform success of each token holder shall indeed be equal to success of another, as the failure to develop the Platform would affect all token holders. However, this argument has many flaws.

First, it can be inferred that the Platform will be developed soon in end of 2019 year and we can see the plan of development in the White Paper.

Secondly, we believe that regarding the use of the Platform participants and the Founders are more likely independent. As it was recorded in the fact- based analysis "*the Founders act in the market of the Platform as independent players seeking their own benefits.*" Hence, we may declare that it is more likely that the fortune of each GWP TOKEN does not depend on the fortune of the Project.

Finally, the Platform is not designed to share any profits with the GWP TOKEN holders of the Platform.

In the vertical enterprise test, it is not necessary that the funds of investors are pooled; what must be shown is that the fortunes of the investors are linked to those of the promoters, thereby establishing the requisite element of vertical commonality. Thus, a narrow vertical enterprise exists if a direct correlation has been established between success and failure of the promoter's efforts and success and failure of the investor.

The risks a GWP TOKEN holder accepts are more likely of different nature as compared with those risks that promoters incur (founders or some third parties).

The Promoter's risks are failing to use the funds in a manner not prescribed in the WP or in a proper way or end in a fiasco either with operation of funds or with developing the system or its running or not finding the critical amount of users that would boost the economy of the System. In all other cases, it is more likely that the promoters' risks do not correlate with those of the users. We are inclined to believe that, in general, GWP TOKEN holders risk only if the declarations contained in the WP will not be implemented.



In broad vertical commonality, investors' success depends on the efficacy of the managers or third parties. If the investor relies on the promoter's expertise, then the transaction or scheme represents a common enterprise and satisfies the second prong of the Howey Test.

Once the Project has been launched and the Platform works properly, every member of the Project starts to pursue its own purposes and thus in such pursuit will face its own risks, misfortunes and failures that would not be commingled with the fortunes of the Project enterprise.

Therefore, and taking into account the above-mentioned, in our opinion, GWP TOKEN is more likely not to match a common enterprise element of the Howey Test.

(3) Expectation of Profits

We consider that the "*Expectation of Profits*" element is also not matched for the following reasons.

The case law that we have analyzed above revealed that the "*Profits*" definition may be construed broadly and may include not only the fiat money but also other benefits. However, even though the above-foregoing is true, it would be a superficial analysis of the Project at stake.

The case is that the expectation of profits from a purchase of any subject of value almost always takes place. Merely expectation of profit is trivial and not enough to GWP Token for this prong. In contrast, the one has to be primarily motivated and has to have speculative interest, for example, to resale the commodity or the right rather than interest in personally consuming the subject of value.

The case law also differentiates this distinction - for example, in Re Forman Case it was established that:

"It is an investment where one parts with his money in the hope of receiving the profits from the efforts of others, and not where he purchases a commodity for personal consumption or living quarters for personal use".

Applying the above-mentioned law to the case at bar, we can infer that like in any other projects GWP TOKEN holders will be inevitably divided into two groups - those who are seeking to use the Product and those who merely intend to trade on the secondary market. And we have to admit that some people in the first group of the Token holders may enter the exchange market to sell the Tokens due to its market price appreciation.

Nevertheless, this profit may not be deemed as generated from the "*efforts of others*". As we see from the facts described below, the Platform is designed in a way to provide its holders with real licensing rights.

As we revealed in the WP, Platform introduces an independent intellectual property object that is the Platform. And in this regard, it is likely that GWP TOKEN holders merely use both as a software. And, perhaps, that is a predominate interest of GWP Token holders.

Therefore, it is more likely that GWP Token holders' genuine interest in using Tokens is predominantly centered around consumption.



Should we believe we in another scenario, an investment contract would be met every time in our life when we acquire any commodity or right since many subjects may be appreciated in the future and sold on the secondary market. Several case laws also support this conclusion. *In Re Sinva* the court asserted that

*"The mere presence of a speculative motive on the part of the purchaser or seller does not evidence the existence of an "investment contract" within the meaning of the securities act. In a sense anyone who buys or sells the horse or an automobile hopes to realize a "profitable investment". But the expected return is not contingent upon continuing efforts of another". *Sinva v Merrill Lynch*, 253 F. Supp/ 359, 367 (S.D.N.Y.1966).*

We also investigated the marketing campaign run by the Founders, and it does not reveal any provocative material that would entice people to use GWP TOKEN for speculation purposes on the exchange market and in any other way save for personal use.

Therefore, and taking into account the foregoing, we suppose this prong is more likely to push the scale towards GWP TOKEN being not deemed as a security. However, for the secondary market players it might be deemed fulfilled.

(4) Solely from the Managerial Efforts of Others

Analyzing this prong, courts consider whether the potential investors expect to receive profits 1) from their own efforts (use of rights or services obtained from promoters) or 2) from the efforts (managerial expertise) of the others (promoters, managers).

As we discussed above, not all courts share the approach of the Supreme Court using the term "*solely*" that defines the efforts of others.

If we apply the concept "*only*" from the efforts of others, this prong is more likely not to be satisfied. In our opinion, holders use it also as means of payment, so the more transactions they make, the more attractive Platform's Ecosystem is.

However, some federal courts later relaxed this approach exploiting "*de minimis*" efforts of others or the concept of "*undeniably significant*" or "*predominantly*" after *In Re Forman* case. So even if the investor has the power to be involved, the transaction may still be an investment contract if the efforts of others predominate.

*"Whether the efforts made by those other than the investor are the undeniable significant ones, those essential managerial efforts which affect the failure or success of the enterprise" (*The forman case; SEC v Glenn W turner Enters.*, 474 F.2 d 476 sec.28 (Feb.1, 1973)).*

However, we are inclined to believe that GWP TOKEN holder will rely on the managerial and entrepreneurial efforts of the Founders only to the extent that the latter will further develop the Platform that would permit all parties of the Ecosystem to communicate and apply all functionality of the System as they deem fit. Besides and as we discussed above all profit derived from the use of the Platform may be obtained only from their own efforts.

Without any doubts, GWP TOKEN holders observe the marketing campaign. However, as we may see from the facts analysis provided above, the Founders do not assert in any marketing materials either on the website or in the reviews that the Project may generate



any investment profits for GWP TOKEN holders. At any rate, this prong is more likely not to be satisfied.

IV. Summary and Conclusion

The first prong is definitively satisfied and no one shall state that courts will consider in another way.

The second prong is more difficult and debatable. However, our analysis has revealed that this element is not satisfied under both theories applied by the federal courts.

The third element is not satisfied too.

Finally, the last prong is not satisfied.

To conclude, since not all the elements of Howey Test are met, in our opinion, GWP TOKEN may not be considered as a security instrument.

Nevertheless, it should be noted that the Howey Test has not yet been directly applied by courts to any utility tokens before.

THE ABOVE ANALYSIS IS BASED ON INFORMATION OBTAINED FROM A REPRESENTATIVE OF THE PLATFORM, WHITE PAPER OF THE PROJECT AND ITS WEBSITE. THE SEC OR A COURT OF COMPETENT JURISDICTION MAY REACH AN ALTERNATIVE CONCLUSION TO THAT STATED IN THIS LEGAL OPINION LETTER. NO WARRANTIES OR GUARANTEES OF ANY KIND AS TO THE FUTURE TREATMENT OF SAT HOLDER OR SIMILAR TOKENS ARE BEING MADE HEREIN.

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Nikita Tepikin, Lawyer, Legal Kornet LLC. LLM, Esq. NY License Attorney,

Registration number 5251814

