

Congress of the United States
Washington, DC 20515

July 10, 2023

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Attorney General Garland and Chair Gensler:

We write to express concern that Prometheus, Inc. (Prometheus) may have provided false testimony to Congress or violated U.S. securities laws.

Prometheus is a digital asset company that is registered by the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA). Its subsidiary, Prometheus Ember Capital, LLC, was recently approved as a special purpose broker-dealer (SPBD) for digital asset securities by the SEC and FINRA, allowing the firm to custody digital asset securities on behalf of retail and institutional clients.¹ Prometheus's largest outside investors are China-based entities – Shanghai Wanxiang Blockchain, Inc. (Wanxiang) and its subsidiary HashKey Digital Asset Group, Ltd. (HashKey) – with ties to the Chinese Communist Party (CCP) that were outlined in a congressional oversight letter sent to the SEC and FINRA on June 5.² These ties are deeply concerning to each of us and to many of our colleagues in Congress.

On June 13, Mr. Aaron Kaplan, Co-CEO and founder of Prometheus, appeared before the U.S. House of Representatives Committee on Financial Services at a hearing entitled, “The Future of Digital Assets: Providing Clarity for the Digital Asset Ecosystem.” In written testimony submitted to the committee, Mr. Kaplan stated:

“In December 2018, as part of the investment from Hashkey into Prometheus, Prometheus and Wanxiang agreed to jointly develop a blockchain trading system. Thereafter, in approximately one (1) year, it became clear to Prometheus that joint development was not viable. Upon such realization, Prometheus started to independently develop its own platform. All servers, code, data, and proprietary technology were created independently of Wanxiang and its affiliates. Prometheus does not use any resource, code, or other assets from Wanxiang or its affiliates in any of its systems.”³

¹ <https://www.businesswire.com/news/home/20230523005313/en/Prometheus-Ember-Capital-is-the-First-SEC-Qualified-Custodian-for-Digital-Assets-Securities>.

² https://www.tuberville.senate.gov/wp-content/uploads/FILE_3666.pdf.

³ <https://docs.house.gov/meetings/BA/BA00/20230613/116085/HHRG-118-BA00-Wstate-KaplanA-20230613.pdf>.

We take this statement to mean – and believe a reasonable investor would understand this to mean – that Prometheus began developing its technology platform void of influence from its China-based partners in December 2019. However, Prometheus’s audited financial statements and SEC filings during 2020 and 2021, which were relied upon by investors, indicate that Prometheus continued to rely on its partnership with Wanxiang and HashKey long after December 2019. In fact, Mr. Kaplan acknowledged that Prometheus’s formal technology agreement with Wanxiang and HashKey was not terminated until October 2021.⁴

Audited financial statements for the year ending December 31, 2020, which were included in Prometheus’s SEC filings, state that Prometheus:

“[U]ses Wanxiang as their sole project developer and relies on Wanxiang’s ability to create and maintain a successful platform. The loss of the services of Wanxiang could have a material adverse effect on the ability of the Company to develop, operate or maintain the Prometheus Network because the skillset required to successfully develop blockchains is rare. If the Company were to lose the services of Wanxiang, it could be difficult or impossible to replace them, and the loss of them could have a material adverse effect on the Company’s operations and financial conditions.”⁵

A June 2021 Offering Circular from Prometheus on file with the SEC states: *“We are conducting our development activities with our strategic partners and joint venturers, HashKey Digital Asset Group Limited (“HashKey”) and Shanghai Wanxiang Blockchain Inc. (“Wanxiang”), an affiliate of HashKey.”⁶* The filing goes on to state:

“[E]ffective December 14, 2018, the Company and Wanxiang entered into a Strategic Partnership and Joint Development Agreement, the Company, HashKey and Wanxiang entered into a Technology Agreement (the “Technology Agreement”), and the Company, HashKey, Wanxiang and certain other investors entered into an Investor and Founders Rights Agreement... The Technology Agreement provides for the transfer and assignment to the Company of HashKey’s and its affiliates’ proprietary blockchain and trading software, relating to the operation of the PEATS ATS and the Company’s proposed business and operations (the “Technology”). The Technology Agreement also provides for a one (1) year royalty-free, license to use HashKey’s hot/cold wallet storage software system. The Technology Agreement also provides for the provision of ongoing technology development support from HashKey and its affiliates, including with regard to the ongoing development of the Prometheus Network and the Prometheus Blockchain development, and the ATS trading system code and system development support (including, but not limited to, matching engine and market data components).”⁷

⁴ https://www.sec.gov/Archives/edgar/data/1718271/000101905621000547/ex6_10.htm.

⁵ <https://www.sec.gov/Archives/edgar/data/1718271/000101905621000346/offeringcircular.htm>.

⁶ <https://www.sec.gov/Archives/edgar/data/1718271/000101905621000348/offeringcircular.htm>.

⁷ *Ibid.*

Moreover, the June 2021 Offering Circular also states that Prometheus’s “*strategic Partnership and Joint Development Agreement with Wanxiang has provided the Company with material and significant world recognized resources.*”⁸

If Prometheus began developing its own technology platform totally independent of its China-based, CCP-tied partners in December 2019 as Mr. Kaplan attempted to lead Congress to believe in his congressional testimony, why was this not made clear in Prometheus’s SEC filings? Why would Prometheus continue to assert in SEC filings through 2020 and well into 2021 that it was continuing development efforts with its partners Wanxiang and HashKey?


Furthermore, why would Prometheus tell investors in June 2021 that Wanxiang “*has provided the Company with material and significant world recognized resources*” when Mr. Kaplan testified that Prometheus determined in December 2019 that “*joint development [with Wanxiang] was not viable*” and that “[*a*]ll servers, code, data, and proprietary technology were created independently of Wanxiang and its affiliates”? Mr. Kaplan’s statement to Congress and Prometheus’s SEC filings appear to be in conflict. Given how much Prometheus touted its relationship with Wanxiang in its SEC filings and public appearances – including Mr. Kaplan proudly stating that Wanxiang is “*not a partner, they are our co-founder, and we work hand in hand with them, and leveraging their excellent resources and expertise, we really feel that we can achieve our business plan*” – investors would certainly have found it material to know that the relationship between Prometheus and Wanxiang had changed.⁹

Making false statements to Congress is a crime. Submitting false or misleading statements in SEC filings constitutes securities fraud. As we know you will agree, the inconsistencies in Prometheus’s statements to Congress and the SEC is a matter that deserves thorough review, as does Prometheus’s continued membership in FINRA and registration with the SEC. We appreciate your prompt attention to our concerns and look forward to your replies.

Sincerely,



Tommy Tuberville
United States Senator



Blaine Luetkemeyer
Member of Congress

⁸ <https://www.sec.gov/Archives/edgar/data/1718271/000101905621000348/offeringcircular.htm>.

⁹ <https://twitter.com/sentosumosaba/status/1669314724557901824?s=20>.



Barry Loudermilk
Member of Congress



Ralph Norman
Member of Congress



Byron Donalds
Member of Congress



Mark Alford
Member of Congress

CC: The Honorable Avril D. Haines, Director of National Intelligence
The Honorable Christopher A. Wray, Director of the Federal Bureau of Investigation
Mr. Robert Cook, President and CEO of the Financial Industry Regulatory Authority