UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

23-20478-CR-ALTMAN/BECERRA

CASE NO. _____

31 U.S.C. § 5318(a)(2) & (h)(1)
31 U.S.C. § 5322(a) & (c)

FILED BY_____MP_____D.C.

Dec 13, 2023

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIAMI

UNITED STATES OF AMERICA

vs.

ADAM COLIN TODD,

       Defendant.

_____/

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At times relevant to this Indictment:

Defendant and Related Entities

1.   The Defendant, **ADAM COLIN TODD,** was a resident of Miami, Florida, in the Southern District of Florida.

2.   Digitex Limited was an entity registered in the Republic of Seychelles on December 11, 2017, that was controlled by **ADAM COLIN TODD.**

3.   Digitex Software Limited was an entity registered in Ireland on March 8, 2018, that was controlled by **ADAM COLIN TODD.**

4.   Blockster Holdings Limited, was an entity registered in Gibraltar on January 27, 2021, that was controlled by **ADAM COLIN TODD.**

5.   Digitex LLC was an entity registered in St. Vincent and the Grenadines on April 27, 2021, that was controlled by **ADAM COLIN TODD** and Blockster Holdings Limited.

6.   Digitex Futures Exchange ("Digitex Futures"), was a common enterprise of Digitex Limited, Digitex Software Limited, Blockster Holdings Limited, and Digitex LLC that operated as an online futures exchange through the website Digetex.io (the "Exchange").

7.   **ADAM COLIN TODD** was the chief executive of Digitex Futures.

Digitex Futures

8.   Digitex Futures allowed institutional and retail investors to buy and sell cryptocurrencies and cryptocurrency futures contracts and was a commission-free futures exchange that covered operational costs by minting its own native currency, DGTX, instead of charging transaction fees on trades.

9.   From in or about January 2018 and continuing up to and including in or about April 2022, Digitex Futures operated within the United States and serviced customers located in the United States and the Southern District of Florida.

10.   By engaging in the foregoing activities, Digitex Futures was a "futures commission merchant" ("FCM") required to comply with the Bank Secrecy Act, 31 U.S.C. §§ 5311–5314 and 5316–5332.

The Bank Secrecy Act

11.   The Bank Secrecy Act, as amended by the Patriot Act of 2001, was designed to "prevent, detect, and prosecute international money laundering and the financing of terrorism." 31 U.S.C. § 5311. The Bank Secrecy Act imposed reporting, recordkeeping, and controls requirements on covered "financial institutions," which included, among others, FCMs that were

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required to register as such under the Commodity Exchange Act. 31 U.S.C. § 5312(c).

12.   An FCM was an individual, association, partnership, corporation, or trust that (i) engaged in soliciting or in accepting orders for regulated transactions, including futures, swaps, commodity options, or retail commodity transactions; or (ii) acts as a counterparty to retail commodity transactions; and (iii) which, in connection with these activities, "accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom."   7 U.S.C. § 1a(28)(A).

13.   The Commodity Exchange Act requires an individual, association, partnership, corporation, or trust to register as an FCM with the United States Commodity and Futures Trading Commission if it solicits or accepts orders for commodity futures contracts, swaps, or retail commodity transactions (among other specified products), and in or in connection with such activity accepts any money or property to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

14.   Bitcoin, Ether, and other virtual currencies are "commodities" under the Commodity Exchange Act.

15.   Under the Bank Secrecy Act, an FCM must establish an anti-money-laundering program that is approved by senior management that includes, at a minimum: "policies, procedures, and internal controls reasonably designed to prevent the financial institution from being used for money laundering or the financing of terrorist activities"; independent compliance testing; ongoing training for appropriate personnel; and "risk-based procedures for conducting ongoing customer due diligence." *See* 31 U.S.C. § 5318(h)(1); 31 C.F.R. § 1026.210.

16.   FCMs must also file suspicious activity reports within thirty days of the date of

initial detection of facts that may constitute a basis for filing a suspicious activity report—including for transactions involving funds or other assets of at least $5,000 if the FCM knows, suspects, or has reason to suspect, among other things, that the transaction involves funds derived from illegal activity or that the FCM is being used to facilitate criminal activity or evade any Federal law or regulation or to avoid any transaction reporting requirement. *See* 31 C.F.R. § 1026.320.

17.   As part of its anti-money-laundering program, an FCM must implement a written customer identification program, commonly referred to as a "know-your-customer" program. 31 C.F.R. § 1026.220; *see* 31 U.S.C. § 5318(*l*). The know-your-customer program must include "risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable" and enable an FCM to "form a reasonable belief that it knows the true identity of each customer." 31 C.F.R. § 1026.220(a). At a minimum, an FCM must collect the name, date of birth, address, and government identification number of each customer prior to account opening and must take steps to verify that information in a reasonable time. 31 C.F.R. § 1026.220(a)(2)(i)(A).

18.   The know-your-customer program must also include procedures for "determining whether a customer appears on any list of known or suspected terrorists or terrorist organizations issued by any Federal government agency." 31 C.F.R. § 1026.220(a)(4).

ADAM COLIN TODD Willfully Failed to Implement Compliant Anti-Money-Laundering and Know-Your-Customer Programs at Digitex Futures

19.   Since at least on or about 2018, and continuing through April 2022, **ADAM COLIN TODD** and Digitex Futures illegally operated within the United States, and/or sold or offered to sell futures contracts to customers in the United States and was required to register as an FCM with the Commodity and Futures Trading Commission, *see, e.g.,* 7 U.S.C. § 6d(a); *id.*

§ 1a(28)(A)(i)(aa)(AA), and was otherwise subject to the Bank Secrecy Act as a financial institution, *see* 31 U.S.C. § 5312(c)(1)(A).

20. From at least in or about January 2018, and continuing through April 2022, **ADAM COLIN TODD**, in his role as an executive of Digitex Futures, willfully failed to establish, implement, and maintain an adequate anti-money-laundering program, including an adequate know-your-customer program, for Digitex Futures, in violation of the Bank Secrecy Act.

21. **ADAM COLIN TODD** solicited and accepted customers in the United States, and otherwise operated in the United States, without complying with the Bank Secrecy Act.

22. **ADAM COLIN TODD** caused Digitex Futures to reject adoption and implementation of formal policies, procedures, and internal controls for anti-money-laundering; independent compliance testing for anti-money laundering; and training for appropriate personnel in anti-money laundering.

23. Digitex Futures did not monitor its customer transactions for money laundering and sanctions violations.

24. From in or about January 2018, and continuing up to and including at least in or about April 2022, Digitex Futures did not file any Suspicious Activity Reports reporting suspected illegal activity on Digitex Futures.

25. **ADAM COLIN TODD** caused Digitex Futures to allow customers, including individual retail customers, to register and trade without providing sufficient identifying information or documents to allow Digitex Futures to form a reasonable belief that it knew the identity of its customers.

26.   Customers registered to trade on Digitex Futures anonymously, by providing only a verified email address and without providing any identifying information or documentation.

27.   **ADAM COLIN TODD** knew that (i) Digitex Futures could not serve customers in the United States without complying with the Bank Secrecy Act's anti-money-laundering and know-your-customer requirements, (ii) Digitex Futures did not have adequate anti-money-laundering and know-your-customer policies, and (iii) Digitex Futures in fact continued to serve customers in the United States.

28.   **ADAM COLIN TODD** encouraged and allowed Digitex Futures to be accessed and used by customers in the United States and failed to take steps to effectively restrict customers in the United States from accessing Digitex Futures.

29.   In or around 2018, Digitex Futures's website expressly advertised that "No real-name or other advanced verification is required on Digitex."

30.   In or about March 2020, an article published on the Digitex Futures website, controlled by **ADAM COLIN TODD**, represented that Digitex Futures was a non-know-your-customer exchange; and a YouTube video published on Digitex Futures's YouTube channel included a statement from **ADAM COLIN TODD** refusing to implement know-your-customer policies for Digitex Futures.

31.   **ADAM COLIN TODD** caused Digitex Futures to not restrict access of Digitex Futures via Virtual Private Network services, which **ADAM COLIN TODD** knew allowed United States customers to circumvent the IP address check by making it appear as though they were accessing Digitex Futures from outside the United States.

United States Marketing and Business Activity

32.   **ADAM COLIN TODD** and Digitex Futures engaged in marketing activities with the effect and intent of attracting United States customers. **ADAM COLIN TODD** regularly attended cryptocurrency conferences in Miami and elsewhere in the United States and had meetings in the United States with potential and existing United States customers.

33.   In or around September 2018, **ADAM COLIN TODD** paid B.C.P, a company based in Overland Park, Kansas, approximately $9,000 USD worth of DGTX for services rendered pursuant to an influencer-and-paid-media agreement directed at customers in the United States.

34.   In or around July 2019, **ADAM COLIN TODD** paid A.D., a U.S. citizen residing in Miami-Dade County, Florida, in DGTX for social-media-management services.

35.   In or around December 2018, investors D.N. and S.G, U.S. citizens residing in Miami-Dade County, Florida, purchased DGTX directly from **ADAM COLIN TODD** via checks made payable to **ADAM COLIN TODD** for $10,000 USD and $1,500 USD, respectively.

36.   On or about June 2020, **ADAM COLIN TODD** told investor J.L., a United States citizen and resident of Illinois, that he should access the Digitex Futures exchange from within the United States by using a Virtual Private Network, which can conceal the true location of the individual accessing a website.

37.   Between January 2019 through April 2021, investor J.L. purchased $1.7 million USD worth of DGTX from **ADAM COLIN TODD** via multiple wire transfer payments from J.L.'s bank account located in Illinois to **ADAM COLIN TODD** in Miami-Dade County, Florida.

38.   On or around November 16, 2020, Digitex Futures exchanged approximately 0.2170 Ether for approximately 2,880 DGTX, during a U.S. law enforcement controlled buy from within Broward County, Florida.

39.   On or around July 14, 2021, A.D., a U.S. citizen residing in Miami-Dade County, Florida, deposited approximately .12 Ether on the Digitex Futures exchange and purchased and sold several futures contracts on Digitex Futures exchange.

COUNT ONE
31 U.S.C. § 5318(h)(1)
31 U.S.C. § 5322(a) & (c)
(Violation of the Bank Secrecy Act)

40.   Paragraphs 1 through 39 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.
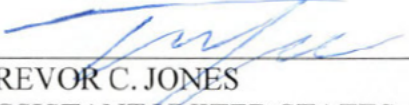
41.   From at least in or about January 2018, up to and including in or about April 2022, in Broward County and Miami-Dade County, Florida, the Southern District of Florida, and elsewhere, the defendant, **ADAM COLIN TODD**, did willfully cause a financial institution to violate the Bank Secrecy Act by failing to establish, implement, and maintain an anti-money-laundering program that satisfies the minimum standards required by 31 U.S.C. §§ 5318 and 5322, and 31 C.F.R. §§ 1026.210 and 1026.220, to wit, the defendant caused Digitex Futures, a financial institution with United States customers, to fail to establish and implement an anti-money-laundering program that includes policies, procedures, and internal controls reasonably designed to prevent Digitex Futures from being used for money laundering or terrorist financing; independent compliance testing; ongoing training for appropriate personnel; and risk-based procedures for verifying the identity of each Digitex Futures customer to the extent reasonable and practicable.

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All in violation of Title 31, United States Code, Sections 5318(a)(2) and (h)(1), 5322(a) and (c); Title 31, Code of Federal Regulations, Sections 1026.210 and 1026.220; and Title 18, United States Code, Section 2.

A TRUE BILL

███████████████████████

FOREPERSON

Thomas J. Mulvihill for
MARKENZY LAPOINTE
UNITED STATES ATTORNEY

TREVOR C. JONES
ASSISTANT UNITED STATES ATTORNEY

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA   CASE NO.: _____

v.
                                            CERTIFICATE OF TRIAL ATTORNEY
ADAM COLIN TODD,

_____/   **Superseding Case Information:**
                Defendant.   New Defendant(s) (Yes or No) _____
Court Division (select one)   Number of New Defendants _____
        ☒ Miami   ☐ Key West   ☐ FTP   Total number of counts _____
        ☐ FTL   ☐ WPB

I do hereby certify that:

1.   I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2.   I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. §3161.

3.   Interpreter: (Yes or No) No_____
     List language and/or dialect: _____

4.   This case will take __3__ days for the parties to try.

5.   Please check appropriate category and type of offense listed below:
     (Check only one)   (Check only one)
     I   ☒ 0 to 5 days   ☐ Petty
     II   ☐ 6 to 10 days   ☐ Minor
     III ☐ 11 to 20 days   ☐ Misdemeanor
     IV   ☐ 21 to 60 days   ☒ Felony
     V   ☐ 61 days and over

6.   Has this case been previously filed in this District Court? (Yes or No) No_____
     If yes, Judge _____ Case No. _____
7.   Has a complaint been filed in this matter? (Yes or No) No_____
     If yes, Magistrate Case No. _____
8.   Does this case relate to a previously filed matter in this District Court? (Yes or No) No_____
     If yes, Judge _____ Case No. _____
9.   Defendant(s) in federal custody as of _____
10. Defendant(s) in state custody as of _____
11. Rule 20 from the _____ District of _____
12. Is this a potential death penalty case? (Yes or No) No_____
13. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard? (Yes or No) No_____
14. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss? (Yes or No) Yes_____
15. Did this matter involve the participation of or consultation with now Magistrate Judge Eduardo I. Sanchez during his tenure at the U.S. Attorney's Office, which concluded on January 22, 2023? No_____

                                   By: _____
                                         Trevor C. Jones
                                         Assistant United States Attorney
                                         FL Bar No.   0092793

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: ADAM COLIN TODD

Case No: _____

Count #: 1

Violation of Bank Secrecy Act, Title 31, United States Code, Sections 5318(a)(2) & (h)(1), 5322(a) & (c)

* **Max. Term of Imprisonment: 5 years**
* **Mandatory Min. Term of Imprisonment (if applicable): n/a**
* **Max. Supervised Release: 3 years**
* **Max. Fine: $250,000**

*Refers only to possible term of incarceration, supervised release and fines.   It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.