

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11187 / May 16, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21424

<p>In the Matter of</p> <p style="text-align:center">PRINCIPAL SOLAR, INC.,</p> <p>Respondent.</p>

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) against Principal Solar, Inc. (“Principal Solar” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

Summary

1. This matter involves Principal Solar's failure to comply with Regulation A, which provides a limited exemption to the registration requirements of the Securities Act for certain public offerings. Specifically, after obtaining qualification to offer a specific number of shares pursuant to Regulation A, Principal Solar improperly (i) increased the number of shares offered, and (ii) did not update its financial statements at least annually through a post-qualification amendment, and thereafter offered and sold shares in an offering that was not exempt from registration pursuant to Regulation A. As a result, Principal Solar offered and sold securities in violation of Sections 5(a) and 5(c) of the Securities Act.

Respondent

2. Principal Solar is a Delaware corporation with its principal place of business in Dallas, Texas. Its common stock trades on OTC Link operated by OTC Markets Group Inc. Principal Solar's business model focuses on energy transition technologies.

Facts

3. Principal Solar offered shares of common stock to investors from November 25, 2020 through approximately February 16, 2022 (the "Offering"). It sold approximately 96.1 million shares between December 29, 2020 and December 10, 2021, raising a total of approximately \$8.6 million. Principal Solar did not register the Offering with the Commission but instead sought to rely on the limited exemption from registration found in Regulation A.

4. In connection with the Offering, on June 29, 2020, Principal Solar filed an offering statement on Form 1-A with the Commission. On November 6, 2020, Principal Solar filed an amended offering statement on Form 1-A/A with the Commission, which the Commission qualified on November 25, 2020. Under the qualified offering statement, Principal Solar proposed to sell up to 100 million shares of common stock at a fixed price of \$0.10 per share. Between November 25, 2020 and August 3, 2021, Principal Solar offered and sold approximately 47.8 million shares.

5. On August 3, 2021, Principal Solar filed an offering circular supplement on Form 253G2 (the "August 3, 2021 Supplement"). The August 3, 2021 Supplement increased the number of securities offered from 100 million to 125 million and changed the offering price to \$0.08 per share. Principal Solar did not file a new offering statement or post-qualification amendment to obtain qualification for this modified offering, which included an additional 25 million shares. Between August 3, 2021 and December 10, 2021, Principal Solar offered and sold approximately 48.3 million shares and raised approximately \$3.86 million under the terms of the August 3, 2021 Supplement.

6. An issuer is not permitted to use an offering circular supplement to increase the number of securities offered under Regulation A. Additional securities may be offered only pursuant to a new offering statement or a post-qualification amendment qualified by the

Commission. *See* Rules 252(e), 253(b) and Note to 17 C.F.R. § 230.253 (“An offering circular supplement may not be used to increase the volume of securities being offered. Additional securities may only be offered pursuant to a new offering statement or post-qualification amendment qualified by the Commission.”). Because Principal Solar increased the number of securities offered by filing the August 3, 2021 Supplement and did not file a new offering statement or post-qualification amendment that was qualified by the Commission, it offered and sold securities in contravention of the requirement that qualification is a necessary component for Regulation A sales. *See* Rules 251(d)(1) and 251(d)(2). As a result, Regulation A did not apply to the offers and sales made after Principal Solar’s filing of the August 3, 2021 Supplement.

7. Principal Solar did not file a post-qualification amendment to update its financial statements on or after November 25, 2021, 12 months after the Commission qualified Principal Solar’s offering statement that included financial statements for the most recent period. From November 26, 2021 through December 10, 2021, Principal Solar offered and sold approximately 21.6 million shares of its common stock and raised approximately \$1.7 million.

8. To conduct an ongoing offering, an issuer is required to file a post-qualification amendment at least every 12 months after the qualification date to include the financial statements that would be required by Form 1-A. *See* Rule 252(f)(2)(i). Because Principal Solar did not file a post-qualification amendment to update its financial statements on or after November 25, 2021, 12 months after the Commission qualified Principal Solar’s offering statement, it failed to comply with this requirement. As a result, Regulation A did not apply to the offers and sales made after November 25, 2021.

Violations

9. Section 5(a) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security unless a registration statement is in effect as to such security. Section 5(c) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy a security unless a registration statement has been filed as to such security.

10. Principal Solar offered to sell and sold its securities without a registration statement filed or in effect and without a valid exemption from registration. As a result of the conduct described above, Principal Solar violated Sections 5(a) and 5(c) of the Securities Act.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Principal Solar’s Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act, Respondent Principal Solar cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act.

B. Respondent shall pay a civil money penalty in the amount of \$40,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 (“Exchange Act”). Payment shall be made in the following installments: the first \$10,000 within 90 days of the date of this Order, the second \$10,000 within 180 days of the Order, the third \$10,000 within 270 days of the Order, and the fourth \$10,000 plus all accrued interest, within 360 days of the Order. Payments shall be applied first to post-order interest, which accrues pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier’s check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Principal Solar as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Assistant Director Anne C. McKinley, Division of Enforcement, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Boulevard, Suite 1450, Chicago, IL 60604.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor

Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary