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Superior Court of California,  
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES**

10  
11 HOWARD MANN, on behalf of himself and  
12 all others similarly situated,

13 Plaintiff,

14 v.

15 SEAN MOORE, MIRANDA GOMEZ, and  
16 DOES 1 through 200, inclusive,

17 Defendants.

Case No. 24STCV17012

Hon. William F. Highberger

**PLAINTIFF'S *EX PARTE* APPLICATION  
FOR TEMPORARY RESTRAINING ORDER  
AND OSC RE: PRELIMINARY  
INJUNCTION;**

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT**

**DECLARATIONS OF HOWARD MANN,  
CHARLES ZACH, AND SHAUN MARTIN**  
[Filed Concurrently Herewith]

**PROPOSED] ORDER and ORDER TO  
SHOW CAUSE** [Filed Concurrently Herewith]

Date: July 16, 2024

Time: 8:30 a.m.

Place: 312 N. Spring Street

Los Angeles, CA 90012, Dept. 10

**TO THE COURT AND ALL PARTIES AND ATTORNEYS OF RECORD:**

**TAKE NOTICE** that Plaintiff Howard Mann, on behalf of himself and all others similarly situated, hereby applies *ex parte* for a Temporary Restraining Order ("TRO") as follows:

(1) Restraining Defendant SEAN MOORE; Defendant MIRANDA GOMEZ; Binance Holdings Ltd.; and Mek Global Limited, Phoenix, Fin PTE Ltd., Flashdot Limited, and Peken Global Limited (collectively operating the centralized digital asset exchange under the name "KuCoin"); and/or any of their agents, servants, employees, attorneys, affiliates, partners, successors, assigns, subsidiaries, or any other persons through which they act, or who act in active concert or participation with any of them, who receive actual notice of this Order through personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division or other device, or any of them (collectively, the "Enjoined Parties"), from withdrawing, transferring, selling, encumbering, or otherwise altering any of the cryptocurrency or assets held in the following wallets, whether such property is located inside or outside of the United States of America:

15PGbkbXoVSQXWTHXwrcJPevq8NV5Ffdho

1A2PWvYo8EmysLFbYL99gGHK3haqRo9fiN

13GJh5kyqfgtsb5GP6VqH2fvAEQLPzPp5X

1LF7Vo9qsx1KLvUnRJc3yqhXYkzCjic1zw

14rTVLjXHasdcqRH2p24kFVnkcWSvahCzU

166r3x91TfWh8D27Ej2QkcUT3qTyHPLJmZ

1MoYksuZoQwpvrGUAkXYtrwrrPK9ByG4Tj

1CGbRD4qfFjkQpNggKF3EJz9wJhSatWt2

1LZQbKLCzHMeHPEq52hLrjEnoSJz39ahsq

1FQqrmfVoVQuUQEMAZsXkHeT4nkYja4gm

1Ntq5herKqrKa3iGUA9rQvcVwB3VAEKCNI

12QAqsBQUQXwniXA21gRrASbpokjdvhz15

19vLaAuy16Cbh7zfxaHoBvG4Nof3QwbtoR

1KBVi3EdFfDsXJvd6Xuyeum8oKugnaCffP

1J9hSv4yBgz2xWUbfhZMQHSw8yFAqFw7m

1 1PCJbKmF1aZSeeodMQNbS6dKe6FDv4JqFF

2 1HS7voGRhq73mg4dmoy4jt8We8Zthnqd6p

3 1CGbRD4qfFjkQpNggKF3EJzj9wJhSatWt2

4 1DF2tninBnokz9L4Tb61U8Pv8zc3Rggg8P

5 1EyKJN6JT xvQergHhcJUWyYzgcdhZ1Lqeo

6 3L5HM9PvUqu9YwKgNLVylggCZ84sCp8KWZ

7 (2) Binance Holdings Ltd. and Mek Global Limited, Phoenix, Fin PTE Ltd., Flashdot Limited,  
8 and Peken Global Limited (herein after, "KuCoin"), and/or any of their agents, servants, employees,  
9 attorneys, partners, affiliates, successors, assigns, subsidiaries, or any other persons through which  
10 they act, or who act in active concert or participation with any of them, who receive actual notice of  
11 this Order by personal service or otherwise, are hereby directed, within twenty-four (24) hours of  
12 receiving actual notice of this Order to provide notice of the same to any of their customers associated  
13 with any of the wallet addresses identified in Paragraph (1), and provide counsel for Plaintiff a copy  
14 of such notice.

15 This application for provisional relief, as set forth in the [*PROPOSED*] Temporary Restraining  
16 Order filed herewith, is made upon the grounds that the conduct sought to be restrained and enjoined,  
17 if allowed to occur, will cause immediate and irreparable injury to the moving parties.

18 Plaintiff also request that the Court issue an Order to Show Cause ("OSC") pursuant to  
19 California Rule of Court 3.1150, affording Defendants the opportunity to appear and show cause why  
20 a Preliminary Injunction should not issue restraining and enjoining the Enjoined Parties in the same  
21 manner for the remainder of the litigation.

22 This Application is based upon California Code of Civil Procedure §§ 525 *et seq.* and  
23 California Rules of Court 3.110 and 3.100 *et seq.*, upon the attached Memorandum of Points and  
24 Authorities, and supporting declarations filed herewith, including the Declarations of Howard Mann,  
25 Charles Zach, and Shaun Martin, upon the Verified Complaint filed in this action, and upon such  
26 further evidence and argument as may be presented prior to or at the time of the hearing on the motion.

27 There has not been a previous application for such relief.  
28

1 Dated: July 15, 2024

2  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendants are scam artists who posed as employees of the Los Angeles Department of Water  
4 and Power to convince the plaintiff, 77-year old Howard Mann, that the water and electricity to his  
5 home would be shut off if he did not immediately transfer what ultimately amounted to over \$10,000  
6 in cryptocurrency to accounts controlled by Defendants. Defendants' scheme is a well-worn variant  
7 of "pig butchering" in which innocent victims are persuaded to send funds to cryptocurrency wallets  
8 which are then drained of their contents and the funds sent to offshore crypto accounts elsewhere.

9 Perpetrators of these scams transfer victims' money through a series of online transactions  
10 designed to hide their trail. However, through the substantial effort of his counsel and experts, Plaintiff  
11 has identified specific cryptocurrency "wallets" in which the ill-gotten gains of Defendants' scheme  
12 are *presently* held. Time is of the essence, as Defendants can transfer these cryptocurrency proceeds  
13 beyond Plaintiff's knowledge and reach at any moment.

14 Plaintiff therefore seeks immediate injunctive relief, without notice, to freeze the identified  
15 cryptocurrency wallets that hold the proceeds of Defendants' illegal scheme. Without such emergency  
16 relief, Plaintiff and similarly situated class members will be left without an adequate remedy at law,  
17 effectively chasing ghosts. Plaintiff has made no prior requests for provisional relief in this action and  
18 has exercised due diligence in prosecuting this matter.

19 There is ample precedent for entry of the relief requested herein, both in this Court and  
20 elsewhere. As discussed more fully *infra*, courts throughout the nation routinely freeze cryptocurrency  
21 wallets in which victim assets are held. Indeed, just last month, Judge Berle of this Court approved an  
22 *ex parte* TRO and OSC nearly identical to the one requested herein. *See* Martin Declaration, ¶ 2 &  
23 Exhibit A (attaching Order entered freezing cryptocurrency wallets of scam artists who employed the  
24 "fake work platform" scheme to defraud victims). Plaintiffs respectfully request entry of the same  
25 temporary provisional relief in the present action.

26 Defendants will quickly and irreversibly place their ill-gotten gains beyond the reach of  
27 Plaintiff and this Court absent this Court's intervention. Absent an injunction, Plaintiff will have no  
28 remedy, as Defendants are fictitious persons of unknown origin who have gone to great lengths to



1 employ cryptocurrency and to hide their trail. Similarly, the public interest and balancing of harm  
2 factors tilt heavily toward intervening to halt the ongoing scheme and freezing assets pending a full  
3 and final disposition of the merits of this case.

4 Simply put, without immediate injunctive relief, Plaintiff and his similarly situated class  
5 members will be without a remedy or recourse for approximately \$850,000 of cryptocurrency stolen  
6 through Defendants' illegal scheme. Plaintiffs accordingly request entry of the requested TRO and  
7 Order to Show Cause why a preliminary injunction should not issue.

## 8 **II. STATEMENT OF FACTS**

### 9 **A. "Pig Butchering" Briefly Explained**

10 The usual "pig butchering" scam typically involves the promise of returns after perpetrators  
11 fabricate evidence of positive performance on fake websites made to look like functioning  
12 cryptocurrency trading venues, job sites, or investment companies. Victims are then enticed to "invest"  
13 or send money based on these misrepresentations, and often believe they are engaging in legitimate  
14 transactions. After the victims have transferred substantial sums, typically in cryptocurrency, the  
15 scammers disappear, causing victims severe financial loss. This scheme involves sophisticated  
16 psychological manipulation and exploits the anonymity and irreversibility of cryptocurrency  
17 transactions. In the United States, billions of dollars are lost each year to these types of scams,  
18 prompting numerous investigations and prosecutions by state and federal authorities.<sup>1</sup>

### 19 **B. Mann is "Pig Butchered" by Defendants**

20 The present case involves a variation of the scheme wherein the scammers utilized scare tactics  
21 instead of promised returns. Plaintiff, Howard Mann ("Mr. Mann") is a 77-year-old individual who  
22 resides with his wife in Encino, California (Mann Declaration dated July 15, 2024 ("Mann Decl."), ¶  
23 2). Last year, an individual using the phone number (909) 222-6457 contacted Mr. Mann, claiming to  
24 represent the Department of Water and Power. (*Id.* ¶ 3). The caller asserted that Mr. Mann had failed  
25 to pay his bill on time and demanded immediate payment to prevent the shutdown of water and power  
26 services at his residence. *Id.* Possessing detailed information about Mr. Mann, including his account

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27 <sup>1</sup> See FinCEN Alert of Prevalent Virtual Currency Investment Scam Commonly Known as "Pig Butchering," U.S.  
28 Treasury Financial Crimes Enforcement Network Sep. 8, 2023,  
[https://www.fincen.gov/sites/default/files/shared/FinCEN\\_Alert\\_Pig\\_Butchering\\_FINAL\\_508c.pdf](https://www.fincen.gov/sites/default/files/shared/FinCEN_Alert_Pig_Butchering_FINAL_508c.pdf)

1 number, address, name, and a plausible amount due consistent with previous bills, the caller appeared  
2 credible. Although Mr. Mann believed he was current on his payments, the threat of having his water  
3 and power shut off, combined with the caller's specific knowledge of his account, convinced him of  
4 the caller's legitimacy. *Id.*

5 The individual on the phone convinced Mr. Mann that paying in cryptocurrency was the best  
6 and fastest way to resolve the issue. *Id.* Following the call, Mr. Mann remained in communication  
7 with the supposed representatives of the Department of Water and Power, who identified themselves  
8 as Sean Moore and Miranda Gomez (“Defendants”). (*Id.* ¶ 6). Mr. Mann was instructed to visit a  
9 Bitcoin ATM to deposit cash, purchase Bitcoin, and transfer it as the required payment. He used a  
10 “Coinhub” Bitcoin ATM located at 19558 Ventura Boulevard, Tarzana, California 91356. (*Id.* ¶ 4).  
11 After depositing his cash to obtain Bitcoin, Mr. Mann used the ATM to scan a QR code Defendants  
12 gave him. *Id.* This QR code directed the machine to transfer the Bitcoin directly to a wallet controlled  
13 by the Defendants in this case.

14 After Mr. Mann made an initial cash deposit and followed the aforementioned steps, he was  
15 told that his payment was not received, and Defendants instructed him to make additional deposits.  
16 (*Id.* ¶ 5). As a result of their misleading claims, including ongoing alleged issues with payment receipt,  
17 Mr. Mann repeatedly deposited cash at the Bitcoin ATM. *Id.* Ultimately, Mr. Mann made several  
18 transfers, totaling \$10,070, based on Defendants' false representations and scare tactics. (*Id.* ¶ 8).

19 **C. Inca Digital Confirms the Scheme and Traces the Stolen Assets.**

20 Mr. Mann later discovered that the urgent payment demand he received was fraudulent and  
21 that he had no overdue utility bill. Realizing his money had been stolen, he contacted the  
22 cryptocurrency investigation firm, Inca Digital (“Inca”), and Charles Zach (“Zach”), to initiate an  
23 investigation. (*Id.* ¶ 7). Zach and Inca have been investigating “pig butchering” schemes for over two  
24 years. (Zach Declaration dated July 15, 2024 (“Zach Decl.”), ¶ 3). Inca traced Mr. Mann’s transactions  
25 and confirmed that Defendants orchestrated a scheme to steal money from him and similarly situated  
26 class members through deceptive and fraudulent means. (*Id.* ¶ 4).

1 Inca's investigation was conducted in two precise, reliable, and replicable phases. In Phase  
2 One, Inca's "forward tracing" tracked the flow of funds from the Bitcoin ATM where Mr. Mann had  
3 converted his cash to Bitcoin and transferred it to Defendants. (*Id.* ¶ 6). This process involved three  
4 steps: (1) identifying the addresses of wallets that initially received Mr. Mann's assets from the ATM;  
5 (2) tracking the transfer of his assets from there to two or three different wallet addresses; and (3)  
6 determining that the assets were ultimately deposited directly to a known fraud shop wallet address or  
7 to wallets at the cryptocurrency exchanges Binance and KuCoin as detailed below. *Id.*

8 After identifying the wallet addresses to which Mr. Mann's funds were transferred, Inca  
9 proceeded to Phase Two of its investigation, in which Inca "reverse traced" assets from the addresses  
10 identified in Phase One. This process allowed Inca to identify additional wallet addresses involved in  
11 the same transaction patterns, revealing more victims of the scheme. (*Id.* ¶ 7). Inca determined that  
12 these transfers and addresses matched the flow of Mr. Mann's assets. *Id.* Inca's analysis ultimately  
13 concluded that the class affected by this scam includes approximately 100 victims, who collectively  
14 lost about \$850,000. *Id.* Like Mr. Mann, most victims' assets originated from Bitcoin ATMs (with  
15 some also coming from centralized exchanges), and then passed through two or three different wallet  
16 addresses before being directly transferred to a known fraud shop wallet address or deposited to  
17 Binance or KuCoin wallets. The wallets on these exchanges, where victims' assets are *presently*  
18 located (hereinafter, "Deposit Addresses"), are set forth below.

19 Binance

20 15PGbkbXoVSQXWTHXwrcJPevq8NV5Ffdho

21 1A2PWvYo8EmysLFbYL99gGHK3haqRo9fiN

22 13GJh5kyqfgtsb5GP6VqH2fvAEQLPzPp5X

23 1LF7Vo9qsx1KLvUnRJc3yqhXYkzCjic1zw

24 14rTVLjXHasdcqRH2p24kFVnkcWSvahCzU

25 166r3x91TfWh8D27Ej2QkcUT3qTyHPLJmZ

26 1MoYksuZoQwpvrGUAkXYtrwrrPK9ByG4Tj

27 1CGbRD4qfFjkQpNggKF3EJzj9wJhSatWt2

28 1LZQbKLcHzMeHPEq52hLrjEnoSJz39ahsq

1 1FQqrmfVoVQuUQEMAZsXkHeT4nkYja4gm

2 1Ntq5herKqrKa3iGUA9rQvcVwB3VAEKCNI

3 12QAqsBQUQXwniXA21gRrASbpokjdvzh15

4 19vLaAuy16Cbh7zfxaHoBvG4Nof3QwbtoR

5 1KBVi3EdFfDsXJvd6Xuyeum8oKugnaCffP

6 1J9hSv4yBgZ2xWUbfhZMQHSw8yFAqFw7m

7 1PCJbKmF1aZSeeodMQNbS6dKe6FDv4JqFF

8 1HS7voGRhq73mg4dmoy4jt8We8Zthnqd6p

9 1CGbRD4qfFjkQpNggKF3EJzj9wJhSatWt2

10 1DF2tninBnokz9L4Tb61U8Pv8zc3Rggg8P

11 1EyKJN6JTxxvQergHhcJUWyYzgcdhZ1Lqeo

12 KuCoin

13 3L5HM9PvUqu9YwKgNLVyLggCZ84sCp8KWZ

14 (*Id.* ¶ 8).

15 Inca's investigation found that many of the above-listed Binance wallet addresses are  
16 connected by deposits from one or more common counterparty wallet addresses. (*Id.* ¶ 9). This  
17 connectivity provides compelling evidence of a systematic fraud network used to funnel stolen funds,  
18 demonstrating a coordinated effort to launder money. *Id.* The pattern of transactions through multiple  
19 addresses before reaching the Deposit Addresses highlights Defendants' deliberate measures to  
20 obscure the origin of the funds. Identifying these addresses on centralized exchanges such as Binance  
21 and KuCoin underscores their role as endpoints for further distributing or converting the illicit gains.  
22 Inca's meticulous tracing provides compelling evidence of an organized fraud network responsible for  
23 defrauding multiple victims and establishes a clear link between the Defendants' actions and the losses  
24 incurred by Mr. Mann and other class members, further justifying the need for immediate injunctive  
25 relief, without notice, to freeze the Deposit Addresses (wallets) listed above.

26 **D. Mann Files His Verified Complaint in This Action.**

27 On July 9, 2024, Mr. Mann filed his Verified Complaint in this action on behalf of himself and  
28 other similarly situated victims of the Defendants' "pig butchering" scheme. In the Complaint, Mr.

1 Mann asserts claims on behalf of himself and other putative Class Members for conversion (Count I)  
2 and money had and received (Count II).

3 **III. LEGAL STANDARD**

4 California Code of Civil Procedure § 527 permits the issuance of preliminary injunctions and  
5 temporary restraining orders. Section 527(b) expressly provides:

6 A temporary restraining order, or preliminary injunction, or both, may be granted in a class  
7 action, in which one or more parties sues or defends for the benefit of numerous parties upon  
8 the same grounds as in other actions, whether or not the class has been certified.

9 *California Code of Civil Procedure* § 527(b).

10 When ruling on a request for a temporary restraining order and/or a preliminary injunction,  
11 courts must evaluate two factors: “(1) the likelihood that the plaintiff will prevail on the merits at trial  
12 and (2) the interim harm that the plaintiff would be likely to sustain if the injunction were denied as  
13 compared to the harm the defendant would likely to suffer if the preliminary injunction were  
14 issued.” *Smith v Adventist Health System/West* (2010) 182 Cal.App.4th 729, 749. These two factors  
15 are interrelated; the greater plaintiff’s showing on one, the less must be shown on the other to support  
16 the issuance of preliminary relief. *Butt v. State of California* (1992) 4 Cal.4th 668, 678.

17 In deciding whether to issue provisional relief, a court must exercise its discretion “in favor of  
18 the party most likely to be injured... If denial of an injunction would result in great harm to the plaintiff,  
19 and the defendants would suffer little harm if it were granted, then it is an abuse of discretion to fail  
20 to grant the preliminary injunction.” *Robbins v. Superior Court (County of Sacramento)* (1985) 38  
21 Cal.3d 199, 205.

22 Temporary restraining orders are properly issued to preserve the status quo pending a hearing  
23 on the request for a preliminary injunction, and TROs terminate automatically once the request for a  
24 preliminary injunction is heard (which is no later than 22 days after the TRO is issued). *Lenard v.*  
25 *Edmonds* (1957) 151 Cal.App.2d 764, 769; *California Code of Civil Procedure* § 527(d). The issuance  
26 of a TRO requires the submission of evidence by the moving party, but a verified complaint – like the  
27 one here – may be sufficient by itself for issuance of such relief. *Bank of America National Trust &*  
28 *Savings Ass’n v. Williams* (1948) 89 Cal.App.2d 21, 29; *California Code of Civil Procedure* § 527(a)

(authorizing temporary provisional relief “at any time before judgment upon a verified complaint, or upon affidavits”).

**IV. ARGUMENT**

**A. This Court Should Grant a Temporary Restraining Order Without Notice and Order Defendants to Show Cause Why a Preliminary Injunction Should Not Issue.**

1. *Temporary injunctive relief without notice is appropriate.*

The verified complaint in this action, together with the declarations submitted herewith, set forth at length the reasons why notice should not be required prior to the issuance of a temporary restraining order. *See California Code of Civil Procedure* § 527(c) (authorizing issuance TROs without notice to defendants). Specifically, if the Plaintiff is required to wait until after the Defendants receive notice of this action, it is highly likely Defendants will simply transfer the cryptocurrency at issue beyond the reach of discovery or recovery. (Zach Decl., ¶ 10). Indeed, it is highly likely notice would precipitate precisely such conduct. *Id.* That is because once scam artists are told that their cryptocurrency wallets may potentially be seized, they – not surprisingly – immediately drain those wallets of any assets. Failing to freeze those assets without notice would thus be antithetical to the very purpose of provisional injunctive relief – preserving the status quo pending a determination on the merits of Plaintiff’s claims. *Lenard v. Edmonds* (1957) 151 Cal.App.2d 764, 769.

Moreover, courts have routinely granted temporary restraining orders without notice in cryptocurrency schemes, given that cryptocurrency “poses a heightened risk of asset dissipation.” *Jacobo v. Doe*, 2022 U.S. Dist. LEXIS 101504, \*9 (E.D. Cal. June 7, 2022); accord *Heissenberg v. Doe*, 2021 U.S. Dist. LEXIS 257218, at \*8 (S.D. Fla. Apr. 22, 2021); accord *Bullock v. Doe*, 2023 U.S. Dist. LEXIS 234778, (N.D. Iowa Nov. 3, 2023). As the Court reasoned in *Jacobo*, another pig butchering case, “if defendant were provided notice of this action, ‘it would be a simple matter for [him] to transfer [the cryptocurrency] to unidentified recipients outside the traditional banking system, including contacts in foreign countries, and effectively put it beyond the reach of this [court].’” *Id.*, at \*9. (Citation omitted). This is in part because cryptocurrency’s “independence from traditional custodians makes it difficult for law enforcement to trace or freeze

1 cryptocurrencies in the event of fraud or theft[.]” *Id.* It is for these reasons that courts have routinely  
2 “granted ex parte relief in situations like this one, noting the risks that cryptocurrencies may rapidly  
3 become lost and untraceable.” *Gaponyuk v. Alferov*, 2023 U.S. Dist. LEXIS 125262, at \*4 (E.D. Cal.  
4 July 20, 2023), citing *Jacobo, supra*. It is similarly for this reason that, last month, Judge Berle of this  
5 Court granted an *ex parte* application, without notice, for precisely the type of TRO and OSC that is  
6 requested in the present case; in that matter, on behalf of cryptocurrency victims of a “fake job  
7 platform” scam. Martin Decl., ¶ 3 & Exh. A.

8 For these reasons, particularly the risk that the cryptocurrency assets could be instantly  
9 transferred beyond the reach of this Court if Defendants are notified in advance of its potential seizure,  
10 granting a temporary restraining order without notice is not only proper but necessary to preserve the  
11 status quo of Plaintiff and the other Class Members’ stolen assets.

12 2. *Plaintiff and the other class members are likely to prevail on their claims.*

13 Plaintiff is likely to prevail on the merits of his claims. To demonstrate a likelihood of success,  
14 a party must only demonstrate it is “reasonably probable that the moving party will prevail on the  
15 merits.” *San Francisco Newspaper Printing Co. v. Superior Court (Miller)* (1985) 170 Cal.App.3d  
16 438, 442.

17 To establish conversion, Plaintiff need only establish (1) they owned the property or money at  
18 issue; (2) Defendants substantially interfered with those assets by knowingly or intentionally taking  
19 possession of them or preventing Plaintiff from having access to them; (3) without consent of Plaintiff;  
20 (4) resulting in harm to Plaintiff; (5) substantially caused by defendant. *Judicial Council of California*  
21 *Civil Jury Instructions No. 2100* (2024). Similarly, to establish a claim for money had and received,  
22 Plaintiff need only demonstrate defendant received money that was intended to be used for the benefit  
23 of Plaintiff; that these funds were not used for Plaintiff’s benefit; and that defendant has not given the  
24 money to Plaintiff. *Judicial Council of California Civil Jury Instructions No. 370* (2024).

25 Here, Mr. Mann’s Declaration and the well-pled allegations of his Verified Complaint clearly  
26 establish these elements. Defendants misappropriated his money under the false pretense of requiring  
27 immediate payment for an overdue utility bill. To coerce Mr. Mann into transferring funds, Defendants  
28 falsely claimed that his water and power services would be cut off. Defendants had no affiliation with

1 the Department of Water and Power. Instead, they transferred Mr. Mann’s assets, as well as those of  
2 similarly situated class members, through the blockchain to the cryptocurrency wallet addresses  
3 identified in Paragraph 25 of the Verified Complaint and in the Declaration of Charles Zach submitted  
4 herewith (Zach Decl., ¶ 8). In doing so, Defendants converted and stole Mr. Mann’s property,  
5 demonstrating the clear-cut nature of their fraudulent scheme.

6 Further, the cryptocurrency transferred to Defendants by Mr. Mann and the other members of  
7 the class entails specific, identifiable property. By its very nature, cryptocurrency has a unique and  
8 specific identification within the blockchain; indeed, it is this attribute from which cryptocurrency  
9 derives its value in being specific and identifiable. It is for these reasons courts have held in conversion  
10 cases that “[t]he cryptocurrency assets at issue are specific, identifiable property and can be traced in  
11 JOHN DOE’s assets in the Destination Addresses or elsewhere.” *Astrove v. Doe*, 2022 U.S. Dist.  
12 LEXIS 129286, at \*6-7 (S.D. Fla. Apr. 22, 2022) (granting *ex parte* temporary restraining order in a  
13 cryptocurrency scheme, finding the “[p]laintiff has shown a strong likelihood of success on the merits  
14 of his claims,” including a claim for conversion); accord *Blum v. Defendant*, 2023 U.S. Dist. LEXIS  
15 235592, at \*4-5 (N.D. Fla. Dec. 13, 2023) (granting an *ex parte* temporary restraining order holding,  
16 “Blum’s cryptocurrency assets are specific, identifiable property that can be traced to Defendants’  
17 Destination Addresses.”).

18 For each of these reasons, and the well-pled allegations set forth in the Verified Complaint in  
19 this action, there is a strong likelihood that Mr. Mann and the other similarly situated Class Members  
20 will prevail on the merits herein.

21 3. *Plaintiff and similarly situated class members will suffer irreparable*  
22 *injury if a temporary restraining order and injunction are not issued.*

23 Courts have repeatedly held cryptocurrency theft schemes threaten imminent and irreparable  
24 loss absent injunctive relief. “[C]ourts have found that the risk of irreparable harm to be likely in  
25 matters concerning fraudulent transfers of cryptocurrency due to the risk of anonymous and speedy  
26 asset dissipation.” *Jacobo, supra* at \*15-16, citing *Heissenberg v. Doe*, 2021 U.S. Dist. LEXIS  
27 257218, at \*2 (S.D. Fla. Apr. 23, 2021). This is in part because “it would be a simple matter for  
28 [defendant] to transfer... cryptocurrency to unidentified recipients outside the traditional banking



1 system” and effectively place the assets at issue in this matter beyond the reach of the  
2 court[.]” *Id.* Courts have similarly held that a money judgment is an inadequate legal remedy based  
3 both on the anonymity of the defendants at the heart of the scheme, as well as the difficulty in having  
4 to trace transfer of cryptocurrency. As the Court reasoned in *Bullock v Doe*, “defendants will likely  
5 convert the crypto to a place where plaintiff can no longer find it or find defendants  
6 themselves.” *Bullock v. Doe*, 2023 U.S. Dist. LEXIS 234778, at \*16 (N.D. Iowa Nov. 3, 2023). Thus,  
7 “plaintiff in fact likely does not have an adequate legal remedy, because a money damages judgment  
8 would be essentially meaningless.” *Id.*

9       The same is true here. Defendants’ true identities are either unknown or fake. As in *Bullock*, a  
10 money judgment against them is meaningless. Absent an injunction, Defendants can be expected to  
11 continue to transfer Mr. Mann’s and the other Class Members’ cryptocurrency beyond the reach of  
12 discovery and this Court. It is for this reason that courts have held in similar schemes that, “[p]laintiff  
13 has good reason to believe the Defendant will hide or transfer his ill-gotten gains beyond the  
14 jurisdiction of this Court unless those assets are restrained.” *Heissenberg, supra*, at \*8. This case is no  
15 different. Without an injunction, Plaintiff and the other Class Members will be left with no adequate  
16 legal remedy.

17       **B. No Substantial Harm to Others Will Occur.**

18       The TRO sought by Mr. Mann is a temporary one, subject to an extension only after a hearing  
19 on a preliminary injunction within 22 days. *California Code of Civil Procedure* § 527(d). Even in the  
20 unlikely event Defendants could claim a legal right to the stolen cryptocurrency, the freeze of such  
21 assets would be a mere temporary inconvenience. This inconvenience is significantly outweighed by  
22 the potential harm to Plaintiff and the other Class Members if an injunction is not issued: their  
23 cryptocurrency will be irretrievably lost, leaving them with no remedy. As the Court in *Jacobo* held,  
24 balancing of these harms favors Plaintiff: “A delay in defendant’s ability to transfer the assets only  
25 minimally prejudices defendant, whereas withholding injunctive relief would severely prejudice  
26 plaintiff by providing defendant time to transfer the allegedly purloined assets into other accounts  
27 beyond the reach of this court.” *Jacobo, supra*, at \*17. Consequently, the balancing of the harm  
28 strongly supports granting provisional relief to protect Plaintiff and the Class Members.

1           **C.       An Injunction Serves the Public Interest.**

2           Finally, the provisional relief sought by Mr. Mann serves the public interest. As  
3 the *Jacobo* court held, “the public interest is properly served by promoting the objectives of... FinCEN  
4 and providing assurance to the public that courts will take action to promote protection of assets and  
5 recovery of stolen assets when they can be readily located and traced to specific locations.” *Jacobo*,  
6 *supra*, at \*18, quoting *Heissenberg, supra*, at \*2 (Internal quotations omitted). Likewise, “entering a  
7 TRO favors the public interest because... [f]reezing cryptocurrency accounts reassures the public that  
8 even with transactions conducted in the cryptocurrency space, there is an adequate remedy at law to  
9 prevent fraud or theft.” *Blum, supra*, at \*5, quoting *Hikmatullaev v. Marco Alessandro Villa*, 2023  
10 U.S. Dist. LEXIS 111619, at \*8 (S.D. Fla. June 28, 2023).

11           The same is true here. Freezing the wallet addresses to which Mr. Mann and other Class  
12 Members’ cryptocurrency has been traced serves the public interest by ensuring the possibility of an  
13 actual recovery, pending a hearing on the merits of the claims in this case. On the other hand, no public  
14 interest would be served by allowing Defendants to continue transferring and dissipating stolen assets  
15 in furtherance of their illegal and fraudulent scheme.

16           **D.       No Bond Should Be Required.**

17           Posting of a bond is ordinarily not required for issuance of a TRO, which only lasts until the  
18 preliminary injunction hearing (at most) 22 days later. *Venice Canals Resident HOA v. Superior*  
19 *Court* (1977) 72 Cal.App.3d 675, 681; *see California Code of Civil Procedure* § 527. Further, even at  
20 the preliminary injunction stage, no bond—or only a minimal (\$500) cash deposit with the Clerk—  
21 should be required, particularly since Mr. Mann, a 77-year old victim of a scam artist, has already  
22 suffered the loss of thousands of dollars due to Defendants’ theft. *California Code of Civil Procedure* §  
23 529 (requiring undertaking); 995.710 (permitting cash deposit in lieu of a bond); 995.240 (permitting  
24 a court, in its discretion, to waive the requirement of a bond or undertaking).

25           As courts have observed in other cryptocurrency theft cases, “courts may set the bond at zero  
26 if there is no evidence the party will suffer damages from the injunction.” *Gaponyuk v. Alferov*, 2023  
27 U.S. Dist. LEXIS 125262, at \*8 (E.D. Cal. July 20, 2023); accord, *Jacobo, supra*, at \*18. Such cases  
28 where a zero bond is appropriate include cryptocurrency schemes where, “there is no evidence before

1 the court demonstrating that defendant will suffer any damages as a result of the requested temporary  
2 restraining order.” *Jacobo, supra*, at \*18.

3 Here, the provisional relief sought aims to freeze the wallets where the stolen cryptocurrency  
4 was traced. Defendants have no right to this stolen property and, consequently, will sustain no damages  
5 if they are restrained from further transferring these assets. As in *Jacobo*, Plaintiff requests that no  
6 bond be required to enjoin the transfer of assets stolen from him.

7 **E. Notice and a Hearing Date Should Be Set.**

8 Plaintiff proposes a method of service that is the best available under the circumstances and is  
9 reasonably calculated to provide actual notice to Defendants. Traditional methods of service are  
10 unavailable due to Defendants' use of fictitious identities and unknown locations. Therefore, the  
11 Proposed Order requires Plaintiff to serve a copy of the Order and OSC, as well as the Verified  
12 Complaint, within this period upon the owners of each identified wallet through a special purpose  
13 token or similar device delivered or airdropped into these wallets. Each service token will contain a  
14 hyperlink to a website maintained by Plaintiff’s counsel, which will include the Order and all related  
15 papers. This method effectively notifies Defendants of the pendency of this action and informs them  
16 how they may object to the TRO and/or requested preliminary injunction. (Zach Decl., ¶ 11)  
17 Additionally, the Proposed Order directs that the exchanges where these cryptocurrency wallets are  
18 held, specifically Binance Holdings Ltd. and KuCoin, provide separate notice of this Order to the  
19 customers of each identified cryptocurrency wallet. This comprehensive approach ensures compliance  
20 with California Code of Civil Procedure § 413.30, which permits the court to authorize service through  
21 any method reasonably calculated to result in actual notice. This is, moreover, precisely the manner of  
22 service previously approved by both Judge Berle and by other courts, and is reasonably calculated to  
23 lead to actual notice to the actual owners of the affected cryptocurrency wallets, who may then appear  
24 at the preliminary injunction hearing if they wish. Martin Decl., ¶ 3 & Exh. A.

1 **V. CONCLUSION**

2 For all the foregoing reasons, Plaintiff Howard Mann requests this Court grant his Motion and  
3 enter the proposed Temporary Restraining Order and Order to Show Cause Why a Preliminary  
4 Injunction Should Not Issue in the form filed concurrently herewith.

5  
6  
7 Dated: July 15, 2024

8  
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