

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

RACHEL POUYAFAR, on behalf of herself
and all others similarly situated,

Plaintiff,

-v-

YUNHAI QUAN and JOHN DOE NOS. 1-25,

Defendants.

Index No. 654820/2023

**MEMORANDUM OF LAW IN SUPPORT OF CLASS PLAINTIFF'S MOTION
FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

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Class Plaintiff Rachel Pouyafar (“Plaintiff”) and other similarly situated holders of cryptocurrency (“Prospective Class Members”), by and through their undersigned counsel, submit this memorandum of law in support of their application for temporary restraining order and preliminary injunction, under Civil Practice Law and Rules (“CPLR”) §§ 6301, 6312 and 6313, enjoining Defendants Yunghai Quan and John Doe Nos. 1-25 (collectively, “Defendants”), from disposing of, processing, routing, facilitating, selling, transferring, encumbering, removing, paying over, conveying or otherwise interfering with Prospective Class Members’ property, debts, accounts, receivables, rights of payment, or tangible or intangible assets of any kind, whether such property is located inside or outside of the United States, including, but not limited to, cryptocurrency or other digital assets stored at the “hot wallet addresses” numbered 0x01d19c7dab1da4d2c9a7a8c54a9c1e9b7b5a7b9a (the “Pouyafar Hot Wallet”) or the crypto wallets on the Binance exchange listed in Appendix A to this memorandum of law (together, along with the Pouyafar Hot Wallet, the “Binance Hot Wallets”). Pending this Court’s hearing on the preliminary injunction motion in this matter, Plaintiff seeks temporary injunctive relief prohibiting Defendants from transferring the digital assets held in the Binance Hot Wallets.

PRELIMINARY STATEMENT

This is a case of theft where time is of the essence. Defendants create false identities, engage with Prospective Class Members through a variety of social media platforms and other methods of electronic communications, earn their trust, then lure them with fake websites and fictitious “profits” from cryptocurrency, eventually stealing substantial assets from Prospective Class Members through a scheme known as “pig butchering.”

As of today, at least some of Prospective Class Members’ property still appears to be in the Binance Hot Wallets. But Defendants could move this property at any time without notice.

That is why the Prospective Class Members seek an immediate temporary restraining order now, before Defendants can transfer it elsewhere.

The “pig butchering” label is unfortunately accurate: it describes the practice of using fake cryptocurrency accounts to “fatten” victims before slaughter. The perpetrators targeted the Prospective Class Members, including Class Plaintiff Pouyafar, by promising—and then pretending to deliver—large but fake cryptocurrency returns. These fake returns lured Prospective Class Members to deposit substantial assets in accounts controlled by Defendants. Once Prospective Class Members had been fattened enough with reports of false profits, and had transferred large amounts of assets, Defendants stole their property, and disappeared.

Class Plaintiff Pouyafar, on behalf of the Prospective Class Members, respectfully requests that the Court grant the requested relief because the Prospective Class Members satisfy CPLR Article 63 and the requirements for a preliminary injunction and temporary restraining order freezing the assets in the Binance Hot Wallets.

First, the Prospective Class Members are likely to prevail on their claim for conversion, because they have the right to possess these assets, yet Defendants have stolen and now possess them. Prospective Class Members also are likely to prevail on their claim for money had and received, because it would be inequitable to permit Defendants to engage in secret transactions to steal Prospective Class Members’ assets.

Second, Prospective Class Members will suffer irreparable harm if Defendants move the stolen assets from the Binance Hot Wallets. Such a move likely would be untraceable, meaning that Prospective Class Members would lose their money forever.

Third, the balance of equities favors the Prospective Class Members given Defendants’ lies, scheme, and theft.

Finally, a very low undertaking, if any, is warranted here. The equities overwhelmingly favor the Prospective Class Members. Defendants brazenly stole their property and should not be permitted to remove that property from the Binance Hot Wallets.

This Court has already enjoined Defendants John Doe Nos. 1-25 from withdrawing funds from the Pouyafar Hot Wallet ([NYSCEF No. 17.](#)) The Pouyafar Hot Wallet is only a very small part of Defendant's overall scheme, which has targeted at least one hundred other victims who are Prospective Class Members. (Affirmation of Charles Zach in Support of Order to Show Cause ("Zach Aff.") ¶ 6. Other New York courts have similarly frozen crypto wallets holding stolen funds. See [Order to Show Cause and Temporary Restraining Order, LCX AG v. John Doe Nos. 1-25](#), Index No. 154644/2022 (Sup. Ct. N.Y. Cnty. Jun. 2, 2022) (Masley, J.).¹ The Prospective Class Members are likewise entitled to a temporary restraining order to prevent Defendants from moving their assets in the Binance Hot Wallets. Unless Defendants are restrained, they could immediately transfer Prospective Class Members' assets without notice and those assets would be unrecoverable.

PROCEDURAL HISTORY

On September 29, 2023, Rachel Pouyafar filed a complaint against John Doe Nos. 1-15 alleging that they had stolen her cryptocurrency as part of a pig butchering scheme, seeking damages and preliminary relief. ([NYSCEF Doc. No. 1.](#)) That same day, Pouyafar sought a TRO and Preliminary Injunction freezing the Pouyafar Hot Wallet and restraining Defendants from

¹ Available at <https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=8s0QJtgcFH/oFAJOghtK1g=&system=prod> (last accessed Dec. 8, 2023).

transferring her stolen assets out of the Pouyafar Hot Wallet.² The Court granted Pouyafar's motion for a TRO and for a Preliminary Injunction.³

The Complaint was subsequently amended to add Yunhai Quan as a Defendant, as well as class action allegations, with Rachel Pouyafar as prospective Class Plaintiff.

FACTUAL BACKGROUND

The following facts are set forth in the Affidavit of Rachel Pouyafar dated September 28, 2023 ("Pouyafar Aff.") ([NYSCEF Doc. No. 6](#)); the Affirmation of Charles Zach dated September 29, 2023 ([NYSCEF Doc. No. 5](#)) ("September Zach Aff."); and the Zach Aff.; and the Affirmation of Rishi Bhandari dated December 8, 2023 (the "Bhandari Aff.").

A. Class Plaintiff Pouyafar Was a Typical Victim of Defendants' Pig-Butchering Scheme

Class Plaintiff Pouyafar, a realtor, was targeted by one or more of Defendants, who contacted her via WhatsApp pretending to be "Yunhai Quan" ("Quan"). (Pouyafar Aff. ([NYSCEF Doc. No. 6](#)) at ¶ 4.) Quan told Class Plaintiff he was seeking to purchase a home using Class Plaintiff Pouyafar as an agent. (*Id.*) She was eager to pursue a conversation with Quan, given his affluent lifestyle and the prospect of selling him a property in New York. (*Id.* at ¶ 6.) Plaintiff will attempt to identify Defendants through discovery served on third parties with whom Defendants interacted.

Defendants' actions here followed the "pig butchering" roadmap. Quan approached Plaintiff in her capacity as a licensed New York real estate agent, pretending to be a former investment banker living a lavish lifestyle in California while running an investment firm. (*Id.* at

² [NYSCEF Doc. No. 2](#), [NYSCEF Doc. No. 3](#), [NYSCEF Doc. No. 4](#), [NYSCEF Doc. No. 5](#), [NYSCEF Doc. No. 6](#), [NYSCEF Doc. No. 7](#).

³ [NYSCEF Doc. No. 8](#), [NYSCEF Doc. No. 9](#), [NYSCEF Doc. No. 17](#))

¶ 4-5.) Quan won Plaintiff’s trust by convincing her that he wanted to buy a New York residence through her, with a budget of \$5.7 million, and was willing to help her invest in return. (Id. at ¶ 4.)

Quan then persuaded Plaintiff to deposit funds—initially just \$500 on July 31, 2023—in what appeared to be an account at QuedEx, a regulated crypto trading platform. (Id. at ¶ 9.) Quan then provided false reports indicating that Plaintiff had made profits trading cryptocurrency assets. (Id.) After Plaintiff deposited more money, Quan further won Plaintiff’s trust by permitting her to “withdraw” approximately \$8,000 in supposed profit. (Id. at ¶ 10.)

The scheme continued during August 2023, with additional false reports of “profits,” as described in detail in the Pouyafar Affidavit. (Id. at ¶ 11.) Plaintiff deposited more funds until August 21, 2023, when Coinbase flagged her transaction history as potentially involving illegal activity and froze her account. (Id. at ¶ 12.) Plaintiff deposited a total of approximately \$240,500 from July 31, 2023 through August 22, 2023. (Id. at ¶ 11.)

B. Class Plaintiff Pouyafar’s and Prospective Class Members’ Stolen Funds are Located in Defendants’ Pig Butchering “Ecosystem” of Binance Wallets

As an investigation by Plaintiff’s counsel uncovered, there were no QuedEx accounts, no investments, and no profits. (September Zach Aff. ([NYSCEF Doc. No. 5](#)) at ¶ 11.) Instead, Defendants’ reports were fictitious, falsely indicating that Class Plaintiff Pouyafar’s investments had made money when in truth her funds were not invested at all. (Id.)

Instead, Defendants engaged in numerous rapid-fire digital transactions to convert Class Plaintiff Pouyafar’s property and hide the locations of her cryptocurrency assets. (Id. at ¶¶ 12-26.) The details of these transactions are set forth in the September Zach Affirmation. (Id.) Most important, the investigation by counsel uncovered the current location of her stolen cryptocurrency assets: the Pouyafar Hot Wallet. (Id. at ¶ 27.)

Class Plaintiff Pouyafar's assets are now commingled in this account with other funds that very likely represent property that Defendants similarly have stolen and converted from other "pig butchering" victims. (Id. at ¶ 28.) In all, the Pouyafar Hot Wallet has approximately \$2.1 million of assets, including funds deposited during September 18-24, 2023. (Id.)

An analysis of the movement of funds stolen from Class Plaintiff Pouyafar uncovered a substantial number of additional crypto wallets belonging to Prospective Class Members from whom Defendants have also stolen funds. (Zach Aff. ¶¶ 5-6.) These Prospective Class Members were similarly enticed to deposit small initial amounts followed by bigger sums, which were then, as with Class Plaintiff Pouyafar's assets, routed through a maze of cryptocurrency transactions before ending up in the same "pivot address" for the network (the "Pivot Address"). (Id. at ¶ 7.)

This Pivot Address is like the top block in a pyramid, with multiple layers of addresses below and Prospective Class Members like Class Plaintiff Pouyafar on the bottom. (Id. at ¶¶ 8-10.) Defendants used transactions through these additional layers of addresses to cover their tracks and make their scheme more difficult to identify and the stolen assets harder to trace. (Id. at ¶¶ 11-12.) Once the Prospective Class Members' deposits reached the Pivot Address, they were then converted to stablecoins kept on exchanges like Binance. (Id. at ¶¶ 10-15.)

ARGUMENT

This class action stems from a set of facts common to all class members: mainly that Prospective Class Members are victims of Defendants' common pattern, practice and scheme of "pig butchering" and subsequent digital transactions to convert Prospective Class Members' stolen property and hide the locations of Prospective Class Members' cryptocurrency assets. This Court should grant a TRO and preliminary injunction freezing the Binance Hot Wallets and

restraining Defendants from transferring funds out of the Binance Hot Wallets because Defendants can virtually instantaneously move funds in the hot wallets in a way that would be untraceable and leave Prospective Class Members with no chance of reclaiming their stolen property.

A party seeking a preliminary injunction “must demonstrate a probability of success on the merits, danger of irreparable injury in the absence of an injunction and a balance of equities in its favor.” Nobu Next Door, LLC v. Fine Arts Hous., Inc., 4 N.Y.3d 839, 840 (2005); CPLR § 6301. In addition, “[a] temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had.” CPLR § 6301.

Plaintiff meets the requirements for a preliminary injunction and temporary restraining order.

I. PROSPECTIVE CLASS MEMBERS HAVE A HIGH PROBABILITY OF SUCCESS ON THE MERITS

First, Prospective Class Members have demonstrated a high probability of success on the merits on their claims for conversion. The tort of conversion is established where “one who owns and has the right to possession of personal property proves that the property is in the unauthorized possession of another who has acted to exclude the rights of the owner.” Dragons 516 Ltd. v. GDC 38 E 50 LLC, 201 A.D.3d 463, 464 (1st Dep’t 2022) (citation omitted). A cause of action for conversion accrues when the conversion takes place. See Sporn v. MCA Records, 58 N.Y.2d 482, 487 (1983); see also Lennon v. Seaman, 63 F. Supp.2d 428, 440 (S.D.N.Y. 1999).

As demonstrated above, the Prospective Class Members own and have the right to the funds in the Binance Wallets. In addition, Defendants currently have dominion over that

property, which they obtained through lies and deception. Accordingly, Prospective Class Members have shown both: “(1) plaintiff’s possessory right or interest in the property and (2) defendant’s dominion over the property or interference with it, in derogation of plaintiff’s rights.” Colavito v. NY. Organ Donor Network, Inc., 8 N.Y.3d 43, 50 (2006) (citations omitted); see also Pappas v. Tzolis, 20 N.Y.3d 228, 234 (2012).

Second, Prospective Class Members also have demonstrated a probability of success on the merits on their claim for money had and received. An “action for money[]had and received is quasi contractual in nature and is not founded upon any contract, either express or implied.” Bd. of Educ. of the Cold Spring Harbor Centr. Sch. Dist. v. Rettaliata, 164 A.D.2d 900, 900-01 (2d Dep’t 1990). The cause of action for monies had and received “is an obligation which the law creates in the absence of an agreement when one party possesses money that in equity and good conscience should not be retained and which belongs to another.” Id. The maintenance of the claim “rests upon the broad consideration of right, justice and morality.” Id. at 901. There is no requirement that a plaintiff prove the existence of privity between the parties, other than which “results from the circumstances.” Salisbury v. Salisbury, 175 A.D.2d 462, 463 (3d Dep’t 1991) (citation omitted). For more than a century, the cause of action for “money had and received” has entitled a plaintiff who is the equitable owner of assets to recover from a defendant who possesses those assets. See Roberts v. Ely, 113 N.Y. 128, 131-32 (1889).

As shown above, Defendants orchestrated an inequitable scheme to steal Prospective Class Members’ money. They lied to the Prospective Class Members, created false identities, falsified transaction reports, and used complex cryptocurrency transactions to attempt to hide their theft. In equity and good conscience, Defendants should not be permitted to keep Prospective Class Members’ property as money had and received.

II. CLASS MEMBERS FACE A HIGH DANGER OF IRREPARABLE INJURY IN THE ABSENCE OF AN INJUNCTION

Prospective Class Members clearly satisfy the irreparable harm element. If Defendants transfer assets from the Binance Hot Wallets, they will be untraceable. Defendants may very well have already transferred some of these assets – time is thus of the essence.

In addition, Prospective Class Members are aware that Defendants have recently ceased depositing assets in the Binance Hot Wallets. (Zach Aff. ¶ 16.) Defendants could stop accumulating assets in the Binance Hot Wallet at any time, and then transfer those assets to a different account, without notice to Prospective Class Members. (Id.) As noted above, time is of the essence. Unless this Court grants the requested relief immediately, Plaintiff could lose the assets in the Binance Hot Wallet forever.

III. THE BALANCE OF EQUITIES CLEARLY FAVORS THE CLASS MEMBERS

Plaintiff would be seriously and irreparably harmed if she is unable to obtain the assets in the Binance Hot Wallet. Plaintiff, and likely many of the Prospective Class Members, are in a difficult financial position. Prospective Class Members will suffer greatly from the very significant loss of these assets. Without a temporary restraining order, it is highly likely that these assets will disappear.

Prospective Class Members' stolen funds are identifiable intangible articles of property, traceable using identified techniques and associated with specific virtual asset addresses. Prospective Class Members had an immediate possessory right to their stolen funds. Defendants intended to and did exercise absolute dominion over Prospective Class Members' stolen funds when Defendants transferred Prospective Class Members' stolen funds to addresses over which Prospective Class Members had no control, and moved those assets through multiple digital transactions in an attempt to hide the illicit transactions and current location of Prospective Class

Members' stolen assets. Defendants' dominion over Prospective Class Members stolen assets was in derogation of Prospective Class Members' right to their assets, completely depriving Prospective Class Members of the use of their stolen assets. Defendants benefited from receiving Prospective Class Members' stolen assets by transferring them to a digital wallet under Defendants' control. In principles of equity and good conscience, Defendants should not be allowed to retain Prospective Class Members' stolen assets because Defendants had no authority to receive and transact those assets.

In contrast, injunctive relief will not be inequitable for Defendants. In the very unlikely event that the Prospective Class Members do not ultimately succeed in persuading the Court regarding any aspects of their argument, Defendants will not be harmed. Instead, the result of the temporary restraining order will merely be that Defendants will be unable to transfer those assets to other accounts. If Defendants believe they are entitled to the assets in the Binance Hot Wallets, they will be able to appear before this Court and make their arguments, while the assets are preserved transparently in the Binance Hot Wallets.

IV. THE PROSPECTIVE CLASS MEMBERS ARE ENTITLED TO A TEMPORARY RESTRAINING ORDER BECAUSE THEY WILL SUFFER IMMEDIATE AND IRREPARABLE DAMAGE UNLESS THE DEFENDANT IS RESTRAINED BEFORE THE HEARING

The Prospective Class Members' counsel have access to proprietary technology that has allowed them to locate the Prospective Class Members' funds in the Binance Hot Wallet. However, Defendants are currently able to move these funds at any time, without notice. If Defendants withdraw the Prospective Class Members' funds, the Prospective Class Members likely will not be able to recover these funds. In such a case, they would lose their property forever.

It appears from Defendants' conduct that they are following the pattern and practice of other "pig butchering" schemes. The remaining step of this scheme is for Defendants to transfer the assets from the Binance Hot Wallets to another of their accounts in a secret way that cannot be traced or recovered. Based on the facts to date, it appears that this final step by Defendants is likely and imminent. Such a transfer would cause the Prospective Class Members immediate and irreparable harm. To prevent this harm, the Court should restrain Defendants before the hearing.

V. THE UNDERTAKING, IF ANY, SHOULD BE MINIMAL

The purpose of an undertaking upon granting a preliminary injunction is to cover the "damages and costs which may be sustained by reason of the injunction" if it is later determined the movant is not entitled to the injunction. CPLR § 6312(b). The Court has the power to set a very low undertaking in view of the equities, and it should do so here. See, e.g., In re Total MRI Mgmt., LLC, 11 Misc. 3d 1062(A) (Sup. Ct. Nassau Cnty. Feb. 24, 2006) (setting undertaking at \$2,500). If it is later determined that Plaintiff was not entitled to an injunction, the assets will remain in the Binance Hot Wallets. Accordingly, there is no need for an undertaking.

VI. THE PROPOSED CLASS MEMBERS SHOULD BE PERMITTED TO SERVE DEFENDANTS USING ELECTRONIC MEANS THAT THE COURT HAS PREVIOUSLY APPROVED

Attorneys for Class Plaintiff Pouyafar have identified the details of Defendants' transactions, and the current location of the Proposed Class Members' property. However, Defendants remain unidentified and therefore cannot be served by traditional means. This Court has previously authorized service on John Doe Nos. 1-25 via a special-purpose Ethereum-based token.⁴ Other Courts in analogous situations have done the same. See Order to Show Cause and Temporary Restraining Order, LCX AG v. John Doe Nos. 1-25, Index No. 154644/2022 (Sup.

⁴ [NYSCEF Doc. No. 8](#), [NYSCEF Doc. No. 9](#), [NYSCEF Doc. No. 17](#).

Ct. N.Y. Cnty. Jun. 2, 2022). This Court should approve of service using appropriate electronic means.


CONCLUSION

For the reasons set forth above, Class Plaintiff Pouyafar, on behalf of the Prospective Class Members, respectfully requests that this Court enter a temporary restraining order and freeze the Binance wallets with the addresses listed in Appendix A of this Memorandum of Law and any other relief that the Court finds just and proper.

Plaintiff further respectfully requests that this Court permit Class Plaintiff Pouyafar, on behalf of the Prospective Class Members, to serve Defendants through appropriate electronic means, such as via special-purpose Ethereum-based token.

Dated: New York, NY
December 8, 2023

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Appendix A

1. 0xcc21d63f7f1201c201c574af1d4d8be4a7a85c45
2. 0x0847a80fcf205bc9850825210cbcb0f1da0cc083
3. 0x0e740ce9a4707d38dc7c2ebacc35df2b42c43e8
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16. 0x134583c611aaf9f126eb63fbdd9e4359b95db1dd
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25. 0x61876383236191b546ca706a55eb9832f26b82b1

Certification Pursuant to 22 NYCRR § 202.8-b

I, Rishi Bhandari, at attorney duly admitted to practice law before the courts of the State of New York, hereby certifies that this Memorandum of Law contains 3,760 words, excluding the parts exempted by § 202.8-b(b), and therefore complies with the word count limit set forth in 22 NYCRR § 202.8-b(a).

Dated: New York, New York
December 8, 2023

By: 
Rishi Bhandari, Esq.