



Court File No./N° du dossier du greffe: CV-21-00654929-0000

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically issued : 15-Jan-2021
Délivré par voie électronique
Toronto

**EQUIBIT GROUP LTD., CHRISTOPHER ERIC HORLACHER and
MARC GODARD**

Plaintiffs

and

**CHRISTIAN SAUCIER, DAVID MCFADZEAN, BART DE GROOT,
ABDELAZIZ OULAD HADJ, VALENTIN GANEV,
JOHN DOE NO. 1, also known as ZEEMOBYDICK,
JOHN DOE NO. 2, also known as THELOSTBOY@THETWISTEDDIGIT,
and JOHN DOE NO. 3, also known as SATOSHI JIMENEZ**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

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TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
393 University Avenue, 10th Floor
Toronto ON
M5G 1E6

TO: Christian Saucier
100B-646 Broadview Avenue
Toronto, Ontario M4K 2P1

AND TO: David McFadzean
60 Soudan Ave.
Toronto, Ontario M4S 1V8

AND TO: Bart de Groot
Middelaarseweg 7A
3871 KR Hoevelaken
Netherlands

AND TO: Abdelaziz Oulad Hadj
Geert Grootelaan 155
3132 CC Vlaardingen
Netherlands

AND TO: Valentin Ganev
Ovcha Kupil 1
BL. 408, Entr A, Apt. 11
Sofia 1632
Bulgaria

AND TO: JOHN DOE NO. 1 also known as ZEEMOBYDICK

AND TO: JOHN DOE NO. 2 also known as THELOSTBOY@THETWISTEDDIGIT

AND TO: JOHN DOE NO. 3 also known as SATOSHI JIMENEZ

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CLAIM

1. The Plaintiff, Equibit Group Ltd. (“Equibit”) claims as against the Defendants, Christian Saucier and David McFadzean (the “Employee Defendants”), on a joint and several basis:
 - a) a declaration that the Employee Defendants breached their fiduciary duties to Equibit and have caused damage to Equibit as a consequence thereof;
 - b) a declaration that the Employee Defendants are constructive trustees for any property belonging to Equibit in their possession;
 - c) damages for breach of contract, breach of fiduciary duty, breach of confidence, and conversion, in the amount of \$10,000,000.00 (TEN MILLION DOLLARS);
 - (a) further, or, in the alternative to 1(a), jointly and severally, against all Defendants, damages for breach of confidence, conversion, knowing receipt and/or knowing assistance, and conspiracy in the amount of \$10,000,000.00 (TEN MILLION DOLLARS);
 - (b) an order, at equity or at common law, as necessary, tracing all of Equibit’s property and assets into the hands of the Defendants, or any other persons to whom such property and assets have been transferred, including to persons outside Ontario or Canada;
 - (c) an interim order pursuant to s. 104 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, for the recovery of Equibit’s property which was unlawfully taken from Equibit by some or all of the Defendants;

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(d) in the alternative to (e), an interim order pursuant to Rule 45 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, for the preservation of Equibit's property in the possession of the Defendants.

2. The Plaintiffs, Equibit and Christopher Eric Horlacher claim:

- (a) as against the Defendant, Bart de Groot, damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS);
- (b) as against the Defendant, Abdelaziz Oulad Hadj, damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS);
- (c) as against the Defendant, Valentin Ganev, damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS);
- (d) as against the Defendant, John Doe No. 1 also known as ZeeMobyDick, damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS);
- (e) as against the Defendant, John Doe No. 2 also known as TheLostBoy@TheTwistedDigit damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS);
- (f) as against the Defendant, John Doe No. 3 also known as Satoshi Jimenez damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS).

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3. The Plaintiff, Marc Godard claims:

- a) as against the Defendant, Bart de Groot damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS);
- b) As against the Defendant, Abdelaziz Oulad Hadj damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS);
- c) as against the Defendant, John Doe No. 3 also known as Satoshi Jimenez damages for libel in the amount of \$500,000.00 (FIVE HUNDRED THOUSAND DOLLARS).

4. The Plaintiffs Claim, against all Defendants:

- (a) aggravated damages against all Defendants, jointly and severally, in the amount of \$1,000,000.00 (ONE MILLION DOLLARS);
- (b) punitive damages against all Defendants, jointly and severally, in the amount of \$1,000,000.00 (ONE MILLION DOLLARS);
- (c) if necessary, an order granting Christopher Eric Horlacher, Equibit's director, leave to prosecute derivative claims on behalf of Equibit as hereinafter particularized, pursuant to section 239 of the *Canadian Business Corporations Act*;
- (d) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (e) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

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(f) the costs of this proceeding, plus all applicable taxes; and

(g) Such further and other Relief as to this Honourable Court may seem just.

5. The Plaintiff, Equibit, is a corporation, incorporated pursuant to the laws of Canada, with registered offices in Toronto, Ontario.

6. The Plaintiffs, Christopher Eric Horlacher and Marc Goddard, are individuals residing in Ontario, and are Directors and of Equibit.

7. The Defendant, Christian Saucier, in an individual residing in Ontario and served as Equibit's Chief Operations Officer in his final months with the company until on or around February 22, 2019. During and after his employment with Equibit, Mr. Saucier, *inter alia*, breached his employment agreement and fiduciary duties to Equibit by misappropriating Equibit's property and soliciting Equibit's investors to start a competing business.

8. The Defendant, David McFadzean, is an individual residing in Ontario who served as Equibit's Senior Software Engineer until on or around February 22, 2019. During and after his employment with Equibit, Mr. McFadzean, *inter alia*, breached his employment agreement and fiduciary duties to Equibit by misappropriating Equibit's property, soliciting Equibit's investors and engaging in bad faith conduct against Equibit.

9. The Defendant, Bart de Groot, was an investor in Equibit who, *inter alia*, published false and defamatory statements of and concerning the Plaintiffs on the internet, under the pseudonyms BartNL and Manfretto.

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10. The Defendant, Abdelaziz Oulad Hadj, was an investor in Equibit who, *inter alia*, published false and defamatory statements of and concerning the Plaintiffs on the internet, under the pseudonyms, nihau and Snappaz.

11. The Defendant, Valentin Ganev, was an investor in Equibit who, *inter alia*, published false and defamatory statements of and concerning the Plaintiffs on the internet, under the pseudonym sanchopansa.

12. The Defendant, John Doe No. 1 also known as ZeeMoby Dick (“ZeeMoby Dick”) is an individual whose true identity is currently unknown to the Plaintiffs and who, under an anonymous, but unique, pseudonym, published false and defamatory statements of and concerning the Plaintiffs on the internet.

13. The Defendant, John Doe No. 2 also known as TheLostBoy@TheTwistedDigit (“TheLostBoy”) is an individual whose true identity is currently unknown to the Plaintiffs and who, under an anonymous, but unique, pseudonym, published false and defamatory statements of and concerning the Plaintiffs on the internet.

14. The Defendant, John Doe No. 3 also known as Satoshi Jimenez is an individual whose true identity is currently unknown to the Plaintiffs and who, under an anonymous, but unique, pseudonym, published false and defamatory statements of and concerning the Plaintiffs on the internet.

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Equibit

15. Equibit was incorporated in 2015 to write the code for a decentralized transfer agent service, including the registration of securities, using blockchain – an immutable, digital ledger for recording transactions (the “Code”). These services would be provided via an online, peer-to-peer, Equibit dedicated network (the “Network”) as an open, accountable and transparent alternative to traditional over-the counter securities trading services.

16. Similar to Bitcoin, the Network was to contain minable tokens, or, equibits (“EQB Tokens”) with a total of 22 million EQB Tokens minable over 55 years. These Tokens were to have empty information fields, fillable by the Network’s users (such as securities’ issuers) to enable the registration, creation, trade and holding of securities on the Network.

17. In August 2018, Equibit discovered that its lead developer at the time had misappropriated or destroyed the Network software code developed to that date. The claim against the developer and other individuals forms the subject matter of a separate action, proceeding under Court File CV-20-00645492-0000.

Christian Saucier

18. Mr. Saucier is subject to a Shareholders’ Agreement, effective September 17th, 2015, as amended and restated on February 1, 2017. Under the Shareholders’ Agreement, Mr. Saucier covenanted and agreed that, *inter alia*:

- a) he would not, while a Shareholder and for a period to two years thereafter, carry on or be engaged in a business competitive to Equibit or be concerned with or interested in or lend

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money to, guarantee the debts or obligations of or permit his name or any part thereof to be used by any person engaged or concerned with or interested in a business competitive to Equibit within North America;

- b) he would not, while a shareholder and for a period of two years thereafter, (i) divulge to any person the name of any of Equibit's customers or clients; (ii) knowingly solicit, interfere with, or endeavour to entice away Equibit's customers, clients or any person dealing with Equibit; or interfere with or knowingly entice away or otherwise attempt to obtain the withdrawal of any of Equibit's employees.
- c) he would not divulge the contents of any of Equibit's proprietary information to any person and not use the contents of any proprietary information for any purpose, except for Equibit's exclusive benefit.

19. Mr. Saucier was hired as Equibit's Quality Assurance Director on or around February 5, 2018. As Quality Assurance Director, Mr. Saucier was charged with ensuring the Code and Network, the creation of which formed Equibit's purpose for incorporation, were operable and fit for purpose.

20. Mr. Saucier's employment was subject to the terms of the employment agreement, which included, among others, "Confidential Information" and "Intellectual Property", as defined terms.

21. Under the employment agreement, Mr. Saucier covenanted that, *inter alia*:

- a) pursuant to section 4.1, he would not, for the duration of his employment and a period of twenty-four (24) months after, directly or indirectly:

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- i. perform services for, solicit, make a proposal to, or assist others to solicit or make a proposal to any party (including, without limitation a commercial party) for the purpose or with the effect, directly or indirectly, of competing with Equibit's interests in respect of such party;
 - ii. recruit, solicit, hire or recommend the hiring of any individual who was directly or indirectly employed by or a consultant to Equibit, at any time during the twelve (12) month period prior to the last day of employment, save and except in respect of a general advertisement not directed at a particular individual or consultant;
- b) pursuant to Section 4.2, that for the duration of his employment and a period of three years thereafter:
 - i. as trustee or custodian for Equibit, he would hold all Confidential Information in secrecy for Equibit's exclusive benefit and use and would not disclose, divulge, directly or indirectly, to any person any of the Confidential Information; and
 - ii. all instructions, drawings, notes, memoranda, inventions, patents and other industrial property relating to the business Equibit, made or conceived by him or coming into his possession during the term of his employment were the exclusive property of Equibit;
- c) pursuant to Section 5.1, Mr. Saucier assigned the rights to all Intellectual Property conceived or created by him as a result of providing services under his employment agreement and up to twenty-four months of the termination of his employment related to Equibit's information, trade-secrets, know-how or research done for Equibit, including

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“any process, formula, plan or device developed or being developed, made, used, sold or installed by or made known to” him; and

- d) Mr. Saucier also covenanted, at Equibit’s expense, to assist Equibit to protect its rights under the employment agreement and to vest in Equibit the “entire right, title and interest, including, with limitation” all rights to the Intellectual Property and not to disclose to any other person or use any rights to such Intellectual Property for his own purpose or for any purpose other than those of Equibit.

22. At all material times, Mr. Saucier owed fiduciary duties to Equibit because, *inter alia*:

- a) he held managerial and supervisory duties over Equibit employees and others who performed work for Equibit;
- b) he held himself out to be Equibit’s co-founder to investors and members of the public;
- c) during the course of his employment, he was provided with signing authority over Equibit’s bank accounts and appointed Equibit’s Chief Operations Officer;
- d) in his role Mr. Saucier unilaterally exercised power and discretion over Equibit whereby the exercise of such could affect Equibit’s interests and to which Equibit was vulnerable; and
- e) Mr. Saucier was entrusted with Equibit’s confidential information and proprietary property and was charged with overseeing the testing and creation of Equibit’s proprietary property, including the Code.

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23. At all material times, as an employee in a position of trust and power, including by his possession, control and custody of Equibit's proprietary property, Intellectual Property and Confidential Information, Mr. Saucier owed Equibit fiduciary, contractual and other duties, including duties of honesty and loyalty.

24. At all material times, Mr. Saucier also had a duty to execute his obligations diligently, faithfully and honestly and in the best interests of Equibit, and a duty of good faith in the performance of his employment.

25. In August 2018, after Equibit lost the Network software code, Mr. Saucier represented that he would provide the operational requirements to redevelop the code and work to rebuild Equibit's goodwill in the blockchain investor community.

26. At all material times, Mr. Saucier was aware that Equibit sought to rebuild the code and the corporation's goodwill in the blockchain community, so that it could complete the sales of its initial coin offering of 400,000 EQBs to raise funding for the completion of the Network and Code.

27. In or around December 2018, Mr. Saucier started to disengage with the company and expressed discontent and anger for Equibit's rehabilitation plan and with Mr. Horlacher and others. However, at the end of December 2018, Mr. Saucier again purported to be on board with Equibit's direction and supporting the project.

28. In early 2019, Equibit was required to reduce its operating costs even further. Mr. Saucier's employment, along with that of Equibit's remaining staff, was terminated on or around February 22, 2019.

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David McFadzean

29. Mr. McFadzean was retained as Equibit's Senior Software Engineer pursuant to an employment agreement dated August 20, 2018. Mr. McFadzean covenanted to abide by the same terms as set out at paragraph 21 above.

30. In agreeing to work with Equibit, Mr. McFadzean represented that he would assist the corporation with recreating the Network's software code.

31. At all material times, Mr. McFadzean owed fiduciary duties to Equibit because, *inter alia*, he:

- a) served in a senior position with Equibit;
- b) was entrusted with Equibit's confidential and proprietary information, including the Intellectual Property required for the development of the Network's software code;
- c) was solely in charge of the development of the Network's software code; and
- d) unilaterally exercised power and discretion over Equibit whereby the exercise of such could affect Equibit's interests and to which Equibit was vulnerable.

32. Mr. McFadzean's employment was terminated on or around February 22, 2019.

33. At all material times, as an employee in a position of trust and power, including by his possession, control and custody of Equibit's proprietary property, Intellectual Property and Confidential Information, Mr. McFadzean owed Equibit fiduciary, contractual and other duties, including duties of honesty and loyalty.

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34. At all material times, Mr. McFadzean also had a duty to execute his obligations diligently, faithfully and honestly and in the best interests of Equibit, and a duty of good faith in the performance of his employment.

The Defamatory Statements of and concerning the Plaintiffs

35. From February 2019, Mr. Horlacher and others at Equibit began to view false and defamatory statements of and concerning Equibit, and its executive and management, including Mr. Horlacher, on various online social media platforms.

Bart de Groot

36. On or around February – April 2019, Bart de Groot posted the following false and defamatory statements on the virtual internet platform Discord, of and concerning Equibit, Mr. Horlacher and Mr. Godard:

- a) referring to Mr. Horlacher and Mr. Godard “fraudsters” and that the “OSC is investigating this matter” and that he and other individuals will “make this project work under another name and without these two”, with Mr. Horlacher and Mr. Godard being those two;
- b) referring to Mr. Horlacher and Mr. Godard and stating, “hope you had your fun for a year. Kinda sucks you guys are Canadians, they don’t like crypto fraudsters”; and
- c) referring to Mr. Godard and Mr. Horlacher and stating, “I just want you and Chris to know how it feels to become wide reckoned as a fraudster. Not ever being able to find a job again. Go watch the Netflix series FYRE. You and Chris being Billy McFarland. That’s all I need man, I’d like to double my investment for that to happen”.

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37. On Twitter, on or around August 19, 2019, under the name Manfretto, referring to Equibit and Mr. Horlacher and stating that Mr. Horlacher is a con artist.

38. Mr. de Groot published the defamatory statements to other persons in the blockchain investment community and the public-at-large, including people in Ontario.

39. The words in the defamatory statements published by Mr. de Groot, in their natural and ordinary meaning and by innuendo are defamatory of the Plaintiffs. The Plaintiffs complain of and intend to rely on the entirety of the words in each of the publications by Mr. de Groot.

40. The defamatory statements, meant and were understood to mean, *inter alia*:

- a) Mr. Horlacher and Mr. Godard are fraudsters;
- b) Mr. Horlacher is a con artist;
- c) Mr. Horlacher and Mr. Godard engage in criminal conduct;
- d) Mr. Horlacher and Mr. Godard are criminal;
- e) Mr. Horlacher and Mr. Godard have engaged in conduct requiring investigation by the Ontario Securities Commission;
- f) Equibit was not a legitimate business;
- g) Equibit is under investigation by the Ontario Securities Commission; and
- h) Equibit was a front used by Mr. Horlacher and Mr. Godard to defraud investors.

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41. Mr. de Groot maliciously published the defamatory statements, knowing that the statements were false, or acted with reckless disregard as to whether they were true or not.

42. In making the false and defamatory statements, Mr. de Groot acted with malice, particulars of which include, that he:

- a) acted with the purpose of impugning Equibit's reputation to impair its ability to raise financing and succeed in its intended purpose;
- b) acted to retaliate against the Plaintiffs for the lack of return on his investment; and
- c) acted to retaliate against Mr. Horlacher for failing to comply with Mr. de Groot's demands sent in a series of emails and text messages to Mr. Horlacher.

43. In publishing the defamatory statements, Mr. de Groot caused further mental distress to Mr. Horlacher and Mr. Godard in aggravation of their damages, by:

- a) making allegations of criminal conduct;
- b) publishing the defamatory statements after delivering a series of emails to Mr. Horlacher advising that he vandalize Mr. Horlacher's name, including by publishing an article in Mr. Horlacher's local newspaper, if Mr. Horlacher did not comply with Mr. de Groot's demands;
- c) delivering a series of harassing, threatening and abusive text messages to Mr. Horlacher, including that he has "a few nice surprises" for Mr. Horlacher in a local newspaper; and

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- d) publishing the defamatory statements on the internet, whereby the statements would be immediately dispersed to a global audience.

Abdelaziz Oulad Hadj

44. On or around March 2019, Mr. Hadj posted the following false and defamatory statements of and concerning the Plaintiffs on the virtual internet platform Discord, first under the user-name Snappaz, but re-registered under the user-name nihau after he was banned for harassment and threats:

- a) On March 2, 2019, of and concerning Equibit “[f]acts: Buggy code (it’s the testnet code, however, they think to get away with the liability to launch a fully functioning mainnet as agreed in the SAFT) Almost no miners (Could probably 51% for a few hundred dollars) No companies using the platform. No money for further development/exchanges/liquidity providers. Will dump my tokens as well. If someone wants to buy mine at 50 cent each, DM me. 90% discount. @nathanwosnack if you so confident, you can buy my tokens”;
- b) on March 12, 2019, referring to Equibit, “woow, network has 24 ghs!!”; “2 GPU’s per continent, we going to Jupiter I think companies can’t wait to join this mission I think by issuing their shares”; “25 GPU’s, woow, 6k worth of GPU’s supporting a 4 million financed network..we gonna make it boiz”;
- c) on March 12, 2019, referring to Equibit and Mr. Godard, “woooooow 10k used is supporting a 4m financed network fact remains, 25 gpu’s mining. Is this you Marc/Nathan?”

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- d) on March 12, 2019, referring to Equibit, “it has 0 potential as there is no money. Don’t waste your time”;
- e) on March 22, 2019, referring to Equibit, Mr. Horlacher and Mr. Godard, “@Chris/Equibit Group I’ll chase you at the end of the year, You won’t have a pleasant Christmas. I’m going to make you broke legally...good luck covering the legal costs. Your buddy Marc is lucky, because he never formally became CEO probably”; and
- f) on March 22, 2019, referring to Mr. Horlacher and Equibit, “You were in the company as well for some time. If you keep staying connected to this project, they might chase you as well, just some solid advice. Knowing Chris he would snitch everyone.”

45. Mr. Hadj published the defamatory statements to other persons in the blockchain investment community and the public-at-large, including people in Ontario.

46. The words in the defamatory statements published by Mr. Hadj, in their natural and ordinary meaning and by innuendo are defamatory of the Plaintiffs. The Plaintiffs complain of and intend to rely on the entirety of the words in each of the publications by Mr. Hadj.

47. The defamatory statements, meant and were understood to mean, *inter alia*:

- a) Equibit is not a legitimate business;
- b) Equibit does not have the capacity and/or capabilities to succeed in its intended purpose;
- c) Equibit is not a viable business and people who chose to invest in Equibit will lose their money;

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d) Mr. Horlacher and Mr. Godard have engaged in conduct worthy of legal sanction; and

e) Mr. Horlacher and Mr. Godard are persons of disrepute.

48. Mr. Hadj maliciously published the defamatory statements, knowing that the statements were false, or acted with reckless disregard as to whether they were true or not.

49. In making the false and defamatory statements, Mr. Hadj acted with malice, particulars of which include, that he, *inter alia*:

a) acted with the purpose of impugning Equibit's reputation to impair its ability to raise financing and succeed in its intended purpose; and

b) acted to retaliate against the Plaintiffs for the lack of return on his investment.

50. In publishing the defamatory statements, Mr. Hadj caused further mental distress to Mr. Horlacher and Mr. Godard, in aggravation of their damages, by:

a) making allegations of criminal and/or reprehensible conduct;

b) publishing the statements under an anonymous user-name to hide his true identity from the public; and

c) publishing the defamatory statements on the internet, whereby the statements would be immediately dispersed to a global audience.

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Valentin Ganev

51. On or around February 28, 2019, Mr. Ganev, under the unique, but anonymous user-name, Sanchopansa published false and defamatory statements of and concerning Equibit and Mr. Horlacher on the virtual internet platform, Discord. The defamatory statements included, “[e]ven after completely failing and spending the investors’ money on organizing completely fruitless private dinners and travelling around, the Equibit management team still knows it all.”

52. Mr. Ganev published the defamatory statements to other persons in the blockchain investment community and the public-at-large, including people in Ontario.

53. The words in the defamatory statements published by Mr. Ganev, in their natural and ordinary meaning and by innuendo are defamatory of the Plaintiffs. The Plaintiffs complain of and intend to rely on the entirety of the words in each of the publications by Mr. Ganev.

54. The defamatory statements, meant and were understood to mean, *inter alia*:

- a) Equibit’s executive and management are incompetent;
- b) the Plaintiffs squandered investors’ money needlessly; and
- c) Equibit’s executive and management, including Mr. Horlacher and Mr. Godard engaged in fraud and/or other disreputable conduct in managing the financial affairs of the company.

55. Mr. Ganev maliciously published the defamatory statements, knowing that the statements were false, or acted with reckless disregard as to whether they were true or not.

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56. In making the false and defamatory statements, Mr. Ganev acted with malice, particulars of which include, that he, *inter alia*:

- a) acted with the purpose of impugning Equibit's reputation to impair its ability to raise financing and succeed in its intended purpose; and
- b) acted to retaliate against the Plaintiffs for the lack of return on his investment.

57. In publishing the defamatory statements, Mr. Ganev caused further mental distress to Mr. Horlacher, in aggravation of his damages, by:

- a) making allegations of criminal and/or reprehensible conduct;
- b) publishing the statements under an anonymous user-name to hide his true identity from the public; and
- c) publishing the defamatory statements on the internet, whereby the statements would be immediately dispersed to a global audience.

ZeeMobyDick

58. On or around February 26, 2019, ZeeMobyDick posted the following false and defamatory statements of and concerning Equibit, and its management and executive, including Mr. Horlacher on the virtual internet platform Discord:

[w]hat kind of amazingly bad financial management was in place? Seems like you just fluttered all the money away on "diners" fancy hotels and meetings and never thought or cared to actually invest the majority of the money into the project. Straight up, you look

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and actually sound like a scammer. You have delivered nothing and ALL the investors have got, is exactly this NOTHING. Your words are total BS. Actions speak louder than words. So lets see what happens, prove my doubts wrong. But quite simply (and I say this for a lot of investors, who are scared to say anything, because they think you will use it as a excuse to completely disappear) YOU Sir, are FULL OF IT!"."

59. ZeeMobyDick published the defamatory statements to other persons in the blockchain investment community and the public-at-large, including people in Ontario.

60. The words in the defamatory statements published by ZeeMobyDick, in their natural and ordinary meaning and by innuendo are defamatory of the Plaintiffs. The Plaintiffs complain of and intend to rely on the entirety of the words in each of the publications by ZeeMobyDick.

61. The defamatory statements, meant and were understood to mean, *inter alia*:

- a) Equibit and Mr. Horlacher squandered investors' money;
- b) Equibit is not a legitimate company;
- c) Mr. Horlacher is a scammer; and
- d) Mr. Horlacher committed fraud and/or engaged in disreputable conduct in his management of Equibit's finances and investors' money;

62. ZeeMobyDick maliciously published the defamatory statements, knowing that the statements were false, or acted with reckless disregard as to whether they were true or not.

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63. In making the false and defamatory statements, ZeeMobyDick acted with malice, particulars of which include, that he or she, *inter alia*:

- a) acted with the purpose of impugning Equibit's reputation to impair its ability to raise financing and succeed in its intended purpose; and
- b) acted to retaliate against Mr. Horlacher and Equibit for the lack of return on his investment.

64. In publishing the defamatory statements, ZeeMobyDick caused further mental distress to Mr. Horlacher, in aggravation of his damages, by:

- a) making allegations of criminal and/or reprehensible conduct;
- b) publishing the statements under an anonymous user-name to hide his true identity from the public; and
- c) publishing the defamatory statements on the internet, whereby the statements would be immediately dispersed to a global audience.

Thelostboy

65. On Twitter, under the anonymous, but unique user-name, Thelostboy published the following false and defamatory statements, of and concerning Equibit and Mr. Horlacher:

- a) on February 22, 2019, "@equibit and @ChrisHorlacher Funny how your project "Equibits" now has worthless "equity" since all the money was fluttered away. Hope the SEC will investigate the shady ICO you made. Website before its offline eqb.equibitgroup.com;

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- b) on February 26, 2019, publishing an online notification received from the Ontario Securities Commission, stating it has received his or her information and the words, “@chrishorlacher Expect a call...”; and
- c) on January 11, 2020, calling Mr. Horlacher a “scammer in Canada”.

66. The lostboy published the defamatory statements to other persons in the blockchain investment community and the public-at-large, including people in Ontario.

67. The words in the defamatory statements published by Thelostboy, in their natural and ordinary meaning and by innuendo are defamatory of the Plaintiffs. The Plaintiffs complain of and intend to rely on the entirety of the words in each of the publications by Thelostboy.

68. The defamatory statements, meant and were understood to mean, *inter alia*:

- a) Mr. Horlacher is a scammer;
- b) Mr. Horlacher has engaged in shady conduct;
- c) Mr. Horlacher has committed fraud or engaged in fraudulent conduct;
- d) Mr. Horlacher is a person of disrepute;
- e) Equibit is not a legitimate business;
- f) Equibit engaged in fraud, or fraudulent conduct in raising financing; and
- g) Equibit is a corporation that has engaged in conduct worthy of investigation and/or sanction by the Ontario Securities Commission.

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69. Thelostboy also made a false and malicious complaint of and concerning Equibit and Mr. Horlacher to the Ontario Securities Commission in which he or she made defamatory statements about the Plaintiffs. The particulars of the defamatory statements are currently unknown to the Plaintiffs and within the unique knowledge of Thelostboy.

70. Thelostboy maliciously published the defamatory statements, knowing that the statements were false, or acted with reckless disregard as to whether they were true or not.

71. In making the false and defamatory statements, Thelostboy acted with malice, particulars of which include, that he or she, *inter alia*:

- a) acted with the purpose of impugning Equibit's reputation to impair its ability to raise financing and succeed in its intended purpose; and
- b) acted to retaliate against Mr. Horlacher and Equibit for the lack of return on his investment.

72. In publishing the defamatory statements, Thelostboy caused further mental distress to Mr. Horlacher, in aggravation of his damages, by:

- a) making allegations of criminal conduct;
- b) publishing the statements under an anonymous user-name to hide his true identity; and
- c) publishing the defamatory statements on the internet, whereby the statements would be immediately dispersed to a global audience.

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Satoshi Jimenez

73. Satoshi Jimenez published false and defamatory statements of and concerning the Plaintiffs on the social media platform Twitter, including:

- a) on or around May 2, 2019, “is there any place to report crypto scams? Guys at @equibit have been totally dickheads with us (investors) and would like to expose @chrishorlacher and Marc Godard so they can’t scam anyone else in the future;”
- b) on or around December 26, 2019, replying to another poster and referring to Mr. Horlacher and Equibit, “[y]ep they did...I was kicked out of the Discord channel long time ago for calling their incompetence...”;
- c) on or around December 29, 2019, referring to Mr. Horlacher and stating he “blew all @equibit investor’s money without releasing anything meaningful ignoring everyone’s advice and thinking he knew better, I guess he’ll give you pretty good advice about that”;
- d) on or around December 29, 2019, replying to another poster and referring to Equibit and Mr. Horlacher, stating, “[w]ell that’s what appears but the Management spent all the money living a good life in Switzerland when shit hit the fan a new guy entered as the new CEO but now he only makes fun of investors. I just want to leave some type of record so they can’t fool anyone else in the future”;
- e) on or around December 29, 2019, replying to another poster on Twitter, referring to Equibit and Mr. Horlacher, stating, “Yep, that’s true 😊 but hey, at least let me try help other people find about these scammers if they decide to get more funds in the future...”; and

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f) on or around December 29, 2019, “yep, @ChrisHorlacher and Marc Godard are scammers”.

74. Satoshi Jimenez published the defamatory statements to other persons in the blockchain investment community and the public-at-large, including people in Ontario.

75. The words in the defamatory statements published by Satoshi Jimenez, in their natural and ordinary meaning and by innuendo are defamatory of the Plaintiffs. The Plaintiffs complain of and intend to rely on the entirety of the words in each of the publications by Satoshi Jimenez.

76. The defamatory statements, meant and were understood to mean, *inter alia*:

- a) Equibit is not a legitimate business or corporation;
- b) Mr. Horlacher is a scammer;
- c) the executive and management of Equibit are incompetent;
- d) Mr. Horlacher squandered the money invested in Equibit;
- e) Mr. Horlacher misappropriated the money invested in Equibit;
- f) Mr. Horlacher engaged in fraud or fraudulent conduct; and
- g) Mr. Horlacher is a person of disrepute.

77. Satoshi Jimenez maliciously published the defamatory statements, knowing that the statements were false, or acted with reckless disregard as to whether they were true or not.

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78. In making the false and defamatory statements, Satoshi Jimenez acted with malice, particulars of which include, that he or she, *inter alia*:

- a) acted with the purpose of impugning Equibit's reputation to impair its ability to raise financing and succeed in its intended purpose; and
- b) acted to retaliate against Mr. Horlacher and Equibit for the lack of return on his investment.

79. In publishing the defamatory statements, Satoshi Jimenez caused further mental distress to Mr. Horlacher, in aggravation of his damages, by:

- a) making allegations of criminal conduct;
- b) publishing the statements under an anonymous user-name to hide his true identity from the public; and
- c) publishing the defamatory statements on the internet, whereby the statements would be immediately dispersed to a global audience.

The Defendants' Defamatory Statements

80. As a result of the defamatory statements outlined above, the Plaintiffs have suffered and will continue to suffer damages for which Mr. de Groot, Mr. Hadj, Mr. Ganev, ZeeMobyDick, Thelostboy, and Satoshi Jimenez are responsible at law.

81. In publishing the defamatory statements, Mr. de Groot, Mr. Hadj, Mr. Ganev, ZeeMobyDick, Thelostboy, and Satoshi Jimenez intended to, and did, harm the personal and

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professional reputations of Mr. Horlacher and Mr. Godard by, *inter alia*, lowering them in the estimation of their community and the public.

82. The defamatory statements published by Mr. de Groot, Mr. Hadj, Mr. Ganev, ZeeMobyDick, Thelostboy, and Satoshi Jimenez caused Mr. Horlacher and Mr. Godard to be subjected to ridicule, hatred and contempt and to suffer personal embarrassment and humiliation.

83. In publishing the defamatory statements, Mr. de Groot, Mr. Hadj, Mr. Ganev, ZeeMobyDick, Thelostboy, and Satoshi Jimenez acted with malice and intended to and did cause Equibit to be subject to distrust and contempt by its investors and potential investors and other supporters in the blockchain community, to suffer pecuniary damages, including damages to its trading reputation and its ability to raise capital and/or acquire funding from investors and to lower Equibit in the estimation of the public.

The Employee Defendants Breach of Contract and Fiduciary Duty

84. In or around January 2019, Equibit launched Equibit's testnet, a platform on which testing of the Network and Code could occur prior to the Network launch. The testnet's stress testing was successful.

85. In or around February 2019, Mr. McFadzean completed the Code and mined the first Genesis Block on the Equibit Network.

86. Following the termination of Mr. McFadzean and Mr. Saucier on February 22, 2019, Equibit and/or Mr. Horlacher discovered that sometime prior to March 2019, including while they

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were still employed with Equibit, Mr. McFadzean and Mr. Saucier acted in breach of their employment agreements, the Shareholder's Agreement and/or fiduciary duties by:

- (a) Mr. Saucier began to solicit Equibit's investors, Mr. McFadzean and others involved with Equibit to develop a new venture called Ocean (subsequently, "Tesseract");
- (b) Mr. McFadzean began to assist Mr. Saucier in developing Tesseract and/or soliciting Equibit investors and others involved with Equibit;
- (c) Mr. Saucier and Mr. McFadzean, including some of all the Defendants, began and continued, to misappropriate Equibit's proprietary property, Intellectual Property and Confidential Information; and
- (d) Mr. Saucier and Mr. McFadzean with some or all of them of the other Defendants, incorporated the Code and other proprietary property and Intellectual Property belonging to Equibit into the code they were developing for use in Tesseract.

87. The Defendants, some or all of them, boasted about their use and misappropriation of Equibit's proprietary property, Intellectual Property and Confidential Information on the internet, on the open-source software platform GitHub.

88. Further, Mr. McFadzean, as the sole person in charge of developing the Network after December 2018, failed to advise Equibit that one node with a fixed Internet Protocol address was required to keep the Equibit network alive (the "Fixed Node"). Instead, unbeknownst to Equibit, the Fixed Node remained controlled by Mr. McFadzean.

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89. On or around April 9, 2019, the Equibit Network collapsed. Equibit subsequently discovered that Mr. McFadzean had turned off the Fixed Node to which he, and not Equibit, had access.

90. In disclosing and misappropriating Equibit's proprietary property, Intellectual Property and Confidential Information and acting in their own self-interest to the detriment of Equibit, the Employee Defendants committed breach of fiduciary duty and fundamental breach of the Employment Agreements.

Breach of Confidence

91. At all material times, the Employee Defendants had a contractual and a common law obligation of confidence over Equibit's Confidential Information.

92. The Employee Defendants breached their obligation of confidence, without Equibit's express or implied consent, in disclosing Equibit's Confidential Information to the investor defendants, members of the blockchain community, and the public-at-large.

93. Each of the Employee Defendants breached their obligation of confidence by using Equibit's confidential information for his own benefit, without Equibit's express or implied consent.

94. In inducing the Employee Defendants to disclose Equibit's Confidential Information and breach their obligation of confidence to Equibit, the other Defendants, some or all of them, are also liable for the Employee Defendants' breach of confidence.

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Conversion

95. The Defendants, some or all of them, committed willful interference, including by misappropriating Equibit's proprietary property and Intellectual Property, and acted in a manner inconsistent with Equibit's proprietary rights, Intellectual Property rights and its right of possession over its property.

96. In misappropriating Equibit's proprietary property, Intellectual Property and Confidential Information, the Defendants, some or all of them, acted in bad faith and intended to permanently deprive Equibit of its proprietary property.

Knowing Receipt and Knowing Assistance, in Breach of Trust

97. The property was transferred by the Employee Defendants, to the other Defendants, some or all of them, with the knowledge and active participation of the Employee Defendants, to assist the other Defendants in causing irreparable financial harm to Equibit.

98. The transfer of the proprietary property, Intellectual Property and Confidential Information was done with the knowledge of the other Defendants, some or all of them, that the transfer was in contravention of the fiduciary, contractual and/or other duties owned by the Employee Defendants to Equibit and constitute knowing receipt in breach of trust.

Conspiracy

99. The Defendants agreed and conspired to commit overt and tortious acts to deprive Equibit of the proprietary property, Intellectual Property and confidential property as pleaded above, with the predominate purpose of causing injury to Equibit and, in particular, without limiting the

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generality of the foregoing, for the purpose of causing irreparable financial and reputational harm to Equibit and preclude Equibit from being able to raise sufficient funds and support from the Blockchain community to fulfill its intended purpose.

100. In the alternative, the Defendants agreed and conspired to act unlawfully, as pleaded above, where the likelihood of injury to Equibit and Mr. Horlacher was known or ought to have been known to the Defendants. In particular, without limiting the generality of the foregoing, the Defendants knew or ought to have known that by misappropriating Equibit's proprietary property, Intellectual Property and unlawfully disclosing its Confidential Information, Equibit would suffer irreparable financial and reputational harm.

Damages

101. As a result of the tortious conduct and breaches of trust, fiduciary duty and contract committed by the Defendants as pleaded above, Equibit has suffered and continues to suffer loss and damage, including, *inter alia*:

- a) loss of the proprietary property, Intellectual Property, time and expense, incurred to develop the Confidential Information, the proprietary property and Intellectual Property misappropriated by the Employee Defendants;
- b) loss of opportunity, market value and loss of profits, including future profits; and
- c) damage to its reputation, including its trading reputation, for the false and defamatory statements published by the Defendants on the various virtual and social media platforms, including Discord, Twitter and Github.

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102. In the commission of the torts and breaches, as pleaded above, the Defendants engaged in malicious, high-handed, vindictive and reprehensible conduct, worthy of attracting the condemnation and punishment of this Honourable Court through an award of punitive damages against the Defendants to ensure that they are appropriately punished for their conduct and that they are deterred from such conduct in the future.

103. The Plaintiffs plead and rely on the *Libel and Slander Act*, R.S.O. 1990, c. L. 12; and the *Courts of Justice Act*, R.S.O. 1990, c. C. 43.

104. The Plaintiffs rely on Rule 17.02(f), (g), (i), (p), for service outside of the jurisdiction of Ontario.

105. The Plaintiffs propose that this action be tried in Toronto, Ontario.

January 15, 2021

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RCP-E 14A (June 9, 2014)

EQUIBIT GROUP LTD. et al.

and

CHRISTIAN SAUCIER et. al.

Plaintiffs

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

STATEMENT OF CLAIM

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