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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9 **WESTERN DIVISION**

10 JOESPH LACK, individually and on
11 behalf of all others similarly situated,

12 *Plaintiff,*

13 v.

14 MIZUHO BANK, LTD., a Japanese
15 financial institution, and MARK
KARPELES, an individual,

16 *Defendants.*

Case No.

COMPLAINT

DEMAND FOR JURY TRIAL

CLASS ACTION

1 Plaintiff, Joseph Lack (“Plaintiff”) brings this Class Action Complaint and
2 Demand for Jury Trial against Defendants Mark Karpeles (“Karpeles”) and Mizuho
3 Bank, Ltd. (“Mizuho”). Plaintiff alleges as follows upon personal knowledge as to
4 himself and his own acts and experiences, and, as to all other matters, upon
5 information and belief, including investigation conducted by his attorneys.

6 **NATURE OF THE ACTION**

7 1. This case involves the demise of the Mt. Gox Bitcoin Exchange (“Mt.
8 Gox” or the “Exchange”) and the loss of hundreds of millions of dollars worth of its
9 users’ bitcoins and cash (“Fiat”) Currency. Defendant Mark Karpeles, who owned
10 and ran Mt. Gox, was responsible for the loss of more than \$400 million from users
11 on the Exchange through either gross negligence or outright theft. Plaintiff brings suit
12 on behalf of a class of similarly situated individuals to recover their resulting losses
13 from Karpeles.

14 2. Although Karpeles is the most notorious actor in the Mt. Gox collapse,
15 Mt. Gox’s banking partner, Defendant Mizuho Bank, bears significant responsibility
16 as well. As discussed below, in mid-2013, Mizuho created a number of artificial
17 hurdles in hopes of forcing Mt. Gox to sever relations with it. The most significant of
18 these hurdles was to stop processing any withdrawal requests made by Mt. Gox users
19 in the United States, thus making it virtually impossible for United States users to
20 withdraw any money from their Mt. Gox accounts. In this sense, Mizuho was akin to
21 the famous Hotel California, money could check into the bank at any time, but once
22 there, it could never leave.

23 3. Mizuho actively worked to hide what it was doing from Mt. Gox’s
24 consumers, knowing both that its actions exposed it to reputation harm and that if Mt.
25 Gox’s customers knew how broken Mizuho’s relationship with Mt. Gox was—and
26 that they would be essentially unable to withdraw their money—no United States
27 user would deposit money into Mt. Gox and Mizuho would be deprived of the
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1 transaction fees associated with such deposits. Plaintiff thus also brings suit on behalf
2 of a subclass of similarly situated individuals who were duped into depositing money
3 into Mt. Gox after Mizuho made the decision to stop allowing withdrawals.

4 **PARTIES**

5 4. Plaintiff Joseph Lack is a natural person and citizen of the State of
6 California.

7 5. Defendant Mark Karpeles is a natural person and citizen of the country
8 of France. During the events alleged in this Complaint, Karpeles served as the Chief
9 Executive Officer of both Mt. Gox KK and its parent company, Tibanne KK.
10 Additionally, Karpeles is the sole shareholder of Tibanne KK. Based on Mt. Gox's
11 own statements, "Mark Karpeles is the President and CEO of both MtGox and
12 Tibanne. Mark provides [sic] overall direction, responsible for supervising main
13 operations and steering the company according to his vision." Through Tibanne KK
14 and the Mt. Gox Exchange, Karpeles conducted business throughout this District, the
15 State of California, and the United States.

16 6. Defendant Mizuho Bank is a Japanese financial institution with its
17 principal headquarters located at 1-3-3, Marunouchi, Chiyoda-ku, Tokyo, Japan 100-
18 8210. Mizuho Bank conducts business worldwide, including throughout in this
19 District (where it has a branch office), the State of California, and the United States.
20 Mizuho Bank has received and processed wire money deposits and withdrawals for
21 Mt. Gox customers residing in this District, the State of California, and the United
22 States.

23 **JURISDICTION AND VENUE**

24 7. This Court has jurisdiction over this action pursuant to 28 U.S.C.
25 § 1332(d)(2) because (i) at least one member of the Classes is a citizen of a different
26 state than Defendants, (ii) the amount in controversy exceeds \$5,000,000, exclusive
27 of interest and costs, and (iii) none of the exceptions under that subsection apply to
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1 this action.

2 8. This Court has personal jurisdiction over Defendants because they
3 conduct business in this District and the unlawful conduct alleged in the Complaint
4 occurred in, was directed to, and/or emanated from this District.

5 9. Venue is proper in this District under 28 U.S.C. § 1391(b) because a
6 substantial part of the events or omissions giving rise to the unlawful conduct alleged
7 in the Complaint occurred in, was directed to, and/or emanated from this District.

8 **COMMON FACTUAL ALLEGATIONS**

9 ***The Mt. Gox Bitcoin Exchange.***

10 10. Founded in 2009, Mt. Gox at one time claimed to be the “world’s most
11 established Bitcoin exchange.” In addition to buying and selling bitcoins, Mt. Gox
12 promised its customers “the ability to securely store Bitcoin in a virtual ‘vault’ for
13 safe keeping” on its servers. It further promised that its website would be “always
14 on” so that users could “[b]uy and sell Bitcoin 24/7/365 with the world’s most
15 sophisticated trading platform.”

16 11. To use Mt. Gox’s service, customers were required to sign up for an
17 account at www.mtgox.com and agree to Mt. Gox’s Terms of Use, which expressly
18 stated that “MtGox represents and warrants that . . . it will hold all monetary sums
19 and all Bitcoins deposited by each Member in its Account, in that Member’s name as
20 registered in their Account details, and on such Member’s behalf.”

21 12. Customers were also asked to verify their accounts by providing Mt.
22 Gox with detailed information, such as their full name, date of birth, country of birth,
23 physical address, and proof of identity (such as a state issued identification card).

24 13. To make purchases and trades on the Exchange, users could transfer
25 bitcoins directly into their Mt. Gox accounts or deposit cash into their accounts by
26 wiring money to Mt. Gox’s banking partner—Defendant Mizuho Bank. After
27 receiving the funds, Mizuho Bank would transfer the money into an account that it
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1 held on behalf of Mt. Gox.

2 14. Mt. Gox received a transaction fee for each trade made on the Exchange.
3 Upon information and belief, Mt. Gox made tens of thousands of dollars per day in
4 transaction fees from customers on its site.

5 15. Mizuho likewise received transaction fees on every wire deposit that it
6 processed into the Exchange.

7 ***Mark Karpeles—The Mastermind Behind Mt. Gox.***

8 16. As President, CEO, and majority shareholder of Mt. Gox, Karpeles
9 controlled all aspects of Mt. Gox’s business from the ground up. In fact, Karpeles
10 was involved in nearly every detail of the Exchange, from the technical (Karpeles
11 wrote and designed the software used to run Mt. Gox) to the operational (Karpeles
12 handled all of Mt. Gox’s third party negotiations and contracts).

13 17. Karpeles likewise directed the drafting and dissemination of Mt. Gox’s
14 public statements and representations (including those made through its Terms of
15 Use), as well the statements made through Mt. Gox’s customer service department. In
16 addition, Karpeles handled all aspects of Mt. Gox’s accounting (including its
17 maintenance of user and operational accounts) and banking affairs—personally
18 representing Mt. Gox in its negotiations and discussions with banks and third-party
19 payment processors.

20 18. As the sole controlling force behind Mt. Gox and the designer of its
21 software, Karpeles was aware that there were security “bugs” in the system in as
22 early as 2011.

23 19. Rather than correcting the security bugs (or informing users of their
24 existence), Karpeles knowingly concealed the defects from the public and falsely
25 assured users that their bitcoins and money were safe in their accounts.

26 ***Mizuho Bank’s Banking Relationship With Mt. Gox.***

27 20. Defendant Mizuho Bank was Mt. Gox’s banking partner in Japan and
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1 maintained Mt. Gox's operating accounts. In that capacity, Mizuho Bank facilitated
2 international cash wire transfers into the Exchange and processed user requests to
3 withdraw cash from the Exchange to their outside banks accounts.

4 21. To facilitate wire transfers into the Exchange, Mizuho accepted
5 payments that had been wired by users through their outside banks (e.g. Bank of
6 America). Such wire transfers designated Mt. Gox as the beneficiary of the wire and
7 Mizuho as the beneficiary's bank, and included the Mt. Gox user's account number
8 to which the funds were to be directed. After accepting the wire payment, Mizuho
9 thereafter deposited the funds into its account for Mt. Gox with the funds marked on
10 behalf of the specific depositing Mt. Gox user.

11 22. To withdraw cash from the Exchange, Mt. Gox users submitted requests
12 online through their Mt. Gox account. Mt. Gox would compile the requests it
13 received—which included such information as the user's banking details and the
14 amount to be transferred—and provide the requests to Mizuho for processing. After
15 receiving the requests, Mizuho would then transfer out the requested amounts to the
16 user's bank.

17 23. In mid-2013, Mizuho Bank was the exclusive processor of all bank
18 deposits and withdrawals made by Mt. Gox users located in the United States.

19 ***Mizuho Bank Became Concerned With Karpeles' Business and Implemented New***
20 ***Banking Policies Designed to Coerce Karpeles Into Dissolving Their Partnership.***

21 24. Beginning in 2013, Mizuho Bank became increasingly concerned by Mt.
22 Gox's growing transaction volumes amid reports that U.S. authorities were
23 investigating Mt. Gox for business dealings related to money laundering. At the same
24 time, Mizuho Bank faced its own legal troubles at home, with reports surfacing that
25 the bank had knowingly loaned money to organized crime syndicates and was under
26 investigation by Japan's Financial Services Agency.

27 25. Accordingly, fearing that the partnership would expose it to further
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1 regulatory scrutiny and cause significant reputational harm, Mizuho Bank decided
2 that it wanted to distance itself from Karpeles and Mt. Gox. However, for its own
3 purposes, Mizuho Bank wanted Karpeles to be the one to officially sever the banking
4 relationship. To that end, Mizuho asked Karpeles to close Mt. Gox's account at
5 Mizuho. He refused.

6 26. In order to pressure Karpeles into rethinking his decision and force an
7 end to the banking relationship, Mizuho began implementing a series of new policies
8 in the beginning of 2013. These new policies—all of which were kept secret from the
9 public—were meant to frustrate and disrupt Mt. Gox's business and relationship with
10 its customers.

11 27. Ultimately, in June 2013, Mizuho stopped processing international wire
12 withdrawals for Mt. Gox altogether.

13 28. Accordingly, in June 2013, Mt. Gox users began to report substantial
14 difficulties in withdrawing cash from their Mt. Gox accounts—wondering online
15 about the source of the delays.

16 29. Mizuho knew that if US customers found out about its new,
17 unreasonable banking policies (especially the fact that withdrawals were no longer
18 allowed), they would no longer continue making deposits into the Exchange and it
19 would cease collecting the associated fees. Mizuho also harbored concerns that if its
20 banking policies became publicly known, it could suffer reputational damage or
21 potentially be blamed for losses. Nevertheless, Mizuho continued to accept user
22 deposits into the Mt. Gox Exchange (for which it collected fees on each transaction)
23 through its collapse in February 2014.

24 30. On information and belief, Mizuho continued accepting customer
25 deposits in order to further the impression that any withdrawal difficulties were solely
26 attributable to Mt. Gox, so as to avoid drawing public criticism and further scrutiny
27 from regulatory authorities, as well as to continue profiting from the deposit fees that
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1 it collected.

2 ***Defendants Concealed Mt. Gox’s Operational Difficulties and Continued***
3 ***Accepting Cash Deposits.***

4 31. In February 2014, Karpeles made numerous representations to the public
5 and to Mt. Gox users that the withdrawal issues were only temporary and that user
6 assets were safe.

7 32. Karpeles also assured users through the Mt. Gox online Support Desk
8 (which he directed and controlled) that any problems were being dealt with and that
9 there was no cause for alarm. Likewise, users who inquired about withdrawal delays
10 were informed that any withdrawal issues were only temporary and that delays in
11 transaction speeds were merely “due to a change in [Mt. Gox’s] banking systems”
12 which had resulted in a “back-log” of requests that needed to be processed.” Karpeles
13 even claimed that Mt. Gox was “trying to form relationships with several new
14 banking partners both in Japan and around the world” and “in the process of
15 finalizing even more,” meaning that it would “have increased stability and ability to
16 transmit withdrawals going forward.”

17 33. Both Karpeles and Mizuho knew that these statements were false—
18 withdrawal delays were not due to any “backlog” in the system; they were not minor
19 issues and they were not temporary. Rather, withdrawal delays were due to Mizuho’s
20 refusal to process international withdrawal requests and its broader efforts to
21 undermine the banking relationship between it and Mt. Gox.

22 34. Although Mizuho knew that Karpeles was making these false and
23 misleading statements to the public and to his Mt. Gox users, it took no action to
24 correct them. Instead, Mizuho concealed that it was the cause of the Mt. Gox
25 withdrawal delays, concealed the fact that it had implemented banking policies
26 designed to disrupt Mt. Gox’s business and relationship with its users, and stood
27 silent while allowing the public to continue being duped.

1 35. Upon information and belief, Mizuho prohibited Mt. Gox from
2 disclosing that withdrawal difficulties were attributable to Mizuho, or that Mizuho
3 wanted to terminate its banking relationship with Mt. Gox. By continuing to accept
4 deposits, Mizuho further contributed to the false narrative that the Mt. Gox Exchange
5 was operating properly and that problems with withdrawals were not serious or
6 attributable in any way to Mizuho.

7 36. On February 7, 2014, Karpeles halted his customers' ability to withdraw
8 bitcoin from Mt. Gox, stating that he was purportedly investigating a "bug" or
9 "technical malfunction" in the Bitcoin network. A few days later, on February 10,
10 2014, Karpeles claimed that he had supposedly detected "unusual activity" with
11 respect to the Mt. Gox Bitcoin wallets and was investigating a technical issue, called
12 "transaction malleability," which he said involved the ability of third parties to
13 manipulate certain transactions. Karpeles nonetheless assured his customers that
14 "MtGox will resume bitcoin withdrawals to outside wallets once the issue" had been
15 addressed. This statement was also knowingly false, and beyond that, Karpeles
16 concealed the fact that he had been aware of the supposed security "bug" since in
17 2011.

18 37. However, despite that the fact that most users were now unable to
19 withdraw any bitcoins or Fiat Currency from their accounts, and even though both
20 Karpeles and Mizuho knew that full withdrawal functionality (which had been made
21 available to Mt. Gox users prior to Mizuho's decision to halt withdrawals) would
22 never be restored, both Defendants nonetheless continued to accept and profit from
23 more user deposits.

24 ***Karpeles Shut Down Mt. Gox and Declared Bankruptcy.***

25 38. On February 24, 2014, the Mt. Gox website "went dark." Customers
26 who visited the site found nothing but a blank page and were unable to view or access
27 their accounts. A message on the Mt. Gox website later notified members that a
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1 “decision was taken to close all transactions *for the time being*.” That statement was
2 not true because, at that time, Karpeles was already planning on seeking bankruptcy
3 protection and, on information and belief, was in the process of preparing Mt. Gox’s
4 bankruptcy filing.

5 39. A few days later, on February 28, 2014, Mt. Gox filed for bankruptcy
6 protection in Japan. In its petition (supported by a declaration from Karpeles),
7 Karpeles revealed that he had known about the security “bug” since May 2011 but
8 that it was not purportedly known “until the end of January 2014 that [the bug] could
9 lead to a large number of unconfirmed transactions and to a risk of illicit
10 withdrawals.” The petition further stated that Mt. Gox had discovered “a large
11 discrepancy in the total of deposit balances at those financial institutions which
12 managed said deposits compared to the total amount actually deposited by users and
13 that there was a large shortfall of deposit balances.”

14 40. During a press conference, Karpeles revealed that Mt. Gox had assets of
15 over \$20 million (USD) and liabilities in excess of \$65 million (USD)—not including
16 the over \$450 million worth of bitcoins it had lost through its supposed security
17 breach. In later bankruptcy filings, he revised those figures to \$37.7 million (USD) in
18 assets and \$63.9 million (USD) in liabilities. *See* Declaration of Robert Marie Mark
19 Karpeles, ¶ 7, ECF No. 3, No. 14-31229-sgj15 (Bankr. N.D. Tex. Mar. 9, 2014).

20 41. In the days that followed, reports emerged suggesting that Karpeles had
21 grossly mismanaged the Mt. Gox Exchange by ignoring known security flaws and
22 user reports of hacking, failing to segregate customer and operational funds in Mt.
23 Gox’s account, failing to periodically balance and/or reconcile customer and
24 operational funds, and losing user bitcoins that were purportedly stored in its offline
25 storage.

26 42. On June 18, 2014, the Bankruptcy Court in the Northern District of
27 Texas officially recognized Mt. Gox’s Japanese bankruptcy proceedings as a foreign
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1 main proceeding under Chapter 15 of the U.S. Bankruptcy Code, effectively staying
2 all pending litigation against it in the United States. *See In re MtGox*, Case No. 14-
3 31229-sgj15 (Bankr. N.D. Tex.).

4 43. Tibanne KK likewise declared bankruptcy in Japan in February 2015,
5 with recognition as a Chapter 15 foreign main proceeding being granted on April 2,
6 2015. *See In re: Tibanne Co., Ltd., a/k/a KK*, Case No. 15-10255 (REG) (Bankr.
7 S.D.N.Y.).

8 44. In September 2015, Karpeles was arrested by Tokyo police and formally
9 charged with fraud and embezzlement in connection to his management of Mt. Gox.
10 To date he has not been convicted or acquitted.

11 **PLAINTIFF'S FACTUAL ALLEGATIONS**

12 ***Facts Relating to Plaintiff Joseph Lack***

13 45. Plaintiff joined Mt. Gox in early 2014 after reading Mt. Gox's
14 representations about the Exchange's security, reliability, and ability to withdraw or
15 deposit bitcoins at any time (substantially similar to the advertisements and
16 representations described in Paragraphs 10-11 above). He was particularly impressed
17 by Mt. Gox's use of two-factor authentication and YubiKeys to ensure account
18 security. To activate his account, he was required to (and did) accept Mt. Gox's
19 Terms of Use, and provide all requested documentation, including government-issued
20 identification.

21 46. Upon joining, on January 22, 2014, Plaintiff wire-transferred \$40,000
22 USD to his account at Mt. Gox. To do so, Plaintiff was directed by Mt. Gox to wire
23 the money directly from his local Wells Fargo bank branch to the account that
24 Mizuho held on behalf of Mt. Gox or its owners. Plaintiff was also directed to list his
25 individual Mt. Gox account number on the wire transfer instructions ostensibly so
26 Mizuho and Mt. Gox could identify the deposit as belonging specifically to him.

27 47. Following the transfer, Plaintiff waited several weeks for the money to
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1 appear in his Mt. Gox account and for Mt. Gox to acknowledge receipt of his funds.

2 48. On February 11, 2014, Plaintiff contacted Mt. Gox regarding his
3 \$40,000 and when he would be able to access his money. Mt. Gox responded on
4 February 14, 2014, stating that “withdrawal delays does [sic] not affect transferring
5 funds to your Mtgox [sic] account.” It did not answer his specific question regarding
6 the status of his deposit but instead asked for a scanned copy of his wire transfer
7 form. Plaintiff provided this information on February 15, 2014.

8 49. Plaintiff continued to wait for the funds to appear in his Mt. Gox
9 account. On February 19, 2014, he contacted Mt. Gox again for a status update, only
10 to be informed, “We continue to check the status of the deposit with our banking
11 team. We will let you know once the funds reaches [sic] your account.” Lack
12 responded on February 20, 2014, complaining about these non-responsive emails and
13 demanding to know the location of his money.

14 50. Mt. Gox responded on February 20, 2014 stating, “We are yet to receive
15 your deposit. We are facing Bank delays on international deposit and we will surely
16 keep you updated once we receive your deposit.”

17 51. Upon receiving this message, Plaintiff immediately went to his bank to
18 trace the wire transfer and recall the money.

19 52. At no time prior to or during the deposit of his funds, did Mt. Gox or
20 Mizuho notify him that Mt. Gox had suffered any type of “bug,” that Mizuho was no
21 longer providing withdrawal services to Mt. Gox users (and thus, there would be no
22 way for him to make wire withdrawals from the Exchange), or that his money would
23 thereafter be permanently inaccessible.

24 53. Had Plaintiff known that Mizuho was interfering with Mt. Gox’s ability
25 to service users, that he would be effectively unable to make any cash withdrawals
26 from the Exchange, that the security of Mt. Gox had been compromised, or that Mt.
27 Gox intended to go offline and declare bankruptcy, he would not have opened his
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1 account with Mt. Gox or attempted to deposit funds into his Mt. Gox account.

2 54. On March 3, 2014, Plaintiff's bank informed him that they were unable
3 to recall the funds since they had already been transferred to Mt. Gox's account at
4 Mizuho on February 3, 2014. His bank provided all the documentation showing that
5 his funds did indeed transfer on February 3, 2014, through Mizuho Bank.

6 55. Following bankruptcy, the Mt. Gox website continued to reflect a
7 balance of \$0.00 in Lack's Mt. Gox account. The bankruptcy trustee established a
8 process for Mt. Gox customers to submit claims on the bankruptcy estate, but that
9 process required users to submit screenshots of their Mt. Gox accounts reflecting the
10 balance of bitcoin and fiat currency held in their name on the Exchange. He explained
11 his predicament over the phone to individuals purporting to provide customer service
12 to creditors, and they informed him that they would pass his information along to the
13 bankruptcy trustee. Although Lack followed up on this phone call, he was never
14 contacted by anyone affiliated with the bankruptcy trustee.

15 **CLASS ALLEGATIONS**

16 56. **Class Definition:** Plaintiff brings this action pursuant to Federal Rule of
17 Civil Procedure 23(b)(3) on behalf of himself and a Class of similarly situated
18 individuals, defined as follows:

19 **Mt. Gox Class:** All persons in the United States who had bitcoins or money
20 stored with Mt. Gox on February 24, 2014.

21
22 Plaintiff further brings this action pursuant to Federal Rule of Civil Procedure
23 23(b)(3) on behalf of himself and a Subclass of similarly situated individuals, defined
24 as follows:

25 **Deposit Subclass:** All members of the Mt. Gox Class who deposited money
26 into their Mt. Gox account through Mizuho Bank after the date on which
27 Mizuho Bank stopped processing withdrawals.

1
2 (The Class and Subclasses are referred to herein as the “Classes”.) Excluded from the
3 Classes are (1) Defendants, Defendants’ agents, subsidiaries, parents, successors,
4 predecessors, and any entity in which the Defendants or their parents have a
5 controlling interest and their current and former employees, officers, and directors,
6 (2) the Judge or Magistrate Judge to whom this case is assigned and the Judge’s or
7 Magistrate Judge’s immediate family, (3) persons who execute and file a timely
8 request for exclusion, (4) all persons who have previously had claims similar to those
9 alleged herein finally adjudicated or who have released their claims against
10 Defendants, and (5) the legal representatives, successors, or assigns of any such
11 excluded person.

12 57. **Numerosity:** The exact number of the members of the Classes is
13 unknown and not available to Plaintiff at this time, but it is clear that individual
14 joinder is impracticable. On information and belief, and according to documents filed
15 by Mt. Gox in support of their bankruptcy petition,¹ there are likely over 1,000
16 members in each of the respective Classes. Members of the Classes can be identified
17 through Defendants’ records.

18 58. **Commonality and Predominance:** There are many questions of law
19 and fact common to the claims of Plaintiff and the members of the putative Classes,
20 and those questions predominate over any questions that may affect individual
21 members of the Classes. Common questions for the Classes include, but are not
22 necessarily limited to the following:

- 23 (a) whether Karpeles adequately managed and safeguarded Plaintiff’s
24 and the members of the Classes’ bitcoins and Fiat Currency;
25 (b) whether Karpeles’ conduct constitutes fraud;

26
27 ¹ See *In re MtGox*, Case No. 14-31229-sgj15, Dkt. 127 at 10-11 (Bankr. N.D. Tex.).
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- 1 (c) whether Mizuho’s conduct constituted fraud by omission;
- 2 (d) whether Mizuho’s conduct constituted fraudulent concealment;
- 3 and
- 4 (e) whether Mizuho was unjustly enriched by its conduct.

5 59. **Typicality:** Plaintiff’s claims are typical of the claims of other members
6 of the Classes, in that Plaintiff and the members of the Classes sustained damages
7 arising out of Defendants’ uniform wrongful conduct.

8 60. **Adequate Representation:** Plaintiff will fairly and adequately represent
9 and protect the interests of the Classes, and has retained counsel competent and
10 experienced in complex class actions. Plaintiff has no interest antagonistic to those of
11 the Classes, and Defendants have no defenses unique to Plaintiff.

12 61. **Superiority:** This case is appropriate for class certification because class
13 proceedings are superior to all other available methods for the fair and efficient
14 adjudication of this controversy because joinder of all parties is impracticable. The
15 damages suffered by the individual members of the Classes will likely be relatively
16 small, especially given the burden and expense of individual prosecution of the
17 complex litigation necessitated by Defendants’ actions. Thus, it would be virtually
18 impossible for the individual members of the Classes to obtain effective relief from
19 Defendants’ misconduct. Even if members of the Classes could sustain such
20 individual litigation, it would still not be preferable to a class action, because
21 individual litigation would increase the delay and expense to all parties due to the
22 complex legal and factual controversies presented in this Complaint. By contrast, a
23 class action presents far fewer management difficulties and provides the benefits of
24 single adjudication, economies of scale, and comprehensive supervision by a single
25 Court. Economies of time, effort and expense will be fostered and uniformity of
26 decisions ensured.

27 **FIRST CAUSE OF ACTION**

Negligence Against Mark Karpeles
(On behalf of Plaintiff and the Mt. Gox Class)

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4 62. Plaintiff incorporates the foregoing allegations as if fully set forth
5 herein.

6 63. Karpeles owed Plaintiff and the Mt. Gox Class a duty of reasonable care
7 to employ procedures to detect and prevent the improper access and misuse of
8 Plaintiff's and the Class's bitcoins and Fiat Currency and also to allow them
9 complete access to the same. This duty arose from Karpeles' relationship with
10 Plaintiff and the Mt. Gox Class.

11 64. Karpeles breached his duty to the Plaintiff and the Mt. Gox Class by
12 failing to exercise reasonable care in maintaining, protecting, accounting for, and
13 safeguarding the Plaintiff's and the Mt. Gox Class' bitcoins and Fiat Currency within
14 Mt. Gox's control. This included the failure to implement industry-standard
15 accounting procedures or to segregate user accounts from operational funds, as well
16 as the failure to correct security bugs or other vulnerabilities on the Exchange.

17 65. Karpeles further acted negligently by failing to implement security
18 procedures to detect and prevent unauthorized access to Plaintiff's and the Mt. Gox
19 Class' bitcoins and Fiat Currency.

20 66. As a result of Karpeles' conduct, Plaintiff and the Mt. Gox Class
21 suffered economic injury and other damages, in the form of the price of their bitcoins
22 and Fiat Currency that were accessed, frozen, stolen, and/or misused or that are
23 present in their Mt. Gox accounts and which they cannot access.

24 67. But for Karpeles' negligence, Plaintiff's and the Mt. Gox Class' bitcoins
25 and Fiat Currency would not have been compromised and/or lost. The Plaintiff's and
26 Class' bitcoins and Fiat Currency were accessed, frozen, stolen, and/or misused as a
27 result of Karpeles' failure to exercise reasonable care in safeguarding such
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1 information by adopting, implementing, and maintaining appropriate data
2 management, accounting, and security measures.

3 68. The injuries to Plaintiff and the Mt. Gox Class resulting from Karpeles'
4 negligence were reasonably foreseeable, particularly in light of his grossly inadequate
5 accounting, data management, and security processes.

6 69. Plaintiff and the Mt. Gox Class seek to recover the economic injury and
7 other damages suffered as a result of Karpeles' unlawful conduct, including in the
8 form of the price of the bitcoins and Fiat Currency that were in their Mt. Gox
9 accounts at the time it went dark that is not recoverable under the liquidation
10 proceedings in Mt. Gox's Japanese bankruptcy.

11 **SECOND CAUSE OF ACTION**

12 **Fraud Against Mark Karpeles**

13 **(On behalf of Plaintiff and the Mt. Gox Class)**

14
15 70. Plaintiff incorporates the foregoing allegations as if fully set forth
16 herein.

17 71. As described herein, Karpeles engaged in unlawful, deceptive, and
18 unfair conduct.

19 72. Through Mt. Gox's online marketing materials and advertisements,
20 including its Terms of Use, Karpeles represented to Plaintiff and the Mt. Gox Class
21 that Mt. Gox would, *inter alia*, protect their bitcoins and Fiat Currency, and safely
22 and quickly allow them to buy, sell, trade, or withdraw the same.

23 73. However, as discussed above, Karpeles did not—and never had any
24 intention to—safeguard or protect his users' bitcoins and Fiat Currency.

25 74. Thus, Karpeles' representations to Plaintiff and the members of the Mt.
26 Gox Class were knowingly and intentionally false.

27 75. Knowing that consumers are less likely to do business with companies
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1 that fail to adequately safeguard and hold their bitcoins and Fiat Currency or allow
2 them to buy, sell, trade, or withdraw the same, Karpeles made these false
3 representations with the intention that Plaintiff and the members of the Class would
4 rely on them in contracting with Mt. Gox and transferring money and Bitcoin into
5 their accounts.

6 76. Karpeles additionally made false representations to Plaintiff and the
7 members of the Class through Mt. Gox's online Support Desk and in its customer
8 service correspondence, which he controlled and directed, as described in Paragraphs
9 10, 32, and 36, *supra*. In particular, Karpeles falsely claimed that Mt. Gox's
10 withdrawal and deposit issues were only temporary, that withdrawals would soon
11 resume, that he was developing new business relationships with other banks for
12 improved transaction capabilities, and that a security "bug" in Mt. Gox's system was
13 the cause of its suspended withdrawals.

14 77. Karpeles further concealed the fact that Mizuho was no longer providing
15 international withdrawal services, and thus, U.S. customers had effectively no means
16 to withdraw deposited cash from the Exchange, and that thousands of user bitcoins
17 had been lost or stolen.

18 78. Knowing that users would stop depositing bitcoins and funds in their
19 accounts, and rather, would attempt to withdraw funds or close accounts if made
20 aware of any large-scale loss/theft of coins, Karpeles made the false representations
21 and omissions with the intent that Plaintiff and the members of the Class would rely
22 on them and continue to deposit money and bitcoins into their Mt. Gox accounts and
23 not attempt to withdraw funds and/or close accounts.

24 79. Had Karpeles disclosed Mt. Gox's true practices and intentions, Plaintiff
25 and the members of the Class would have stopped depositing cash and/or bitcoins
26 into their Mt. Gox accounts, immediately taken any available steps to remove their
27 assets from the Exchange, or would not have maintained accounts with Mt. Gox at
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1 all.

2 80. Accordingly, Karpeles' fraudulent conduct caused Plaintiff and the Class
3 to suffer actual harm in the amount of the difference between the bitcoins or Fiat
4 Currency that was in their Mt. Gox accounts at the time it went dark and the amount
5 that will be actually returned to them under the liquidation proceedings in Mt. Gox's
6 Japanese bankruptcy.

7 81. Plaintiff and the Class seek to recover the economic injury and other
8 damages suffered as a result of Defendant Karpeles' unlawful conduct in the form of
9 the price of the bitcoins and Fiat Currency in their Mt. Gox accounts that cannot be
10 recovered.

11 **THIRD CAUSE OF ACTION**
12 **Unjust Enrichment Against Mizuho**
13 **(On Behalf of Plaintiff and the Deposit Class)**

14 82. Plaintiff incorporates the foregoing allegations as if fully set forth
15 herein.

16 83. Plaintiff and the Deposit Class conferred a monetary benefit on Mizuho
17 in the form of fees paid for its deposit services.

18 84. Mizuho appreciates or has knowledge of the benefits conferred upon
19 them by Plaintiff and the Deposit Class.

20 85. Under principles of equity and good conscience, Mizuho should not be
21 permitted to retain the transactions fees paid by Plaintiff and the Deposit Class,
22 because it knowingly concealed material information from them regarding their
23 transaction deposits (i.e., that they would be unable to thereafter withdraw such
24 money from Mt. Gox's account at Mizuho), which directly resulted in the loss of
25 their monies that they wired to Mt. Gox through Mizuho.

26 86. Mizuho had a duty to disclose such material information once it stopped
27 processing customer withdrawals.

1 87. As a result of Mizuho's conduct, Plaintiff and the Deposit Class suffered
2 damages in the form of the transaction fees they paid for Mizuho Bank's wire
3 services.

4 88. Plaintiff and the Deposit Class Members have no other adequate remedy
5 at law.

6 89. Plaintiff, individually and on behalf of the Deposit Class, seek restitution
7 of all monies Mizuho has unjustly received as a result of its conduct alleged herein,
8 as well as interest, reasonable attorneys' fees, expenses, and costs to the extent
9 allowable, as well as all other relief the Court deems necessary to make them whole.

10 **FOURTH CAUSE OF ACTION**

11 **Fraud Against Mizuho Bank**

12 **(On Behalf of Plaintiff and the Deposit Class)**

13 90. Plaintiff incorporates the foregoing allegations as if fully set forth
14 herein.

15 91. Defendant Mizuho Bank concealed from and/or failed to disclose to
16 Plaintiff and the Deposit Class Members that it had stopped providing cash wire
17 withdrawal services to Mt. Gox and that Deposit Class Members would thereafter be
18 virtually unable to make cash withdrawals from the Exchange.

19 92. These omitted and concealed facts were material because a reasonable
20 consumer would have considered them to be important in deciding whether or not to
21 deposit money into the Mt. Gox Exchange.

22 93. Mizuho Bank had a duty to disclose such facts because (i) it contributed
23 to Plaintiff and Deposit Class Members' misapprehension of material facts relating to
24 their ability to make cash withdrawals from the Mt. Gox Exchange, (ii) it was in a
25 position to correct these misapprehensions and had knowledge of the fact that
26 Plaintiff and the Deposit Class Members would be unable to withdraw their money
27 from the Mt. Gox Exchange, and (iii) it knew or should have known that Plaintiff and
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1 Deposit Class Members could not have reasonably been expected to learn or discover
2 the fact that Mizuho Bank had secretly stopped providing withdrawal services to Mt.
3 Gox and that they would thereafter be virtually unable to make cash withdrawals
4 from the Mt. Gox Exchange.

5 94. By continuing to facilitate cash deposits into the Exchange even after
6 knowing that it had terminated its withdrawal services to Mt. Gox (and that
7 consumers would thereafter be effectively unable to make cash withdrawals from the
8 Exchange), Mizuho contributed to Plaintiff and the Deposit Class's misapprehension
9 regarding their ability to access their deposited money, thus giving rise to a duty to
10 disclose material facts that would correct their misapprehension.

11 95. Mizuho knew that if United States customers found out about its new,
12 unreasonable banking policies (especially, the fact that withdrawals were no longer
13 allowed), they would no longer continue making deposits into the Exchange and
14 Mizuho would cease collecting the associated fees. Despite this knowledge, Mizuho
15 continued to accept user deposits into the Mt. Gox Exchange (for which it collected
16 fees on each transaction) and conceal the truth about its withdrawal policies from
17 Plaintiff and the Deposit Class through Mt. Gox's collapse in February 2014.

18 96. On information and belief, Mizuho instructed its own employees not to
19 reveal that it had stopped processing withdrawal requests for users in the United
20 States so as to perpetuate the false impression that Mt. Gox was operating normally.
21 Mizuho did this to protect its reputation so it would not be publicly viewed as
22 contributing to the collapse of Mt. Gox.

23 97. Although Mizuho knew that Karpeles was making false and misleading
24 statements to the public and to his Mt. Gox users, *see* Paragraphs 32-37, *supra*, it
25 took no action to correct them. Instead, Mizuho concealed that it was the cause of the
26 Mt. Gox withdrawal delays, concealed the fact that it had implemented banking
27 policies designed to disrupt Mt. Gox's business and relationship with its users, and
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1 stood silent while allowing the public to continue being duped.

2 98. Upon information and belief, Mizuho prohibited Mt. Gox from
3 disclosing that withdrawal difficulties were attributable to Mizuho, or that Mizuho
4 wanted to terminate its banking relationship with Mt. Gox. By continuing to accept
5 deposits, Mizuho further contributed to the false narrative that the Mt. Gox Exchange
6 was operating properly and that problems with withdrawals were not serious.

7 99. Plaintiff and the Deposit Class did not know that Mizuho had terminated
8 its provision of withdrawal services to Mt. Gox or that Mt. Gox customers would
9 thereafter be virtually unable to make cash withdrawals from the Mt. Gox Exchange.
10 Had Plaintiff and the Deposit Class known the above facts, they would not have
11 wired (or continued to wire) money to Mizuho for deposit into the Mt. Gox
12 Exchange.

13 100. Plaintiff and the Deposit Class justifiably relied on the omissions of
14 Mizuho to their detriment. This detriment is evident from the monies lost by Plaintiff
15 and the Deposit Class after being deposited into the Mt. Gox Exchange.

16 101. As a direct and proximate result of Mizuho's concealment and omission
17 of material facts, Plaintiff and the Deposit Class have suffered actual damages in the
18 form of currency deposited into Mt. Gox's account at Mizuho after Mizuho's
19 decision to cease processing international withdrawals.

20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Plaintiff, Joseph Lack, individually and on behalf of the
22 Classes, pray for the following relief:

- 23 (a) An order certifying the Classes as defined above, appointing Plaintiff as
24 representatives of the Classes, and appointing his counsel as Class Counsel;
- 25 (b) An award of actual damages;
- 26 (c) An award of restitution for Defendants' wrongful conduct;
- 27 (d) An award of reasonable attorneys' fees and costs;
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- (e) An award of punitive or exemplary damages;
- (f) An award of interest;
- (g) Such other and further relief that the Court deems reasonable and just.

JURY DEMAND

Plaintiff requests a trial by jury of all claims that can be so tried.

Respectfully submitted,

JOSEPH LACK, individually and on behalf
of all others similarly situated,

Dated: January 24, 2018

By: /s/Rafey S. Balabanian
One of Plaintiffs' Attorneys

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