1	IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE
2	FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE
3	DEVIN ZHOU, an individual,
4	Plaintiff, )
5	
6	v. )
7	JACK ZUCKOWSKY, an individual, and DOES ) Case No.1 1-50,
8	Defendants.
9	Defendants.
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13	COMPLAINT FOR CONVERSION AND UNJUST ENRICHMENT JURY TRIAL DEMANDED
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	1 COMPLAINT

1. Plaintiff DEVIN ZHOU ("Plaintiff"), by and through counsel Wesley J. Riddle, brings this complaint for conversion and unjust enrichment and seeks injunctive relief, restitution, civil penalties, and other equitable and statutory relief as set forth below.

#### THE PARTIES

- 2. At all times relevant herein, Plaintiff is an individual residing in Little Neck, New York.
- 3. Defendant JACK ZUCKOWSKY ("hereinafter, "Zuckowsky" or "Defendant") is an individual who, upon information and belief, resides in the State of Tennessee, County of Davidson at 600 Broadway, APT 1301, Nashville, TN 37203.
- 4. Plaintiff does not know the true names and capacities of defendants sued herein as DOES 1-50, INCLUSIVE, but alleges that these defendants are responsible in some manner for the acts, omissions, incidents, transactions, and/or events alleged herein, and Plaintiff therefore sues each of them by such fictitious names. Plaintiff will amend this complaint to state the true names and capacities of said defendants when they are ascertained. Each and every reference in this Complaint to Defendants, or any of them, is intended to and shall be deemed to include all fictitiously named defendants.
- 5. Plaintiffs is informed and believes and thereon allege that each Defendant, including DOES 1-50, INCLUSIVE, was the agent, representative, partner, joint-venturer, co-participant, and/or co-conspirator of each of the other Defendants and that in doing the acts alleged herein, each Defendant was acting individually as well as within the course and scope of such relationship, with full knowledge and consent of or ratification by the other defendants.
- 6. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
  Defendants, and each of them, pursued a common course of conduct, acted in concert, and conspired
  with one another, and aided and abetted one another to accomplish the wrongs alleged herein.

# JURISDICTION AND VENUE

- 7. This Court has subject matter jurisdiction pursuant to Tenn. Code Ann. § 16-11-103.
- 8. This court has personal jurisdiction over the Defendant in this matter pursuant to Tenn. Code Ann. § 22-2-222, because the Defendant is a resident of Davidson County, Tennessee and pursuant to pursuant to Tenn. Code Ann. § 22-2-222, because the Defendant transacts business in Davidson County, Tennessee.

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9. Venue is proper in this Court because the Defendant resides in Davidson County, Tennessee.

### FACTUAL BACKGROUND

- 10. Plaintiff is an individual who uses Bitcoin as a form of payment for some of Plaintiff's private business transactions. On or around October 5, 2020, while attempting to pay one of his business associates in Bitcoin ("BTC"), Plaintiff accidentally sent 1.29954936 BTC to the wrong Bitcoin wallet address (hereinafter, the "subject transaction"). Attached hereto as Exhibit 1 are true and correct copies of the Coinbase receipts confirming the subject transaction.
- 11. On or around October 6, 2020, Plaintiff's business associate advised Plaintiff that he had not received the 1.29954936 BTC Plaintiff sent on October 5, 2020, and further advised that Plaintiff had sent the 1.29954936 BTC to a Bitcoin wallet address that did not belong to the business associate.
- 12. Plaintiff is informed and believes and thereon alleges that the Bitcoin wallet address (hereinafter, "the Wallet") to which Plaintiff accidentally sent the 1.29954936 BTC belongs to Defendant and can be accessed solely by Defendant.
- 13. Prior to the subject transaction, Plaintiff did not know Defendant, had not done any business transactions with Defendant, and did not owe Defendant any BTC and/or money.
- 14. Prior to the subject transaction, Plaintiff was given the address to the Wallet from another business associate, Andrew Shin (hereinafter, "Shin"), Plaintiff is informed and believes and thereon alleges that Shin was at all relevant times a business associate of Plaintiff and Defendant, respectively and separately.
- 15. Prior to the subject transaction, Shin advised Plaintiff to send BTC to the Wallet for a separate and unrelated transaction. Pursuant to Shin's instructions, Plaintiff sent BTC to the Wallet for this separate and unrelated transaction.
- 16. On or around October 5, 2020, when Plaintiff attempted to send the 1.29954936 BTC to his business associate, he mistakenly inputted the BTC address to the Wallet (as this was the last Bitcoin wallet address Plaintiff had used prior to the subject transaction), instead of the Bitcoin wallet address of the business associate. This was an honest mistake and Plaintiff did not intend to send Defendant any

Bitcoin in the subject transaction.

- 17. Immediately upon discovering his error, Plaintiff attempted to rectify the situation.

  Both Plaintiff and Shin advised Defendant regarding Plaintiff's error in sending the 1.29954936 BTC to the Wallet. Defendant was asked to immediately return the 1.29954936 BTC to Plaintiff.
- 18. On or around October 8, 2020, after being notified that Plaintiff erroneously sent the 1.29954936 BTC to Defendant and after Plaintiff demanded Defendant return the same, Defendant confirmed to Plaintiff and Shin that he had not only received the 1.29954936 BTC; but also advised that he would promptly return the BTC to Plaintiff.
- 19. On or around December 27, 2020, Defendant admitted he was still in possession of the 1.29954936 BTC that was mistakenly sent to Defendant by Plaintiff in the subject transaction. At that time, Defendant sent Plaintiff approximately 0.175 BTC (valued at approximately \$2,000.00 USD).
- 20. To date, Defendant has not returned the remaining balance of 1.11951257 BTC, which is owed to Plaintiff from the subject transaction, despite numerous requests by Plaintiff regarding the same.

## FIRST CAUSE OF ACTION

# (Conversion as to Defendant Zuckowsky and DOES 1-50)

- 21. Plaintiff repeats and re-alleges all preceding and subsequent allegations as if more fully set forth herein.
- 22. As set forth above, at all times relevant herein, Plaintiff owned, possessed, and/or had a right to possession of all BTC rightfully belonging to him, including the 1.29954936 BTC that was mistakenly sent to the Wallet as part of the subject transaction.
- 23. As further set forth above, Defendant intentionally and substantially interfered with Plaintiff's property specifically the 1.29954936 BTC that was mistakenly sent to the Wallet by taking possession of the 1.29954936 BTC and refusing to return the 1.29954936 BTC after having been alerted to Plaintiff's honest mistake. Defendant has full knowledge that he has no right to possess and/or own the 1.29954936 BTC, as Plaintiff does not (and did not) owe Defendant any BTC and/or monies.
  - 24. Plaintiff did not consent to Defendant's conduct and/or interference.
  - 25. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered, and

continues to suffer, general, compensatory, and consequential damages in an amount according to proof at the time of trial, with interest at the legal rate per annum through judgment.

26. Defendant acted maliciously, intentionally, fraudulently, or recklessly, as defined by Tenn. Code Ann. § 29-39-104, and therefore the imposition of punitive damages is justified in an amount to be proven at trial.

#### SECOND CAUSE OF ACTION

### (Unjust Enrichment as to Defendant Zuckowsky and DOES 1-50)

- 27. Plaintiff repeats and re-alleges all preceding and subsequent allegations as if more fully set forth herein.
- 28. On or around October 5, 2020, Defendant received BTC from Plaintiff that was intended to be used for the benefit of Plaintiff namely, the 1.29954936 BTC that Plaintiff mistakenly sent to the Wallet.
  - 29. No part of this 1.29954936 BTC was used for the benefit of Plaintiff.
- 30. Despite multiple demands to Defendant for return of the 1.29954936 BTC that was mistakenly sent to the Wallet; despite the fact that Defendant is fully aware he has no right to possess or own the 1.29954936 BTC, and despite the fact Plaintiff does not owe Defendant any BTC and/or monies, Defendant has only returned approximately 0.175 BTC of the total 1.29954936 BTC that was mistakenly sent to Defendant.
- 31. As a result of Defendant's actions, Plaintiff has suffered damages including but not limited to loss of the BTC valued at approximately \$11,928.78 at the time of the subject transaction. Plaintiff has also lost out on business with other distributors totaling over an additional \$15,000.00. The total amount of damages is to be proven at trial.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against Defendant as follows:

- 1. For actual damages in an amount to be determined at trial;
- 2. For preliminary and permanent injunctive relief;
- 3. For exemplary/punitive damages in accordance with Tenn. Code Ann. § 29-39-104;
- 4. For an award of reasonable attorneys' fees;

# **DEMAND FOR JURY TRIAL** Plaintiff DEVIN ZHOU hereby demands a jury trial in this matter.

Dated: August 18, 2022

L&F BROWN, P.C.

By:

s/Wesley Q. Riddle
WESLEY J. RIDDLE
Attorney for Plaintiff DEVIN ZHOU