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*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

BRIAN KANG, an individual, on behalf of himself and SKYBLOCK, LLC and MID-WILSHIRE CONSULTING, LLC; PRASAD HURRA, an individual; DAVID KIM, an individual, on behalf of himself and BLUE BLOCK GROUP; ARTEMIO VERDUZO, an individual; DAVID KWON, an individual; and YOUNG JAE KWON, an individual.

Case No.:

## **COMPLAINT**

## **JURY TRIAL DEMANDED**

### **Plaintiffs.**

V.

HYBRID TRADE LIMITED, an unknown business entity; ASIA DIGITAL ASSET EXCHANGE, an unknown business entity; ALLYSIAN SCIENCES, an unknown business entity; APOLO OHNO, an individual; ROD JAO, an individual; EUGENIO PUGLIESE, an individual; HENRY LIU, an individual, and DOES 1 through 10, inclusive.

### Defendants.

1 Plaintiffs Brian Kang (“Kang”), on behalf of himself, Skyblock, LLC  
 2 (“Skyblock”) and Mid-Wilshire Consulting, LLC (“MWC”), Prasad Hurra  
 3 (“Hurra”), David Kim (“Kim”), on behalf of himself and Blue Block Group  
 4 (“BBG”), Artemio Verduzo (“Verduzo”), David Kwon (“D. Kwon”) and Young  
 5 Jae Kwon (“J. Kwon”), together with their principals, agents, predecessors,  
 6 successors, and assigns (collectively, “Plaintiffs”), hereby allege as follows against  
 7 Defendants Hybrid Trade Limited (“Hybrid”), Asia Digital Asset Exchange  
 8 (“ADAX”) Allyrian Sciences (“Allyrian”), Apolo Ohno (“Ohno”), Rod Jao (“Jao”),  
 9 Eugenio Pugliese (“Pugliese”), Henry Liu (“Liu”), and Does 1-10 (collectively,  
 10 “Defendants”).

## 11 SUMMARY

12 1. Between approximately January 2018 and June 6, 2018, Defendants offered  
 13 and sold digital tokens (the “Hybrid Token”), raising approximately \$50 million  
 14 from investors based around the world, including within the United States.  
 15 However, Defendants’ offer and sale of Hybrid Tokens was neither registered with  
 16 the United States Securities and Exchange Commission (the “SEC”) nor qualified  
 17 for any exemption from registration with the SEC, thereby depriving investors of  
 18 the benefit of the disclosures required by the federal securities laws. Moreover, to  
 19 date, Defendants have yet to satisfy *any* of their commitments to investors.  
 20 Defendants squandered and/or misappropriated, and purported to lose by theft, all  
 21 or nearly all of the approximately \$50 million raised through their offer and sale of  
 22 Hybrid Tokens. Defendants’ offer and sale of Hybrid Tokens was, in actuality, a  
 23 mere vessel for Defendants’ personal enrichment. This is precisely the sort of  
 24 scenario the federal securities laws were enacted to prevent.

25 2. Congress enacted the Securities Act of 1933 (the “Securities Act”) and the  
 26 Securities Exchange Act of 1934 (the “Exchange Act”) to regulate the offer and sale  
 27 of securities. In contrast to commerce, which often operates under the principle of  
 28 *caveat emptor*, Congress enacted a regime of full and fair disclosure, requiring those

1 who offer and sell securities to the investing public to provide sufficient, accurate  
2 information to allow investors to make informed decisions before they invest. Such  
3 disclosure is ordinarily provided in a “registration statement,” which provides  
4 public investors with financial and managerial information about the issuer of the  
5 securities, details about the terms of the securities offering, the proposed use of  
6 investors proceeds, and an analysis of the risks and material trends that would affect  
7 the enterprise.

8       3. Section 5(a) of the Securities Act, 15 U.S.C. § 77e(a), provides that, unless a  
9 registration statement is in effect as to a security or an exemption from registration  
10 applies, it is unlawful for any person, directly or indirectly, to sell securities in  
11 interstate commerce. Section 5(c) of the Securities Act, 15 U.S.C. § 77e(c),  
12 provides a similar prohibition against offers to sell or offers to buy, unless a  
13 registration statement has been filed or an exemption from registration applies.  
14 Thus, Sections 5(a) and 5(c) of the Securities Act prohibit the offer or sale of  
15 unregistered securities in interstate commerce, absent an exemption.

16       4. Sections 11 and 12(a)(2) of the Securities Act, 15 U.S.C. § 77k & 77l(a)(2),  
17 respectively, prohibit material misstatements and omissions in prospectuses and  
18 registration statements, respectively. More generally, Section 17(a) of the  
19 Securities Act prohibits material misstatements and omission in connection with the  
20 sale of securities. Section 10(b) of the Securities Act and SEC Rule 10b-5, 17  
21 C.F.R. 240.10b-5, provide purchasers of securities a private right of action against  
22 all persons and entities who use deceptive devices in connection with the offer and  
23 sale of securities.

24       5. The definition of “security” includes a wide range of investment vehicles,  
25 including stocks, bonds, and “investment contracts.” Investment contracts are  
26 transactions where an individual invests money in a common enterprise and  
27 reasonably expects profits to be derived from the entrepreneurial or managerial  
28 efforts of others. In a variety of circumstances, courts have found that investment

1 vehicles other than stocks and bonds constitute investment contracts, including  
2 interests in orange groves, animal breeding programs, railroads, airplanes, mobile  
3 phones, and enterprises existing only on the Internet. As the Supreme Court of the  
4 United States has noted, Congress defined security broadly to embody a “flexible  
5 rather than a static principle, one that is capable of adaptation to meet the countless  
6 and variable scheme devised by those who seek the use of the money of others on  
7 the promise of “profits.”

8       6. The SEC has stated that digital tokens, such as Hybrid Tokens, often  
9 constitute securities. *See Investor Bulletin: Initial Coin Offerings*, U.S. Securities  
10 and Exchange Commission (Jul. 25, 2017), [https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib\\_coinofferings](https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_coinofferings) (“[I]n certain cases, the tokens or coins will be  
11 securities and may not be lawfully sold without registration with the SEC or  
12 pursuant to an exemption from registration[.]”). According to the SEC, “issuers of  
13 distributed ledger or blockchain technology-based securities must register offers  
14 and sales of such securities unless a valid exemption applies.” *Press Release: SEC  
15 Issues Investigative Report Concluding DAO Tokens, a Digital Asset, Were  
16 Securities* (Jul. 25, 2017), <https://www.sec.gov/news/press-release/2017-131>.

18       7. In several speeches, the SEC’s leadership has reinforced this view. For  
19 example, in a November 8, 2017, speech entitled *Governance and Transparency at  
20 the Commission and in Our Markets*, Jay Clayton, then-Chairman of the SEC,  
21 stated: “I have yet to see an [Initial Coin Offering (“ICO”)] that doesn’t have a  
22 sufficient number of hallmarks of a security.” A few months later, on January 22,  
23 2018, then-Chairman Clayton cautioned those involved in the ICO process, stating:  
24 “My first message is simple and a bit stern. Market professionals, especially  
25 gatekeepers, need to act responsibly and hold themselves to high standards. To be  
26 blunt, from what I have seen recently, particularly in the initial coin offering space,  
27 they can do better.” Then-Chairman Clayton further stated: “First, and most  
28 disturbing to me, there are ICOs where the lawyers involved appear to be, on the

1 one hand, assisting promoters in structuring offerings of products that have many  
 2 of the key features of a securities offering, but call it an ‘ICO,’ which sounds pretty  
 3 close to an ‘IPO.’ On the other hand, those lawyers claim the products are not  
 4 securities, and the promoters proceed without compliance with the securities laws,  
 5 which deprives investors of the substantive and procedural investor protection  
 6 requirements of our securities laws.”

7       8. As described in more detail herein, Defendants created, offered for sale, and  
 8 sold approximately \$50 million worth of securities known as Hybrid Tokens.  
 9 Defendants neither registered their offer and sale of securities with the SEC, nor  
 10 qualified for any exemption from registration, as the law requires. Worse still,  
 11 Defendants misled and duped their investors, ultimately delivering on *none* of their  
 12 commitments to investors.

13       9. Defendants attempted to avoid the reach of the federal securities laws by  
 14 characterizing the Hybrid Token as a “utility token.” However, when assessing  
 15 whether something is a security under the federal securities laws, courts—including  
 16 those in the Ninth Circuit—have repeatedly stated that they will ignore the form of  
 17 the transaction, and instead focus on the substance and economic reality of the  
 18 transaction. Here, Defendants’ sale of Hybrid Tokens had all the hallmarks of a  
 19 securities offering under the securities laws and was therefore required to be  
 20 registered with the SEC. No exemption to the registration requirement was  
 21 available for Defendants’ offer and sale.

## PARTIES

22       10. Mr. Kang is, and at all relevant times was, a citizen of the United States and  
 23 resident of Los Angeles, California. Throughout 2018, Mr. Kang, on behalf of  
 24 himself, Skyblock, and MWC, invested approximately \$1,461,620 in Hybrid  
 25 Tokens via transfers of Ethereum, a widely used cryptocurrency (“Ethereum,”  
 26 “Ether,” or “ETH”).

27       28       ///

1       11.Mr. Hurra is, and at all relevant times was, a citizen of India and resident of  
2 the United States. On October 6, 2018, Mr. Hurra invested approximately \$100,000  
3 in Hybrid Tokens via a wire transfer of U.S. dollars.

4       12.Mr. Kim is, and at all relevant times was, a citizen of the United States. On  
5 or about March 11, 2018, Mr. Kim, on behalf of himself and BBG, invested  
6 approximately \$70,000 in Hybrid Tokens via a transfer of Ether.

7       13.Mr. Verduzo is, and at all relevant times was, a citizen of Mexico and resident  
8 of the United States. On or about May 17, 2017, Mr. Verduzo invested  
9 approximately \$53,020 in Hybrid Tokens via a wire transfer of U.S. dollars.

10      14.Mr. D. Kwon is, and at all relevant times was, a citizen of the United States.  
11 Between May 25 and May 31, 2018, Mr. D. Kwon invested at least \$250,000 in  
12 Hybrid Tokens via transfers of Ether.

13      15.Mr. J. Kwon is, and at all relevant times was, a citizen of the United States.  
14 Between May 25 and May 31, 2018, Mr. J. Kwon invested at least \$250,000 in  
15 Hybrid Tokens via transfers of Ether.

16      16.Hybrid represents itself as, among other things, a private limited company  
17 incorporated in Hong Kong with its registered office at Room 1901, 19/F, Lee  
18 Garden One, 33 Hysan Avenue, Causeway Bay, Hong Kong. Upon information  
19 and belief, Hybrid is an unknown business entity with its registered address at 93  
20 Mill Street, Qormi, Malta, and doing business at, among other places, 7 Straits  
21 View, #11-01 Marina One East Tower, Singapore, 018936.

22      17.ADAX represents itself as, among other things, “an automated liquidity  
23 protocol that facilitates trades within the Cardano ecosystem in a completely  
24 decentralized and non-custodial way.”<sup>1</sup> Upon information and belief, ADAX is an  
25 unknown business entity doing business at, among other places, Kyriakou Matsi,  
26 16 Eagle House, Nicosia, Cyprus 1082, CY. Upon information and belief, ADAX  
27 was created by Ohno, Jao, and potentially others, for the specific purpose of serving

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28      <sup>1</sup> *What is ADAX, ADAX, available at https://adax.pro.*

1 as a so-called “exit vehicle” through which Defendants could—and ultimately  
2 did—funnel to themselves the investment funds received from Plaintiffs and others  
3 that were intended for Hybrid. Upon information and belief, in or about May 2019,  
4 ADAX acquired Hybrid in full or in part. Upon information and belief, immediately  
5 thereafter, Defendants began to deactivate, disable, and otherwise remove from  
6 various websites, forums, chat rooms, and social media accounts any and all  
7 evidence of Defendants’ involvement in Hybrid and the offer and sale of Hybrid  
8 Tokens.

9       18. Allyrian is an unknown business entity that claims “[o]ur Mission is to  
10 maximize human potential through advanced science and education, enabling  
11 people to become the best at whatever they choose to be.”<sup>2</sup> Allyrian offers and sells  
12 a variety of supplements, such as “Mastermind,” which claims to be “a  
13 breakthrough cognitive support formulation made with unique, potent and proven  
14 herbal and botanical extracts from all around the world and designed to help you  
15 perform at your best.”<sup>3</sup> Upon information and belief, Allyrian does not offer or sell  
16 any products or services related to digital tokens. Jao and Ohno claim to be the Co-  
17 Founders of Allyrian, Jao claims to be the Chief Executive Officer of Allyrian, and  
18 Pugliese claims to be the Global Managing Director of Allyrian.<sup>4</sup> Upon information  
19 and belief, Hybrid transferred substantial portions of the \$50 million to Allyrian,  
20 purportedly for various disclosed and undisclosed products and services. Upon  
21 information and belief, that money was ultimately funneled to Ohno, Jao, Pugliese,  
22 and Liu individually.

23 19. Ohno is the Co-Founder of Hybrid and the Co-Founder of Allyrian. Upon  
24 information and belief, Ohno is, and at all relevant times was, a citizen of the United  
25 States and a resident of, among other places, Los Angeles, California.

<sup>27</sup> *Company, Allyrian Sciences, available at <https://www.allyrian.com/about.html>.*

<sup>27</sup> 3 *Mastermind*, Allyrian Sciences, available at  
<sup>28</sup> <https://www.allyrian.com/mastermind.html>.

<sup>4</sup> Company, Allyrian Sciences, available at <https://www.allyrian.com/about.html>.

1        20.Jao is the Co-Founder of Hybrid and the Co-Founder and Chief Executive  
2 Officer of Allyrian. Upon information and belief, Jao is, and at all relevant times  
3 was, a resident of Vancouver, Canada.

4       21. Pugliese is the Global Managing Director of Allyrian. Upon information and  
5 belief, Pugliese is, and at all relevant times was, a citizen of the United States and  
6 a resident of the state of California.

7       22. Liu is the Executive Director of ADAX. Upon information and belief, Liu  
8 is, and at all relevant times was, a resident of Orange County, California.

9       23. The true names and capacities (whether individual, corporate, associate, or  
10 otherwise) of the defendants sued as Does 1 through 10, inclusive, or any of them,  
11 are unknown to Plaintiffs, and Plaintiffs therefore sue said defendants, and each of  
12 them, by such fictitious names. Once the names and capacities of said defendants  
13 are ascertained by Plaintiffs, Plaintiffs shall seek leave of Court to allege the same.  
14 Plaintiffs are informed and believes, and on such information and belief allege, that  
15 defendants sued as Does 1 through 10, inclusive, are each responsible in some  
16 manner for the events and happenings herein referred to and are each responsible  
17 for damages to Plaintiffs as herein alleged.

## **JURISDICTION**

19       24. Defendants are subject to personal jurisdiction in this Court because of their  
20 numerous contacts with the State of California and the United States, both generally  
21 and specifically in connection with their involvement in Hybrid and the offer and  
22 sale of Hybrid Tokens. Indeed, during the period beginning in or about January  
23 2018, and ending on or about June 6, 2018, Defendants raised approximately \$50  
24 million from investors, including many based within this District.

25       25.The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331  
26 because the causes of action asserted herein arise under federal law, including  
27 Sections 5 and 12 of the Securities Act, Sections 10(b) and 20(a) of the Exchange  
28 Act, and SEC Rule 10b-5.

1       26. Venue is proper in this District because the acts and transactions constituting  
2 the violations alleged in this complaint occurred within this District.

3       27. In connection with the acts and conduct alleged in this complaint,  
4 Defendants, directly or indirectly, used the means and instrumentalities of interstate  
5 commerce, including, but not limited to, the mails and interstate wire and telephone  
6 communications.

## **FACTUAL ALLEGATIONS**

### **A. Blockchain Technology and Digital Tokens.**

9       28.A blockchain is an electronic distributed ledger or list of entries—much like  
10 a stock ledger—that is maintained by various participants in a network of  
11 computers. Blockchains use cryptography to process and verify transactions on the  
12 ledger, providing comfort to users and potential users of the blockchain that entries  
13 are secure.

14        29. Blockchain technologies and distributed ledgers may be used to create and  
15 disseminate virtual “tokens” or “coins.” A token or coin may entitle its holders to  
16 certain rights related to an underlying venture, such as rights to profits, shares of  
17 assets, rights to use certain services provided by the issuer, and/or voting rights.  
18 The tokens or coins may also be traded on digital currency exchanges, in exchange  
19 for virtual or fiat currencies. As the SEC has stated, based on these rights, “in  
20 certain cases, the tokens or coins will be securities and may not be lawfully sold  
21 without registration with the SEC or pursuant to an exemption from registration.”

22       30.Tokens are sold in various capital raising events in which an entity offers  
23 investors a unique “coin” or “token” in exchange for consideration—most  
24 commonly in the form of established virtual currencies (typically Bitcoin (“BTC”)  
25 or Ether) or fiat currency. These tokens are issued on a blockchain and are  
26 oftentimes listed on online platforms, called cryptocurrency exchanges, where they  
27 are tradeable for virtual or fiat currencies.

28 | //

1       31. To participate in a capital raising event, investors are typically required to  
2 transfer virtual currencies to the issuer’s address, online wallet, or other account.  
3 During a capital raising event, or after its completion, the issuer will typically  
4 distribute its unique “tokens” or “coins” to the participants’ unique address on the  
5 blockchain. Like stockholders, tokenholders and coinholders are entitled to certain  
6 rights related to the venture underlying the token or coin, such as a profits, shares  
7 of assets, use of certain services provided by the issuer, and/or voting rights.

8       32. Capital raising events are typically announced and promoted online, although  
9 other marketing may be employed. Issuers often release a “white paper” describing  
10 the project and promoting the capital raising event, often in highly technical terms  
11 and jargon—as discussed below, Defendants issued several white papers. To  
12 participate in the capital raising event, investors are generally required to transfer  
13 consideration to the issuer’s address, bank account, digital “wallet,” or other  
14 account. After the completion of the capital raising event, the issuer will distribute  
15 its tokens to the participants’ unique address on the blockchain.

16       33. Issuers and individuals increasingly have been using blockchain technology  
17 in connection with raising capital for business and projects. And blockchain-  
18 enabled offerings are often targeted at retail investors in the United States and  
19 globally. It is reported that various blockchain technology businesses and projects  
20 raised more than \$20 billion between June 2017 and November 2018.

21       34. After the initial sale by an issuer, tokens are sometimes transferred between  
22 users or listed on online trading platforms, which are sometimes colloquially  
23 referred to as “exchanges,” whereon the tokens trade for other digital assets or fiat  
24 currencies.

25       **B. The Application of the Securities Laws to Digital Tokens.**

26       35. The definition of “security” includes a wide range of investment vehicles,  
27 including stocks, bonds, and “investment contracts.” Investment contracts are  
28 transactions where an individual invests money in a common enterprise and

1 reasonably expects profits to be derived from the entrepreneurial or managerial  
 2 efforts of others. In a variety of circumstances, courts have found that investment  
 3 vehicles other than stocks and bonds constitute investment contracts, including  
 4 interests in orange groves, animal breeding programs, railroads, airplanes, mobile  
 5 phones, and enterprises existing only on the Internet. As the Supreme Court of the  
 6 United States has noted, Congress defined security broadly to embody a “flexible  
 7 rather than a static principle, one that is capable of adaptation to meet the countless  
 8 and variable scheme devised by those who seek the use of the money of others on  
 9 the promise of “profits.”

10       36. The SEC has made clear that digital tokens, such as Hybrid Tokens, often  
 11 constitute securities. *See Investor Bulletin: Initial Coin Offerings*, U.S. Securities  
 12 and Exchange Commission (Jul. 25, 2017) (“[I]n certain cases, the tokens or coins  
 13 will be securities and may not be lawfully sold without registration with the SEC or  
 14 pursuant to an exemption from registration[.]”). According to the SEC, “issuers of  
 15 distributed ledger or blockchain technology-based securities must register offers  
 16 and sales of such securities unless a valid exemption applies.” *Press Release: SEC*  
 17 *Issues Investigative Report Concluding DAO Tokens, a Digital Asset, Were*  
 18 *Securities* (Jul. 25, 2017), <https://www.sec.gov/news/press-release/2017-131>.

19       37. In a number of speeches, the SEC’s leadership has reinforced this view. For  
 20 example, in a November 8, 2017, speech entitled *Governance and Transparency at*  
*the Commission and in Our Markets*, Jay Clayton, then-Chairman of the SEC,  
 22 stated: “I have yet to see an ICO that doesn’t have a sufficient number of hallmarks  
 23 of a security.” A few months later, on January 22, 2018, then-Chairman Clayton  
 24 cautioned those involved in the ICO process, stating: “My first message is simple  
 25 and a bit stern. Market professionals, especially gatekeepers, need to act  
 26 responsibly and hold themselves to high standards. To be blunt, from what I have  
 27 seen recently, particularly in the initial coin offering space, they can do better.”  
 28 Then-Chairman Clayton further stated: “First, and most disturbing to me, there are

1 ICOs where the lawyers involved appear to be, on the one hand, assisting promoters  
2 in structuring offerings of products that have many of the key features of a securities  
3 offering, but call it an ‘ICO,’ which sounds pretty close to an ‘IPO.’ On the other  
4 hand, those lawyers claim the products are not securities, and the promoters proceed  
5 without compliance with the securities laws, which deprives investors of the  
6 substantive and procedural investor protection requirements of our securities laws.”

7 38. Section 5(a) of the Securities Act, 15 U.S.C. § 77e(a), provides that, unless a  
8 registration statement is in effect as to a security or an exemption from registration  
9 applies, it is unlawful for any person, directly or indirectly, to sell securities in  
10 interstate commerce.

11 39. Section 5(c) of the Securities Act, 15 U.S.C. § 77e(c), provides a similar  
12 prohibition against offers to sell or offers to buy, unless a registration statement has  
13 been filed or an exemption from registration applies. Thus, Sections 5(a) and 5(c)  
14 of the Securities Act prohibit the unregistered offer or sale of securities in interstate  
15 commerce, absent an exemption.

16 40. The federal securities laws, including the Securities Act and the Exchange  
17 Act, and the regulations promulgated thereunder, require the disclosure of all  
18 material facts in connection with the offer and sale of securities. Sections 11 and  
19 12(a)(2) of the Securities Act, for example, prohibit material misstatements and  
20 omissions in prospectuses and registration statements, respectively, and Section  
21 17(a) of the Securities Act generally prohibits material misstatements and omission  
22 in connection with the sale of securities. In addition, Section 10(b) of the Securities  
23 Act and SEC Rule 10b-5 provide purchasers of securities a private right of action  
24 against all persons and entities who use deceptive devices in connection with the  
25 offer and sale of securities.

26 **C. The Hybrid White Paper Version 1.9.2.**

27 41. In or about early 2018, Defendants publicly published Version 1.9.2 of the  
28 Hybrid Block White Paper (the “White Paper 1.9.2.”).

1       42.The White Paper 1.9.2 summarized Hybrid's aspirations as follows:

2              HybridBlock is an ecosystem that brings cryptocurrency to everyday  
 3              retail investors, we are focused on the individuals who are just learning  
 4              about cryptocurrencies to the expert day trader looking for the most  
 5              sophisticated, secure, and reliable trading tools on the planet. We want  
 6              everyone in the world to have a personalized experience to buy, trade,  
 7              and learn about cryptocurrency according to THEIR needs. With a  
 8              focus in the high growth regions, starting in Asia.

9              The HybridBlock ecosystem starts with BaseTrade, a platform that  
 10             enables consumers the easiest way to buy, sell, and store  
 11             cryptocurrencies. For more intermediate users we have  
 12             HybridExchange, the best ways to transact with new digital currencies,  
 13             including HybridBlock Token, Bitcoin, Ethereum, Litecoin and select  
 14             other utility tokens. A more advanced option is HybridTrade, a client-  
 15             side desktop application for institutional or professional traders. The  
 16             entire ecosystem has been engineered from the ground up to leverage  
 17             the latest technologies that will allow HybridBlock to scale to  
 18             hundreds of millions of simultaneous users.

19              Unlike any other exchange, we have a governance token that  
 20             empowers all participants to work together to shape and build the  
 21             future of the HybridBlock ecosystem together.

22       43.The White Paper 1.9.2 noted that Hybrid "operate[s] in a complex regulatory  
 23             environment," but claimed that "***our expectation is to work alongside individual  
 24             governments in order to obtain the necessary licensing for our operations,  
 25             primarily in Southeast Asia.***"

26       44.The White Paper 1.9.2 touted that "[o]ne of Hybrid's advantages is its  
 27             established network within its target markets, primarily in Asia." According to the  
 28             White Paper 1.9.2., "***HybridBlock has longstanding relationships in[sic] multiple  
 29             governments and regulators responsible for crafting legislation and issuing  
 30             licenses, including the Philippines, Malaysia, Labuan, Singapore, Hong Kong,  
 31             Korea, Taiwan, and provincial governments of large cities in China.***" In fact,  
 32             according to the White Paper 1.9.2., "***HybridBlock has already met with  
 33             regulators in numerous countries to begin this process.*** While government and

1 regulatory approval is outside of our control, we will place a strong effort into  
2 seeing approvals in target markets through to fruition.

3       45.The White Paper 1.9.2 claimed to have “assembled a team comprised of  
4 experienced trading system professionals from both the cryptocurrency industry  
5 and non-crypto Wall Street markets.”

6       46.According to the White Paper 1.9.2, “[t]he HybridTerminal platform is  
7 architected with a strong focus on security.” The White Paper 1.9.2. acknowledged  
8 that “[g]iven the nature of cryptographically-constructed currency and tokens,  
9 security is an important element to our long-term success” and claimed that  
10 “HybridTerminal will be hosted in Tier One datacenters and will follow all industry  
11 standard web and desktop application security best practices.”

12      47.The White Paper 1.9.2 admitted that Hybrid Tokens would be available for  
13 purchase and sale in secondary markets, proclaiming that “Hybrid Tokens will be  
14 tradeable on Hybrid’s trading platforms, and on other exchanges” and that “[h]aving  
15 Hybrid Tokens listed on multiple exchanges provides liquidity to the market.”

16      48.The White Paper 1.9.2 explained that the funds raised from the sale of Hybrid  
17 Tokens would be used as follows:

- 18           • **53% - Pre-Sale and Open Token Sale** – HybridBlock has  
19 already received investment from strategic partners in order to  
begin the development of our ecosystem and specifically our  
20 HybridTerminal platforms. Tokens will be sold via DART for  
the Pre-Sale, followed by a public crowd sale.
- 21           • **27% - Team and Advisors** – This pool will also account for the  
22 founding team and advisors.
- 23           • **20% - Marketing, Bounty and Strategic Partnerships** – The  
24 marketing pool will be used to increase awareness of our  
products and ecosystem. A minimum of 2% of the token pool  
25 will be applied to the “Bounty Program”. Bounty tokens will be  
held in reserve to incentivize bug bounties for the HybridBlock  
26 smart contract to find potential bugs.

27      ///  
28

1       49.The White Paper 1.9.2 further proclaimed that “[m]ultiple multi-signature  
 2 Trezor hardware wallets for cold storage of tokens and funds raised during sale will  
 3 be used to mitigate the risk of loss of funds raised.”

4       **D. The Hybrid White Paper Version 2.0.**

5 On or about April 20, 2018, Defendants publicly published Version 2.0 of  
 6 the Hybrid Block Official Whitepaper (the “White Paper 2.0”).

7       51.The White Paper 2.0 summarized Hybrid’s aspirations as follows:

8           We stand at the edge of a precipice. While the world-at-large isn’t  
 9 fully aware yet, people close to the blockchain community can feel the  
 pending revolution. But this isn’t a sad revolution. It’s a joyous one.

10          Throughout human history, we’ve seen the baton of power seized by  
 11 distinct players across the shifting eras of our evolution. From  
 12 churches, to monarchs, to banks, to corporations, and now—to the  
 ‘collective individual.’

13          Never before has there been a system that can fuel independent power,  
 14 someone ironically, through the consensus of strangers who are all part  
 15 of the same grand, decentralized ecosystem. Never before has the  
 16 prospect of borderless banking for the billions of unbanked people in  
 17 third-world countries been a potential reality. But here we are at the  
 precipice, staring at the opportunity across the chasm.

18          Any paradigm-shifting revolution takes time, and comes with  
 19 seemingly insurmountable hurdles to overcome. How do we educate  
 20 the world to bring them past the fear of hackers and the dark web?  
 21 How do we, from a technology perspective, responsibly scale a system  
 22 with no central leader? How do we enable the poor farmer in Africa  
 23 to instantly and freely receive currency from his son in South America,  
 while also allowing big corporations to adopt the technology at an  
 enterprise scale?

24          These questions are already being addressed and answered by an army  
 25 of blockchain enthusiasts. The community is hard at work, building a  
 26 bridge to cross the canyon. And we’re excited to say that HybridBlock  
 27 is playing a critical role in forming the foundation of that bridge.

28          HybridBlock is building an ecosystem that seeks to bring 100 million  
 new people into the blockchain network over the next three years.

1 We're mapping out our lofty goals and partnering with the smartest  
 2 people on the planet to execute our vision.  
 3

4 Our education platform, HybridCentral, will onboard new folks from  
 5 around the globe into the blockchain economy. In parallel, our all-in-  
 6 one trading ecosystem will bring a full suite of trading tools to  
 7 blockchain's burgeoning infrastructure, serving beginners  
 8 (BaseTrade), intermediate traders (HybridExchange), and  
 9 professionals (HybridTerminal).  
 10

11 With former Olympic champions, investment bankers, Wall Street  
 12 quants, and Whitehouse [sic] officials forming our core team, we are  
 13 poised and ready to bring our society into a new era of global freedom.  
 14 If you can see the precipice in front of you, and want us all to land  
 15 safely on the other side, you should consider supporting HybridBlock.  
 16 We invite you to become an active participant in our story, and to be  
 17 among the first pioneers to cross the bridge.  
 18

19 52. The White Paper 2.0 claimed to either have or be building numerous  
 20 proprietary products, including, but not limited to:  
 21

- 22 • BaseTrade: “An easy-to-use cryptocurrency platform, where you can  
 23 buy and sell, along with an exchange and wallet with funding options  
 24 tailored to each country in which we operate.”
- 25 • HybridExchange: “Our consumer platform, which will allow traders  
 26 to provide liquidity to our target markets. This platform will provide  
 27 a full order book in designated markets and currency pairs, as well as  
 28 provide traders with access to third party cryptocurrency exchanges  
 within a single interface. Our focus is to optimize liquidity being  
 offered on our platform.”
- 29 • HybridTerminal: “In addition to our web client, we are working to  
 30 release a desktop trading terminal that connects to ours and our  
 31 partner’s APIs. Please note that HybridTerminal is scheduled to be  
 32 released two months after BaseTrade and HybridExchange.”
- 33 • HybridWallet: “HybridWallet is being built as a free, open source  
 34 mobile wallet for storing and transacting Hybrid Block Tokens  
 35 according to the Ethereum ERC20 standard. Additionally, it will be  
 36 able to store a fiat-currency backed token called HybridFX (HFXs).  
 37 HybridWallet is a client-side interface that interacts with the Ethereum  
 38 blockchain. Once downloaded onto a user’s cell phone, he or she can  
 39 easily receive, store and send HybridBlock™ Tokens or HFXs of any  
 40 supported fiat currency. While the wallet is fundamentally a

1                   cryptocurrency wallet, the HybridWallet™ application has the ability  
 2                   to act as an alternative to a bank account for anyone globally.”

- 3
- 4     • HybridFX: “HybridFX enables the creation of digital tokens backed  
 5                   by fiat currency. These fiat-backed tokens provide individuals and  
 6                   organizations with a robust and decentralized method of exchanging  
 7                   value while using a familiar unit of accounting. Blockchain plays a  
 8                   vital role in this technology, providing an auditable and  
 9                   cryptographically secure global ledger. Asset-backed token issuers  
 10                  and other market participants can take advantage of blockchain  
 11                  technology, along with embedded consensus systems, to transact in  
 12                  familiar, less volatile currencies and assets.”

13               53. The White Paper 2.0 touted that (i) “[o]ne of Hybrid’s advantages is its  
 14                  established network within its target markets, primarily in Asia,” (ii) “HybridBlock  
 15                  has longstanding relationships with multiple governments and industry regulators,  
 16                  including the Philippines, Malaysia, Labuan, Singapore, Hong Kong, Korea,  
 17                  Taiwan, and provincial governments of large cities in China,” and (iii)  
 18                  “HybridBlock has already met with regulators in numerous countries to ensure that  
 19                  we are compliant with current laws and regulations and will continue to do so in the  
 20                  future.”

21               54. The White Paper 2.0 marketed and sold Hybrid Tokens and, notably, touted  
 22                  the secondary market for Hybrid Tokens:

23               HybridBlock has created the Hybrid token, which plays a pivotal role  
 24                  in the functioning of Hybrid-Network. Additionally, HybridToken  
 25                  owners will receive, discounted fees, exclusive access to new products  
 26                  and services, and opportunities to invest in future ICO/Token Sales  
 27                  that HybridBlock will launch.

28               Hybrid Tokens serve three primary functions:

- 29               1. Payment of transaction fees and for all services within our  
 30                  blockchain network
- 31               2. To provide exclusive access to specialized products and services
- 32               3. ***As a tradable cryptocurrency token available on the open market***

33               55. According to the White Paper 2.0, Hybrid Tokens would be allocated as  
 34                  follows:

- 35               •     3% - Pre-Sale and Open Token Sale - HybridBlock has already  
 36                  received investment from strategic partners in order to begin the

1 development of our ecosystem and specifically our  
 2 HybridTerminal platforms. Tokens will be sold via DART for  
 3 the Pre-Sale, followed by a public crowd sale.

- 4 • 27% - Team and Advisors - This pool will also account for the  
 5 founding team and advisors.
- 6 • 20% - Marketing, Bounty and Strategic Partnerships - The  
 7 marketing pool will be used to increase awareness of our  
 8 products and ecosystem. A minimum of 2% of the total token  
 9 pool will be applied to the “Bounty Program”. Bounty tokens  
 10 will be held in reserve to incentivize bug bounties for the  
 11 HybridBlock smart contract to find potential bugs.

12 56. The White Paper 2.0 explained that “[t]he Open Token Sale (OTS) will be  
 13 done through the issuance of HybridBlock™ tokens generated by an ERC 20 Smart  
 14 Contract via the Ethereum network on May 23 2018,” “[t]he pricing for the Hybrid-  
 15 Block™ Tokens in the OTS will be at \$0.30USD per Token in ETH or BTC based  
 16 on ETH/USD or BTC/ USD time stamped price of ETH or BTC at time of arrival  
 17 in the official HybridBlock ETH or BTC wallet addresses,” and that because  
 18 “[t]okens will be distributed through the HybridExchange™ platform on the date of  
 19 token distribution” there would be “*a gateway to immediate trading on our  
 20 platform.*”

21 57. According to the White Paper 2.0, the funds raised from the sale of Hybrid  
 22 Tokens would be allocated as follows:

- 23 1. Exchange-based Liquidity (40%)
- 24 2. Product Development (30%)
- 25 3. Strategic Partnerships (10%)
- 26 4. Operations (10%)
- 27 5. Legal & Regulations (10%)

28 58. According to the White Paper 2.0, the Hybrid project would be developed  
 29 along the following schedule:

- 30 • R&D – March 2017
- 31 • HybridBlock™ Concept – May 2017
- 32 • Whitepaper Draft – July 1, 2017
- 33 • Website Launch – July 7, 2017
- 34 • HybridBlock Press Conference, Hong Kong – September 28,  
 35 2017

- 1 • HybridBlock Pre-Launch Conference, Penang, Malaysia –  
October 14, 2017
- 2 • HybridBlock Pre-Launch Conference, Macau – October 24,  
2017
- 3 • Official Whitepaper Release – November 15, 2017
- 4 • HybridCentral™ Beta – December 1, 2017
- 5 • Hybrid Summit 2017, Macau – December 4, 2017
- 6 • Token Pre-Sale – January 15, 2018
- 7 • Hybrid Forum Manila, Philippines – January 20, 2018
- 8 • Hybrid Forum Kuala Lumpur, Malaysia – January 28, 2018
- 9 • Open Token Sale (Public) – May 23 2018
- 10 • BaseTrade™ Beta & HybridExchange™ Beta – May 2018
- 11 • HybridTerminal™ Beta, HybridFxTM Product Launch –  
September 2018

12 59. The White Paper 2.0 touted Hybrid’s well-known “Advisors,”  
including Reeve Collins, the co-founder and CEO of Tether.

13 **E. The Hybrid White Paper Version 2.0.**

14 60. On or about May 20, 2018, Defendants published Version 2.0 of the  
15 Hybrid Block Official Whitepaper (the “May White Paper 2.0” and, together with  
16 the White Paper 1.9.2 and White Paper 2.0, the “White Papers”). The May White  
17 Paper 2.0 reiterated the same claims made in the White Paper 2.0.

18 **F. Defendants Knew the Statements in the White Papers Were False and  
19 Misleading.**

20 61. Defendants possessed the power and authority to control the contents  
21 of Hybrid’s statements, including the statements in the White Papers.

22 62. Defendants knew the statements in the White Papers contained  
23 material misrepresentations and omissions, but did nothing to correct said material  
24 misrepresentations and omissions, and in fact assisted in further disseminating said  
25 material misrepresentations and omissions.

26 **G. Hybrid Tokens Are Securities.**

27 63. To determine whether an instrument is an investment contract, or  
28 security, for purposes of the federal securities laws, courts apply the test announced

1 in *SEC v. W. J. Howey Co.*, 328 U.S. 293 (1946) (“*Howey*”). Pursuant to the so-  
2 called *Howey* test, an investment contract, or security, is defined as “contract,  
3 transaction or scheme whereby a person invests his money in a common enterprise  
4 and is led to expect profits solely from the efforts of the promoter or a third party.”

5 64. On April 3, 2019, the SEC released a detailed Framework to analyze  
6 digital assets under the *Howey* test (the “SEC Framework”).

7 65. As discussed below, Hybrid Tokens are investment contracts and  
8 therefore securities because they constituted an investment of money in a common  
9 enterprise with a reasonable expectation of profits to be derived from the efforts of  
10 others.

11 **1. Hybrid Token Purchasers Invested Money.**

12 66. Plaintiffs and other investors made an investment of money or other  
13 valuable consideration for purposes of *Howey*.

14 67. The SEC Framework states that “[t]he first prong of the *Howey* test is  
15 typically satisfied in an offer and sale of a digital asset because the digital asset is  
16 purchased or otherwise acquired in exchange for value, whether in the form of  
17 traditional (or fiat) currency, another digital asset, or other type of consideration.”

18 68. Plaintiffs and other investors invested U.S. Dollars and digital  
19 currencies, such as Bitcoin and Ether, to purchase Hybrid Tokens.

20 **2. Hybrid Token Investors Participated in a Common Enterprise.**

21 69. Plaintiffs invested money or other valuable consideration into a  
22 common enterprise for purposes of *Howey*.

23 70. The SEC Framework states that “[i]n evaluating digital assets, we have  
24 found that a ‘common enterprise’ typically exists.” This is “because the fortunes  
25 of digital asset purchasers have been linked to each other or to the success of the  
26 promoter’s efforts.”

27 71. Hybrid Tokens are no different, and involve a common enterprise as  
28 demonstrated by the presence of both horizontal and vertical commonality.

1       72. Plaintiffs and other investors were passive participants in the offer and  
 2 sale of Hybrid Tokens. The fortunes of investors, like Plaintiffs, are tied to one  
 3 another through pooled assets and pro-rata distribution of profits and interwoven  
 4 with and dependent on the efforts and fortunes of Defendants. Indeed, Hybrid was  
 5 responsible for supporting Hybrid Tokens, pooled Plaintiffs' and other investors'  
 6 assets, and controlled those assets. Hybrid also retained a significant stake in  
 7 Hybrid Tokens, thus sharing in the profits and risk of the venture.

8       **3. Hybrid Token Investors Purchased the Tokens with a Reasonable  
 9                      Expectation of Profit Therefrom.**

10      73. Plaintiffs were led to expect and did reasonably expect a profit from  
 11 their investment of money or other valuable consideration for purposes of *Howey*.

12      74. With respect to Plaintiffs' and other investors' "reasonable expectation  
 13 of profits," the SEC Framework explains that "[a] purchaser may expect to realize  
 14 a return through participating in distributions or through other methods of realizing  
 15 appreciation on the asset, such as selling at a gain in a secondary market."

16      75. According to the SEC Framework, there is likely to be a "reasonable  
 17 expectation of profits" where:

- 18       • The digital asset gives the holder rights to share in the enterprise's income or  
 19                      profits or to realize gain from capital appreciation of the digital asset.
- 20       • The opportunity may result from appreciation in the value of the digital asset  
 21                      that comes, at least in part, from the operation, promotion, improvement, or  
 22                      other positive developments in the network, particularly if there is a  
 23                      secondary trading market that enables digital asset holders to resell their  
 24                      digital assets and realize gains.
- 25       • This also can be the case where the digital asset gives the holder rights to  
 26                      dividends or distributions.
- 27       • The digital asset is transferable or traded on or through a secondary market  
 28                      or platform, or is expected to be in the future.

- 1     • Purchasers reasonably would expect that an [Active Participant's ("AP's")]  
2       efforts will result in capital appreciation of the digital asset and therefore be  
3       able to earn a return on their purchase.
- 4     • The digital asset is offered broadly to potential purchasers as compared to  
5       being targeted to expected users of the goods or services or those who have  
6       a need for the functionality of the network.
- 7     • The digital asset is offered and purchased in quantities indicative of  
8       investment intent instead of quantities indicative of a user of the network.  
9       For example, it is offered and purchased in quantities significantly greater  
10      than any likely user would reasonably need, or so small as to make actual use  
11      of the asset in the network impractical.
- 12     • There is little apparent correlation between the purchase/offering price of the  
13       digital asset and the market price of the particular goods or services that can  
14       be acquired in exchange for the digital asset.
- 15     • There is little apparent correlation between quantities the digital asset  
16       typically trades in (or the amounts that purchasers typically purchase) and the  
17       amount of the underlying goods or services a typical consumer would  
18       purchase for use or consumption.
- 19     • The AP has raised an amount of funds in excess of what may be needed to  
20       establish a functional network or digital asset.
- 21     • The AP is able to benefit from its efforts as a result of holding the same class  
22       of digital assets as those being distributed to the public.
- 23     • The AP continues to expend funds from proceeds or operations to enhance  
24       the functionality or value of the network or digital asset.
- 25     • The digital asset is marketed, directly or indirectly, using any of the  
26       following:
  - 27           ○ The expertise of an AP or its ability to build or grow the value of the  
28           network or digital asset.

- 1       ○ The digital asset is marketed in terms that indicate it is an investment  
2                  or that the solicited holders are investors.
- 3       ○ The intended use of the proceeds from the sale of the digital asset is to  
4                  develop the network or digital asset.
- 5       ○ The future (and not present) functionality of the network or digital  
6                  asset, and the prospect that an AP will deliver that functionality.
- 7       ○ The promise (implied or explicit) to build a business or operation as  
8                  opposed to delivering currently available goods or services for use on  
9                  an existing network.
- 10      ○ The ready transferability of the digital asset is a key selling feature.
- 11      ○ The potential profitability of the operations of the network, or the  
12                  potential appreciation in the value of the digital asset, is emphasized in  
13                  marketing or other promotional materials.
- 14      ○ The availability of a market for the trading of the digital asset,  
15                  particularly where the AP implicitly or explicitly promises to create or  
16                  otherwise support a trading market for the digital asset.

17      76. Investors in Hybrid Tokens, including Plaintiffs, made their  
18                  investment with a reasonable expectation of profits.

19      77. Hybrid Tokens were sold to Plaintiffs and other investors prior to a  
20                  network or ecosystem on which they could be used being fully developed.

21      78. Moreover, as explained above, investors in Hybrid Tokens, including  
22                  Plaintiffs, were led to believe by Defendants that Hybrid Tokens would be traded  
23                  on secondary markets.

24      **4. Investors Expected Profits from Hybrid Tokens to be Derived  
25                  from the Managerial Efforts of Others.**

26      79. Plaintiffs' expectation of profits from their investment was dependent  
27                  and reliant upon the managerial efforts of others for purposes of *Howey*.

1       80. The SEC Framework explains that the “inquiry into whether a  
2 purchaser is relying on the efforts of others focuses on two key issues: Does the  
3 purchaser reasonably expect to rely on the efforts of an [AP]? Are those efforts ‘the  
4 undeniably significant ones, those essential managerial efforts which affect the  
5 failure or success of the enterprise,’ as opposed to efforts that are more ministerial  
6 in nature?”

7       81. The presence of the following characteristics makes it “more likely it  
8 is that a purchaser of a digital asset is relying on ‘the efforts of others’”:

- 9           • An AP is responsible for the development, improvement (or enhancement),  
10           operation, or promotion of the network, particularly if purchasers of the  
11           digital asset expect an AP to be performing or overseeing tasks that are  
12           necessary for the network or digital asset to achieve or retain its intended  
13           purpose or functionality.
  - 14             ○ Where the network or the digital asset is still in development and the  
15             network or digital asset is not fully functional at the time of the offer  
16             or sale, purchasers would reasonably expect an AP to further develop  
17             the functionality of the network or digital asset (directly or indirectly).  
18             This particularly would be the case where an AP promises further  
19             developmental efforts in order for the digital asset to attain or grow in  
20             value.
  - 21             • There are essential tasks or responsibilities performed and expected to be  
22             performed by an AP, rather than an unaffiliated, dispersed community of  
23             network users (commonly known as a "decentralized" network).
  - 24             • An AP creates or supports a market for, or the price of, the digital asset. This  
25             can include, for example, an AP that: (1) controls the creation and issuance  
26             of the digital asset; or (2) takes other actions to support a market price of the  
27             digital asset, such as by limiting supply or ensuring scarcity, through, for  
28             example, buybacks, "burning," or other activities.

- 1     • An AP has a lead or central role in the direction of the ongoing development  
2         of the network or the digital asset. In particular, an AP plays a lead or central  
3         role in deciding governance issues, code updates, or how third parties  
4         participate in the validation of transactions that occur with respect to the  
5         digital asset.
- 6     • An AP has a continuing managerial role in making decisions about or  
7         exercising judgment concerning the network or the characteristics or rights  
8         the digital asset represents including, for example:
  - 9             ○ Determining whether and how to compensate persons providing  
10                 services to the network or to the entity or entities charged with  
11                 oversight of the network.
  - 12             ○ Determining whether and where the digital asset will trade. For  
13                 example, purchasers may reasonably rely on an AP for liquidity, such  
14                 as where the AP has arranged, or promised to arrange for, the trading  
15                 of the digital asset on a secondary market or platform.
  - 16             ○ Determining who will receive additional digital assets and under what  
17                 conditions.
  - 18             ○ Making or contributing to managerial level business decisions, such as  
19                 how to deploy funds raised from sales of the digital asset.
  - 20             ○ Playing a leading role in the validation or confirmation of transactions  
21                 on the network, or in some other way having responsibility for the  
22                 ongoing security of the network.
  - 23             ○ Making other managerial judgements or decisions that will directly or  
24                 indirectly impact the success of the network or the value of the digital  
25                 asset generally.
- 26     • Purchasers would reasonably expect the AP to undertake efforts to promote  
27         its own interests and enhance the value of the network or digital asset, such  
28         as where:

- The AP has the ability to realize capital appreciation from the value of the digital asset. This can be demonstrated, for example, if the AP retains a stake or interest in the digital asset. In these instances, purchasers would reasonably expect the AP to undertake efforts to promote its own interests and enhance the value of the network or digital asset.
- The AP distributes the digital asset as compensation to management or the AP's compensation is tied to the price of the digital asset in the secondary market. To the extent these facts are present, the compensated individuals can be expected to take steps to build the value of the digital asset.
- The AP owns or controls ownership of intellectual property rights of the network or digital asset, directly or indirectly.
- The AP monetizes the value of the digital asset, especially where the digital asset has limited functionality.

82. The SEC Framework also notes that “[a]lthough no one of the following characteristics of use or consumption is necessarily determinative, the stronger their presence, the less likely the *Howey* test is met:”

- The distributed ledger network and digital asset are fully developed and operational.
- Holders of the digital asset are immediately able to use it for its intended functionality on the network, particularly where there are built-in incentives to encourage such use.
- The digital assets' creation and structure is designed and implemented to meet the needs of its users, rather than to feed speculation as to its value or development of its network. For example, the digital asset can only be used on the network and generally can be held or transferred only in amounts that correspond to a purchaser's expected use.

- 1     • Prospects for appreciation in the value of the digital asset are limited. For  
2         example, the design of the digital asset provides that its value will remain  
3         constant or even degrade over time, and, therefore, a reasonable purchaser  
4         would not be expected to hold the digital asset for extended periods as an  
5         investment.
- 6     • With respect to a digital asset referred to as a virtual currency, it can  
7         immediately be used to make payments in a wide variety of contexts, or acts  
8         as a substitute for real (or fiat) currency.
  - 9             ○ This means that it is possible to pay for goods or services with the  
10                 digital asset without first having to convert it to another digital asset or  
11                 real currency.
  - 12             ○ If it is characterized as a virtual currency, the digital asset actually  
13                 operates as a store of value that can be saved, retrieved, and exchanged  
14                 for something of value at a later time.
- 15     • With respect to a digital asset that represents rights to a good or service, it  
16         currently can be redeemed within a developed network or platform to acquire  
17         or otherwise use those goods or services. Relevant factors may include:
  - 18             ○ There is a correlation between the purchase price of the digital asset  
19                 and a market price of the particular good or service for which it may  
20                 be redeemed or exchanged.
  - 21             ○ The digital asset is available in increments that correlate with a  
22                 consumptive intent versus an investment or speculative purpose.
  - 23             ○ An intent to consume the digital asset may also be more evident if the  
24                 good or service underlying the digital asset can only be acquired, or  
25                 more efficiently acquired, through the use of the digital asset on the  
26                 network.

27     ///

28     ///

- 1     • Any economic benefit that may be derived from appreciation in the value of  
2         the digital asset is incidental to obtaining the right to use it for its intended  
3         functionality.
- 4     • The digital asset is marketed in a manner that emphasizes the functionality  
5         of the digital asset, and not the potential for the increase in market value of  
6         the digital asset.
- 7     • Potential purchasers have the ability to use the network and use (or have  
8         used) the digital asset for its intended functionality.
- 9     • Restrictions on the transferability of the digital asset are consistent with the  
10       asset's use and not facilitating a speculative market.
- 11     • If the AP facilitates the creation of a secondary market, transfers of the digital  
12       asset may only be made by and among users of the platform.

13       83. Purchasers of pre-functional tokens, such as Hybrid Tokens,  
14 necessarily rely on the managerial efforts of others to realize value from their  
15 investments. The success of these managerial efforts in developing the networks  
16 on which these tokens will operate is the primary factor in their price—that is, until  
17 such tokens transition into being functional utility tokens. Hybrid Tokens were  
18 securities at issuance because profits from Hybrid Tokens would be derived  
19 primarily from the managerial efforts of Defendants in developing the associated  
20 network on which Hybrid Tokens would function, rather than having its profit  
21 derived from market forces of supply and demand, such as might affect the price of  
22 a commodity such as gold.

23       84. Hybrid Tokens satisfy most if not all of the factors the SEC described  
24 as relevant to its determination whether a digital asset is a security for purposes of  
25 the *Howey* test. Defendants created Hybrid Tokens from thin air. Defendants  
26 represented that they would develop an ecosystem that would increase the value of  
27 Hybrid Tokens. Plaintiffs reasonably expected Defendants to provide significant  
28 managerial efforts to develop and improve the Hybrid Token ecosystem, to develop

1 and sustain a supportive network, and to secure listing at exchanges through which  
 2 Hybrid Tokens could be traded or liquidated. Defendants represented that they  
 3 would provide significant managerial efforts to achieve these objectives and make  
 4 Hybrid Tokens a success.

5       85. Defendants attempt to distort the truth by calling Hybrid Tokens  
 6 “utility tokens.” The artifice of this terminology had its clear genesis in a report the  
 7 SEC published on July 25, 2017, regarding the DAO Initial Coin Offering, which  
 8 involved DAO Tokens being offered in exchange for ETH investments (the “DAO  
 9 Report”). In the DAO Report, the SEC concluded that the DAO Tokens were  
 10 securities. Shortly after the SEC published the DAO Report, on October 2, 2017, a  
 11 trio of attorneys published a whitepaper entitled “The SAFT Project: Toward a  
 12 Compliant Token Sale Framework” (the “SAFT Project Whitepaper”).<sup>5</sup> The SAFT  
 13 Project Whitepaper explained that it’s focus was on “so-called ‘utility tokens,’”  
 14 which it described as a “category of blockchain tokens contains assets that do not  
 15 purport to replace legacy financial services products. They are designed to offer  
 16 intrinsic utility that powers a decentralized, distributed network that delivers to the  
 17 users of the network a consumptive good or service.”<sup>6</sup> The SAFT Project  
 18 Whitepaper explained that “[t]he DAO Token was not a utility token, and the SEC  
 19 did not speak on utility tokens specifically,” and claimed that “utility tokens now  
 20 make up a significant proportion of aggregate token offerings. . . .”<sup>7</sup> As explained  
 21 herein, however, Defendants’ use of the nomenclature “utility tokens” does not alter  
 22

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23       <sup>5</sup> *The SAFT Project: Toward a Compliant Token Sale Framework*, Juan Batiz-Benet,  
 24 Marco Santori, Jesse Clayburgh, COOLEY (Oct. 2, 2017), available at  
<https://www.cooley.com/-/media/cooley/pdf/reprints/saft-project-whitepaper.ashx>.

25       <sup>6</sup> *The SAFT Project: Toward a Compliant Token Sale Framework*, Juan Batiz-Benet,  
 26 Marco Santori, Jesse Clayburgh, COOLEY (Oct. 2, 2017), available at  
<https://www.cooley.com/-/media/cooley/pdf/reprints/saft-project-whitepaper.ashx>.

27       <sup>7</sup> *The SAFT Project: Toward a Compliant Token Sale Framework*, Juan Batiz-Benet,  
 28 Marco Santori, Jesse Clayburgh, COOLEY (Oct. 2, 2017), available at  
<https://www.cooley.com/-/media/cooley/pdf/reprints/saft-project-whitepaper.ashx>.

1 or negate the fact Hybrid Tokens are investment contracts pursuant to the *Howey*  
2 test, and therefore securities for purposes of the federal securities laws.

3       86. When determining whether a security has been offered and sold, the  
4 focus must be on the economic realities underlying the transaction. Here, the  
5 economic reality is that the offer and sale of Hybrid Tokens was an offer and sale  
6 of securities. Indeed, Plaintiffs invested cryptocurrency and fiat currency in order  
7 to receive Hybrid Tokens, which they were conditioned to expect would be worth  
8 more than their initial cryptocurrency investments.

9       87. Defendants also made it clear that the purpose of the sale of Hybrid  
10 Tokens was to raise capital to finance the development of the Hybrid project.  
11 Defendants sold approximately \$50 million of Hybrid Tokens to private investors.

12       88. Defendants themselves recognized, both implicitly and explicitly, that  
13 purchasers of Hybrid Tokens have a reasonable expectation of profit.

14       89. Additionally, the contributions received from investors were being  
15 pooled and managed by Defendants to fund projects that would increase the  
16 adoption of the Hybrid platform, thereby increasing the value of Hybrid Tokens.

17       90. Investors have entirely passive roles vis-à-vis the success of the Hybrid  
18 project and Hybrid Tokens. The success of the Hybrid project, and the profits  
19 reasonably expected by Plaintiffs to be derived from the Hybrid Project, are  
20 dependent solely on the technical, entrepreneurial, and managerial efforts of  
21 Defendants and their agents and employees.

22       91. From the outset, Defendants were responsible for developing the  
23 Hybrid platform, establishing the Hybrid platform, and choosing directors,  
24 managers, and all persons critical to Hybrid's success. Plaintiffs reasonably  
25 expected Defendants to provide significant managerial efforts, to develop and  
26 complete the Hybrid platform, to develop and sustain Apps and a supportive  
27 network after its launch, and to create exchanges through which Hybrid Tokens  
28 could be traded or liquidated. Through their conduct and marketing materials,

1 Defendants repeatedly represented that they would be relied upon to provide the  
2 significant managerial efforts required to achieve these objective and make Hybrid  
3 a success.

4       92. Although Defendants characterized Hybrid Tokens as “utility tokens”  
5 in the White Paper, these tokens did not have any functionality at the time of the  
6 ICO.

7       **H. Defendants’ Solicitation of United States Investors and Funds.**

8       93. Defendants did not register their offer and sale of Hybrid Tokens with  
9 the SEC. As such, Defendants were prohibited from offering for sale or selling  
10 Hybrid Tokens to United States based investors, absent an applicable exemption.  
11 However, as described herein, Defendants knowingly and willfully ignored that  
12 prohibition and offered for sale and sold Hybrid Token to United States based  
13 investors, including Plaintiffs.

14       94. For example, as shown in the below image, on October 12, 2017,  
15 Defendants Apolo Ohno and Rod Jao met and dined with several United States  
16 based investors, including Herman Seo, Ohno, Jao, Kang, Ryan Lee, Jeff Dubinsky  
17 (“Mr. Dubinsky”), Hen Tekle (“Mr. Tekle”), Ugo Nduguba, Ian Balina, J. Kwon,  
18  
19



1 and Liam Murphy, at a restaurant named Park's BBQ located at 955 S. Vermont  
2 Ave, Ste. G, Los Angeles, California 90006 (the “Dinner”).

3 95. The Dinner was intended to be, and was in fact, a means of recruiting  
4 employees and investments. Indeed, following the Dinner, (i) Mr. Dubinski was  
5 named a Vice President of Hybrid, (ii) Mr. Tekle became an advisor to and investor  
6 in Hybrid, (iii) and Mr. Kwon became an investor to Hybrid.

7 96. In addition, Defendants vigorously marketed Hybrid Tokens and the  
8 ICO through their Twitter account, viewable by consumers around the world, in the  
9 United States and elsewhere. None of Defendants’ Tweets mentioned any  
10 prohibition on United States investors.

11 97. To provide just a few examples:

- 12 (i) On February 6, Hybrid proclaimed that “HybridBlock consists of  
13 an ecosystem that leverages the power of []cryptocurrency” and  
14 provided a link for prospective investors to “[d]ownload our  
15 []Whitepaper[.]”<sup>8</sup>
- 16 (ii) On March 13, 2018, Hybrid announced it had raised more than \$40  
17 million U.S. dollars and wrote that “[w]e want to give a huge thank  
18 you in the community as we couldn’t have had such a successful  
19 pre-sale raise without each and every one of you.”<sup>9</sup>
- 20 (iii) On March 21, 2018, Hybrid retweeted an article from Fox Business  
21 with the headline “Life after Olympics: Apolo Ohno seeks to  
22 Launch \$50M blockchain platform.”<sup>10</sup>

23  
24  
25 <sup>8</sup> Hybrid (@HybridBlock HQ), Twitter (Feb. 6, 2018, 8:56 A.M.),  
26 <https://twitter.com/HybridBlockHQ/status/960920025568702464>.

27 <sup>9</sup> Hybrid (@HybridBlock HQ), Twitter (Mar. 13, 2018, 8:01 A.M.),  
28 <https://twitter.com/HybridBlockHQ/status/973574734897188864>.

<sup>10</sup> Hybrid (@HybridBlock HQ), Twitter (Mar. 21, 2018, 8:38 P.M.),  
<https://twitter.com/HybridBlockHQ/status/976664273748480000>.

- (iv) On April 29, 2018, Hybrid invited prospective investors to “REGISTER FOR THE []HYBRIDBLOCK []TOKENSALE.”<sup>11</sup>
  - (v) On May 20, 2018, Hybrid reminded investors that “[t]he public sale will commence on May 23, 2018 through the 30th.”<sup>12</sup>
  - (vi) On May 23, 2018, Hybrid announced that the “HybridBlock Public Sale is almost LIVE!” and provided pertinent details, including, but not limited to, the “OTS Start Date: May 23rd,” the “OTS Closing Date: June 6th,” the “OTS Start Time: 12pm CEST,” the “Minimum Contribution: 0.25 ETH,” and the “OTS Price: \$0.30/HYB.”<sup>13</sup>
  - (vii) On June 3, 2018, Hybrid Tweeted that “[...]HybridBlock is the best ICO to invest right now.”<sup>14</sup>

98. Upon information and belief, despite raising tens of millions of dollars, Hybrid did not have its own bank accounts; rather, the funds raised from investors, including Plaintiffs, were held by Allyson.

## **I. The “Theft” and Defendants’ Cover-Up.**

99. Upon information and belief, Defendants squandered and/or misappropriated all or nearly all of the approximately \$50 million raised through the offer and sale of Hybrid Tokens.

100. Rather than inform investors that their investments had been squandered and/or misappropriated, Defendants claimed that on August 7-8, 2018, Hybrid's electronic wallets were breached and approximately 11,000 ETH in

<sup>11</sup> Hybrid (@HybridBlock HQ), Twitter (Apr. 29, 2018, 6:16 P.M.), <https://twitter.com/HybridBlockHQ/status/990761664273420288>.

<sup>12</sup> Hybrid (@HybridBlock HQ), Twitter (May 20, 2018, 10:27 A.M.), <https://twitter.com/HybridBlockHQ/status/998253848161595392>.

<sup>13</sup> Hybrid (@HybridBlock HQ), Twitter (May 23, 2018, 12:40 A.M.), <https://twitter.com/HybridBlockHQ/status/999193348660449280>.

<sup>14</sup> Hybrid (@HybridBlock HQ), Twitter (Jun. 3, 2018, 11:15 A.M.), <https://twitter.com/HybridBlockHQ/status/1003339452683571201>.

1 cryptocurrency, worth approximately \$4,400,000.00 at the time, was stolen (the  
2 “Breach”).

3 101. Defendants did nothing in response to the Breach. Indeed, Defendants  
4 neither disclosed the breach to insiders *or* investors, nor took any affirmative action  
5 to investigate the Breach or recover the approximately 11,000 ETH in  
6 cryptocurrency purportedly stolen in the Breach.

7 102. Ultimately, however, in or about September 2018, after Mr. Kang  
8 made numerous inquiries concerning Hybrid’s business operations and plans,  
9 Pugliese informed Mr. Kang of the Breach and insisted that Defendants take action.  
10 At Mr. Kang’s insistence, Hybrid retained CipherBlade Ltd. (“CipherBlade”), an  
11 electronic asset security firm, to investigate the Breach.

12 103. On March 9, 2019, CipherBlade published a report entitled *Blockchain*  
13 *Analysis of HybridBlock Breached Funds* (the “CipherBlade Report”).

14 104. The CipherBlade Report highlights Defendants’ refusal to assist and  
15 attempts to impede CipherBlade’s investigation of the Breach, including by (i)  
16 failing to provide certain backup devices, (ii) failing to provide complete  
17 screenshots, chat logs, and login histories of suspect accounts; and (iii) failing to  
18 timely prepare and provide an incident report for the Breach, and belatedly  
19 providing an incomplete and misleading incident report for the Breach.

20 105. The CipherBlade Report further explained that Defendants (i) failed to  
21 conduct appropriate General Data Protection Regulation (“GDPR”) actions in  
22 response to the Breach, (ii) failed to notify investors of the Breach, (iii) failed to  
23 notify law enforcement of the Breach,

24 106. In addition, the CipherBlade Report noted that certain Hybrid  
25 employees informed CipherBlade that, in reckless disregard of proper security  
26 protocols, and in direct contradiction of its representation in the White Papers,  
27 Hybrid stored approximately \$20,000,000 of investor funds in TUSD, on a wallet  
28 on a computer.

1       107. Finally, the CipherBlade reported noted that Hybrid had “very little to  
 2 show” for the approximately \$50 million in investor funds raised.

3       **J. The Final Product.**

4       108. In or about July 2018, Hybrid released a simulation of its platform at  
 5 [www.hybex.net](http://www.hybex.net) (“Hybex Net”).

6       109. Shortly thereafter, Hybrid released [www.hybex.io](http://www.hybex.io) in full (“Hybex  
 7 IO”). Hybex IO was virtually indistinguishable from Hybex Net.

8       110. A cursory review of the code underpinning Hybex IO revealed that,  
 9 contrary to Defendants’ representations that Hybrid was designing a new, novel,  
 10 and groundbreaking platform, Hybex IO was instead a so-called “white label  
 11 exchange” purchased from software company AlphaPoint.

12       111. AlphaPoint describes itself thusly: “AlphaPoint is a white-label  
 13 software company powering crypto exchanges worldwide. Through its secure,  
 14 scalable, and customizable distributed ledger platform, AlphaPoint enables  
 15 customers to launch and operate markets, as well as digitize assets. AlphaPoint and  
 16 its award winning blockchain technology have helped over 150 clients in 35  
 17 countries discover and execute their blockchain strategies since 2013.”<sup>15</sup>

18       112. Upon information and belief, as Defendants had planned all along, in  
 19 or about May 2019, ADAX—a company created by Ohno, Jao, and potentially  
 20 others—acquired Hybrid in full or in part.

21       113. On May 9, 2019, Defendants sent investors, including Plaintiffs, an  
 22 email stating “[w]e are extremely excited to announce that portions of  
 23 HybridBlock’s ecosystem have been acquired by Asia Digital Asset Exchange  
 24 (ADAX) - a fully licensed asset backed token issuance and exchange platform in  
 25 Asia” and advising investors, including Plaintiffs, that “BaseTrade, our fiat to  
 26 cryptocurrency platform, some of the HybridBlock team, and HybridBlock Token

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27  
 28       <sup>15</sup> See AlphaPoint, [LINKEDIN](https://www.linkedin.com/company/alpha-point/), available at  
<https://www.linkedin.com/company/alpha-point/>.

1 (HYB) will all be integrated into ADAX in the coming months,” that “[o]nce  
2 integration is complete, HybridBlock will discontinue separate exchange services,”  
3 and that “ADAX is the new home for HybridBlock!”

4 114. Upon information and belief, immediately thereafter, Defendants  
5 began to Defendants began to deactivate, disable, and otherwise remove from  
6 various websites, forums, chat rooms, and social media accounts any and all  
7 evidence of Defendants’ involvement in Hybrid and the offer and sale of Hybrid  
8 Tokens.

9 115. Upon information and belief, Defendants, and each of them, misused,  
10 squandered, and even claim to have lost by theft substantial portions of the monies  
11 raised through their sale of Hybrid Tokens, and, to date, have yet to satisfy *any* of  
12 the many commitments they made to investors described herein.

13 116. In an effort to avoid regulatory scrutiny, when one United States-based  
14 investor complained of Defendants’ conduct and threatened to initiate legal action,  
15 Defendants offered that investor a full reimbursement of her investment.<sup>16</sup>

16 **FIRST CAUSE OF ACTION**

17 **SALE OF UNREGISTERED SECURITIES**

18 **Sections 5 and 12(a)(1) of the Securities Act**

19 **(Against Hybrid)**

20 117. Plaintiffs reallege and incorporate by reference each and every  
21 allegation in the preceding paragraphs as if fully set forth herein.

22 118. Section 5(a) of the Securities Act states: “Unless a registration  
23 statement is in effect as to a security, it shall be unlawful for any person, directly or  
24 indirectly (1) to make use of any means or instruments of transportation or  
25 communication in interstate commerce or of the mails to sell such security through

26

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27 <sup>16</sup> That transaction is recorded at  
28 <https://etherscan.io/tx/0x22ee3fd2961ff7a7f9e7e5d6ec2e2afdc052b5dc5bd9e3f73ef1f642138b28c>.

1 the use or medium of any prospectus or otherwise; or (2) to carry or cause to be  
2 carried through the mails or in interstate commerce, by any means or instruments  
3 of transportation, any such security for the purpose of sale or for delivery after sale.”  
4 15 U.S.C. § 77e(a).

5       119. Section 5(c) of the Securities Act states: “It shall be unlawful for any  
6 person, directly or indirectly, to make use of any means or instruments of  
7 transportation or communication in interstate commerce or of the mails to offer to  
8 sell or offer to buy through the use or medium of any prospectus or otherwise any  
9 security, unless a registration statement has been filed as to such security, or while  
10 the registration statement is the subject of a refusal order or stop order or (prior to  
11 the effective date of the registration statement) any public proceeding or  
12 examination under section 77h of this title.” *Id.* § 77e(c).

13       120. When issued, Hybrid Tokens were securities within the meaning of  
14 Section 2(a)(1) of the Securities Act, 15 U.S.C. § 77b(a)(1). Defendants promoted,  
15 solicited, or sold Hybrid Tokens to Plaintiffs and others. Defendants thus directly  
16 or indirectly made use of means or instruments of transportation or communication  
17 in interstate commerce or of the mails, to offer to sell or to sell securities, or to carry  
18 or cause such securities to be carried through the mails or in interstate commerce  
19 for the purpose of sale or for delivery after sale. No registration statements have  
20 been filed with the SEC or have been in effect with respect to any of the offerings  
21 alleged herein.

22       121. Section 12(a)(1) of the Securities Act provides in relevant part: “Any  
23 person who offers or sells a security in violation of section 77e of this title . . . shall  
24 be liable, subject to subsection (b), to the person purchasing such security from him,  
25 who may sue either at law or in equity in any court of competent jurisdiction, to  
26 recover the consideration paid for such security with interest thereon, less the  
27 amount of any income received thereon, upon the tender of such security, or for  
28 damages if he no longer owns the security.” *Id.* § 77l(a)(1).

1       122. Accordingly, Defendants have violated Sections 5(a), 5(c), and  
2 12(a)(1) of the Securities Act, *id.* §§ 77e(a), 77e(c), and 77l(a)(1).

3       123. Plaintiffs seek rescissory damages and/or compensatory damages with  
4 respect to purchases of Hybrid Tokens to the extent permitted by law.

5       124. This claim is brought pursuant to Section 12(a)(1) of the Securities  
6 Exchange Act of 1934, 15 U.S.C. § 771(a)(1).

## **SECOND CAUSE OF ACTION**

## **SALE OF UNREGISTERED SECURITIES**

## **Sections 5 and 12(a)(2) of the Securities Exchange Act of 1934**

## (Against Hybrid)

11       125. Plaintiffs reallege and incorporate by reference each and every  
12 allegation in the preceding paragraphs as if fully set forth herein.

13        126. Section 12(a)(2) of the Securities Act provides in relevant part: "Any  
14 person who offers or sells a security ... by the use of any means or instruments of  
15 transportation or communication in interstate commerce or of the mails, by means  
16 of a prospectus or oral communication, which includes an untrue statement of a  
17 material fact or omits to state a material fact necessary in order to make the  
18 statements, in the light of the circumstances under which they were made, not  
19 misleading (the purchaser not knowing of such untruth or omission), and who shall  
20 not sustain the burden of proof that he did not know, and in the exercise of  
21 reasonable care could not have known, of such untruth or omission, shall be liable,  
22 subject to subsection (b), to the person purchasing such security from him, who may  
23 sue either at law or in equity in any court of competent jurisdiction, to recover the  
24 consideration paid for such security with interest thereon, less the amount of any  
25 income received thereon, upon the tender of such security, or for damages if he no  
26 longer owns the security" *Id.* § 77l(a)(2).

27       127. When issued, Hybrid Tokens were securities within the meaning of  
28 Section 2(a)(1) of the Securities Act, 15 U.S.C. § 77b(a)(1). Defendants offered,

1 promoted, solicited, or sold purchases of Hybrid Tokens from Plaintiffs and others  
2 by means of a prospectus. The prospectus consists of Defendants' whitepapers  
3 issued prior to their offer and sale of Hybrid Tokens.

4 128. The statements included in the prospectus were false and/or omitted  
5 material facts necessary in order to make the statements, in light of the  
6 circumstances of which they were made, not misleading.

7 129. This Count does not allege fraud. For the purposes of asserting this  
8 claim, Plaintiffs do not allege that Defendants acted with intentional, reckless, or  
9 otherwise fraudulent intent, except as to any statements of opinion or belief.

10 130. Defendants directly or indirectly made use of means or instruments of  
11 transportation or communication in interstate commerce or of the mails, to offer to  
12 sell or to sell securities, or to carry or cause such securities to be carried through the  
13 mails or in interstate commerce for the purpose of sale or for delivery after sale.

14 131. Accordingly, Defendants violated Section 12(a)(2) of the Securities  
15 Act, 15 U.S.C. § 77l(a)(2).

16 132. Plaintiffs and the Class seek rescissory damages with respect to  
17 purchases of Hybrid Tokens.

18 **THIRD CAUSE OF ACTION**

19 **CONTROL PERSON LIABILITY**

20 **Section 15 of the Securities Act**

21 **(Against Ohno and Jao)**

22 133. Plaintiffs reallege and incorporate by reference each and every  
23 allegation in the preceding paragraphs as if fully set forth herein.

24 134. This count is brought pursuant to Section 15 of the Securities Act.

25 135. Due to their ownership interest in and control over Hybrid, Ohno and  
26 Jao acted as controlling persons of Hybrid within the meaning of Section 15 of the  
27 Securities Act. By virtue of their positions as Co-Founders of Hybrid and their  
28 participation in and/or awareness of Hybrid's operations, Ohno and Jao had the

power to influence and control, and did influence and control, directly or indirectly, the decision-making relating to the sale of Hybrid Tokens and the failure to register these sales.

4        136. By virtue of the foregoing, Ohno and Jao are liable to Plaintiffs as  
5 control persons under Section 15 of the Securities Act.

6       137. As such, Hybrid, Ohno, and Jao have participated in an unregistered  
7 sale of securities in violation of the Securities Act and are liable to Plaintiffs for  
8 rescission and/or compensatory damages.

## **FOURTH CAUSE OF ACTION**

## SECURITIES FRAUD

**Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act,  
and SEC Rule 10b-5  
(Against All Defendants)**

14       138. Plaintiffs reallege and incorporate by reference each and every  
15 allegation in the preceding paragraphs as if fully set forth herein.

16       139. Between approximately January 2018 and June 6, 2018, Defendants  
17 offered and sold approximately \$50 million worth of securities to investors based  
18 around the world, including Plaintiffs.

19       140. In connection with the aforementioned sales, Defendants made  
20 statements (a) that were false representations of material facts to Plaintiffs, (b) that  
21 Defendants knew to be false or were made recklessly and without regard for their  
22 truth, (c) that Defendants intended Plaintiffs to rely upon, (d) that Plaintiffs did  
23 reasonably rely upon, (e) that Plaintiffs' reliance upon was a substantial factor in  
24 causing damage to Plaintiffs, and (f) that caused damages to Plaintiffs as described  
25 above.

26        141. Defendants misrepresented, among other things, the nature and  
27 development of Hybrid's platform and the use and disposition of investor funds.

1        142. Defendants violated Section 10(b) of the Exchange Act and Rule 10b-  
2 5 in that they:

(viii) Employed devices, schemes, and artifices to defraud;

7 (x) Engaged in acts, practices, and a course of business that operates as a  
8 fraud or deceit upon plaintiff and others similarly situated in connection with their  
9 purchases of Hybrid Tokens between approximately January 2018 and June 6,  
10 2018.

11       143. Plaintiffs and others did justifiably rely on Defendants'  
12 misrepresentations to Plaintiffs and others that they could and would satisfy these  
13 obligations.

14        144. By justifiably relying on Defendants' misrepresentations, Plaintiffs  
15 and others have been damaged.

## **FIFTH CAUSE OF ACTION**

## **CONTROL PERSON LIABILITY**

## **Section 20(a) of the Exchange Act**

## (Against Ohno and Jao)

145. Plaintiffs reallege and incorporate by reference each and every  
allegation in the preceding paragraphs as if fully set forth herein.

22 146. This count is brought pursuant to Section 20(a) of the Exchange Act.

23        147. Due to their ownership interest in and control over Hybrid, Ohno and  
24 Jao acted as controlling persons of Hybrid within the meaning of Section 20(a) of  
25 the Exchange Act. By virtue of their positions as Co-Founders of Hybrid and their  
26 participation in and/or awareness of Hybrid's operations, Ohno and Jao had the  
27 power to influence and control, and did influence and control, directly or indirectly,

1 the decision-making relating to the sale of Hybrid Tokens and the material  
2 misstatements and omissions made in connection therewith.

3 148. By virtue of the foregoing, Ohno and Jao are liable to Plaintiffs as  
4 control persons under Section 20(a) of the Exchange Act.

5 **SIXTH CAUSE OF ACTION**

6 **INTENTIONAL MISREPRESENTATION**

7 **(Against All Defendants)**

8 149. Plaintiffs reallege and incorporate by reference each and every  
9 allegation in the preceding paragraphs as if fully set forth herein.

10 150. Defendants made statements (a) that were false representations of  
11 material facts to Plaintiffs, (b) that Defendants knew to be false or were made  
12 recklessly and without regard for their truth, (c) that Defendants intended Plaintiffs  
13 to rely upon, (d) that Plaintiffs did reasonably rely upon, (e) that Plaintiffs' reliance  
14 upon was a substantial factor in causing damage to Plaintiffs, and (f) that caused  
15 damages to Plaintiffs as described above.

16 151. Defendants misrepresented, among other things, the nature and  
17 development of Hybrid's platform and the use and disposition of investor funds.

18 152. Defendants knew or should have known that they could not and would  
19 not satisfy their obligations relating to the nature and development of Hybrid's  
20 platform and the use and disposition of investor funds.

21 153. Defendants represented to Plaintiffs and others that they could and  
22 would satisfy these obligations.

23 154. Plaintiffs and others did justifiably rely on Defendants'  
24 misrepresentations to Plaintiffs and others that they could and would satisfy these  
25 obligations.

26 155. By justifiably relying on Defendants' misrepresentations, Plaintiffs  
27 and others have been damaged.

28 ///

**SEVENTH CAUSE OF ACTION**  
**NEGLIGENT MISREPRESENTATION**  
**(Against All Defendants)**

156. Plaintiffs reallege and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

6        157. Defendants made statements (a) that were false representations of  
7 material facts to Plaintiffs, (b) that Defendants knew to be false or were made  
8 recklessly and without regard for their truth, (c) that Defendants intended Plaintiffs  
9 to rely upon, (d) that Plaintiffs did reasonably rely upon, (e) that Plaintiffs' reliance  
10 upon was a substantial factor in causing damage to Plaintiffs, and (f) that caused  
11 damages to Plaintiffs as described above.

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13        158. Defendants misrepresented, among other things, the nature and  
14 development of Hybrid's platform and the use and disposition of investor funds.

15        159. Defendants knew or should have known that they could not and would  
16 not satisfy these obligations.

17        160. Defendants represented to Plaintiffs and others that they could and  
18 would satisfy these obligations.

19       161. Plaintiffs and others did justifiably rely on Defendants'  
20 misrepresentations to Plaintiffs and others that they could and would satisfy these  
21 obligations.

162. By justifiably relying on Defendants' misrepresentations, Plaintiffs  
and others have been damaged.

**EIGHTH CAUSE OF ACTION**  
**BREACH OF CONTRACT**  
**(Against All Defendants)**

27       163. Plaintiffs reallege and incorporate by reference each and every  
28 allegation in the preceding paragraphs as if fully set forth herein.

1       164. Plaintiffs and Defendants entered into a contract, the terms of which  
2 are evidenced by the White Papers.

3 165. Plaintiffs performed all of the things required of them, namely, making  
4 payments of U.S. Dollars and digital currencies.

5        166. Defendants failed to perform, and were not excused from performing,  
6 all or substantially all of the things required of them.

7       167. As a result of Defendants' failure to perform, Plaintiffs have been  
8 harmed.

9       168. Defendants' failure to perform was a substantial factor in causing  
10 Plaintiffs' harm.

## **NINTH CAUSE OF ACTION**

# **BREACH OF IMPLIED COVENANT OF GOOD FAITH & FAIR DEALING**

## (Against All Defendants)

15       169. Plaintiffs reallege and incorporate by reference each and every  
16 allegation in the preceding paragraphs as if fully set forth herein.

17       170. Plaintiffs and Defendants entered into a contract, the terms of which  
18 are evidenced by the White Papers.

19       171. Plaintiffs performed all of the things required of them, namely, making  
20 payments of U.S. Dollars and digital currencies.

172. Defendants failed to perform, and were not excused from performing,  
all or substantially all of the things required of them.

173. By failing to perform, Defendants did not act fairly and in good faith.

24 174. As a result of Defendants' conduct, Plaintiffs have been harmed.

25       175. Defendants' conduct was a substantial factor in causing Plaintiffs'  
26 harm.

27 | //

28 | //

1                           **TENTH CAUSE OF ACTION**  
2                           **MONEY HAD AND RECEIVED**  
3                           **(Against All Defendants)**

4         176. Plaintiffs reallege and incorporate by reference each and every  
5 allegation in the preceding paragraphs as if fully set forth herein

6         177. Defendants received money from Plaintiffs that was intended to be  
7 used for the benefit of Hybrid and the Hybrid investors, including Plaintiffs.

8         178. Defendants did not use the money for the benefit of Hybrid and the  
9 Hybrid investors, including Plaintiffs

10       179. Defendants have not returned to Plaintiffs any of the money they  
11 received from Plaintiffs that was intended to be used for the benefit of Hybrid and  
12 the Hybrid investors, including Plaintiffs, despite not so using the money.

13       180. Plaintiffs seek compensatory and punitive damages.

14                           **ELEVENTH CAUSE OF ACTION**  
15                           **PROMISSORY FRAUD**  
16                           **(Against All Defendants)**

17       181. Plaintiffs reallege and incorporate by reference each and every  
18 allegation in the preceding paragraphs as if fully set forth herein.

19       182. Defendants made promises (a) that were false representations of  
20 material facts to Plaintiffs, (b) that Defendants knew to be false or were made  
21 recklessly and without regard for their truth, (c) that Defendants intended Plaintiffs  
22 to rely upon, (d) that Plaintiffs did reasonably rely upon, (e) that Plaintiffs' reliance  
23 upon was a substantial factor in causing damage to Plaintiffs, and (f) that caused  
24 damages to Plaintiffs as described above.

25       ///

26       ///

27       ///

28       ///

1                   **TWELFTH CAUSE OF ACTION**

2                   **UNJUST ENRICHMENT**

3                   **(Against All Defendants)**

4       183. Plaintiffs reallege and incorporate by reference each and every  
5 allegation in the preceding paragraphs as if fully set forth herein.

6       184. Defendants have wrongfully received and are withholding property  
7 and profits which rightfully belong to Plaintiffs.

8       185. Defendants have not filed any accounting to account for and/or pay to  
9 Plaintiff the value of the property and profits derived therefrom.

10      186. As a result of Defendants' unlawful acts and omissions, Defendants  
11 have been unjustly enriched to Plaintiffs' detriment.

12      187. Plaintiffs therefore demand restitution and judgment against  
13 Defendants in an amount to be determined at trial, together with interest, attorneys'  
14 fees, and costs.

15                   **THIRTEENTH CAUSE OF ACTION**

16                   **FRAUDULENT CONVEYANCE**

17                   **(Against All Defendants)**

18      188. Plaintiffs reallege and incorporate by reference each and every  
19 allegation in the preceding paragraphs as if fully set forth herein.

20      189. Pursuant to California's Uniform Fraudulent Transfer Act, Civil Code  
21 §§ 3409.04, *et seq.*, Plaintiffs are informed and believe, and thereon allege, that  
22 Defendants, directly or indirectly, transferred, or caused to be transferred, certain  
23 funds raised from Plaintiffs' purchase of Hybrid Tokens from Hybrid to Allyrian  
24 with the purpose of frustrating, hindering, delaying, or defrauding Plaintiffs.  
25 Accordingly, such conveyances to Allyrian should be set aside.

26      190. To the extent any funds raised from Plaintiffs are still held or  
27 controlled by Defendants, a constructive trust should be placed on such funds, the  
28 conveyance of such funds should be declared null and void, and such funds should

1 be paid over and returned to Plaintiffs, or, in the alternative, Defendants should be  
2 liable to Plaintiffs in an amount to be established at trial, subject to proof, but in an  
3 amount no less than \$1,500,000.00.

4       191. Plaintiffs are informed and believe, and thereon allege, that in  
5 performing the acts described above, Defendants acted willfully, maliciously,  
6 oppressively, and fraudulently, and with full knowledge of the probable  
7 consequences and damages to be sustained by Plaintiffs and with the intent to  
8 deprive Plaintiffs of their property and legal rights, entitling Plaintiffs to an award  
9 of punitive or exemplary damages in a sum sufficient to punish Defendants for said  
10 fraudulent conduct.

## **FOURTEENTH CAUSE OF ACTION**

## **UNFAIR COMPETITION**

## (Against All Defendants)

14       192. Plaintiffs reallege and incorporate by reference each and every  
15 allegation in the preceding paragraphs as if fully set forth herein.

16        193. At all relevant times, California’s Unfair Competition Law, California  
17 Business and Professions Code §§ 17200, *et seq.* (the “UCL”) was in effect.

18       194. The UCL prohibits “any unlawful, unfair or fraudulent business act or  
19 practice and unfair, deceptive, untrue or misleading advertising. . . .”

195. As described herein, Defendants' offer and sale of Hybrid Tokens was  
unlawful, unfair, and fraudulent.

22       196. As described herein, in connection with Defendants' offer and sale of  
23 Hybrid Tokens, Defendants' employed and relied upon unfair, deceptive, untrue,  
24 and misleading advertising.

25       197. As a result of Defendants' unlawful, unfair, and fraudulent actions, and  
26 unfair, deceptive, untrue, and misleading advertising, Plaintiffs have been harmed,  
27 including by being denied the products and services promised in the White Papers.

198. Plaintiffs would not have invested in Hybrid or purchased Hybrid  
Tokens, or would have invested in Hybrid and/or purchased Hybrid Tokens on  
different terms, if they know the truth.

## **FIFTEENTH CAUSE OF ACTION**

## **ACCOUNTING**

## (Against All Defendants)

7       199. Plaintiffs reallege and incorporate by reference each and every  
8 allegation in the preceding paragraphs as if fully set forth herein.

9       200. Defendants have never accounted for the funds received by them or  
10 their agents, assigns, predecessors, and successors, which were and continue to be  
11 wrongfully taken from Plaintiffs.

12        201. As a result of Defendants' wrongful taking of Plaintiffs' property,  
13 Plaintiffs have been unable to use or invest that property.

14       202. As a result of Defendants' unlawful acts and omissions, Plaintiffs have  
15      been injured and damaged and demand the equitable remedy of accounting.

## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray that judgment be entered for the following:

18       203. That the Court enter an order declaring that Defendants' actions, as set  
19 forth in this Complaint, violate the federal and state laws set forth above;

204. That the Court award Plaintiffs damages in an amount to be determined  
at trial;

22        205. That the Court issue appropriate equitable and any other relief against  
23 Defendants to which Plaintiffs are entitled;

24        206. That the Court award Plaintiffs pre- and post-judgment interest  
25 (including pursuant to statutory rates of interest set under State law);

26        207. That the Court award Plaintiffs their reasonable attorneys' fees and  
27 costs of suit; *and*

28 | //

1       208. That the Court award any and all such relief as the Court may deem  
2 just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

4 | 209. A jury trial is demanded pursuant to Fed. R. Civ. P. 38.

Dated: August 13, 2021

## **NOVIAN & NOVIAN LLP**

By: /s/ Alexander Brendon Gura  
FARHAD NOVIAN  
ALEXANDER BRENDON GURA

Attorneys for Plaintiffs