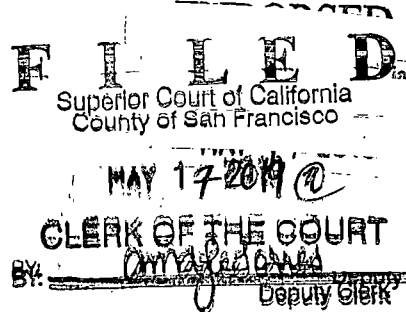


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PETER N. STEINMETZ and
8 JOSEPH A. W. JONES



9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN FRANCISCO

12 PETER N. STEINMETZ, an individual; and
13 JOSEPH A. W. JONES; an individual;

14 Plaintiff,

15 vs.

16 JED MCCAULEB, an individual; CODE
17 COLLECTIVE, LLC, a New York Limited Liability
Company; and DOES 1 through 25, inclusive,

18 Defendants.

Case No. EGC-19-576095

COMPLAINT FOR:

- (1) Fraudulent Misrepresentations
(2) Negligent Misrepresentations

DEMAND FOR JURY TRIAL

ORIGINAL

FAXED

1 Plaintiffs Peter N. Steinmetz, MD, PhD (“Dr. Steinmetz”) and Joseph A. W. Jones (“Mr.
2 Jones”) (collectively, “Plaintiffs”) hereby complain of defendant Jed McCaleb, Code Collective,
3 LLC, and Does inclusive 1 through 25 (collectively, “Defendants”), and allege as follows:

4 INTRODUCTION

5 1. This action arises from Defendants’ scheme to induce Plaintiffs to use an exchange
6 called Mt. Gox for the purchase of bitcoin¹, the cryptocurrency.² Defendants created this exchange
7 in 2010 and marketed this exchange on cryptocurrency forums, including but not limited to
8 BitcoinTalk.org, that were viewed around the world and encouraged people to invest on Mt. Gox.
9 As early as late 2010 to early 2011, Defendants became aware of serious security risks on Mt. Gox
10 that allowed hackers to gain access to the exchange. Rather than secure the exchange, McCaleb sold
11 a large portion of his interest in the then sole proprietorship, and provided avenues to the purchasers
12 to cover-up the security concerns at the time without ever informing or disclosing these issues to the
13 public. Within a few years, Mt. Gox was forced to suspend all withdrawals, deposits, and trading,
14 and eventually filed for bankruptcy. Only through a May 19, 2016, article published by The Daily
15 Beast did Plaintiffs become informed of Defendants involvement in the demise of Mt. Gox.

16 2. This action seeks to rectify the harm caused by Defendants.

17 JURISDICTION AND VENUE

18 3. This Court has jurisdiction over this action pursuant to California Code of Civil
19 Procedure section 410.10 on the basis that the wrongful acts complained of herein occurred within
20 California. Further, the amount in controversy exceeds the jurisdictional minimum of this Court.

21 4. Venue is proper in this Court pursuant to Code of Civil Procedure section 395 on the
22 basis that the wrongful acts and injuries complained of in this Complaint occurred within San

23 ¹ By common convention, Bitcoin with a capital “B” typically refers to the Bitcoin Network as a
24 whole, whereas bitcoin with a lowercase “b” refers to the virtual commodity of the Bitcoin Network.
This naming convention is used throughout this document.

25 ² Though often referred to as a “virtual currency,” “digital asset,” “digital currency,” or
26 cryptocurrency,” bitcoin is a commodity as defined in Section 1a(9) of the Commodity Exchange
27 Act, 7 U.S.C. §§ 1 *et seq.* See *In re Coinflip, Inc.*, No. 15-29 (CFTC Sept. 17, 2015); *Commodity*
28 *Futures Trading Comm’n v. McDonnell*, 287 F. Supp. 3d 213, 228 (E.D.N.Y. 2018), *adhered to on*
denial of reconsideration, 2018 WL 3435047 (E.D.N.Y. July 16, 2018). Cryptocurrency is used
throughout this document to refer to the entire ecosystem of virtual commodities and other asset
types that are digital in nature.

1 Francisco County, and specifically in San Francisco, California.

2 **THE PARTIES**

3 5. Plaintiff Peter N. Steinmetz, MD, PhD ("Dr. Steinmetz") is a neuroscientist and
4 entrepreneur residing in Scottsdale, Arizona. Dr. Steinmetz is also an experienced cryptocurrency
5 trader.

6 6. Plaintiff Joseph A. W. Jones ("Mr. Jones") is an entrepreneur residing in Santa
7 Monica, California. Mr. Jones is also an experienced cryptocurrency trader.

8 7. Defendant Jed McCaleb ("McCaleb") is an individual who founded the entity Mt.
9 Gox and, upon information and belief, currently resides and/or does business in the County of San
10 Francisco, California. McCaleb is a programmer and entrepreneur who marketed Mt. Gox on
11 forums that were viewed around the world with the goal of acquiring users on the Mt. Gox
12 exchange.

13 8. Plaintiffs are informed and believe, and on that basis allege, that defendant Code
14 Collective, LLC is a limited liability company organized under the laws of the state of New York,
15 with its principal place of business in California.

16 9. At this time, Plaintiffs do not know the true names and capacities of Defendants
17 DOES 1 through 25, inclusive, and therefore sue these Defendants under fictitious names pursuant to
18 California Code of Civil Procedure section 474. Plaintiffs are informed and believe, and on that
19 basis allege, that each Defendant designated herein as DOES 1 through 25 is responsible in some
20 manner for the acts, omissions and occurrences alleged herein, whether such acts, omissions and
21 occurrences were committed intentionally, negligently, recklessly or otherwise, and that each said
22 DOE Defendant is liable therefor to Plaintiffs for the damages suffered by Plaintiffs as hereinafter
23 set forth. As Plaintiffs presently are unaware of the true names and capacities of the Defendants
24 named herein as DOES 1 through 25, they will seek leave of Court to amend this Complaint when
25 the identities of such fictitiously-named Defendants become known. Any mention of or reference to
26 any named Defendant, and any allegation or cause of action stated in this Complaint against any
27 named Defendant, also is intended to include and apply to DOES 1 through 25.

1 **FACTS RELEVANT TO ALL CAUSES OF ACTION**

2 10. This action arises from Defendants' scheme to induce Plaintiffs, purchasers of the
3 cryptocurrency bitcoin, to use the exchange called Mt. Gox and Defendants attempt to run away and
4 cover up running away from rather than disclosing the security defects on Mt. Gox.

5 **McCaleb Founds Mt. Gox**

6 11. In or around July 2010, McCaleb founded Mt. Gox by developing a software
7 exchange online to trade the virtual currency known as bitcoin and the online exchange started
8 operations in or around August 2010.

9 12. Around this time, McCaleb started to post messages on online forums that discussed
10 bitcoin to encourage people to use Mt. Gox as their exchange. McCaleb utilized the Mt.Gox.com
11 website domain to run the exchange. The Mt. Gox tagline was "Buy and Sell Bitcoins. Fully
12 automated, always available, 24 hours a day, Safe and Easy."

13 13. By late 2010, and relying on the representations by McCaleb on these forum, Dr.
14 Steinmetz deposited bitcoin into Mt. Gox for the first time. Mr. Jones would begin utilizing Mt.
15 Gox's services in early 2011 based on McCaleb's promotion of the exchange.

16 14. These promotions and representations include, but are not limited to:

- 17 • On July 18, 2010: "Don't worry the passwords are hashed in the DB."
- 18 • On July 18, 2010 and in response to the question "why would I use Mt. Gox instead of
19 Bitcoin Market": "It is always online, the site is faster and on dedicated hosting and I
20 think the interface is nicer."
- 21 • On October 29, 2010: "Thanks for the sentiment but I'm trying to get the exchange fully
22 operational again before I worry about trying to make a profit. I'm not in danger of being
23 under capitalized."
- 24 • On November 3, 2010: "The exchange hasn't lost anything so I don't need to know who
25 you are."
- 26 • December 29, 2010: "We now have a European bank account so can accept deposits
27 cheaply from the EU. email for details."
- 28 • February 1, 2011: "Yeah it is unfortunate. I've contacted Liberty Reserve about it. I

1 fixed it so they can't use this attack anymore. I think his and one other account (I've
2 emailed you) were the only two compromised. Anyone with a decent password would be
3 safe."

- 4 • February 1, 2011: "There were only two accounts that had money stolen from them as far
5 as I can tell. It was a dictionary attack since I saw it happening. I plugged the
6 vulnerability that allowed them to run the attack so your weak passwords will be safe
7 again."
- 8 • February 2, 2011: "The only accounts that were compromised were cryptofo ad one other
9 who I emailed. No other accounts were compromised. if you are still worried about it
10 simply change your password."
- 11 • June 19, 2011: "Everyone's bitcoins are safe on the site. We still are holding all the coins
12 safely in reserve. The vast majority of the coins are stored offline so they are impossible
13 to compromise."
- 14 • July 4, 2011: "My statement is this: MtGox has enough funds to cover any losses from
15 the recently stolen coins and has enough to cover what it owes me to date. MtGox will
16 cover any debt to its customers before it pays me. The fact that I haven't been paid yet
17 has nothing to do with mtgox's ability to pay. It only has to do with the fact that neither I
18 nor Mark have made time to complete the payment."

19 **Issues at Mt. Gox Known to McCaleb Quickly Arise**

20 15. Plaintiffs are informed and believe, and on that basis allege, that by no later than
21 January 2011 an unauthorized individual gained access to an account on Mt. Gox and sold thousands
22 of a Mt. Gox user's bitcoins. Plaintiffs are informed and believe, and on that basis allege, that
23 McCaleb was immediately informed of this security issue.

24 16. Plaintiffs are also informed and believe, and on that basis allege, that around this
25 period of time, Mt. Gox was further compromised by a "dictionary attack," which is where
26 somebody tries several different passwords again and again, until they eventually get the correct
27 password, and are able to gain access to an unauthorized account. Plaintiffs are also informed and
28 believe, and on that basis allege, that McCaleb was also aware of this attack, which he has since

1 indicated was a separate and distinct attack as mentioned above, and further McCaleb assured the
2 Mt. Gox communicated that he took corrective action to cure the issues and prevent further attacks.
3 Plaintiffs are informed and believe, and on that basis allege, that this attack compromised at least
4 two accounts at the time, for which McCaleb was aware, but did not take action nor follow up as he
5 represented to potential and actual users of Mt. Gox that he had.

6 17. Between January and December 2011, and beyond, Plaintiffs were actively using Mt.
7 Gox based on McCaleb's representations that Mt. Gox was sufficiently funded and secure.

8 18. Rather than inform the public that these users were not refunded, nor stay to repair the
9 security issues, McCaleb sold a majority of his interest in Mt. Gox to Mark Karpeles ("Karpeles").
10 Plaintiffs are informed and on that basis allege, that Mt. Gox was already unable to account for
11 80,000 bitcoin that were either lost, stolen, or otherwise. *See Exhibit A.*³ Plaintiffs are further
12 informed and on that basis allege, that McCaleb schemed with Karpeles about how to deal with the
13 missing 80,000 bitcoin and given the fact that Mt. Gox was already profitable in early 2011, that Mt.
14 Gox would be able to easily recover or account for the missing 80,000 bitcoin. These bitcoin, and
15 hundreds of thousands of more bitcoin would either be stolen, lost, or otherwise, and never
16 recovered by Mt. Gox.

17 19. Plaintiffs are informed and believe and on that basis allege, that McCaleb closely
18 followed Mt. Gox's profitability for the following six to twelve months to recover the profits that he
19 was entitled to pursuant to the sale of his shares to Karpeles. *See Exhibit B.* At no point in time did
20 McCaleb inform the public of these losses at Mt. Gox.

21 **Mt. Gox Files For Bankruptcy Known To McCaleb Quickly Arise**

22 20. Dr. Steinmetz is informed and believes and on that basis alleges that prior to

23 ³ In order to make up for the missing 80,000 bitcoin, on April 28, 2011, McCaleb indicated to
24 Mt.Gox's new owner that: "I can't tell how big an issue it will be short 80k BTC (*80,000 bitcoin)
25 if the price goes up to \$100 or something. That is quite a bit to owe at that point but mtgox should
26 have made a ton of BTC (Bitcoin) getting to there. There is also still the fact that the BTC (Bitcoin)
27 balance will probably never fall below 80k. So maybe you don't really need to worry about it.
28 There are 3 solutions I have thought of: [i] Slowly buy more BTC with the USD that Gox Bot has.
Hopefully you would fill up the loss before the price got out of hand. [ii] Buy a big chunk of BTC
(really just moving the BTC debt to the USD side) if BTC goes up this is a huge win. Problem is
there isn't enough BTC for sale on mtgox. Maybe you could find someone on the forum to do it.
[iii] Get those crystal island people to invest. They have 200+ BTC so they could fill in the gap."
See Exhibit A-B.

1 February 2014 bankruptcy that he owned approximately more than 1900 bitcoins.⁴

2 21. Mr. Jones is informed and believes and on that basis alleges that by the February
3 2014 bankruptcy that he owned approximately more than 43,000 bitcoins.⁵

4 22. On or about February 7, 2014, Mt. Gox halted all bitcoin withdrawals.

5 23. On or about February 24, 2014, Mt. Gox suspended all trading, and hours later its
6 website went offline, returning a blank page.

7 24. On or about February 28, 2014, Mt. Gox filed for bankruptcy protection from
8 creditors in Tokyo called minji saisei (or civil rehabilitation) to allow courts to seek a buyer,
9 reporting that it had liabilities of about 6.5 billion yen (\$65 million USD, at the time) and 3.84
10 billion yen in assets. In its bankruptcy filing, then Tokyo-based Mt. Gox blamed hackers for the lost
11 bitcoins, pointing to a software security flaw.

12 **McCaleb's Knowledge And Involvement In The Security Flaws At Mt. Gox Only Became**
13 **Known To The Public May 19, 2016**

14 25. On May 19, 2016, The Daily Beast published an online article "Behind the Biggest
15 Bitcoin Heist In History: Inside the Implosion of Mt. Gox."⁶ The article stated: "Yet the documents
16 obtained by The Daily Beast, which included correspondence between Mark Karpeles and the
17 original founder of Mt. Gox, Jed McCaleb, suggest that Mt. Gox was plagued by problems from its
18 earliest days, before Karpeles had even taken over the company."

19 26. Notwithstanding this article, it is likely that McCaleb's knowledge of security
20 concerns and actual losses at Mt. Gox would never have become publicly available knowledge. Yet,
21 during all of this time, Defendants disclaimed their involvement and knowledge of the security
22 concerns at Mt. Gox, and failed to disclose that Mt. Gox had already lost 80,000 bitcoin.

23 27. Plaintiffs are informed and believe, and on that basis allege, the Defendants knew of
24 these material defects present at all times in the security of Mt. Gox as well as the major early losses,
25 and more specifically represented that Mt. Gox was a secure exchange for bitcoin purchasers and

26 ⁴ As of May 12, 2019, 1900 Bitcoin would be valued at approximately \$13,500,000.

27 ⁵ Mr. Jones, through assignment, has since come to possess the rights to thousands more bitcoins.

28 ⁶ Article available at <https://www.thedailybeast.com/behind-the-biggest-bitcoin-heist-in-history-inside-the-implosion-of-mt-gox>; *see also* Exhibit A (printout of article).

1 users.

2 28. As it stands, Plaintiffs are now still in pursuit of their bitcoin.

3 29. As a consequence of the foregoing wrongful acts by Defendants, Plaintiffs have
4 suffered and will continue to suffer harm. To date, Plaintiffs have lost a significant number of bitcoin
5 that likely will never be recovered.

6 30. Had Plaintiffs known that as early as 2011 that Mt. Gox under McCaleb's ownership
7 and leadership that there were significant security concerns and had lost more than 80,000 bitcoin,
8 Plaintiffs would not have used the exchange for their bitcoin transactions.

9 **FIRST CAUSE OF ACTION**

10 **Fraudulent Misrepresentation**

11 **(Against All Defendants)**

12 31. Plaintiffs reallege and incorporate by reference each allegation contained in
13 paragraphs 1 through 30 above as though set forth fully herein.

14 32. When selecting an exchange to purchase bitcoin, Plaintiffs sought a secure exchange
15 and through representations Defendants on online forums for bitcoin users, Defendants represented
16 the security of Mt. Gox.

17 33. Around August 2010 McCaleb started to post messages on online forums that
18 discussed bitcoin to encourage people to use Mt. Gox as their exchange.

19 34. By late 2010, and relying on the representations by McCaleb on these forums,
20 Plaintiffs deposited bitcoin and USD into Mt. Gox for the first time.

21 35. Defendants promotion of Mt. Gox included, but are not limited to the following
22 messages on Bitcointalk.org:

23 36. These promotions and representations include, but are not limited to:

- 24 • On July 18, 2010: "Don't worry the passwords are hashed in the DB."
- 25 • On July 18, 2010 and in response to the question "why would I use Mt. Gox instead of
26 Bitcoin Market": "It is always online, the site is faster and on dedicated hosting and I
27 think the interface is nicer."
- 28 • On October 29, 2010: "Thanks for the sentiment but I'm trying to get the exchange fully

1 operational again before I worry about trying to make a profit. I'm not in danger of being
2 under capitalized."

- 3 • On November 3, 2010: "The exchange hasn't lost anything so I don't need to know who
4 you are."
- 5 • December 29, 2010: "We now have a European bank account so can accept deposits
6 cheaply from the EU. email for details."
- 7 • February 1, 2011: "Yeah it is unfortunate. I've contacted Liberty Reserve about it. I
8 fixed it so they can't use this attack anymore. I think his and one other account (I've
9 emailed you) were the only two compromised. Anyone with a decent password would be
10 safe."
- 11 • February 1, 2011: "There were only two accounts that had money stolen from them as far
12 as I can tell. It was a dictionary attack since I saw it happening. I plugged the
13 vulnerability that allowed them to run the attack so your weak passwords will be safe
14 again."
- 15 • February 2, 2011: "The only accounts that were compromised were cryptofo ad one other
16 who I emailed. No other accounts were compromised. if you are still worried about it
17 simply change your password."
- 18 • June 19, 2011: "Everyone's bitcoins are safe on the site. We still are holding all the coins
19 safely in reserve. The vast majority of the coins are stored offline so they are impossible
20 to compromise."
- 21 • July 4, 2011: "My statement is this: MtGox has enough funds to cover any losses from
22 the recently stolen coins and has enough to cover what it owes me to date. MtGox will
23 cover any debt to its customers before it pays me. The fact that I haven't been paid yet
24 has nothing to do with mtgox's ability to pay. It only has to do with the fact that neither I
25 nor Mark have made time to complete the payment."

26 37. Plaintiffs are informed and believe, and on that basis allege, that McCaleb omitted
27 that fact that Mt. Gox had already lost possession of at least 80,000 bitcoin.

28 38. Plaintiffs are informed and believe, and on that basis allege, that by no later than

1 January 2011 an unauthorized individual gain access to an account on Mt. Gox and sold thousands
2 of a Mt. Gox user's bitcoins. Plaintiffs are informed and believe, and on that basis allege, that
3 McCaleb was immediately informed of this security issue and knew that more than 80,000 bitcoin
4 were missing from Mt. Gox.

5 39. Plaintiffs are also informed and believe, and on that basis allege, that around this
6 period of time, Mt. Gox was further compromised by a "dictionary attack," which is where
7 somebody tries several different passwords again and again, until they eventually get the correct
8 password, and are able to gain access to an unauthorized account. Plaintiffs are informed and
9 believe, and on that basis allege, that McCaleb was also aware of this attack, which he has since
10 indicated was a separate and distinct attack as mentioned above. Plaintiffs are informed and believe,
11 and on that basis allege, that this attack compromised at least two accounts at the time, for which
12 McCaleb was aware, but did not take action or follow up.

13 40. Between January and December 2011, and beyond, Plaintiffs were actively using Mt.
14 Gox.

15 41. Rather than inform the public that these users were not refunded, nor stay to repair the
16 security issues, McCaleb sold a majority of his interest in Mt. Gox to Mark Karpeles. Plaintiffs are
17 informed and on that basis allege, that Mt. Gox was already unable to account for 80,000 bitcoin that
18 were either lost, stolen, or otherwise. See Exhibit A. Plaintiffs are further informed and on that basis
19 allege, that McCaleb schemed with Karpeles about how to deal with the missing 80,000 bitcoin and
20 given the fact that Mt. Gox was already profitable in early 2011, that Mt. Gox would be able to
21 easily recover or account for the missing 80,000 bitcoin. These bitcoin, and hundreds of thousands
22 of more bitcoin would either be stolen, lost, or otherwise, and never recovered by Mt. Gox.

23 42. Plaintiffs are informed and believe, and on that basis allege, that each of the foregoing
24 representations of material fact was false.

25 43. Plaintiffs are further informed and believe, and on that basis allege, that Defendants
26 omission of information, including but not limited to, ongoing and successful security hacks and
27 sufficiency of funds on Mt. Gox, was material.

28 44. Plaintiffs are informed and believe, and on that basis allege, that Defendants

1 represented the above referenced facts as true to Plaintiffs (or omitted the above) when they knew
2 that they were false with the intent to deceive and defraud Plaintiffs so as to gain, maintain and profit
3 from its continued business. Alternatively, Plaintiffs are informed and believe, and on that basis
4 allege, that Defendants made the material misrepresentations and omissions with reckless
5 indifference to the truth.

6 45. Plaintiffs justifiably, reasonably, and detrimentally relied on the written and verbal
7 representations by Defendants as enumerated above.

8 46. In deciding to use Mt. Gox as offered by Defendants, Plaintiffs accepted as true the
9 totality of representations and omissions made by representatives from Defendants that Defendants
10 were uniquely qualified to properly provide the services needed to operate a successful and secure
11 exchange per the needs of Plaintiffs and that Mt. Gox was properly funded.

12 47. Had Plaintiffs known that the representations and omissions made by Defendants
13 were inaccurate, false, and misleading and designed to induce Plaintiffs into utilizing the services
14 provided by Defendants, Plaintiffs would not have selected Mt. Gox to do their bitcoin trading.

15 48. As a direct, proximate and foreseeable result of Defendants' fraudulent
16 misrepresentations and omissions, Plaintiffs have suffered and will continue to suffer substantial
17 damages in an amount to be proven at trial.

18 49. Defendants' foregoing fraudulent inducement was made willfully and in bad faith
19 with the intent to deprive Plaintiffs of their property, legal rights and/or otherwise cause him injury,
20 and constitutes despicable, malicious, oppressive and/or fraudulent conduct that subjected Plaintiffs
21 to cruel and unjust hardship, in conscious disregard of Plaintiffs' rights, so as to justify an award of
22 exemplary and punitive damages in an amount to be proven at trial.

23 **SECOND CAUSE OF ACTION**

24 **Negligent Misrepresentation**

25 **(Against All Defendants)**

26 50. Plaintiffs reallege and incorporate by reference each allegation contained in
27 paragraphs 1 through 49 above as though set forth fully herein.

28

1 51. In or around August 2010 and continuing thereafter, Defendants represented to
2 Plaintiff orally through Bitcoin forums, the material facts alleged hereinabove, which included
3 among other things, the following representations:

- 4 • On July 18, 2010: "Don't worry the passwords are hashed in the DB."
- 5 • On July 18, 2010 and in response to the question "why would I use Mt. Gox instead of
6 Bitcoin Market": "It is always online, the site is faster and on dedicated hosting and I
7 think the interface is nicer."
- 8 • On October 29, 2010: "Thanks for the sentiment but I'm trying to get the exchange fully
9 operational again before I worry about trying to make a profit. I'm not in danger of being
10 under capitalized."
- 11 • On November 3, 2010: "The exchange hasn't lost anything so I don't need to know who
12 you are."
- 13 • December 29, 2010: "We now have a European bank account so can accept deposits
14 cheaply from the EU. email for details."
- 15 • February 1, 2011: "Yeah it is unfortunate. I've contacted Liberty Reserve about it. I
16 fixed it so they can't use this attack anymore. I think his and one other account (I've
17 emailed you) were the only two compromised. Anyone with a decent password would be
18 safe."
- 19 • February 1, 2011: "There were only two accounts that had money stolen from them as far
20 as I can tell. It was a dictionary attack since I saw it happening. I plugged the
21 vulnerability that allowed them to run the attack so your weak passwords will be safe
22 again."
- 23 • February 2, 2011: "The only accounts that were compromised were cryptofo ad one other
24 who I emailed. No other accounts were compromised. if you are still worried about it
25 simply change your password."
- 26 • June 19, 2011: "Everyone's bitcoins are safe on the site. We still are holding all the coins
27 safely in reserve. The vast majority of the coins are stored offline so they are impossible
28 to compromise."

- July 4, 2011: "My statement is this: MtGox has enough funds to cover any losses from the recently stolen coins and has enough to cover what it owes me to date. MtGox will cover any debt to its customers before it pays me. The fact that I haven't been paid yet has nothing to do with mtgox's ability to pay. It only has to do with the fact that neither I nor Mark have made time to complete the payment."

52. Plaintiffs are informed and believe, and on that basis allege, that McCaleb omitted that fact that Mt. Gox had already lost possession of at least 80,000 bitcoin.

53. Plaintiffs are informed and believe, and on that basis allege, that McCaleb expressly made the foregoing representations (and omissions) to Plaintiffs and to encourage Plaintiffs to utilize the services provided by Mt. Gox.

54. Defendants intended or had reason to expect that the substance of these communications would be read by Plaintiffs.

55. Defendants also intended or had reason to expect that these communications, when read by Plaintiffs, would induce Plaintiffs' reliance on the representations made therein.

56. Each of the foregoing representations of material fact was false.

57. At the time said representations were made by Defendants, Plaintiffs was ignorant of their falsity and believed them to be true.

58. Plaintiffs are informed and believe, and on that basis allege, that when Defendants made said representations they knew, or should have known, that they were both material and false.

59. Plaintiffs are informed and believe, and on that basis allege, that Defendants intended that Plaintiffs rely, or should have known that Plaintiffs would rely, on the foregoing representations, so as to induce them to utilize the services provided by Mt. Gox.

60. Plaintiffs reasonably and justifiably relied on Defendants' fraudulent misrepresentations. In reliance thereon, Plaintiffs were induced to and did transact and store substantial sums on Mt. Gox, as intended by Defendants. Based on the continuing nature of Defendants' misrepresentations, Plaintiffs also refrained from taking any protective measures to recoup their investments until it was too late to do so. Had Plaintiffs been aware of the falsity of

1 Defendants' misrepresentations at the time they were made, Plaintiffs would not have utilized the
2 services provided by Mt. Gox.

3 61. As a direct, proximate and foreseeable result of Defendants' negligent
4 misrepresentations, Plaintiffs have suffered and will continue to suffer substantial damages in an
5 amount to be proven at trial.

6 **WHEREFORE**, Plaintiffs prays for judgment against Defendants, and each of them, as
7 follows:

8 **ON THE FIRST CAUSE OF ACTION:**

9 1. For general damages in an amount excess of the jurisdictional limit of this Court to be
10 proven at trial;

11 2. For punitive damages;

12 3. For interest on the damages according to proof at the legal rate;

13 4. For costs of suit incurred herein; and

14 5. For such other and further relief as the Court deems just and proper.

15 **ON THE SECOND CAUSE OF ACTION:**

16 1. For general damages in an amount excess of the jurisdictional limit of this Court to be
17 proven at trial;

18 2. For interest on the damages according to proof at the legal rate;

19 3. For costs of suit incurred herein; and

20 4. For such other and further relief as the Court deems just and proper.

21
22 DATED: May 17, 2019

GREENSPOON MARDER LLP

24 By: 
James H. Turken

25 *Attorneys for Plaintiffs*
26
27
28

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in this action.

DATED: May 17, 2019

GREENSPOON MARDER LLP

By: 

James H. Turken

Attorneys for Plaintiffs

HACKED

Behind the Biggest Bitcoin Heist in History: Inside the Implosion of Mt. Gox

Mt. Gox was once the biggest exchange for the virtual currency. Then half a billion dollars' worth went missing. Emails give important clues to what happened.

Jake Adelstein, Nathalie-Kyoko Stucky 05.19.16 1:00 AM ET



EXCLUSIVE

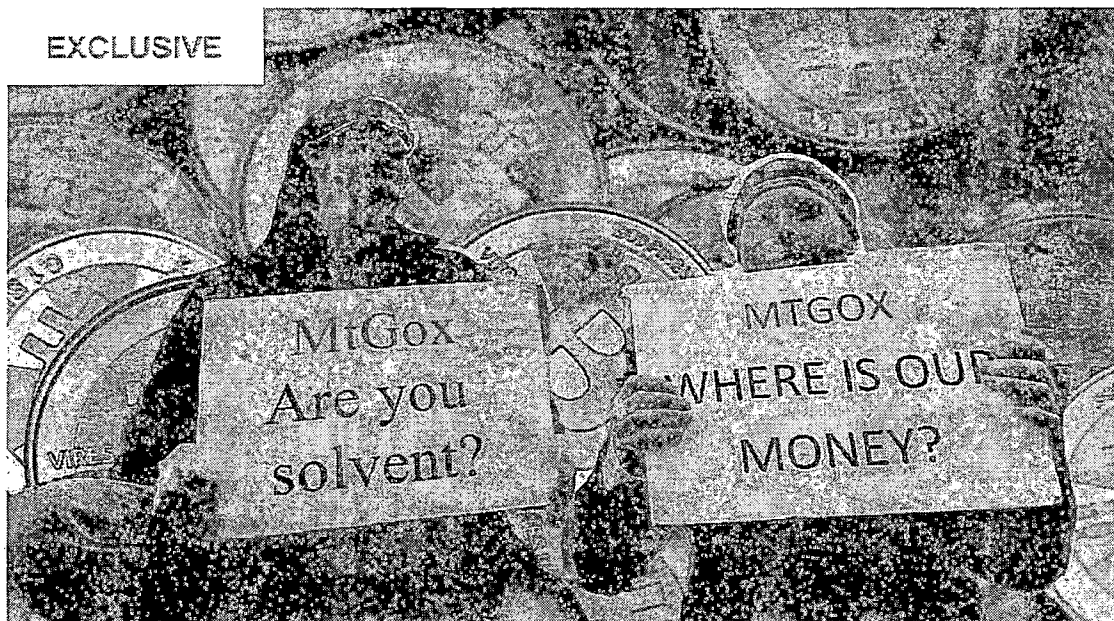
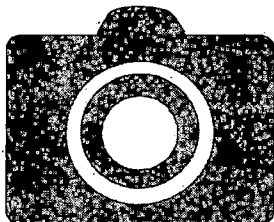


Photo Illustration by Brigette Supernova/The Daily Beast



TOKYO — When Mark Karpeles, the CEO of what was once the world's largest Bitcoin exchange, said that the company had gone bankrupt because 800,000 bitcoins (worth nearly half a billion dollars at the time) had been hacked, he wasn't exactly lying. He wasn't exactly telling the whole truth, either, but there was an intriguing element of fact.

At least 80,000 had been hacked before Karpeles even took over the company, and that initial cyber theft began a spiral of trouble that may have led directly to the firm's financial collapse.

ADVERTISEMENT

This week The Daily Beast obtained internal emails, contracts, and other documents related to the implosion of Karpeles's company, Mt. Gox. Along with information provided by a former employee who handled accounting for the firm, the documents reveal previously unreported details about how Mt. Gox failed, and why.

According to Karpeles's lawyer, Nobuyasu Ogata, one of the emails has been submitted to the court

as evidence by the prosecution to demonstrate that Karpeles was not forthcoming with his customers. But the same email can be used to argue for his innocence on other charges.

Mt. Gox, which was once the world's largest exchange for the decentralized virtual currency, filed for bankruptcy protection in February 2014, when it was reported that 850,000 bitcoins, worth \$450 million at the time, had disappeared or been stolen by hackers. Mt. Gox said it also lost \$27 million in cash.

Originally, the company had been created as a platform for trading playing cards. Pokémon probably is the most familiar version in the West, but these were for Magic: The Gathering, a game that was popular among kids who gave up on any hope of being “cool” at high school; a dungeons and dragons sort of card game for obsessive fans.

The company we're writing about here was called Magic: The Gathering Online eXchange, which is where Mt. Gox derived its unusual name. But in a very short time, it left the original nerds far behind as bitcoins came in and cards went out. And then, a whole lot of bitcoins went missing.

To date, 650,000 bitcoins, currently worth \$292 million, remain unaccounted for, and Karpeles is facing several criminal charges—but none of them deal *directly* with the absent virtual currency.

In November of last year, Japanese prosecutors finally finished bringing criminal charges against Karpeles after re-arresting him again and again in

hopes that he would confess to every crime they thought he might have committed.

It should be noted here that one of the reasons Japan's prosecutors have a 99 percent conviction rate is that a suspect can be held up to 23 days after an arrest, without having a lawyer present during daily interrogations. If the suspect is denied bail, the police and the prosecutors have even longer to question the suspect. Eventually most people do confess to the charges against them—guilty or not.

When the prosecutors concluded their investigation into Karpeles in November, he was indicted for improper use of electronic funds and embezzling a total of over 300,000,000 yen (\$2.7 million) of customer funds.

At this point in time, Karpeles's lawyers would only say that Karpeles had made no confession to the police and that Karpeles is only guilty of sloppy accounting, mixing personal accounts and corporate accounts, not embezzlement.

Yet the documents obtained by The Daily Beast, which included correspondence between Mark Karpeles and the original founder of Mt. Gox, Jed McCaleb, suggest that Mt. Gox was plagued by problems from its earliest days, before Karpeles had even taken over the company. The Daily Beast was given internal documents including emails by a former consultant to Mt. Gox and then verified them with Karpeles's lawyer, former employees, and sources in law enforcement.

Jed McCaleb first approached Mark about selling him Mt. Gox in January of 2011. In an email dated Jan. 18 that year, McCaleb wrote to his acquaintance Karpeles:

Hi Mark~

Please keep all this confidential I don't want to start a panic and I'm not sure I'll do it yet but I'm thinking I might try to sell mtgox. I just have these other projects I would like to devote more time to. Would you be interested? It could be very little up front and just a payout based on revenue or something. There is also an investment group that wants to fund mtgox. Probably around \$158k. So you could most likely take it over with some cash.

Let me know

Thanks,

Jed.

Karpeles had become interested in Bitcoin in late 2010 and saw the Mt. Gox platform as the perfect place to set up a Bitcoin exchange. In the early days of the currency, changing fiat money (real money) into bitcoins was an arduous task.

Karpeles agreed to purchase the company from McCaleb and by Feb. 3, 2011, he had signed an agreement with McCaleb to buy the firm, under some very unusual terms.

The seller (McCaleb) wrote into the contract that "the Seller is uncertain if mt.gox.com is compliant

or not with any applicable U.S. code or statute, or law of any country.” And it included an article of indemnification: “The buyer agrees to indemnify Seller against any legal action that is taken against Buyer or Seller with regards to mtgox.com or anything acquired under this agreement.”

Shortly after the handover, Karpeles became aware that Mt. Gox had already been hacked at least once and was missing a substantial number of bitcoins—a total of 80,000 to be precise.

The following email on April 28, 2011, which reportedly has been submitted into evidence by both sides in the trial, was probably the beginning of Mark Karpeles’s nightmare:

From: Jed McCaleb <jed@mtgox.com>

Date: 2011/04/28 22:33

To: Mark Karpeles <admin@mtgox.com>

*I can't tell how big an issue it will be to be short 80k BTC (*80,000 bitcoin) if the price goes to \$100 or something. That is quite a bit to owe at that point but mtgox should have made a ton of BTC (Bitcoin) getting to there. There is also still the fact that the BTC (Bitcoin) balance will probably never fall below 80k. So maybe you don't really need to worry about it.*

There are 3 solutions I have thought of:

- Slowly buy more BTC with the USD that Gox Bot has. Hopefully you would fill up the loss before the price got out of hand.

- Buy a big chunk of BTC (really just moving the BTC debt to the USD side) If BTC goes up this is a huge win. Problem is there isn't enough BTC for sale on mtgox. Maybe you could find someone on the forum to do it.

- Get those crystal island people to invest. They have 200+ BTC so they could fill in the gap.

Maybe you could just mine it?

The Daily Beast has been trying to reach Jed McCaleb for several weeks both through his email accounts and social media accounts but he has not responded.

Kim Nilsson, a computer security expert at WizSec who has been analyzing the case for over two years, says, "Assuming the emails are genuine considering the timing, both Mark and Jed were aware of some 80,000 BTC that seem to have already been missing before the large June 2011 hack, and Jed was suggesting possible approaches to recovering from it." The question then remains: did either of them put these plans into action—for example creating a trading bot (a software application that runs automated tasks) to cover the loss.

That is still an unresolved mystery.

In April 2011, 80,000 bitcoins were worth approximately \$62,400.

Maybe Karpeles figured he could make it back up as he went along. But luck was not on his side. As

he would try to fill the hole, the price of bitcoins kept rising. By June 2, 2011, the value for the missing BTC had jumped to over \$800,000.

Unfortunately for Karpeles, he had signed a non-disclosure agreement that left him unable to discuss the loss, and he faced the Sisyphean task of recovering the missing bitcoins on his own—a problem that became greater by the day and sometimes by the hour as the value of bitcoins skyrocketed.

In June of 2011, Mt. Gox was hacked once again. Investigators at the time believed that hackers might have gained access to Jed McCaleb's administrator account, which was still active.

Karpeles's reaction to the hack was to move the majority of the bitcoins off-line into what is called "cold storage" and place them in safety deposit boxes dispersed through various banks in Tokyo. He only left enough online to make sure transactions could be carried out. But having moved the bitcoins off, Karpeles neglected to reconcile the amounts of cold storage with other customer accounts. Karpeles became increasingly paranoid about hackers—almost obsessive.

An individual who worked at Mt. Gox handling accounting told The Daily Beast, on condition we not identify him by name because of his role in the investigation, "Mt. Gox was not an investment company, according to my opinion. It was like a pachinko parlor gift exchange." (Pachinko is a Japanese variant of pinball with a payoff.)

The man in charge of accounting says he urged Karpeles to reconcile the BTC (Bitcoin) balance, the on-line balance, and the fiat (cash) balance several times but was spurned.

“I told him, ‘I want to know where are the bitcoins, and we need to reconcile,’ and Mark replied, ‘*mendokusai*’ [it’s a pain in the ass]. He said it was too difficult and too risky, because to reconcile the balance, you need to put the bitcoins from the cold storage onto a hot wallet, and there is the risk that it could be hacked, so he didn’t want to do it.”

A “hot wallet” refers to bitcoins online—a situation that makes them more vulnerable to cyber predators.

Karpeles insisted that bitcoins in a cold-wallet, sometimes printed out on sheets of paper, were much more secure. He thought it was difficult to know how much each “cold wallet” is worth until you put the BTC back on-line—or make notations on the paper wallets when creating them.

The virtual money was becoming makeshift paper money, and there were masses of it.

The accounts manager understood what Karpeles’s concerns were from a cyber security perspective but still felt that not reconciling the accounts was dangerous.

“I didn’t think it was reasonable not to reconcile, but I thought it’s his company, he’s the CEO, so I said okay.”

Former employees of Karpeles say that he might have made it all work. They claim rogue U.S. government agents seized \$5 million of Mt. Gox funds in summer 2013 in retaliation for Karpeles's refusal to cooperate with them. This seizure supposedly cut into the firm's operating reserves, which may have been the beginning of the end, at least according to the former Mt. Gox accountant.

In the meantime, Karpeles voluntarily assisted U.S. authorities in their investigation of the online black market Silk Road, evidently hoping that would buy him some sort of immunity.

It didn't.

"The first time I got the signal that the bitcoins were missing, it was when Mark told me, sometime in early February [2014]," said the accountant. "He called me in his office, and he said, 'There is a chance that Mt. Gox might have to file for bankruptcy.' And he asked me to go to the law firm Baker & McKenzie the next day to discuss with them."

The accountant recalls that Karpeles was eerily calm at the time—but that Mark was always that way. "He was like a more stoic version of the Cheshire Cat. He was always smiling. He could probably tell you, 'Oh, the entire office is on fire and we'd better leave before we burn to death' and it would be the same expression."

The Japanese courts will determine if Karpeles has committed criminal acts, but the latest

revelations would make anyone ask: Is he a con-man, a victim, a fall-guy, or all of the above?

One thing seems clear—Karpeles bought a company already missing tens of thousands of bitcoins.

Did the thief who took them take hundreds of thousands—worth hundreds of millions of dollars—more? Someone did, in the heist of the century, and to solve it, the police need to make a case that depends on more than coercion and confession.

EXHIBIT B

2/12/12

Gmail - account funded by wire



Don Raggio <donaId.raggio@gmail.com>

account funded by wire

65 messages

Don Raggio <donaId.raggio@gmail.com>**Mon, Dec 20, 2010 at 11:30 PM****To: info@mtgox.com**

Hello,

I'm based in the US. I would like set up a Mt Gox account (right now I am having difficulty) and fund it with a wire transfer of \$25000 USD. Can you help me with the wire transfer. Please give me the account and wire instructions.

Thanks,

Don

Jed McCaleb <admin@mtgox.com>**Tue, Dec 21, 2010 at 6:19 AM****To: Don Raggio <donaId.raggio@gmail.com>**

Hi Don,

You can send the wire to:

Jed McCaleb

Chase

SWIFT: CHASUS33XXX

routing#: 021272723

account#: 3160195000

My bank charges \$15 for an incoming wire from the US and I think \$50 for an international one.

Send me an email letting me know the amount you sent so I can keep an eye out for it.

Thanks,

Jed,

[Quoted text hidden]

Don Raggio <donaId.raggio@gmail.com>**Tue, Dec 21, 2010 at 10:01 AM****To: Jed McCaleb <admin@mtgox.com>**

Ok I created an account called donraggio. Can you place the funds in that account? Thanks for your help.

Don

[Quoted text hidden]

Don Raggio <donaId.raggio@gmail.com>**Tue, Dec 21, 2010 at 10:03 AM****To: Jed McCaleb <admin@mtgox.com>**

Let me know if you can put it in the donraggio account. I'll wire the money and let you know when it is sent.

From: Jed McCaleb <jed@mtgox.com>
To: Mark Karpeles <admin@mtgox.com>
Sent: 4/28/2011 9:33:07 AM
Subject:

I can't tell how big an issue it will be to be short 80k BTC if the price goes to \$100 or something. That is quite a bit to owe at that point but mtgox should have made a ton of BTC getting to there. There is also still the fact that the BTC balance will probably never fall below 80k. So maybe you don't really need to worry about it.

There are 3 solutions I have thought of:

- Slowly buy more BTC with the USD that Gox Bot has. Hopefully you would fill up the loss before the price got out of hand.
- Buy a big chunk of BTC (really just moving the BTC debt to the USD side) If BTC goes up this is a huge win. Problem is there isn't enough BTC for sale on mtgox. Maybe you could find someone on the forum to do it?
- Get those crystal island people to invest. They have 200+ BTC so they could fill in the gap.

Maybe you could just mine it?

From: Jed McCaleb <jed@mtgox.com>
Sent: Tuesday, December 06, 2011 10:09 PM
To: Mark Karpeles
Subject: Re: EARNOUT

> As for sending you \$263,431.00 it should be fine, as long as you
> accept the fact we may be required to ask funds back once the
> accounting is completed, in April.
Yes that is fine.

I'd rather receive this money in 2012. So a wire in the first days of January would be great.
Thanks Mark,
Jed.

On Mon, Dec 5, 2011 at 6:13 PM, Mark Karpeles <admin@mtgox.com> wrote:

> Hi,
> Unfortunately it is not possible for us to cover the loss of funds
> directly taken from an account. Whatever the reason may be, your
> account has been accessed directly and funds were withdrawn out of it.
> Should you need funds to be located you need first to do a police
> declaration stating the exact loss, and send us a copy so we can start an investigation here.
> Those conditions are the same for everyone, and we cannot make
> exceptions until most of our biggest investigations are completed.
> Once we get the police reports we'll be able to submit the account
> informations to the appropriate law enforcement agency, and possibly
> get the insurance to refund the lost funds.
> As for sending you \$263,431.00 it should be fine, as long as you
> accept the fact we may be required to ask funds back once the
> accounting is completed, in April. We won't know the exact amount
> until we complete the whole accounting, which we had to re-do from
> zero due to the fact it needs to be done in a specific way for
> compliance with US, EU, JP, HK and other international laws.
> Please note that all the funds we are sending are subject of
> investigation for now, with FinCEN looking closely at our activity,
> and preventing move of funds to accounts suspected of illegal
> activity. We are working on solving this issue and expect a ruling
> that would clear us of money laundering within the next months.
>

> While I'm not considering the BTC stolen from the rooted box to be
> required to be paid by you, it is not up to me to decide. There is a
> criminal investigation in progress to locate those BTC. I don't know
> how long it'll take, but it's moving forward.

>
> Mark
>

> On Tue, Dec 6, 2011 at 3:00 AM, Jed McCaleb <jed@mtgox.com> wrote:

>>

>> Hi Mark,

>> You need to pay me the earnout.

>> I have been very patient and have waited months beyond when this was due.
>>
>> I know you said you want to wait to see how much I still owe the
>> company from the chase account.
>> This is taking too long and I also reduced the amount of cash in my
>> mtgox account when you took over to be the approximate value of what
>> I still owed from chase. So I don't think I owe you much more.
>> Once your accounting is done and you determine how much I still owe
>> you can take it from my mtgox account.
>>
>> In the meantime you need to pay me:
>> \$263,431
>> + 2995 BTC (What was lost during the hack from my mtgox account)
>> + 145 BTC (What was lost during the hack from my fivegrinder account)
>> I'll send you the wire information tomorrow.
>>
>> I don't think the BTC that was stolen when the box was rooted should
>> come out of my earn out for the following reasons:
>> The contract between us was already signed.
>> You had root access to the box at that point The terms of this sale
>> are already extremely favorable to you. You are getting such a good
>> deal as it is.
>>
>>
>> Thanks,
>> Jed.
>
>

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, telephone number, and address):

JAMES H. TURKEN SBN 89618
GREENSPOON MARDER LLP
1875 Century Park East, Suite 1850
Los Angeles, CA 90067

TELEPHONE NO.: 323.880.4520

FAX NO.: 954.771.9264

ATTORNEY FOR (Name): Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS: 400 McAllister Street

CITY AND ZIP CODE: San Francisco, CA 904102

BRANCH NAME: Civic Center Courthouse

CASE NAME: Peter Steinmetz and Joseph A. Jones v. Jed McCaleb, et al.

FILED
Superior Court of California
County of San Francisco

BY: MAY 17 2019
Deputy Clerk
CLERK OF THE COURT
BY: Amaya Jones
Deputy Clerk

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ **Counter** ☐ **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CGC-19-576095

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:**Auto Tort**

- ☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☒ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

- ☐ Wrongful termination (36)
☐ Other employment (15)

Contract

- ☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

- ☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

- ☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

- ☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Two (2)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 17, 2017

James H. Turken

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

RECEIVED
JAN 10 1960
U.S. DEPT. OF JUSTICE

MAY 1 1960

CLERK OF THE COURT
JANUARY 10 1960

CLERK OF THE COURT
JANUARY 10 1960



ORIGINAL

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36) Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

JED MCCAULEB, an individual; CODE COLLECTIVE, LLC, a New York Limited Liability Company; and DOES 1 through 25, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

PETER N. STEINMETZ, an individual; and JOSEPH A. W. JONES; an individual;

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
Civic Center Courthouse
400 McAllister Street
San Francisco, California 94102

CASE NUMBER:
(Número del Caso):

CGC=19-576095

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

JAMES H. TURKEN GREENSPOON MARDER LLP
1875 Century Park East, Suite 1850

Los Angeles, CA 90067 Tel: (323) 880-4520 Fax: (323) 771-9264

DATE:

(Fecha)

MAY 17 2019

CLERK OF THE COURT

Clerk, by

(Secretario)

ANNA L. TORRES

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under:

<input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):