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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 BRUCE MACDONALD, Individually and on
13 Behalf of All Others Similarly Situated,
14 Plaintiff,

15 v.

16 DYNAMIC LEDGER SOLUTIONS, INC., a
17 Delaware corporation, TEZOS
STIFTUNG, a Swiss Foundation,
18 KATHLEEN BREITMAN, an
Individual, ARTHUR BREITMAN,
19 an Individual, TIMOTHY COOK DRAPER, an
individual, DRAPER ASSOCIATES, JOHANN
20 GEVERS, DIEGO PONZ, GUIDO SCHMITZ-
21 KRUMMACHER, BITCOIN SUISSE AG,
NIKLAS NIKOLAJSEN and DOES 1-100,
22 INCLUSIVE,
23 Defendants.

Case No. 3:17-cv-07095-RS

***EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE WHY A PRELIMINARY
INJUNCTION SHOULD NOT ISSUE***

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APPLICATION

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2 Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Plaintiff Bruce MacDonald
3 (“Plaintiff”) moves for a temporary restraining order (“TRO”) freezing all assets of Defendants¹
4 collected via or derived from the Tezos Initial Coin Offering (the “Tezos ICO” and the “ICO
5 Proceeds,” respectively) and restraining and enjoining Defendants from selling, transferring,
6 converting, or otherwise disposing of any of the ICO Proceeds or taking any action to authorize
7 anyone else to sell, transfer, convert, or otherwise dispose of any of the ICO Proceeds until Plaintiff
8 has had sufficient time to conduct appropriate discovery in preparation for a preliminary injunction
9 hearing and this Court issues a ruling on its Order to Show Cause Why a Preliminary Injunction
10 Should Not Issue.

11 Three other actions concerning the Tezos ICO have been filed in this court, or are otherwise
12 related to this action (Case Nos. 3:17-cv-06779-RS; 3:17-cv-06850-RS; and 3:17-cv-06829-RS). In
13 one of these actions, a Motion for Preliminary Injunction is pending, with a hearing scheduled for
14 January 11, 2018.² However, the situation regarding the ICO Proceeds has deteriorated further,
15 making irreparable looting an imminent prospect. Two days ago, one of three directors of the
16 Foundation resigned—creating further turmoil and raising serious questions about the safety of the
17 ICO proceeds raised in July.³ The currency tendered by the investors was worth \$232 million at the
18 time and is now reportedly worth over \$1 billion. Waiting almost four weeks to address these
19 concerns could be too late.

20 Moreover, the present action differs from the other actions in that it makes only state law
21

22 ¹ Defendants are Dynamic Ledger Solutions, Inc. (“DLS”), Tezos Stiftung (the “Tezos
23 Foundation”), Kathleen Breitman, Arthur Breitman, Timothy Cook Draper, Draper Associates,
24 Johann Gevers, Diego Ponz, Guido Schmitz-Krummacher, Bitcoin Suisse AG, and Niklas
Nikolajsen.

25 ² See *Okusko v. Dynamic Ledger Solutions, Inc. et al.* (N.D. Cal. Dec. 4, 2017, Case No. 3:17-cv-
26 06829-RS) at ECF. No. 9.

27 ³ Reuters, Tezos director resigns, sowing more uncertainty .t crypt startup. December 12, 2017,
28 <https://www.reuters.com/article/us-bitcoin-tezos-board/tezos-director-resigns-sowing-more-uncertainty-at-crypto-startup-idUSKBN1E62KN>

1 claims for relief, and names additional defendants who, together with the other defendants represent
2 what is believed to be all of the controlling signatories for the ICO funds at issue. The present action
3 also does not have a Securities Act cause of action, which means it is not subject to the automatic
4 stay of discovery or lead plaintiff procedures required under the Private Securities Litigation Reform
5 Act of 1995 (PSLRA).

6 Importantly, the hearing scheduled for January 11, 2018 is based on a motion that does not
7 address the more pressing concern of the Defendants' current and ongoing sale and conversion of
8 ICO proceeds—which is the primary basis of the urgency of this Application for a Temporary
9 Restraining Order. Once converted to cash, the currency may no longer be traceable to Defendants or
10 their original owners. And as cash, it can disappear quickly into the void.

11 Counsel for Plaintiff has given notice or attempted to give notice to each of the Defendants of
12 the date and substance of this Application as set forth in the accompanying Certification Regarding
13 Notice. Counsel for Defendant Dynamic Ledger Solutions, Inc. has replied to the notice by email and
14 stated that “We will oppose any application for a temporary restraining order, and we wish to be
15 heard in opposition to any such application.” A copy of that email is attached as Exhibit A to the
16 Certification Regarding Notice.

17 This application is made on the grounds set forth in the accompanying Memorandum in
18 Support; and exhibits attached thereto; all pleadings and papers filed in this action; the argument of
19 counsel; and further evidence as the Court may consider at or before a hearing regarding this
20 Application or the hearing regarding the Order to Show Cause requested herein.

21 DATED: December 14, 2017

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