

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

LCX AG,

Plaintiff,

-against-

JOHN DOE NOS. 1-25,

Defendants.

Index No. \_\_\_\_\_

**AFFIRMATION OF ELLIOT A  
MAGRUDER PURSUANT TO  
CPLR 2217(b) AND UNIFORM  
RULES 202.7(f) AND 130-1.1**

ELLIOT A. MAGRUDER, an attorney duly admitted to practice law before the courts of the State of New York, hereby affirms under penalty of perjury:

1. I am an attorney of the law firm of Holland & Knight LLP, attorneys for Plaintiff LCX AG (“LCX”) in the above-captioned action against Defendants John Doe Nos. 1-25 (collectively, “Defendants”), which seeks liability and damages based on Defendants’ theft of a cryptocurrency known as USD Coin (“USDC”) stolen from Plaintiff by Defendant that is valued in the approximate amount of \$1.23 million and is held in the wallet with the address numbered 0x29875bd49350aC3f2Ca5ceEB1c1701708c795FF3 (the “Address”), and that is presently stored at garnishee Centre Consortium, LLC (“CCL”).

2. LCX also moves for an Order to Show Cause for a Temporary Restraining Order pursuant to CPLR §§ 6301, 6312, and 6313: (i) restraining Defendants and CCL from disposing of, processing, routing, facilitating, selling, transferring, encumbering, removing, paying over, conveying or otherwise interfering with Defendants’ property, debts, accounts, receivables, rights of payment, or tangible or intangible assets of any kind, whether such property is located inside or outside of the United States, including, but not limited to, the USDC held at the Address; and (ii)

directing CCL to prevent the Address from transacting in USDC, pending a hearing on Plaintiff's motion for a preliminary injunction.

3. I make the following Affirmation: (i) pursuant to CPLR 2217(b), to confirm that there have been no prior motions or proceedings in this matter; (ii) pursuant to Uniform Rule 202.7(f) (22 N.Y.C.R.R. § 202-7(f)), to demonstrate that giving notice to Defendants of the present application for a preliminary injunction and temporary restraining order would result in significant prejudice to Plaintiff; and (iii) pursuant to Uniform Rule of the Chief Administrator 130-1.1-a (22 N.Y.C.R.R. § 130-1.1 and 130-1.1a), to certify that .

4. As more fully set out in the Complaint, the Affidavit of Monty Metzger, and the Affirmation of Andrew W. Balthazor, Defendants have engaged in contemptible conduct with respect to Plaintiff.

5. Specifically, Defendants are hackers who anonymously exploited a vulnerability in Plaintiff's computer code to steal approximately \$8 million in cryptocurrency from Plaintiff on or around January 9, 2022. Almost immediately after the theft, Defendants used a variety of techniques to disguise their tracks and to conceal the trail of transactions that followed in the aftermath of the theft from Plaintiff.

6. Since then, Defendants used certain stolen funds to purchase approximately \$4.1 million in USDC via the Address through transactions executed on or around March 27, 2022 and May 9, 2022, respectively. Defendants then sold approximately \$2.87 million of the USDC via two large transactions, the most recent of which occurred on May 31, 2022.

7. As of May 31, 2022, the Address still holds \$1.274 million in USDC, which can be sold with no notice.

8. Absent the injunctive relief, there will be nothing to prevent Defendants from transferring or otherwise dissipating their assets, in violation of New York law and causing irreparable harm to Plaintiff. This prejudice is the very reason that a temporary restraining order is sought pending a hearing on the request for a preliminary injunction.

9. I hereby certify that pursuant to 22 N.Y.C.R.R. §§ 130-1.1 and 130-1.1-a that, to the best of my knowledge, information and belief, formed after a reasonable inquiry under the circumstances, the following papers listed below or the contentions therein are not frivolous as defined in 22 N.Y.C.R.R. § 130-1.1(c):

- a. Complaint;
- b. Proposed Order to Show Cause and Temporary Restraining Order;
- c. Memorandum of Law in Support of Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction;
- d. Affidavit of Monty Metzger in Support of Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction;
- e. Affirmation of Andrew W. Balthazor in Support of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction;
- f. Request for Judicial Intervention; and
- g. Commercial Division Addendum to Request for Judicial Affirmation

10. Finally, pursuant to CPLR 2217(b), Plaintiff has not previously sought the relief sought by its motion, brought by order to show cause, and there has been no prior motions or proceedings in this matter.

Dated: June 1, 2022  
New York, New York

By: /s/ Elliot A. Magruder, Esq.

**CERTIFICATION PURSUANT TO 22 NYCRR § 202.8-b**

I, Elliot A. Magruder, an attorney duly admitted to practice law before the courts of the State of New York, hereby certifies that this Affirmation complies with the word count limit set forth in 22 NYCRR § 202.8-b(c) and contains 688 words, excluding the parts exempted by § 202.8-b(b).

Dated: New York, New York  
June 1, 2022

/s/  
Elliot A. Magruder, Esq.

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