

At IAS Part 48 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse, 60 Centre Street, Room 242, New York, New York 10007 on this 30<sup>th</sup> day of June 2022

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

LCX AG,  
  
Plaintiff,  
  
-against-  
  
JOHN DOE NOS. 1-25,  
  
Defendants,  
  
~1.274M U.S. DOLLAR COIN,  
  
Defendant *in rem*,  
  
-and-  
  
CIRCLE INTERNET FINANCIAL, LLC, and  
CENTRE CONSORTIUM, LLC,  
  
Garnishees and Relief Parties.

Index No. 154644/2022

Justice Andrea Masley  
IAS Part 48

Motion Sequence No. 02

~~PROPOSED~~ ORDER TO  
SHOW CAUSE

*TLO*

Upon reading the filing by Plaintiff LCX AG ("LCX") of the Affidavit of Josias N. Dewey, sworn to on June 25, 2022, together with the exhibit attached thereto (the "Dewey Aff."), the Affidavit of Andrew W. Balthazor, sworn to June 27, 2022, together with the exhibit attached thereto (the "Balthazor Aff."), the Affidavit of Samantha Marlott, sworn to on June 25, 2022, together with the exhibit attached thereto (the "Marlott Aff."), the accompanying memorandum of law, and together with all prior pleadings and proceedings having occurred in this proceeding, seeking an order: (i) confirming the good and sufficient alternative service of the Summons, Complaint, and the supporting documents submitted contemporaneously therewith (collectively,

the “First Day Pleadings”; NYSCEF Nos. 1–14) and the Order to Show Cause, entered June 3, 2022 (the “Order to Show Cause”; NYSCEF No. 15, collectively, the “Service Documents”) via a special-purpose Ethereum based cryptocurrency token (the “Service Token”); and (ii) directing Sharova Law Firm (“Sharova”), counsel of record for at least one of Defendants John Doe Nos. 1–25 (collectively, “Doe Defendant(s)”) to disclose the name, address, and any other information as so required by the Court concerning the Doe Defendant(s) which Sharova represents, or in the alternative, to require Sharova to withdraw as counsel of record in this case, pursuant to Civil Practice Law and Rules (“CPLR”) § 308(5), and Court of Appeals’ precedents, including *Banco Frances e Brasileiro S.A. v. Doe*, 36 N.Y.2d 592, 599 (1975);

WHEREAS on June 1, 2022, LCX filed the First Day Pleadings, which sought emergency injunctive relief, pursuant to CPLR 6301, 6312 and 6313 and via order to show cause, for a preliminary injunction and a temporary restraining order, pending a hearing on the preliminary injunction (the “Emergency Relief”), based on the immediate and irreparable injury that LCX would suffer in the event that Doe Defendant(s) transferred, conveyed, or otherwise dissipated the cryptocurrency known as USD Coin (“USDC”) stolen from LCX by Doe Defendant(s), then valued in the approximate amount of \$1.25 million, and held in the blockchain wallet with the address numbered 0x29875bd49350aC3f2Ca5ceEB1c1701708c795FF3 (the “Address”);

WHEREAS on June 2, 2022, the Court held a hearing concerning the Emergency Relief;

WHEREAS on June 3, 2022, the Court entered the Order to Show Cause: (i) ordering Doe Defendant(s) to show cause before the Court on June 23, 2022 (the “Show Cause Hearing”), why an order should not be issued: (a) preliminarily enjoining during the pendency of this action the Doe Defendant(s) from disposing of, processing, routing, facilitating, selling, transferring, encumbering, removing, paying over, conveying or otherwise interfering with Doe Defendant(s)’

NYSCEF  
#15

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 (b) directing Centre Consortium, LLC (“CCL”) to deny access to the Address pursuant to the Centre Consortium USDC New York Access Denial Policy (the “Policy”); and (ii) pending argument on the motion for a preliminary injunction to occur at the Show Cause Hearing, issuing a Temporary Restraining Order (the “TRO”) pursuant to CPLR § 6313, which: (a) prohibited Doe Defendant(s) from disposing of, processing, routing, facilitating, selling, transferring, encumbering, removing, paying over, conveying or otherwise interfering with Doe Defendant(s)’ 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, until further order of the Court; and (b) directed CCL to deny access to the Address pursuant to the Policy, until further order of the Court (NYSCEF No. 15);

WHEREAS the Order to Show Cause ordered service of the Service Documents on or before June 8, 2022 upon the person or persons controlling the Address via the Service Token delivered to the Address that contained a hyperlink (the “Service Hyperlink”) to the website of Holland & Knight LLP (the “Service Website”), counsel for LCX, wherein they would publish the Service Documents to the Service Website, and the Service Hyperlink will include a mechanism to track when a person clicks on the Service Hyperlink;

WHEREAS the Order to Show Cause <sup>directed</sup> ~~continued~~ that such service shall constitute good and sufficient service for purposes of jurisdiction under New York law on the person or persons controlling the Address;

WHEREAS as set forth in the Balthazor Aff., Dewey Aff., and Marlott Aff., LCX served the Service Documents via the Service Token by publishing the Service Documents on the Service Website; creating the Service Hyperlink, which tracks when persons click on the Service Hyperlink and directs such persons to the Service Website; embedding the Service Hyperlink within the name of the Service Token, thereby making it accessible by anyone viewing the Service Token; and airdropping the Service Token to the Address;

WHEREAS LCX <sup>assents that</sup> successfully served the Service Documents upon: (i) CCL via email to its outside counsel; and (ii) Circle Internet Financial LLC ("Circle") via overnight mail and registered mail to its registered agent located in New York, New York, and submitted an attorney affidavit of service confirming such service (NYSCEF No. 16);

WHEREAS LCX understands that, pursuant to the terms of the Policy, CCL has denied access to the Address;

WHEREAS on June 15, 2022, attorneys from Sharova filed Notices of Appearance notifying the Court of their representation the Doe Defendant(s) (NYSCEF Nos. 18-19);

WHEREAS counsel for LCX has repeatedly requested that Sharova, in accordance with precedent of the Court of Appeals and other applicable law, disclose identifying information as to which of the Doe Defendant(s) that Sharova represents, to which Sharova has impermissibly refused;

WHEREAS on June 22, 2022, LCX filed an Amended Summons and Complaint (NYSCEF Nos. 22-26) which, *inter alia*, named the Address as an In Rem Defendant (the "In Rem Defendant") and named CCL and Circle as Relief Parties and Garnishees;

WHEREAS on June 23, 2022, the Court held the <sup>argu ment on</sup> Show Cause Hearing <sup>OSC</sup> in which it, among other things, directed LCX to submit an Order to Show Cause no later than June 27, 2022

concerning service of the Service Token and the propriety of Sharova's refusal to disclose identifying details as to the Doe Defendants, and confirmed that the TRO remained in force and valid in all respects;

~~WHEREAS LCX: (i) has properly served Doe Defendant(s) with the Service Documents through the Service Token, because such service is reasonably calculated to provide Defendants notice and satisfies the requirements of due process, and the methods of service provided by CPLR 308(1), (2), and (4) are impracticable, pursuant to CPLR § 308(5) and all other applicable laws; and (ii) has shown that, pursuant to the Court of Appeals' precedents, including its decision in *Banco Frances e Brasileiro S.A. v. Doe*, 36 N.Y.2d 592, 599 (1975), that Sharova must either disclose certain identifying information of the Doe Defendant(s) it represents, including the name and contact information for such Doe Defendant(s) or any such other information as the Court may direct, or, in the alternative, withdraw as counsel as record for the Doe Defendant(s), as Sharova has failed to show the limited exceptions permitting anonymous representation apply here;~~

Let Doe Defendant(s), or their attorneys, show cause before this Court, in Room 242, 60 Centre Street, New York, New York 10007, on July 22, at 3:30 ~~am~~ <sup>\*</sup>/p.m., why an order should not be issued: (i) confirming that service of the Doe Defendant(s) with the Service Documents via the Service Token constitutes good and sufficient service; and (ii) ordering disclosure by Sharova of certain identifying information of the Doe Defendant(s) it represents, including the name and contact information for such Doe Defendant(s) or any such additional information as the Court may direct, or, in the alternative, ordering that Sharova withdraw as counsel as record for the Doe Defendant(s) (the "Second Order to Show Cause"); and it is further

ORDERED that the TRO remains in full force and effect; and it is further

*Amk 6/30/2022*  
HON: ANDREA MASLEY

*\* Please note time change from 6/23/2022 discussion*

ORDERED that Holland & Knight LLP, LCX's attorneys, shall serve a copy of this Second Order to Show Cause, together with a copy of the papers upon which it is based, on or before July 7, 2022, upon the John Doe Defendants that are not represented by Sharova, if any, by airdropping to the Address a new Service Token, including an embedded hyperlink directing persons to a website wherein Holland & Knight LLP will publish the Second Order to Show Cause and the papers upon which it based; and it is further

ORDERED that Holland & Knight LLP, LCX's attorneys, shall serve a copy of this Second Order to Show Cause, together with a copy of the papers upon which it is based, on or before July 7, 2022, upon the In Rem Defendant by (i) airdropping to the Address a new Service Token, including an embedded hyperlink directing persons to a website wherein Holland & Knight LLP will publish the Second Order to Show Cause and the papers upon which it based; and (ii) serving Circle, as issuer and custodian of certain intangible rights represented by the In Rem Defendant, by: (a) overnight mail at its registered agent CT Corporation, 28 Liberty Street, New York, New York 10005; and (b) email to its outside counsel in this matter, Matthew Lindenbaum, Esq. and Rob Lindholm, Esq., c/o Nelson Mullins, One Financial Center, Suite 3500, Boston, Massachusetts 02111 at [matthew.lindenbaum@nelsonmullins.com](mailto:matthew.lindenbaum@nelsonmullins.com) and [robert.lindholm@nelsonmullins.com](mailto:robert.lindholm@nelsonmullins.com); and it is further

ORDERED that Holland & Knight LLP, LCX's attorneys, shall serve a copy of this Second Order to Show Cause, together with a copy of the papers upon which it is based, on or before July 5, 2022: upon: (i) the Doe Defendant(s) represented by Sharova by NYSCEF and email to Steven Garfinkle, Esq. and Yelena Sharova, Esq., Sharova Law Firm, 147 Prince Street, 4th Floor, Brooklyn, New York 11201, at [sgarfinkle@sharovalaw.com](mailto:sgarfinkle@sharovalaw.com) and [sharova@sharovalaw.com](mailto:sharova@sharovalaw.com); (ii) CCL by email to George Kroup, Esq., Law Offices of John F.


Baughman, 299 Broadway, Suite 1816, New York, New York 10007; and (iii) Circle by: (a) overnight mail at its registered agent CT Corporation, 28 Liberty Street, New York, New York 10005; and (b) email to its outside counsel in this matter, Matthew Lindenbaum, Esq. and Rob Lindholm, Esq., c/o Nelson Mullins, One Financial Center, Suite 3500, Boston, Massachusetts 02111 at [matthew.lindenbaum@nelsonmullins.com](mailto:matthew.lindenbaum@nelsonmullins.com) and [robert.lindholm@nelsonmullins.com](mailto:robert.lindholm@nelsonmullins.com); and it is further

ORDERED, that opposing papers, if any, to this motion shall be filed and served upon LCX via NYSCEF and by email to Warren E. Gluck, Esq. and Elliot A. Magruder, Esq., Holland & Knight LLP, 31 West 52nd Street, New York, New York 10019 at [warren.gluck@hklaw.com](mailto:warren.gluck@hklaw.com) and [elliott.magruder@hklaw.com](mailto:elliott.magruder@hklaw.com) so as to be received on or before July 11, and reply papers, if any, shall be filed and served in the manner set forth above so as to be received on or before July 18, 2022; and surreply papers, if any, shall be filed and served in the manner set forth above to as to be received on or before July 20, 2022.

↑  
by email

Dated: New York, New York  
June 30, 2022

SO ORDERED

  
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Hon. Andrea Masley, J.S.C.

ADDENDUM TO ALL ORDERS TO SHOW CAUSE FOR PART 48  
AS OF MARCH 1, 2022

1. All appearances will be virtual using TEAMS which will be arranged by the Court. Participants in TEAMS are encouraged to download the application, instead of using a browser, and test it to ensure the highest quality appearance. Please email SFC-Part48@nycourts.gov if you would like to participate or listen. DO NOT COME TO COURT.
2. If there is no opposition, there will be no argument unless the court orders otherwise. However, applications to withdraw as counsel shall proceed even in the absence of opposition and the client must appear unless new counsel has been engaged.
3. Do not deliver paper copies to the court. All papers shall be filed in NYSCEF.
4. For the public, members of the press, and student interns, please email SFC-Part48@nycourts.gov to indicate your interest in listening to the proceedings. Such requests must be made at least 48 hours before the proceeding.
5. For orders to show cause for withdrawal of counsel, counsel shall file in NYSCEF proof of service on the client. The client is referred to the New York City Bar Association, Legal Referral Service for assistance in engaging a new attorney, 212-626-7373. Individual parties may represent themselves. Business entities, e.g. corporations, must appear by counsel.
6. Affidavits of service of the OSC shall be filed in NYSCEF at least 24 hours before the argument.
7. Parties shall read Part 48 rules and use NYSCEF numbers to reference documents filed in the docket.  
[http://ww2.nycourts.gov/courts/comdiv/ny/newyork\\_judges\\_links.shtml#masley](http://ww2.nycourts.gov/courts/comdiv/ny/newyork_judges_links.shtml#masley)
8. FOR ALL ORDERS TO SHOW CAUSE WHERE THE CASE IS NEWLY INITIATED AND PROCESS HAS YET TO BE SERVED, SERVICE OF PROCESS IS TO BE MADE OR ATTEMPTED IMMEDIATELY CONSISTENT WITH THE CPLR, BCL OR ANY AND ALL AGREEMENTS. SERVICE OF PROCESS IS NECESSARY FOR THE COURT TO OBTAIN JURISDICTION TO HEAR THIS CASE.