

<p>DISTRICT COURT, DENVER COUNTY, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p> <hr/> <p>TUNG CHAN, Securities Commissioner for the State of Colorado,</p> <p>Plaintiff,</p> <p>v.</p> <p>INDXCOIN, LLC; KINGDOM WEALTH EXCHANGE, INC.; KINGDOM WEALTH EXCHANGE, LLC; GRACE LED MARKETERS, LLC; ELIGIO P. REGALADO; AND KAITLYN REGALADO a/k/a KAITLYN DORSEY,</p> <p>Defendants, and</p> <p>VICTORIOUS GRACE CHURCH, KINGDOM WEALTH VENTURES, and EKR HOLDINGS, LLC,</p> <p>Relief Defendants.</p>	<p>DATE FILED: January 16, 2024 4:49 PM FILING ID: 8C3F7B0D2C1BB CASE NUMBER: 2024CV30142</p> <p>▲ COURT USE ONLY ▲</p>
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<p align="center">COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF</p>	

Plaintiff Tung Chan, Securities Commissioner for the State of Colorado, by and through her counsel, the Colorado Attorney General and undersigned counsel, hereby submits her Complaint for Injunctive and Other Relief against Defendants, and alleges as follows:

JURISDICTION

1. Plaintiff Tung Chan is the Securities Commissioner for the State of Colorado (the “Commissioner”). The Commissioner is authorized to administer all provisions of the Colorado Securities Act (the “Act”). § 11-51-703, C.R.S. She is also authorized to bring this action to seek temporary, preliminary, and permanent injunctive relief, along with other equitable relief against the Defendants upon sufficient evidence that the Defendants have engaged in or are about to engage in any act or practice constituting a violation of any provision of the Act. §§ 11-51-602(1) and (2), C.R.S.

2. Venue is proper in the district court for the City and County of Denver, Colorado. § 11-51-602(1), C.R.S.

SUMMARY OF THE ACTION

3. Despite having neither background nor credentials in cryptocurrencies, securities or exchanges, Defendants decided to market and sell a new, innovative type of security and to create an exchange on which to sell that security: the “INDXcoin,” a cryptocurrency coin which would be bought and sold on a new exchange, the “Kingdom Wealth Exchange” (“KWE”). Defendants’ drive to make money was only matched by their reckless disregard of securities laws and profound lack of scruples towards their investors.

4. Defendant Eligio Regalado (“Eli”) is a pastor who preaches through the Victorious Grace Church. He used his connections in the evangelical Christian community to specifically target members of other churches. With his wife, Defendant Kaitlyn Regalado a/k/a Kaitlyn Dorsey (“Kaitlyn”) and the companies they controlled, Defendant Eli engaged in a scheme to defraud investors by exploiting the investors’ religious faith. In sum, Defendants defrauded investors of more than \$3.2 million.

5. INDXcoin, LLC (“INDXcoin”), Kingdom Wealth Exchange, Inc. and Kingdom Wealth Exchange, LLC (“KWE”), and Grace Led Marketers, LLC (“Grace Led Marketing”), acting through Defendants Eli and Kaitlyn Regalado, advertised INDXcoin and the KWE both online and in person through presentations made at churches, including at Victorious Grace Church. Victorious Grace Church has only two employees (Defendants Eli and Kaitlyn) and operates from the Regalado’s house, their recreational vehicle, or from the Regalado’s vacation destinations.

6. Defendant Eli arranged meetings with pastors of other churches and offered those pastors incentives to invest and sought to gain access to these other churches’ parishioners.

7. Then, Defendants offered and sold unregistered securities to investors, or authorized others to do so on their behalf. Defendants paid commissions to the

sellers of INDXcoin. Some of the commissions were paid to Defendant Eli. In the course of selling INDXcoin, Defendants misstated and omitted material facts unquestionably important to investors.

8. Defendants' presentations – whether in person, in writing, via cold calls, or online – represented that the investment was all but guaranteed. Defendants' presentations were dominated by prayer and quotes from the Bible, encouraging investors to have faith that their investment in Defendants' INDXcoin and KWE scheme would lead to “abundance” and “blessings.”

9. After investors paid Defendants, Defendants only ramped up their representations that all investors had to do was wait for their “abundance” to materialize, despite increasing signs that INDXcoin and the KWE were failing. Indeed, on November 1, 2023, Defendant Eli announced on an online forum for their investors, called the Kingdom Wealth Community Forum (“KWE Community Forum”) that the KWE was shut down.

10. Even after informing investors that KWE was shut down, Defendant Eli continued to post new videos to the KWE Community Forum assuring investors that through prayer and faith, their investment was safe and would be profitable, in an attempt to lull investors into keeping their coins and not discovering the fraud.

11. In reality, Defendant Eli knew that investor money did not go towards the plans Defendants touted and for development of the KWE platform and for the increased value of INDXcoin. Rather, investment proceeds went directly to Defendants Eli and Kaitlyn, or was used for their own personal benefit, including jewelry, handbags and lavish vacations and other expenses.

12. Defendants made “sales” of at least \$3.2 million. No less than \$1.3 million, or 39% of the investment funds paid in, have gone directly to Defendant Eli and Kaitlyn, or has been used for their own personal benefit.

13. Defendants failed to provide full, fair disclosures of material facts to their investors, including: 1) that Defendants lacked liquidity to support the amount of INDXcoin then-outstanding and that INDXcoin was not “pegged” to a certain value but was instead backed by essentially no assets whatsoever; 2) that the KWE was the sole platform upon which anyone could buy, sell, or trade INDXcoin and was subject to a run; 3) that an “index coin” that is backed by no pool of assets to mimic the index has actually no value; 4) that proceeds were not used to develop INDXcoin and the KWE, as promised; 5) that Defendants Eli and Kaitlyn took substantial sums out of investor proceeds for personal expenses like luxury handbags, cosmetic dentistry, snowmobile adventures, an au pair, home renovations, luxury vacations and more; 6) that Defendants paid sellers commissions, including commissions to Defendant Eli; 7) that Defendants paid to have the project audited for the coin and exchange and the auditor determined the project unsafe, that the technical

documentation failed and that the code was so inconsistent with standard code that it could not be fully evaluated; 8) that Defendants were not licensed to sell securities and were relying on their marketing experience and had no financial or cryptocurrency experience; and 9) that Defendants had not registered the offering of securities with any state or federal regulators, despite being required to do so.

14. Defendants also made material misstatements regarding the investments, including: 1) that the investment were safe and not risky when in fact the investments were backed with no assets and had no market, making it extremely risky; 2) that the coins were highly sought after and offered an unparalleled risk-to-return ratio, making it a “coveted” coin, when in fact there was no market or interest in the coins beyond the few actual investors; 3) that the coins represented an index-based cryptocurrency that tracks and indexes the value of the top one hundred cryptocurrencies. An index-based investment is understood to mean a portfolio of investments meant to mimic the performance of an index. The defendants represented their coins as an index of these other “top” cryptocurrencies and used technical sounding terms to confuse the investors and obfuscate the extreme risk of investing in an “index” that has no assets and no other coins in the portfolio to mimic the index; 4) that the INDX coins were valued at between \$10-\$12 when in fact they were sold for \$1.50 or given away for free in many instances and were illiquid and essentially had no buyers on the exchange; 5) that “\$200 million” had been sold and distributed when in fact defendants had given many coins away for free or at deep discount and those coins were essentially worthless.

15. Defendants also made the material misstatements that 6) an investors’ funds would go towards development of the INDXcoin and the KWE; 7) that INDXcoin and KWE had been analyzed and approved by a third-party auditor without also presenting that auditor’s true findings; 8) that Defendants would contribute a percentage of investors’ funds to charitable endeavors; 9) that INDXcoin was a “utility coin” not subject to state or federal regulation; and 10) that an investment in INDXcoin was safe and safer than other currencies.

16. Defendants, unless restrained and enjoined from doing so, will continue to violate the Colorado Security Act by engaging in the act of unlicensed sales of securities and making material misrepresentations and failing to make material disclosure to investors while doing so.

DEFENDANTS

17. Defendant Eligio Regalado is an adult male whose last known address is 2355 S. Eudora St., Denver, Colorado 80222.¹

¹ Defendant Eli owns a residential property located at 2700 S. Oak St., Lakewood, Colorado 80227. Defendant Kaitlyn was the sole grantee of their primary residence, 2355 S. Eudora Street.

18. Defendant Kaitlyn Regalado is an adult female whose last known address is 2355 S. Eudora St., Denver, Colorado 80222.

19. Defendant INDXcoin, LLC is a Wyoming limited liability company. Its principal office address is listed as 30 N. Gould Street, Suite N, Sheridan, Wyoming 82801. Its registered agent is Northwest Registered Agent Service, Inc. Its operating agreement states its Members and Managers are Defendant Eli Regalado, through Graceded Marketing, LLC and Mark Mergo, through JMCCCC Holdings LLC. Defendant INDXcoin is not registered to do business in Colorado.

20. Defendant Kingdom Wealth Exchange Inc. is an Ontario Business Corporation registered in Thornhill, Ontario, Canada. It was incorporated on September 28, 2022. It is not registered to do business in Colorado.

21. Defendant Kingdom Wealth Exchange LLC is a Wyoming limited liability company currently in good standing. Its registered agent is Northwest Registered Agent Service, Inc., with a principal office address of 30 N. Gould Street, Suite N, Sheridan, Wyoming 82801. It is not registered to do business in Colorado.

22. Defendant Grace Led Marketing is the trade name of Grade Led Marketers, a limited liability company formed on August 5, 2013. Its registration expired on March 1, 2022. Its registered agent is Defendant Eli. Its principal office address is 2355 S. Eudora St., Denver, Colorado 80222. Until October 2020, Grace Led Marketers was known as “Mad Hatter Agency.”

RELIEF DEFENDANTS

23. Relief Defendant Victorious Grace Church is a nonprofit corporation in good standing. It was formed on December 30, 2020. Its registered agent is Defendant Eli. Its principal office address is 2355 S. Eudora St., Denver, Colorado 80222. It has received hundreds of thousands of dollars from Defendants as “contributions.”

24. Relief Defendant Kingdom Wealth Ventures is a limited liability company in good standing registered in Wyoming. Its registered agent is Northwest Registered Agent Service, Inc., with a principal office address of 30 N. Gould Street, Ste. N, Sheridan, Wyoming 82801. It has received funds from the account in which Defendants deposited investments.

25. Relief Defendant EKR Holdings LLC is a limited liability company in good standing registered in Wyoming. Its registered agent is Northwest Registered Agent Service, Inc., with a principal office address of 30 N. Gould Street, Ste. N, Sheridan, Wyoming 82801. It has received funds from the account in which Defendants deposited investments.

GENERAL ALLEGATIONS

I. Defendants offered “securities” that are subject to the Colorado Security Act’s (“CSA”) anti-fraud provisions.

26. The investments offered by Defendants are securities as defined under § 11-51-201(17), C.R.S. in that they are at least an “investment contract,” or, “in general, any interest or instrument commonly known as a ‘security.’”

27. Colorado courts, when considering whether an investment vehicle is an “investment contract” and therefore a security, have adopted the test first announced in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946), as modified by *United Housing Foundation, Inc. v. Forman*, 421 U.S. 837 (1975). See *Lowery v. Ford Hill Inv. Co.*, 556 P.2d 1201, 1205 (Colo. 1976); *Rome v. HEI Resources, Inc.*, 411 P.3d 851, 856 (Colo. App. 2014).

28. An “investment contract” under Colorado law is: (1) a contract, transaction, or scheme whereby a person invests his or her money (2) in a common enterprise, (3) is led to expect profits derived from the entrepreneurial or managerial efforts of others. See *HEI Resources*, 411 P.3d at 856-57 (citations omitted). This definition “embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits.” *Id.* at 856 (citing *Howey*, 328 U.S. at 299); see also *Lowery v. Ford Hill Inv. Co.*, 556 P.2d 1201, 1205 (Colo. 1976) (holding that the expansive language in the definition of a “security” under the federal securities act “indicates a legislative intent to provide the flexibility needed to regulate the various schemes devised by those who seek the use of the money of others with the lure of profits”).

29. Whether a cryptocurrency is a security turns on the nature of the transaction. Like in *Howey* where the Court considered the manner in which orange groves were marketed and sold to determine that the investment was a security, the test is not about the underlying asset – not orange groves in *Howey*, not cryptocurrencies here.

30. In a similar case currently pending in the United States District Court for the Southern District of New York, a court has recently decided that, as a matter of law, the undisputed evidence established that an offering of a cryptocurrency was an investment contract subject to regulation as a security. In *SEC v. Terraform Labs Pte. Ltd and Kwon*, 2023 WL 8944860 (S.D.N.Y. December 28, 2023), the court considered evidence on how a cryptocurrency coin, described by its founder as developed with the “Anchor Protocol,” which would generate “by far the highest stablecoin yield in the market,” was transacted and marketed. The court concluded that the offering was a security. The coin, “in combination with the Anchor Protocol constituted an investment contract.” *Id.* at *13-14. It was clear from the undisputed

evidence that the Terraform Defendants had made numerous assertions that an investor would make money due to the efforts of Terraform's work. *Id.* at *14-15. The court concluded that "defendants cannot meaningfully dispute that they led holders of [the coin] to expect profit from a common enterprise based upon Terraform's efforts to develop, maintain, and grow the [Protocol] – in other words, that [the coin] passes the *Howey* test with flying colors." *Id.* at *15.

31. Here, in reviewing the manner in which the INDX coins are marketed and transacted, Defendants are likewise offering a coin that passes the *Howey* test.

32. Turning to the first factor of the *Howey* test (investment), it is unquestionably true that Defendants entered into contracts "whereby a person invest[ed] his or her money." *Lawrence*, 487 P.3d at 1071.

33. The contracts at issue here are called "Agreement for the Sale of INDXcoin," by and between "Eli Regalado with Grade Led Marketing" (the "Seller") and the individual entering into the contract (the "Purchaser"). The Sales Agreement states that the Purchaser is purchasing a certain dollar amount of INDXcoin from the Seller, who will then sell and transfer to the Purchaser a total number of INDXcoin at a certain price per coin. Then, the Purchaser is given instructions on how to Venmo money to account "@Eli-Regalado" or, if the amount invested is greater than \$5,000, to wire the money to Grace Led Marketing's bank account.²

34. The Division subpoenaed bank records from multiple financial institutions where Defendants banked. The documents received show investors' money entering into the Grace Led Marketing account, whether from Venmo transfers or from direct wires.

35. Next, turning to the second factor of *Howey* (common enterprise), the product Defendants marketed were investments in a common enterprise. *See Lawrence*, 487 P.3d at 1071. A common enterprise can be proven through the existence of horizontal or vertical commonality. "The vertical relationship approach defines a common enterprise as one in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment or of third parties." *SEC v. Int'l Min. Exchange, Inc.*, 515 F.Supp. 1062, 1067 (D. Colo. 1981). "A horizontal relationship is between an individual investor and the pool of other investors," which is satisfied where there exists a "pool of capital to be used in furthering a common enterprise by dividing the needed base into units for individual sales." *Id.*

36. Here, a common enterprise is present, both horizontally and vertically. Defendants' investors had no control whatsoever in the rise or fall of their

² Grace Led Marketing's sole signatories are Defendant Eli and Defendant Kaitlyn.

investments; rather, investors entirely depended upon the efforts of third parties, here being Defendants Eli and Kaitlyn. Additionally, it is true that the success of Defendants' scheme was dependent upon a sufficient number of individual investors "pooling" their capital in order for the endeavor to succeed.

37. The third factor of the *Howey* test, whether an investor is "led to expect profits solely from the efforts of the promoter or a third party," *Lawrence*, 847 P.3d at 1071, is determined by inquiring "whether the efforts made by those other than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise." *HEI*, 411 P.3d at 857.

38. Here, investors were unquestionably led to expect profits derived by the efforts of the promoter. While Defendants in some instances describe INDXcoin as a "utility coin," or "store of value," the bulk of Defendants' marketing continues on, describing INDXcoin as a "store of value with a higher potential of appreciation than stable coins while offering a similar risk profile." Defendants admit that the true benefit of an investment in INDXcoin is not that it is a "store of value," but the "higher potential of appreciation."

39. The Defendants marketed the appreciation based on Defendants promises to engage developers, to get the coins listed on exchanges, to develop their own exchange, to provide returns based on an algorithm that would somehow be linked to the highest value cryptocurrencies in the world.

40. For example, Defendants issued a "Whitepaper," which in the cryptocurrency world is considered the definitive plan that a company presents to the general public and investors. Defendants' Whitepaper stated that the INDX "team" saw the "opportunity" to create their own kind of cryptocurrency that differed from others. They marketed the INDX blockchain as "proprietary and innovative." In other words, the INDX blockchain was created and controlled only by Defendants and that uniqueness and exclusivity would "ensure ... **maximizing growth potential.**"

41. The Whitepaper further states Defendants designed the "network architecture," and "engineered [the INDX coin] to grow as the cryptocurrency market explodes by benchmarking the world's top 100 cryptocurrencies, allowing users to capitalize on growth while mitigating risk."

42. Defendants were specific about the "opportunities" they would seize. For example, Defendants' Whitepaper contemplates that INDXcoin could be traded on open market exchanges, not just KWE:

- a. “Future projects scheduled by the INDX team include developing a revolutionary proof of price algorithm. This will solidify INDXcoin’s global value, acting as the first line of defense against exchange-specific price volatility if a large portfolio holding INDXcoin is liquidated on an exchange.”
- b. “Should the foundation reserve run low on coins, ore can be added by simply buying them off the various open market exchanges.”

43. Defendants’ Whitepaper also contemplated that INDXcoin could be used to make purchases on platforms other than the Kingdom Wealth Exchange:

- a. Loyalty program will “Allow businesses to accept INDXcoin as payment.”
- b. “The INDX team saw ... an opportunity to create a stable source of value that holders and businesses alike could trust for commercial transactions.”

44. Defendants also presented their plan to launch INDXcoin on non-KWE exchanges in posts on the KWE Community Forum. Defendant Eli wrote an update on July 7, 2021 that his tasks included getting ready to “get on an exchange,” to “list INDXcoin on Coinmarketcap.com [and] CoinGecko.com,” to “list INDXcoin on exchange(s),” and to “setup liquidity pools with exchange(s).”

45. On the main webpage for INDXcoin, Defendants also presented “Our Roadmap” that stated that INDXcoin was “projected to launch on the [KWE] out of Canada” in April 2023, and then that INDXcoin would “expand[] to other exchanges (given INDXcoin is listed & sold at the posted index rate only)” in the third quarter of 2023.

46. In their marketing materials and in presentations, Defendants led investors to expect profits based on Defendants’ managerial efforts. The investors had no input concerning the control or the operations of the INDXcoin and KWE scheme. All profits were to come from the managerial efforts of Defendants, who were responsible for the management of the products, the selection of the investors, and direction of the investments.

47. In terms of the third prong of the *Howey* test, Defendants aggressively marketed the coins as investments that they would, through their efforts, make wildly profitable and risk free for their investors.

48. Because an investment in Defendants’ scheme meets the three-factored *Howey* test for whether an “investment contract” is a security, Defendants’ scheme constitutes a security and is subject to the anti-fraud provisions of the CSA.

II. How the scheme started: Defendants were inspired to start a new cryptocurrency scheme and relied primarily on their marketing skills and their church affiliations to raise funds.

49. Defendant Eli is the pastor of Victorious Grace Church. According to the Victorious Grace Church website, Defendant Eli was called to the ministry and to become a pastor twenty years ago while serving a sentence in prison. He is listed as the “Senior Pastor” of the Church. The Church does not have a physical location; rather, it operates solely via broadcast on social media channels, like YouTube and Facebook.

50. Defendant Kaitlyn is described on the Victorious Grace Church as an “Ordained Market Place Minister.”

51. Both Defendants Eli and Kaitlyn have many years of experience in the marketing industry. Through Defendant Grace Led Marketing, Defendants Eli and Kaitlyn assisted companies with marketing needs and fundraising through crowdfunding websites like Indiegogo and Kickstarter. Defendant Grace Led Marketing’s website is currently disabled and Defendants allowed its registration with the Colorado Secretary of State lapse. Defendants stated that as of September 2021, Grace Led Marketing “stopped taking crowdfunding and marketing clients.” See SDT – Grace Led Marketing.

52. Relying on their marketing experience and in hopes of capitalizing on the lure of cryptocurrencies, Defendants Eli and Kaitlyn decided to start a cryptocurrency scheme, which was comprised of INDXcoin (a cryptocurrency) and the KWE (the platform upon which INDXcoin would be sold and traded).

53. According to Defendant Eli, the inspiration was divine. In his August 22, 2022 update video, he stated: “It was last October [20]21, that the Lord brought this cryptocurrency to me. He said ‘Take this to my people for a wealth transfer.’ It has been confirmed a hundred times since then.”

54. Defendants Eli and Kaitlyn recruited the help of an accountant, Mark Mergo (“Mergo”), to join as a manager of INDXcoin and serve as its Chief Financial Officer. Pursuant to the INDXcoin Operating Agreement, Grace Led Marketing is named as the “Record Holder/Affiliated Entity” of Defendant Eli’s 95,000 “Investor Units” (which amount to 95% of all “Investor Units”). Pursuant to the Operating Agreement, Mergo possesses the remaining 5,000 units.

55. The “INDXcoin, as described by Defendants in the Whitepaper, is purportedly an “index-based cryptocurrency that tracks and indexes the value of the top one hundred cryptocurrencies (ranked by market cap) through an AI-based data procurement mechanism sourced from multiple data points to ensure accuracy.” Defendants stated that “INDXcoin aims to become a top ten cryptocurrency and [is] highly sought after, offering itself as a store of value with a higher potential of

appreciation than stablecoins while offering a similar risk profile.” Defendants continued: “INDXcoin provides holders with an unparalleled risk-to-return ratio, making it a coveted cryptocurrency to both new and experienced crypto enthusiasts.”

56. Defendants persuaded investors that the INDXcoin was uniquely situated to provide its holders with big returns. Defendants explained that INDXcoin was designed to be “a less volatile and risky coin to hold...with less exposure to the risks associated with single coin offerings.” Defendants said INDXcoin was “immune to investors ‘pumping and dumping’ cryptocurrency through a coordinated liquidation event,” as the value of the INDXcoin was pegged to “the overall momentum of the crypto market.” Defendants’ future plans would only provide more assurance to coin holders, acting to “solidify INDXcoin’s global value, acting as the first line of defense against exchange-specific price volatility if a large portfolio holding INDXcoin is liquidated on an exchange.”

57. Like other cryptocurrencies, the INDXcoin needed a platform upon which it could be released and traded, *i.e.*, an “exchange.” Defendant Eli, in a live question and answer event posted on YouTube on November 19, 2022, described the Kingdom Wealth Exchange as the place where INDXcoin holders could turn their INDXcoin to USD, elaborating that “that’s really the whole purpose and the point of the exchange. The exchange goes live, that allows you to take your cryptocurrency and sell cryptocurrency and turn it into US dollars, or you can switch it out for other cryptocurrencies at that point.” Defendants advertised that INDXcoin would also be tradeable on other cryptocurrency exchanges.

a. Affinity Fraud: Defendants sold securities leveraging a network of Christian communities; used biblical citations and faith in God to create legitimacy; promised huge profits, guaranteed returns.

58. Once Defendants could articulate what INDXcoin and the KWE were, Defendants began marketing their scheme to the community they knew best: the Christian community.

59. Affinity fraud is when a purported member of a group exploits the trust, network and bonds of that group to defraud other members. Here, Defendants were members and self-purported leaders of a Christian community; they exploited that relationship to defraud members of their own community and that of other pastors’ churches.

60. Defendant Eli leveraged the potential investors’ faith. He stated that their investments’ success was guaranteed by God. He promised that what they “sowed” into INDXcoin would be “reaped” with returns of up to one hundred times what was invested, utilizing verses from the Bible to attempt to convince investors of the soundness of an investment in INDXcoin. He posted videos and quotes assuring

investors that the lack of progress was nothing to worry about; rather, he said, the investors had to wait for God's plan to unfold.

61. Defendant Eli posted a video on August 22, 2022, in which he advised his investors to pay close attention to the Biblical teachings he posted on the KWE Community Forum, because God had told him to "prepare my people" for the onslaught of wealth the investors would soon accumulate. "It is coming, people," Defendant Eli said. "Part of the making way for His people is to really train them up and teach them how finances work in the Kingdom because many of you very soon are going to have more money than you've ever had in your life by participating in this crypto and others."

62. As they continued to develop the scheme, Defendant Eli posted on the KWE Community Forum that "God remind[ed] Eli and Kaitlyn that it is impossible to mess this up." Defendant Eli closed the post by urging his "INDXcoin family" to "join us in simply believing that what the Lord has started, He will finish."

63. Any questions posed by investors regarding the progress of the INDXcoin and KWE project in the KWE Community Forum were met with a swift response from Defendants Eli and Kaitlyn: investors should have faith in God, and that the trust would be financially rewarded.

III. In the course of marketing their scheme, Defendants misrepresented and omitted material facts regarding INDXcoin and the KWE.

64. Despite urging their investors to simply trust them in developing the INDXcoin and the KWE, Defendants knew that, in reality, the project was destined to fail because of their own actions. In marketing the project, Defendants made countless misrepresentations and omitted to disclose material facts that their investors deserved to know.

65. Defendants completely omitted to disclose the financial mechanics of how INDXcoin would work. While Defendants claimed in their marketing materials that INDXcoin was "pegged" to an index of cryptocurrencies, Defendants absolutely did not "peg" INDXcoin to anything. Rather, INDXcoin was essentially valueless and available only on one exchange, which Defendants would periodically shut down to avoid a disastrous run on the bank. Defendants did not disclose that INDXcoin was backed by essentially no assets whatsoever, making an investment highly risky. Had Defendants revealed the truth, investors would know there was no market for the investments, that the investments were entirely illiquid, and that the project did not align with what God purportedly told Defendant Eli.

66. Defendants also omitted to disclose that the lion's share of the investors' funds went not to developing INDXcoin and the KWE, but directly into Defendant Eli

and Kaitlyn’s pockets. Defendants Eli and Kaitlyn would take substantial sums to spend on themselves for things like luxury items and expensive vacations.

67. Defendants also failed to disclose that substantial commissions were paid to themselves and others.

68. Further, in addition to misrepresenting the financial mechanics of the project, Defendants misrepresented the technical mechanics of the project. To tout the safety of an investment, Defendants told investors that the project had been audited by a trusted third party. But Defendants omitted that the auditor had determined that Defendants’ project was unsafe and that Defendants had submitted a mess of code.

69. Defendants also misrepresented to investors that INDXcoin was a “utility coin” that was exempt from federal or state regulation. In reality, Defendants admitted, they were warned by attorneys that their proposal constituted an offering of securities. Defendants simply lied that the coin was a “utility coin.”

70. Defendants also misrepresented to investors the reasons why their investment was not progressing. In October 2023, Defendant Eli announced on the KWE Community Forum that the KWE was shutting down. He never revealed to his investors why: because INDXcoin was backed by nothing due to his own actions, and that if the KWE was operational, the project would almost certainly immediately collapse.

71. Defendants’ misrepresentations and omissions were outlandish and outrageous. Some of the more egregious examples will be addressed as follows.

b. Defendants misrepresented the financial mechanics of their project, and omitted to disclose that the project was almost entirely illiquid.

72. Rather than ensuring that the INDXcoin was, in fact, pegged to an index value, Defendants distributed INDXcoin to anyone who would buy units for approximately \$1.50 per “coin,” with no regard to how much liquidity Defendants had in reserves to back INDXcoin. Some individuals were given INDXcoin for free; Defendants “airdropped” INDXcoin into accounts of people who signed up to receive INDXcoin for free. Despite the truth of the matter, before launching INDXcoin officially on the KWE, Defendant Eli contended in a video, over \$200 million worth of INDXcoin had already been sold or distributed.

73. Defendants also failed to reveal to investors that the Kingdom Wealth Exchange was the sole platform upon which anyone could buy, sell, or trade INDXcoin. Defendants also failed to alert investors that KWE would be forced to be shut down if Defendants wanted to avoid a “run on the bank” when investors realized

that the value of INDXcoin was in a free fall. At no point has INDXcoin been sold or traded on any other exchange.

74. Because INDXcoin is purportedly pegged to the value of the average of the top one hundred cryptocurrencies, this means, at minimum, INDXcoin needed to be backed by assets in the amount of INDXcoin that were distributed, multiplied by an average of value of the top one hundred cryptocurrencies.

75. Upon information and belief, investors were told by Defendants and sellers on Defendants' behalf that the value of INDXcoin was no less than \$10 per coin. Investors' posts on the KWE Community Forum show a widespread belief that INDXcoin was worth between \$10 and \$12.50 per unit, if it were able to be traded. Also Defendants stated in their Whitepaper that 30 million INDXcoin were in circulation. Even using Defendants' lowest price of \$10 times distributed coins of 30 million, Defendants' should have had \$300 million worth of assets backing their coin.

76. However, at most, Defendants had \$30,000.00 in what they termed "liquidity" in update videos. Defendants' sales tactics and lies about valuation, coupled with the lack of assets, all but ensured that INDXcoin was valueless.

c. Defendants omitted to disclose that an astounding amount of investor proceeds would go directly into Defendant Eli and Kaitlyn's pockets.

77. Each and every Sales Agreement entered into by investors for INDXcoin is "by and between Eli Regalado with Grace Led Marketing," identified as the "seller," and the identified "Purchaser." The "Purchaser" buys a certain amount of INDXcoin (in dollar amount), for which the exchange rate was typically \$1.50 per INDXcoin.

78. Wiring instructions were provided directly in the Sales Agreement that directed the investor to wire money to the bank account for "Grace Led Marketing" for payments over \$5,000. Grace Led Marketing is, upon information and belief, no longer in existence, but it was solely owned and controlled by Defendants Eli and Kaitlyn.

79. For payments less than \$5,000, the investor was directed to send the money to Defendant Eli directly via cash transfer application/platform Venmo.

80. In response to the Commissioner's subpoena for the bank records for INDXcoin and KWE, Defendants provided the ledgers and profit and loss statements of Grace Led Marketers. Defendants admitted that "[t]here is no bank (sic) for INDXcoin or [KWE] so all activity is included in the Graced (sic) QuickBooks & ledgers."

81. All investment proceeds went into Defendant Grace Led Marketing's account or to Defendant Eli directly. There is no evidence that Defendants ever

opened separate accounts for Defendants INDXcoin or KWE or any other entity associated with them.

82. As of July 2023³, Defendants made “sales” of nearly \$3.4 million (Sales 2022: \$1,598,762.68 and Sales through July 2023: \$1,794,479.47).

83. In total, per the Grace Led Marketers bank statements from January 1, 2022 through July 2023, Defendants misappropriated no less than \$1,266,256.42. This total is comprised as follows:

- a. Transfers to Defendant Eli’s personal account (\$476,453.55),
- b. Payments directly to Defendants Eli (\$102,999) and Kaitlyn (\$43,778.93),
- c. Personal credit cards (Kaitlyn-\$249,329.92, Eli- \$4,469.20), and
- d. Personal expenditures (\$389,225.82).

The personal expenditures included tens of thousands worth of jewelry, luxury handbags, cosmetic dentistry, and clothes; thousands toward boat rentals and snowmobile adventures; an au pair; and payments to contractors and suppliers for renovations to the Regalado home.

84. Defendants’ spending towards ostensibly business-related expenses of meals and entertainment and travel expenses was lavish and unquestionably could not provide value to an investor.

85. In 2022, Defendants spent approximately \$18,000 for meals and \$60,000 in “travel and entertainment expenses.”

~~86.~~ In 2023, Defendants spent over \$33,000 on travel and entertainment expenses, and nearly \$20,000 in meals.

87. Defendants also used tens of thousands of investors’ funds to finance the purchase of a Range Rover. The memo line for the check used to pay for the Range Rover states: “Kait car.” The total auto expenditures were as noted as \$67,969.69 which included loan payments on Defendant Eli’s Ford F-150 truck.

88. But most gallingly, Defendants transferred hundreds of thousands of dollars to their own church. In 2022, Defendants made transfers of \$127,188.64 to

³ Defendants’ subpoena response included the Grace Led Marketing ledger through August 2023. Defendants did not produce bank records, but the Division obtained bank records through July 2023 through subpoena. The figures used in this Complaint are based upon Defendants’ bank records, rather than Defendant’s ledger. Bank records show that all investor funds were deposited in the Grace Led Marketers account ending in 5451.

Victorious Grace Church. In 2023, Defendants made transfers of \$163,327.96 to Victorious Grace Church. In total, Defendants transferred \$290,516.60 to an entity for which they are the sole beneficiaries.

89. Upon information and belief, during the time period in which Defendants made sales of INDXcoin, there was no physical location for Victorious Grace Church. Rather, Victorious Grace Church's only services took place online. Defendants made no reference to any donations made with the money paid to Victorious Grace Church. Upon information and belief, the money solely went to Defendants Eli and Kaitlyn.

90. Defendants misled investors into thinking that their business plan was influenced and created by God. Defendants told investors that they would "tithe" and "sow" in causes that helped widows and orphans. Defendants used their investors' faith to induce them into believing that they were investing in a company that aligned with their values *and* would produce handsome returns.

91. But the payments to "widows and orphans" were primarily to the Regalados. Defendants' ledgers reflect that they made "contributions" to other churches and ministries as well, giving approximately \$245,000.00 through July 2023, but the lion's share went to Victorious Grace Church.

92. In sum, Defendants appear to have paid or compensated themselves no less than \$1.272 million. The actual figure is likely much more, as Defendants did not include in their response to the Division's subpoena any substantiation of purportedly business-related charges.

93. In sum, Defendants have ensured that the investors will never recoup their funds because they took the investment money for their own benefit.

d. Defendants failed to disclose that investor proceeds would be used to pay commissions – including to Defendant Eli.

94. Defendants paid commission to individuals who sold INDXcoin on their behalf, including to Defendant Eli and, upon information and belief, to Defendant Kaitlyn. This material fact was never disclosed to investors.

95. The Defendants paid at least \$374,075.82 in commissions for the period of January 1, 2022 through July 31, 2023. On May 27, 2022, Defendants paid Jonathan Daugherty⁴ a \$28,000 commission, on top of another commission paid to him a week prior of \$2,000. On May 27, 2022, Defendants also paid Jesse Bucholz⁵

⁴ Upon information and belief, Jonathan Daugherty is affiliated with Victory Church in Tulsa, Oklahoma.

⁵ Upon information and belief, Jesse Buchholz is the CEO of Abide Leadership, a theologically-based mentoring program.

a \$16,666.66 commission. On August 30, 2022, Defendants paid Sheri Erbaugh⁶ a “referral commission” of \$3,000.00. Additionally, Defendants paid Blacktribe Corp.⁷ a commission of \$20,400.00 on November 17, 2022.

96. There are dozens more payments made in the category of “subcontracted expenses” in 2022 that are not marked “commission,” but are direct payments to individuals or entities via bank transfer, Zelle, or Venmo, including payments to these same individuals that are simply not marked “commission.”

97. Many of these subcontracted expenses that are not specifically marked directly benefit Defendant Eli. Some also benefit Defendant Kaitlyn and are coded as payments to “Greensky,” an entity that, upon information and belief, is controlled by Defendant Kaitlyn.

e. Defendants misrepresented the safety of its technology, despite being warned its code and platform were a disaster.

98. Defendants Eli and Kaitlyn were skilled, experienced marketers who had raised millions of dollars for others. They were not, however, experienced coders. Despite numerous warnings from their third-party auditor, Defendants proceeded with plans to sell securities to investors with full knowledge that their technology was in danger of breach, hacking, and total failure.

99. Defendants touted the safety of INDXcoin and the KWE by telling investors that the coin and the exchange had undergone a rigorous audit.

100. While it was true that Defendants’ products had been audited, Defendants failed to inform investors that the auditor, Hacken, told Defendants their products’ “security score” was zero out of ten. Additionally, wrote Hacken, “[c]onsidering all metrics, the total score of the report is 0 out of 10.”

101. To explain its findings, Hacken addresses numerous specific issues, such as “coinbase inflation.” According to the Hacken report, “[w]hen proof-of-stake mining is enabled, value of reward in coinbase is not validated which allows to generate any number of new coins...In practice, it allows to generate an infinite number of new coins.”

102. The Hacken report also remarked that Defendants had failed to provide “technical documentation ... that specifically outlines their modifications to the codebase.” Therefore, Hacken could not even adequately evaluate Defendants’ technology. To the extent that Hacken could evaluate Defendants’ code, Hacken highlighted that the code submitted by Defendants contained changes that “did not

⁶ Upon information and belief, Sheri Erbaugh is a pastor at Authentic Life Church in Littleton, Colorado.

⁷ Upon information and belief, Blacktribe Corp. offers “prophetic and spiritual coaching” in Colorado Springs, Colorado.

align with the standards upheld by Bitcoin Core⁸,” and contained transcription errors that lead to “numerous critical issues.”

103. However, upon receiving the Hacken Report, Defendants posted in the KWE Community Forum the “BREAKING NEWS” that “INDXcoin has been proofed by Hacken! The toughest, most legit crypto audit in the world! And before we launch! We are so far ahead of 90% of the cryptos that have existed for years!”

104. Nowhere in the post did Defendants disclose that the results of the Hacken Report reflected that Defendants’ products were catastrophically technologically deficient.

105. Based upon Hacken’s findings, Defendants resubmitted their products for analysis. Even with modifications, Defendants still had failed to provide adequate documentation for their code. And rather than fixing problems with code quality highlighted by Hacken, Hacken wrote that many of the tests highlighted in the preliminary report as not working “were just removed, significantly decreasing high code quality standards inherited from Bitcoin Core.” Additionally, Hacken stated that the removal of some of Bitcoin Core’s safety mechanisms made other mechanisms of the code “no longer secure to use.”

106. Even with Defendants’ modifications to their code based upon Hacken’s audit, Hacken determined that Defendants’ security score was only six out of ten and the total score of the report, “considering all metrics,” was “5.4 out of 10.”

107. Defendants continued to market their products to investors through both Hacken audits and never provided the results of those audits to investors.

f. Defendants misrepresented that INDXcoin was a “utility coin,” exempt from regulatory requirements.

108. Like with technological experience, Defendants lacked a background in the legal requirements for the registration and sale of securities. Despite numerous warnings from lawyers, which Defendant Eli admitted he received, Defendants proceeded with their sales and made the misrepresentation that the INDXcoin scheme was no subject to federal or state regulation.

109. Defendants’ actions show that Defendants were aware of the risk they ran if they refused to adhere to securities regulations and requirements. Defendants shopped around for a law firm that would tell them that INDXcoin was a “utility coin” because they believed a utility coin was exempt from regulation.

⁸ Bitcoin Core is the underlying code upon which INDXcoin is based. Upon information and belief, INDXcoin’s code uses Bitcoin Core with some modifications to individualize it from other cryptocurrencies.

110. On the KWE Community Forum, Defendant Eli posted on May 24, 2023, that he “[w]asted a lot of time trying to work with the world’s experts,” who told him that “what Eli and Kaitlyn are doing is a security, but God says, ‘No, it’s a utility coin.’” Then, according to the post, on August 15, 2022, “Yet another attorney says what Eli and Kaitlyn are doing is illegal and impossible and INDXcoin is a security.” Then, “Eli and Kaitlyn retain Benemerito Law – They say they’re willing to work with INDXcoin to define a utility strategy.”

111. According to the post, Defendant Eli then followed God’s direction and received a “download” for the Kingdom Wealth Community, “a private community that teaches the principles of the Kingdom and uses INDXcoin as its native currency to buy and sell goods and services.” Then, Defendant Eli “present[ed] the utility strategy to the attorneys. They review and sign off on it and draft a letter of legal opinion stating INDXcoin is not a security but a utility coin!”

112. Perhaps the referenced “utility strategy” would have worked to exempt Defendants from securities laws and regulations if they had, in fact, developed a “private community” that used “INDXcoin as its native currency to buy and sell goods and services.” If this is what Defendant Eli allegedly “present[ed] ... to the attorneys” who “sign[ed] off on it,” Defendant Eli seriously misled and misrepresented other facets of his scheme that were presented in marketing materials to investors.

113. In marketing materials presented to investors, such as the Whitepaper, Defendants stated that INDXcoin would be traded on other exchanges. Defendants also asserted that INDXcoin could be used to make purchases on non-KWE platforms.

114. Defendants’ assertions were echoed on their website, where Defendant Eli posted that his “tasks” included listing INDXcoin on “exchange(s),” including two identified by name. Defendants also posted their “roadmap” on their website, touting INDXcoin’s expansion to other exchanges in the third quarter of 2023.

115. The reality of Defendants’ marketing made it clear that Defendants were selling securities, not a “utility coin.”

116. Additionally, Defendants knew that they were not selling securities through a licensed broker-dealer or sales representative, as is required by Colorado law. No Defendant is licensed as a sales representative and no Defendant is licensed as a broker-dealer.

117. Defendants also knew that they were offering unregistered securities. Defendants did not register, or file notices of exemption from registration, prior to

offering the securities they sold to investors. Defendants also did not provide notification to the Division of Securities prior to the offering.⁹

g. Defendants misled investors as to why KWE had to be shut down.

118. Defendants knew precisely why their project had failed: the INDXcoin was entirely illiquid and totally without a market. Indeed, Defendants, by the end of July 2023, had less than \$10,000 in the bank to “back” hundreds of millions of dollars worth of INDXcoin and to keep the KWE running.

119. Then, on November 1, 2023, Defendants announced to the Kingdom Wealth Community in a video posted by Defendant Eli that “the INDXcoin network is down for the time being,” and that the “Kingdom Wealth Exchange is down for the time being.” At the time Defendants posted the video, they also posted a full transcript for their “non-English Speaking Community Members.”¹⁰

120. In the video, Defendant Eli said “...our network has been shut down. We did not have enough stakers to get this to keep it up and running. We didn’t have the finances to keep the internal servers running. So we had to make a tough decision on actually stopping the network.” Defendant Eli continued to explain that “what that means is the network activities just stopped so no one can send it or receive coin at this time.”

121. He assured investors that “when those finances do come in and when things turn, which they will, all we need to do is just basically...load the backup and then get things moving as normal.”

122. Defendant Eli claimed on the video that he was “literally at the doorstep of poverty right now. We’re pushing out payments on our mortgage, vehicle, et cetera. So it’s just been crazy. It doesn’t make any sense.”

123. Defendant further told investors that God was telling him to tell investors to “[s]tay where you’re at. Stay in INDXcoins. Stay with where I’m telling you to go. I’m going to make a way.” He continued: “just take that word as gospel truth and execute on that word and not worry about how the money’s going to happen. I really believe you’re going to see a miracle in very short order.” Defendant Eli read passages from the Bible to explain to the investors how they would find success and abundance through sticking with INDXcoin.

⁹ Even if it were true that Defendants’ offering of securities was of a “utility coin,” like Defendants stated, Defendants would still have had to file notices of exemption with the Division, and the Securities & Exchange Commission. No such notices were ever filed.

¹⁰ Defendants later removed the transcript from the KWE Community Forum. Defendants have also removed numerous complaints from investors from the KWE Community Forum.

124. Defendant Eli then informed investors that God wanted him to build up the “utility” aspect of the INDXcoin and the KWE, which, according to Defendant Eli, was the “utility” of Defendant Eli’s pastoral teachings. He stated that God was “going to use the money to bring people in and find grace and encounter him. And the Lord says, build the utility, have it ready. I’m going to bring the money. So that’s what we’re doing.” He concluded: “I hope this update served you well. I hope it gives you hope and inspiration of where God is taking us.”

125. But Defendants did not disclose in the video – or any other forum or documentation, for that matter – that the lack of funding for the company was because Defendants had bled all funding dry with extravagant personal spending and by failing to maintain any liquid assets.

126. This was not the first time Defendants had misled investors about the KWE. On the KWE Community Forum, Defendant Eli responded to an investor’s screenshot of the KWE webpage, showing it was inactive, by telling the investor: “We have to rebuild the exchange. The tech vendor we had working on it was not reliable.”

127. Prior to shutting down the KWE, Defendants admitted that INDXcoin was backed by, at most, about \$30,000.00 worth of cryptocurrency holdings. Defendants’ bank records do not reveal any other holdings that may serve as liquid assets, or the existence of any loans or capital infusions otherwise.

128. Even if one of Defendants’ investors wanted to sell their coin, they could not, as KWE, the sole trading platform for INDXcoin, is closed due to Defendants’ mismanagement.

129. Investors have informed the Division that Defendants continue to solicit new investors with the very same promises. Defendants will continue to mislead investors if not enjoined from doing so immediately.

FIRST CLAIM FOR RELIEF (Securities Fraud)

All Defendants

130. Paragraphs 1 through 129 are incorporated herein by reference.

131. In connection with offer, sale, or purchase of securities in Colorado, Defendants, directly or indirectly:

a. Made written and oral untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of section 11-51-1-501(1)(b), C.R.S.; or

b. Engaged in acts, practices or courses of business which operated and would operate as a fraud and deceit on investors, in violation of section 11-51-501(1)(c), C.R.S.

132. Defendants made untrue statements of material fact or omitted to state material facts necessary in order to make the statements, in light of the circumstances under which they were made, not misleading (the buyers not knowing of the untruths or omissions), or engaged in acts, practices, or courses of business that operated as a fraud on the investors, and therefore Defendants are liable to the Commissioner for damages under sections 11-51-604(3), 604(4), and 604(5)(a), C.R.S., by operation of section 11-51-602(2), C.R.S., based on violations of section 11-51-501(1), C.R.S.

133. Defendants made the following untrue statements of material fact:

a. That an investment in INDXcoin and the KWE was safe and guaranteed;

b. That an INDXcoin represented an index-based cryptocurrency that tracks and indexes the value of the top one hundred cryptocurrencies;

c. That INDXcoin was highly sought after, coveted, and offered an unparalleled risk-to-return ratio;

d. That INDXcoin was valued at between \$10-12 when in fact INDXcoin was sold for \$1.50 per coin, or given away for free;

e. That “\$200 million” of INDXcoin had been sold or distributed;

f. That INDXcoin and the KWE was profitable;

g. That INDXcoin and the KWE were backed by assets;

h. That the funds invested would go towards development of INDXcoin and the KWE’s technology and operations;

i. That INDXcoin and the KWE had been analyzed and approved by a third-party auditor, without disclosing the actual results of the audit;

j. That Defendants would contribute a percentage of investors’ funds into charitable causes that benefitted widows and orphans;

k. That INDXcoin was a “utility coin;” and

l. That an investment in INDXcoin was safe and safer than in other cryptocurrencies.

134. Defendants omitted to state the following material facts:

a. That Defendants lacked liquidity to support the amount of INDXcoin then-outstanding;

b. That INDXcoin was not “pegged” to a certain value but was instead backed by essentially no assets whatsoever;

c. That the KWE was the sole platform upon which anyone could buy, sell, or trade INDX coin, and was subject to a run;

d. That an “index coin” that is not backed by a pool of assets that mimics the index has actually no value;

e. That investment funds were not used to develop INDXcoin and the KWE;

f. That investment funds would be used for payments to Defendants Eli and Kaitlyn and for their own personal benefit including the purchase of luxury items and lavish vacations;

g. That contributions to charitable organizations, if made at all, went to a church owned and operated solely by Defendants; and

h. That Defendants failed to keep separate books and accounts for INDXcoin and the KWE;

i. That Defendants paid individuals and entities that sold investments on their behalf commissions;

j. That Defendants paid commissions to Defendant Eli;

k. That a third-party auditor that analyzed INDXcoin and the KWE determined that Defendants’ products were technologically unsound and could be easily hacked or stolen;

l. That Defendants were not licensed to sell securities;

m. That an investment in INDXcoin and the KWE constituted a security subject to state and federal regulation, and that neither was registered or exempt from registration as such; and

n. That an investment in INDXcoin and the KWE was highly risky.

135. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of

persons injured by the conduct of Defendants pursuant to sections 11-51-602(2) and 604(3), 604(4), and 604(5)(a), C.R.S.

136. The Commissioner is also entitled to a preliminary and permanent injunction against Defendants, and any officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Defendants; and all those in active concert or participation with Defendants, enjoining violation of sections 11-51-501(1), C.R.S., by virtue of section 11-51-602, C.R.S.

**SECOND CLAIM FOR RELIEF
(Unlicensed Activity – Broker-Dealer)**

All Defendants

137. Paragraphs 1 through 136 are incorporated herein by reference.

138. At no time relevant herein were Defendants licensed, or exempt from licensure, as a “broker-dealer” or registered in any capacity with the Commissioner, as required by sections 11-51-401 and 402, C.R.S.

139. At no time relevant herein were the agents of Defendants licensed, or exempt from licensure as a “sales representative” or registered in any capacity with the Commissioner, as required by sections 11-51-401 and 402, C.R.S.

140. Accordingly, Defendants employed unlicensed sales representatives, and acted as an unlicensed broker-dealer.

141. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of Defendants pursuant to sections 11-51-602(2), 604(2)(a) and (5)(a), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against Defendants, their officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Defendants; and all those in active concert or participation with Defendants, enjoining violation of sections 11-51-401 and 402, C.R.S., by virtue of section 11-51-602, C.R.S.

**THIRD CLAIM FOR RELIEF
(Unregistered Securities)**

All Defendants

142. Paragraphs 1 through 141 are incorporated herein by reference.

143. At no relevant time herein did Defendants register, or file notices of exemption from registration for the securities that they offered and sold to investors with the Division of Securities, as required by section 11-51-301, C.R.S.

144. At no relevant time did the Defendants provide notification to the Division of Securities for any Offering, as required by section 11-51-308(1)(p), C.R.S.

145. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of Defendants pursuant to sections 11-51-602(2), 604(1) and (5)(a), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against Defendants, their officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Defendants; and all those in active concert or participation with Defendants, enjoining violation of section 11-51-301, C.R.S., by virtue of section 11-51-602, C.R.S.

**FOURTH CLAIM FOR RELIEF
(Imposition of Constructive Trust or Equitable Lien)**

Defendants and Relief Defendants

146. Paragraphs 1 through 145 are incorporated herein by reference.

147. As a consequence of the fraudulent, wrongful, unlawful and inequitable conduct of Defendants, as alleged above, Defendants and Relief Defendants have obtained property interests and profits therefrom which in justice and equity belong to investors.

148. These interests and profits include, but are not limited to, investor assets in Defendants' and Relief Defendants' bank accounts and all sums derived from the investment of such assets and any assets purchased therewith.

149. Defendants and Relief Defendants received fraudulently obtained funds and/or property without giving a reasonably equivalent value in exchange and, as a result, have no legitimate right or claim to these monies. Therefore, Defendants and Relief Defendants will be unjustly enriched if they are allowed to maintain ownership of the funds and/or property fraudulently obtained.

150. Defendants and Relief Defendants hold said funds and/or property in constructive trust or in a manner in the nature of a constructive trust for the benefit of the investors and must account to the investors and the plaintiff for all such sums of money, all profits derived from the investment of such money and any assets purchased therewith. Moreover, these property interests, sums of money and assets

are impressed with an equitable lien for the benefit of the investors. Accordingly, ownership of all such property interests, sums and assets must be accounted for and adjudicated to be vested in the investors.

151. Accordingly, the Commissioner requests that the Court impose a constructive trust and/or equitable lien on all of the bank accounts, and any fraudulently obtained funds received by each of the Defendants and Relief Defendants, and any entity controlled by them, to account for and disgorge all properties and funds received by them.

WHEREFORE, the Commissioner requests relief as follows:

1. For preliminary and permanent injunctive relief against all Defendants, their agents, servants, employees, and successors; any person who, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with; and all those in active concert or participation with the Defendants, enjoining the violations of all the Defendants of the Colorado Securities Act or successor statute.

2. For judgment in an amount to be determined at trial against all Defendants for restitution, disgorgement and other equitable relief pursuant to section 11-51-602(2), C.R.S. For damages, rescission, interest, costs, reasonable attorneys fees, and such other legal and equitable relief, pursuant to sections 11-51-604(1), (2)(a), (2.5), (3), (4), and (5)(a), C.R.S., as the Court deems appropriate. All of the preceding relief is sought on behalf of the persons injured by the acts and practices of all Defendants that constitute violations of the Act.

3. For an Order imposing a constructive trust on the fraudulently obtained funds held by each Defendant and Relief Defendant, or any entity controlled by them, and to order the Defendants and Relief Defendants to account for and disgorge all funds fraudulently obtained by them from the investors and transferred to them.

4. For such other and further relief as the court deems proper.

Respectfully submitted this 16th day of January, 2024.

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/s/ Robert W. Finke

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