



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

RICHARD M. BANACH

Plaintiff

- and -

**GALAXY DIGITAL HOLDINGS LTD.,
MICHAEL NOVOGRATZ and ALEX IOFFE**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff.
The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: December 8, 2022

Issued by

Local registrar

Address of court office 330 University Ave.
Toronto, ON
M5G 1R8

TO: Galaxy Digital Holdings Ltd.
300 Vesey Street,
New York, NY
10282

AND TO: Michael Novogratz
c/o Galaxy Digital Holdings Ltd.
300 Vesey Street,
New York, NY
10282

AND TO: Alex Ioffe
c/o Galaxy Digital Holdings Ltd.
300 Vesey Street,
New York, NY
10282

I. DEFINED TERMS

1. In this Statement of Claim, the capitalized terms below have the following meanings:

- (a) “**AIF**” means Annual Information Form;
- (b) “**CEO**” means Chief Executive Officer;
- (c) “**CFO**” means Chief Financial Officer;
- (d) “**CJA**” means the *Courts of Justice Act*, RSO 1990, c C-43, as amended;
- (e) “**Class**” and “**Class Members**” all persons and entities, wherever they may reside or be domiciled, who acquired **Galaxy** securities during the **Class Period**, other than **Excluded Persons**;
- (f) “**Class Period**” means the period from May 17, 2021 to and including May 6, 2022;
- (g) “**Company**” means Galaxy;
- (h) “**CPA**” means the *Class Proceedings Act, 1992*, SO 1992, c 6, as amended;
- (i) “**Defendants**” means Galaxy and the Individual Defendants;
- (j) “**Excluded Persons**” means the **Defendants**, and **Galaxy’s** past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any family member of an **Individual Defendants’** families;
- (k) “**Galaxy**” means the Defendant Galaxy Digital Holdings Ltd., along with its subsidiaries and affiliates, or any of them, as the context requires;
- (l) “**GDH LP**” means Galaxy Digital Holdings LP, an affiliate of Galaxy;
- (m) “**IFRS**” means the “International Financial Reporting Standards”;
- (n) “**Individual Defendants**” means the Defendants Michael Novogratz and Alex Ioffe;
- (o) “**MD&A**” means Management’s Discussion and Analysis;
- (p) “**Misleading Core Documents**” means Galaxy’s:
 - i. AIF for the year ended December 31, 2021 (filed March 31, 2022 on SEDAR) (“**2021 AIF**”);
 - ii. MD&A for the year ended December 31, 2021 and 2020 (filed March 31, 2022 on SEDAR) (“**2021 MD&A**”);

- iii. Consolidated financial statements for the years ended December 31, 2021, and 2020 (filed March 31, 2022 on SEDAR) (“**2021 Annual Financial Statements**”);
- iv. GDH LP Consolidated financial statements for the years ended December 31, 2021, and 2020 (filed March 31, 2022, on SEDAR) (“**GDH LP 2021 Annual Financial Statements**”);
- v. MD&A for the three and nine months ended September 30, 2021, and 2020 (filed November 15, 2021, on SEDAR) (“**Q3/21 MD&A**”);
- vi. Condensed consolidated interim financial statements for the three and nine months ended September 30, 2021, and 2020 (filed November 15, 2021 on SEDAR) (“**Q3/21 Financial Statements**”);
- vii. GDH LP Condensed consolidated interim financial statements for the three and nine months ended September 30, 2021 and 2020, (filed November 15, 2021 on SEDAR) (“**GDH LP Q3/21 Financial Statements**”);
- viii. MD&A for the three and six months ended June 30, 2021, and 2020 (filed August 16, 2021 on SEDAR) (“**Q2/21 MD&A**”);
- ix. Condensed consolidated interim financial statements for the three and six months ended June 30, 2021, and 2020 (filed August 16, 2021 on SEDAR) (“**Q2/21 Financial Statements**”);
- x. GDH LP Condensed consolidated interim financial statements for the three and six months ended June 30, 2021, and 2020 (filed August 16, 2021 on SEDAR) (“**GDH LP Q2/21 Financial Statements**”);
- xi. Management Information Circular dated May 27, 2021 (filed May 28, 2021 on SEDAR);
- xii. MD&A for the three months ended March 31, 2021, and 2020 (filed May 17, 2021 on SEDAR) (“**Q1/21 MD&A**”);
- xiii. Condensed consolidated interim financial statements for the three months ended March 31, 2021, and 2020 (filed May 17, 2021 on SEDAR) (“**Q1/21 Financial Statements**”);
- xiv. GDH LP Condensed consolidated interim financial statements for the three months ended March 31, 2021, and 2020 (filed May 17, 2021 on SEDAR) (“**GDH LP Q1/21 Financial Statements**”);
- xv. AIF for the fiscal year ended December 31, 2020 (filed March 29, 2021 on SEDAR) (“**2020 AIF**”);
- xvi. MD&A for the years ended December 31, 2020, and 2019 (filed March 29, 2021 on SEDAR) (“**2020 MD&A**”);
- xvii. Consolidated financial statements for the years ended December 31, 2020, and 2019 (filed March 29, 2021 on SEDAR) (“**2020 Annual Financial**”);

Statements”);

- xviii. GDH LP Consolidated financial statements for the years ended December 31, 2020, and 2019 (filed March 29, 2021 on SEDAR) (“**GDH LP 2020 Annual Financial Statements**”);

(q) “**Misleading Non-Core Documents**” means:

- i. Registration Statement Under the Securities Act of 1933 (filed January 28, 2022, on SEDAR) (“**SEC Registration Statement**”);
- ii. the news release dated March 31, 2022, entitled “Galaxy Digital Announces 2021 Financial Results” (“**2021 Release**”);
- iii. the news release dated November 15, 2021, entitled “Galaxy Digital Announces Third Quarter 2021 Financial Results” (“**Q3/21 Release**”);
- iv. the news release dated August 16, 2021, entitled “Galaxy Digital Announces Second Quarter 2021 Financial Results” (“**Q2/21 Release**”);
- v. the news release dated May 17, 2021, entitled “Galaxy Digital Announces First Quarter 2021 Financial Results” (“**Q1/21 Release**”);

(r) “**Misleading Oral Representations**”

- i. means the statements made on the March 31, 2022, earnings call with investors;
- ii. means the statements made on the November 15, 2021, earnings call with investors;
- iii. means the statements made on the August 16, 2021, earnings call with investors;
- iv. means the statements made on the May 17, 2021, earnings call with investors;

(s) “**Novogratz**” means the defendant Michael Novogratz;

(t) “**OSA**” means the *Securities Act*, RSO 1990, c S.5, as amended;

(u) “**OSC**” means the Ontario Securities Commission;

(v) “**Plaintiff**” means the plaintiff Richard M. Banach;

(w) “**Securities Legislation**” means , collectively, the *Securities Act*, RSA 2000, c S-4, as amended; the *Securities Act*, RSBC 1996, c 418, as amended; *The Securities Act*, CCSM c S50, as amended; the *Securities Act*, SNB 2004, c S- 5.5, as amended; the *Securities Act*, RSNL 1990, c S-13, as amended; the *Securities Act*, SNWT 2008, c 10, as amended; the *Securities Act*, RSNS 1989, c 418, as amended; the *Securities Act*, S Nu 2008, c 12, as amended; the *Securities Act*, RSPEI 1988, c S-3.1, as amended; the *Securities Act*, RSQ c V-1.1, as amended;

The Securities Act, 1988, SS 1988-89, c S-42.2, as amended; and the *Securities Act*, SY 2007, c 16, as amended;

- (x) “**SEDAR**” means the System for Electronic Document Analysis and Retrieval which is a filing system developed for the Canadian Securities Administration;
- (y) “**Staff**” means staff of the OSC and securities regulatory authorities in each of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, and Nova Scotia;
- (z) “**Staff Notice 51-363**” means the notice issued by Staff, dated March 11, 2021, and entitled Staff Notice 51-363 -- *Observations on Disclosure by Crypto Assets Reporting Issuers*; and
- (aa) “**TSX**” means the Toronto Stock Exchange;

2. Unless otherwise stated, all dollar amounts stated herein are in Canadian dollars.

II. RELIEF SOUGHT

3. The Plaintiff claims on his own behalf and on behalf of the other Class Members:

- (a) an order granting leave to pursue the statutory causes of action under Part XXIII.1 of the OSA and the other Canadian Securities Legislation (if necessary);
- (b) an order certifying this action as a class proceeding pursuant to s. 5 the CPA and appointing the Plaintiff as the representative plaintiff for the Class;
- (c) a declaration that the Misleading Core Documents, the Misleading Non-Core Documents and the Misleading Oral Representations contained one or more misrepresentations within the meaning of the OSA and the other Canadian Securities Legislation (if necessary);
- (d) a declaration that the Defendants or one of them made the misrepresentations pleaded below;
- (e) a declaration that the Individual Defendants authorized, permitted or acquiesced in the making of the misrepresentations while knowing them to be misrepresentations;
- (f) a declaration that Galaxy is vicariously liable for the acts and/or omissions of the Individual Defendants and, as may be applicable, of its other officers, directors or employees;
- (g) damages pursuant to Part XXIII.1 of the OSA and, if necessary, the corresponding provisions of the Securities Legislation in an amount that this Court find appropriate;

- (h) monetary relief in an amount to be determined by this Honourable Court;
- (i) an order directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;
- (j) pre-judgment and post-judgment interest, compounded, pursuant to the *CJA*;
- (k) costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;
- (l) pursuant to section 26(9) of the *CPA*, the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes; and
- (m) such further and other relief as this Honourable Court may deem just.

III. OVERVIEW

4. This is a proposed class proceeding against Galaxy, its CEO Michael Novogratz, and its CFO Alex Ioffe, based on misrepresentations made throughout the Class Period. The Plaintiff brings this action on behalf of Galaxy securityholders who suffered losses when the truth behind the Company's material exposure to certain toxic assets held on its balance sheet was publicly revealed.

IV. THE PARTIES

A. The Plaintiff and Class

5. The Plaintiff is an individual residing in Tarrytown, New York, USA. The Plaintiff acquired 11,076 shares of Galaxy during the Class Period and continued to own shares at the end of the Class Period.

6. The Class consist of all persons and entities, wherever they may reside or be domiciled, who acquired Galaxy shares on the secondary market during the Class Period, other than Excluded Persons.

B. The Defendants

(i) Galaxy Digital Holdings Ltd.

7. Galaxy is a company incorporated in the Cayman Islands with its principal place of business in New York City. Galaxy's only significant asset is a minority interest in GDH LP, an exempted limited partnership formed under the laws of the Cayman Islands through which the Company conducts its operations.

8. Galaxy was a reporting issuer during the Class Period in all Canadian provinces. Its shares were publicly listed for trading on the TSX under the ticker symbol "GLXY" and over the counter in the United States of America under the ticker symbol "BRPHF". Galaxy published the documents identified below on, among other places, SEDAR.

9. Galaxy controlled the contents of its AIFs, MD&As, financial statements, and the other misleading documents, and the misrepresentations made therein, were made by Galaxy.

(ii) The Individual Defendants

(a) Michael Novogratz

10. Novogratz is an individual residing in New York, USA. During the Class Period, he was Galaxy's CEO and a member of its board of directors. During this time, he was a "director" and "officer" of Galaxy within the meaning of the OSA and the Securities Legislation.

11. As a director and officer, Novogratz made and caused Galaxy to make the misrepresentations particularized below.

12. Novogratz, in his capacity as CEO and director, certified each of the Misleading Core Documents that were quarterly and annual disclosures of Galaxy. On behalf of the board of directors, Novogratz approved and signed each of Galaxy's financial statements issued during the Class Period. In doing so, he adopted as his own the misrepresentations made in those documents.

(b) Alex Ioffe

13. Ioffe is an individual residing in New York, USA. During the Class Period, he was Galaxy's CFO. During this time, he was an "officer" of Galaxy within the meaning of the *OSA* and the Securities Legislation.

14. As an officer, Ioffe caused Galaxy to make the misrepresentations particularized below.

15. Ioffe, in his capacity as CFO, certified each of the Misleading Core Documents that were quarterly and annual disclosures of Galaxy. In doing so, he adopted as his own the misrepresentations made in those documents.

V. THE DEFENDANTS' DISCLOSURE OBLIGATIONS

A. Galaxy's Disclosure Obligations

16. As a reporting issuer, Galaxy was subject to the continuous disclosure obligations prescribed by National Instrument 51-102 to prepare and file on SEDAR certain disclosure documents prepared on a regular basis, including:

- (a) Annual and interim MD&As (filed together with the financial statements) which provide material information about Galaxy's business, management and operational and financial status during the period covered by the financial statements.
- (b) Annual information forms, which provide material information about Galaxy and its business at a point in time, in the context of historical and possible future development.
- (c) Annual and interim financial statements, which provide information about Galaxy's business and financial positions.

17. In fulfilling its continuous disclosure obligations, Galaxy was prohibited from making a statement that it knew or reasonably ought to have known:

- (a) in a material respect and at the time and in the light of the circumstances under

which it was made, was misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statement not misleading; and

- (b) would reasonably be expected to have a significant effect on the market price or value of its securities.

18. In Staff Notice 51-363, applying the general continuous disclosure obligations to issuers in the digital asset industry, Staff have noted as follows:

“Reporting issuers in the crypto asset industry are subject to the same disclosure obligations as other reporting issuers. However, the emerging nature of the crypto asset class and the evolving risks involved can raise novel issues when complying with these obligations. It is important to avoid inaccurate or misleading disclosure and to provide the information necessary for investors to make informed investment decisions.”

19. In its MD&As, Galaxy was required to provide a narrative explanation, through the eyes of management, of how the Company performed during the period covered by the financial statements, and of its financial conditions and future prospects. Among other things, Galaxy was required to:

- (a) discuss material information that may not be fully reflected in the financial statements;
- (b) discuss important trends and risks that have affected the financial statements, and trends and risks that are reasonably likely to affect them in the future;
- (c) provide information about the quality and potential variability, of the Company’s profit, loss or cash flow, to assist investors in determining if past performance is indicative of future performance; and
- (d) provide analysis by management, addressing any part of the business (beyond just operating segments), if that part of the business has a disproportionate effect on revenue, profit or loss or cash needs.

20. In its MD&As, Galaxy was also required to describe and analyze the risks associated with

instruments (financial or otherwise).

21. In its AIFs, Galaxy was required to disclose risk factors relating to its business, including any matter that would be likely to influence an investor's decision to purchase Galaxy's securities.

22. Galaxy was required to provide investment-specific risk factors. In Staff Notice 51-363, in applying the requirement to companies in the digital asset industry, Staff have stated, among other things, as follows:

- (a) "Risk factor disclosure should be specific and sufficiently tailored to the risks that relate to the issuer and its business..."; and
- (b) "Risks related to different forms of crypto assets differ. For example, the risks of holding more established cryptocurrencies, such as Bitcoin or Ether, may be significantly different from investments in other digital assets, such as digital tokens."

23. In its financial statements, Galaxy was required to comply with IFRS.

24. Compliance with IFRS required the Company to disclose any material that is relevant to an understanding of its financial statements. In applying that directive to companies in the digital asset industry, Staff are of the view that such relevant information includes, among other things, the following:

- (a) "the nature of the different types of cryptocurrencies held, including disclosure concerning the entity's risk exposure to such assets";
- (b) "the quantity and recorded value of each type of cryptocurrency that an issuer holds at the relevant financial reporting"; and
- (c) "a continuity schedule for each type of cryptocurrency, differentiating between increases due to mining and due to acquisitions/dispositions in the market."

25. In its financial statements, Galaxy was also required to present its investment portfolio with sufficient disaggregation and transparency to allow an investor to understand the key

characteristics of the portfolio composition, including the associated risks.

B. Individuals Defendants' Role in Disclosure

26. Each of the Individual Defendants knew that Galaxy was a reporting issuer and that, in his role as a director and/or officer of Galaxy, he would have direct responsibility for ensuring the fair presentation, accuracy, and completeness of Galaxy's disclosure documents.

27. The *OSA*, Securities Legislation, and National Instruments and Companion Policies promulgated thereunder imposed specific obligations on the Individual Defendants in the preparation of Galaxy's continuous disclosure documents.

28. Sections 77 and 78 of the *OSA*, and the concordant provisions of the Securities Legislation, informed by National Instrument 52-109, required Novogratz as CEO and Ioffe as CFO to review, approve and certify the completeness and accuracy of Galaxy's AIFs, interim and annual financial statements, and MD&As released during the Class Period.

29. National Instrument 51-102 requires the board of directors of a reporting issuer to approve each interim and annual financial statement and MD&A released by an issuer prior to the release of those documents.

30. Each of the Individual Defendants was aware of and accepted these obligations in assuming his position as a director and/or officer of Galaxy. The Individual Defendants authorized, permitted and/or acquiesced in the release or making of, and adopted as their own, the false statements particularized below.

VI. EVENTS GIVING RISE TO THIS ACTION

A. Introduction

31. Galaxy provides various services in the digital asset industry. The Company describes itself

as a “financial services and investment management firm that provides institutions and direct clients with a full suite of financial solutions spanning the digital assets ecosystem”.

32. Though the Company strives to be a full-service financial services business in the digital asset industry, to date, the vast majority of its income has come from the change in the value of the digital assets, such as Bitcoin, held on its balance sheet.

33. Galaxy claims specialized expertise in the digital asset industry which it says will allow it to capitalize on market opportunities to the benefit of its shareholders. In its AIFs, Galaxy stated as follows:

We are capitalizing on market opportunities made possible by the rapid evolution of the digital assets ecosystem. We strive to maintain a diverse, multi-disciplinary team that balances extensive experience throughout the legacy financial services industry with a deep appreciation for the most important aspects of the rapidly emerging cryptocurrency and blockchain industry, namely technological innovation, purpose, and community.

34. On August 8, 2022, Galaxy reported a net comprehensive loss of \$554.7 million for the second quarter of 2022. The Company identified its holdings in the digital asset TerraLuna as the largest contributor to the loss.

35. Galaxy’s losses in its TerraLuna investment had occurred in mid-May when the Company’s stock had traded down 54% in one week causing a loss of over \$1.5 billion in market capitalization. At that time, Novogratz had released an unusual letter in which he called losses by retail investors “heart-wrenching” and expressed sympathy with those investors.

There is no good news in what happened in markets or to the Terra ecosystem ... Both large and small investors saw profits and wealth vanish ... Whenever money is lost in such an abrupt fashion, people want answers.

36. His explanation for the collapse in TerraLuna, and the resulting destruction of Galaxy

shareholder value, blamed a “run on the bank” on the related digital asset TerraUSD.

[TerraUSD]’s growth had exploded from the 18% yield offered in the Anchor protocol, which overwhelmed other uses of the Terra blockchain. The downward pressure on reserve assets coupled with [TerraUSD] withdrawals, triggered a stress scenario akin to a “run on the bank.” The reserves weren’t enough to prevent [TerraUSD]’s collapse.

37. Even though Novogratz was now blaming massive shareholder losses at Galaxy on “something akin to a run on the bank” on the digital asset TerraUSD, there had never previously been a single reference to TerraUSD in any of the Company’s disclosures to shareholders. The risk of a “bank run” or anything similar impacting the Company’s large investment in TerraLuna had never appeared in any of the Company’s disclosures to shareholders.

B. TerraLuna and TerraUSD

38. Digital asset markets are notoriously volatile. These fluctuations make most digital assets unsuitable as a medium of exchange for routine transactions like purchases. Stablecoins purport to solve this problem by attempting to tie or “peg” their market value to an external collateral with less volatility.

39. The two largest and most prominent stablecoins are known as USDC and Tether. In order to support their peg to the US dollar in the face of fluctuating supply and demand conditions, these stablecoins maintain a pool of collateral greater than their total outstanding value. That collateral is usually short-term US treasuries and cash held at a regulated financial institution. Whenever the holder of a stablecoin like USDC or Tether wishes to cash out, an equal amount of the collateralizing assets is taken from the reserves. In short, for every dollar worth of the stablecoin, there is one dollar of real-world assets held at a bank.

40. Terra, a new decentralized blockchain platform, introduced a novel type of stablecoin that

used what it called a “two-token” or “algorithmic” system for maintaining a peg to the US dollar. The two tokens that were part of this stablecoin system were TerraUSD and TerraLuna.

41. Unlike traditional stablecoins, TerraUSD was not backed by any real-world assets. Instead, TerraUSD’s only reserve value was its convertibility into TerraLuna.

42. Pursuant to this scheme, TerraUSD was designed to be stable and pegged to the US dollar and TerraLuna was meant to absorb the volatility in supply and demand for TerraUSD.

43. The conversion ratio was dynamic and determined by a complex decentralized process controlled by an algorithm (hence, an “algorithmic” stablecoin) that sought to ensure that at any point in time, one TerraUSD would equal to one US dollar worth of TerraLuna.

44. As demand for TerraUSD fluctuated, its value would remain at 1 US dollar, but the value of TerraLuna would move up or down.

45. In order to entice investors to hold TerraUSD, and increase the value of TerraLuna, the operators of Terra created a protocol that offered to pay its holders of TerraUSD an annual return of 19%. No other stablecoin offered anything close to this level of yield.

46. Initially, TerraUSD maintained its peg to the US dollar, and fueled by the outsized yield, quickly grew to become the third largest stablecoin, with close to USD 20 billion in total value held at its peak.

47. As demand for TerraUSD skyrocketed, the value of TerraLuna soared, increasing by a factor of approximately 120 times between January 1, 2021, to May 6, 2022.

48. Within the small and opaque community of “crypto experts”, which Galaxy monitored closely, some questioned the design of the Terra ecosystem and raised the prospect of a “bank

run” leading to its collapse.

49. On July 1st, 2021 a British economist named Frances Coppola criticized the algorithmic stablecoin model in a Twitter exchange, charging that it could not defend against “a bank run”. On December 30, 2021, Rune Christopherson and Sam MacPherson, an influential pair of founders in the digital asset industry, posted a series of tweets predicting that “UST will collapse in a death spiral with [TerraLuna] hyper-inflating to try to cover the peg” and called the TerraLuna/TerraUSD pair a “solid ponzi.” On March 8, 2022, @AlgodTrading (“Algod”), a popular crypto trading personality on Twitter, publicly criticized TerraLuna as being a “Ponzi” and noted that “more ust = more pressure on Luna.”

50. Even the operators of Terra acknowledged the criticism and noted the risk of a “bank run”, though they ultimately dismissed it. On January 19, 2022, they tweeted as follows:

One common criticism of algorithmic stablecoins is their reflexive nature and the hypothetical risk of a “bank run” scenario where demand to sell the stable [TerraUSD] outstrips supply in a way that causes compounding price decreases in both native tokens [TerraLuna].

51. The risks that the critics were referring to variously as a “bank-run” or a “Ponzi scheme” was short-hand for the same thing. TerraUSD was backed by TerraLuna and nothing else. That was workable only as long as people believed that TerraLuna would keep its value. Since TerraUSD’s main attraction was its high yield and that was only sustainable if more and more people bought into the Terra ecosystem, the whole enterprise seemed unsustainable over time.

52. The Defendants, which claimed expertise in the field of digital assets, and closely followed the Terra ecosystem, were aware, or ought to have been aware, of these risks but failed to disclose them to Galaxy shareholders.

C. Galaxy's Investment in Terra

53. Sometime during the fourth quarter of 2020, Galaxy invested in TerraLuna.

54. Whether or not it was a Ponzi scheme and/or susceptible to a bank run, TerraLuna was different from, and carried different and greater risks than, Bitcoin and Ether, the other digital assets that were material to the value of Galaxy's shares during the Class Period.

55. The value of TerraLuna depended almost entirely on demand for another digital asset, the stablecoin TerraUSD. Demand for TerraUSD was in turn tied to its ability to pay high yields and maintain its peg to the US dollar.

56. As such, the value of TerraLuna depended on the ability of TerraUSD to continue paying high yields and maintain its peg to the US dollar.

57. This meant that Galaxy's balance sheet and the value of its securities were exposed to TerraUSD and its various risks.

58. Galaxy did not disclose any of these facts nor their inherent risks to its securityholders.

59. Novogratz used his influential media presence to promote TerraLuna. He tweeted about TerraLuna dozens of times, telling his nearly half a million followers that it was "a horse to ride." On January 3, 2022, he tweeted a picture of his newly acquired "LUNA" tattoo with the caption "I am officially a Lunatic!!!" He made similar declarations during television appearances. On December 23, 2021, during an appearance on CNBC's widely watched Squawk Box program, he demanded that the network amend its regular cryptocurrency ticker to add TerraLuna next to Bitcoin and Ether. In various statements and appearances, he called the founder of Terra "one of the smartest people" he knew and expressed deep confidence in the Terra ecosystem.

60. It is not clear why Novogratz engaged in this relentless campaign to promote TerraLuna.

61. Galaxy's internal policies permitted Novogratz to own and trade digital assets, including TerraLuna. While Novogratz has publicly acknowledged that he owned and profited from TerraLuna, neither Novogratz nor Galaxy has ever publicly disclosed the size of his personal ownership or the timing of his trades in TerraLuna or TerraUSD.

62. As a result of Novogratz's extensive promotional activities, the value of Galaxy's stock became heavily associated with TerraLuna in the investment community.

63. By the end of the first quarter of 2021, TerraLuna had also become material to Galaxy's financial results. On May 17, 2021, in the Q1/21 MD&A Galaxy reported that in the first quarter of the year, TerraLuna had accounted for an unspecified material amount of its gains on digital assets, which in turn was by far the largest contributor to its net comprehensive income for the quarter. The Company did not disclose anything else about TerraLuna or TerraUSD.

64. On March 31, 2022, in its 2021 MD&A, Galaxy reported that its ownership in TerraLuna was the largest contributor to its \$1.5 billion in gains on digital assets for the year, which in turn accounted for the largest portion of its net comprehensive income for the year. In that same document, Galaxy Digital reported owning \$407.6 million of "Terra", without specifying whether it owned TerraLuna or TerraUSD. That made "Terra" its second largest holding after Bitcoin. The Company did not disclose anything else about TerraLuna or TerraUSD.

65. In Misleading Core Documents, Misleading Non-Core Documents and Misleading Oral Representations, Galaxy represented stablecoins such as TerraUSD as being essentially riskless. The Company described them variously as "combining the features of a digital asset with the stability of an underlying fiat currency", "maintaining a one-to-one correlation to fiat currencies", not "subject to price volatility", and not "fluctuating in value". The Company would regularly

present a non-GAAP measure of its exposure to digital assets to investors which excluded its stablecoin holdings, stating that stablecoins carried no risk and were akin to cash.

VII. THE MISREPRESENTATIONS AND OMISSIONS

66. During the Class Period, through statements and omissions, the Defendants misrepresented the nature and risk of Galaxy's exposure to TerraLuna and TerraUSD.

67. These misrepresentations included, but were not limited, to the following:

- (a) Defendants failed to disclose the facts and extent of Galaxy's TerraLuna and TerraUSD ownership with sufficient specificity.
- (b) Defendants failed to disclose the structure and attributes of TerraLuna, including the fact that its value depended almost entirely on TerraUSD, and that therefore Galaxy was materially exposed to the risks associated with TerraUSD.
- (c) Defendants failed to disclose, generally or specifically, the unique risks associated with TerraLuna and TerraUSD, such as the risks some experts referred to as a "bank-run" or a "Ponzi scheme".
- (d) Defendants stated that stablecoins such as TerraUSD were safe investments akin to cash.
- (e) Defendants failed to comply with IFRS as those standards apply to companies in the digital asset industry.

68. These statements and omissions were misrepresentations within the meaning of the OSA and other Canadian Securities Legislation, if necessary.

VIII. THE PUBLIC CORRECTIONS

69. In early May 2022, the risks of Galaxy's exposure to TerraLuna and TerraUSD, which Galaxy had misrepresented, exploded into the open. On Sunday, May 8, 2022, the financial press began reporting that TerraUSD had lost its peg to the US dollar.

70. Belatedly, Galaxy attempted to correct its misrepresentations. On the morning of May 9, 2022, on an investor conference call, in response to a question about the de-pegging of TerraUSD over the weekend, Novogratz mentioned TerraUSD for the first time and implicitly conceded that Galaxy was materially exposed to the stablecoin. He also sought to distinguish, also for the first time, between traditional stablecoins and algorithmic stablecoins like TerraUSD.

Yes, I think you can break stablecoins into three buckets, right. You have USDC, right, the stablecoin that is actually backed by treasuries held at a Fed regulated bank. That really is a digital dollar. You don't get a really high yield on it, but it is a very efficient way for people to move dollars around the system. Then you have Tether, right, which was kind of the first big, stablecoin, which is backed by a basket of assets that sometimes we have some sense what's in them, and sometimes we don't. There is a lot of people that use Tether. When it provides no yield, it's providing something for them. My sense is there's a lot of tax avoidance from offshore money from China that's held in Tether, but that's just a sense. I don't know that factually, but it doesn't make a logical sense that you'd have a lot of money in something that earns no yield that has lots of risk, or could have risk.

Then you have algorithmic stablecoins like ... [TerraUSD] Listen, TerraUSD has risk, but you are paid 18% yield in it. Anyone who went in knew there was some risk. You don't get 18% for nothing, right. People that buy UST can deposit it in the anchor protocol, and why it grew so fast is because people were hungry for yield. We will see this is a really big test of that whole model of algorithmic stablecoins, right.

...

If that stablecoin [TerraUSD] and that system [TerraUSD/TerraLuna] survives this, and I think it will, that will say a lot, right. This is a real test. This is a full on out category five earthquake globally.

71. Galaxy's stock price dropped 36% just on that day.

72. As the gap between the value of TerraUSD and the US dollar widened throughout the week, the decline in TerraLuna accelerated. By Friday May 13, 2022, the value of both TerraUSD and

TerraLuna had collapsed to near zero.

73. The price of Galaxy's stock also declined precipitously throughout the week.

74. On May 13, 2022, the Company disclosed a quarter-to-date net comprehensive loss of \$300M. On May 18, 2022, the Company released the aforementioned letter to shareholders and others in which Novogratz blamed events on a "run on the bank" on TerraUSD. On August 8, 2022, the Company disclosed a net comprehensive loss of \$554.7 million for the second quarter, attributing the loss primarily to unrealized losses on digital assets, and identifying its TerraLuna holdings as the largest contributor to the loss.

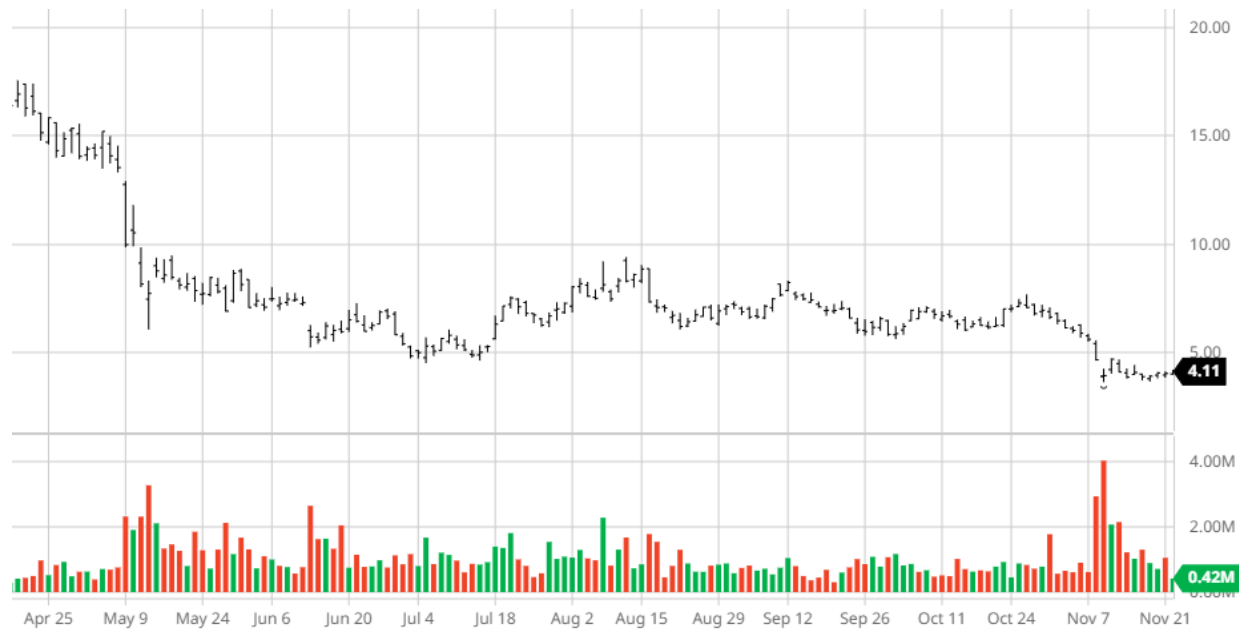
IX. THE MISREPRESENTATIONS AND THE PRICE OF GALAXY SECURITIES

75. During the Class Period, a material part of the value of Galaxy's securities was attributable to its investment in, and association with, TerraLuna and TerraUSD.

76. During the Class Period, Galaxy's securities traded at an artificially inflated price because Galaxy misrepresented the nature and risk of its exposure to TerraLuna and TerraUSD.

77. The trading price of Galaxy Digital's stock had closed at \$13.53 on Friday, May 6, 2022, the last trading day prior to the public disclosure of the misrepresentations. By Friday, May 13, the price of Galaxy stock had dropped to \$8.76, causing a loss in market capitalization of over \$1.5 billion. A graph of the price decline is shown below in Fig. 1.1.

Fig. 1-1 –Galaxy Digital’s Stock



X. RIGHTS OF ACTION

78. On behalf of the Class Members, the Plaintiff pleads the right of action found in section 138.3(1) of Part XXIII.1 of the *OSA* (and, if necessary, the equivalent sections of the Other Canadian Securities Legislation) against the Defendants for misrepresentations in the Misleading Core Documents, Misleading Non-Core Documents and Misleading Oral Representations subject to leave being granted under section 138.8(1) of the *OSA* (and, if necessary, the equivalent sections of the Other Canadian Securities Legislation).

79. The Misleading Core Documents and Misleading Non-Core Documents are documents within the meaning of Part XXIII.1 of the *OSA* (and, if necessary, the equivalent sections of the Other Canadian Securities Legislation).

80. The Misleading Oral Representations are public oral statements within the meaning of Part XXIII.1 of the *OSA* (and, if necessary, the equivalent sections of the Other Canadian Securities

Legislation).

81. At all material times, Galaxy was a “responsible issuer” within the meaning of Part XXIII.1 of the *OSA* (and, if necessary, the equivalent sections of the Other Canadian Securities Legislation).

82. The Individual Defendants were officers and directors of Galaxy during the Class Period. The Individual Defendants authorized, permitted or acquiesced in the release of the Misleading Core Documents, and the Misleading Non-Core Documents, and in the making of the Misleading Oral Representations.

83. The Misleading Core Documents, Misleading Non-Core Documents and Misleading Oral Representations contained misrepresentations as described herein. Any one of such misrepresentations is a misrepresentation for the purposes of the *OSA* (and, if necessary, the equivalent sections of the Other Canadian Securities Legislation).

84. The Defendants knew at the time the Misleading Non-Core Documents were released and at the time the Misleading Oral Representations were made, that they contained a misrepresentation; or alternatively, at or before the time that those documents were released, or the misrepresentations were made, the Defendants deliberately avoided acquiring knowledge that they contained a misrepresentation; or alternatively, the Defendants were, through action or failure to act, guilty of gross misconduct in connection with the release of the Misleading Non-Core Documents or the making of the Misleading Oral Representations.

85. The Plaintiff and the other Class Members who purchased securities of Galaxy in the secondary market during the Class Period are entitled to damages assessed in accordance with section 138.5 of the *OSA* (and, if necessary, the equivalent sections of the Other Canadian

Securities Legislation).

XI. VICARIOUS LIABILITY

86. Galaxy is vicariously liable for the acts and omissions of the Individual Defendants.

87. The acts or omissions particularized and alleged herein to have been done by Galaxy were authorized, ordered and done by the Individual Defendants and other agents, employees and representatives of Galaxy, while engaged in the management, direction, control and transaction of the business and affairs of Galaxy.

88. By virtue of the relationship between the Individual Defendants and Galaxy, such acts and omissions are, therefore, not only the acts and omissions of the Individual Defendants but are also the acts and omissions of Galaxy.

89. At all material times, the Individual Defendants were directors and/or officers of Galaxy.

XII. REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO

90. The Plaintiff pleads that this action has a real and substantial connection with Ontario because, among other things:

- (a) Galaxy is a reporting issuer in Ontario;
- (b) Galaxy trades on the TSX, which is based in Toronto, Ontario;
- (c) the misrepresentations alleged herein were disseminated to Class Members resident in Ontario;
- (d) a substantial proportion of the Class Members reside in Ontario; and
- (e) damage was sustained by Class Members in Ontario.

XIII. SERVICE OUTSIDE OF ONTARIO

91. The Plaintiff pleads and relies on Rules 17.02(a), (n), and (p) of the Rules of Civil Procedure to serve this statement of claim outside Ontario without leave.

XIV. RELEVANT LEGISLATION AND PLACE OF TRIAL

92. The Plaintiff pleads and relies on the *CJA*, the *CPA*, the *OSA*, the other Canadian Securities Legislation, and securities regulatory instruments and the TSX Company Manual.

93. The Plaintiff proposes that this action be tried in the City of Toronto, in the Province of Ontario, as a proceeding under the *CPA*.

December 8, 2022

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BANACH v. GALAXY DIGITAL HOLDINGS LTD. et. al
Plaintiff Defendant

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced in Toronto

STATEMENT OF CLAIM

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