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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Civil Action No. _____

ALEX BROLA, individually;
and on behalf of All Others Similarly Situated;
Plaintiff,

v.

NANO f/k/a RAIBLOCKS f/k/a HIEUSYS, LLC, a Texas company;
COLIN LEMAHIEU, an individual;
MICA BUSCH, an individual;
ZACH SHAPIRO, an individual;
and TROY RETZER, an individual;
Defendants.
_____/

CLASS ACTION COMPLAINT

Plaintiff ALEX BROLA ("Plaintiff"), individually and on behalf of all other persons similarly situated as defined herein ("the Class"), by and through undersigned counsel, hereby sues NANO f/k/a RAIBLOCKS f/k/a HIEUSYS, LLC, a Texas company ("NANO"); COLIN LEMAHIEU, an individual; MICA BUSCH, an individual; ZACH SHAPIRO, an individual; and TROY RETZER, an individual; for damages and for equitable relief. In support thereof, Plaintiff alleges as follows:

PRELIMINARY STATEMENT

1. This action is brought by Plaintiff ALEX BROLA who -- upon investment solicitations and specific instructions and representations of safety and security made by NANO representatives -- opened a customer account at BitGrail, an Italian-based cryptocurrency exchange[1], for the primary purpose of investing in and exchanging a cryptocurrency called Nano (f/k/a RaiBlocks) [XRB], which was developed and promoted (but never registered with any regulatory authority) by Defendants, who are based in the United States.

2. The original RaiBlocks White Paper and first beta implementation of XRB were published in December 2014. Since that time, the maximum supply of 133,248,290 XRB have been generated; and Defendants -- for their work in conceiving, developing, promoting, and selling XRB to the public -- withheld for themselves millions if not tens of millions of XRB, most of which are owned by Defendant LEMAHIEU.

3. Plaintiff and the Class are among the members of the public who invested in tens of millions of dollars' worth of XRB to be held in, and exchanged from, their BitGrail accounts.

4. Based on Defendants' assistance, promotion, and instruction, BitGrail became the predominant and nearly exclusive home for XRB. In fact, XRB/BTC[2] was the most popular trading pair at BitGrail and constituted more than eighty percent (80%) of BitGrail's overall trading volume.

5. Defendants publicly promoted BitGrail as a safe and reliable place for XRB holders to stake and exchange their XRB, and XRB holders relied on that endorsement by Defendants in choosing the exchange that would house their valuable assets.

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[1] BitGrail SRL f/k/a Webcoin Solutions is a foreign for-profit corporation which lists its principal place of business in Florence, Italy.

[2] "XRB/BTC" represents the exchange of XRB for bitcoin (BTC), the most widely-used and recognizable alternative currency in the world.

6. For example, when one concerned XRB holder questioned Defendants about the sagacity of relying upon the otherwise unknown BitGrail exchange and its founder and principal operator, Francesco "The Bomber" Firano, Defendant SHAPIRO publicly represented on Twitter that he speaks with Mr. Firano every day and that both Mr. Firano and BitGrail can be trusted:

7. However, in early-February 2018, when BitGrail announced that it had "lost" $170 Million worth of XRB from its exchange -- approximately eighty percent (80%) of the XRB that BitGrail customers held in their accounts -- Defendants suddenly sought to put more distance between themselves and BitGrail than even the Atlantic Ocean could provide.

8. Simply stated, Defendants created the XRB currency, they directed XRB investors to place their assets at BitGrail; and when nearly all of the XRB purportedly safeguarded at BitGrail disappeared, Defendants disavowed any responsibility for the harm the XRB investors suffered.

9. Moreover, even though the most direct solution to the XRB investors' problems resides squarely within Defendants' hands, Defendants have refused to implement any such solution. Specifically, Defendants can rewrite the XRB code and simply restore ownership to Plaintiff and the

Class. In crypto terms, Defendants can create a "rescue fork" to protect Plaintiff's and the Class' property rights. Defendants, however, have refused to implement that strategy because it is not in their own best interests. The reason is simple: Defendants still own and control millions if not tens of millions of XRB and do not want to sacrifice any financial advantage they currently hold over the average XRB investor victimized by the XRB disappearance at BitGrail, which Defendants would do by "rescue forking" and returning the stolen digital assets.

10. Plaintiff and the Class seek compensatory and equitable relief rescinding their purchases of/investments in XRB and/or restoring to them the assets and funds they were wrongfully induced into investing.

GENERAL ALLEGATIONS

THE PARTIES

Plaintiff

11. Plaintiff ALEX BROLA ("BROLA") is an individual domiciled in Chandler, Arizona and is *sui juris*. On or about December 10, 2017, Plaintiff BROLA transmitted to BitGrail Fifty Thousand Dollars ($50,000.00) as his purchase of, and initial investment in, XRB. Over time, Plaintiff BROLA's BitGrail account grew to hold 16,790.17119100 XRB -- valued on or about February 8, 2018 at over Two Hundred Thirty-Seven Thousand Dollars ($237,000.00).

Defendants

12. Defendant NANO is a Texas company which lists its principal place of business in Austin, Texas. According to NANO's own published promotional materials, NANO is a "low-latency payment platform" that "utilizes a novel block-lattice architecture" on which "each account has [its] own blockchain as part of a larger directed acyclic graph." In layman's terms, NANO purports to have created a faster, cheaper, and more easily scalable blockchain and cryptocurrency that improves upon earlier blockchains and cryptocurrencies such as the widely-popular bitcoin.

13. Defendant COLIN LEMAHIEU ("LEMAHIEU") is an individual domiciled in Austin, Texas and is *sui juris*. According to NANO's own published promotional materials, LEMAHIEU co-founded NANO in 2014 and serves as the company's Lead Developer, "spearheading development of the core protocol."

14. Defendant MICA BUSCH ("BUSCH") is an individual domiciled in Chicago, Illinois and is *sui juris*. According to NANO's own published promotional materials, BUSCH is a key member of NANO's core team, serving as a Control System developer for NANO's web and Android systems.

15. Defendant ZACH SHAPIRO ("SHAPIRO") is an individual domiciled in Brooklyn, New York and is *sui juris*. According to NANO's own published promotional materials, SHAPIRO is a key member of NANO's core team, as he "runs Mobile, Wallets, and Product" for the company and serves as the company's head iOS Developer.

16. Defendant TROY RETZER ("RETZER") is an individual domiciled in Hilton Head Island, South Carolina and is *sui juris*. According to NANO's own published promotional materials, RETZER is a key member of NANO's core team, as he manages and directs the company's marketing and Community and Public Relations efforts.

Other Liable Persons/Entities

17. In addition to those persons and entities set forth as Defendants herein, there are likely other parties who may well be liable to Plaintiff and the Class but respecting whom Plaintiff currently lacks specific facts to permit him to name such person or persons as a party defendant. By not naming such persons or entities at this time, Plaintiff is not waiving his right to amend this pleading to add such parties, should the facts warrant adding such parties.

JURISDICTION AND VENUE

Subject Matter Jurisdiction

18. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005, because the matter in controversy exceeds Five Million Dollars ($5,000,000.00), exclusive of interest and costs, and is a class action in which some members of the Class are citizens of different states than Defendants. *See*, 28 U.S.C. § 1332(a) and 1332(d)(2)(A). This Court also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

Personal Jurisdiction

19. This Court has personal jurisdiction over Defendants because: (a) at least one Defendant is operating, present, and/or doing business within this District, and (b) Defendants' breaches and unlawful activity occurred within this District.

20. Defendants solicited investors in this jurisdiction to invested in millions of dollars' worth of XRB to be held in, and exchanged from, their BitGrail accounts.

21. In light of the foregoing, Defendants purposefully availed themselves of the benefits of operating in this jurisdiction; and this Court may exercise personal jurisdiction over Defendants.

Venue

22. Venue is proper pursuant to 28 U.S.C. § 1391 in that a substantial part of the events or omissions giving rise to the claims set forth herein occurred in this judicial district, as several of the XRB investors reside in New York.

23. In light of the foregoing, this District is a proper venue in which to adjudicate this dispute.

FACTUAL ALLEGATIONS APPLICABLE TO ALL COUNTS

The Allure of XRB

24. There are many different cryptocurrencies in the alternative currency world, and not all cryptocurrencies are the same or serve the same function. Cryptocurrencies differ in many ways, including how widely accepted they are, how quickly they can be used in a transaction, and how costly they are to transact.

25. Defendants promote XRB as having the following relative advantages over other cryptocurrencies: XRB transactions are instant, with no fees, and have no limit to their scalability. There is no mining of XRB, as the 133,248,290 that already exist are anticipated to be the only XRB that ever exist. Moreover, the amount of power required to transact XRB is miniscule, which puts everyday transactions of XRB within the realistic reach of even the most novice XRB consumer.

26. Although NANO was originally launched in or about December 2014 under the brand name RaiBlocks, the company was rebranded as "Nano" on or about January 31, 2018.

Nano's Close Relationship with BitGrail

27. A consumer's desire to purchase a particular cryptocurrency is one thing; finding a place to purchase that cryptocurrency is another.

28. Prior to February 2018, by Defendants' calculated choice, XRB was available at essentially only one cryptocurrency exchange in the world: BitGrail.

29. BitGrail has long been far-and-away XRB's largest marketplace -- a result of strategic positioning and widespread marketing efforts by Defendants.

30. Defendants had a very close relationship with BitGrail, from which they mutually profited.

31. Defendants were eager to gain access to a large platform on which investors could purchase, stake, and liquidate XRB; and Defendants chose BitGrail as the exchange to which

Defendants would drive all XRB investor interest -- primarily those investors who are non-accredited, U.S.-based investors.

32. To have its XRB accepted and listed on BitGrail's trading exchange, NANO worked closely with BitGrail to integrate XRB and its blockchain protocol into BitGrail's platform -- a task that required significant time, effort, and communication between BitGrail and NANO.

33. In return for having XRB listed for purchase and sale at BitGrail, Defendants were compensated -- first, with the ability to liquidate the XRB; and second, upon information and belief, as a source of referrals.

34. Moreover, Defendants recommended BitGrail on NANO's Twitter feed, on Reddit, on Medium, and on its official website multiple times.

35. In addition, several of Defendants herein made to members of the Class specific representations that BitGrail was a safe and secure exchange at which to deposit and hold XRB for investment purposes and for future transactions.

36. At times relevant hereto, COLIN LEMAHIEU, MICA BUSCH, JAMES COXON, ZACH SHAPIRO, and TROY RETZER each took to social media outlets -- including Twitter, Facebook, Medium, and Reddit -- to promote XRB and BitGrail as a purported safe haven at which investors could stake and trade their XRB for profit.

37. Unfortunately, in their fervent push to drive XRB investors to BitGrail, Defendants either failed in their due diligence or knowingly disregarded many material concerns about BitGrail's operations, safety, and reliability and/or deficiencies in the XRB code itself.

Nano's Recommendations Are Belied by BitGrail's Security Problems and Lack of Reliability

38. Notwithstanding Defendants' widespread promotion of BitGrail as a safe haven for XRB investors, BitGrail's troubled past, uncertain present, and questionable future make Defendants' recommendations highly suspect, if not outright reckless.

a. The Trading Platform Problem

39. In early-January 2018, many BitGrail users reportedly experienced problems with the reliability and security of BitGrail's trading platform.

40. For some users, account balances would inexplicably (and inaccurately) slip into negative figures.

41. For some users, single account deposits were processed twice.

42. BitGrail accountholders took to social media to decry the lack of reliability and trustworthiness of BitGrail's operations or the reliability of the XRB code itself.

43. Despite the account glitches and functionality concerns that affected so many BitGrail users, Defendants did not distance themselves from BitGrail as a direct result of the problems.

b. The Verification Problem

44. In or about mid-January 2017, BitGrail proved itself unable to timely verify its new users, which left those users incapable of engaging in anything more than a very meager volume of transactions -- a frustrating circumstance that rendered the users' accounts effectively useless with regard to the purpose for which the accounts were opened

45. NANO and BitGrail had a public spat over BitGrail's verification problem, and some asserted that the problem stemmed from NANO's failure to cooperation with BitGrail's business model.

46. Despite the verification issue that plagued so many BitGrail users, Defendants did not distance themselves from BitGrail as a direct result of the problem.

c. The $170 Million Disappearing XRB Problem

47. In early-February 2018, BitGrail announced that it had "lost" $170 Million worth of XRB from its exchange due to "unauthorized transactions." The "missing" XRB amounted to approximately eighty percent (80%) of the XRB that BitGrail customers held in their accounts and amounts to nearly fifteen percent (15%) of all XRB that exists.

48. In the aftermath of the purported XRB theft that devastated BitGrail's inventory of the cryptocurrency, BitGrail and Defendants got into another very public dispute over the cause of the problem and how it should be resolved.

49. Defendants accused BitGrail CEO Francesco "The Bomber" Firano of trying to cover-up the event and of asking NANO to engage in purportedly unethical behavior to solve the problem. According to NANO, the problem stemmed from flaws related to BitGrail's software, not any issue in the XRB protocol.

50. BitGrail denied all allegations of wrongdoing and alleged that NANO was unwilling to cooperate in formulating a solution.

51. In the wake of the latest of the calamities in the relationship between BitGrail and NANO, BitGrail users have sought to move their XRB off of the BitGrail exchange into private cryptocurrency wallets; however, BitGrail has made such withdrawals impossible by suspending all account activity.

52. The XRB holders at BitGrail -- including Plaintiff and the Class -- were ushered there by Defendants, those users relied on Defendants' representations in investing their assets at BitGrail, and those users have now been burned by both BitGrail and Defendants.

53. NANO has the ability to make whole all those who lost XRB in the purported theft from BitGrail by simply "forking" its blockchain, creating a commensurate number of new tokens for those aggrieved by the purported theft, and distributing them to each BitGrail user affected by the purported theft.

54. Notwithstanding the fact that NANO has within its power the ability to remedy the situation, NANO has chosen instead to make the very community of supporters who give value to NANO's cryptocurrency suffer for their reliance on NANO's unqualified recommendation of, and public representations of trust of, BitGrail as the place where XRB should be kept and traded.

XRB Are Investment Contract Securities
that Were Never Registered or Exempted From Registration With Regulatory Authorities

55. In addition to recklessly directing XRB investors to utilize BitGrail, NANO's XRB themselves are securities; which Defendants offered and sold without either registering with the necessary governmental authorities or obtaining an exemption from such registration.

56. Under the Securities Act, a "security" is defined as including any "note," "investment contract," or "instrument commonly known as a 'security.'" *See* 15 U.S.C. §§ 77b(a)(1). Here, XRB are investment contracts. In *SEC v. W.J. Howey Co.*, the United States Supreme Court established a three-part test to determine whether an offering, contract, transaction, or scheme constitutes an investment contract.[3] Under the test articulated in *Howey*, a contract, transaction, or scheme is an "investment contract" if it involves: (*i*) the investment of money; (*ii*) in a common enterprise; (*iii*) with the expectation of profits to come solely from the efforts of others.

57. When determining whether a security has been offered and sold, the focus must be on the economic realities underlying the transaction. Here, the economic realities are that Plaintiff and the Class invested funds and assets to stake and trade XRB -- each of which they expected would lead to lucrative returns. Investors in XRB used cryptocurrency or fiat currency to purchase the XRB required to make their investments. Accordingly, Plaintiff's and the Class' investment of cryptocurrency or fiat currency constitutes an investment of money for the purposes of determining whether an investment involved a security.

58. Plaintiff and the Class were investing in a common enterprise with Defendants, as the cryptocurrency and fiat currency were pooled under the control of Defendants, and the success of XRB -- and thus potential profits stemming from the future valuation of XRB -- was entirely reliant

[3] *See SEC v. W.J. Howey, Co.*, 328 U.S. 293 (1946); *see also Intern. Bhd. of Teamsters v. Daniel*, 421 U.S. 837, 852 (1979) (noting that the *Howey* test is not the only test for determining a security but has been held to embody "all the attributes that run through all of the Court's decisions defining a security").

on Defendants' actions, primarily Defendants' ability to maintain and expand the functionality of XRB, thus providing financial returns to investors.

59. In short, it is indisputable that Defendants were selling investment contracts and that any success from Defendants' development, maintenance, and expansion of the functionality of XRB -- as well as any future potential increases to the value of XRB -- were entirely dependent on Defendants' actions.

60. Despite XRB's clear characterization as a "security," Defendants did not register XRB with any regulatory authority in the United States as required by federal securities laws.

61. Furthermore, Defendants neither applied for, nor received, an exemption from registration of XRB with regulatory authorities in the United States as required by federal securities laws.

62. U.S. securities regulation focuses on, *inter alia*, mandatory disclosures that require issuers of securities to make publicly available certain information that regulators deem material to investors. When those necessary disclosures are not made -- and regulators have not granted an exemption to the normal requirement of such disclosures -- investors are at risk of undue harm. Indeed, in the instant matter, XRB investors were lured into investing their funds and assets in the self-issued cryptocurrency being offered by NANO and were further lured by Defendants into staking and exchanging those investments at BitGrail. Without adequate protections in place, Plaintiff and the Class have suffered millions of dollars of harm; and Defendants -- without regard to the regulatory environment in which they live and operate their business -- have distanced themselves from that harm and have refused to institute the remedy well within their grasp, simply because it does not suit their own financial interests.

No Safe Harbor

63. The statutory safe-harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint.

64. Many of the specific statements pleaded herein were not identified as "forward-looking statements" when made.

65. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements.

66. Alternatively, to the extent the statutory safe-harbor does apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements were made, the particular speaker knew that the particular forward-looking statement was false or that the forward-looking statement was authorized or approved by an executive officer of NANO, who knew those statements were false when made.

FACTS SPECIFIC TO INVESTOR PLAINTIFF

Alex Brola

67. On or about December 10, 2017, Plaintiff BROLA opened a BitGrail account and funded that account by transmitting to BitGrail Fifty Thousand Dollars ($50,000.00) as his initial purchase of, and investment in, XRB.

68. To open and manage his BitGrail account, Plaintiff BROLA logged onto BitGrail's website from his home and followed the instructions provided.

69. In deciding to invest in XRB and open an account at BitGrail, Plaintiff BROLA reviewed and relied upon Defendants' promotions on social media channels and/or statements made on NANO's own website representing that BitGrail is a safe and reliable exchange on which to purchase and stake XRB.

70. On or about February 8, 2018, Plaintiff BROLA's BitGrail account grew to hold 16,790.17119100 XRB.

CLASS ACTION ALLEGATIONS

71. A class action is the proper form to bring Plaintiff's and the Class' claims under FRCP 23. The potential class is so large that joinder of all members would be impractical. Additionally, there are questions of law or fact common to the class, the claims or defenses of the representative parties are typical of the claims or defenses of the class, and the representative parties will fairly and adequately protect the interests of the class.

72. Plaintiff brings this nationwide class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of himself and all members of the following class:

> **All BitGrail investors and accountholders who are citizens of the United States and who, between January 1, 2015 and March 31, 2018, having seen or heard representations made by or on behalf of Defendants touting BitGrail as the cryptocurrency exchange at which to purchase and hold XRB, transferred bitcoins, alternative cryptocurrencies, or any other form of monies or currency to BitGrail to purchase, invest in, or stake XRB. Excluded from the class are: Defendants themselves, Defendants' retail employees, Defendants' corporate officers, members of Defendants' boards of directors, Defendants' senior executives, Defendants' affiliates, and any and all judicial officers (and their staff) assigned to hear or adjudicate any aspect of this litigation.**
>
> **The Class asserts claims for Unregistered Offer and Sale of Securities in Violation of Sections 12(a)(1) and 15 of the Securities Act; Negligent Misrepresentation; Unjust Enrichment; and Civil Conspiracy.**

73. This action satisfies all of the requirements of Federal Rules of Civil Procedure, including numerosity, commonality, predominance, typicality, adequacy, and superiority.

Numerosity

74. Members of the Class are so numerous and geographically dispersed that joinder of all members is impractical.

75. While the exact number of class members remains unknown at this time, upon information and belief, there are at least hundreds if not thousands of putative Class members.

76. Again, while the exact number is not known at this time, it is easily and generally ascertainable by appropriate discovery.

77. It is impractical for each class member to bring suit individually.

78. Plaintiff does not anticipate any difficulties in managing this action as a class action.

Commonality and Predominance

79. There are many common questions of law and fact involving and affecting the parties to be represented.

80. When determining whether common questions predominate, courts focus on the issue of liability; and if the issue of liability is common to the class and can be determined on a class-wide basis, as in the instant matter, common questions will be held to predominate over individual questions.

81. Common questions include, but are not limited to, the following:

(a) Whether the XRB offered for sale by Defendants constitute securities under federal securities laws;

(b) Whether Defendants violated federal securities laws in failing to register XRB as securities;

(c) Whether Defendants are liable for steering Plaintiff and the Class to BitGrail;

(d) Whether statements made by Defendants about BitGrail were false or were made without due regard for the safety of those who read or heard the statements;

(e) Whether Defendants have converted the funds belonging to Plaintiff and the Class;

(f) Whether Defendants owed duties to Plaintiff and the Class, what the scope of those duties were, and whether Defendants breached those duties;

(g) Whether Defendants' conduct was unfair or unlawful;

(h) Whether Defendants has been unjustly enriched;

(i) Whether Plaintiff and the Class have sustained damages as a result of Defendants' conduct; and

(j) Whether Defendants have within their power the ability to, and should, institute an equitable remedy that would resolve the harm that has befallen Plaintiff and the Class.

82. These common questions of law or fact predominate over any questions affecting only individual members of the Class.

Typicality

83. Plaintiff's claims are typical of those of the other Class members because, *inter alia*, all members of the Class were injured through the common misconduct described above and were subject to Defendants' unfair and unlawful conduct.

84. Plaintiff is advancing the same claims and legal theories on behalf of himself and all members of the Class.

Adequacy of Representation

85. Plaintiff will fairly and adequately represent and protect the interests of the Class in that he has no disabling conflicts of interest that would be antagonistic to those of the other members of the Class.

86. Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel, experienced in complex consumer class action litigation of this nature, to represent him.

87. Plaintiff seeks no relief that is antagonistic or adverse to the members of the Class.

88. The infringement of the rights and the damages Plaintiff has suffered are typical of other Class members.

89. To prosecute this case, Plaintiff has chosen the law firm of Silver Miller. Silver Miller is experienced in class action litigation and has the financial and legal resources to meet the substantial costs and legal issues associated with this type of litigation.

Superiority

90. Class action litigation is an appropriate method for fair and efficient adjudication of the claims involved herein.

91. Class action treatment is superior to all other available methods for the fair and efficient adjudication of the controversy alleged herein; as it will permit a large number of Class members to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that hundreds of individual actions would require.

92. Class action treatment will permit the adjudication of relatively modest claims by certain Class members, who could not individually afford to litigate a complex claim against well-funded corporate defendants like NANO.

93. Further, even for those Class members who could afford to litigate such a claim, it would still be economically impractical.

94. The nature of this action and the nature of laws available to Plaintiff make the use of the class action device a particularly efficient and appropriate procedure to afford relief to Plaintiff and the Class for the wrongs alleged because:

(a) Defendants would necessarily gain an unconscionable advantage if they were allowed to exploit and overwhelm the limited resources of each individual Class member with superior financial and legal resources;

(b) The costs of individual suits could unreasonably consume the amounts that would be recovered;

(c) Proof of a common course of conduct to which Plaintiff was exposed is representative of that experienced by the Class and will establish the right of each member of the Class to recover on the cause of action alleged;

(d) Individual actions would create a risk of inconsistent results and would be unnecessary and duplicative of this litigation;

(e) The Class is geographically dispersed all over the world, thus rendering it inconvenient and an extreme hardship to effectuate joinder of their individual claims into one lawsuit;

(f) There are no known Class members who are interested in individually controlling the prosecution of separate actions; and

(g) The interests of justice will be well served by resolving the common disputes of potential Class members in one forum.

95. Plaintiff reserves the right to modify or amend the definition of the proposed class and to modify, amend, or create proposed subclasses before the Court determines whether certification is appropriate and as the parties engage in discovery.

96. The class action is superior to all other available methods for the fair and efficient adjudication of this controversy.

97. Because of the number and nature of common questions of fact and law, multiple separate lawsuits would not serve the interest of judicial economy.

98. As a result of the foregoing, Plaintiff and the Class have been damaged in an amount that will be proven at trial.

99. Plaintiff has duly performed all of his duties and obligations, and any conditions precedent to Plaintiff bringing this action have occurred, have been performed, or else have been excused or waived.

100. To enforce his rights, Plaintiff has retained undersigned counsel and is obligated to pay counsel a reasonable fee for its services, for which Defendants are liable as a result of their bad faith and otherwise.

COUNT I - VIOLATION OF SECTION 12(a)(1) OF THE SECURITIES ACT
[AGAINST ALL DEFENDANTS]

Plaintiff re-alleges, and adopts by reference herein, Paragraphs 1-100 above, and further alleges:

101. Section 12(a)(1) grants Plaintiff a private right of action against any person who offers or sells a security in violation of Section 5, and states that such person,

> Shall be liable . . . to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.

102. Between January 2015 and March 2018, in connection with the offer and sale of XRB, Defendants unlawfully made use of means or instruments of transportation or communication in interstate commerce or of the mails for the purposes of offering, selling, or delivering unregistered securities in direct violation of the Securities Act.

103. The offer and sale of XRB constituted the offer and sale of unregistered securities under controlling federal law. XRB exhibit the following particular hallmarks of a security under the *Howey* test: (a) to receive any XRB, an investment of money, in the form of cryptocurrency and/or fiat currencies was required; (b) the investment of money was made into the common enterprise that is Defendant NANO and its ability to provide value to the XRB through the functionality and popularity of its self-created XRB; and (c) the success of the investment opportunities and any potential returns thereon were entirely reliant on Defendants' ability to maintain and expand the functionality and popularity of XRB, thus providing financial returns to investors.

104. Each of the individual Defendants constitute "seller[s]" under the Securities Act and are thus equally liable for selling unregistered securities in connection with XRB.

105. As such, Defendants have participated in the offer and sale of unregistered securities in violation of the Securities Act and are liable to Plaintiff and the Class for rescission and/or compensatory damages.

COUNT II - VIOLATION OF SECTION 15(a) OF THE SECURITIES ACT
[AGAINST DEFENDANTS LEMAHIEU, BUSCH, SHAPIRO, AND RETZER]

Plaintiff re-alleges, and adopts by reference herein, Paragraphs 1-100 above, and further alleges:

106. Due to their ownership in and/or control over the business operations of Defendant NANO, Defendants COLIN LEMAHIEU, MICA BUSCH, ZACH SHAPIRO, and TROY RETZER acted as controlling persons of NANO within the meaning of Section 15(a) of the Securities Act as alleged herein.

107. By virtue of their positions as managers, directors, and key members of NANO's core team and by their participation in and/or awareness of Defendant NANO's operations, Defendants COLIN LEMAHIEU, MICA BUSCH, ZACH SHAPIRO, and TROY RETZER had the power to influence and control and did influence and control, directly or indirectly, the decision making relating to the development and success of XRB, including the decision to engage in the sale of unregistered securities in furtherance thereof.

108. By virtue of the foregoing, Defendants COLIN LEMAHIEU, MICA BUSCH, ZACH SHAPIRO, and TROY RETZER are liable to Plaintiff and the Class as control persons of Defendant NANO under Section 15(a) of the Securities Act.

COUNT III – NEGLIGENT MISREPRESENTATION
[AGAINST ALL DEFENDANTS]

Plaintiff re-alleges, and adopts by reference herein, Paragraphs 1-100 above, and further alleges:

109. Defendants, by acts of both omission and commission, made to Plaintiff and the Class false statements of material facts about the services Plaintiff and the Class would receive from BitGrail upon opening a BitGrail account and investing in XRB in exchange for the fees they were compelled to pay to maintain accounts at BitGrail.

110. Specifically, Defendants' representations to Plaintiff and the Class that, among other things:

(a) BitGrail had in place adequate security measures to properly safeguard BitGrail accountholders' assets;

(b) BitGrail's software was free of inherent flaws that might expose XRB holders to transactional irregularities, failures, or falsely-reported negative account balances;

(c) BitGrail was solvent and able to satisfy its obligations to its accountholders;

(d) NANO's blockchain protocol was free of inherent flaws that might expose XRB holders to attacks, security breaches, or transactional failures

were false, and Defendants knew, or should have known, at the time the statements were made that the statements were false.

111. Defendants had no reasonable grounds upon which to believe the statements were true when made to Plaintiff and the Class.

112. Defendants intended that Plaintiff and the Class would be induced into action by relying upon the statements of fact made to them by and on behalf of Defendants.

113. In considering whether to open accounts at BitGrail, invest in XRB, and entrust to BitGrail their valuable assets; Plaintiff and the Class reasonably and justifiably relied on the statements of fact made to them by and on behalf of Defendants.

114. As a direct and proximate result of Plaintiff's and the Class' reliance on the statements made to them by Defendants, Plaintiff and the Class have suffered damage

COUNT IV - UNJUST ENRICHMENT
[AGAINST ALL DEFENDANTS]

Plaintiff re-alleges, and adopts by reference herein, Paragraphs 1-100 above, and further alleges:

115. Defendants have reaped the benefits from inducing Plaintiff and the Class to invest in XRB-filled accounts at BitGrail, thereby causing actual harm to thousands of investors.

116. It would be unconscionable and against the fundamental principles of justice, equity, and good conscience for Defendants to retain the substantial monetary benefits they have received as a result of their misconduct.

117. To remedy Defendants' unjust enrichment, the Court should order Defendants to immediately return Plaintiff's and the Class' investments and disgorge any amounts received by Defendants as a result of their misconduct alleged herein.

COUNT V – CIVIL CONSPIRACY
[AGAINST ALL DEFENDANTS]

Plaintiff re-alleges, and adopts by reference herein, Paragraphs 1-100 above, and further alleges:

118. Defendants conspired with one another to perpetrate an unlawful act upon Plaintiff and the Class or to perpetrate a lawful act by unlawful means, *to wit*: they recklessly made to Plaintiff and the Class multiple misrepresentations of fact about the safety and security of BitGrail's trading exchange as well as NANO's own blockchain network in an effort to extract from Plaintiff and the Class funds, assets, and cryptocurrency to fund NANO's business expenses and to enrich their Directors, shareholders, and the NANO Core Developers and representatives, including Defendants COLIN LEMAHIEU, MICA BUSCH, ZACH SHAPIRO, and TROY RETZER -- all of which put Defendants' own pecuniary interest ahead of Plaintiff's and the Class' welfare and economic safety.

119. Defendants solicited and/or accepted from Plaintiff and the Class large sums of funds, assets, and cryptocurrency while withholding from Plaintiff and the Class certain material facts, including:

(a) Defendants were compensated by having XRB liquidated at BitGrail;

(b) BitGrail did not have in place adequate security measures to properly safeguard BitGrail accountholders' assets;

(c) NANO's blockchain protocol had inherent flaws, including an unreliable timestamp record; and

(d) BitGrail was, at times material to this matter, insolvent and thus unable to satisfy its obligations to its accountholders.

120. All Defendants agreed to the illicit purpose for garnering investment monies from Plaintiff and the Class so that NANO's Directors, shareholders, and Defendants could enjoy well-compensated lifestyles with Plaintiff's and the Class' funds, assets, and cryptocurrency.

121. Defendants were each aware of, and consented to, the misrepresentations detailed above and knew that the efforts to garner funds, assets, and cryptocurrency from Plaintiff and the Class was all part of a relationship aimed solely at enriching NANO's Directors, shareholders, and Defendants without due regard for the safety of those who entrusted their valuable funds, assets, and cryptocurrency to BitGrail and NANO.

122. In furtherance of their conspiracy, Defendants made to Plaintiff and the Class, or agreed to have someone make on their behalf, the false, misleading, and reckless statements of fact detailed above and purposefully withheld from Plaintiff and the Class certain material facts detailed above in a concerted effort to obtain Plaintiff's and the Class' funds, assets, and cryptocurrency.

123. To fulfill its role in the conspiracy, NANO -- by and through Defendants, amongst others -- referred thousands of investors to BitGrail to open up accounts at the exchange, in return for which NANO received large payments in connection with XRB being traded on the BitGrail exchange.

124. To fulfill their role in the conspiracy, Defendants COLIN LEMAHIEU, MICA BUSCH, ZACH SHAPIRO, and TROY RETZER created and managed the XRB network and used social media channels such as Twitter, Medium, and Reddit to recruit unsuspecting investors in the United States and abroad to purchase XRB investments and allow the liquidation of XRB coins and/or store those valuable assets at the inherently unsafe BitGrail exchange. For their efforts, Defendants COLIN LEMAHIEU, MICA BUSCH, ZACH SHAPIRO, and TROY RETZER were paid sizeable incomes and/or retain valuable XRB coins that were not hacked at BitGrail.

125. BitGrail and/or NANO's systems were inherently flawed and dangerously exposed XRB investors to significant if not total loss of their investments -- something of which Defendants COLIN LEMAHIEU, MICA BUSCH, ZACH SHAPIRO, and TROY RETZER were aware and

which they accepted as part of the scheme to lure investors into purchasing XRB and storing those assets at BitGrail.

126. In addition, Defendants agreed to sell XRB investment contracts without registering them with the necessary governmental authorities or obtain from those authorities an exemption from having to register the XRB.

127. Moreover, Defendants have conferred and agreed amongst themselves to not implement any form of relief for Plaintiff and the Class that would impact Defendants' war chest of the millions if not tens of millions of XRB they retained and hold -- once again elevating their own pecuniary interest ahead of Plaintiff's and the Class' welfare and economic safety.

128. As a direct and proximate result of Defendants' conspiracy, Plaintiff and the Class have suffered damage; and Defendants should be ordered to rescind Plaintiff's and the Class' purchases of/investments in XRB and/or restore to Plaintiff and the Class -- by a "rescue fork" or some other procedure -- the assets and funds wrongfully taken from them.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ALEX BROLA ("Plaintiff"), individually and on behalf of all other persons similarly situated as defined herein; respectfully pray for relief as follows:

(a) Declaring that this action is properly maintainable as a class action and certifying Plaintiff as the Class representative and his counsel as Class counsel;

(b) Declaring that Defendants offered and sold unregistered securities in violation of the federal securities laws;

(c) Declaring Defendants are liable to Plaintiff and the Class under Sections 12(a)(1) and/or 15(a) of the Securities Act;

(d) A judgment awarding Plaintiff and the Class equitable restitution, including, without limitation, rescission of their investments in all XRB held in accounts at BitGrail, restoration of the *status quo ante*, return to Plaintiff and the Class all cryptocurrency or fiat currency they paid as a result of Defendants' unlawful and unfair business practices and conduct, and an order requiring NANO to "rescue fork" the allegedly missing XRB into a new cryptocurrency in a manner

that would fairly compensate Plaintiff and the Class for each missing XRB and would eliminate all of the "missing" XRB;

(e) An award of any and all additional damages recoverable under law -- jointly and severally entered against Defendants -- including but not limited to compensatory damages, punitive damages, incidental damages, and consequential damages;

(f) An Order requiring an accounting of the remaining funds and assets raised from Plaintiff and the Class in connection with XRB;

(g) An Order imposing a constructive trust over the funds and assets rightfully belonging to Plaintiff and the Class;

(h) Pre- and post-judgment interest;

(i) Attorneys' fees, expenses, and the costs of this action; and

(j) All other and further relief as this Court deems necessary, just, and proper.

PLAINTIFF'S DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury in this action of all issues so triable.

Respectfully submitted,

THE BRAUNSTEIN LAW FIRM, PLLC

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Counsel for Plaintiff

Dated: April 5, 2018

CERTIFICATION OF REPRESENTATIVE PLAINTIFF
PURSUANT TO FEDERAL SECURITIES LAWS

I, Alex Brola, as one of the named plaintiffs in this matter (the "Lawsuit"), declare that:

1. I have reviewed the Complaint in the Lawsuit against Nano f/k/a RaiBlocks f/k/a Hieusys, LLC, *et al.*, alleging, *inter alia*, violations of federal securities laws; and I authorized its filing.

2. I did not purchase the security that is the subject of this action at the direction of my counsel or to participate in this private action.

3. I am willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary.

4. My investment holdings in the Nano securities that are the subject of this action during the Class Period set forth in the Complaint are as follows:

Date of Initial Nano Investment	Nano Coins held on February 8, 2018
December 10, 2017	16,790.17119100

5. During the three year period preceding the date of this certification, I have not sought to serve as a representative party for a class action filed under the Securities Exchange Act of 1934 or the Securities Act of 1933.

6. I, either directly or indirectly, have not received, been promised, been offered, and will not accept, any form of compensation for service as a representative party on behalf of the class, except for: (*i*) such damages or other relief as the Court may award to me as my *pro rata* share of any recovery or judgment; (*ii*) such reasonable fees, costs, or other payments (including lost wages) as the Court expressly approves to be paid to me or on my behalf; or (*iii*) reimbursement, paid by my attorneys, of actual or reasonable out-of-pocket expenses incurred directly in connection with the prosecution of this action.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 4th , 2018 in Chandler, Arizona.

alex Brola

Alex Brola