UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. SECURITIES AND EXCHANGE COMMISSION, **Plaintiff,** **-against-** **SERGII "SERGEY" GRYBNIAK, and OPPORTY INTERNATIONAL, INC.,** **Defendants, and** **CLEVER SOLUTION INC.,** **Relief Defendant.**	**Civil Action No. 1:20-CV-327** **ECF CASE** **(Jury Trial Demanded)**

COMPLAINT

Plaintiff U.S. Securities and Exchange Commission (the "Commission" or "SEC"), for its Complaint against Defendants Sergii "Sergey" Grybniak ("Grybniak") and Opporty International, Inc. ("Opporty"), and Relief Defendant Clever Solution Inc. ("Clever Solution"), alleges as follows:

SUMMARY

1. From September 2017 to October 2018, Opporty and its founder and sole owner, Grybniak, conducted a fraudulent and unregistered initial coin offering ("ICO") of digital asset securities called "OPP Tokens," raising approximately $600,000 from nearly 200 investors located in the United States and abroad. Defendants did not file a registration statement with the SEC for Opporty's ICO of OPP Tokens, which would have disclosed to potential investors sufficient, accurate information relating to the ICO, including financial and operational information about Opporty and the risks and trends that could affect Opporty's ICO and the

development of its platform and business. Defendants promoted and marketed Opporty's ICO of OPP Tokens and raised the $600,000 in offering proceeds by making material misrepresentations and omissions to investors and engaging in other deceptive conduct during the offering. Defendants did so in order to create materially false and misleading impressions about the legitimacy, use, growth, and success of Opporty's platform, including the materially false and misleading impression that Defendants' efforts to develop Opporty's platform and promote it to small businesses were resulting in the substantial growth of Opporty's user and customer bases, the creation of real content on the platform, and the participation of at least one prominent partner in Opporty's ICO and business.

2. Grybniak marketed Opporty's ICO as a means to raise funds to develop Opporty's "blockchain-based ecosystem for small businesses and their customers" primarily in the United States. In particular, Grybniak pitched Opporty's platform as a place where small businesses could list their services and products, use blockchain smart contracts to enter into agreements with customers, and transact business using OPP Tokens.

3. Defendants conducted the ICO through general solicitations and directed selling efforts, through statements published on Opporty's website, social media platforms, and other online forums, which were distributed and/or accessible in the United States and globally. Grybniak also promoted the ICO in person at blockchain and digital asset conferences in the United States.

4. OPP Tokens were sold via purchase agreements called "Simple Agreements for Future Tokens" ("SAFTs") and constituted investment contracts and, thus, securities.

5. Opporty's ICO was an illegal securities offering, as Defendants did not file a registration statement with the SEC for the offer or sale of OPP Tokens, and lacked a valid registration exemption.

6. Defendants made and disseminated numerous material misrepresentations and engaged in other deceptive acts in offering and promoting Opporty's ICO to investors.

7. First, on Opporty's website and in numerous social media posts, Defendants falsely claimed to potential ICO investors that Opporty had "onboarded" thousands (as many as "6000+") of "verified providers" willing to do business on, and contribute content to, Opporty's blockchain-based platform. In fact, the overwhelming majority of these purported "verified providers" had expressed no such willingness and were not contributing content to Opporty's platform.

8. Second, on Opporty's website and in numerous social media posts, Defendants touted that Opporty's platform had more than 17 million small U.S. businesses in its business catalog or database, which created the false impression that the 17-million-plus companies in the catalog were real businesses eligible to conduct business on Opporty's platform. In fact, Defendants had merely purchased a database of entity and individual profiles from a third-party vendor – a fact not disclosed to potential OPP Token purchasers. Of the more than 17 million purported businesses in Opporty's catalog, not all were actual businesses. For example, the catalog included government officials and agencies that were not and could not possibly be users eligible to conduct business on Opporty's platform.

9. Third, on Opporty's website and in numerous social media posts, Defendants deceptively misappropriated (at least) hundreds of reviews and ratings from a prominent customer review and ratings website, and content from the websites of its purported "verified

providers," and posted that information on Opporty's website, thereby misleading investors to believe that this third-party content had been created on Opporty's platform and/or by Opporty's "verified providers." In fact, Opporty had no users who created this content on its platform, and none of these companies, including the online customer review and ratings company, had authorized Opporty to use their content.

10. Fourth, Defendants falsely represented that a major software company was a "partner" and/or "participant" in Opporty's ICO and/or in the development of Opporty's platform. Defendants used the software company's trademarked logo on Opporty's offering and promotional materials without the company's consent.

11. Fifth, Defendants falsely claimed that OPP Tokens were or had been "SEC registered" and that Opporty's ICO was a "100% SEC compliant regulated ICO." Defendants did not register the ICO or OPP Tokens with the SEC, and the SEC never indicated that the ICO was "100% compliant" with the federal securities laws.

VIOLATIONS

12. By engaging in this conduct, as set forth more fully herein, each of the Defendants has engaged in securities fraud in violation of Section 17(a)(1)-(3) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)(1)-(3)], Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5(a)-(c) thereunder [17 C.F.R. § 240.10b-5(a)-(c)]; and has also engaged in the unlawful sale and offer to sell securities in violation of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c)]. Defendant Grybniak has also aided and abetted Defendant Opporty's violations of the aforementioned antifraud and securities offering registration provisions.

NATURE OF THE PROCEEDING AND RELIEF SOUGHT

13. The SEC brings this action pursuant to the authority conferred upon it by Section 20 of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d)(1) & (d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(1) & (d)(5)].

14. The SEC seeks a final judgment: (a) permanently enjoining Defendants from violating the provisions of the securities laws set forth herein; (b) ordering Defendants and Relief Defendant Clever Solution, jointly and severally, to disgorge their ill-gotten gains and to pay prejudgment interest thereon; (c) prohibiting Defendant Grybniak, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], from acting as an officer or director of any public company; (d) prohibiting Defendants, pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], from participating in an offering of digital asset or other securities; and (e) imposing civil money penalties on Defendants pursuant to Section 20(d) of the Securities Act [15 U.S.C § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa]. Defendants, directly or indirectly, have made use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein.

16. Venue is proper in the Eastern District of New York pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa].

Defendants conducted certain of the transactions, acts, practices, and courses of business constituting violations of the federal securities laws within this district, including making false and misleading statements to investors while in this district. Defendant Grybniak resides in this District, and during the period relevant to this Complaint worked and/or carried out certain of the acts alleged herein from his residence in this District.

DEFENDANTS

17. **Sergii "Sergey" Grybniak**, age 35, resides in Brooklyn, New York, and resided there at all times relevant to this Complaint. Grybniak is the founder, sole owner, and sole officer of both Opporty International, Inc. and Clever Solution Inc., which operate primarily through the efforts of Grybniak and contractors who were retained by Grybniak (on behalf of the entities) and whose work was directed generally by Grybniak. These contractors were located primarily in Ukraine, and at least one was located in the United States. Grybniak holds himself out as an entrepreneur specializing in digital marketing and website development.

18. **Opporty International, Inc.** is a corporation organized under the laws of the State of Delaware, with a registered address in Dover, Delaware. Grybniak wholly owns Opporty and is its sole officer. Opporty has no employees and is an alter ego of Grybniak.

RELIEF DEFENDANT

19. **Clever Solution Inc.** is a digital marketing and technology corporation organized under the laws of the State of New York, with a registered address in New York, New York.

Grybniak wholly owns Clever Solution and is its sole officer. Clever Solution has no employees and is an alter ego of Grybniak.

BACKGROUND ON DIGITAL TOKENS

20. An "Initial Coin Offering" or "ICO" is a fundraising event in which an entity offers participants a unique digital asset – often described as a "coin" or "token" – in exchange for consideration (often digital assets such as Bitcoin or Ether, or fiat currency such as U.S. dollars). The tokens are issued and distributed on a "blockchain," a cryptographically secured ledger.[1] As described more fully herein, Opporty's offer and sale of OPP Tokens from September 2017 to October 2018 constituted an ICO and an unregistered offering of securities.

21. Typically, ICOs are announced and promoted through public internet channels or other marketing methods. An ICO issuer usually releases a "White Paper" describing the project and promoting the ICO, often in highly technical terms and jargon, and also promotes the ICO elsewhere, including on its website, its social media pages, and other internet publications. To participate in the ICO, investors are generally required to transfer consideration (often digital assets) to the issuer's blockchain address, online "wallet," or other account.

22. At some point after the completion of the ICO, the issuer will distribute the tokens to the participant's unique "wallet" address on the blockchain. Tokens are sometimes transferred

[1] A blockchain is a type of distributed ledger or peer-to-peer database that is spread across a computer network and records all transactions in the network in theoretically unchangeable, digitally recorded data packages called "blocks." Each block contains a batch of records of transactions, including a timestamp and a reference to the previous block, so that the blocks together form a chain. The system relies on cryptographic techniques for securely recording transactions. A blockchain can be shared and accessed by anyone with appropriate permissions. Some blockchains can record what are called "smart contracts," which are, essentially, computer programs designed to execute the terms of a contract when certain triggering conditions are met.

between users, and are often listed on online digital asset trading platforms to allow investors to trade the token into another digital asset or fiat currency in a secondary market.

REGULATORY FRAMEWORK

23. Congress passed the Securities Act in order to regulate the offer and sale of securities, and in doing so, enacted a regulatory regime of full and fair disclosure, requiring issuers who offer and sell securities to provide certain important information to potential investors to enable them to make informed decisions before investing.

24. The definition of a "security" includes a broad range of investment vehicles and instruments, including "investment contracts." Investment contracts are instruments through which an individual invests money in a common enterprise and reasonably expects profits or returns derived from the entrepreneurial or managerial efforts of others. Congress defined "security" broadly to encompass 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."

25. Sections 5(a) and 5(c) of the Securities Act prohibit the unregistered offer or sale of securities in interstate commerce. Specifically, Section 5(a) of the Securities Act provides that, unless a registration statement is in effect as to a security, it is unlawful for any person, directly or indirectly, to sell securities in interstate commerce. Section 5(c) of the Securities Act provides a similar prohibition against offers to sell or offers to buy securities, unless a registration statement has been filed.

26. The registration statements contemplated by the Securities Act require disclosures of essential facts that provide potential investors with information necessary to make informed investment decisions. These required disclosures include: a description of the issuer's properties

and business, a description of the securities to be offered for sale, information about the management of the company, financial statements certified by independent accountants, and a description and analysis of the risks and material trends that would affect the enterprise. Issuers also have a duty to update periodically the information provided in their registration statements.

27. When relying on an exemption from the registration requirements under Regulation D of the Securities Act, companies issuing securities typically file with the SEC what is known as a "Form D" after they first sell their securities. Form D is a brief notice that includes basic information about the company and the offering for which the company is claiming an exemption from registration.

FACTUAL ALLEGATIONS

A. Defendants Conducted an Unregistered and Fraudulent Securities Offering.

(a) Defendants Promoted Opporty's ICO and Solicited Investors

28. Grybniak founded Opporty in or around March 2017, with the idea of creating an ecosystem for U.S. small businesses and their customers to interact commercially through Opporty's website-based platform. Defendants marketed Opporty's ecosystem as a website where small businesses could list their services and products, use blockchain smart contracts to enter into agreements with customers, and transact business using digital tokens.

29. In Opporty's ICO offering materials, Defendants described Opporty's "ecosystem" as "an online platform that combines a blockchain-powered service marketplace, a knowledge-sharing platform, a system of decentralized escrow, and a Proof-of-Expertise blockchain protocol."

30. Before Opporty's ICO began in the fall of 2017, its platform was still in development and had no paying customers and hardly any actual users.

31. In September 2017, Opporty announced on social media its plan to launch an ICO for its own digital asset, the OPP Token – an ERC-20 standard token on the Ethereum blockchain. Ethereum is one of the more widely used blockchain networks, and ERC-20 is a standard protocol (or technical specification of the type of digital token) currently used by a significant majority of ICO issuers on the Ethereum blockchain.

32. In September 2017, Opporty published a white paper on its website (and published subsequent versions at various times thereafter), describing Opporty's business model and plans for the ICO (the "White Paper"). The White Paper and Opporty's other offering and promotional materials were published on its U.S. website and on social media platforms hosted or accessible in the United States.

33. As described in the White Paper, Opporty's ICO would be held in two phases. In the first phase, scheduled to begin in October 2017, Opporty would sell OPP Tokens with a sales "hard cap" (or maximum) of 400 million tokens. All unsold OPP Tokens would be offered subsequently in a second phase on or before October 2018, with a total hard sales cap for the ICO of one billion tokens.

34. In the White Paper, Opporty also shared its plan to distribute up to 50 million OPP Tokens through a "bounty program" by the end of the second phase in October 2018. As promised on Opporty's social media channels and pages, Opporty's bounty program would reward third parties with OPP Tokens in exchange for promoting the ICO worldwide on social media, publishing positive internet articles about the offering, and/or translating offering and solicitation materials into other languages.

35. Upon making the ICO launch announcement in September 2017, Defendants continued soliciting investors worldwide, including in the United States, through Opporty's

website, other internet forums, and Defendants' publicly available social media pages, including bitcointalk.org, Facebook, Twitter, and a social media network popular among digital asset enthusiasts and potential digital asset investors ("Social Media Channel"). These solicitations were publicly accessible by potential investors in the United States without any password restrictions or disclaimers as to who would be eligible to invest.

36. Defendants used the same offering materials – including the SAFT, the White Paper, and Opporty's Private Placement Offering Memorandum dated February 4, 2018 ("PPM") – to solicit investors in the United States and abroad.

37. In particular, Defendants conditioned the U.S. market and targeted U.S. investors, including touting in the White Paper that Opporty's platform had "the potential to appeal to no fewer than 500,000 companies in the United States alone [and] . . . plans to cover the overwhelming majority of small businesses within the United States."

38. In addition, Grybniak promoted Opporty's ICO at blockchain and digital asset conferences in the United States, including in San Francisco and Miami in January 2018, after which Opporty posted on its blog that "[d]uring the events, many participants and attendees joined our whitelist[, and] Opporty now has pre-commitments in the amount of 8 million USD."

39. Defendants also recruited and retained purported blockchain or digital asset experts and influencers in the United States, and touted them to potential U.S. investors as "advisors" to Opporty and the ICO.

40. Further, Defendants paid and/or promised OPP Tokens to third parties to promote Opporty's ICO by publishing online articles or social media posts accessible in the United States.

41. In October 2017, Opporty announced on social media that it was postponing the ICO's initial phase, or so called "pre-sale" of OPP Tokens (the "Pre-Sale"), scheduled to occur

later that month. Opporty explained that it was doing so due to the volatility of the digital asset market, because of certain unspecified technical issues, and to attract more investors and users.

42. Grybniak further explained the postponement in a January 9, 2018 post on Opporty's Social Media Channel: "[n]ow we are switching to the regulated way of organizing the sale so it will be available for US people to participate also," and "we are experiencing big interest from US residents to participate."

43. In a January 16, 2018 post, also on Opporty's Social Media Channel, Grybniak announced that the Pre-Sale would be held beginning in February 2018.

44. Notwithstanding the delay of the Pre-Sale, Defendants continued globally soliciting potential OPP Token purchasers during the period October 2017 to February 2018.

45. For example, Defendants solicited investors who were willing to purchase OPP Tokens before the February 2018 Pre-Sale to join a "whitelist" by registering on Opporty's website. In exchange for investors' commitment to purchase OPP Tokens before the Pre-Sale, Opporty promised whitelist participants a "whitelist bonus" of an additional 35% of their token purchases. This whitelist was marketed on Opporty's website and on its social media pages.

46. During this same period, Opporty continued to hype its ICO. For example, in a January 28, 2018 post on Opporty's Social Media Channel, Grybniak wrote: "[w]e have already more than 10 million[sic]+ precommitments from 2200+ contributors." Five days later, Opporty tweeted: "The number of people contributing to #Opporty is growing and so is the number of pre-commitments to our whitelist! As of today we have $11 million from 2400 contributors."

(b) Defendants Conducted an Unregistered and Fraudulent Pre-Sale of OPP Tokens in February 2018

47. After several months of delay, Opporty commenced its Pre-Sale on February 5, 2018. Between that date and March 10, 2018, Opporty sold over 9.6 million OPP Tokens to 194 purchasers, in the United States and abroad, and raised approximately $600,000.

48. Defendants took certain steps to verify the accredited investor status of only six investors – those located in the United States. The 188 non-U.S. OPP Token purchasers merely had to undergo "KYC" (know your customer) verification to confirm basic information (such as identity and domicile) before purchasing OPP Tokens. This basic information did not include the type of information, most notably net worth, that define accredited investor status under SEC regulations.

49. To effect the sale of the OPP Tokens, Opporty entered into SAFTs with each of the 194 purchasers. Grybniak signed the SAFTs on behalf of Opporty.

50. Opporty's SAFT was a purchase agreement by which Opporty sold OPP Tokens to the purchaser executing the SAFT. Pursuant to the SAFT, purchasers were entitled to the future delivery by Opporty of the OPP Tokens they had purchased. After executing the SAFT, the purchaser had no further investment decision to make in order to receive the OPP Tokens.

51. Based on the SAFT's terms, Opporty incurred irrevocable liability to deliver the OPP Tokens in the United States. For instance, the SAFTs – each of which Brooklyn-based Grybniak signed – identified Opporty as a Delaware corporation; provided that "all rights and obligations" under the SAFT would "be governed by the laws of Delaware"; and specified that "any arbitration [would] occur in Delaware." Additionally, the SAFTs contemplated and promised the issuance by Opporty of OPP Tokens to the purchasers, including those located in the United States.

52. Pursuant to the SAFT, each investor purchased OPP Tokens at a price of 0.0002 ETH per token.

53. The SAFTs also promised OPP Token purchasers bonus tokens of up to 90% of their purchase amounts, depending on the timing of the purchase and length of a holding period (ranging from one month to a year). This bonus was in addition to the 35% bonus tokens promised to "whitelist" participants, who had already committed to purchase OPP Tokens before the February 2018 Pre-Sale.

54. Under the SAFT's terms, investors would automatically receive OPP Tokens upon the public release of Opporty's purported "minimum viable product," which would be when Defendants deemed Opporty's platform to have met certain functionality requirements defined in the SAFT, including that users would be able to receive, use, and purchase OPP Tokens, and also enter into decentralized escrow smart contracts on the platform.

55. Opporty's SAFT required OPP Token purchasers to review and acknowledge receipt of Opporty's PPM.

56. The PPM provided that "[a] significant portion of the proceeds of the Offering will be used by [Opporty] to develop the technology supporting the Opporty Ecosystem, to achieve the Minimum Viable Product, to build-out the decentralized network powered by a blockchain and OPP token, and to reimburse Clever Solution Inc. for expenditures in connection with the Existing Functionality, … in the amount of $250,000."

(c) Defendants Led Investors To Reasonably Believe OPP Tokens Were Securities and Did Not Register Opporty's Offering With the SEC

57. The OPP Tokens sold by Defendants were investment contracts and, thus, securities. Defendants marketed OPP Tokens as securities and led investors to reasonably

believe that OPP Tokens were securities, as evidenced by Defendants' offering and promotion materials and public statements.

58. *First*, the ICO involved an investment of money. Purchasers paid virtual currency – ETH – in exchange for their OPP Tokens.

59. Additionally, Opporty's bounty program also constituted an offer of securities, because Defendants – in exchange for offering OPP Tokens to bounty program participants – obtained value in the form of the bounty program participants' marketing and promotion of the ICO on social media, websites, and other online forums that substantially increased the offering's exposure worldwide.

60. *Second*, investors' purchases of OPP Tokens constituted investments in a common enterprise. Under the terms of the SAFT and PPM, Defendants stated that they would pool the proceeds raised from investors and use a significant portion of them to develop Opporty's platform.

61. Defendants, in fact, did pool the proceeds of the sale of OPP Tokens, in both Opporty's digital wallet and in Opporty's bank account located in Texas.

62. Defendants purportedly used some of the ICO proceeds to develop Opporty's platform. Defendants typically converted ETH to fiat currency to pay purported developer invoices, and any remaining funds were transferred to Opporty's and/or Clever Solution's checking accounts.

63. *Third*, Defendants led investors to reasonably expect that they would receive profits from their OPP Token purchases because of and due to Defendants' efforts.

64. Defendants publicly and repeatedly represented that the value of OPP Tokens would increase with the development of Opporty's ecosystem, and would be tied to the overall

value of Opporty's services and services provided by its users. For example, the White Paper stated that the tokens are "protected against volatility and devaluation"; their value "is supported by the growth of the Opporty community"; and their value "is tied to the overall value of Opporty['s] services and to services provided at Opporty by third-party vendors and contractors."

65. In its September 25, 2017 press release promoting its ICO, Opporty stated that the "value [of OPP Tokens] will increase as the platform develops." Grybniak retweeted this press release on the same day.

66. Later, in October 2017, Grybniak tweeted an article published on an ICO-focused website that quoted him as stating, "Opporty's platform strives to expand its functionality, increasing the value of OPP tokens," and "[the] value of tokens is not only stable but will rise with each step of Opporty's development."

67. Further, Defendants touted to OPP Token purchasers a readily available trading market in which OPP Token purchasers would be able to sell their OPP Tokens. Specifically, Defendants represented that they had relationships with digital asset trading platforms and would list OPP Tokens for trading after the ICO. For example, on December 21, 2017, Opporty tweeted that it had a partnership with a decentralized liquidity network to enable OPP Token purchasers to convert OPP Tokens into other digital assets after distribution. Later, on February 7, 2018, in response to a bitcointalk.org user's question in a public forum concerning "what platform will the [OPP Token] be traded [on] after the ICO?," Opporty publicly replied that it had "already" been "accepted" by [a specific digital asset platform]"; it was "talking to" at least two other trading platforms; and that the "listing will be after [the] ICO [is] over."

68. In addition, Defendants touted the future transferability of OPP Tokens into a liquid market. For example, the White Paper represented that Opporty's users would be able to exchange tokens for fiat currency.

69. Defendants also guaranteed to OPP Token purchasers fixed amounts of bonus tokens, ranging from 5% to 90% depending on the number of OPP Tokens purchased (and the length of the holding period each OPP Token purchaser had agreed to), as well as another 35% bonus for investors who had signed up for the whitelist. These bonuses led OPP Token purchasers to expect that they could immediately generate profits relative to the current market value of OPP Tokens at the time of distribution, by reselling the tokens on a secondary trading market.

70. Defendants led OPP Token purchasers reasonably to understand that the success of Opporty's ecosystem would be determined by, and the result of, the efforts of Defendants. Indeed, investors were told that they would have no role in Opporty's venture or the development of Opporty's platform. The PPM provided that "[i]nvestors in SAFTs and holders of OPP Tokens will have . . . no voting, management or control rights or other management or control rights in Opporty."

71. Also, in Opporty's offering materials, Defendants touted the experience and abilities of Opporty's "management team" – which the PPM identified as Grybniak ("Founder") and another individual who "provides technical leadership and training to Opporty team members" and "communicates [Opporty] strategy to partners and investors."

72. Opporty's offering materials also identified the specific uses of investor funds and concrete steps Defendants would take to develop Opporty's ecosystem.

73. In addition to leading investors to reasonably believe that OPP Tokens were securities, Opporty's offering materials disclosed that there was a risk that OPP Tokens could be found to constitute securities under the U.S. securities laws.

74. For example, the PPM classified the risk that OPP Tokens would be found to constitute securities as a "significant" one, and in discussing that risk, referenced the SEC's July 25, 2017 Report of Investigation concerning DAO Tokens – summarizing the SEC's view that digital assets may be securities and that the federal securities laws and registration requirements "apply to those who offer and sell securities in the United States . . . regardless whether those securities are being purchased using U.S. dollars or virtual currencies, and regardless whether they are distributed in certificated form or through distributed ledger technology." The PPM also expressly referenced the SEC's Cease-and-Desist Order, *In the Matter of Munchee, Inc.* dated December 11, 2017, and acknowledged that the SEC had "concluded that Munchee Tokens, too, were securities, despite their characterization as utility tokens and despite the existing functioning Munchee platform." The PPM also stated, "[t]he Commission emphasized that the label a developer attached to a virtual token was irrelevant to the legal analysis."

75. Moreover, Defendants publicly acknowledged that Opporty's ICO of OPP Tokens likely constituted a securities offering by filing a Form D with respect to the offering with the SEC on February 20, 2018 – several months after Defendants began their general solicitations and directed selling efforts in the United States and abroad.

76. As discussed above in paragraphs 25 and 26, under Sections 5(a) and 5(c) of the Securities Act, any offer or sale of a security must be registered with the SEC.

77. Defendants did not file a registration statement with the SEC for Opporty's ICO of OPP Tokens, and no registration statement was ever in effect with respect to the OPP Tokens offered and sold by Opporty.

78. Instead, Opporty filed a Form D with the SEC for a $50 million securities offering of OPP Tokens, signed by Grybniak. In the "Type(s) of Securities Offered" section of the Form D, Opporty stated that it was offering the "rights to receive the company's tokens in the future via a Simple Agreement for Future Tokens (SAFTs)." In the "Offering and Sales Amounts" section of its Form D, Opporty stated that its "offering was made under a claim of federal exemption under Rule 506(c) and/or Regulation S under the Securities Act of 1933." However, no exemption from registration was available in connection with Opporty's ICO at the time of the offering.

(d) Defendants Delayed and Ultimately Canceled Phase Two of the ICO and Distributed the OPP Tokens To Those that Already Purchased Them

79. After the February 2018 Pre-Sale, Opporty announced that it planned to start "phase two," or the "main sale," of its ICO for OPP Tokens in or around late-March 2018.

80. Despite later delaying "phase two," Defendants continued to solicit potential investors, on Opporty's website and via its social media platforms, in anticipation of the main sale of OPP Tokens to be held later in 2018.

81. On October 29, 2018, however, Opporty announced via its Social Media Channel that it would not be proceeding with phase two of the ICO, but that investors would be able to purchase OPP Tokens on a purported "exchange."

82. Two days later, on October 31, 2018, Opporty announced on its Social Media Channel that it had listed OPP Tokens on a digital asset trading platform in Australia. By listing 100 million OPP Tokens – from its unsold token inventory – on that Australian trading platform,

Opporty provided liquidity and a secondary market for OPP Tokens, and sought to generate revenue for itself from the trading of OPP Tokens.

83. The same day, Opporty tweeted that it would distribute OPP Tokens to bounty program participants, which by that time constituted 60 participants eligible to receive approximately 1.7 million tokens.

84. On December 3, 2018, Opporty announced on its blog that its platform had purportedly achieved "minimum viable product" status, which was the "Token Generation Event" under the SAFTs whereby Opporty would distribute the OPP Tokens to those investors who had previously purchased OPP Tokens. As a result of this announcement, Opporty began distributing almost 10 million OPP Tokens to purchasers.

85. Opporty's platform remains available on and via the internet. Opporty has generated little or no revenue from its operations, and OPP Token purchasers have been unable to use or exchange their OPP Tokens for goods or services on Opporty's platform in the United States.

B. Defendants Made Material Misrepresentations and Engaged In Other Deceptive Conduct in Connection With the ICO.

86. During and in the unregistered offer and sale of OPP Tokens, Defendants made a number of materially false and misleading statements to, and engaged in other deceptive conduct with respect to, potential and actual investors, in order to create false impressions concerning the viability, growth, and legitimacy of Opporty's user base, platform, and ICO.

87. Defendants' promotion of the ICO and touting of Opporty's platform were inextricably linked, as reflected in the ICO offering materials and on Opporty's website and social media posts during the period September 2017 to October 2018. Indeed, pursuant to Opporty's offering materials, the purchased OPP Tokens would allegedly be used to transact

business on Opporty's platform. For example, the PPM provided that OPP Tokens would "enable both service providers and customers to utilize platform services" by "[e]xecuting transactions," "[p]aying for Opporty Ecosystem-based services, such as priority listings," and "[u]tilizing smart contracts."

88. As the founder, sole owner, and sole officer of Opporty, Grybniak had control and ultimate authority over the content of, and statements made in, Opporty's offering and promotional materials, including online material posted on Opporty's U.S. and other websites and social media channels and pages.

89. Throughout the period September 2017 to October 2018, Grybniak had access to and could post from Opporty's Twitter and Facebook accounts and on Opporty's Social Media Channel and other online forums. During that same period, Grybniak was responsible for the overwhelming majority of Opporty's online statements (not including statements he made from his own personal social media accounts), either by posting the statement himself, directing an Opporty contractor to post a specific statement, or otherwise authorizing an Opporty contractor retained by Grybniak to post the statement. In that period, Grybniak reviewed most, but not all, of Opporty's online statements before they were made or published, and any other statements were read or reviewed by Grybniak after publication. During the relevant period, Grybniak had the ability and authority to approve, modify, or prevent the posting of any online statement made by Opporty.

90. During the promotion and marketing of the ICO, Grybniak routinely touted Opporty's platform located on Opporty's website, which was operative and accessible during the period September 2017 to October 2018. Further, Grybniak provided potential investors links to webpages on Opporty's platform. For example, on October 9, 2017, a potential investor posed

the question, "what do you mean by 'verified company profiles,'" in a publicly available forum on Opporty's Social Media Channel. In response, on the same day, Grybniak posted links to the profile pages of four purported "verified providers" on Opporty's platform.

91. Grybniak generally directed Opporty's contractors regarding their work in developing Opporty's platform. Those contractors provided updates to Grybniak about the development of Opporty's platform – including the number of, and identities of, the companies comprising Opporty's business catalog and "verified providers."

(a) Defendants' False and Misleading Claims About Opporty's "Verified Providers"

92. In connection with their offer and sale of OPP Tokens, Defendants falsely represented, and misled potential and actual investors to believe, that they had "onboarded" a large number (over 6,000) of "verified providers" from Opporty's purported business catalog. In fact, only approximately 155 businesses ever agreed to register with Opporty as verified providers. Included in Defendants' artificially-inflated number of "verified providers" were businesses that, Defendants knew, had expressly declined to sign up for Opporty's platform, as well as businesses that simply had not responded to Defendants' solicitations to be included on, contribute content to, and/or do business on Opporty's platform.

93. Defendants publicly touted Opporty's "ever-growing number of verified providers" on Opporty's website and via social media, to, among other things, create the false impression that Opporty's efforts to develop and promote the platform were resulting in the growth of the number of small businesses that were willing to conduct business on Opporty's platform.

94. For example, on October 9, 2017, Grybniak publicly posted on Opporty's Social Media Channel, "[w]e have already about a 1000 verified company profiles. I cannot tell exact number because their amount growing on the daily basis." In response to another user's

question, "what do you mean by 'verified company profiles'," Grybniak replied, "[v]erified professionals who are contributing [content] and/or able to respond to client requests providing services."

95. In addition, on November 26, 2017, Opporty tweeted, "[t]ake a look at the results we have achieved together" and attached a photo representing that Opporty had "1,000+" verified profiles and that it was adding "20-80 weekly."

96. On December 28, 2017, in response to a Social Media Channel user's publicly posted question, "[d]o you think you can convince enough customers and companies to use Opporty?," Grybniak publicly replied, "We already have 1000+ verified providers in US, and around 300+ in UK and Canada."

97. On January 1, 2018, in response to another user's question, "[d]oes Opporty have a list of companies and customers that are willing to use this platform?," an Opporty representative publicly replied, "1000+ verified profiles from professional legal companies[,] Opporty.co.uk managed to onboard 280+ UK companies in the first week of our UK launch[, and] Opporty.ca has already onboarded 300+ companies in Canada."

98. In or around March 2018, after the Pre-Sale and while Defendants were soliciting investors for phase two of the ICO, Opporty – with Grybniak's knowledge and approval – published a "one-pager" promotional summary of its business on its website, stating: "Opporty is a fully operational platform, with ~5K+ providers in the US, ~700 providers in UK, and ~300 providers in Canada."

99. On April 10, 2018, Grybniak was quoted in an article published on a blockchain-focused website, stating, "Opporty is a live platform, with solid product traction and a growing

community. The marketplace has already onboarded 6K+ providers in the US, 700+ providers in the UK, and 300+ providers in Canada."

100. These statements, however, were materially false and misleading because Grybniak and Opporty grossly inflated the actual numbers of so-called "verified providers" who had expressed even the slightest interest in "joining" or being "onboarded" by Opporty. In reality, the vast majority of these so-called "verified providers" were entities and individuals from the third-party database Defendants had purchased, whom Defendants had unsuccessfully solicited by email to sign up to be providers on Opporty's platform.

101. Grybniak and Opporty claimed that from 1,000 to over 6,000 verified U.S. providers had been "onboarded." In fact, only approximately 200 businesses had even responded to Opporty's email solicitations to register as providers on Opporty's platform. The overwhelming majority of the so-called verified providers never responded to Opporty's email solicitations to register with it.

102. Of the 200 business that responded to Opporty's solicitations, approximately 155 agreed to register with Opporty as verified providers. The others that responded expressly requested that Opporty remove their profiles and information from Opporty's platform. For example, on July 11, 2018, one such "verified provider" wrote to Grybniak, at ico@opporty.com, requesting that he remove all of that company's data and records from Opporty's platform.

103. Notwithstanding the foregoing, Defendants publicly and falsely claimed, during the ICO, that over 1,000 (and later, as many as "6000+") U.S. businesses were verified or had been "onboarded," by expressing their willingness to do business on Opporty's platform.

104. Through the foregoing misrepresentations concerning Opporty's business catalog and "verified providers," Defendants created the materially false and misleading impression that

Opporty had created a functioning platform used within an existing ecosystem; that thousands of businesses had signed up to transact business on it; and that it was growing rapidly. However, Defendants had no reasonable basis for making those assertions and creating that false and misleading impression.

105. Moreover, potential investors who accessed Opporty's web-based platform during the relevant period would find further deceptive and misleading information.

106. For example, Opporty – with Grybniak's knowledge – identified certain purported "verified providers" as recipients of its "Customer Choice" award on the profile pages that Opporty created for the providers on its website. At one point, as many as 2,000 entities were listed as "Customer Choice" award winners. This created an additional materially false impression that these specific providers had been recognized for their "outstanding service" to Opporty customers, despite the fact that these providers had not signed up to transact business on Opporty's platform and had not provided any services to any customers using Opporty's platform. Whereas Opporty was claiming that 2,000 entities had won awards, in reality fewer than 200 businesses had even agreed to participate in Opporty's platform.

107. Certain of the "verified provider" profile pages on Opporty's website also included a "Feeds" section purporting to identify – via specific date and time stamps – when such providers had logged onto Opporty's platform. The "Feeds" section was a sham and these login representations were false, as all but a few of the purported "verified providers" had never even responded to Opporty's solicitations or agreed to be "onboarded," much less logged onto Opporty's platform. The date and time stamps created the false impression that purported providers were active users of the Opporty platform, when in fact they did not use it at all.

108. By way of example, the profile page of a Washington, D.C. law firm on Opporty's website falsely indicated *both* that the law firm had won a "Customer Choice" award in November 2017, and that it had logged onto the Opporty platform on specific dates and at specific times in 2017 on at least six occasions, according to the "Feeds" section of the webpage. That law firm was not aware that it even had a profile on Opporty's platform, much less that it had been designated as the recipient of any award. The law firm never agreed to be "onboarded" or otherwise registered with Opporty to provide services on Opporty's platform, and it had never logged onto Opporty's platform.

109. Defendants knew or were reckless in not knowing that all but a relative few of the thousands of businesses from its "business catalog" had agreed to be "onboarded," or had even confirmed that they were willing to transact business on or provide content to Opporty's platform. Grybniak, in particular, directed and approved of Opporty's supposed verification process, and he knew that the overwhelming majority of purported verified providers had not actually agreed to be "onboarded" or registered on Opporty's platform.

110. Likewise, Defendants knew or were reckless in not knowing that Opporty's "Customer Choice" awards were fake and that the "Feeds" section of certain profile pages on Opporty's website reflected fictitious login timestamps. In particular, Grybniak knew or was reckless in not knowing that the award and timestamp information was not legitimate, based on his role in developing the platform, his access to the platform, and the updates he received from those Opporty and Clever Solution contractors responsible for building and developing the Opporty platform.

111. A reasonable investor would have considered important in making his or her investment decision the truth about whether the thousands of purported "verified providers" had

actually agreed to be "onboarded" or registered as verified providers; were willing to do business on Opporty's platform; had actually created and shared content on Opporty's site; had won legitimate customer choice awards based on customers' experiences transacting business with them on Opporty's platform; or had actually logged onto Opporty's platform – all of which Defendants misrepresented.

(b) Defendants' False and Misleading Claims Concerning Opporty's Business Catalog

112. Relatedly, in connection with their offer and sale of OPP Tokens, Defendants falsely touted that Opporty's platform had over 17 million small U.S. businesses in its business catalog or database, implying, and misleading investors to believe, that Opporty had a large and growing base of users who had the ability to list their products and services on Opporty's web-based platform.

113. For example, on September 15, 2017, Opporty publicized on its blog its recently added "large database with over 17 million US companies" and declared that, "[n]ow you can easily find a company or industry [on Opporty's platform] in a few clicks."

114. In addition, Opporty's one-pager promotional summary stated, "[t]here are approximately 147 million small businesses in Opporty's initial targeted markets" and represented that Opporty had added 17.7 million companies to its opporty.com database. This created the impression that Opporty had taken some action to distinguish these 17.7 million companies from the larger number of targeted businesses in the U.S. market, including checking or confirming that these purported companies were, in fact, companies and thus able to receive service requests and otherwise conduct business on Opporty's platform.

115. Defendants made similar representations elsewhere, including on November 26, 2017, in a tweet from Opporty's Twitter account.

116. However, Opporty's purported database of U.S. businesses eligible to conduct business on Opporty's platform was merely a collection of over 20 million entity and individual profiles that Defendants had purchased from a third-party vendor for $297. Defendants did not disclose this fact to potential investors in Opporty's offering materials, on its website, or elsewhere, thereby rendering the statements they did make materially misleading.

117. After purchasing this profile information, Opporty simply uploaded over 17 million of the profiles to its website, holding those entities and individuals out as its own catalog of small companies doing business in the United States. Defendants did not confirm that the 17 million-plus profiles (of entities and individuals) were actual businesses before making their misleading representations about Opporty's purported U.S. business catalog.

118. Indeed, Opporty's purported U.S. business catalog did not consist entirely of actual U.S. small business but also included profiles of government agencies and officials and various other individuals.

119. On each profile page of the purported 17 million small businesses in Opporty's U.S. database, Opporty platform users could supposedly submit requests and offers for services to or with respect to the respective business. One of the 17 million-plus "businesses" included in Opporty's database and available on its platform was the then-U.S. Attorney General, who according to Opporty was eligible to provide "Law" and "General Litigation" services in Washington, D.C.

120. Opporty's business catalog also included a profile for the SEC, which according to Opporty was eligible to provide services to Opporty customers in the area of "Commodity and Security Brokers, Exchanges, Services and Dealers (Finance)."

121. As Grybniak and Opporty knew or were reckless in not knowing, such persons and agencies were not able to transact business on Opporty's blockchain-based platform, as Defendants had represented.

122. Grybniak, in particular, directed or at least knew about Opporty's purchase of the database profiles from a third party, and therefore knew that those entities and individuals were not automatically eligible and able to transact business on Opporty's platform.

123. A reasonable investor in Opporty's ICO would consider the size and growth of Opporty's potential user base, as well as the truth about whether over 17 million businesses in Opporty's business catalog were actually businesses able to do business on Opporty's platform as Defendants had represented, to be important in making his or her investment decision.

(c) Defendants' False and Deceptive Misappropriation of Third-Party Content

124. In connection with their offer and sale of OPP Tokens, Defendants further deceived investors and exaggerated the size and viability of Opporty's user and customer base, by misappropriating third-party content and representing it as Opporty's own content.

125. As early as 2017, Opporty began copying reviews and "star ratings" of a number of its so-called "verified providers" from a well-known customer ratings and reviews website, owned and run by a company makes profits primarily by attracting large numbers of visitors to its site to read the reviews, and then selling advertisements ("Company A"). As of its first OPP Token sales in February 2018, Opporty had posted these reviews and ratings on the profile pages of these "verified providers" on Opporty's website without any attribution of the source of the reviews and ratings, and in violation of Company A's terms of service. These reviews and ratings remained on Opporty's U.S. platform throughout the ICO.

126. Opporty's website further falsely claimed that Opporty had selected hundreds of these purported verified providers as "Top-5" businesses in their respective regions, via application of Opporty's "special algorithm." This created the false and misleading impression that Opporty's "top" lists were the result of Opporty's own efforts and of reviews and ratings created by actual users of Opporty's web-based platform.

127. For example, Defendants purported to select and identify on Opporty's U.S. website the "Top-5 General Litigation Law Companies in Washington, District of Columbia," which included the same law firm identified above in paragraph 108. On this "Top-5" page, and for each of the purported "Top-5" firms, Opporty posted certain reviews and ratings that Defendants had misappropriated from Company A. On the same webpage, Opporty falsely stated, "Opporty's quality control team has developed a special algorithm to create objective and accurate estimations of companies' performance" and that it had applied "50 different factors" in assessing each of the eligible companies, including "customer reviews, customer satisfaction, cost of service, confidentiality, [and] trust level."

128. Potential investors visiting any of Opporty's "Top-5" pages on its site during the relevant period were led to believe that actual users of Opporty's platform had reviewed and rated the verified providers.

129. In actuality, Opporty had merely cut and pasted reviews and ratings onto its webpage from Company A's website, without attribution to or the consent of Company A. None of the reviews on Opporty's site, including on its "top" list webpages, were submitted by actual Opporty users or customers.

130. Once Company A learned of the misappropriation of its content, Company A demanded that Defendants remove the misappropriated reviews and ratings from Opporty's website. Defendants complied.

131. In addition to misappropriating Company A's reviews and ratings, Opporty also copied content from the websites of purported "verified providers" and posted the content on the respective providers' profile pages on Opporty's website, to create the false impression that the providers had created and contributed their own content to their Opporty profile pages.

132. Defendants knew or were reckless in not knowing that the reviews, ratings, and other content on the Opporty platform was not created on or for Opporty's platform, but instead was misappropriated by Defendants from Company A and other third-party sites and posted on Opporty's site without attribution or prior consent of those third parties. Grybniak, in particular, knew and has acknowledged that all of the reviews on Opporty's site came from Company A's website and none had been posted by Opporty users.

133. A reasonable investor would have considered it important in making his or her investment decision that the content, including ratings and reviews of businesses purportedly transacting business on Opporty's platform, was not actually created on Opporty's platform, and that Opporty had simply misappropriated Company A reviews and ratings without attribution to or consent from Company A.

(d) Defendants' False and Misleading Claims About Opporty's "Partnership" With a High-Profile Software Company

134. In connection with their offer and sale of OPP Tokens, Defendants falsely represented that Opporty had a business "partnership" with a high-profile software company ("Company B") and that Company B was a "participant" in Opporty's ICO.

135. For example, during the ICO, Defendants prominently displayed the trademarked Company B logo, without Company B's consent, under the "Partnerships and Participations" section of its ICO landing page and "one-pager" promotional summary posted on Opporty's website.

136. Further, on October 17, 2017, Opporty's Twitter account publicized and linked to an article published on a third-party website discussing recent and forthcoming ICOs, containing a screenshot from Opporty's website reflecting the trademarked logos of Company B and other "Opporty Partners," including Clever Solution.

137. In reality, Company B had not agreed to participate in or partner with Opporty, in connection with the ICO or the development of its platform.

138. Company B had nothing do with Opporty's unregistered offering of OPP Tokens, and had not authorized Opporty to use or display its trademarked logo. Company B had merely granted Opporty a license to use its cloud computing services. Defendants never asked Company B for permission to use its logo in Opporty's offering or marketing materials.

139. Defendants knew or were reckless in not knowing that Company B was not a participant in the ICO, had not partnered with Opporty in connection with the ICO, and had no role with respect to Opporty other than providing cloud computing services. Defendants thereby created the false impression that Company B had, in some way, approved of Opporty's business model and would be participating in the Opporty platform or in the ICO itself.

140. Grybniak, in particular, knew and has acknowledged that Opporty did not contact Company B or ask for permission to use its trademarked logo in Opporty's ICO promotional or offering materials, including the "one-pager" and ICO landing page on Opporty's website. Grybniak provided general guidance and direction regarding the creation of the "one-pager" and

ICO landing page, and he also reviewed and approved of them being displayed on Opporty's website.

141. In addition, Grybniak knew and has acknowledged that Opporty had only signed up to use Company B's cloud computing services, not to request or have Company B partner or participate in Opporty's ICO.

142. A reasonable investor would have considered it important in making his or her decision that a large, world-renowned software and technology company was a partner or participant in an otherwise-unproven blockchain platform. In fact, one OPP Token purchaser located in the United States invested based, in part, on Opporty's purported partnership with Company B and his belief that Company B was part of the "team." Similarly, a reasonable investor would have considered it important in making his or her investment decision that Company B had not actually agreed to partner or participate in the development of Opporty's platform or the ICO itself.

(e) Defendants' False Claims Regarding "SEC Registered" OPP Tokens and Being "100% SEC Compliant"

143. In connection with their offer and sale of OPP Tokens, Defendants made several materially false and misleading statements on Opporty's social media channels and pages touting that the OPP Tokens had been registered with the SEC and that Opporty's ICO was "SEC compliant" and "SEC regulated."

144. For example, on February 8, 2018, three days into the Pre-Sale, an Opporty contractor posted the following on Opporty's Social Media Channel: "Opporty is US company, which provide[s] SAFT-regulated presale and SEC registered tokens for everyone who have passed the KYC/AI verifications." Opporty's Social Media Channel was the primary vehicle by which Defendants solicited OPP Token purchasers. Grybniak was active on Opporty's Social

Media Channel on February 8, 2018, and in fact, he posted three times within hours after the Opporty contractor's post and failed to correct or otherwise amend the false statement that OPP Tokens were "SEC registered." Nor did Grybniak take down that false statement or direct that it be taken down at any subsequent time during Opporty's ICO.

145. The same day, February 8, 2018, Opporty also stated on its Social Media Channel, "[d]on't miss the amazing opportunity to participate in Opporty's SEC regulated presale!" Similarly, earlier on January 18, 2018, Grybniak posted on Opporty's Social Media Channel, "[f]or now we are 100% SEC compliant regulated ICO according to US laws."

146. These statements were false and misleading. Defendants did not register and have not registered the OPP Tokens or Opporty's ICO with the SEC, and the SEC did not represent or otherwise indicate to Defendants that Opporty's ICO was "100% SEC compliant."

147. Defendants knew or were reckless in not knowing that neither Opporty nor its ICO or OPP Tokens were or had been in any way registered with, compliant with, or regulated by the SEC. Grybniak, in particular, knew that Opporty had not registered its ICO of OPP Tokens with the SEC, and he had the ability, control, and authority to correct the February 8, 2018, false claim that OPP Tokens were "SEC registered tokens" made on Opporty's Social Media Channel.

148. A reasonable investor would have considered important in making his or her investment decision the truth about the regulatory and registration status of Opporty and its offering of OPP Tokens. Grybniak knew that such information would be important to investors as he posted several times on Opporty's Social Media Channel, "[w]e are a US based company. We have to follow the rules without exceptions."

C. Defendants Obtained Money and Property, and Relief Defendant Received Ill-Gotten Gains, as a Result of Defendants' Violations

(a) Defendants Obtained Investor Funds

149. Defendants obtained money or property as a result of their untrue and misleading statements of material fact in their offer and sale of OPP Tokens.

150. Opporty received approximately $600,000 from the unregistered and fraudulent ICO of OPP Tokens.

151. Grybniak exercised exclusive control over Opporty's ICO proceeds, which were deposited into Opporty's bank accounts and digital wallets.

152. Of the $600,000 in ICO proceeds, Grybniak used some for undisclosed and improper purposes. Shortly after the February-March 2018 sales of OPP Tokens, Grybniak transferred approximately $13,600 of the offering proceeds to himself – purportedly to reimburse himself for already-incurred personal expenses, including for his travel, rent, and taxes.

153. Defendants never disclosed to investors that OPP Token sale proceeds would be used to pay for Grybniak's personal expenses, which was contrary to the express language of the "Use of Funds" section contained in the PPM and Opporty's other offering materials.

154. Because these funds, as well as the other proceeds of Opporty's unregistered and fraudulent offering of securities, were obtained as a result of Defendants' unlawful conduct, they constitute ill-gotten gains.

(b) Clever Solution Received Ill-Gotten Gains From Defendants' Violations

155. From February 2018 to June 2019, Clever Solution received approximately $147,000 from Opporty's offering proceeds, ostensibly for services rendered in developing Opporty's platform. Although Opporty's PPM stated that Clever Solution would be reimbursed $250,000 from the offering proceeds for past and future services to develop Opporty's

ecosystem, such reimbursement would, according to the PPM, "not [be] the result of arm's-length negotiations."

156. Like Opporty, Clever Solution is exclusively owned and controlled by, and is an alter ego of, Grybniak.

157. A number of Clever Solution's contractors were the same contractors who provided services for Opporty.

158. There was no formal agreement between Opporty and Clever Solution for any services, and little to no documentation of what services Clever Solution actually performed for Opporty.

159. In addition, Grybniak solely controlled the bank and digital wallet accounts of Opporty and Clever Solution, and freely transferred and commingled funds between them. Further, Grybniak treated Opporty's and Clever Solution's funds as his own by transferring funds from their accounts into his personal bank account to pay for his personal expenses.

160. As such, Clever Solution has no legitimate claim to the approximately $147,000 in Opporty's ICO proceeds, which constitute ill-gotten gains derived from Defendants' securities law violations.

FIRST CLAIM FOR RELIEF
Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder
(Opporty and Grybniak)

161. The Commission repeats and realleges paragraphs 1 through 160, as though fully set forth herein.

162. By virtue of the foregoing, Defendants, directly or indirectly, by the use of the means and instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities: (a) employed devices, schemes, or artifices to defraud; (b) made

untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices, and courses of business which operate or would operate as a fraud or deceit.

163. Defendants acted with scienter and engaged in the referenced conduct knowingly and/or recklessly.

164. By engaging in the conduct described above, Defendants violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5(a)-(c) [17 C.F.R. § 240.10b-5(a)-(c)], promulgated thereunder.

SECOND CLAIM FOR RELIEF
Violations of Section 17(a) of the Securities Act Section
(Opporty and Grybniak)

165. The Commission realleges and incorporates by reference paragraphs 1 through 160, as though fully set forth herein.

166. By virtue of the foregoing, in the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, Defendants: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit upon the purchaser.

167. With regard to Defendants' violations of Section 17(a)(1) of the Securities Act, Defendants acted with scienter and engaged in the referenced conduct knowingly and/or with recklessness. With regarding to Defendants' violations of Sections 17(a)(2) and 17(a)(3) of the

Securities Act, Defendants acted at least negligently and engaged in the referenced conduct without exercising reasonable care.

168. By engaging in the conduct described above, Defendants, directly or indirectly violated, and unless enjoined will continue to violate, Securities Act Section 17(a)(1)-(3) [15 U.S.C. § 77q(a)(1)-(3)].

THIRD CLAIM FOR RELIEF
Violations of Sections 5(a) and 5(c) of the Securities Act
(Opporty and Grybniak)

169. The Commission realleges and incorporates by reference paragraphs 1 through 160, as though fully set forth herein.

170. By virtue of the foregoing, (a) without a registration statement in effect as to that security, Defendants, directly and indirectly, made use of the means and instruments of transportation or communications in interstate commerce and of the mails to sell securities through the use of means of a prospectus or otherwise, and (b) made use of the means and instruments of transportation or communication in interstate commerce and of the mails to offer to sell through the use of a prospectus or otherwise, securities as to which no registration statement had been filed.

171. By engaging in the conduct described above, Defendants, directly or indirectly violated, and unless enjoined will continue to violate, Securities Act Sections 5(a) and 5(c) [15 U.S.C. §§ 77e(a) and e(c)].

FOURTH CLAIM FOR RELIEF
Aiding and Abetting Opporty's Violations of Sections 5(a) and 5(c) of the Securities Act
(Grybniak)

172. The Commission realleges and incorporates by reference paragraphs 1 through 160, as though fully set forth herein.

173. By virtue of the foregoing, Defendant Grybniak knowingly or recklessly provided substantial assistance to Opporty in its violations of Sections 5(a) and 5(c) of the Securities Act.

174. By engaging in the conduct described above, Defendant Grybniak aided and abetted, and unless restrained and enjoined will continue to aid and abet, violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c)], in violation of Section 15(b) of the Securities Act [15 U.S.C. § 77o(b)].

FIFTH CLAIM FOR RELIEF
Aiding and Abetting Opporty's Violations of Section 17(a) of the Securities Act
(Grybniak)

175. The Commission realleges and incorporates by reference paragraphs 1 through 160, as though fully set forth herein.

176. By virtue of the foregoing, Defendant Grybniak knowingly or recklessly provided substantial assistance to Opporty in its violations of Section 17(a) of the Securities Act.

177. By engaging in the conduct described above, Defendant Grybniak aided and abetted, and unless restrained and enjoined will continue to aid and abet, violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)(1)-(3)], in violation of Section 15(b) of the Securities Act [15 U.S.C. § 78o(b)].

SIXTH CLAIM FOR RELIEF
Aiding and Abetting Opporty's Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder
(Grybniak)

178. The Commission realleges and incorporates by reference paragraphs 1 through 160, as though fully set forth herein.

179. By virtue of the foregoing, Defendant Grybniak knowingly or recklessly provided substantial assistance to Opporty in its violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

180. By engaging in the conduct described above, Defendant Grybniak aided and abetted, and unless restrained and enjoined will continue to aid and abet, violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5(a)-(c) [17 C.F.R. § 240.10b-5(a)-(c)] thereunder, in violation of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

SEVENTH CLAIM FOR RELIEF
Unjust Enrichment
(Clever Solution Inc.)

181. The Commission realleges and incorporates by reference paragraphs 1 through 160, as though fully set forth herein.

182. Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)] states: "In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors."

183. As described above, Relief Defendant Clever Solution received funds and assets that were the proceeds, or are traceable to the proceeds, of Defendants' unlawful activities, as alleged herein, and Clever Solution has no legitimate claims to these proceeds.

184. Relief Defendant Clever Solution obtained the funds and assets in connection with the securities law violations alleged in paragraphs 1 through 160 above and under circumstances in which it is not just, equitable, or conscionable for it to retain the funds and property. As a result, Clever Solution was unjustly enriched.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court grant the following relief:

I.

A Final Judgment permanently restraining and enjoining Defendants and their agents, servants, employees, attorneys, and other persons in active concert or participation with any of them, who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], and Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a), 77e(c)];

II.

A Final Judgment permanently restraining and enjoining Defendants from directly or indirectly, including, but not limited to, through any entity owned or controlled by either of them, participating in the offer or sale of any securities, including but not limited to any digital asset securities;

III.

A Final Judgment directing each Defendant and Relief Defendant to disgorge all ill-gotten gains and/or unjust enrichment derived from their illegal conduct as set forth in this Complaint, including prejudgment interest thereon;

IV.

A Final Judgment directing Defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

V.

A Final Judgment permanently barring Defendant Grybniak from serving as an officer or director of any public company, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)];

VI.

Such further relief as this Court deems just and appropriate.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff Securities and Exchange Commission demands that this case be tried to a jury.

Dated: January 21, 2020

Respectfully submitted,

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