

THE RECORDER

Page printed from: <http://www.law.com/therecorder/sites/therecorder/2017/11/02/blockchain-startup-tezos-faces-class-action-over-232m-ico/>

NOT FOR REPRINT

Blockchain Startup Tezos Faces Class Action Over \$232M ICO

Blockchain startup Tezos was hit with a novel lawsuit last week alleging it violated U.S. securities laws and misled investors regarding its blockbuster \$232 million initial coin offering, or ICO.

By Ben Hancock | November 02, 2017



A capture from the Tezos website showing the results of the company's ICO fundraiser.

SAN FRANCISCO — Blockchain startup Tezos has been hit with a potentially groundbreaking class action lawsuit alleging that its blockbuster \$232 million initial coin offering (ICO) over the summer violated U.S. securities laws and misled investors.

The [civil suit](#) comes after infighting among the leadership of Tezos broke into the open, and one of its founders admitted that momentum in developing the Tezos blockchain had slowed. It alleges that

after those developments, the value of futures for the digital coin, called “Tezzies,” tanked by almost half, to the detriment of investors.

“Defendants did not register these Tezzies with the SEC, and many of the representations defendants made regarding the status of the Tezos project in the run-up to the ICO were either exaggerations or outright lies,” the complaint says.

The complaint was filed in San Francisco Superior Court on Oct. 25 by San Diego attorney James Taylor-Copeland on behalf of an investor named Andrew Baker. It alleges that in July, Baker invested one Bitcoin—then valued at about \$2,800—to buy 5,000 Tezzies that could be used on the future blockchain.

The suit says Baker’s determination that Tezos was a worthwhile investment was based on representations that the Tezos network would be operational “by December 2017 at the latest.”

[In a blog post last month](#), Tezos’ husband-and-wife co-founders Arthur and Kathleen Breitman said their “current best estimate for shipping the main net is now February of 2018, though the firm date remains ‘when it’s ready.’” They added: “To say that we regret the delay is an understatement.”

In a statement responding to the lawsuit Thursday, Brian Klein of Los Angeles firm Baker Marquart, who is representing the Breitmans, called the pair “brilliant entrepreneurs and visionaries.”

“This lawsuit is meritless, and they plan to vigorously defend themselves,” Klein added. “They expect to be fully vindicated.”

The suit also names as defendants Dynamic Ledger Solutions Inc., a company started by the Breitmans; the Switzerland-based Tezos Foundation and its president Johann Gevers; and Strange Brew Strategies, a San Francisco PR firm that the suit says was hired by Tezos to pitch positive stories about its technology.

Gevers, reached by email on Thursday, declined to comment on the lawsuit. Strange Brew did not immediately respond to a request for comment. Guido Schmitz-Krummacher, a member of the Tezos Foundation council, said in an email, “We can’t comment on a potential litigation—especially if we are not sure, if it is of relevance for the foundation in Switzerland.”

The suit claims the Tezos defendants are liable under securities law for issuing what amounted to an unregistered security. The suit cites a July report by the U.S. Securities and Exchange Commission indicating that many ICOs are securities and subject to applicable law.

It also alleges that the defendants made statements about the future of Tezos that were false, and that they were not protected by the “safe harbor” usually granted for forward-looking statements. Strange Brew faces claims for false advertising and unfair competition.

Taylor-Copeland said the proposed class includes an estimated 30,000 people who bought Tezzies, and seeks to allow them to rescind their purchases and other damages. He said the lawsuit may be the first civil action brought over an ICO.

The suit could also shed some more light on the relationship between the Breitmans and the Tezos Foundation. The foundation is an “independent Swiss entity whose goal is to promote and foster the use of the Tezos blockchain, its technology and its ongoing development,” according to [materials](#) posted on the Tezos website. It also oversaw the fundraiser.

In their Oct. 18 blog post, the Breitmans alleged that foundation president, Gevers, “engaged in an attempt at self-dealing, misrepresenting to the council the value of a bonus he attempted to grant himself.” They added, “We have been working with the Tezos foundation to resolve the matter and have advocated for his removal from the foundation council.”

Gevers, in an email Thursday, said the allegations against him are “false.”

Although the fundraiser was valued at \$232 million at the time, the lawsuit notes that the value of Bitcoin and Ether—the two cryptocurrencies in which Tezzies could be bought—have continued to skyrocket in value since. It estimates that the value of the funds raised is now approximately \$475 million.

According to the lawsuit, the “purported terms” of the ICO characterized the purchase of Tezzies as a “non-refundable donation” and not a speculative investment. “Lead plaintiff was not shown these terms at any stage during the ICO process, nor did he agree to them,” it says. The complaint also says that Kathleen Breitman compared the purchases to donating to a public television station and receiving “a tote bag” in return.

It’s unlikely to be the last lawsuit against Tezos. On Oct. 19, South Florida-based investor law firm Silver Miller [announced](#) it was investigating the company in connection with the ICO. In an email Thursday, co-founder David Miller said he expects to file suit against the company next week.

Copyright 2017. ALM Media Properties, LLC. All rights reserved.