

IN THE CIRCUIT COURT OF THE  
17<sup>TH</sup> JUDICIAL CIRCUIT IN AND  
FOR BROWARD COUNTY, FLORIDA

CASE NO. CACE19-025498 (12)  
(Frink)

PHILLIP A PICCOLO, JR., KEVIN  
DALTON JOHNSON, PAUL MORRIS,  
JOSEPH REID, and K.F.I.  
SOFTWARE,

Plaintiffs,

v.

ARMEN A TEMURIAN, VISTA  
TECHNOLOGIES LLC, VISTA  
NETWORK  
LLC,

Defendants.

/

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**DEFENDANTS' (CORRECTED) SECOND AMENDED ANSWER, AFFIRMATIVE  
DEFENSES, DEMAND FOR TRIAL BY JURY AND COUNTERCLAIM**

COMES NOW, undersigned counsel for and on behalf of the Defendants  
ARMEN A. TEMURIAN, VISTA TECHNOLOGIES LLC and VISTA NETWORK  
LLC, and hereby files this Answer, Affirmative Defenses and Counterclaim to the  
First Amended Complaint of Plaintiffs Phillip A. Piccolo, Jr. ("Piccolo"), Kevin  
Dalton Johnson ("Johnson"), Paul Morris ("Morris"), Joseph Reid ("Reid"), and  
K.F.I. Software ("K.F.I.") (collectively, "PJM Plaintiffs"), filed May 21, 2020, as  
follows:

1. Defendants admit the allegations in Paragraphs 7, the first sentence of  
Paragraph 8, the first sentence of Paragraph 9, but deny that Plaintiffs  
are members of Vista Technologies or Vista Networks, since Temurian is

- the sole member of each limited liability company, paragraph 98, 99, 105, and 110.
2. Defendants deny the allegations as set forth in paragraphs 8, 9, 10, 11, 12, 15, 17, 18, 19, 20, 21, 28, 29, 30, 32, 33, 34, 35, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92, 93, 94, 95, 96, 100, 101, 102, 103, 106, 107 and 111 of Plaintiffs' Complaint.
  3. Defendants are without sufficient knowledge to either affirm or deny the allegations as set forth in paragraphs 2, 3, 4, 5, 6, 13, 14, 27, 31, 36, 37, 49, and 109. If any response is required, each of these allegations is denied.
  4. All allegations not specifically admitted herein are denied, and strict proof thereof is demanded.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

#### ***(Failure to State a Cause of Action)***

1. The Complaint of Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE fails to state a cause of action upon which relief may be granted.

### **SECOND AFFIRMATIVE DEFENSE**

#### ***(Doctrine of Unclean Hands)***

2. The claims of Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE claims are barred by the doctrine of unclean hands. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE breached the contractual obligations and the wrongful and illegal

conduct precludes Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE from seeking to enforce the contract, or any alleged default of the contract.

**THIRD AFFIRMATIVE DEFENSE**

***(Failure to Mitigate Damages)***

3. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE have failed to take reasonable measures to reduce, mitigate and/or minimize his alleged damages, and therefore Plaintiffs' damages should either be reduced or barred completely to the extent plaintiff failed to mitigate damages.

**FOURTH AFFIRMATIVE DEFENSE**

***(Statute of Limitations)***

4. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE cannot sustain one or more of the causes of action alleged by the plaintiff against the defendants since they are barred by the applicable Statute of Limitations.

**FIFTH AFFIRMATIVE DEFENSE**

***(Laches, Unclean Hands, Waiver, and Estoppel)***

5. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE may not maintain its alleged claims and request of declaratory relief under the equitable principles of laches, unclean hands, waiver and estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

***(Collateral Estoppel)***

6. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE are collaterally estopped from pursuing the claims asserted in the Complaint.

**SEVENTH AFFIRMATIVE DEFENSE**

***(Statute of Frauds)***

7. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE may not maintain the claims asserted in the Complaint in as much as they violate the Statute of Frauds.

**EIGHTH AFFIRMATIVE DEFENSE**

***(Fraud in the Execution)***

8. The claims of Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE are barred because Defendants ARMEN A. TEMURIAN, VISTA TECHNOLOGIES LLC and VISTA NETWORK LLC, were misled into entering an agreement with Plaintiffs insofar as PICCOLO misrepresented his identity and intentions, preparing and signing the purported agreement as “Felice Angelo” – an alias.

9. Defendant asserts the defense of fraud and/or wrongful prosecution, in that Plaintiffs knows or reasonably should have known that at the time its lawsuit was filed it failed to comply with statutory pre-suit requirements, yet is persisted in its fraudulent claim against Defendants and continues to do so despite the same being brought to the attention of Plaintiffs Counsel.

**NINTH AFFIRMATIVE DEFENSE**

***(Performance Excused by Plaintiffs Breach of Contract)***

10. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE seeks to enforce an Agreement that they themselves failed to perform under the terms and conditions of the Agreement. The failure of Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE to perform under the Agreement bars them from claiming a breach of contract and therefore lack standing for suit because Plaintiffs PHILLIP A PICCOLO, JR.,

KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE have suffered no legally cognizable injury which relief can be granted by the Court. Further, Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE are not privileged to pick and choose which portions of the Agreement to execute and/or perform. Plaintiffs PHILLIP A PICCOLO, JR., KEVIN DALTON, JOHNSON, PAUL MORRIS, JOSEPH REID, and K.F.I. SOFTWARE own breach of the terms, negligence and misconduct bars them from seeking any legal remedy.

**TENTH AFFIRMATIVE DEFENSE**

***(Unconscionable)***

11. Defendants respectfully submits that Plaintiffs constructed the Agreement in an unconscionable manner.

12. Plaintiffs rushed Defendant Temurian, to sign the Agreement, because they were in a hurry to launch Vista. Therefore, Defendant did not have the opportunity to review the document prior to signing, and was unfairly pressured into signing the Agreement.

**ELEVENTH AFFIRMATIVE DEFENSE**

***(Illegal Agreement - Usury)***

13. Defendant asserts that Plaintiffs and Defendants entered into an Illegal agreement, which violated Fla. Stat. 687.02 "Usurious contracts". In order for Plaintiffs to recover on a breach of contract claim, the contract must first be determined by the court to be valid.

**TWELFTH AFFIRMATIVE DEFENSE**

***(Unjust Enrichment)***

14. Defendant asserts that Plaintiff seeks unjust enrichment. Plaintiffs stole nearly \$700,000 in Vista's cryptocurrency holdings and Johnson stole in commissions from the Alfacoin's reserve wallet amounts to \$644,394.85.

15. The phrase "unjust enrichment" is used in law to characterize the result or effect of a failure to make restitution of, or for, property or benefits received under such circumstances as to give rise to a legal or equitable obligation to account therefor. It is a general principle, underlying various legal doctrines and remedies, that one person should not be permitted unjustly to enrich himself at the expense of another, but should be required to make restitution of or for property or benefits received, retained, or appropriated, where it is just and equitable that such restitution be made, and where such action involves no violation or frustration of law or opposition to public policy, either directly or indirectly.

**THIRTEENTH AFFIRMATIVE DEFENSE**

***(Own Actions)***

16. Defendants asserts that Plaintiffs' damages, if any, were caused, in whole or in part, as a result of Plaintiffs' own actions, in whole or in part, by constructing an Agreement which Plaintiffs were not able to perform, without the business relationship of Defendants.

**FOURTEENTH AFFIRMATIVE DEFENSE**

***(Insufficient Agreement)***

17. Plaintiffs' claims are barred, either in whole or in part, because the contracts upon which Plaintiffs claim to sue do not convey the assets upon which Plaintiffs bases its suit.

**FIFTEENTH AFFIRMATIVE DEFENSE**

***(Reservation of Defenses)***

18. Defendants expressly reserve the right to amend their answer to assert such additional affirmative defenses as may be subsequently discovered through investigation and discovery in this matter.

## COUNTERCLAIM

Defendants/Counter-Plaintiffs ARMEN A. TEMURIAN (“TEMURIAN”), VISTA TECHNOLOGIES LLC (“VISTA TECH LLC”), and VISTA NETWORK LLC (“VISTA NET LLC”) (jointly, “VISTA” and with TEMURIAN, “Defendants/Counter-Plaintiffs”), by and through their undersigned counsel, hereby counterclaims against Plaintiffs/Counter-Defendants PHILLIP A. PICCOLO, JR. (“PICCOLO”), KEVIN DALTON JOHNSON (“JOHNSON”), PAUL MORRIS (“MORRIS”), JOSEPH REID (“REID”), and K.F.I. SOFTWARE (“K.F.I.”) (collectively, “Plaintiff/Counter-Defendants”) and allege as follows:

1. Damages in this action exceed the minimum jurisdictional limits of this Court.
2. This Court has previously determined that venue is proper in Broward County, Florida where the Defendant/Counter-Plaintiff and Plaintiff/Counter-Defendant are corporations doing business.

## BACKGROUND

3. In late 2017, as Vista was preparing for the release of its Mini Miner product, it started searching for a developer to create a custom-built administrative software suite to manage its sales and shipping, handle its records, and give Vista and its customers a platform to monitor Mini Miner usage (the “Back Office”).
4. The Back Office would also store confidential and proprietary electronic data including the “private keys” necessary to access the digital wallets that contain Vista and its customers’ funds.
5. In November 2017, Temurian met Reid, who introduced the Plaintiff/Counter-Defendants as close acquaintances, represented that they were trustworthy and recommended that Vista hire them as a legitimate software

development team.

6. Piccolo represented his name was “Felice Angelo,” which is untrue.

7. In recommending the Plaintiff/Counter-Defendants, Reid purposefully misled Defendants about the PJM Plaintiffs’ qualifications to build the Back Office software suite. Reid also referred to Piccolo as “Felice Angelo.”

8. Reid and Piccolo (a.k.a. “Felice Angelo”) failed to inform Defendants that the person of numerous instances of prior allegations of fraudulent behavior made against Defendant Piccolo, which would have been easily discovered with an internet search, had Piccolo used his real name, instead of falsely referring to himself “Felice Angelo.”

9. On or about December 5, 2017, Temurian flew to Florida to meet with the Defendants/Counter-Plaintiffs. Reid accompanied Temurian to the meeting and continued to represent that the PJM Plaintiffs were a trustworthy and legitimate software development team, and that PICCOLO was “Felice Angelo.”

10. The Defendants/Counter-Plaintiffs solicited Temurian’s trust. Temurian in fact trusted them, and relied on their representations to his detriment.

11. That day, Temurian engaged the Defendants/Counter-Plaintiffs, by an oral “handshake” agreement, as vendors, to create and launch a custom Back Office software suite for VISTA.

12. The oral “handshake” agreement specified, in general terms, that (1) the Back Office was to be delivered by February 2018; (2) Vista would maintain ownership of the Back Office; (3) Temurian would acquire Travelada; and (4) the PJM

Plaintiffs would relinquish control of the Back Office to Vista upon its completion. In return, the Defendants/Counter-Plaintiffs would receive \$2,000 per business day in bitcoin until the job was finished (the “Agreement”).

13. Temurian, who has some experience with software development, and who had been told that the PJM Plaintiffs were experienced, anticipated the job would take a short time. Indeed, it had been agreed they would finish by February 2018.

14. In fact, the purported “Back Office Software” could have been built by an experienced software developer in a matter of days or weeks. But the Back Office software was never built and instead was intentionally used as a software “backdoor” to steal from Defendants/Counter-Plaintiffs.

15. Piccolo, using the alias, “Felice Angelo” prepared a second document purporting to represent the parties’ agreements, knowing that Temurian was ignorant of his true identity, referring to himself as “Felice Angelo” in the purported agreement, and purporting to materially change the Agreement and distort its meaning in ways that Piccolo believed would advantage himself and the PJM Plaintiffs.

16. Defendants do not believe the purported written agreement reflects a meeting of the minds or the Agreement, and since Piccolo misrepresented his own identity, contend that the written purported agreement is void *ab initio*, voidable, at the option of Defendants, subject to rescission, and of no effect due to fraud in the execution of the document and the misrepresentations of the PJM Plaintiffs.

17. Defendants performed under the terms of the Agreement.

18. The PJM Defendants did not perform the Agreement.

19. Defendants seek rescission of all the parties' agreements.

20. As part of the Back Office development process, Defendants gave the PJM Plaintiffs temporary access of Vista's confidential and proprietary information, including its records, sales logs, customer profiles, and customer lists to upload the information into the software suite. That information was otherwise password protected, accessible only by Vista's officers, and considered confidential and proprietary. This information is not known outside Vista. It would have great independent value if it were known to competitors and potential competitors. At all times Vista retained sole ownership of that information.

21. On January 26, 2018, the Plaintiff/Counter-Defendants claimed they completed Vista's Back Office, but it was not custom built as promised. Instead, the they copied a general administrative software interface (known as "white label" in the industry) and put VISTA's name on it.

22. Shortly thereafter, the PJMT Plaintiffs began to use the information they were granted access to solely for developing the Back Office in order to defraud Vista, to steal cryptocurrency and computer hardware, and to poach customers.

## **COUNT I**

### **BREACH OF CONTRACT**

**(As to All Plaintiffs/Counter-Defendants)**

23. Defendants/Counter-Plaintiffs TEMURIAN, VISTA TECH LLC, and VISTA NET LLC refer to and incorporate by reference the preceding paragraphs, as though set forth in full herein, and alleges this Count I for Breach of Contract as

against Plaintiff/Counter-Defendants PICCOLO, JOHNSON, MORRIS, REID, K.F.I, an unknown business entity, as follows:

24. On or about, December 5, 2017, Temurian, and the Plaintiff/Counter-Defendants entered into the oral, “handshake” Agreement, pursuant to which Defendants were to create a custom-built Back Office and tender ownership of the Back Office Software to Vista upon completion in return for compensation.

25. Defendants/Counter-Plaintiffs have performed all their obligations to the Defendants except those obligations Plaintiffs were prevented or excused from performing.

26. Plaintiff/Counter-Defendants breached the agreements by (1) failing to provide a custom-built Back Office Software, and (2) failing to relinquish control of the Back Office Software once it was constructed as agreed upon by the parties; and (3) by disabling Defendants/Counter-Plaintiffs’ access to the Back Office.

27. A result of the actions of Plaintiff/Counter-Defendants PICCOLO, JOHNSON, MORRIS, REID, K.F.I, as successors to K.F.I. Software, Travelada and CCBMLM, inclusive, Defendants/Counter-Plaintiffs have been damaged in an amount to be proven at trial.

## **COUNT II**

### **CONVERSION**

**(As to All Plaintiffs/Counter-Defendants)**

28. Defendants/Counter-Plaintiffs TEMURIAN, VISTA TECH LLC, and VISTA NET LLC refer to and incorporate by reference the preceding paragraphs, as though set forth in full herein, and alleges this Count II for Conversion as against Plaintiff/Counter-Defendants PICCOLO, JOHNSON, MORRIS, REID, K.F.I, an unknown business entity, as follows:

29. Cryptocurrency is a form of blockchain<sup>1</sup> technology that is treated like digital “money” with units of value called “tokens” (like poker chips or video arcade tokens). Each token is identified with a string of letters and numbers, and all cryptocurrency is tracked in public ledgers available everywhere in the world over the Internet.

30. Cryptocurrency can be held in a virtual “wallet” and traded (like other forms of currency) in an “exchange.”

31. At all relevant times, Defendants/Counter-Plaintiffs were the owners of significant amounts of cryptocurrency known as Bitcoin (BTC) and Ethereum (ETH). As of the date of the filing of this complaint, each each BTC trades at a value of over \$33,000. At the time of the actions complained of, BTC

32. The Plaintiff/Counter-Defendants gained access to the cryptocurrency owned by Defendants/Counter-Plaintiffs based upon the Agreement to build the Back Office administrative tools.

33. As detailed in the attached report prepared by forensic expert Steven McNew of FTI Consulting (**Exhibit 1**), a report prepared in prior litigation at significant expense to Defendants/Counter-Plaintiffs, which is incorporated herein by reference, defendants converted, and are in possession of items of personal property belonging to Plaintiff, including without limitation the following cryptocurrency:

a. **12.59 BTC** sent to wallet

1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1 (“Wallet ‘PLQ1’”), that is owned and/or controlled by the PJM Plaintiffs.

b. **24.3 Bitcoin** sent to wallet

1Bp1hpNtNEy43NcR7EUUpKTwsXFxuDnJiCv (“Wallet ‘JiCv’”), owned and/or controlled by the PJM Plaintiffs.

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<sup>1</sup> Blockchain is a software that links transactions (“blocks”) over time (in a “chain”). It uses complex puzzles, or “keys” to validate each transaction (every “block” in the “chain”) creating a complex form of security that is public and validated.



VISTA NET LLC refer to and incorporate by reference the preceding paragraphs, as though set forth in full herein, and alleges this Count III for Civil Theft as against Plaintiff/Counter-Defendant JOHNSON, as follows:

40. Johnson converted Defendants/Counter-Plaintiffs' property (cryptocurrency and computer hardware) as set forth above.

41. Beginning on January 31, 2018, Johnson created fraudulent deposits of 50 BTC and 100 ETH into an account he secretly created in Vista's computer systems. And on February 27, 2018 and February 28, 2018, Johnson created fraudulent deposits of 100 more BTC and 500 more ETH into an account he held/controlled in Vista's computer systems.

42. In fact, there were no such deposits, and the accounting by Johnson was wholly false.

43. Then, in a series of small withdrawals, Johnson took 20.20994272 BTC and 41.871939523777777 ETH from Vista based upon the fake accounts.

44. Because Johnson took advantage of his position of trust and access to Vista's computer systems, to secretly create fake accounts, secretly create large positive balances, and secretly withdraw from the accounts in small amounts to avoid detection, depriving Vista of its cryptocurrency, Johnson intentionally and with "criminal intent" within the definition of Florida Statute, temporarily and permanently deprived Vista of the right and benefit of the cryptocurrency.

45. On or about February 2, 2018 through February 27, 2018, Temurian, on behalf of Vista, sent approximately 12.59 BTC to a Vista account ("Reserve Wallet") with the address 1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1 for the funds to be paid to Vista customers requesting withdrawals from their accounts. Upon information and belief, Johnson took and kept the 12.59 BTC for himself instead of paying Vista's customers. Thus Johnson intentionally and with "criminal intent" within the definition of Florida Statute, temporarily and permanently deprived Vista of the right and benefit of the cryptocurrency.

46. Based on this evidence, Vista sent a civil theft demand letter to Johnson on or about March 29, 2019 regarding the stolen cryptocurrency.

47. From approximately February 8, 2018 through March 6, 2019, Temurian, on behalf of Vista, sent approximately 24.3 BTC to the Reserve Wallet 1Bp1hpNtNEy43NcR7EUpKTwsXFxuDnJiCv to pay Vista customers. Upon information and belief, Johnson took and kept the 24.3 BTC for himself instead of paying Vista's customers. Thus Johnson intentionally and with "criminal intent" within the definition of Florida Statute, temporarily and permanently deprived Vista of the right and benefit of the cryptocurrency.

48. Based on this evidence, Vista sent two more civil theft demand letters to Johnson on or about May 2, 2019 and June 26, 2019 regarding the stolen cryptocurrency and other property.

49. Mr. Johnson (through counsel) responded and disputed the allegations, and threatened to seek attorney's fees and costs, but did not return the stolen property, and did not respond in any substantive way to the allegations nor allege facts nor offer any evidence that Temurian and Vista might consider in support of Johnson's assertions in response to the three civil theft demand letters.

50. Accordingly, Defendants/Counter-Plaintiffs are entitled to treble damages and other relief to be proven at trial.

#### **COUNT IV**

#### **BREACH OF FIDUCIARY DUTY**

#### **(As to All Plaintiffs/Counter-Defendants)**

51. Defendants/Counter-Plaintiffs TEMURIAN, VISTA TECH LLC, and VISTA NET LLC refer to and incorporate by reference the preceding paragraphs, as though set forth in full herein, and alleges this Count IV for Breach of Fiduciary Duty as against Plaintiff/Counter-Defendants, as follows:

52. Plaintiffs allege that the parties owed one another fiduciary duties as partners or joint adventurers.

53. Without conceding a partnership was created, and in response to those allegations, Defendants/Counter-Plaintiffs assert in response that, if the parties owed one another fiduciary duties, then Plaintiffs/Counter-Defendants breached any and all duties owed to Defendants/Counter-Plaintiffs.

54. Assuming *arguendo* the parties were fiduciaries of one another, Plaintiffs/Counter-Defendants breached any and all fiduciary duties by disregarding their proposes, falsely creating customer accounts, converting enormous amounts of cryptocurrency for themselves, fraudulently ordering computer hardware to their own benefit, and poaching customers from Defendants/Counter-Plaintiffs.

55. Defendants/Counter-Plaintiffs have been damaged by these breaches, in an amount to be determined at trial.

#### COUNT V

#### UNJUST ENRICHMENT

#### **(As to All Plaintiffs/Counter-Defendants)**

56. Defendants/Counter-Plaintiffs TEMURIAN, VISTA TECH LLC, and VISTA NET LLC refer to and incorporate by reference the preceding paragraphs, as though set forth in full herein, and alleges this Count V for Unjust Enrichment as against Plaintiffs/Counter-Defendants, as follows:

57. Plaintiffs/Counter-Defendants breached the parties' oral "handshake" Agreement and converted property owned by Defendants/Counter-Plaintiffs under the guise of a trusting business relationship.

58. Plaintiffs/Counter-Defendants were enriched as a result of falsely creating accounts, converting cryptocurrency, ordering computer hardware, and poaching customers from Defendants/Counter-Plaintiffs, unfairly, as as result of their misdeeds.

59. Accordingly, under the principles of equity and good conscience, Johnson should not be permitted to retain the commissions, which he never merited and were procured under false and fraudulent pretenses.

60. Defendants/Counter-Plaintiffs are entitled to disgorgement, restitution and other damages from Plaintiffs/Counter-Defendants as shall be proven at trial.

**WHEREFORE**, Defendants/Counter-Plaintiffs request this Court enter Judgment against the Plaintiffs/Counter-Defendants Piccolo, Johnson, Morris, Reid, K.F.I. for damages, rescission, restitution, disgorgement, plus interest, court costs and attorney's fees, and grant any and all further relief deemed appropriate.

Dated this June 23, 2021

/s/ WILLIAM B. DECLERCQ

William B. DeClercq, Esq.  
California Bar No. 240538  
TAYLOR ENGLISH DUMA LLP  
1600 Parkwood Circle, Suite 200  
Atlanta, Georgia 30339  
Telephone: (770) 434-6868  
Facsimile: (770) 434-7376  
Email: [wdeclercq@taylorenchinese.com](mailto:wdeclercq@taylorenchinese.com)  
*ATTORNEYS FOR DEFENDANTS, ARMEN  
A. TEMURIAN, VISTA TECHNOLOGIES  
LLC, VISTA NETWORK LLC*

**EXHIBIT A**



**VISTA NETWORK TECHNOLOGIES USA AND  
ARMEN TEMURIAN  
VS.**

**PHILLIP A. PICCOLO JR., KEVIN DALTON JOHNSON,  
PAUL MORRIS, JOSEPH REID, KFI SOFTWARE D/B/A  
TRAVELADA INTERNATIONAL, AND TRAVELADA, LLC**

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## QUALIFICATIONS AND STATEMENT OF COMPENSATION

As requested by the Law Office of Aric N. Williams, I have prepared the following report regarding the outbound transaction history, including “transfer”, “withdrawal”, and “out” transactions of Bitcoin addresses “wallets” 1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1 and 1Bp1hpNtNEy43Ncr7EUpKTwsXFxDnJiCv. This report also includes an analysis of the back-office Vista account 100000018 (“18”).

I, Steven S. McNew, am a Senior Managing Director FTI Consulting (NYSE: FCN) and Global Lead of the Blockchain Advisory and Cryptocurrency Disputes, Investigations and Litigation practice in the Technology segment. FTI’s Technology Segment provides blockchain advisory services, cryptocurrency investigations, digital investigation and electronic discovery services to assist organizations across a variety of industries to better govern, secure, find and analyze information.

I completed blockchain and cryptocurrency coursework at Massachusetts Institute of Technology (MIT). I have also completed studies and passed the required examinations with the Blockchain Council to earn designations of Certified Bitcoin Expert, Certified Blockchain Expert, and Certified Smart Contracts Developer. Additionally, I am certified by CipherTrace as a

Cryptocurrency Investigator and a member of the Wall Street Blockchain Alliance, Digital Currency Council, Government Blockchain Association and the Blockchain Council. I have thirty-two (32) years of experience performing various forensic investigations and leading information management engagements. I am a frequent speaker on blockchain and cryptocurrency and have published numerous articles on blockchain and cryptocurrency topics.

A copy of my curriculum vitae is attached as Exhibit 1.

All of my opinions and conclusions presented in this Report are held to a reasonable degree of professional certainty. I have prepared my Report while employed by FTI Consulting. I have worked as a consultant and expert for 32 years.

I have been retained by the Law Office of Aric N. Williams as a testifying expert at the rate \$625.00 per hour. My fee is not contingent on the outcome of this case.

## **INTRODUCTION**

I was asked by Counsel to evaluate the outbound transaction history of Bitcoin wallets 1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1 (“1Jp”) and 1Bp1hpNtNEy43NcR7EUpKTwsXFxDnJiCv (“1Bp”).

In particular, I examined the transaction history based on information that resides on a publicly-available transaction ledger and the response counsel received from the Uphold subpoena that I received on September 5, 2019. I examined the transactions that funded 1Jp and 1Bp, the transaction history of these two wallets from their creation to the date of this report, and the outbound transactions which includes all transactions maintained by the Uphold Exchange as searchable via the terms “transfer,” “withdrawal,” and “out.”

Plaintiffs represent that wallets 1Jp and 1Bp are company wallets created only for company use. Plaintiffs represent that 1JP and 1BP were intended exclusively for payment of commissions, which could only be made as a direct payment to the customer(s) earning commission.

As the result of my analysis of the transactional history and behaviors, I have reached several conclusions about these wallets, which are stated and discussed in more detail below. I was also asked to analyze the back-office Vista account number 18. Specifically, I was asked to identify ownership, permissions and the general characteristics of this account. As the result of my analysis of this account, I have reached several conclusions about this account, which are stated and discussed in more detail below.

My opinions, which are rendered to a reasonable degree of professional certainty, are as follows:

**Opinion No. 1:** Wallets 1Jp and 1Bp were not used in an approved manner.

**Opinion No. 2:** Outbound transactions issued from wallets 1Jp and 1Bp do not have the characteristics of approved payments.

**Opinion No. 3:** Amounts sent from 1Jp and 1Bp are being sent to unknown recipients, including to private wallets and wallets that were opened with the Kraken, Poloniex and Gemini exchanges.

**Opinion No. 4:** Account 018 is an account assigned to Mr. Johnson and/or used by Mr. Johnson.

**Opinion No. 5:** Account 018 has not always maintained the status of "Agent."

**Opinion No. 6:** Account 018 is associated with the several wallets, including "reserve wallets."

**Opinion No. 7:** Account 018 is an account eligible for Bitsend payments and, in fact, did receive Bitsend payments.

**Opinion No. 8:** Account 018 has received thirty-eight (38) payments from Bitsend, which included twenty-eight (28) Bitcoin inputs and ten (10) Ether inputs.

**Opinion No. 9:** Additional information, especially Subpoena responses, are required to complete the investigation.

Each of these opinions are based on my analysis of the Defendant's Bitcoin and Ether on the publicly-available transaction ledger, known as the blockchain, as well as other software reports with a role in tracking payments and accounts. As of the date of this report, I have requested copies of the subpoena response from Kraken, Poloniex and Gemini. I've also requested a list of Bitcoin and Ether wallet addresses owned by the Defendants and Defendant's affiliated entities, including business partners and businesses owned by Defendants. Forensic analysis of this information will provide greater detail as to the ownership of wallets that have received payments from 1Jp and 1Bp. I reserve the right to supplement or amend my opinions based on additional information that may become available, including through a forensic examination of the Defendant's accounts and accounts owned by affiliated entities.

#### **I. Methodology and Explanation of Key Topics**

In order to analyze the wallets and accounts at issue in this lawsuit, I used forensic tools to examine the blockchain records associated with the Plaintiff's Bitcoin and Ether. There are numerous software tools available to review, search and analyze transactions on the blockchain. I relied on blockchain and transaction data publicly available at [www.blockchain.com](http://www.blockchain.com) which is a blockchain explorer (formerly known as [www.blockchain.info](http://www.blockchain.info)) that maintains transaction information for Bitcoin and other forms of cryptocurrency. Additionally, I relied on [www.blockchair.com](http://www.blockchair.com) which is a blockchain explorer. I relied on information provided in the response to the subpoena issued to Uphold and that I received September 5, 2019. The leading software applications include CipherTrace and Chainalysis. These are broadly recognized as acceptable software for forensic analysis of the blockchain and various forms of cryptocurrency, including Bitcoin and Ether. For my investigation I used CipherTrace, of which I am a Certified Cryptocurrency Investigator.

To meet my goal detailed in the Introduction, the following actions were taken:

Research all information available about wallets 1Jp and 1Bp, including their transaction history, current balance, activity, detailed inputs/outputs and the recipients and senders of Bitcoin. This information is available on the blockchain.

Trace the outbound transactions to understand the transaction details, Bitcoin sent and receiving wallets, including a determination of whether the receiving wallets are private wallets or owned by an exchange. This information is available on the blockchain.

Review the response to the Uphold subpoena and compare it to the information available on the blockchain in order to ensure the accuracy of the transactions detailed in the Uphold response.

Using the list of wallets that contributed to the Plaintiff's wallet, I researched each wallet to understand its overall risk rating, transaction history, risk ratings of transactions, current balance, activity, detailed inputs/outputs and the recipients and senders of Bitcoin. This research also included a review of the history of all prior inputs as the Bitcoin and Ether moved through the blockchain. My review went back numerous transactions to determine their origination to the extent this information was available and ascertainable. This information is available on the blockchain.

The CipherTrace software maintains a mapping of all known exchanges, dark markets, criminal accounts, mixers, gambling accounts, etc. These are coded to each address on the blockchain for forensic examination to see account characteristics. This information is available on the blockchain coupled with research into account ownership. Using this software, I determined the owner, where possible, of the wallets receiving the funds from 1Jp and 1Bp.

Reviewed all available ALFAcoins, BitSend and Vista reports including transaction logs, summary reports, user profile(s) and statements.

Via remote access with Plaintiffs, accessed ALFAcoins and BitSend to verify functionality, review reports and validate accuracy of information. Compared findings to forensic findings.

## **ALFAcoins**

ALFAcoins was founded in 2013 and provides online merchants and their customers cryptocurrency payment processing services. ALFAcoins supports the cryptocurrencies Bitcoin, Litecoin, Ethereum, Bitcoin Cash, Dash and XRP. The service allows business owners and customers to send or accept digital assets as payment for goods and services, convert currencies, as well as pay and store digital assets securely via online wallets.

### **“Reserve Wallets”**

The term “Reserve Wallets” is a term used by Vista and its teams to define specific cryptocurrency wallets that were to be used exclusively for the purpose of making commission payments directly to customers. The following are the specific wallets considered “Reserve Wallets” by all parties and were opened only for the purpose previously stated:

Bitcoin:

- 1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1
- 1Bp1hpNtNEy43NcR7EUpKTwsXFxDnJiCv

Ether:

- 0x0cD31d5020a26b281d98E4AACB870ae754c2eeb0
- 0x5fb434C1590124CA205218842dC65De7CcEA00EC

### **Vista “Back Office Software”**

“Back Office Software” is the term used to generally define the software provided to Vista for purposes of managing activities related to successful multi-level-marketing activities. In addition to connecting to ALFAcoins via an API, it was effectively the back-office software tracking payments and accounts. The “Back Office Software,” according to Mr. Johnson’s declaration dated January 2, 2019, is partially defined as “...next generation cloud based MLM

software which empowers its users with solutions geared for global success. The software set allows any MLM company to register affiliates online through a self-replicating websites, track the line of sponsorship from registration, purchase virtual and physical products, manage shipping and logistics with all the primary US-couriers, calculate commissions in real time on any compensation plan implemented, pay commissions and bonuses via third party wallet systems or printed checks, reconcile payments, provides full customer support to affiliates using the system support and full reporting suite of all such functions to the licensee.”

### **BitSend**

BitSend is a “Payouts System” service that is integrated with ALFAcoins. ALFAcoins marketing materials define it as a system made for merchants who want to send Bitcoin and cryptocurrencies directly from their accounts. It allows ALFAcoins account holders to send Bitcoin and cryptocurrencies to their employees in the form of bonuses or salaries, as well as partner rewards and client payouts. BitSend orders are processed immediately through API. Plaintiffs utilized BitSend as part of their access to ALFAcoins specifically for purposes of making approved commission payments for purchases made within ALFAcoins.

## **II. ANALYSIS of account 018**

Account 018 is the account assigned to Mr. Johnson and/or used by Mr. Johnson. He has confirmed as much in his testimony (cite). The name “Kevin Johnson” appears as the account name of the account. The email address of kj@vtpk.com is listed as the account owner/user email address.

Account 018 has not always maintained the status of “Agent.” During the time of the account’s existence it has held the designation of “Affiliate.” Please see user profile from ALFAcoins showing “current status” as “Affiliate” dated March 27, 2018 in Exhibit 2. Since this is a Vista system, and Vista no longer has access to the Vista back office, Exhibit 2 is a screenshot provided by Plaintiffs.

Account 018 is associated with the following wallets:

Bitcoin: 1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1 (“1Jp”)

Ether: 0x0cD31d5020a26b281d98E4AACB870ae754c2eeb0

Vista V-Tokens: 100000018

“Coming Soon”: VistaCoin

This is evident in the profile details of the account profile, Exhibit 2, which lists the wallets that account 018 has listed as “Crypto Currency Wallets.”

Back-office account 018 is an account eligible for Bitsend payments. A report from Bitsend titled “Bitsend Statement” is a listing of payments made to back-office account 018. Detailed information about each transaction listed on the “Bitsend Statement” can be found in the BitSend Transaction in Exhibit 4.

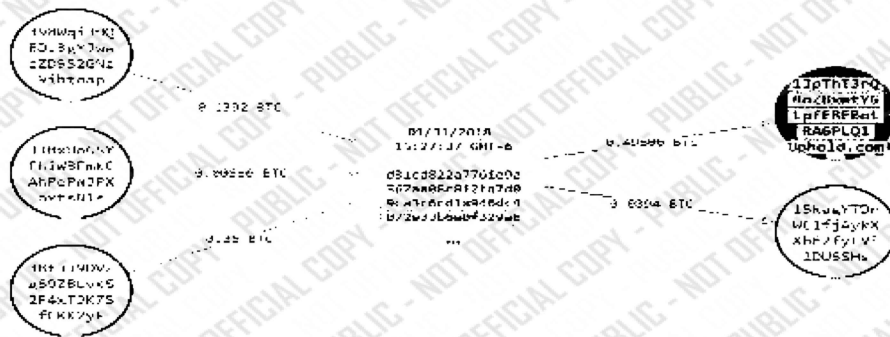
Bitsend payments were sent to account 018 and the associated wallet per the type of cryptocurrency:

Bitcoin would be input to wallet 1JP

Ether would be input to wallet 0X0

Examples of this can be found in Exhibit 3 where the “recipient address” lists the name of the wallet receiving the funds. Since these reports are maintained in ALFAcoins and BitSend, I sought to confirm this forensically via the publicly available blockchain and was able to do so.

One such example is BitSend Transaction ID 117109 in the amount of 0.49506 BTC via transaction ID: d31cd822a7761e9a567aa08c812fd7d09ca3c6cd1a946dc4072e33b6e0f329a6.



As you will see in this screenshot (Exhibit 5), transaction ID

`d31cd822a7761e9a567aa08c812fd7d09ca3c6cd1a946dc4072e33b6e0f329a6` transfers 0.49506 BTC to 1JP, which is also confirmed in ALFAcoins and BitSend reports referenced earlier as Exhibit 3 and Exhibit 4.

Account 018 has received thirty-eight (38) payments from BitSend, which included twenty-eight (28) Bitcoin inputs and ten (10) Ether inputs. This is evident in the reporting available from ALFAcoins BitSend Statements and confirmed forensically via the blockchain.

### III. ANALYSIS OF 1JP

Plaintiff's represent that wallet 1JP was designated as a "Vista Reserve" company-owned wallet and that its only use was to receive funds from Plaintiffs for the sole purpose of making commission payments. Commission could be earned by customers based on referrals related to the sale of mini-miners, a product of the company.

In 2015, Vista successfully developed a hardware and software solution suited for home cryptocurrency mining, the mini miner. Only slightly larger than a modern smartphone, Vista Network has created a mining appliance called the Vista Mini-Miner. Its portability, low-energy profile and affordability make it a solution for the masses to benefit from mining

cryptocurrencies. The Vista Mini-Miner employs a proprietary CPU-based approach that maximizes the Hash Power from the device and combines that with the Hash Power from millions of other similar devices to perform the intense computational work of crypto mining. Think of each mini-miner as a small ‘worker’ whose output is combined with the effort of a million other workers to create a cryptocurrency mining powerhouse. Individually, the Vista Mini-Miners don’t produce much output in the way of mining, but when combined with other workers on a large scale the “sum of the parts becomes greater than the whole<sup>1</sup>.”

Given the market price and commission rates, each referral would not be expected to be in excess of \$1,000.00 USD. It is my understanding that there were only two approved methods to pay commissions: 1) a direct transfer of Bitcoin to a customer or 2) a payment to ALFAcoins, which is a payment processor. In the second scenario, Bitcoin would be transferred to an ALFAcoins account and ALFAcoins would send each customer the approved payment via BitSend.

Between February 8, 2018 and April 21, 2018, there were twenty-eight (28) transactions sent from wallet 1Jp. These twenty-eight transactions totaled 31.69 Bitcoin which is \$281,184.58 USD. Transactions range in size from 0.01BTC (\$73.12 USD) to 8.5 BTC (\$75,128.06 USD). A list of transactions are as follows:

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<sup>1</sup> <https://www.investopedia.com/terms/b/bitcoin-exchange.asp>

Transaction Completion	USD Value	Destination BTC
2018-02-08T14:51:28.160Z	260.97	0.029855
2018-02-11T23:48:52.012Z	1379.3	0.170017
2018-02-12T14:20:35.808Z	4679.35	0.538152
2018-02-14T16:52:48.547Z	3164.71	0.337857
2018-02-14T17:17:52.632Z	474.55	0.05
2018-02-14T17:33:55.098Z	9293.08	1
2018-02-16T16:45:42.624Z	1101.14	0.107565
2018-02-21T18:06:41.163Z	1133.9	0.10756
2018-02-22T02:57:46.287Z	1527.79	0.141709
2018-02-22T03:26:51.550Z	1080.26	0.1
2018-02-22T04:02:57.460Z	113.68	0.01
2018-03-02T02:20:05.765Z	111.04	0.01
2018-03-02T02:29:46.497Z	15120.77	1.35923228
2018-03-02T05:06:32.898Z	5501.09	0.5
2018-03-07T01:51:03.928Z	548.56	0.05
2018-03-07T02:39:42.559Z	547.91	0.05
2018-03-08T18:16:08.661Z	18608.54	2
2018-03-13T15:09:35.787Z	136.48	0.015
2018-03-19T15:30:06.243Z	17084.16	2
2018-03-25T17:51:05.679Z	150.56	0.017
2018-03-28T13:51:15.711Z	16068.5	2
2018-04-04T19:24:53.242Z	73.12	0.01
2018-04-10T14:09:49.685Z	7391.69	1.09138977
2018-04-16T13:19:10.891Z	7978.11	1
2018-04-20T23:59:25.562Z	43987.52	5
2018-04-21T00:36:59.075Z	44224.28	5
2018-04-21T01:04:31.021Z	75128.06	8.5
2018-04-21T01:26:32.504Z	4315.46	0.49

Since wallet 1Jp was only to be used for commission payments that Plaintiffs represent would not be greater than \$1,000.00 USD for any single payment, I attempted to determine whether the large sums could represent a bulk payment to multiple customers through an exchange or ALFAcoins.

By definition, a Bitcoin exchange is a digital marketplace where traders can buy and sell Bitcoins using different fiat currencies or altcoins. A Bitcoin currency exchange is an online platform that acts as an intermediary between buyers and sellers of the cryptocurrency. Bitcoin exchange platforms match buyers with sellers. Like a traditional stock exchange, traders can opt to buy and sell bitcoin by inputting either a market order or a limit order. When a market order is selected, the trader is authorizing the exchange to trade his coins for the best available price in the online marketplace. With a limit order set, the trader directs the exchange to trade coins

for a price below the current ask or above the current bid, depending on whether they are buying or selling. To transact in Bitcoin on an exchange, a user must register with the exchange and go through a series of verification processes to authenticate their identity. Once the authentication is successful, an account is opened for the user who then must transfer funds into this account before they can buy coins.<sup>2</sup>

I analyzed “messages” that may have been recorded about each transaction. Messages are similar to a “memo” field on a traditional checking account paper check. It allows for a brief description for a specific transaction. All but four transactions contained a message, and only one relates to the sole purpose of this wallet, which is the March 7, 2018 entry with the message “Testing Paid Short Order, sent to Alfacoins.” A list of transactions and their messages are as follows:

Transaction Completion	Message
2018-02-08T14:51:28.160Z	HashPL Testing Order
2018-02-11T23:48:52.012Z	Testing Mini-Miner Purchase
2018-02-12T14:20:35.808Z	Funding withdrawals
2018-02-14T16:52:48.547Z	Withdrawal Funding.
2018-02-14T17:17:52.632Z	Alternate Wallet
2018-02-14T17:33:55.098Z	Alternate Wallet
2018-02-16T16:45:42.624Z	Withdrawal Funding
2018-02-21T18:06:41.163Z	Withdrawal Funding
2018-02-22T02:57:46.287Z	Test Retail Order
2018-02-22T03:26:51.550Z	Retail Order Testing Paid Short , amount stated was 0.1417830000
2018-02-22T04:02:57.460Z	Partial Payment on Order Id 4820258, paid .10 now this .01 towards total of .141783
2018-03-02T02:20:05.765Z	Contract Payment
2018-03-02T02:29:46.497Z	Loan
2018-03-02T05:06:32.898Z	Margin call.
2018-03-07T01:51:03.928Z	Paid Short Order Test
2018-03-07T02:39:42.559Z	Testing Paid Short Order, sent to Alfacoins
2018-03-08T18:16:08.661Z	Software funds
2018-03-13T15:09:35.787Z	Some BTC to test.
2018-03-19T15:30:06.243Z	
2018-03-25T17:51:05.679Z	Order
2018-03-28T13:51:15.711Z	Software Shortfall
2018-04-04T19:24:53.242Z	Trezor01
2018-04-10T14:09:49.685Z	Software Fees
2018-04-16T13:19:10.891Z	Soft Fees
2018-04-20T23:59:25.562Z	
2018-04-21T00:36:59.075Z	
2018-04-21T01:04:31.021Z	
2018-04-21T01:26:32.504Z	

<sup>2</sup> <https://www.investopedia.com/terms/b/bitcoin-exchange.asp>

Even though only one message attached to any transaction mentions commission or ALFAcoins, I analyzed the recipient of the ALFAcoins transfer to learn that it was sent to private wallet 39PbkH2oGmvpDrgQgh6Nb31P1WPsc3egJ5. This is a private wallet with no ownership attribution, which means that we do not know the actual owner of this wallet. The amount transferred to this wallet was .05BTC (\$547.91 USD).

In addition to the private wallet mentioned above, there are fourteen additional private wallets that received funds from 1Jp for which we have no ownership attribution, which means that we do not know the actual owner of these wallets. Two of these fourteen are the same address, which are highlighted in the list below, the rest are unique private wallets. Given the amounts and messages, it is unlikely that these are transactions made for commission payments.

Transaction Completion	Message	USD Value	Destination BTC	Destination Address
2018-04-21T00:36:59.075Z		44224.28	5	127N2rarg41LgtxidP3UkrdRDEf4bcMUz
2018-04-21T01:26:32.504Z		4315.46	0.49	1FAyHARLiw9EXFKAgxLeG2arBtf2yQ7j7P
2018-02-16T16:45:42.624Z	Withdrawal Funding	1101.14	0.107565	32FQULLGDJ1bxHxQJfMduzgt7JQCyh8TZe
2018-02-14T16:52:48.547Z	Withdrawal Funding.	3164.71	0.337857	39tcTJGcQ4pc2Y79tWaY2ZsL1Zn4RKANI4
2018-03-07T01:51:03.928Z	Paid Short Order Test	548.56	0.05	3AZWP9hB9XFWt54k9pQkETtWMoDBY3F7Ja
2018-02-12T14:20:35.808Z	Funding withdrawals	4679.35	0.538152	3DQK34vyvFi3SgUoxiYbKf5WwPrLPfXJjn
2018-04-04T19:24:53.242Z	Trezor01	73.12	0.01	3F5X24mNye8y2szkre3ibjDAjSpnpM1QEE
2018-03-25T17:51:05.679Z	Order	150.56	0.017	3GK8iTJwvxiYuELj54Sxr2L2KVm8BqypXv
2018-02-08T14:51:28.160Z	HashPL Testing Order	260.97	0.029855	3HU58RvwqGU5MQGbWghEpunMoq7i2WxxfM
2018-02-11T23:48:52.012Z	Testing Mini-Miner Purchase	1379.3	0.170017	3KFT81QPnjtKZAPNBmoXPdsMU1NKoe1mXQ
2018-02-21T18:06:41.163Z	Withdrawal Funding	1133.9	0.10756	3Lfp9tGWYJ9MKKBj8awTuvH9v9SQH7S2dr
2018-02-22T03:26:51.550Z	Retail Order Testing Paid Sho	1080.26	0.1	3P6mcEvDPIxZMZLPGKxnYe4KedU8E8kwKr
2018-02-22T04:02:57.460Z	Partial Payment on Order Id 48	113.68	0.01	3P6mcEvDPIxZMZLPGKxnYe4KedU8E8kwKr
2018-02-22T02:57:46.287Z	Test Retail Order	1527.79	0.141709	3QmdNut8NRGLDw1BU7q6xbEiseBQqa2L7P

There are ten (10) wallets that received funds from 1Jp that are accounts registered with three (3) exchanges, including Gemini, Poloniex, and Kraken. I have requested that counsel send a subpoena to these exchanges specifically asking for ownership information about these accounts. However, transfers to an exchange do not appear to be an approved use of the 1Jp wallet.

Transaction Completion	Message	USD Value	Destination BTC	Exchange Wallet	
2018-02-14T17:17:52.632Z	Alternate Wallet	474.55	0.05	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Gemini
2018-02-14T17:33:55.098Z	Alternate Wallet	9293.08	1	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Gemini
2018-03-02T05:06:32.898Z	Margin call.	5501.09	0.5	19gMZNLWuVBHjHCJT1EsWkHWwmxiwZyANG	Poloniex
2018-03-08T18:16:08.661Z	Software funds	18608.54	2	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Gemini
2018-03-19T15:30:06.243Z		17084.16	2	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Gemini
2018-03-28T13:51:15.711Z	Software Shortfall	16068.5	2	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Gemini
2018-04-10T14:09:49.685Z	Software Fees	7391.69	1.09138977	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Gemini
2018-04-16T13:19:10.891Z	Soft Fees	7978.11	1	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Gemini
2018-04-20T23:59:25.562Z		43987.52	5	3Mj6AbtkXa6rKpkaHG12oqUHVTCfdMUnJa	Kraken
2018-04-21T01:04:31.021Z		75128.06	8.5	3MFTjd6HMqp8K4xqR5dLKu75i1CRLWhgiW	Kraken

The response from a subpoena will confirm ownership of these accounts which are set up in an exchange.

#### IV. ANALYSIS OF 1BP

Plaintiff's represent that wallet 1Bp was designated as a "Vista Reserve" company-owned wallet and that its only use was to receive funds from Plaintiffs for commissions and to distribute commission payments directly to customers.

Between March 12, 2018 and April 21, 2018, there were seven (7) transactions sent from wallet 1Pp. These seven transactions totaled 24.30 Bitcoin, which is \$209,233.97 USD. Transactions range in size from 0.75BTC (\$6,588.92 USD) to 8.25 BTC (\$72,943.21 USD). A list of transactions are as follows:

Transaction Completion	USD Value	Destination BTC
2018-03-12T20:12:30.732Z	17783.19	2
2018-04-10T14:09:49.695Z	15558.06	2.29936362
2018-04-18T13:41:30.178Z	8101.1	1
2018-04-20T23:59:25.847Z	44034.58	5
2018-04-21T00:20:27.683Z	44224.91	5
2018-04-21T01:04:30.971Z	72943.21	8.25
2018-04-21T01:26:32.496Z	6588.92	0.74643379

Of the seven outbound transactions from 1Bp, all but one is an account with an exchange. The one private wallet 1KfrmQjX1tiRorApnakduruk73MnR7HRJw received 8.2BTC (\$72,943.21). This

is a private wallet with no ownership attribution, which means that we do not know the actual owner of this wallet.

Transactions going into an exchange include:

Transaction Completion	USD Value	Destination BTC	Exchange Wallet	
2018-03-12T20:12:30.732Z	17783.19	2	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Uphold
2018-04-10T14:09:49.695Z	15558.06	2.29936362	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Uphold
2018-04-18T13:41:30.178Z	8101.1	1	3Mj6AbtkXa6rKpkaHG12coqUhVTCfdMUhJa	Kraken
2018-04-20T23:59:25.847Z	44034.58	5	141cDCe7CmxVg1AQ7WGriSgLN6c1cSZBuu	Uphold
2018-04-21T00:20:27.683Z	44224.91	5	19gMZNLWuVBHjHCjT1EsWkHWwmxiwZyANG	Poloniex
2018-04-21T01:26:32.496Z	6588.92	0.74643379	19gMZNLWuVBHjHCjT1EsWkHWwmxiwZyANG	Poloniex

The response from a subpoena will confirm ownership of these accounts which are set up in an exchange.

## V. CONCLUSION

My opinions, which are rendered to a reasonable degree of professional certainty, are reaffirmed here:

**Opinion No. 1:** Wallets 1Jp and 1Bp were not used in an approved manner.

**Opinion No. 2:** Outbound transactions issued from wallets 1Jp and 1Bp do not have the characteristics of approved payments.

**Opinion No. 3:** Amounts sent from 1Jp and 1Bp are being sent to unknown recipients, including to private wallets and wallets that were opened with the Kraken, Poloniex and Gemini exchanges.

**Opinion No. 4:** Account 018 is an account assigned to Mr. Johnson and/or used by Mr. Johnson.

**Opinion No. 5:** Account 018 has not always maintained the status of “Agent.”

**Opinion 6:** Account 018 is associated with the several wallets, including “reserve wallets.”

**Opinion 7:** Account 018 is an account eligible for Bitsend payments and, in fact, did receive Bitsend payments.

**Opinion 8:** Account 018 has received thirty-eight (38) payments from Bitsend, which included twenty-eight (28) Bitcoin inputs and ten (10) Ether inputs.

**Opinion 9:** Additional information, especially Subpoena responses, are required to complete the investigation.

The foregoing opinions are stated to a reasonable degree of professional certainty, based on the information that was made available to me as of the date of this report. I reserve the right to supplement and/or amend this report, and my opinions, in the event that additional information becomes available.

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Steven S. McNew

# Steven S. McNew

## Senior Managing Director - Technology

Steve.McNew@FTIConsulting.com

1301 McKinney  
Suite 3500  
Houston, TX 77002  
Tel: 1 713 353 5404  
Tel: 1 936 232 9994

### CERTIFICATIONS

- Blockchain and Cryptocurrency Executive Education Certificate, Massachusetts Institute of Technology (MIT)
- Certified Bitcoin Expert, Blockchain Council (CBIE)
- Certified Blockchain Expert, Blockchain Council (CBE)
- Certified Expert Cryptocurrency Investigator, CipherTrace
- Certified Smart Contracts Developer, Blockchain Council

### AFFILIATIONS

- Digital Currency Council
- Wallstreet Blockchain Alliance
- Government Blockchain Association
- Blockchain Council

### EDUCATION

- Business Management and Computer Sciences, Northern Kentucky University

### AWARDS

Who's Who Legal 2019:  
Experts - Digital & Data - Digital  
Forensic Experts 2019

Steven S. McNew is a Senior Managing Director at FTI Consulting (NYSE: FCN) and Global Lead of the Blockchain Advisory and Cryptocurrency Disputes, Investigations and Litigation practice in the Technology segment. Mr. McNew is an expert in digital currencies, blockchain and smart contracts, has authored an enterprise search patent application and has led a myriad of engagements related to emerging technologies and digital forensics for 32 years.

### Professional Experience

Mr. McNew has led investigations into disputes involving various forms of cryptocurrencies as well as blockchain assessments, pilot projects, blockchain strategy and implementation. A few notable projects include:

- Provided expert opinions and extensive asset tracing investigations to identify origination of funds to known terrorist group and to identify entrance/exit of cryptocurrencies to known U.S. based exchanges.
- Retained to provide expert investigative services for alleged theft and/or improper use of Bitcoin and Ether payments by performing asset tracing and forensic analysis. Prepared various written forensic reports detailing the investigative findings.
- Provided expert investigative and advisory services to counsel on potential spoliation claims arising from a litigation involving a commodities investments organization. When faced with the potential loss of relevant data due to possible, inadvertent destruction, Mr. McNew was engaged by outside counsel and the company to conduct an analysis of hundreds of previously collected evidence items, previously produced records and the company's current data store to build a potential gap analysis to enable counsel to defend previous preservation efforts and draw relevant data from previous collections.
- Provided expert investigative services to counsel and their clients for investigation of alleged theft of Bitcoin, analysis of behavioral patterns of cryptocurrency movement to determine if the movement is consistent with known patterns of fraudulent behavior and develop various forensic reports.
- Retained for expert advisory services to assess reasonableness of the classification of cryptocurrency for insurance claims payment. Provided expert reports which will likely lead to testimony.
- Retained for expert blockchain implementation services for end-to-end product tracking of oil transport via railcar from Canada to the Gulf of Mexico. Effort includes design and audit of blockchain solution, devising approach to contracts, writing and implementing smart contracts and off-chain payments.

### 2019 Blockchain and Cryptocurrency Expert Consultations



October 2019

## Steve McNew

### Senior Managing Director – Technology Segment

- Expert Report – Investigative Findings, May 9, 2019 – (*Kimmelman v. Wayne*, 2018)
- Expert Report, July 5, 2019 – (*Kimmelman v. Wayne*, 2018)
- Expert Report – Regarding the Proper Characterization of Bitcoin for Purposes of Insurance Coverage, July 5, 2019 – (*Kimmelman v. Wayne*, 2018)
- Expert Report – Initial Forensic Analysis of Computers for Bitcoin Usage, August 6, 2019 – (*Kimmelman v. Wayne*, 2018)
- Expert Report, August 22, 2019 – (*Fasulo and Desi v. XTrade, Kravets, Gulko and Giacobbe*, 2019)

### 2019 Publications

- “Privacy & Regulatory Considerations in Enterprise Blockchain,” *Dark Reading*, April 3, 2019, <https://www.darkreading.com/risk/privacy-and-regulatory-considerations-in-enterprise-blockchain-/a/d-id/1334277>
- “How to start implementing blockchain for enterprise,” *Tech HQ*, April 26, 2019, <https://techhq.com/2019/04/how-to-start-implementing-blockchain-for-enterprise/>
- “Practical Enterprise Blockchain: How to Apply and Adopt,” *Information Week*, April 30, 2019, <https://www.informationweek.com/strategic-cio/practical-enterprise-blockchain-how-to-apply-and-adopt/a/d-id/1334542>
- “How Blockchain Can Transform Preventative Care,” *Managed Healthcare Executive*, May 12, 2019, <https://www.managedhealthcareexecutive.com/article/how-blockchain-can-transform-preventative-care>
- “Opportunities for New Efficiencies and Revenue Models in Enterprise Blockchain,” *CIO Review*, June 10, 2019, <https://business-process-management.cioreview.com/cxinsight/opportunities-for-new-efficiencies-and-revenue-models-in-enterprise-blockchain-nid-29076-cid-87.html>
- “Blockchain Is Much More than Cryptocurrency,” *Corporate Council Business Journal (CCBJ)*, July 11, 2019, <https://ccbjournal.com/articles/blockchain-is-much-more-than-cryptocurrency>
- “When Succession Planning Goes Awry, Cover Your Digital Assets,” *Law Technology Today*, August 19, 2019, <https://www.lawtechnologytoday.org/2019/08/cover-your-digital-assets/>

### 2019 Professional Presentations and Speaking Engagements

- Transparency and Compliance: Blockchain Supported Regulatory Alignment. March 19, 2019
- Uses for Blockchain Technology - A Roundtable Discussion. April 2, 2019
- Introduction to Blockchain: What Every Privacy and Security Professional Needs to Know. April 11, 2019
- Privacy, Cybersecurity and Data Control Best Practices for the ABAC/Global Trade Executive; What You Need to Know As A Non-Privacy Expert Operating In Today's Global Business Environment. May 1, 2019
- An Introduction to Blockchain. May 2, 2019
- Blockchain & Cryptocurrency: Corporate Opportunities and Regulatory Considerations. June 12, 2019
- Blockchain, Cryptocurrency & Smart Contracts; Disputes & Investigations Best Practices. August 18, 2019
- Blockchain in Information Governance. September 19, 2019
- Blockchain and the Future. September 25, 2019

### Employment History



# Steven S. McNew

## Senior Managing Director - Technology

Steve.McNew@FTIConsulting.com

- November 2018 – Present: FTI Consulting – Technology Segment, Houston, TX, Senior Managing Director
- September 2017 – November 2018: Grant Thornton LLP, Houston TX, Managing Director
- December 2010 – August 2017: Navigant Consulting, Managing Director and Global Strategic Market Development Leader
- November 2009 – November 2010: Flex Discovery Solutions, President and Founder
- January 2009 – November 2009: Huron Consulting Group, Managing Director
- March 1998 – May 2008: LIT Group, Inc./RLS Legal Solutions/DigIT Technologies, President
- May 1998 – October 2007: LIT Group, Inc./DigIT Technologies, President
- February 1996 – May 1998: IKON Document Services, General Manager
- 1994 – 1995: Quorum Litigation Services, General Manager
- 1987 – 1994: Arthur Andersen, Senior Manager



October 2019

# Welcome to Your Vista 2.0 Back Office

- Overview
- Dashboard
- Conference Calls

## Your Account Info

Join Date: 10/30/2017 3:10:03 PM  
 Account Name: Kevin Johnson  
 User Name: admin18  
 Your URL: http://Admin18.vista.network  
 Current Status: Affiliate

[View More](#)

## Enroller Info

Name: Accruals - Top Account -  
 Phone: +180358807123  
 Email: kj@vipk.com

[View More](#)

## Current Ledger Value in Local Currency & Ledger Balances

Local Currency  
 137,5493 USD

BTC  
 112.486733

ETH  
 536.8831326

VTK  
 22.000000

[View More](#)

## Corporate Updates

### Important Corporate Update

March 25, 2018

Exciting Sunday night corporate conference call featuring the Mini-Miner developer.

Important corporate update and developer call with Vista Corporate & Mini-Miner developer live tonight.

# User Information

- Account Info
- Addresses
- Other Info
- Enroller Info
- Crypto Currency Wallets**

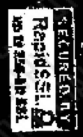
## Crypto Currency Wallets

14pTh13nQRoz8xmTYGLpEREBorRA6P1LQ1	Bitcoin	<a href="#">Edit My Information</a>
0x0cD31d5020a28b281d99E4AACB87Dae754c2eeb0	Etheruem	
Coming Soon	VisaCoin	
100000018	Visa V-Tokens	



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Select Language



**BitSend Statement**

Period: from 2018-01-05 to 2018-04-05.

Description: 100000018.

Status: completed.

Date	ID	Reference	Amount	Fee	Type	Currency	Status
2018-01-31 23:34	117109	BTC-60140-100 000018	4958.13000000	49.09	BTC	USD	Completed
2018-01-31 23:36	117110	ETH-59028-100 000018	1095.05000000	10.84	ETH	USD	Completed
2018-02-01 04:03	117130	BTC-60152-100 000018	5004.68000000	49.55	BTC	USD	Completed
2018-02-01 05:03	117132	BTC-60158-100 000018	8519.37000000	84.34	BTC	USD	Completed
2018-02-01 05:04	117133	ETH-59044-100 000018	8396.44000000	83.12	ETH	USD	Completed
2018-02-01 05:07	117134	ETH-59046-100 000018	8420.80000000	83.37	ETH	USD	Completed
2018-02-01 05:56	117135	BTC-60160-100 000018	8962.40000000	88.73	BTC	USD	Completed
2018-02-01 05:56	117136	ETH-59050-100 000018	8938.13000000	88.49	ETH	USD	Completed
2018-02-01 06:40	117137	BTC-60162-100 000018	9752.97000000	96.55	BTC	USD	Completed
2018-02-01 06:41	117138	ETH-59054-100 000018	8398.55000000	83.15	ETH	USD	Completed
2018-02-01 21:35	117148	BTC-62424-100 000018	8471.10000000	83.86	BTC	USD	Completed
2018-02-01 21:35	117149	ETH-62062-100 000018	3782.64000000	37.45	ETH	USD	Completed
2018-02-05 07:00	117371	BTC-64722-100 000018	3691.34000000	36.54	BTC	USD	Completed
2018-02-05 07:00	117372	ETH-65087-100 000018	4209.11000000	41.67	ETH	USD	Completed
2018-02-07 21:51	118244	BTC-71530-100 000018	5593.92000000	55.38	BTC	USD	Completed
2018-02-07 21:51	118245	ETH-74150-100 000018	1034.49000000	10.24	ETH	USD	Completed
2018-02-09 21:26	118295	ETH-80190-100 000018	476.65000000	4.72	ETH	USD	Completed
2018-02-09 21:27	118296	BTC-76103-100 000018	3508.17000000	34.73	BTC	USD	Completed
2018-02-13 07:35	119346	BTC-78520-100 000018	2987.50000000	29.58	BTC	USD	Completed

Date	ID	Reference	Amount	Fee	Type	Currency	Status
2018-02-27 00:12	121916	BTC-102772-10 0000018	8851.32000000	87.63	BTC	USD	Completed
2018-02-27 00:12	121917	BTC-102774-10 0000018	8845.88000000	87.57	BTC	USD	Completed
2018-02-27 00:12	121918	BTC-102776-10 0000018	8845.86000000	87.57	BTC	USD	Completed
2018-02-27 00:12	121919	BTC-102779-10 0000018	8845.86000000	87.57	BTC	USD	Completed
2018-02-27 00:19	121920	BTC-102783-10 0000018	8926.91000000	88.38	BTC	USD	Completed
2018-02-27 00:19	121921	BTC-102785-10 0000018	4134.13000000	40.93	BTC	USD	Completed
2018-03-03 01:12	122142	BTC-113326-10 0000018	8815.36000000	87.27	BTC	USD	Completed
2018-03-03 01:12	122143	BTC-113328-10 0000018	8815.36000000	87.27	BTC	USD	Completed
2018-03-03 01:12	122144	BTC-113330-10 0000018	8815.36000000	87.27	BTC	USD	Completed
2018-03-03 01:12	122145	BTC-113332-10 0000018	8826.23000000	87.38	BTC	USD	Completed
2018-03-03 01:12	122146	BTC-113334-10 0000018	1092.60000000	10.82	BTC	USD	Completed
2018-03-04 00:32	123112	BTC-113487-10 0000018	8824.81000000	87.37	BTC	USD	Completed
2018-03-04 00:32	123113	BTC-113489-10 0000018	8824.81000000	87.37	BTC	USD	Completed
2018-03-04 00:32	123114	BTC-113491-10 0000018	1121.51000000	11.1	BTC	USD	Completed
2018-03-04 00:35	123115	ETH-127290-10 0000018	423.66000000	4.19	ETH	USD	Completed
2018-03-13 00:01	124769	BTC-126764-10 0000018	9060.41000000	89.7	BTC	USD	Completed
2018-03-13 00:01	124770	BTC-126766-10 0000018	9035.40000000	89.45	BTC	USD	Completed
2018-03-13 00:01	124771	BTC-126768-10 0000018	9035.40000000	89.45	BTC	USD	Completed
2018-03-13 00:01	124772	BTC-126770-10 0000018	9035.40000000	89.45	BTC	USD	Completed
<b>Total</b>			<b>246,377.71</b>	<b>2,439.14</b>			



(/user)

Bitcoin & cryptocurrency  
payment processing system

ACCOUNT ▾ (/USER/3225)

INFORMATION ▾

SUPPORT (/SUPPORT)

## BitSend Transaction #117109

Overview (/user/3225) Transactions (/user/3225/transactions) Withdrawal (/user/3225/withdrawal) \* Reports (/user/3225/reports)

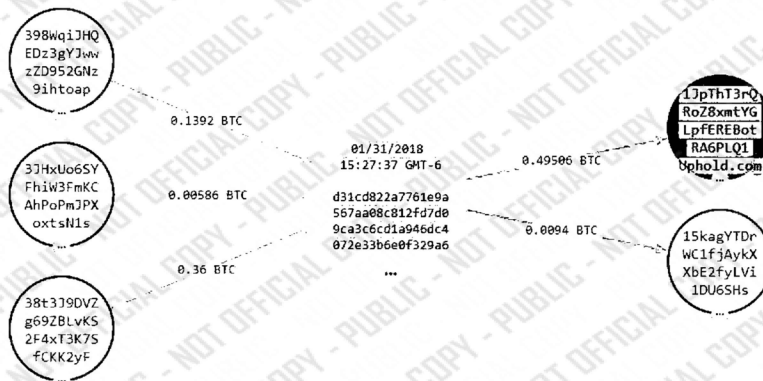
Integration (/user/3225/integration) Settings (/user/3225/settings)

Payments (/user/3225/transactions) **BitSend (/user/3225/transactions/bitsend)** History (/user/3225/transactions/history)

### BitSend Details

**Status: Completed** ?

**DATE** 2018-01-31 23:34:42  
**REFERENCE** BTC-60140-100000018  
**ID** 117109  
**TYPE** Bitcoin  
**AMOUNT** 4958.13000000 USD  
**AMOUNT SENT** 0.49506446 BTC  
**FEE** 49.09 USD  
**NETWORK FEE** 8.51 USD  
**RATE** 1.00 BTC = 10,015.12 USD  
**RECIPIENT NAME** Kevin Johnson  
**RECIPIENT E-MAIL** kj@vtpk.com  
**RECIPIENT ADDRESS** 1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1  
(<https://blockchain.info/address/1JpThT3rQRoZ8xmtYGLpfEREBotRA6PLQ1>)  
**TXID** d31cd822a7761e9a567aa08c812fd7d09ca3c6cd1a946dc4072e33b6e0f329a6  
(<https://blockchain.info/tx/d31cd822a7761e9a567aa08c812fd7d09ca3c6cd1a946dc4072e33b6e0f329a6>)



**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on June 24, 2021, that a true and correct copy of the foregoing was filed with the Court through the use of the Florida Courts eFiling Portal, and has been served upon all parties on the eFiling Service List via the Florida Courts eFiling Portal eService, in accordance with rule 2.516, Florida Rules of Judicial Administration.

Dated this June 24, 2021.

/s/ William B. DeClercq  
William B. DeClercq