

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE: BIT DIGITAL, INC.  
SECURITIES LITIGATION

This document relates to:

All Actions

Lead Case No. 1:21-cv-00515-ALC

**DECLARATION OF JACOB A. WALKER IN SUPPORT OF MOTIONS FOR: (1)  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF  
ALLOCATION; AND (2) AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND  
AN AWARD TO LEAD PLAINTIFF PURSUANT TO 15 U.S.C. §78u-4(a)(4)**

I, JACOB A. WALKER, declare as follows:

1. I am an attorney duly licensed to practice before the courts of the Commonwealth of Massachusetts and the state of California, and I am admitted pro hac vice in this action. I am a partner of Block & Leviton LLP (“Block & Leviton” or “Lead Counsel”), and counsel for Lead Plaintiff Joseph Franklin Monkam Nitcheu (“Lead Plaintiff”) and the Class.<sup>1</sup> I have been actively involved in the prosecution and resolution of this action (the “Litigation”), am familiar with its proceedings and have personal knowledge of the matters set forth herein based upon my active supervision and participation in all material aspects of the Litigation.

2. I submit this declaration pursuant to Rule 23 of the Federal Rules of Civil Procedure in support of: (a) Lead Plaintiff’s motion for final approval of the all-cash settlement of \$2,100,000 (the “Settlement Amount”) and approval of the proposed Plan of Allocation; and (b) Lead Counsel’s application for an award of attorneys’ fees and expenses and an award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4).

3. Attached as Exhibit 1 is a true and correct copy of the Declaration of Lead Plaintiff Joseph Franklin Monkam Nitcheu.

4. Attached as Exhibit 2 is a true and correct copy of the Declaration of Justin R. Hughes Regarding Notice Dissemination, Publication, and Requests for Exclusion and Objections Received to Date.

5. Attached as Exhibit 3 is a true and correct copy of the Declaration of Jacob A. Walker In Support of Motion for Award of Attorneys’ Fees and Expenses.

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<sup>1</sup> Unless otherwise defined, all capitalized terms herein have the same meanings as set forth in the Stipulation and Agreement of Class Action Settlement dated October 12, 2022, which is attached to the Declaration of Jacob A. Walker, dated October 24, 2022, as Exhibit 1. ECF No 68. Internal citations are omitted and emphasis is added throughout unless otherwise noted.

## I. PRELIMINARY STATEMENT

6. This case has been vigorously litigated from its commencement in January 2021 through settlement. At every stage of the Litigation, Defendants aggressively litigated the matter and asserted that they had winning defenses. The Settlement was achieved only after Lead Counsel, among other things: (a) undertook an extensive investigation of the facts alleged in the Consolidated Class Action Complaint for Violations of the Federal Securities Laws filed on July 6, 2021 (ECF No. 24) (the “Amended Complaint”); (b) opposed Defendants’ motion to dismiss; (c) filed detailed briefing in support of Lead Plaintiff’s motion to strike certain exhibits attached to Defendants’ reply in support of their motion to dismiss; and (d) engaged in vigorous settlement negotiations with Defendants’ counsel.

7. The Settlement is the product of hard-fought litigation and takes the significant risks specific to the case into consideration. Furthermore, the Settlement is the result of arm’s-length negotiations between the Settling Parties, which began after the Court raised the possibility of settlement discussions to the parties at a pre-motion conference on November 15, 2021. *See* ECF No. 37 at 2-6. These negotiations were conducted by experienced counsel with a full understanding of both the strengths and weaknesses of the case.

8. Lead Plaintiff believes that the Settlement is a great result under the circumstances. The substantial research, factual investigation, and motion practice outlined herein informed Lead Plaintiff that, while its case had strengths, it also had weaknesses, which were carefully evaluated in determining which course of action was in the best interest of the Class. As set forth below, despite the fact that Lead Plaintiff believes his claims are meritorious, numerous uncertainties remained if the case proceeded past the motion to dismiss stage to class certification, summary judgment, and trial. In evaluating the proposed Settlement, Lead Plaintiff considered that even if

the Class were to win at trial, it faced the risk of a potentially multi-year appeal process, during which time the Class would be denied any recovery. While the time for objecting to the Settlement or Lead Counsel's fees has not yet expired, to date not a single objection has been filed. Any objections will be addressed in Lead Counsel's reply brief.

9. Lead Counsel has prosecuted the Litigation on a wholly contingent basis and has advanced or incurred substantial litigation expenses. In doing so, Lead Counsel shouldered the substantial risk of an unfavorable result. Lead Counsel has not yet received any compensation for its effort. The fee application for 25% of the Settlement Amount is fair and within the range of fee percentages frequently awarded in this type of action and in this District. Under the particular facts of this case, the percentage is justified considering the substantial benefits conferred on the Class, the risks undertaken, the quality of representation and the nature and extent of legal services performed.

10. Lead Counsel also seeks payment for expenses totaling \$15,902.41 that were reasonably and necessarily committed to the prosecution of the Litigation. These expenses include, for example, the costs of hiring a damages expert and consultants, travel, computerized research, and printing. These expenses were reasonable and necessary to obtain the successful result. In addition, Lead Counsel requests an award of \$5,000 to compensate Lead Plaintiff for time and expenses related to his active participation in the Litigation.

## **II. SUMMARY OF LEAD PLAINTIFF'S ALLEGATIONS**

11. The gravamen of the Amended Complaint is that, in violation of §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 promulgated thereunder, Defendants made materially false and misleading statements regarding the Company's business and operations, specifically: 1) statements about Bit Digital's operations in China, including that

“Our mining operations are distributed in Xinjiang, Inner Mongolia and Sichuan Provinces PRC”; (2) statements about Bit Digital’s bitcoin mining machines, including that “The number of miners [in the Third Quarter 2020] was 22,960, with 16,865 miners acquired in the third quarter of 2020,” and “As of the date of this Report, we had a total of 40,865 miners”; and (3) statements about the acquisition of XMAX, including that “On April 8, 2020, the Company entered into an Instrument of Transfer with Mr. Ching Yeh to acquire his 100% of the ownership interest (10,000 shares) in [XMAX] . . . . After the acquisition, XMAX became a wholly owned subsidiary of the Company. XMAX is a Hong Kong company, engaged in bitcoin mining business[.]” ¶¶ 71-77, 121-128.<sup>2</sup>

12. Lead Plaintiff alleged that, as a result of Defendants’ false statements and/or omissions, Bit Digital common stock traded at artificially inflated prices, and that when the true facts regarding Bit Digital’s bitcoin mining business, XMAX acquisition, and appointment of Hong Yu were revealed, the price of the Company’s stock dropped, causing damage to Class Members.

13. Lead Plaintiff alleged that, prior to entering the bitcoin mining business, Bit Digital claimed to operate a peer-to-peer lending business and had planned to operate a car rental business. ¶6. However, Chinese authorities shut down the peer-to-peer business for illegal fundraising and criminally charged 17 members of the Company’s top management, including its former CEO and Chairman. *Id.* Lead Plaintiff alleged that by the end of 2019, the Company had essentially no operations, but proceeded to rebrand itself as a bitcoin mining operation, seeking to capitalize on the significant increase in the value of bitcoin. *Id.* By the end of 2020, Bit Digital went from having virtually no value to a market capitalization of well over \$1 billion. *Id.*

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<sup>2</sup> Citations to “¶\_\_” refer to paragraphs of the Amended Complaint.

14. On January 11, 2021, J Capital, a U.S. based company that focuses on uncovering over-valued companies with a noted expertise in the Chinese market, published a 25-page report based on an in-depth investigation of Bit Digital and detailing the grounds for JCAP's belief that, among other things, the Company operated "a fake crypto currency business" "designed to steal funds from investors." ¶¶78-80. These findings were based, in part, on interviews of government officials in the locales where Bit Digital claimed to operate mining facilities, as well as employees of the major bitcoin mining machine manufacturers that Bit Digital purportedly acquired its equipment from. ¶¶83-84, 101, 105. J Capital's investigation also examined Bit Digital's filings with the SEC, the review of several Chinese civil and criminal legal filings, and Chinese online information sources. ¶¶90-100, 102-103, 106, 109-119.

15. Lead Plaintiff alleged that Defendants' knowledge of the undisclosed facts about Bit Digital's business and operations, and Defendants' motive and opportunity to commit the fraud, were sufficient to adequately plead scienter. Lead Plaintiff also alleged various additional indicia of scienter, including: (1) Defendant Huang's position as a director and CFO; (2) Bit Digital overstating the qualifications of officers and directors and omitting adverse information; (3) the resignation of three auditors in just a fifteen-month period; (4) Bit Digital knowingly operating with material weaknesses in internal controls that would not detect or correct the misstatements alleged; (5) the prior fraud of former executives who continued to exert substantial influence over the Company; and (6) the string of resignations and removals of executives in the immediate wake of the J Capital Report's revelations. As a result, Lead Plaintiff alleged that Defendants knew, or recklessly disregarded, the truth about Bit Digital's business and operations, but misrepresented: (1) Bit Digital's bitcoin mining operations, including, among other things, the circumstances under which the Company entered the industry, the legality of its operations, and the extent of its

operations; (2) the claimed purchase of 40,000-plus bitcoin mining machines; and (3) the circumstances of the XMAX acquisition and appointment of Hong Yu.

16. Upon the publication of the J Capital Report, Bit Digital's stock price fell \$6.27 per share, or 25%, to close at \$18.76 per share on January 11, 2021. ¶149. A more detailed description of Lead Plaintiff's allegations is set forth in the Second Amended Complaint. ECF No. 24.

17. In opting to settle the Litigation, Lead Plaintiff considered the risks associated with proving the claims alleged in the Amended Complaint. For example, it was Defendants' position that their alleged misstatements concerning Bit Digital's bitcoin mining business were not materially misleading and not made with scienter. Although Lead Plaintiff disputes Defendants' assertions, there was a substantial risk of recovering limited or no damages if the Court had granted Defendants' motion to dismiss, or if a jury ultimately agreed in whole or in part with Defendants' arguments.

### **III. THE LITIGATION**

#### **A. The Commencement of the Litigation**

18. On January 20, 2021, the initial complaint in this class action was filed on behalf of purchasers of Bit Digital common stock alleging violations of §§10(b) and 20(a) of the Exchange Act and United States Securities and Exchange Commission ("SEC") Rule 10b-5. ECF No. 1. Lead Plaintiff filed a motion to be appointed lead plaintiff and have his selection of counsel approved as lead counsel on March 22, 2021. ECF Nos. 13-15. On April 29, 2021 the Court appointed Joseph Franklin Monkam Nitcheu as Lead Plaintiff and Block & Leviton LLP as Lead Counsel. ECF No 21.

#### **B. Lead Counsel's Investigation and Amended Complaint**

19. Lead Counsel conducted an extensive investigation of the alleged securities law violations. This investigation included, but was not limited to, a review and analysis of: (i) Bit Digital's public filings with the SEC; (ii) transcripts of Bit Digital's public conference calls; (iii) Bit Digital's press releases; (iv) reports of securities analysts following Bit Digital; (v) independent media reports regarding Bit Digital; (vi) publicly available information concerning the bitcoin mining market; (vii) economic analyses of Bit Digital's stock price movement and pricing and volume data; and (viii) other publicly available material and data.

20. Based on this investigation, Lead Counsel prepared a detailed Amended Complaint on behalf of all investors who purchased or otherwise acquired Bit Digital common stock between December 21, 2020 and January 11, 2021, inclusive. The Amended Complaint was filed on July 6, 2021 and alleged claims pursuant to §§10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder. ECF No. 24.

### **C. Defendants' Motion to Dismiss the Amended Complaint**

21. Defendants moved to dismiss the Amended Complaint on December 10, 2021. ECF Nos. 40-42. In accordance with the PSLRA, formal discovery in the case was stayed until the Court ruled on the motion to dismiss. In support of their motion to dismiss, Defendants primarily argued that Lead Plaintiff impermissibly relied on the J Capital Report to support his allegations. *See* ECF No. 41 at 8-13. Defendants also argued that the Amended Complaint did not give rise to a strong inference of either motive and opportunity, or knowledge or recklessness sufficient to plead an intent to commit fraud and, thus, did not adequately plead the element of scienter. *See id.* at 13-23.

22. Specifically, Defendants argued that the J Capital Report was "admittedly biased[,]" "[l]acking the necessary indicia of reliability," and "not a reliable source of information



on which to base a claim.” ECF No. 41 at 10. Defendants further argued that even if the J Capital Report could be credited, its content “relate[s] to statements of opinion concerning legal requirements in China that are not actionable under prevailing law.” *Id.* at 11. In addition, Defendants argued that the Amended Complaint: (i) did not adequately allege that Defendant Huang or the Company had any motive to commit fraud (*id.* at 15); (ii) failed to provide the requisite strong circumstantial evidence necessary to support an inference of conscious misbehavior (*id.* at 16); (iii) did not plead any non-speculative facts linking the auditor resignations to the alleged fraud (*id.* at 19); (iv) made conclusory allegations about the Company’s alleged failure to correct the internal controls before issuing the 3Q2020 Press Release (*id.* at 20); and (v) made insufficient allegations based on the timing of removal or resignation of officers and directors following publication of the J Capital Report (*id.* at 22).

23. Lead Plaintiff filed his opposition to Defendants’ motion to dismiss on December 10, 2021. ECF No. 43. In the opposition, Lead Plaintiff rebutted Defendants’ arguments that the Amended Complaint failed to adequately plead a strong inference of scienter, false or misleading statements, or loss causation, and argued that the Amended Complaint adequately alleged: (i) that Defendants failed to disclose material information and made materially false and misleading statements regarding Bit Digital’s purported operations in China, purchase of bitcoin mining machines, and the XMAX acquisition; (ii) a strong, cogent, and compelling inference of scienter, including through Defendant Huang’s knowledge of the facts that rendered Defendants’ statements false and misleading, based in part on Huang’s expertise in bitcoin and involvement in preparation of the business operation team; (iii) a strong, cogent, and compelling inference of scienter based on Defendants’ motive and opportunity to commit fraud, including through Liu and Erxin’s alleged control over the business and material weaknesses in the Company’s internal controls; and (iv)

that Defendants made a corrective disclosure directly related to the alleged fraud and that Bit Digital's stock price dropped immediately following that disclosure. Lead Counsel spent significant time and resources performing the legal and factual research necessary to address Defendants' arguments and draft an effective opposition that demonstrated the Amended Complaint satisfied the strict pleading burden imposed by the PSLRA.

24. Defendants filed a reply in further support of the motion to dismiss on December 17, 2021 (ECF No. 45) and an amended reply in further support of the motion to dismiss on January 7, 2022 (ECF No. 50). Defendants further argued that reliance on the J Capital Report was improper, that the report itself admits it "does not contain facts enabling Plaintiff to contradict [Bit Digital's] statement about operations in these three large regions of China" (ECF No. 50 at 5), and that Lead Plaintiff failed to allege any concrete benefits flowing to any alleged speaker and failed to show conscious misbehavior (*id.* at 11-12).

25. On March 4, 2022, Lead Plaintiff filed a motion to strike four exhibits attached to Defendants' reply in further support of their motion to dismiss. ECF No. 57-58. Specifically, Lead Plaintiff asked the Court to strike documents concerning the XMAX acquisition and a link to a blank form of a Host Services Contract, which Lead Plaintiff argued were included for the first time on reply. Lead Plaintiff argued that Defendants improperly included extrinsic facts and evidence and attempted to dispute the Amended Complaint's factual allegations before the parties could engage in discovery. Defendants filed an opposition to the motion to strike on March 18, 2022. ECF No. 59. In their opposition, Defendants argued that Lead Plaintiff failed to show that the exhibits at issue were redundant, immaterial, impertinent, or scandalous, and that judicial notice of the exhibits would be proper. *See id.* at 1-6. Defendants further argued that their arguments regarding the reliability of the J Capital Report's allegations regarding the XMAX

acquisition were not made for the first time on reply. *See id.* at 7-8. Lead Plaintiff filed his reply on April 1, 2022. ECF No. 60.

26. The parties began discussing the possibility of settling the Litigation after the Court asked the parties about their respective positions and willingness to engage in such discussions in a pre-motion conference. *See* ECF No. 37 at 2-6. The parties began serious settlement discussions in June 2022, which were ultimately concluded following multiple exchanges in August 2022. On August 12, 2022, while Defendants' motion to dismiss was still pending, the Settling Parties filed a letter informing the Court that they reached an agreement in principle to settle the claims in the Litigation on a class-wide basis. ECF No. 61. In response, the Court entered an order denying the motion to dismiss without prejudice as a result of parties' agreement to settle the case. ECF No. 62.

#### **IV. SETTLEMENT NEGOTIATIONS AND TERMS**

27. While Defendants' motion to dismiss was pending, the parties began settlement discussions. Lead Counsel conducted arm's-length negotiations with Defendants with a view to achieving the best relief possible consistent with the interests of the Class. The settlement discussions were led by counsel with extensive experience in litigating and resolving complex cases in federal courts. The lead negotiators on the defense side from Kagan, Caspersen & Bogart PLLC had similar substantial experience in resolving complex litigation. The parties disagreed on the value of Lead Plaintiff's claims and Lead Counsel was prepared to continue to litigate the case if a favorable settlement could not be reached at that time. During the course of the negotiations, the parties reached an agreement-in-principle to resolve the Litigation, subject to the negotiation of mutually acceptable terms of a settlement agreement.

28. The Settling Parties then negotiated, drafted, finalized, and signed the formal settlement agreement detailing the terms of the proposed Settlement, which was filed on October 24, 2022, along with Plaintiff's Unopposed Motion for (1) Preliminary Approval of Class Action Settlement; and (2) Approval of Notice to the Class. *See* ECF No. 67. On November 22, 2022, the Court granted preliminary approval of the Settlement, including the form and manner of notice of the Settlement to the Class. ECF No. 69.

29. The Settlement set forth in the Stipulation resolves the claims of the Class against all Defendants for \$2,100,000 in cash, inclusive of attorneys' fees and costs. The recovery to individual Class Members will depend on variables, including the number of shares of Bit Digital common stock the Class Member purchased or acquired and when and at what price such purchases or acquisitions were made.

#### **D. The Settlement is in the Best Interests of the Class and Warrants Approval**

30. Lead Plaintiff believes it would have prevailed on the merits at trial. Defendants were just as adamant that Lead Plaintiff would have failed. There was a very real risk that Lead Plaintiff would not have prevailed at the motion to dismiss stage, class certification, summary judgment, or, finally, that Lead Plaintiff would not have convinced a jury that Defendants acted with scienter or that the alleged misstatements and omissions were materially false and misleading when made.

31. Having considered the foregoing, and evaluated Defendants' arguments, it is the informed judgment of Lead Counsel, based on all proceedings to date and its extensive experience litigating class actions under the federal securities laws, that the proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Class.

## **V. THE RISKS OF LITIGATION**

32. Lead Plaintiff, by and through Lead Counsel, vigorously litigated this case, and the Settlement in this Litigation was reached only after Lead Counsel had a thorough understanding of the strengths and potential weaknesses of the claims alleged in the Amended Complaint. At the time of Settlement, Lead Plaintiff and Lead Counsel had conducted an extensive fact investigation, filed the Amended Complaint, filed an opposition to Defendants' motion to dismiss, and participated in vigorous, arm's-length settlement negotiations. Accordingly, Lead Plaintiff and Lead Counsel firmly understood the strengths of their claims, the strengths of Defendants' defenses, and the potential damages suffered by the Class.

33. The Settlement represents a very favorable result for the Class. The Settlement Amount reflects a recovery of approximately 1.7% of Lead Plaintiff's expert's estimate of maximum possible recoverable damages, an amount roughly equivalent to the median ratios of settlement amounts to investor losses recorded in the past three years. *See* Janeen McIntosh and Svetlana Starykh, Recent Trends in Securities Class Action Litigation: 2021 Full-Year Review (NERA Jan. 25, 2022) at 24, figure 22 (recording median percentages of 1.6 in 2019 and 1.8 in 2020 and 2021).<sup>3</sup>

34. While Lead Counsel believes that substantial evidence exists to support a jury verdict in favor of the Class, it recognizes that there were considerable risks and uncertainties if the case had proceeded to trial. Lead Counsel carefully considered these risks throughout the Litigation and in recommending that Lead Plaintiff settle this matter.

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<sup>3</sup> Available at: [https://www.nera.com/content/dam/nera/publications/2022/PUB\\_2021\\_Full-Year\\_Trends\\_012022.pdf](https://www.nera.com/content/dam/nera/publications/2022/PUB_2021_Full-Year_Trends_012022.pdf).

35. For example, Defendants' motion to dismiss was pending at the time the Settlement was reached. Even if the Court had denied the motion, there was always the risk that the Court would not maintain the Litigation, or particular claims, on a class-wide basis through trial.

36. Moreover, motions important to Lead Plaintiff's ability to obtain a verdict in the Class's favor at trial likely would have been filed, including motions that would determine the extent of the evidence that could be presented at trial and the issues upon which liability could be premised. These would include disputes over the admissibility of expert testimony, specific trial exhibits, objections to deposition testimony and others. This created additional uncertainty as to what evidence would ultimately be permitted to be shown to the jury and for what purposes. Depending on their outcome, such motions could seriously undermine or altogether preclude Lead Plaintiff from proving his case.

37. Lead Plaintiff understands, that even if he firmly believes that documentary and testimonial evidence would fully support his claims at trial, there is no way of predicting which interpretations, inferences, or testimony the jury would have accepted at trial. Defendants have adamantly denied any culpability throughout the Litigation and were prepared to mount defenses that could potentially bar a Class recovery. If the jury sided with Defendants on even one of their defenses, or the Court granted Defendants' summary judgment, the Class would recover nothing.

#### **E. Falsity**

38. Lead Plaintiff alleged that Defendants made false and misleading statements regarding: (1) the existence of Bit Digital's bitcoin mining facilities in China, and that if any existed at all, such operations were illegal and the Company's equipment was subject to confiscation by Chinese authorities; (2) the claimed purchase of 40,000-plus bitcoin mining machines; and (3) the circumstances of the XMAX acquisition and appointment of Hong Yu.

Defendants, on the other hand, maintained that the statements could not be shown to be verifiably false or misleading. Defendants primarily asserted that Lead Plaintiff could not rely on the J Capital Report, largely because of J Capital's status as a short-seller and the use of anonymous and unspecified sources of information. While the Settling Parties disagreed about the merits of these arguments, Lead Plaintiff recognized that if a jury found these arguments compelling, or if the Court found them compelling at the motion to dismiss stage, there was a significant risk that the Class would recover nothing.

#### **F. Scienter**

39. In addition to the risks Lead Plaintiff faced establishing falsity, Defendants were also prepared to mount a defense asserting that Lead Plaintiff could not establish that Defendants made any false or misleading statements with the requisite intent. Defendants asserted that merely "alleging a speaker was an officer and director does not show conscious misbehavior." ECF No. 50 at 12. Defendants would likely have argued that Plaintiff would be unable to provide any evidence that they did not actually believe the statements made or that the statements were made recklessly. Defendants further asserted that motive cannot be shown by allegations that directors were underqualified, that auditing was insufficient, or that the company had material weaknesses in internal controls. *Id.* Were the Court, or a jury at trial, to find these arguments persuasive, there would be a significant risk that the Class would recover nothing.

#### **G. Loss Causation and Damages**

40. Even if a jury found that Lead Plaintiff succeeded in proving falsity and scienter, there remained a risk related to Lead Plaintiff's ability to prove loss causation and damages.

Defendants would likely argue that loss causation could not be established because it was their position that the J Capital Report was entirely unreliable.

41. Defendants were also expected to argue that Lead Plaintiff could not disaggregate non-fraud related factors from the declines in Bit Digital's stock price and that the methodology Lead Plaintiff's expert would use to prove damages at trial was unreliable and should be excluded. While Lead Plaintiff would have had the burden of identifying and isolating the fraud-related damages suffered by Class Members, Defendants only had to identify a flaw with the methodology utilized by Lead Plaintiff's experts and prevail on a *Daubert* motion, or win the inevitable, and inherently unpredictable, "battle of the experts" between the parties' loss causation and damages experts before the jury. Defendants would have argued that the case either should not reach a jury or that the jury had no choice but to determine that there were little or no cognizable damages.

42. Even assuming Lead Plaintiff prevailed at trial, Defendants would likely file post-trial motions and appeals to limit or overturn any verdict in Lead Plaintiff's favor. The post-trial motion and appeals process could span several years, during which time the Class would receive no payment. In addition, an appeal of any verdict would carry with it the risk of reversal, in which case the Class would receive no payment despite having prevailed on the claims at trial.

43. Finally, even assuming Lead Plaintiff prevailed at trial and succeeded on appeal, there was a significant risk of actually recovering on behalf of the Class in this Action. As part of the settlement process, Bit Digital represented that it did not have applicable directors and officers liability insurance, making recovery highly risky.

44. In short, the parties disagreed on the merits of this case, including whether damages were suffered and recoverable. Defendants strongly defended this lawsuit with experienced attorneys from Kagan, Caspersen & Bogart PLLC and consistently denied that they were liable in



any respect. Although Lead Plaintiff is confident that he would have been able to support his claims with qualified and persuasive expert testimony, jury reactions to competing experts are difficult to predict, and Defendants would have presented highly experienced experts to support their various defenses to liability. Recovery of any amount was far from certain.

45. Based on all these factors, as well as the extensive experience of Lead Counsel in the litigation of securities class actions, Lead Counsel submits that the Settlement, which provides a very substantial recovery to Class Members, outweighs the risks of continued litigation.

## **VI. THE PLAN OF ALLOCATION**

46. If approved, the Plan of Allocation will govern how the proceeds of the Net Settlement Fund will be distributed. The proposed Plan of Allocation provides that, to qualify for payment, a claimant must be, among other things, an eligible Class Member and must submit a valid Proof of Claim form that provides all of the requested information. The Plan of Allocation is set forth in the Notice.

47. For purposes of determining the amount an Authorized Claimant may recover under the Plan of Allocation, Lead Counsel conferred with its economics and damages expert, Global Economics Group. The plan is premised on the out-of-pocket measure of damages and is designed to measure the difference between what Class Members paid for Bit Digital common stock during the Class Period and what the price of Bit Digital stock would have been had the allegedly omitted and misstated information been accurately disclosed. The proposed Plan of Allocation is designed to fairly and rationally allocate the proceeds of this Settlement among the Class.

## **VII. LEAD COUNSEL'S APPLICATION FOR ATTORNEYS' FEES AND EXPENSES IS REASONABLE**

48. The successful prosecution of this action required Lead Counsel, investigators, paraprofessionals, and staff to perform over 520 hours of work and incur \$15,902.41 in expenses. *See* Declaration of Jacob A. Walker in Support of Motion for Award of Attorneys' Fees and Expenses ("Fee Decl."), Exs. A-B, submitted herewith. Based on the extensive efforts on behalf of the Class, as described above, Lead Counsel is applying for compensation from the Settlement Fund on a percentage basis, and has requested a fee in the amount of 25% of the Settlement Amount, plus interest.

#### **H. The Requested Fee is Reasonable**

49. In light of the nature and extent of the Litigation, the diligent prosecution of the action, the complexity of the factual and legal issues presented, and the other factors described above and in the accompanying application for attorneys' fees and expenses, Lead Counsel believes that the requested fee of 25% of the Settlement Amount, plus interest, is fair and reasonable.

50. A 25% fee award is consistent with percentages awarded by courts in this District and across the country (*See generally* Fee Memorandum), and is justified by the specific facts and circumstances in this case and the substantial risks that Lead Counsel had or in the future would have had to overcome at the pleadings, class certification, discovery, summary judgment, and trial phases of the Litigation.

#### **I. The Requested Fee is Supported by Lead Plaintiff**

51. Lead Plaintiff spent considerable time and effort fulfilling his duties and responsibilities in this case, including reviewing documents and consulting with Lead Counsel

concerning the merits of the Litigation. Throughout the Litigation, Lead Plaintiff actively monitored Lead Counsel and supports its requested fee.

**J. The Requested Fee is Supported by the Effort Expended and the Result Achieved**

52. As set forth herein, the \$2.1 million cash Settlement was achieved as a result of extensive prosecutorial and investigative efforts, complicated motion practice, and arm's-length negotiations between experienced counsel.

53. As discussed in greater detail above, this case was fraught with significant risks concerning liability and damages. Lead Plaintiff's success was by no means assured. Defendants disputed whether the alleged misstatements and omissions were even actionable, asserted that the statements at issue were neither false nor misleading and that Bit Digital had no duty to disclose the information Lead Plaintiff claims was omitted and sought to attribute any harm suffered to factors unrelated to the alleged fraud. Were this Settlement not achieved, and even if Lead Plaintiff prevailed at trial, Lead Plaintiff potentially faced years of costly and risky appellate litigation, with ultimate success far from certain. It is also possible that a jury could have found no liability or no damages.

54. As a result of this Settlement, Class Members will benefit and receive compensation for their losses and avoid the very substantial risk of no recovery in the absence of a settlement. These factors also support Lead Counsel's request for an award of attorneys' fees of 25% of the Settlement Amount, plus interest.

**K. The Risk of Contingent Class Action Litigation Supports the Requested Fee Award**

55. As set forth in the accompanying application for attorneys' fees and expenses, a determination of a fair fee should include consideration of the contingent nature of the fee, the

financial burden carried by Lead Counsel and the difficulties that were overcome in obtaining the Settlement.

56. This action was prosecuted by Lead Counsel on a contingent fee basis. Lead Counsel committed over 520 hours of attorney and professional time and incurred \$15,902.41 in expenses in the prosecution of the Litigation, as set forth in the accompanying Fee Declaration. Lead Counsel fully assumed the risk of an unsuccessful result. Lead Counsel have received no compensation for their services during the course of this Litigation and have incurred very significant expenses in litigating for the benefit of the Class. Any fees or expenses awarded to Lead Counsel have always been at risk and are completely contingent on the result achieved. Because the fee to be awarded in this matter is entirely contingent, the only certainty from the outset was that there would be no fee without a successful result, and that such a result would be realized only after a lengthy and difficult effort.

57. Lead Counsel's efforts were performed on a wholly contingent basis, despite significant risk and in the face of determined opposition. Under these circumstances, Lead Counsel is justly entitled to the award of a reasonable percentage fee based on the benefit conferred and the common fund obtained for the Class. A 25% fee, plus expenses and interest, is fair and reasonable under the circumstances present here.

58. There are numerous cases, including cases handled by Block & Leviton, where class counsel in contingent fee cases such as this, after expenditure of thousands of hours of time and incurring significant costs, have received no compensation whatsoever. Class counsel who litigate cases in good faith and receive no fees whatsoever are often the most diligent members of the plaintiffs' bar. The fact that Defendants and their counsel know that the leading members of the plaintiffs' bar are able to, and will, go to trial even in high-risk cases like this one gives rise to

meaningful settlements in actions such as this. The losses suffered by class counsel in other actions where insubstantial settlement offers were rejected, and where class counsel ultimately received little or no fee, should not be ignored. Lead Counsel knows from personal experience that despite the most vigorous and competent of efforts, success in contingent litigation is never assured.

59. Lawsuits such as this are expensive to litigate. Those unfamiliar with the efforts required to litigate class actions often focus on the aggregate fees awarded at the end but ignore the fact that those fees fund enormous overhead expenses incurred during the course of lengthy litigation, are taxed by federal and state authorities, are used to fund the expenses of other contingent cases prosecuted by class counsel and help pay the salaries of the firms' attorneys and staff.

#### **VIII. LEAD PLAINTIFF'S REQUESTED AWARD PURSUANT TO 15 U.S.C. §78u-4(a)(4) IS REASONABLE**

60. The Private Securities Litigation Reform Act of 1995 limits a class representative's recovery to an amount "equal, on a per share basis, to the portion of the final judgment or settlement awarded to all other members of the class," but also provides that "[n]othing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of a class." 15 U.S.C. §78u-4(a)(4).

61. Here, as explained in the accompanying Lead Plaintiff declaration, Lead Plaintiff requests an award of \$5,000 to compensate for his time and expenses related to his active participation in the Litigation. *See* Lead Plaintiff Declaration, ¶7.

62. As detailed in the Fee Memorandum, many courts, including those in this Circuit, have approved reasonable payments to compensate class representatives for the time and effort devoted by them on behalf of a class.

63. Lead Counsel believes that the amount sought here is reasonable based on Lead Plaintiff's active involvement in the Litigation, which included: reviewing and authorizing filing of the Amended Complaint; reviewing and evaluating status reports regarding the Litigation; reviewing and considering pleadings and briefs in the Litigation; consulting with Lead Counsel during the course of the Litigation regarding case strategy, developments, and efforts to negotiate the Settlement; and analyzing potential settlement amounts and providing settlement authority. *See* Lead Plaintiff Decl., ¶3. As a result, Lead Counsel respectfully submits that this request should be granted in its entirety.

## IX. CONCLUSION

For all the foregoing reasons, Lead Counsel respectfully requests that the Court: (i) approve the Settlement and Plan of Allocation, and (ii) approve Lead Counsel's application for attorneys' fees of 25% of the Settlement Amount and \$15,902.41 in expenses, plus the interest earned on both amounts at the same rate and for the same period as that earned on the Settlement Fund until paid, plus an award to Lead Plaintiff of \$5,000.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd day of February 2023, at Boston Massachusetts.

/s/ JACOB A. WALKER  
JACOB A. WALKER

**CERTIFICATE OF SERVICE**

I, Jacob A. Walker, hereby certify that on February 3, 2023, I authorized a true and correct copy of the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such public filing to all counsel registered to receive such notice.

/s/ JACOB A. WALKER  
JACOB A. WALKER

# Exhibit 1



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE: BIT DIGITAL, INC.  
SECURITIES LITIGATION

This document relates to:

All Actions

Lead Case No. 1:21-cv-00515-ALC

**DECLARATION OF LEAD PLAINTIFF JOSEPH FRANKLIN MONKAM  
NITCHEU IN SUPPORT OF MOTIONS FOR: (1) FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND PLAN OF ALLOCATION; AND (2) AN AWARD OF  
ATTORNEYS' FEES AND EXPENSES AND AN AWARD TO LEAD PLAINTIFF  
PURSUANT TO 15 U.S.C. §78u-4(a)(4)**

I, Joseph Franklin Monkam Nitchou, declare as follows:

1. I am the Court-appointed Lead Plaintiff in this Litigation. I submit this declaration in support of: (a) Lead Plaintiff's motion for final approval of the all-cash settlement of \$2,100,000 (the "Settlement Amount") and approval of the proposed Plan of Allocation; and (b) Lead Counsel's application for an award of attorneys' fees and expenses. I have personal knowledge of the facts set forth in this Declaration and could testify competently to them if asked to do so.

2. By Order dated April 29, 2021, the Court appointed me as Lead Plaintiff in the Litigation. By Order Preliminarily Approving Settlement and Authorizing Dissemination of Notice to the Class dated November 22, 2022, the Court also appointed me as Class Representative for the Settlement Class. In fulfillment of my responsibilities as Lead Plaintiff, and on behalf of all members of the Settlement Class, I performed my role as Lead Plaintiff in pursuit of a favorable result in this case.

3. Since being appointed as Lead Plaintiff, I have devoted time in connection with my role and responsibilities in the Litigation. Specifically, I have, among other things:

- a. Reviewed and authorized filing of the Amended Complaint;
- b. Reviewed and evaluated status reports regarding the Litigation;
- c. Reviewed and considered pleadings and briefs in the Litigation;
- d. Consulted with Lead Counsel during the course of the Litigation regarding case strategy, developments, and efforts to negotiate the Settlement; and
- e. Analyzed potential settlement amounts and provided settlement authority.

4. I endorse the Settlement. Based on my involvement throughout the prosecution of the Litigation, I approved the decision to enter into the Settlement with an appreciation of the strengths and weaknesses of Lead Plaintiff and the Class's claims, and the hurdles that Lead

Plaintiff and the Class would have been required to overcome in order to prove the claims and the full amount of damages at trial.

5. Based on the foregoing, I believe that the Settlement represents an excellent recovery for the Settlement Class in the face of substantial litigation risks. Accordingly, I recommend approval of the Settlement as fair, reasonable and adequate.

6. Although the ultimate determination of Lead Counsel's request for attorneys' fees and reimbursement of litigation expenses rests with the Court, I believe that Lead Counsel's motion for an award of attorneys' fees in the amount of 25% of the Settlement Fund, and reimbursement of litigation expenses in an amount not to exceed \$30,000, is reasonable in light of the work that Lead Counsel performed on behalf of Lead Plaintiff and the Settlement Class. I have evaluated that fee request by considering, among other things, the work performed, and the excellent result obtained for the Settlement Class.

7. I further understand that the Court may also grant a class representative's request for reimbursement of the reasonable costs and expenses incurred in representing the class. *See* Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4). I estimate having spent at least 20 hours of my time on this litigation, as described above. This is time which I would have otherwise spent at my job or engaged in other activities, and, thus, represented a cost to me.

8. For the foregoing reasons, I respectfully request that the Court approve in full: (a) Lead Plaintiff's motion for final approval of the class action Settlement and Plan of Allocation; and (b) Lead Counsel's motion for attorneys' fees and reimbursement of litigation expenses.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on 1/31/2023.

DocuSigned by:  
  
4510EC9A483C475...  
\_\_\_\_\_  
JOSEPH FRANKLIN MONKAM NITCHEU

# Exhibit 2

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE: BIT DIGITAL, INC. SECURITIES  
LITIGATION

This document relates to:

All Actions

Lead Case No. 1:21-cv-00515-ALC

**DECLARATION OF JUSTIN R. HUGHES REGARDING NOTICE  
DISSEMINATION, PUBLICATION, AND REQUESTS FOR EXCLUSION AND  
OBJECTIONS RECEIVED TO DATE**

I, JUSTIN R. HUGHES, hereby affirm as follows:

1. I am employed as a Senior Director by Kroll Settlement Administration LLC (“Kroll”). Pursuant to the Court’s Order Preliminarily Approving Settlement and Authorizing Dissemination of Notice to the Class (the “Preliminary Approval Order”), dated November 22, 2022 (ECF No. 69), Kroll was authorized to act as the Claims Administrator for the Settlement in the above-captioned action (the “Action”).<sup>1</sup> The following statements are based on my personal knowledge and information provided to me by other Kroll employees and, if called to testify, I could and would do so competently.

2. I submit this declaration in order to provide the Court and the parties to the Action with information regarding: (i) mailing of the Court-approved Postcard Notice; (ii) publication of the Summary Notice; (iii) establishment of the website and toll-free telephone number dedicated to this settlement; and (iv) the number of requests for exclusion from the Class and objections to the Settlement received by Kroll to date.

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Stipulation and Order of Settlement (the “Stipulation”), filed with this Court on October 24, 2022 (ECF No. 68-1), and the Preliminary Approval Order.

### **DISSEMINATION OF THE POSTCARD NOTICE**

3. Pursuant to the Preliminary Approval Order, Kroll is responsible for disseminating the Postcard Notice to potential Class Members (attached hereto as Exhibit A). Pursuant to the Stipulation, the “Class” and “Class Members” include all Persons who purchased Bit Digital common stock between December 21, 2020 and January 11, 2021, inclusive (the “Class Period”). Excluded from the Class are Defendants and their families, the officers, directors, and affiliates, and their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a controlling interest. Also excluded from the Class is any Person who would otherwise be a Class Member, but who validly and timely requests exclusion in accordance with the requirements set by the Court.

4. Kroll received a file, via email, from Bit Digital’s counsel, which contained the names and addresses of potential Class Members. Kroll reviewed the list to identify and eliminate duplicate entries and incomplete data, resulting in a usable mailing list of 46 unique names and addresses. Kroll had the unique name and address data printed on the Postcard Notices, posted the Postcard Notices for First-Class Mail, postage prepaid, and delivered 46 Postcard Notices on December 21, 2022, to the United States Post Office for mailing.

5. As in most actions of this nature, a large majority of potential Class Members are beneficial holders whose securities were held in “street name” – *i.e.*, the securities were held by brokerage firms, banks, institutions, and other third-party nominees in the name of the nominee, on behalf of the beneficial holders. Kroll maintains a proprietary database with the names and addresses of the largest and most common U.S. banks, brokerage firms, and nominees, including national and regional offices of certain nominees (the “Nominee Database”). Kroll’s Nominee Database is updated from time to time as new nominees are identified, and others merge or cease

to exist. At the time of the initial mailing, the Nominee Database contained 1,481 mailing records. On December 21, 2022, Kroll caused the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses; and (III) Settlement Hearing (the "Notice," attached hereto as Exhibit B) to be mailed to the 1,481 mailing records contained in Kroll's Nominee Database. In addition, Kroll caused the Notice to be posted on the Depository Trust Company's ("DTC") Legal Notice System ("LENS") on December 21, 2022. LENS is a service hosted by the DTC that offers access to a comprehensive online library of notices concerning DTC-eligible securities that are published and furnished by third-party agents, courts and security issuers.

6. The Notice directed those who purchased or otherwise acquired any Bit Digital common stock between December 21, 2020 and January 11, 2021, inclusive, for the beneficial interest of persons or organizations other than themselves, to either (a) within seven (7) calendar days of receipt of the Long-Form Notice, request from the Claims Administrator sufficient copies of the Postcard Notice to forward to all such beneficial owners or request information sufficient to allow the Postcard Notice to be emailed, and within seven (7) calendar days of receipt of those Postcard Notices (or the necessary information for email) forward them to all such beneficial owners, or (b) within seven (7) calendar days of receipt of the Notice, provide a list of names, addresses, and, if available, email addresses of all such beneficial owners to the Claims Administrator. If the record holder provided Kroll with the name and last known address of each person or entity for whom the record holder held such shares, Kroll then caused the Postcard Notice to be mailed or emailed promptly to said beneficial owner(s).

7. Through February 1, 2023, Kroll has received an additional 11,127 unique names and addresses and/or email addresses of potential Class Members from individuals or nominees



requesting that a Postcard Notice be mailed or emailed to such persons or entities. Kroll also received requests from nominees for an additional 350 unaddressed copies of the Postcard Notice to be forwarded by the nominees to their customers. All such requests have been honored in a timely manner, and Kroll will continue to disseminate the Postcard Notice upon receipt of any additional requests and/or upon receipt of updated addresses through the date of the Settlement Hearing. Further, upon information and belief, Broadridge Financial Solutions, Inc. (“Broadridge”) and BNY Mellon (“BNYM”) sent 31,801 emails, collectively, containing links to the Notice to customers that had previously elected to receive notification of potential settlements via email. And finally, upon information and belief, Broadridge printed and mailed another 16,160 Postcard Notices to potential Class Members.

8. As a result of the efforts described above, as of February 1, 2023, Kroll has sent a total of 11,523 copies of the Postcard Notice to potential Class Members and nominees and another 1,481 Notices to nominees. In addition, upon information and belief, Broadridge and BNYM collectively mailed an additional 16,160 Postcard Notices and 31,801 emails containing links to the Notice.

#### **PUBLICATION OF THE SUMMARY NOTICE**

9. In accordance with the Preliminary Approval Order, on December 28, 2022, Kroll caused the Summary Notice to be transmitted over *PR Newswire*, as shown in the confirmation of publication attached hereto as Exhibit C.

#### **TELEPHONE HELPLINE AND WEBSITE**

10. Kroll established and continues to maintain a case-specific, toll-free telephone helpline – 1-833-709-0828 – to accommodate potential Class Member inquiries. The toll-free number was set forth in the Postcard Notice and is posted on the settlement website for the Action.

Kroll has promptly responded to all inquiries to the toll-free telephone helpline and will continue to do so.

11. On December 21, 2022, Kroll established and continues to maintain a website dedicated to this Settlement ([www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com)) to provide additional information to Class Members and to provide answers to frequently asked questions. The web address was set forth in the Postcard Notice, the Notice, the Summary Notice, and the Proof of Claim and Release (the “Claim Form”). The website includes information regarding the Action and the Settlement, including the exclusion, objection, and claim-filing deadlines, and the date, time, and location of the Court’s Settlement Hearing. Copies of the Postcard Notice, Notice, Claim Form, Stipulation, and Preliminary Approval Order are posted on the website and are available for downloading. Class Members can also complete and submit a Proof of Claim through the website.

#### **REQUESTS FOR EXCLUSION & OBJECTIONS RECEIVED TO DATE**

12. The Notice informs potential Settlement Class Members that written requests for exclusion from the Class must be mailed to Bit Digital, Inc. Securities Litigation, EXCLUSIONS, c/o Kroll Settlement Administration, P.O. Box 5324, New York, NY 10150-5324, such that they are received no later than February 14, 2023.

13. The Notice also informs potential Class Members that objections must be in writing and filed with the Court, such that they are received on or before February 14, 2023, and that the objector must also serve the papers on Lead Counsel and Defendants’ Counsel such that they are received on or before February 14, 2023. Should any potential Class Member erroneously forward their request for objection to the Claims Administrator, the Claims Administrator will report them to Plaintiff’s and Defendants’ Counsel and the Court.

14. The Notice also sets forth the information that must be included in each request for exclusion and objection. Kroll has monitored and will continue to monitor all mail delivered to this address. As of the date of this declaration, Kroll's records indicate that it has not received any requests for exclusion and has not received any objections from Class Members.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed in Oakland, California on February 1, 2023.

  
\_\_\_\_\_  
JUSTIN R. HUGHES

# **EXHIBIT A**

Case 1:21-cv-00515-ALC Document 75-2 Filed 02/03/23 Page 9 of 30  
Court Order: Legal Notice  
Forwarding Service Requested

**Bit Digital, Inc. Securities  
Litigation**

This is an important notice about a  
Securities Class Action settlement.

If you purchased shares of  
**Bit Digital** between  
December 21, 2020 and  
January 11, 2021, **you may be entitled  
to a cash payment**, but you must act by  
March 21, 2023.

**This notice affects your legal rights.  
Please read it carefully.**

Bit Digital Securities Litigation  
c/o Kroll Settlement Administration  
P.O. Box 5324  
New York, NY 10150-5324

FIRST CLASS MAIL  
U.S. POSTAGE PAID  
CITY, ST  
PERMIT NO. XXXX

Postal Service: Please do not mark barcode

This card provides limited information about the settlement.

Go to [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com) or call (833)-709-0828 to obtain more information.

The United States District Court for the Southern District of New York has preliminarily approved a proposed class action Settlement of all claims in the case *In re Bit Digital Securities Litigation*, No. 1:21-cv-00515 (S.D.N.Y.). The Settlement resolves all the claims that the Defendants violated the Securities Exchange Act of 1934.

You are receiving this Postcard Notice because you or someone in your family may have purchased Bit Digital stock between December 21, 2020 and January 11, 2021, and you may be a Settlement Class Member. The Settlement provides that, in exchange for the dismissal and release of claims against Defendants, a fund of \$2.1 million, less attorneys' fees and expenses, will be divided among Settlement Class Members who timely submit a valid claim. **To qualify for a payment, you must submit a claim form by March 21, 2023.**

For a full description of the Settlement, your rights, and to make a claim, please view the Stipulation and Order of Settlement, the Notice, and Claim Form by visiting [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com). You may also file your claim online, or call (833) 709-0828 to have a copy of the Notice and Claim Form mailed to you at no expense.

If you do not want to be legally bound by the Settlement, you must exclude yourself by **February 14, 2023**. If you exclude yourself, you cannot get money from this Settlement. If you stay in the Settlement, you may object to it by **February 14, 2023**. The Notice explains how to submit a Claim Form, exclude yourself, or object.

The Court will hold a final settlement hearing in this case on **March 7, 2023** to consider whether to approve the Settlement, the Plan of Allocation, and a request by Lead Counsel for up to 25% of the Settlement Fund for attorneys' fees, plus up to \$30,000 for expenses and PSLRA awards for Lead Plaintiff. You may attend the hearing and ask to be heard by the Court, but you do not have to.

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: BIT DIGITAL, INC. SECURITIES  
LITIGATION

This document relates to:

All Actions

Lead Case No. 1:21-cv-00515-ALC

**CLASS ACTION**

**NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT; (II)  
MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF  
LITIGATION EXPENSES; AND (III) SETTLEMENT HEARING**

**A Federal Court has authorized this Notice. This is not a solicitation from a lawyer.**

Please read this notice carefully. A \$2.1 million settlement has been reached for investors in Bit Digital, Inc. stock between December 21, 2020 and January 11, 2021. If you are a member of the Class, your legal rights will be affected whether you act or not.

**Notice of Pendency of Class Action:** Please be advised that your rights may be affected by the above-captioned securities class action (the “Action”) pending in the United States District Court for the Southern District of New York (the “Court”), if, during the period between December 21, 2020 and January 11, 2021 inclusive (the “Class Period”), you purchased or otherwise acquired Bit Digital, Inc. (“Bit Digital” or the “Company”) common stock.<sup>1</sup>

**Notice of Settlement:** Please also be advised that the Court-appointed Lead Plaintiff, on behalf of himself and the Class (as defined below), have reached a proposed settlement of this Action for \$2.1 million in cash that, if approved, would resolve all claims in the Action (the “Settlement”).

**Please read this notice carefully.** It explains important rights you may have, including the possible receipt of cash from the Settlement. If you are a member of the Class, **your rights are affected whether or not you act.**

If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please do not contact Bit Digital, any other Defendants in the Action, or their counsel. Questions should be directed to Lead Counsel or the Claims Administrator (see page 15).

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<sup>1</sup> Capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Order of Settlement dated October 12, 2022 (the “Stipulation”), which is available at [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com).



### **Description of the Action and the Class**

This Notice relates to a proposed Settlement of claims in a pending Action brought by investors alleging, among other things, that Defendants violated the federal securities laws by making materially false and misleading statements, by failing to disclose material adverse facts about the Company's Bitcoin mining operations, its entrance into the Bitcoin industry, and the extent of its operations. The Defendants deny each and every claim and contention alleged in the Action and deny any misconduct or wrongdoing whatsoever. The proposed Settlement, if approved by the Court, will settle all claims of the Class, as defined on pages 6-7 below.

### **Statement of the Class's Recovery**

Subject to Court approval, Lead Plaintiff, on behalf of himself and the Class, has agreed to settle the Action in exchange for a settlement payment of \$2,100,000 in cash (the "Settlement Amount") to be deposited into an escrow account. The Net Settlement Fund (*i.e.*, the Settlement Amount plus any and all interest earned thereon (the "Settlement Fund") less (i) the amount of the Fee and Expense Award and any award to Lead Plaintiff as allowed under the PSLRA, if and to the extent allowed by the Court; (ii) Notice and Administration Expenses; (iii) Taxes and Tax Expenses; and (iv) any other fees or expenses approved by the Court. The Net Settlement Fund will be distributed in accordance with a plan of allocation that is approved by the Court, which will determine how the Net Settlement Fund shall be allocated among members of the Class. The proposed plan of allocation (the "Plan of Allocation") is set forth on pages 9-12 below.

### **Estimate of the Average Amount of Recovery Per Share**

Based on the number of shares of Bit Digital common stock exchanged during the Class Period that may have been affected by the matters at issue in the Action, and assuming that all Class Members elect to participate in the Settlement, the estimated average recovery (before the deduction of any Court-approved fees, expenses and costs as described herein) per eligible security is approximately 9.2 cents per share. Class Members should note, however, that the foregoing average recovery per share is only an estimate. Some Class Members may recover more or less than this estimated amount depending on, among other factors, when and at what prices they purchased/acquired or sold their Bit Digital common stock and the total number of valid Claim Forms submitted. Distributions to Class Members will be made based on the Plan of Allocation set forth herein (*see* pages 9-12 below) or such other plan of allocation as may be ordered by the Court.

### **Estimate of the Average Amount of Damages Per Share**

The Parties do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiff was to prevail in the Action. Among other things, Defendants do not agree with the assertion that they violated the federal securities laws or that any damages were suffered by any members of the Class as a result of their conduct.

### **Attorneys' Fees and Expenses Sought**

Lead Counsel, who have been prosecuting the Action on a wholly contingent basis since its inception in 2021, have not received any payment of attorneys' fees for their representation of the Class and have advanced the funds to pay expenses necessarily incurred to prosecute this Action. Court appointed Lead Counsel, Block & Leviton LLP, will apply to the Court for an award of attorneys' fees in an amount not to exceed 25% of the Settlement Fund. In addition, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution, and resolution of

the claims against the Defendants, in an amount not to exceed \$30,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff directly related to his representation of the Class. Any fees and expenses awarded by the Court, or any Lead Plaintiff Award, shall be paid solely from the Settlement Fund and shall be paid to Lead Counsel, or with respect to a Lead Plaintiff Award, paid to Lead Plaintiff, following an award ordered by the Court, provided that there has been final approval of the Stipulation of Settlement by the Court. If there is any appeal of an award of attorneys’ fees and expenses, or of a Lead Plaintiff Award, Lead Counsel shall repay to the Settlement Fund any amount of attorneys’ fees or expenses reversed on appeal. Class Members are not personally liable for any such fees or expenses. Estimates of the average cost per affected share of Bit Digital common stock, if the Court approves Lead Counsel’s fee and expense application, is 2.4 cents per eligible share.

**Identification of Attorneys’ Representatives**

Lead Plaintiff and the Class are represented by Block & Leviton LLP, 260 Franklin Street, Suite 1860, Boston, MA 02110. You may contact [BitDigitalSettlement@blockleviton.com](mailto:BitDigitalSettlement@blockleviton.com), or call (617) 398-5600 to speak with an attorney representing the Class.

**Reasons for the Settlement**

Lead Plaintiff’s principal reason for entering into the Settlement is the substantial immediate cash benefit for the Class without the risk or the delays inherent in further litigation. Moreover, the substantial cash benefit provided under the Settlement must be considered against the significant risk that a smaller recovery – or indeed no recovery at all – might be achieved after motions to dismiss the amended complaint, for class certification, summary judgment, a trial of the Action, and the likely appeals that would follow a trial. This process could be expected to last several years. Defendants, who deny all allegations of wrongdoing or liability whatsoever, are entering into the Settlement solely to eliminate the uncertainty, burden and expense of further protracted litigation.

**Your Legal Rights and Options in the Settlement**

<p><b>Submit a claim.</b></p> <p>Submit a Claim Form online or postmarked no later than March 21, 2023.</p>	<p>This is the only way to be eligible to receive a payment from the Settlement Fund. If you are a Class Member and you remain in the Class, you will be bound by the Settlement as approved by the Court and you will give up any Released Claims (defined below) that you have against Defendants and the other Released Defendant Parties (defined below), so it is in your interest to submit a Claim Form.</p>
<p><b>Exclude yourself.</b></p> <p>Exclude yourself from the Class by submitting a written exclusion so that it is received by no later than February 14, 2023.</p>	<p>If you exclude yourself from the Class, you will not be eligible to receive any payment from the Settlement Fund. This is the only option that allows you ever to be part of any other lawsuit against any of the Defendants or the other Released Defendant Parties concerning the Released Claims.</p>
<p><b>Object.</b></p> <p>Object to the Settlement by submitting a written objection so that it is received no later than February 14, 2023.</p>	<p>If you do not like the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys’ fees and reimbursement of Litigation Expenses, you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation or the fee and expense request unless you are a Class Member and do not exclude yourself from the Class.</p>

<p><b>Appear at a hearing.</b></p> <p>Attend a hearing on March 7, 2023, and file a Notice of Intention to Appear so that it is received no later than February 14, 2023.</p>	<p>Filing a written objection and notice of intention to appear by February 14, 2023 allows you to speak in Court, at the discretion of the Court, about the fairness of the proposed Settlement, the Plan of Allocation, and/or the request for attorneys' fees and reimbursement of Litigation Expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.</p>
<p><b>Do nothing.</b></p>	<p>If you are a member of the Class and you do not submit a valid Claim Form, you will not be eligible to receive any payment from the Settlement Fund. You will, however, remain a member of the Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will be bound by any judgments or orders entered by the Court in the Action.</p>

### Why did I get the Notice?

The Court directed that the Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or otherwise acquired one or more shares of Bit Digital common stock during the Class Period. The Court also directed that this Notice be posted online at [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com). The Court has directed us to disseminate these notices because, as a potential Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights. If the Court approves the Settlement, and the Plan of Allocation (or some other plan of allocation), the claims administrator selected by Lead Plaintiff and approved by the Court will make payments pursuant to the Settlement after any objections and appeals are resolved.

The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Class if you wish to do so. It is also being sent to inform you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation and the motion by Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses (the "Settlement Hearing"). See pages 13-14 below for details about the Settlement Hearing, including the date and location of the hearing.

The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and a plan of allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

**How do I know if I am affected by the Settlement?  
Who is included in the Class?**

If you are a member of the Class, you are subject to the Settlement, unless you timely request to be excluded. The Class consists of:

All Persons who purchased Bit Digital common stock between December 21, 2020 and January 11, 2021 inclusive (the “Class Period”).

Excluded from the Class are Defendants and their families, the officers, directors, and affiliates, and their legal representatives, heirs, successors or assigns, and any entity in which Defendants have or had a controlling interest. Also excluded from the Class are the Persons who timely and validly seek exclusion from the Class or whose request for exclusion is accepted by the Court. *See* “What if I do not want to be a member of the Class? How do I exclude myself?” on page 13 below.

**PLEASE NOTE: RECEIPT OF THIS NOTICE DOES NOT MEAN THAT YOU ARE A CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT.**

**If you are a Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement, you are required to submit a Claim Form and the required supporting documentation as set forth therein, postmarked or submitted online no later than March 21, 2023. The Claim Form is available for download online at [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com). You may also submit your claim, and the required supporting documentation online at [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com).**

**What are Lead Plaintiff’s reasons for the Settlement?**

Lead Plaintiff and Lead Counsel believe that the claims asserted against Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against Defendants through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. Among other things, Lead Plaintiff and the Class faced the risk that they would fail to survive Defendants’ Motion to Dismiss, fail to certify a class in whole or in part, that Defendants would succeed in reducing the total amount of damages available to the Class, or would succeed in having the case dismissed in whole or in part at summary judgment or at trial.

Defendants have denied the claims asserted against them in the Action and deny having engaged in any wrongdoing or violation of law of any kind whatsoever. Defendants have agreed to the Settlement solely to eliminate the burden and expense of continued litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by Defendants.

**What might happen if there were no Settlement?**

If there were no Settlement and Lead Plaintiff failed to establish any essential legal or factual element of his claims against Defendants, neither Lead Plaintiff nor the other members of the Class would recover anything from Defendants. Also, if Defendants were successful in proving any of their defenses, either at summary judgment, at trial, or on appeal, the Class could recover substantially less than the amount provided in the Settlement, or nothing at all.

**How are Class members affected by the Action and the Settlement?**

As a Class Member, you are represented by Lead Plaintiff and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, “When and where will the Court decide whether to approve the Settlement?” on page 14 below.

If you are a Class Member and do not wish to remain a Class Member, you may exclude yourself from the Class by following the instructions in the section entitled, “What if I do not want to be a member of the Class? How do I exclude myself?” on page 13 below.

If you are a Class Member and you wish to object to the Settlement, the Plan of Allocation, or Lead Counsel’s application for attorneys’ fees and reimbursement of Litigation Expenses, and if you do not exclude yourself from the Class, you may present your objections by following the instructions in the section entitled, “When and where will the Court decide whether to approve the Settlement?” on page 14 below.

If you are a Class Member and you do not exclude yourself from the Class, you will be bound by any orders issued by the Court. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Defendants and will provide that, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Claim (as defined below) against the Defendants and the other Released Defendant Parties (as defined below), and shall forever be barred and enjoined from prosecuting any or all of the Released Claims against any of the Released Defendant Parties.

“Released Claims” means any and all claims and causes of action of every nature and description whatsoever, including Unknown Claims (defined below), whether arising under federal, state, local, common, statutory, administrative, or foreign law, or any other law, rule, or regulation, at law or in equity, whether fixed or contingent, whether foreseen or unforeseen, whether accrued or unaccrued, whether liquidated or unliquidated, whether matured or unmatured, whether direct, representative, class, or individual in nature, that either were or could have been asserted in this Litigation, which arise out of, are based upon, or are related in any way to both: (i) the purchase or acquisition, or sale of Bit Digital securities; and (ii) the allegations, transactions, facts, matters, or occurrences, representations or omissions involved, set forth, or referred to, or which could have been alleged, in the initial complaint dated January 20, 2021 and/or any amendments thereto.

“Released Defendant Parties” means (i) Defendants; and (ii) each of their respective family members, and their respective general partners, limited partners, principals, joint venturers, members, officers, directors, managers, managing directors, supervisors, employees, contractors, consultants, auditors, accountants, financial advisors, professional advisors, investment bankers, underwriters, representatives, insurers, trustees, trustors, agents, attorneys, professionals, predecessors, successors, assigns, heirs, executors, administrators, and any controlling person thereof in their capacities as such.

“Unknown Claims” means any Released Claims or Released Defendant Claims that Defendants, Lead Plaintiff, or any other Class Member does not know or suspect to exist in such party’s favor at the time of the release, which, if known by such party, might have affected such party’s decision to settle or release claims. Upon the Effective Date of the Settlement, Defendants, Lead Plaintiff and the Class shall expressly waive, and be deemed to have waived, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASE PARTY.

Lead Plaintiff and Defendants acknowledge, and each of the other Class Members and each of the other Released Defendant Parties shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

The Judgment will also provide that, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendant Claims (as defined below) against Lead Plaintiff and the other Release Plaintiff Parties (as defined below), and shall forever be barred and enjoined from prosecuting any or all of the Released Defendant Claims against any of the Released Plaintiff Parties. This release shall not apply to any person or entity who or which timely and validly seeks exclusion from the Class or whose request for exclusion is accepted by the Court.

“Released Defendant Claims” means upon the Effective Date, Defendants will release as against Released Plaintiff Parties, all claims and causes of action of every nature and description, whether known or Unknown Claims, whether arising under federal, state, local, common, statutory, administrative, or foreign law, or any other law, rule, or regulation, at law or in equity, whether fixed or contingent, whether foreseen or unforeseen, whether accrued or unaccrued, whether liquidated or unliquidated, whether matured or unmatured, whether direct, representative, class, or individual in nature that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against Defendants. Released Defendant Claims shall not include any claims relating to the enforcement of the Settlement.

“Released Plaintiff Parties” means: (i) Lead Plaintiff and other Class Members; and (ii) each of their respective family members, and their respective general partners, limited partners, principals, shareholders, joint venturers, members, officers, directors, managers, managing directors, supervisors, employees, contractors, consultants, auditors, accountants, financial advisors, professional advisors, investment bankers, representatives, insurers, trustees, trustors, agents, attorneys, including Lead Counsel, professionals, predecessors, successors, assigns, heirs, executors, administrators, and any controlling person thereof, in their capacities as such.



### How do I participate in the Settlement? What do I need to do?

To be eligible for a payment from the proceeds of the Settlement, you must be a member of the Class and you must timely complete a Claim Form with adequate supporting documentation. Your Claim Form must be **submitted online or postmarked no later than March 21, 2023**. A Claim Form is available on the website maintained by the Claims Administrator for the Settlement, [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com). You may also request that a Claim Form be mailed to you by emailing the Claims Administrator at [info@BitDigitalSettlement.com](mailto:info@BitDigitalSettlement.com) or calling toll free at 1-833-709-0828.

Please retain all records of your ownership and transactions in Bit Digital common stock, as they may be needed to document your Claim. If you request exclusion from the Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

### How much will my payment be?

At this time, it is not possible to make any determinations as to how much any individual Class Member may receive from the Settlement.

Pursuant to the Settlement, Defendants have agreed to pay or cause to be paid \$2,100,000 in cash. The Settlement Amount will be deposited into an escrow account. The Settlement Amount plus any interest earned thereon is referred to as the “Settlement Fund.” If the Settlement is approved by the Court and the Effective Date occurs, the “Net Settlement Fund” (that is, the Settlement Fund less: (i) the amount of the Fee and Expense Award and any award to Lead Plaintiff as allowed under the PSLRA, if and to the extent allowed by the Court; (ii) Notice and Administration Expenses; (iii) Taxes and Tax Expenses; and (iv) any other fees or expenses approved by the Court) will be distributed to Class Members who submit valid Claim Forms, in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

Neither Defendants nor any other person or entity that paid any portion of the Settlement Amount on their behalf are entitled to receive back any portion of the Settlement Fund once the Court’s order or judgment approving the Settlement becomes Final. Defendants shall not have any liability, obligation or responsibility for the administration of the Settlement, the disbursement of the Net Settlement Fund or the plan of allocation.

Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

Unless the Court otherwise orders, any Class Member who fails to complete a Claim Form and submit it so that it is postmarked (if mailed) or received (if filed online) no later than March 21, 2023, shall be forever barred from receiving any distribution from the Net Settlement Fund or payment pursuant to the Stipulation, but shall in all other respects be bound by all of the terms of the Stipulation and the Settlement, including the terms of any Judgment entered and the Releases given. This means that each Class Member releases the Released Claims (as defined on page 6 above) against the Released Defendant Parties (as defined on page 6 above) and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Released Claims against any of the Released Defendant Parties whether or not such Class Member submits a Claim Form.

Participants in and beneficiaries of a plan covered by ERISA (“ERISA Plan”) should NOT include any information relating to their transactions in Bit Digital common stock held through the ERISA Plan in any Claim Form that they might submit in this Action. They should include ONLY those shares that

they purchased or acquired outside of the ERISA Plan. Claims based on any ERISA Plan's purchases or acquisitions of Bit Digital common stock during the Class Period may be made by the plan's trustees. To the extent any of the Defendants or any of the other persons or entities excluded from the Class are participants in the ERISA Plan, such persons or entities shall not receive, either directly or indirectly, any portion of the recovery that may be obtained from the Settlement by the ERISA Plan.

The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Class Member.

Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

### **PROPOSED PLAN OF ALLOCATION**

1. The objective of the Plan of Allocation is to equitably distribute the Net Settlement proceeds to those Settlement Class Members who suffered economic losses as a proximate result of the alleged wrongdoing. The calculations made pursuant to the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial. Nor are the calculations pursuant to the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the claims of Authorized Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund.

2. The Plan of Allocation generally measures the amount of loss that a Settlement Class Member can claim for purposes of making *pro rata* allocations of the cash in the Net Settlement Fund to Authorized Claimants. The Plan of Allocation is not a formal damage analysis. Recognized Loss Amounts are based primarily on the price declines observed over the period during which Lead Plaintiff alleges corrective information was entering the marketplace. In this case, Lead Plaintiff alleges that Defendants made false statements and omitted material facts between December 21, 2020 and January 11, 2021, which had the effect of artificially inflating the prices of Bit Digital common stock.

3. In order to have recoverable damages, disclosure of the alleged misrepresentations must be the cause of the decline in the price of Bit Digital common stock. The alleged corrective disclosure that removed the artificial inflation from the price of Bit Digital common stock occurred on January 11, 2021 at 2:00 p.m. ET. Accordingly, in order to have a Recognized Loss Amount, a Settlement Class Member who purchased shares of Bit Digital common stock during the Class Period must have held such shares through the alleged corrective disclosure.

4. The entire Net Settlement Fund shall be distributed to members of the Settlement Class, other than the portion of the Net Settlement Fund that cannot be distributed because of prohibitive administrative costs, which remainder shall be donated to a non-sectarian, non-profit organization.

### **CALCULATION OF RECOGNIZED LOSS AMOUNTS**

5. Based on the formula stated below, a Recognized Loss Amount will be calculated for each purchase of Bit Digital common stock during the Class Period that is listed on the Claim Form and for which adequate documentation is provided. If a Recognized Loss Amount calculates to a negative number or zero under the formula below, the Recognized Loss Amount for that transaction will be zero.



6. For each share of Bit Digital common stock purchased from December 21, 2020 through January 11, 2021 and:
- (a) sold prior to 2:00 p.m. ET on January 11, 2021 (the date and time of the alleged corrective disclosure), the Recognized Loss Amount is zero;
  - (b) sold from 2:00 p.m. ET on January 11, 2021 through April 9, 2021, the Recognized Loss Amount is **the lesser of:** (i) \$6.27; or (ii) the purchase price per share *less* the average closing price between January 11, 2021 and the date of sale as stated in Table A below;
  - (c) held at the close of trading on April 9, 2021, the Recognized Loss Amount is equal to **the lesser of:** (i) \$6.27; or (ii) the purchase price per share *less* \$17.63.<sup>2</sup>

### ADDITIONAL PROVISIONS

7. A Claimant's "Recognized Claim" under the Plan of Allocation shall be the sum of his, her or its Recognized Loss Amounts.
8. The Net Settlement Fund will be allocated among all Authorized Claimants whose Distribution Amount (defined in ¶13 below) is \$10.00 or greater.
9. If a Class Member has more than one purchase/acquisition or sale of Bit Digital common stock during the Class Period, all purchases/acquisitions and sales shall be matched on a First In, First Out ("FIFO") basis. Class Period sales will be matched first against any holdings of Bit Digital common stock at the beginning of the Class Period, and then against purchases/acquisitions of Bit Digital common stock, in chronological order, beginning with the earliest purchase/acquisition made during the Class Period.
10. Purchases/acquisitions and sales of Bit Digital common stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. The receipt or grant by gift, inheritance or operation of law of Bit Digital common stock during the Class Period, shall not be deemed a purchase, acquisition, or sale of the Bit Digital common stock for the calculation of an Authorized Claimant's Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such Bit Digital common stock unless (i) the donor or decedent purchased or otherwise acquired such Bit Digital common stock during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such Bit Digital common stock; and (iii) it is specifically so provided in the instrument of gift or assignment.
11. The date of covering a "short sale" is deemed to be the date of purchase or acquisition of the Bit Digital common stock. The date of a "short sale" is deemed to be the date of sale of the Bit Digital common stock. In accordance with the Plan of Allocation, however, the Recognized Loss Amount on "short sales" is zero. In the event that a Claimant has an opening short position in Bit Digital common

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<sup>2</sup> Pursuant to Section 21(D)(e)(1) of the Exchange Act, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." The average (mean) closing price of Bit Digital common stock during the 90-day look-back period from January 11, 2021 through and including April 9, 2021 was \$17.63.

stock, the earliest purchases or acquisitions during the Class Period shall be matched against such opening short position and not be entitled to a recovery until that short position is fully covered.

12. Bit Digital publicly traded common stock is the only security eligible for recovery under the Plan of Allocation. Option contracts are not securities eligible to participate in the Settlement. With respect to Bit Digital common stock purchased or sold through the exercise of an option, the purchase/sale date of the Bit Digital common stock is the exercise date of the option and the purchase/sale price is the exercise price of the option.

13. The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which will be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. If any Authorized Claimant’s Distribution Amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

14. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the Net Settlement Fund by reason of uncashed checks, or otherwise, nine (9) months after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determine that it is cost-effective to do so, the Claims Administrator will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determine that additional re-distributions, after deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance shall be contributed to non-sectarian, not-for-profit organization(s), to be recommended by Lead Counsel and approved by the Court.

15. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiff, Lead Plaintiff’s Counsel, Lead Plaintiff’s damages expert, Defendants, Defendants’ Counsel, any of the other Plaintiffs’ Releasees or Defendants’ Releasees, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court. Lead Plaintiff, Defendants and their respective counsel, and all other Defendants’ Releasees, shall have no responsibility or liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim Form or nonperformance of the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.

16. The Plan of Allocation set forth herein is the plan that is being proposed to the Court for its approval by Lead Plaintiff after consultation with their damages expert. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Settlement Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the Settlement website, [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com).

TABLE A

**Bit Digital Common Stock Closing Price and Average Closing Price  
January 11, 2021 – April 9, 2021**

<b>Sale Date</b>	<b>Closing Price</b>	<b>Average Closing Price Between January 11, 2021 and Date Shown</b>	<b>Sale Date</b>	<b>Closing Price</b>	<b>Average Closing Price Between January 11, 2021 and Date Shown</b>
1/11/2021	\$18.76	\$18.76	2/25/2021	\$15.39	\$19.50
1/12/2021	\$19.65	\$19.21	2/26/2021	\$14.76	\$19.35
1/13/2021	\$18.16	\$18.86	3/1/2021	\$16.55	\$19.27
1/14/2021	\$18.12	\$18.67	3/2/2021	\$15.64	\$19.17
1/15/2021	\$16.66	\$18.27	3/3/2021	\$15.50	\$19.07
1/19/2021	\$16.46	\$17.97	3/4/2021	\$13.45	\$18.91
1/20/2021	\$16.72	\$17.79	3/5/2021	\$13.26	\$18.77
1/21/2021	\$16.36	\$17.61	3/8/2021	\$12.18	\$18.60
1/22/2021	\$17.47	\$17.60	3/9/2021	\$15.90	\$18.53
1/25/2021	\$16.37	\$17.47	3/10/2021	\$17.63	\$18.51
1/26/2021	\$17.66	\$17.49	3/11/2021	\$18.30	\$18.50
1/27/2021	\$16.11	\$17.38	3/12/2021	\$17.99	\$18.49
1/28/2021	\$19.54	\$17.54	3/15/2021	\$18.94	\$18.50
1/29/2021	\$19.42	\$17.68	3/16/2021	\$16.62	\$18.46
2/1/2021	\$18.22	\$17.71	3/17/2021	\$17.83	\$18.45
2/2/2021	\$18.54	\$17.76	3/18/2021	\$16.34	\$18.40
2/3/2021	\$18.55	\$17.81	3/19/2021	\$16.94	\$18.37
2/4/2021	\$18.99	\$17.88	3/22/2021	\$15.84	\$18.32
2/5/2021	\$17.51	\$17.86	3/23/2021	\$14.78	\$18.25
2/8/2021	\$25.60	\$18.24	3/24/2021	\$13.49	\$18.15
2/9/2021	\$24.55	\$18.54	3/25/2021	\$13.91	\$18.07
2/10/2021	\$22.05	\$18.70	3/26/2021	\$13.56	\$17.99
2/11/2021	\$24.45	\$18.95	3/29/2021	\$12.94	\$17.89
2/12/2021	\$24.30	\$19.18	3/30/2021	\$14.60	\$17.83
2/16/2021	\$28.26	\$19.54	3/31/2021	\$15.02	\$17.78
2/17/2021	\$26.66	\$19.81	4/1/2021	\$14.33	\$17.72
2/18/2021	\$21.70	\$19.88	4/5/2021	\$16.75	\$17.71
2/19/2021	\$21.06	\$19.93	4/6/2021	\$16.76	\$17.69
2/22/2021	\$18.71	\$19.88	4/7/2021	\$15.42	\$17.65
2/23/2021	\$15.34	\$19.73	4/8/2021	\$16.85	\$17.64
2/24/2021	\$16.61	\$19.63	4/9/2021	\$16.96	\$17.63

**What payment are the attorneys for the Class seeking? How will the lawyers be paid?**

Lead Counsel has not received any payment for their services in pursuing claims against the Defendants on behalf of the Class, nor has Lead Counsel been reimbursed for its out-of-pocket expenses. Before final approval of the Settlement, Lead Counsel will apply to the Court for an award of attorneys' fees for in an amount not to exceed 25% of the Settlement Fund. At the same time, Lead Counsel also intends to apply for reimbursement of Litigation Expenses in an amount not to exceed \$30,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Lead Plaintiff directly related to his representation of the Class. The Court will determine the amount of any award of attorneys' fees or reimbursement of Litigation Expenses. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

**What if I do not want to be a member of the Class? How do I exclude myself?**

Each Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such person or entity mails or delivers a written Request for Exclusion from the Settlement Class, addressed to Bit Digital, Inc. Securities Litigation, EXCLUSIONS, c/o Kroll Settlement Administration, P.O. Box 5324, New York, NY 10150-5324. The exclusion request must be *received* no later than February 14, 2023. You will not be able to exclude yourself from the Class after that date. Each Request for Exclusion must: (a) state the name, address and telephone number of the Person requesting exclusion, and in the case of entities the name and telephone number of the appropriate contact person; (b) state that such Person "requests exclusion from the Settlement Class in *In re Bit Digital Inc. Securities Litigation* Lead Case No. 1:21-cv-00515-ALC"; (c) identify and state the number of shares of Bit Digital common stock that the person or entity requesting exclusion purchased/acquired and/or sold during the Class Period, as well as the dates and prices of each such purchase/acquisition and sale; and (d) be signed by the person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court. You may not exclude yourself by telephone or by email.

If you do not want to be part of the Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Claim against any of the Released Defendant Parties. If you ask to be excluded from the Class, you will not be eligible to receive any payment out of the Net Settlement Fund.

**When and where will the Court decide whether to approve the Settlement? Do I have to come to the hearing? May I speak at the hearing if I don't like the Settlement?**

**Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing.**

The Settlement Hearing will be held on March 7, 2023 at 11:00 a.m., before the Honorable Andrew L. Carter, Jr. at the United States District Court for the Southern District of New York, 40 Foley Square, New York, NY 10007. The Court reserves the right to approve the Settlement, the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the members of the Class.

Any Class Member who or which does not request exclusion may object to the Settlement, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk's Office at the United States District Court for the Southern District of New York at the address set forth below on or before February 14, 2023. You must also serve the papers on Lead Counsel and on Defendants' Counsel at the addresses set forth below so that the papers are *received on or before February 14, 2023*.

**Clerk's Office**

United States District Court  
Southern District of New York  
Clerk of the Court  
40 Foley Square  
New York, NY 10007

**Lead Counsel**

**Block & Leviton LLP**  
Jacob A. Walker  
260 Franklin Street, Suite 1860  
Boston, MA 02110

**Defendants' Counsel**

**Kagen, Caspersen &  
Bogart PLLC**  
Stuart Kagen  
757 Third Avenue, 20th Fl  
New York, NY 10017

Any objection: (a) must state the name, address and telephone number of the Person objecting and must be signed by the objector; (b) must contain a statement of the Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Class Member wishes to bring to the Court's attention; and (c) must include documents sufficient to prove membership in the Class, including the number of shares of Bit Digital common stock that the objecting Class Member purchased/acquired and/or sold during the Class Period, as well as the dates and prices of each such purchase/acquisition and sale. You may not object to the Settlement, the Plan of Allocation or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses if you exclude yourself from the Class or if you are not a member of the Class.

You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, and if you timely file and serve a written objection as described above, you must also file a notice of appearance with the Clerk's Office and serve it on Lead Counsel and Defendants' Counsel at the addresses set forth above so that it is *received on or before February 14, 2023*. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and Defendants' Counsel at the addresses set forth above so that the notice is *received on or before February 14, 2023*.

The Settlement Hearing may be adjourned by the Court without further written notice to the Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

**Unless the Court orders otherwise, any Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.**

**Special Notice to Banks, Brokers, and other Nominees**

If you purchased or otherwise acquired any Bit Digital common stock between December 21, 2020 and January 11, 2021, inclusive, for the beneficial interest of persons or organizations other than yourself, you must either: (a) within seven (7) calendar days of receipt of the Notice, request from the Claims Administrator sufficient copies of the Postcard Notice to forward to all such beneficial owners or request information sufficient to allow the postcard notice to be emailed, and within seven (7) calendar days of receipt of those Postcard Notices (or the necessary information for email) forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of the Postcard Notice, provide a list of the names, addresses, and, if available, email addresses of all such beneficial owners to [info@BitDigitalSettlement.com](mailto:info@BitDigitalSettlement.com). If you choose the second option, the Claims Administrator will send a copy of the Postcard Notice to the beneficial owners by postcard or, if available, electronic means. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, up to a maximum of \$0.20 per notice, plus postage (if applicable), by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Any dispute concerning the reasonableness of reimbursement costs shall be resolved by the Court. Copies of this Long Form Notice, Postcard Notice, and the Claim Form may be obtained from the website maintained by the Claims Administrator, [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com).

**Can I see the court file? Whom should I contact if I have questions?**

This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular hours at the Office of the Clerk, United States District Court for the Southern District of New York, Clerk of the Court, 40 Foley Square, New York, NY 10007. Additionally, copies of the Stipulation and any related order entered by the Court will be posted on the website maintained by the Claims Administrator, [www.BitDigitalSettlement.com](http://www.BitDigitalSettlement.com).

All inquiries concerning this Notice and the Claim Form should be directed to the Claims Administrator or Lead Counsel at:

*Bit Digital, Inc. Securities Litigation*  
c/o Kroll Settlement Administration  
P.O. Box 5324  
New York, NY 10150-5324  
Telephone: (833) 709-0828  
Email: [info@BitDigitalSettlement.com](mailto:info@BitDigitalSettlement.com)

and/or

**Block & Leviton LLP**  
260 Franklin Street, Suite 1860  
Boston, MA 02110  
Telephone: (617) 398-5600  
Email:  
[BitDigitalSettlement@blockleviton.com](mailto:BitDigitalSettlement@blockleviton.com)

**Do not call or write the Court, the Office of the Clerk of the Court, Defendants or their Counsel regarding this Notice.**

November 22, 2022

By Order of the Court

United States District Court, Southern District of New York



# **EXHIBIT C**

# IF YOU PURCHASED BIT DIGITAL COMMON STOCK BETWEEN DECEMBER 21, 2020 AND JANUARY 11, 2021, YOU COULD BE AFFECTED BY A PENDING CLASS ACTION LAWSUIT

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NEWS PROVIDED BY

**Kroll Settlement Administration →**

Dec 28, 2022, 09:17 ET

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BOSTON, Dec. 28, 2022 /PRNewswire/ -- The following statement is being issued by Kroll Settlement Administration regarding the Bit Digital Securities Settlement.

YOU ARE HEREBY NOTIFIED, that the Court-appointed Lead Plaintiff, on behalf of himself and the Class, has reached a proposed settlement of the above-captioned litigation (the "Action") for \$2,100,000 in cash that, if approved, would resolve all claims in the Action (the "Settlement"). Defendants have denied the claims asserted against them and have agreed to the Settlement solely to eliminate the burden and expense of continued litigation.

YOU ARE HEREBY FURTHER NOTIFIED, that the Action has been preliminarily certified as a class action, and that pursuant to an Order of the Honorable Andrew L. Carter in the United States District Court for the Southern District of New York (the "Court"), dated November 22, 2022, a hearing will be held on March 7, 2023 at 11:00 a.m., (the "Settlement Hearing") before Judge Carter at the United States District Court for the Southern District of New York, 40 Foley Square, New York, NY 10007, to determine: (a) whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable and adequate to the Class, and should be approved by the Court; (b) whether a judgment should be entered dismissing the



Action with prejudice against the Defendants; (c) whether the Proposed Plan of Allocation should be approved as fair and reasonable; and (d) whether Lead Counsel's motion for attorneys' fees and reimbursement of litigation expenses should be approved.

If you are a member of the Class, your rights will be affected by the pending Action and the Settlement, and you may be entitled to share in the Settlement Fund. The Notice and Proof of Claim and Release Form ("Claim Form") can be downloaded from the website maintained by the Claims Administrator, **www.BitDigitalSettlement.com**. You may also obtain copies of the Notice and Claim Form by contacting the Claim Administrator at [info@BitDigitalSettlement.com](mailto:info@BitDigitalSettlement.com), or by writing to: Bit Digital Securities Settlement, c/o Kroll Settlement Administration, P.O. Box 5324, New York, NY 10150-5324.

If you are a member of the Class, in order to be eligible to receive a payment under the proposed Settlement, you must submit a Claim Form *postmarked* (if mailed) or *submitted* (if filed online) no later than March 21, 2023. If you are a Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlement but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Class and wish to exclude yourself from the Class, you must submit a request for exclusion such that it is *received* no later than February 14, 2023, in accordance with the instructions set forth in the Notice. If you properly exclude yourself from the Class, you will not be bound by any judgments or orders entered by the Court in the Action and you will not be eligible to share in the proceeds of the Settlement.

Any objections to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and reimbursement of litigation expenses, must be filed with the Court and delivered to Lead Counsel and Defendants' Counsel such that they are *received* no later than February 14, 2023, in accordance with the instructions set forth in the Notice.

**Please do not contact the Court, the Clerk's office, Bit Digital or its counsel regarding this notice. All questions about this notice, the proposed Settlement, or your eligibility to participate in the Settlement should be directed to Lead Counsel or the Claims Administrator.**

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel: Block & Leviton LLP, Attn: Jacob A. Walker, 260 Franklin Street, Suite 1860, Boston, MA 02110, Telephone: (617) 398-5600, Email: BitDigitalSettlement@blockleviton.com.

***This is only a summary.*** The full Notice and Claim Form are available at **www.BitDigitalSettlement.com**. You may also request copies by emailing info@BitDigitalSettlement.com, or by writing to: Bit Digital Securities Settlement, c/o Kroll Settlement Administration, P.O. Box 5324, New York, NY 10150-5324.

SOURCE Kroll Settlement Administration

# Exhibit 3

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE: BIT DIGITAL, INC.  
SECURITIES LITIGATION

This document relates to:

All Actions

Lead Case No. 1:21-cv-00515-ALC

**DECLARATION OF JACOB A. WALKER IN SUPPORT OF  
MOTION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**

I, JACOB A. WALKER, declare as follows:

1. I am an attorney duly licensed to practice before the courts of the Commonwealth of Massachusetts and California, and admitted pro hac vice in this action. I am a partner of Block & Leviton LLP (“Block & Leviton” or “Lead Counsel”), and counsel for Lead Plaintiff Joseph Franklin Monkam Nitcheu (“Lead Plaintiff”) and the Class.<sup>1</sup> I have been actively involved in the prosecution and resolution of this action (the “Litigation”), am familiar with its proceedings and have personal knowledge of the matters set forth herein based upon my active supervision and participation in all material aspects of the Litigation.

2. My firm, which served as Lead Counsel in this Action, was involved in all aspects of the prosecution and settlement as set forth in my accompanying declaration submitted herewith.

3. The information in this declaration regarding my firm’s time, including the schedule attached hereto as Exhibit A, was prepared from daily time records regularly prepared and maintained by my firm in the ordinary course of business. I oversaw and participated in the day-to-day activities in the litigation, and I, together with my partner Jeff Block, reviewed the daily time records with an effort to confirm their accuracy. The time for timekeepers who had worked only a de minimus total amount of time on this case was removed from the time report. Following these adjustments, I believe that the time reflected in the firm’s lodestar calculation is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of this litigation.

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<sup>1</sup> Unless otherwise defined, all capitalized terms herein have the same meanings as set forth in the Stipulation and Agreement of Class Action Settlement dated October 12, 2022, which is attached to the Declaration of Jacob A. Walker, dated October 24, 2022, as Exhibit 1. ECF No 68.

4. The total number of hours expended on this Action by my firm's attorneys and professional support staff is 520.5 hours. The total resulting lodestar for my firm is \$368,020.00. The schedule attached hereto as Exhibit A is a detailed breakdown indicating the amount of time spent by each attorney and professional support staff employee of my firm who was involved in this Action, and the lodestar calculation based on my firm's current billing rates. For personnel no longer employed by my firm, the lodestar is based upon the billing rates of such personnel in his or her final year of employment at my firm.

5. The hourly rates for our attorneys and professional support staff are their standard rates and are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other class action fee applications. My firm's rates are set based on period analysis of rates used by firms performing comparable work and that have been approved by courts. Exhibit A lists current hourly rates, except in the circumstance of an attorney who is no longer with the firm, in which case the attorney's last billing rate is used.

6. As detailed in Exhibit B, my firm has incurred a total of \$15,902.41 in unreimbursed expenses in connection with the prosecution of this Action.

7. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred.

8. Attached hereto as Exhibit C is a copy of my firm's biography.

9. My firm has complied with Local Civil Rule 23.1. The Court-approved notice in this action identified my firm by name and address, stated that we were applying for attorneys' fees, and disclosed the maximum amount to be requested. There are no fee sharing agreements.



**Exhibit A**

Block & Leviton Time Report  
*In re Bit Digital Securities Litigation*

<b>Name</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Lodestar</b>
Block, Jeffrey (P)	38.9	\$1,200	\$46,680.00
Delaney, Sarah (A)	58.7	\$575	\$33,752.50
Jennings, Bryan (A)	60.7	\$525	\$31,867.50
Murphy, Rachel (PL)	5.5	\$300	\$1,650.00
Silver, Nate (A)	178	\$550	\$97,900.00
Teti, Stephen (A)	23.3	\$700	\$16,310.00
Walker, Jacob (P)	155.4	\$900	\$139,860.00
<b>Total Lodestar</b>	<b>520.5</b>		<b>\$368,020.00</b>

P = Partner

A = Associate

PL = Paralegal



**Exhibit B**

Block & Leviton Expenses  
*In re Bit Digital Securities Litigation*

<b>Category</b>	<b>Amount</b>
Court Fees & Service of Process	\$726.58
Experts	\$12,350.00
Legal Research	\$1,800.61
Printing	\$40.60
Telecommunications	\$24.00
Travel*	\$960.62
<b>Total Expenses</b>	<b>\$15,902.41</b>

\* - Includes expenses related to travel for final approval hearing.

**CERTIFICATE OF SERVICE**

I, Jacob A. Walker, hereby certify that on February 3, 2023, I authorized a true and correct copy of the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such public filing to all counsel registered to receive such notice.

        /s/ JACOB A. WALKER          
JACOB A. WALKER