

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TEKLA BALFOUR-BROWNE, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

EDEN FINE ART NY INC. d/b/a EDEN
GALLERY, CATHIA KLIMOVSKY, GUY
MARTINOVSKY, GAL YOSEF, and CETRA
ART CORPORATION,

Defendants.

Case No.: 1:25-cv-1142

COMPLAINT

DEMAND FOR JURY TRIAL

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Plaintiff, by and through his attorneys, alleges the following upon information and belief, except as to allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff's information and belief are based upon, among other things, his counsel's investigation, which includes, without limitation, review and analysis of press releases, news articles, websites, state corporate filings, and other publicly available information concerning the Defendants and Meta Eagle Club Non Fungible Tokens ("Meta Eagle Club NFTs" or "MEC NFTs").

I. NATURE OF THE ACTION

1. This case is a class action for breach of contract and, in the alternative, breach of the implied duty of good faith and fair dealing in that contract, unjust enrichment, and violations of New York General Business Law ("GBL") Section 349, on behalf of a Class of all persons who purchased Meta Eagle Club NFTs, against Defendants Eden Fine Art NY Inc. d/b/a Eden Gallery ("Eden Fine Art"), Cathia Klimovsky, Guy Martinovsky, Gal Yosef, and Cetra Art Corporation ("Cetra Art").

2. Defendants told the world that they were going to start a private, members-only club based on the digital art made by artist Defendant Gal Yosef. They called it the "Meta Eagle Club." Defendants promised the Meta Eagle Club would be great and that members would enjoy exclusive benefits—members could enjoy trips, giveaways, and parties at Eden Gallery locations across the world. One of the best parts of this club is that the Defendants would keep making more and more art to populate an online world called the "Galyverse." As a result, the value of club membership would increase, and members would receive dividend-like digital assets as long as they were members.

3. Through social media posts, Discord and website announcements, and interview statements made in connection with and after the creation of the Meta Eagle Club non-fungible tokens ("NFTs"), Defendants touted the development, longevity, and long-term ecosystem of the

Meta Eagle Club and the Galyverse, as well as benefits related to joining the club and helping fund the Galyverse.

4. The Defendants required that, in order to join the Meta Eagle Club, persons had to use the cryptocurrency Ether (“ETH”), the native cryptocurrency of the blockchain platform Ethereum, to purchase NFTs. These Meta Eagle Club NFTs were digital images created by Yosef, showing anthropomorphized eagles in various outfits and costumes. Defendants sold 12,000 Meta Eagle Club NFTs on or about February 7, 2022 to Plaintiff and the Class for the equivalent of over \$13 million (the “Mint”). The Meta Eagle Club NFTs served as membership cards.

5. By creating the Meta Eagle Club, promising exclusive benefits in exchange for joining the club, and requiring the purchase of Meta Eagle Club NFTs to join the club, the Defendants made an offer of a contract for club membership and the associated benefits. Plaintiff and the Class accepted the Defendants’ offer by purchasing the Meta Eagle Club NFTs.

6. However, the Defendants did not keep their contractual promises. The Defendants held only two events and provided only a handful of other benefits to a handful of club members before ceasing all club benefits. Meta Eagle Club holders found themselves holding worthless digital assets. Defendants breached the terms of the contract or, in the alternative, breached the implied duty of good faith and fair dealing in that contract, damaging Plaintiff and the Class.

7. In the alternative, the Defendants actions constitute unjust enrichment or violations of GBL § 349. The Meta Eagle Club was a “rug pull”— where project founders raise millions and then abandon their commitments. Defendants made deceptive statements designed to induce Plaintiff and the Class to purchase Meta Eagle Club NFTs in the Mint, and to prop the value of Meta Eagle Club NFTs up after the Mint. In truth, as alleged herein, at the time the statements were made and at the time of the Mint, Defendants had no intention of developing the Meta Eagle

Club. In fact, Defendants had no plans for the future of Meta Eagle Club NFTs aside from profiting off the excitement around the digital asset.

II. JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d), as the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs, there are more than 100 class members, and at least one class member is diverse from at least one defendant.

9. This Court has personal jurisdiction over the Defendants because all Defendants, in person or through an agent or a corporate entity that they control, transact business within New York State; contract to supply goods or services within New York State; own, use, or possess real property in New York State; or sold and/or marketed Meta Eagle Club NFTs in New York state. For example, Defendants Eden Fine Art and Cetra Art have their principal places of business in New York, NY; Klimovsky and Martinovsky are officers, directors, or owners of Eden Fine Art and Cetra Art; and Klimovsky, Martinovsky, and Yosef during times relevant to this Complaint, were residents of, owned or rented residences in, or conducted Meta Eagle Club business in or through, New York, NY. Furthermore, Defendant Eden Fine Art hosted a party for Meta Eagle Club NFT holders in its SoHo location in March 2022, where Defendant Yosef was present.¹

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims alleged herein occurred in this District. For example, in addition to the facts supporting personal jurisdiction, Meta Eagle Club

¹ See <https://www.eden-gallery.com/news/meta-eagle-club-in-new-york-soho> (available at <https://perma.cc/RY26-F3EE>).

NFTs were sold by the Defendants through, among other ways, the OpenSea platform, which is an NFT marketplace headquartered in New York, NY.

III. PARTIES

A. Plaintiff

11. Plaintiff Tekla Balfour-Browne purchased 11 Meta Eagle Club NFTs between February 7, 2022 and April 3, 2022 for a net total of 5.6875 ETH, or a net cost of approximately \$17,267, and was damaged due to the Defendants' actions as alleged herein. Plaintiff is a resident of London, England, United Kingdom. Plaintiff's transactions in Meta Eagle Club NFTs are as follows:

Date (UTC)	MEC NFT Number	Buy/Sell	Price (ETH)	Approximate Price (\$USD on Average ETH Price)	Daily Average ETH Price (\$USD)	Marketplace
2/7/2022	5020	Buy	0.7995	\$2,427.34	\$3,120	OpenSea
2/8/2022	1968	Buy	0.61	\$1,852.00	\$3,200	OpenSea
2/9/2022	7480	Buy	0.57	\$1,730.56	\$3,200	OpenSea
2/9/2022	7781	Buy	0.58	\$1,760.92	\$3,200	OpenSea
2/9/2022	8627	Buy	0.584	\$1,773.06	\$3,200	OpenSea
2/9/2022	10226	Buy	0.587	\$1,782.17	\$3,200	OpenSea
2/9/2022	10882	Buy	0.549	\$1,666.80	\$3,200	OpenSea
2/10/2022	10513	Buy	0.5	\$1,518.04	\$3,100	OpenSea
2/21/2022	4523	Buy	0.58	\$1,760.92	\$2,650	OpenSea
2/23/2022	11891	Buy	0.47	\$1,426.95	\$2,600	OpenSea
4/3/2022	7919	Buy	0.158	\$479.70	\$3,500	OpenSea
4/18/2022	10226	Sell	0.15	\$455.41	\$2,980	OpenSea
4/18/2022	10513	Sell	0.15	\$455.41	\$2,980	OpenSea

B. Defendants

12. Defendant Eden Fine Art NY Inc. is a corporation organized and existing under the laws of New York State. Its principal offices are located at 437 Madison Avenue, New York, NY. Eden Fine Art also has locations at 470 Broome Street, New York, NY and 645 5th Avenue, New York, NY.

13. Eden Fine Art is the headquarters location of the international art gallery known as “Eden Gallery,” which has locations in New York, Miami, Las Vegas, Aspen, London, Mykonos, Dubai, Maldives, and Tel Aviv. Eden Fine Art operates under the name “Eden Gallery.” For example, Eden Fine Art’s website is www.eden-gallery.com.

14. Defendant Cetra Art Corporation is a corporation organized and existing under the laws of the State of Delaware. Cetra Art’s principal place of business is 437 Madison Avenue, New York, NY, the same location as Eden Fine Art’s principal offices. Cetra Art is the company that is party to the Terms and Conditions that purported to apply to the “Galyverse,” a purported digital universe created to market and sell the Meta Eagle Club NFTs.²

15. Defendant Cathia Klimovsky, at all times relevant to this Complaint, was the owner, Chief Executive Officer (“CEO”), and a director, of Eden Fine Art, and the founder of the Eden Gallery international fine art gallery. Also, at all times relevant to this Complaint, Klimovsky was the owner and an officer and director of Cetra Art. Upon information and belief, Klimovsky owns or rents a residence in New York, NY.

16. Klimovsky owns, controls, and operates the Eden Gallery international fine art gallery. For example, in addition to the information alleged above, Klimovsky is: (a) the owner, a director, and the president of Eden Gallery Florida, Inc., a Florida corporation whose principal place of business is Eden Fine Art’s principal office location at 437 Madison Avenue, New York, NY; (b) an officer and director of Eden Fine Art Miami Inc., a Florida corporation whose principal place of business is Eden Fine Art’s principal office location at 437 Madison Avenue, New York,

² See <https://galyverse.io/#Home> (available at perma.cc/WSJ6-SXYA). While this document is posted on the website, there is no indication that it ever formed the basis of a contract to which Plaintiff or Class members consented. Purchasers of the Meta Eagle Club NFTs did not have to read, acknowledge, or consent to these terms prior to purchasing the NFTS.

NY; (c) the owner of Eden Fine Arts Aspen Inc., a Colorado corporation whose principal place of business is Eden Fine Art's principal office location at 437 Madison Avenue, New York, NY; (d) the president and a director of Eden Gallery Las Vegas, Inc., a Nevada or Delaware corporation that lists Klimovsky's contact information as Eden Fine Art's location at 470 Broome Street, New York, NY; and (e) Klimovsky is a director of, and owns more than 75% of the shares of, Eden Fine Art London Limited and Eden Gallery Group Ltd., private limited companies organized under the laws of the United Kingdom.

17. Upon information and belief, and based on the interconnection between Eden Gallery's various United States locations, Eden Gallery's United States operations are run out of Eden Fine Art's New York offices and Eden Gallery's international operations are also run out of Eden Fine Art's New York offices.

18. Defendant Guy Martinovsky is currently the CEO of Eden Fine Art, and upon information and belief was an officer of Eden Fine Art during the times relevant to this Complaint.

19. According to a November 2020 article in the Aspen Daily News, Klimovsky and Martinovsky are married and live in New York, NY for three months every year.³

20. Defendant Gal "Galy" Yosef is an artist. Yosef created the images for the Meta Eagle Club NFTs. Yosef is a resident of Israel and Miami, Florida. Upon information and belief, during times relevant to this Complaint, Yosef was a resident of New York, NY and/or owned or rented a residence in New York, NY.

³ https://www.aspendailynews.com/news/new-york-based-international-art-gallery-opens-in-old-boogie-s-building-owner-signs-long/article_4024aae6-2629-11eb-a628-ab16e87d48fa.html (available at perma.cc/YM5G-98DB).

IV. FACTUAL ALLEGATIONS

A. Background on Blockchains and NFTs

21. A “blockchain” is a decentralized digital ledger, and is generally associated with the transfer of digital currencies (often called cryptocurrencies, or crypto for short) and digital assets.

22. Blockchains can be used to store information about the transfer of the digital asset, and effect the transfer of the digital asset.

23. A traditional ledger, like ones at a bank, are managed and validated by a central authority.

24. Blockchains are distributed and decentralized ledgers, which can offer greater transparency as to ownership by being based on consensus as to the accuracy of the transactions consummated on the network. To reach consensus, embedded in each blockchain platform is a software protocol, or consensus mechanism, which provides governance standards over how information is added to the blockchain.

25. Blockchain-based transactions are claimed to be more secure and trustworthy than ledgers controlled by centralized authorities, like a bank, because adding, changing, or removing information from the blockchain is made purposefully difficult, making it harder to falsify a transaction or hack into the ledger itself.

26. Non-Fungible Tokens, or NFTs, are digital assets whose authenticity and ownership can be recorded on a blockchain.

B. The Defendants Jointly Create the Meta Eagle Club and Meta Eagle Club NFTs

27. The Meta Eagle Club was a digital venture that, according to the Meta Eagle Club website, was created, owned, operated, and controlled by a “Team” comprised of Yosef and “Eden Gallery.”⁴



28. Upon information and belief, the “Eden Gallery” that was part of the Meta Eagle Club Team was Defendants’ Klimovsky, who owns and controls the Eden Gallery international art gallery, Defendant Eden Fine Art and its officers Klimovsky and Martinovsky, and/or Cetra Art, another entity owned and controlled by Klimovsky. For example, a prior version of the Meta Eagle Club website from February 2022 contains a section called “Founders,” stating “Meta Eagle Club is the union between a leading artist that became a worldwide reference in the digital art, a major art gallery with renown artists displayed in its extravagant spaces, among others, in New York, London, Miami, Aspen and a cutting edge studio that connects art, tech and luxury,” followed by the names and logos of Gal Yosef, Eden Gallery, and RNSNC, an NFT studio owned and operated by Eden Gallery.⁵ Statements about Eden Gallery made in connection with the Meta Eagle Club therefore referred to Klimovsky, Eden Fine Art, Martinovsky, and/or Cetra Art.

⁴ <https://galyverse.io/#Home> (available at perma.cc/WSJ6-SXYA).

⁵ <https://web.archive.org/web/20220204050911/https://galyverse.io/#expand>

29. This prior version of the Eden Gallery website also contains a Frequently Asked Question section. One question asks “Who are the founders behind the Meta Eagle Club NFT?” The answer is “Meta Eagle Club was created by Gal Yosef himself together with Eden Gallery and its NFT studio, RNSNC.”⁶

30. Further, the Meta Eagle Club website, which is still in operation and available to the public as of the date of this Complaint, refers to Eden Gallery as the global Eden Gallery art gallery network, which is owned and controlled by Klimovsky, and follows its statement with a copy of the Eden Gallery logo:

Since its founding in 1997, Eden Gallery has evolved into one of the largest global networks of high-end art galleries. Collectively, Eden artists represent and promote contemporary optimism and a colorful view of life.

Eden offers premiere gallery spaces, including locations in New York, London, Miami, Mykonos, Aspen, and Dubai.

[logo]

31. Further, the Eden Gallery and Eden Fine Art website currently touts that it developed the Meta Eagle Club and provided Meta Eagle Club benefits along with Yosef:

Global art powerhouse, Eden Gallery, teamed up with acclaimed digital artist Gal Yosef to launch his NFT collection.⁷

Continuing the success of Gal Yosef’s NFT drop, Meta Eagle Club, along with global powerhouse Eden Gallery have proven the benefits and their loyalty to eagle owners through their commitment in compelling collaborations, exclusive benefits and generous giveaways. Following the great turnout of both MEC (Meta Eagle Club) events at Eden Gallery New York Soho and now Miami, both parties have

⁶ <https://web.archive.org/web/20220204050911/https://galyverse.io/#expand>

⁷ <https://www.eden-gallery.com/news/meta-eagle-club-in-new-york-soho> (available at perma.cc/RY26-F3EE).

demonstrated their appreciation for eagle holders in their fulfillment of the MEC roadmap.⁸

32. In order to become a member of the Meta Eagle Club, persons were required to purchase a Meta Eagle Club NFT.

Owning an Eagle grants you access to unique experiences, NFT airdrops, significant collaborations, and many more exclusive benefits, including real life luxury events powered by Eden Gallery.⁹

33. The Galyverse was a purported digital universe that was supposed to display, promote, and sell Meta Eagle Club NFTs and also showcase Eden Gallery's array of digital artworks. The Galyverse was located on the internet.¹⁰ The Defendants jointly created, owned, operated, and controlled the Galyverse.

C. The Defendants' Marketing and Sale of the Meta Eagle Club and the Meta Eagle Club NFTs

34. The Defendants and their officers and agents promoted Meta Eagle Club NFTs and made promises concerning the Meta Eagle Club on the Meta Eagle Club website and social media channels that were controlled by the Defendants.

35. The Defendants hired and controlled several persons to make statements related to the promotion of Meta Eagle Club NFTs, including Yuli Kiseliov and Daniel Nikolaenko. These persons made statements on behalf of the Defendants through various channels, including X (formerly Twitter), Discord, Facebook, Instagram, and their website.

36. Yuli Kiseliov was a Community Manager for Eden Gallery. At the direction and control of the Defendants, Kiseliov made several statements on the Meta Eagle Club Discord under the username @YuliEG.

⁸ <https://www.eden-gallery.com/news/meta-eagle-club-in-miami> (available at perma.cc/42UP-FUAA).

⁹ galyverse.io/about-project (available at perma.cc/PCN4-RY9N).

¹⁰ <https://galyverse.io/#Home> (available at perma.cc/WSJ6-SXYA).

37. Daniel Nikolaenko was a Discord Admin for Eden Gallery. At the direction and control of the Defendants, Nikolaenko made several statements on the Meta Eagle Club Discord under the username @NickelEG.

38. Additionally, Defendants initiated online engagement channels, purportedly to foster direct communication with collectors. These efforts, however, served as a façade, masking the Defendants’ primary objective of sustaining the Meta Eagle Club’s momentum and market valuation under speculative conditions.

39. Among other things, Defendants promoted the Galyverse and the Meta Eagle Club as a unique metaverse that would create a long-term ecosystem, and provide perks and benefits for Meta Eagle Club NFT holders, such as hot air balloon rides and first-class plane tickets to exclusive events.

40. Meta Eagle Club NFTs were also marketed as the only way to become a member of the Meta Eagle Club and have access to the exclusive benefits and perks of the club. According to Meta Eagle Club’s website:

Meta Eagle Club, created by 3D artist Gal Yosef, is the collection that started the Galyverse. Meta Eagle Club members get to enjoy exclusive perks and benefits in the world of luxury & fine art. These perks include exclusive events in Eden Galleries around the world, Physical art raffles, Flight experiences, Metaverse and of course the Galypoints system. Join Meta Eagle Club today by purchasing an eagle on Opensea!¹¹

41. The Defendants endeavored to cultivate a sense of community among the members of the Meta Eagle Club, including events such as “Ask Me Anything” (“AMA”) sessions featuring Defendants Yosef and Martinovsky.

¹¹ <https://galyverse.io/#Home> (available at perma.cc/WSJ6-SXYA).

42. As early as December 23, 2021, Defendants made statements on their Discord, an online messaging platform, promoting the benefits that would later appear on their Roadmap. For example, on December 23, 2021, Kiseliiov, under Defendants' direction and control, made the following statement on the "Announcements" page of Meta Eagle Club's Discord:

@everyone These days Gal Yosef is facing worldwide recognition as a major 3D artist. After the sold out of CBS with the traded volume of more than \$30M+, this is the first collection in his own metaverse, creating a long term never before seen quality art and ecosystem. Helicopter flights. Hot Air Balloon First Class/Business plane tickets to exclusive events. Do you know what they all have in common? They are all part of the road map, Or should I say, Fly Path. A full roadmap and details about the project will be announced soon.¹²

43. On December 23, 2021, Kiseliiov, under Defendants' direction and control, made the following statements on the "Announcements" page of Meta Eagle Club's Discord:

Metaverses: Bringing the community together is one of our most important values. As a result, we are buying land in the Sandbox Metaverse. We have a lot of events planned for our land, but we also value your opinion. Let us know what you have in mind in Discord. That's not all. We wanted to bring the highest quality not limited by existing platforms, so we are creating a custom metaverse using an advanced game engine, exclusive for Meta Eagles to hang out and fly together. Beginning Q3.¹³

44. Later, on January 5, 2022, Kiseliiov, under Defendants' direction and control, posted a "Flightpath" on the Meta Eagle Club Discord, detailing several stages of development and their accompanying benefits. Among other things, Defendants promoted exclusive in-person events/parties with artists, access to artworks and collectibles, plane tickets to future events, a donation of \$100,000 towards "eagle protection foundations," and raffles for experiences such as helicopter tours, hot air balloon flights, and zero gravity flights.¹⁴

¹² Yuli Kiseliiov ("@YuliEG"), DISCORD, Meta Eagle Club: announcements (Dec. 23, 2021) (emphasis added).

¹³ Yuli Kiseliiov ("@YuliEG"), DISCORD, Meta Eagle Club - announcements (Feb. 22, 2022).

¹⁴ Yuli Kiseliiov ("@YuliEG"), DISCORD, Meta Eagle Club - announcements (Jan. 5, 2022).

45. On January 26, 2022, Kiseliov, under Defendants’ direction and control, announced on the Meta Eagle Club Discord: “[u]pdated roadmap is going to be live in the website next week. We hope you are all excited as we are! It’s going to be worth the wait, we promise.”¹⁵

46. The Defendants also promoted the sale of the Meta Eagle Club NFTs in New York. On January 26, 2022, Defendant Yosef posted to his Facebook account a video depicting the Meta Eagle Club characters on giant video displays in Times Square, New York, stating “Eagles have landed in Times Square! Meta Eagle Club NFT collection is almost out, stay tuned! 🦅.”¹⁶

47. In or around January 31, 2022, Defendants published the Meta Eagle Club Roadmap on the Meta Eagle Club website.¹⁷ The Roadmap promised those who purchased Meta Eagle Club NFTs, among other things, access to in-person events with artists, the development of a custom Meta Eagle Club metaverse, and exclusive experiences such as VIP flights, leveraging these promises to bolster Meta Eagle Club’s appeal and perceived value:

[1] “Donating 100,000 USD for eagles protection;” [2] “Exclusive physical artworks by Gal Yosef;” [3] “Business/First class flights tickets to events;” [4] “IRL RNSNC x EDEN worldwide events/shows with artists;” [5] “Hot air balloon flights;” [6] “Private jet flights to IRL events;” [7] “Meta Eagle NFT Airdrops;” [8] “Helicopter flights;” [9] “Sky diving jumps;” [10] “Exclusive physical artworks and collectibles;” [11] “Custom Meta Eagle Club Metaverse;” [12] “Artist meet up in the Metaverse;” and [13] “Zero G flights.”¹⁸

¹⁵ Yuli Kiseliov (“@YuliEG”), DISCORD, Meta Eagle Club - announcements (Jan. 26, 2022).

¹⁶ <https://www.facebook.com/watch/?v=669538297745102>

¹⁷ @galyverse, X (Jan. 31, 2022), <https://x.com/galyverse/status/1488128968251392001>.

¹⁸ <https://web.archive.org/web/20220204050911/https://galyverse.io/#expand> (accessed on September 4, 2023 via Wayback Machine).

48. In addition to the Roadmap, the Meta Eagle Club website stated that the Meta Eagle Club was “[t]he first chapter in the Galyverse,” and defined the Galyverse as “[a] detailed and advanced eco system embracing the Metaverse.”¹⁹

49. On or about February 7, 2022, the Defendants started selling the Meta Eagle Club NFTs for Ether cryptocurrency. In total, 12,000 Meta Eagle NFTs were created, or in NFT parlance “minted,” each depicting an eagle avatar.

Meta Eagle Club by Galyverse is an NFT collection of 12,000 digital art collectibles in the form of 3D, real life-inspired eagles. This NFT art project has been created by the increasingly successful artist Gal Yosef and curated by Eden Gallery.²⁰

50. Meta Eagle Club members who purchased Meta Eagle Club NFTs in the February 7, 2022 Mint did not purchase specific NFTs. These members did not know what Meta Eagle Club NFTs they would receive until after purchase.

51. The NFTs quickly sold out with the average NFT sold at 0.35 ETH + .03 ETH in fees. On February 7, 2022, the ETH closed at a price of 3,142.47 per ETH. At that valuation, the Mint generated a total of approximately \$13.2 million without fees or \$14.33 million including fees.

52. Embedded into the NFTs was a royalty provision such that the Defendants, through Cetra, would receive a ten percent (10%) royalty on all secondary sales of Meta Eagle Club NFTs.

53. On February 11, 2022, Defendants tweeted on the Meta Eagle Club page on X (formerly twitter): “Updated roadmap[.] We’ve carefully constructed a roadmap that includes short

¹⁹ <https://web.archive.org/web/20220204050911/https://galyverse.io/#expand> (accessed on September 4, 2024 via Wayback Machine).

²⁰ galyverse.io/about-project (available at perma.cc/PCN4-RY9N).

and long term milestones. Our main goal is longevity - we are here to stay and aim for the absolute top. We will start revealing these milestones in the upcoming days.”²¹

54. On February 18, 2022, Defendants Yosef and Martinovsky appeared on an AMA session hosted on Twitter Spaces to address “the long term vision and the game-changing approach the team has for the future of the Galyverse project.”²² A video recording of the interview is available on youtube.com.²³

55. During the AMA, Defendant Yosef made the following statements:

The bottom line, we see the long run, we really don’t see a short run . . . We have a huge marketing plan and we have a huge plan for the future, for let’s say for a full year almost . . . We see this project as a way to build a long-term relation with today’s 6000 people.²⁴

In this roadmap, there is an element that they have linked to utilities to flights to parties.²⁵

There is big collaboration that I believe that will take me to new heights, and we are going to have very luxury exhibitions and luxury events.²⁶

56. During the AMA, Defendant Martinovsky continued to foster Meta Eagle Club’s sense of community:

²¹ @galyverse, X (Feb. 11, 2022), <https://x.com/galyverse/status/1492154368874926081>.

²² @galyverse, X (Feb. 11, 2022), <https://x.com/galyverse/status/1492154363187449859>.

²³ How To Do, *First AMA of Galyverse MEC*, YOUTUBE (posted on February 18, 2022), <https://www.youtube.com/watch?v=qtT6lVmmWUQ>.

²⁴ *Galyverse AMA*, TWITTER SPACES (hosted on February 18, 2022), (video available at <https://www.youtube.com/watch?v=qtT6lVmmWUQ>).

²⁵ *Galyverse AMA*, TWITTER SPACES (hosted on February 18, 2022), (video available at <https://www.youtube.com/watch?v=qtT6lVmmWUQ>).

²⁶ *Galyverse AMA*, TWITTER SPACES (hosted on February 18, 2022), (video available at <https://www.youtube.com/watch?v=qtT6lVmmWUQ>).

We are honored by the fact that the community is big, much bigger than just the holder and we'll find ways to award and find ways to please also the community. And we are happy that there are so much followers. On one side, there is roadmap for the owners. On the other side, there will be also, let's say some utilities – something that will . . . show that we take care of the community in general.²⁷

57. Defendant Martinovsky also discussed the benefits that would be part of the second roadmap (Roadmap 2.0), including physical renditions of the NFTs and more developments in the Meta Eagle Club's metaverse:

The roadmap has different levels. I won't give all the details – that will be given very soon. February 22, we will give more details about the road map, which will be in a few days. In this roadmap, there is an element that they have linked to utilities to flights to parties . . . Secondly, there will be art that will be able to be received. On one side, everyone will be able to buy art linked to their eagles . . . and there will be art also that will be given as present to the holders. An important part of the roadmap will be the real art, physical art that people will be able to have.

Also, there will be a very concrete development in the field of the metaverse with utilities to use the eagles in the metaverse and there will also be tokens that will allow some development linked to the eagles.²⁸

58. On or about February 22, 2022, as part of the promotion, marketing, and solicitation of the sale and purchase of Meta Eagle Club NFTs, Kiseliiov, under Defendants' direction and control, published the Roadmap 2.0 on the Meta Eagle Club Discord:

The M.E.C Flightpath

Airdrops: Meta Santa Eagle comes once in a while, dropping the highest quality fine art collectibles, NFTs, and other items to holders. We will announce further details about the MEC airdrops after the reveal on the 24 of February. Beginning Q1.

Events: Exclusive IRL and Metaverse events, the first of which will be this March held at EDEN Gallery Soho, NYC. We are in the final stages of organizing these events, working with an event planning team to bring you amazing experiences.

²⁷ *Galyverse AMA*, TWITTER SPACES (hosted on February 18, 2022), (video available at <https://www.youtube.com/watch?v=qtT6lVmmWUQ>).

²⁸ *Galyverse AMA*, TWITTER SPACES (hosted on February 18, 2022), (video available at <https://www.youtube.com/watch?v=qtT6lVmmWUQ>).

Exact details will be announced very soon in the Galyverse Discord, Twitter and Instagram.

Beginning Q1.

Flights: Private jet helicopter and hot air balloon flights. As the highest collection in the metaverse, we will fly out Meta Eagles to our worldwide events. We will ensure that the raffles are distributed evenly, in order to give flights to as many Meta Eagles as possible.

Beginning Q2.

Collaborations: We are working with some of the biggest Web3 art and luxury fashion brands to continue developing META EAGLE CLUB as part of the GALYVERSE. Whitelists are always welcome. We are working with dozens of projects so that our community can have whitelists for the next collections by RNSNC and other collaborating projects. Beginning Q2.

Metaverses: Bringing the community together is one of our most important values. As a result, we are buying land in the Sandbox Metaverse. We have a lot of events planned for our land, but we also value your opinion. Let us know what you have in mind in Discord.

That's not all. We wanted to bring the highest quality not limited by existing platforms, so we are creating a custom metaverse using an advanced game engine, exclusive for Meta Eagles to hang out and fly together. Beginning Q3.

Token: Eagles molt every year, constantly growing new beautiful feathers. Meta eagles yield \$WING every day, \$WING has an incredible amount of utilities; customizing your Meta Eagle, M.E.C. store, and BREEDING. Simply owning a Meta Eagle yields \$WING for years to come (staking). Beginning Q4.

Breeding: Meta Eagles evolve, reaching uncharted territory, to do so M.E. breed. Using your M.E. and \$WING token the evolution will begin. Beginning Q4.

The META EAGLE CLUB animated series: Alongside an NYC-based animation studio we are in the early stages of producing dedicated M.E.C animations. That's not all, holders will have early access to exclusive content, extended cuts, and behind-the-scenes productions. Beginning Q4.²⁹

59. In addition to the benefits promoted in previous roadmap iterations, Roadmap 2.0 announced collaborations with unspecified luxury fashion brands, additional details on the custom

²⁹ Yuli Kiseliiov (“@YuliEG”), DISCORD, Meta Eagle Club - announcements (Feb. 22, 2022).

Meta Eagle Club metaverse, the production of a MEC-inspired animated series, and additional details of the \$WING token, a digital asset that would serve as a dividend for Meta Eagle Club members.

60. After the Mint, Defendant Yosef made statements about the price and value of Meta Eagle Club NFTs. For example, on March 1, 2022, Defendant Yosef retweeted the @Galyverse tweet announcing that the Meta Eagle NFT #5484 “sold for 15.5ETH,” or approximately \$45,990.³⁰

61. On March 2, 2022, in his closing remarks at an AMA, Defendant Yosef stated:

I’m not looking on the floor price right now because I know that everything will be okay. I’m very, very confident. We’re an amazing team . . . Everyone [is] very professional, and I want you guys to trust us. This is the only thing that I care [about] right now – to have the trust of the community. And if you have the trust of the community, everything will be okay . . . So it’s really up to you right now. The money we are investing, and we will keep invest[ing] will happen anyways, but when we will achieve the goal depends on the community . . . We can understand why there’s some people that are stressed . . . We are here to work and work really hard. I won’t leave you guys. Trust me. I won’t do it.³¹

62. On March 3, 2022, Defendants stated that progress on the project was “before schedule” on the Meta Eagle Club X (formerly Twitter) page:

Dev update:
Eagle dev team updated us metaverse will be ready before schedule, expect it in the Q2!³²

63. On March 15, 2022, Meta Eagle Club held an in person event in New York, NY at the Eden Fine Art location at 70 Broome Street, New York, NY. The Eden Gallery website still describes this party:

³⁰ <https://x.com/galyverse/status/1498666658956775437> (Defendant Yosef deleted his retweet.)

³¹ *Gal Yosef AMA*, TWITTER SPACES (hosted on March 2, 2022), (video available at <https://www.youtube.com/watch?v=7R5AzdoqinU>).

³² <https://x.com/galyverse/status/1499463696493522952>.

Global art powerhouse, Eden Gallery, teamed up with acclaimed digital artist Gal Yosef to launch his NFT collection. The collection includes the artist's detailed and lifelike, cartoon-style avatars along with his evolving artistic vision. The Meta Eagle Club collection grew so popular because it is a one-of-a-kind NFT launch. What separates the Galyverse from other NFT communities is that members will receive exclusive experiences and benefits, including VIP flights around the world and physical artwork.

The first Meta Eagle event was introduced to NFT holders on Tuesday, March 15th, 2022. The invite welcomed the Meta Eagle community to join Gal Yosef, alongside the rest of the Galyverse family, for a night of shared celebration, excitement, connection, and a raffle for an apple watch. The event took place at the Eden Gallery Soho location, in the heart of New York City.³³

64. Additional photos of the “first ever Meta Eagle Club event” in New York City remain on the Meta Eagle Club website, including many photos of Defendant Yosef, including:³⁴



³³ <https://www.eden-gallery.com/news/meta-eagle-club-in-new-york-soho> (available at perma.cc/RY26-F3EE).

³⁴ <https://galyverse.io/gallery>.

65. On March 17, 2022, Meta Eagle Club held an in person event at Eden Gallery's location in Miami, FL. The Eden Gallery website still describes this event:

Continuing the success of Gal Yosef's NFT drop, Meta Eagle Club, along with global powerhouse Eden Gallery have proven the benefits and their loyalty to eagle owners through their commitment in compelling collaborations, exclusive benefits and generous giveaways. Following the great turnout of both MEC (Meta Eagle Club) events at Eden Gallery New York Soho and now Miami, both parties have demonstrated their appreciation for eagle holders in their fulfillment of the MEC roadmap.³⁵

66. In or around March 23, 2022, Defendants announced on X (formerly twitter), a reward system called Galypoints to compensate those who purchased Meta Eagle Club NFTs for holding the NFTs.³⁶ According to their Website:

The GALYPOINTS system was created for the community, to offer real value to the NFT's while maintaining fairness and a healthy competitive spirit.

For every eagle you hold, you will gain a daily amount of points. The number of daily points are dependent on your eagle rank. With these points you will be able to purchase different surprises on our website such as gifts, exclusive events, NFT'S equivalent, whitelists, and more!

We offer every holder to earn a large number of points, even if you don't have a LEGENDARY EAGLE. You can see which trait combinations will buy you a bonus on the number of daily points you earn.³⁷

67. Also on or about March 23, 2022, Defendants announced on the Meta Eagle Club website that holders of Meta Eagle Club NFTs would have the ability to buy the \$WING token, a new type of digital asset, using their Galypoints, which were earned through owning and holding Mega Eagle Club NFTs.

As we have already updated you, in the upcoming months the \$wing Token will be released! We wanted to let you know that you will be able to purchase our token

³⁵ <https://www.eden-gallery.com/news/meta-eagle-club-in-miami> (available at perma.cc/42UP-FUAA).

³⁶ @galyverse, X (Mar. 23, 2022), <https://x.com/galyverse/status/1506724985095786504>.

³⁷ <https://galyverse.io/#Home> (available at perma.cc/WSJ6-SXYA).

through the Galypoints. Before issuing the token, we will disclose the conversion ratio between the Galypoints and the token.³⁸

D. The Defendants Abandon the Meta Eagle Club and Holders of Meta Eagle Club NFTs, Damaging Plaintiff and the Class

68. On June 30, 2022, Nikolaenko, under Defendants' direction and control, stated on the "Newsletter" page of the Meta Eagle Club Discord that the persons running the Meta Eagle Club, i.e. the Defendants, were negotiating with the team at OnCyber, an online metaverse platform offering a space to view and display digital art and NFTs, to provide their promised Galyverse:

Metaverse

We are in early stages of negotiation with OnCyber and getting the eagles to fly in their ecosystem, this is still not concluded, but it looks to us in the right way. More info will be shared once we the direction we will take is closed. ***We are looking to inquire for a potential collaboration rather than just buying land in other metaverses.*** We will update you with how this process is going once we make more progress and we managed to get some connections with projects and individuals that will help us to create a suited space for our eagles in metaverses.³⁹

69. Notably, Meta Eagle Club members had already been told on December 23, 2021 and February 22, 2022 that "we are buying land in the Sandbox Metaverse." See ¶¶ 43, 58.

70. Later, on July 17, 2022, Defendants made the following post on X (formerly twitter) that they were now instead working to build their own metaverse:

As you probably know we are in negotiations with potential new partners to build a metaverse that could serve us and our community. We are looking into different options that will best fit us within the limitations metaverses can offer.⁴⁰

71. After the statements made on July 17, 2022, Defendants did not provide any updates about the development of the Galyverse or a Meta Eagle Club metaverse until January 12, 2023,

³⁸ <https://galyverse.io/galypoints> (available at perma.cc/T4G8-7AYF).

³⁹ Daniel Nikolaenko ("@NickelEG"), DISCORD, Meta Eagle Club - announcements (June 30, 2023).

⁴⁰ <https://x.com/galyverse/status/1548605458499485696>.

when, Nikolaenko, under Defendants’ direction and control, posted a message on Discord discussing the “progress” made on the Roadmap.

72. According to the post, as of January 12, 2023, Defendants had only provided a handful of the promised Meta Eagle Club benefits including: (1) a physical art airdrop consisting of eleven total physical artworks signed by Gal Yosef, (2) two in-person events, (3) raffles for business-class flight tickets to the event in Miami, (4) a raffle for hot air balloon ride tickets, (5) a raffle for three helicopter ride tickets, and (6) several collaborations.⁴¹

73. Notably, the Defendants raised over \$13 million in the Mint, but the list of provided benefits objectively cannot total an amount close to that figure.

74. In a subsequent message, posted on January 12, 2023, Nikolaenko, under Defendants’ direction and control, stated that Meta Eagle Club would take a vote on whether to reallocate the budget of the remaining items from the Roadmap:

As for all the crypto/NFT market, this was a very challenging period as rarely seen before in the field for the different reasons we all know. Taking into account the evolutions that happened during the past year in the field, we thought to make some adaptations to the last few remaining proposed utilities from the road map and to general ideas that were raised during different talks with the community.

We are confident that using resources to focus on these alternative utilities can benefit our holders more than what was originally thought but we would like first to hear the opinion of our holders:

Following many inquiries regarding the subject; would you like to reallocate the budgets of the following utilities to be used on other Community centered goals & marketplace drops with sometime more chance to enjoy it?

The last utilities from the road map we refer to are: tandem skydiving, meetup in the metaverse, private jet flight.

The question is simple: are you interested that the community receive proposed alternative utilities instead of the above utilities and of token, breeding, animated series and others that were added on the way to the flight path or where ideas that

⁴¹ Daniel Nikolaenko (“@NickelEG”), DISCORD, Meta Eagle Club - announcements (Jan. 12, 2023).

were not part of the road map but were general ideas that were raised during talks and exchanges of ideas.⁴²

75. On March 26, 2023, Nikolaenko, under Defendants’ direction and control, posted the purported results of the vote on Discord:

Following our last vote it was decided to reallocate some of the budgets from the previous roadmap to other community centered utilities. One of which is the marketplace we would like to keep active so our holders can continue to enjoy NFT drops that can be secured with the Galypoints you have collected. So while we work on other developments we have added 2 ETH worth of NFTs that will be added to the marketplace in the following week and we would like you to take part in suggesting, choosing and voting for the NFTs that will be featured and claimed by you, the holders. You can expect an additional pulse for next week to restock again.⁴³

76. In other words, instead of providing the exclusive and luxury benefits that were promised to Meta Eagle Club members, the Defendants sidestepped their ongoing obligations to provide benefits and perks to their members and reallocated the budget away from member benefits and perks so that the marketplace could remain active—something that should be automatic—allowing them to sell more digital assets.

77. In or around April 3, 2023, Defendants ceased posting on all channels of communication.

78. However, as of the date of this Complaint, the Meta Eagle Club website is still operating, and inviting the public to “join” the Meta Eagle Club by purchasing an “eagle” or a Meta Eagle Club NFT, which the Defendants still offer and/or promote for sale.⁴⁴

⁴² Daniel Nikolaenko (“@NickelEG”), DISCORD, Meta Eagle Club - announcements (Jan. 12, 2023).

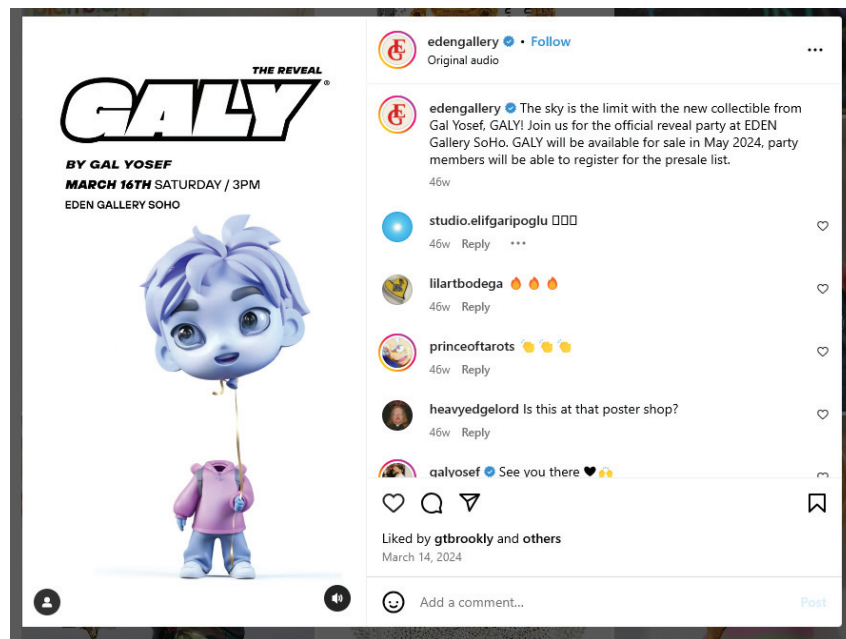
⁴³ Daniel Nikolaenko (“@NickelEG”), DISCORD, Meta Eagle Club - announcements (Mar. 26, 2023).

⁴⁴ <https://galyverse.io/#Home> (available at perma.cc/WSJ6-SXYA).

79. As a result of the Defendants' actions, or lack thereof, the prices and value of Meta Eagle Club membership and Meta Eagle Club NFTs declined dramatically and the market for Meta Eagle Club NFTs came to a halt. All told, the Meta Eagle Club NFTs are now worthless.

80. As a direct result of Defendants' actions, Plaintiff and Class members have suffered substantial financial losses, including but not limited to the purchase price of their Meta Eagle Club NFTs, ranging from 0.35 ETH (approximately \$1,099.86 at time of the Mint) to more than 15.5 ETH on the secondary market (approximately \$45,990 at the time of sale).

81. Defendants' roadmaps promised that they would continue to provide artwork and creations within the Galyverse, but they stopped providing anything of value to the Meta Eagle Club members. However, the Defendants have continued to promote Yosef's artwork together inside of Eden Fine Art's/Eden Gallery's New York locations, but outside of the Meta Eagle Club metaverse. For example, in 2024, Eden Gallery promoted a new collection from Yosef on their Instagram account, and launched the collection at Eden Fine Art's/Eden Gallery's SoHo location:⁴⁵



⁴⁵ <https://www.instagram.com/edengallery/reel/C4fweCSMOLg/>.

82. Eden Fine Art/Eden Gallery also erected a 20-foot tall picture of Defendant Yosef on their Fifth Avenue location, as Defendant Yosef proudly promoted on his Instagram account:⁴⁶



83. Defendants Eden Fine Art, Yosef, Klimovsky, and Martinovsky, as well as Eden Gallery, have continued their relationship with each other, but they have not kept their end of the bargain to run and provide the benefits of the Meta Eagle Club, including exclusive art, to Plaintiff and Class members who purchased Meta Eagle Club NFTs.

V. CLASS ACTION ALLEGATIONS

84. The Plaintiff brings this class action under Rule 23 of the Federal Rules of Civil Procedure on behalf of persons who purchased Meta Eagle Club NFTs (the “Class”). Defendants and Defendants’ immediate families, legal representatives, agents, directors, officers, heirs, successors, or assigns, and any entity in which any of the foregoing have or had a controlling interest are excluded from the Class.

⁴⁶ <https://www.instagram.com/p/DBwHxwxv3NJ/?hl=en>.

85. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds of members in the proposed Class. For example, 12,000 Meta Eagle Club NFTs were minted by the Defendants. Upon information and belief, Meta Eagle Club NFTs were purchased by hundreds of individuals located geographically throughout the United States and the world. Joinder would be highly impracticable.

86. Plaintiff's claims are typical of those of the Class because Plaintiff purchased Meta Eagle Club NFTs, and sustained damages from Defendants' wrongful conduct complained of herein.

87. Plaintiff will fairly and adequately protect the interests of the Class and has retained counsel who are competent and experienced in complex class action litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

88. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- a) Whether the Class and the Defendants entered into a contract for the Meta Eagle Club;
- b) Whether Defendants breached the contract with the Class or breached the duty of good faith and fair dealing inherent in that contract;
- c) Whether Defendants were unjustly enriched or violated NY GBL 349;
- d) Whether Plaintiff and the Class have sustained damages as a result of the Defendants' conduct, and, if so, the proper measure of damages.

89. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Treatment as a class will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would require.

90. Class treatment will also permit the adjudication of claims by many Class members who could not afford individually to litigate claims such as those asserted in this Complaint. The cost to the court system of adjudication of such individualized litigation would be substantial. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications establishing incompatible standards of conduct for Defendants.

91. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action as a class action.

VI. CAUSES OF ACTION

COUNT I Breach of Contract Against all Defendants

92. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

93. This Count is asserted against all Defendants.

94. Under New York Law, the elements of a breach of contract are the existence of a valid contract, the plaintiff's performance in accordance with the contract, the defendant's breach of the contract, and damages resulting from the breach.

95. Under New York Law, the requirements for formation of an enforceable contract are at least two parties with legal capacity to contract, mutual assent to the terms of an agreement with reasonably certain terms, and consideration (i.e., payment)

96. An enforceable contract exists between Plaintiff and the Class, on the one hand, and the Defendants, on the other hand, in that they agreed on a contract for membership in the Meta Eagle Club and for Defendants to provide promised benefits to members of the Meta Eagle Club in exchange for members purchasing Meta Eagle Club NFTs.

97. Plaintiff and the Class and Defendants had capacity to enter into the contract.

98. By structuring the Meta Eagle Club as an exclusive club, requiring purchase of a Meta Eagle Club NFT to join that club, and promising specific benefits and perks for membership in that club, the Defendants offered potential buyers a contract to join the Meta Eagle Club.

99. Plaintiff and the Class accepted the contract by purchasing Meta Eagle Club NFTs.

100. Consideration was paid by Plaintiff and the Class to the Defendants through the purchase of Meta Eagle Club NFTs. If Meta Eagle Club NFTs were purchased in the Mint, almost the entirety of the purchase price was paid to the Defendants. If they were purchased on the secondary market after the Mint, then the Defendants received 10% of the purchase price.

101. Plaintiff, the Class, and the Defendants mutually agreed to the terms of the contract – in exchange for the Plaintiff and the Class purchasing the Meta Eagle Club NFTs, the Defendants would provide the promised specific benefits of the Meta Eagle Club to Meta Eagle Club members, as set forth in the Roadmap.

102. Plaintiff and the Class performed under the Contract by purchasing the Meta Eagle Club NFTs to obtain membership in the Meta Eagle Club.

103. The Defendants materially breached the contract. Among other things, the Defendants abandoned the Meta Eagle Club, failed to develop the Meta Eagle Club, and failed to provide the promised benefits of the Meta Eagle Club, despite raising over \$13 million dollars through the Mint, and an additional 10% of every secondary purchase.

104. The Defendants' breach of the contract caused damages to Plaintiff and the Class. Meta Eagle Club NFTs are now worthless.

105. As a result of the Defendants actions, Plaintiff and the Class have suffered damages in an amount to be proven at trial.

COUNT II
Breach of the Implied Duty of Good Faith and Fair Dealing
In the Alternative, Against all Defendants

106. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

107. This Count is asserted against all Defendants in the alternative to Count I.

108. Under New York Law, the elements of a claim for breach of the implied duty of good faith and fair dealing are defendant must owe plaintiff a duty to act in good faith and conduct fair dealing, defendant must breach that duty, and the breach of duty must proximately cause plaintiff's damages.

109. The Defendants owed Plaintiff and the Class a duty to act in good faith and conduct fair dealing. Such a duty is implicit in every contract, and the Defendants and Plaintiff and the Class entered into a contract for the Meta Eagle Club.

110. The Defendants breached their duty of good faith and fair dealing. The Defendants' conduct destroyed or injured Plaintiff's and the Class's right to receive the contract's benefits.

Among other things, the Defendants failed to provide Plaintiff and the Class with the promised benefits of Meta Eagle Club membership, and in fact stopped operating the Meta Eagle Club.

111. Defendants' actions were in bad faith. Defendants promoted the Meta Eagle Club and solicited individuals to purchase Meta Eagle Club NFTs based on the promised membership in the Meta Eagle Club and the benefits of club membership that would be given to those who purchased Meta Eagle Club NFTs. Defendants knew that these benefits were a reason that Plaintiff and the Class purchased the Meta Eagle Club NFTs, and that these benefits were a driving force behind the price of the Meta Eagle Club NFTs.

112. The Defendants' actions caused damages to Plaintiff and the Class. Meta Eagle Club NFTs are now worthless.

113. As a result of the Defendants actions, Plaintiff and the Class have suffered damages in an amount to be proven at trial.

COUNT III
Violations of New York GBL § 349
In the Alternative, Against All Defendants

114. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

115. This count is asserted against all Defendants in the alternative to Counts I and II.

116. New York Gen. Bus. Law § 349 declares unlawful “[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service[.]”

117. Under New York Law, the elements of a claim for a violation of Gen. Bus. Law § 349 are (1) the challenged transaction was consumer-oriented; (2) defendant engaged in deceptive or materially misleading acts or practices; and (3) plaintiff was injured by reason of defendant's deceptive or misleading conduct.

118. As alleged herein, while engaging in consumer-oriented trade or commerce within the State of New York during the time period relevant hereto, Defendants engaged in acts and practices that constitute acts, uses, or employment of deception, unconscionable and unfair commercial practices, false pretenses, false promises, misrepresentations, or the knowing concealment, suppression, or omission of material facts with the intent that others rely upon such concealment, suppression, or omission, in connection with the sale or advertisement of merchandise, and with the subsequent performance in violation of GBL § 349, making deceptive and unfair acts and practices illegal.

119. Defendants conduct was consumer oriented. Defendants sold Meta Eagle Club NFTs, which were marketed as and required for membership in the Meta Eagle Club.

120. The Defendants' deceptive acts and practices took place within the State of New York. The Meta Eagle Club and Meta Eagle Club NFTs were marketed by all defendants individually and through Defendants Eden Fine Art and Cetra Art, both of which have their principal place of business in New York, NY. Further, transactions to purchase Meta Eagle Club NFTs were completed on OpenSea, a NFT marketplace located in New York, NY, and Eden Gallery runs its operations out of New York.

121. Defendants engaged in deceptive or materially misleading acts and practices. Defendants made numerous deceptive statements when marketing the Meta Eagle Club, including statements and promises of long term viability, concrete plans, and development of the Meta Eagle Club, and the value and benefits of Meta Eagle Club membership, when in fact the Defendants had no intention of developing the club or continuing to provide the promised benefits of club membership.

122. For example, in order to entice Plaintiff and the Class to purchase Meta Eagle Club NFTs, Defendants made several statements that outlined the vision and goals for their project. For example, on December 23, 2021, the Defendants, through Kiseliiov, informed consumers that they were creating a “long term never before seen quality art and ecosystem. Helicopter flights. Hot Air Balloon First Class/Business plane tickets to exclusive events....They are all part of the road map.” *See* ¶ 42. On January 31, 2022, Defendants published the Roadmap on the Meta Eagle Club website, which contained the Defendants’ promised benefits of Meta Eagle Club membership. *See* ¶ 47.

123. These statements were deceptive. Prior to the Mint, Defendants had no concrete plans for sustainably generating revenue for an online community. For example, the Defendants raised over \$13 million dollars, but provided only a handful of benefits to a handful of members.

124. It was also deceptive for Defendants to continuously tout the benefits of holding Meta Eagle Club NFTs and then only extend benefits a few times. For example, as evidenced by the January 12, 2023 statements, Defendants held only two events, both in March 2022, and provided Meta Eagle Club members with only a handful of benefits. Notably, Defendants stopped providing Meta Eagle Club members with the promised artwork benefits of membership, but continued to develop artwork for their own use and sale.

125. Through the Meta Eagle Club website, Defendants continue to advertise benefits of Meta Eagle Club membership and offer Meta Eagle Club NFTs, i.e. membership, for sale, but no Meta Eagle Club event has been held since March 2022.

126. Defendants’ statements concerning the development of a custom Meta Eagle Club metaverse that would be exclusive for the community were also deceptive.

127. For example, Defendants June 30, 2022 and July 17, 2022 statements (*see* ¶¶ 68, 70) evidence that the plans to develop the Galyverse and/or the Meta Eagle Club metaverse were not considered until after the sale of the Meta Eagle Club NFTs.

128. Further, the June 30, 2022 and July 17, 2022 statements evidence the Defendants were never creating a custom metaverse. It would be impossible for the Defendants to have or have purchased land in the Sandbox metaverse (which they said on December 23, 2021 and February 22, 2022), or for the project to “before schedule” (which was said on March 3, 2022) when, in fact, in June and July 2022 Defendants were still negotiating to buy metaverse space or pivoting to develop their own metaverse.

129. At the time of the Mint, Defendant Yosef was primarily a “digital artist” with no first-hand experience necessary for the development of the Galyverse or the Meta Eagle Club, and Defendants Eden Fine Art, Klimovsky, and Martinovsky were involved in the art industry.

130. Given their lack of professional experience in the development of software-based products and membership clubs, it is not plausible that Defendants made their statements with the degree of knowledge required to ensure their accuracy. Defendants either knowingly made deceptive statements or recklessly disregarded their truth.

131. In response to questions about the status of the project, Defendants repeatedly refuted doubts but offered no explanation or additional details about the plan or execution of their promises.

132. For example, in his closing remarks at an AMA hosted on March 2, 2022, Defendant Yosef made comments to assuage holders of concerns about the long-term value of the Meta Eagle Club NFTs. *See* ¶ 61. However, these statements only asked the community to trust him and did not provide any substantive details on long-term plans.

133. Defendants continued to avoid direct questions related to the status of their promises up to the eventual cessation of all communications and abandonment of the project.

134. The Defendants were motivated to make false statements to inflate the price of Meta Eagle Club NFTs in order to raise capital for themselves and to profit off the embedded royalty mechanism where they received a 10% royalty on each resale of the Meta Eagle Club NFTs on secondary markets. For example, Defendant Yosef tweeted or retweeted statements announcing the high-value sales prices of Meta Eagle Club NFTs, and made statements to assuage Meta Eagle Club NFT holders of the value of their club memberships.

135. A reasonable consumer would have relied on the Defendants' statements. Defendants' were the only ones with information about the Meta Eagle Club and Meta Eagle Club NFTs. Consumers did not know, and could not have known, that Defendants did not have the ability and/or intention of developing the Meta Eagle Club.

136. If consumers had known the truth concerning the Defendants' deceptive statements consumers would not have purchased the Meta Eagle Club NFTs.

137. The Defendants' actions caused damages to Plaintiff and the Class. Meta Eagle Club NFTs are now worthless.

138. Plaintiff and the Class are entitled to pursue claims against Defendants for damages, statutory damages, treble damages, exemplary damages, injunctive relief, costs and attorneys' fees pursuant to GBL § 349(h) to redress Defendants' violations of GBL § 349(a).

139. As a result of the Defendants' actions, Plaintiff and the Class have suffered damages in an amount to be proven at trial.

COUNT IV
Unjust Enrichment
In the Alternative, Against All Defendants

140. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

141. This count is asserted against all Defendants in the alternative to Counts I, II, and III.

142. Under New York Law, the elements of a claim for unjust enrichment are that the defendant was enriched, the enrichment was at the plaintiff's expense, and it is against equity and good conscious to permit the defendant to retain the benefit.

143. Through the conduct described herein, Defendants received and retained tangible benefits at the expense of the Plaintiff and the Class, including money and assets that Defendants received from their issuance, promotion, sale, and/or solicitation of sale of Meta Eagle Club NFTs and Meta Eagle Club membership to Plaintiff and the Class.

144. Under the principles of justice, equity, and good conscience, Defendants should not be permitted to retain the revenue they acquired through their unlawful conduct, *i.e.*, their breaches of contract, breach of the duty of good faith and fair dealing, or deceptive acts and practices in connection with the offer and sale of Meta Eagle Club NFTs. Defendants created a club, marketing membership with access to exclusive benefits, then abandoned the club after holding two events, pocketing more than \$13 million of Plaintiff's and the Class's money.

145. All money, assets, and benefits Defendants have unjustly received because of their actions rightfully belong to the Plaintiff and the Class.

146. To remedy Defendants' unjust enrichment, the Court should order Defendants to immediately return Plaintiff's and the Class's investments and disgorge any amounts received by the Defendants as a result of their misconduct alleged herein, in an amount to be proven at trial.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment as follows:

- A. Awarding Plaintiff and the Class damages in an amount that may be proven at trial, together with interest thereon;
- B. Awarding Plaintiff and the Class pre-judgment and post-judgment interest, as well as their reasonable attorneys' and experts' witness fees and other costs; and
- C. Awarding such other relief, such as treble damages pursuant to GBL § 349(h), as this Court deems appropriate.

VIII. JURY DEMAND

Plaintiff requests a trial by jury of all claims that can be so tried.

Dated: February 7, 2025
New York, NY

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