

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

_____, Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

v.

RIOT BLOCKCHAIN, INC., JOHN R.
O’ROURKE III, and JEFFREY G.
McGONEGAL,

Defendants.

Case No.

**COMPLAINT FOR VIOLATION OF
THE FEDERAL SECURITIES LAWS**

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

Plaintiff _____ (“Plaintiff”), individually and on behalf of all other persons similarly situated, by his undersigned attorneys, for his complaint against Defendants, alleges the following based upon personal knowledge as to himself and his own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through his attorneys, which included, among other things, a review of the Defendants’ public documents, conference calls and announcements made by Defendants, United States Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding Riot Blockchain, Inc. (“Riot” or the “Company”), analysts’ reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a federal securities class action on behalf of a class consisting of all persons other than Defendants who purchased or otherwise acquired Riot securities between

October 4, 2017 and February 15, 2018, both dates inclusive (the “Class Period”), seeking to recover damages caused by Defendants’ violations of the federal securities laws and to pursue remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder, against the Company and certain of its top officials.

2. Riot purports to be in the business of building and supporting various blockchain technologies, with its primary investments in Bitcoin and Ethereum blockchains.

3. Founded in 2000, the Company was formerly known as Bioptix, Inc. and changed its name to Riot Blockchain, Inc. in October 2017. Riot is headquartered in Castle Rock, Colorado. Riot’s common shares trade on the NASDAQ under the ticker symbol “RIOT”.

4. Throughout the Class Period, defendants made materially false and misleading statements regarding the Company’s business, operational and compliance policies. Specifically, defendants made false and/or misleading statements and/or failed to disclose that: (i) Riot had no meaningful experience in the cryptocurrency business and only minimal investments in cryptocurrency products; (ii) the Company changed its name to Riot Blockchain, Inc. as part of a scheme to capitalize on public interest in cryptocurrency products, thereby driving up the Company’s stock price and enriching inside shareholders; and (iii) as a result of the foregoing, Riot’s public statements were materially false and misleading at all relevant times.

5. On February 16, 2018, CNBC published a report based on an investigation of Riot. The CNBC report noted that Riot's “stock shot from \$8 a share to more than \$40, as investors wanted to cash in on the craze of all things crypto”, but that Riot did not appear to have meaningful involvement in the cryptocurrency business: “Until October, its name was Bioptix, and it was known for having a veterinary products patent and developing new ways to test for

disease.” In addition, CNBC reported numerous “red flags” in Riot's SEC filings: “annual meetings that are postponed at the last minute, insider selling soon after the name change, dilutive issuances on favorable terms to large investors, SEC filings that are often Byzantine and, just this week, evidence that a major shareholder was getting out while everyone else was getting in.”

6. Following publication of the CNBC report, Riot's share price has fallen sharply during intraday trading on February 16, 2018, damaging investors.

7. As a result of Defendants’ wrongful acts and omissions, and the precipitous decline in the market value of the Company’s securities, Plaintiff and other Class members have suffered significant losses and damages.

JURISDICTION AND VENUE

8. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the Exchange Act (15 U.S.C. §§78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. §240.10b-5).

9. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and Section 27 of the Exchange Act.

10. Venue is proper in this Judicial District pursuant to §27 of the Exchange Act (15 U.S.C. §78aa) and 28 U.S.C. §1391(b). Riot’s principal executive offices are located within this Judicial District.

11. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mail, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

12. Plaintiff, as set forth in the attached Certification, acquired Riot, Inc. securities at artificially inflated prices during the Class Period and was damaged upon the revelation of the alleged corrective disclosures.

13. Defendant Riot, Inc. is incorporated in Colorado, and the Company's principal executive offices are located at 834-F South Perry Street, Suite 443, Castle Rock, Colorado.

14. Defendant Jeffrey G. McGonegal ("McGonegal") has served at all relevant times as the Company's Chief Executive Officer ("CEO").

15. Defendant John R. O'Rourke III has served at all relevant times as the Company's Chief Financial Officer ("CFO").

16. The Defendants referenced above in ¶¶ __ are sometimes referred to herein collectively as the "Individual Defendants."

17. The Company and the Individual Defendants are sometimes referred to herein as the "Defendants."

SUBSTANTIVE ALLEGATIONS

Background

18. Riot purports to be in the business of building and supporting various blockchain technologies, with its primary investments in Bitcoin and Ethereum blockchains.

19. Founded in 2000, the Company was formerly known as Bioptix, Inc. and changed its name to Riot Blockchain, Inc. in October 2017. Riot is headquartered in Castle Rock, Colorado. Riot's common shares trade on the NASDAQ under the ticker symbol "RIOT".

Materially False and Misleading Statements Issued During the Class Period

20. The statements referenced in ¶¶ __-__ were materially false and misleading because defendants made false and/or misleading statements, as well as failed to disclose

material adverse facts about the Company's business, operational and compliance policies. Specifically, defendants made false and/or misleading statements and/or failed to disclose that: (i) Riot had no meaningful experience in the cryptocurrency business and only minimal investments in cryptocurrency products; (ii) the Company changed its name to Riot Blockchain, Inc. as part of a scheme to capitalize on public interest in cryptocurrency products, thereby driving up the Company's stock price and enriching inside shareholders; and (iii) as a result of the foregoing, Riot's public statements were materially false and misleading at all relevant times.

The Truth Emerges

21. On February 16, 2018, CNBC published a report based on an investigation of Riot. The CNBC report noted that Riot's "stock shot from \$8 a share to more than \$40, as investors wanted to cash in on the craze of all things crypto", but that Riot did not appear to have meaningful involvement in the cryptocurrency business: "Until October, its name was Bioptix, and it was known for having a veterinary products patent and developing new ways to test for disease." In addition, CNBC reported numerous "red flags" in Riot's SEC filings: "annual meetings that are postponed at the last minute, insider selling soon after the name change, dilutive issuances on favorable terms to large investors, SEC filings that are often Byzantine and, just this week, evidence that a major shareholder was getting out while everyone else was getting in."

22. Following publication of the CNBC report, Riot's share price has fallen sharply during intraday trading on February 16, 2018, damaging investors..

23. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

PLAINTIFF'S CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired Riot, Inc. securities during the Class Period (the "Class"); and were damaged upon the revelation of the alleged corrective disclosures. Excluded from the Class are Defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

25. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Riot, Inc. securities were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Riot, Inc. or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

26. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

27. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

28. 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:

- whether the federal securities laws were violated by Defendants' acts as alleged herein;
- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Riot Corporation;
- whether the Individual Defendants caused Riot, Inc. to issue false and misleading financial statements during the Class Period;
- whether Defendants acted knowingly or recklessly in issuing false and misleading financial statements;
- whether the prices of Riot, Inc. securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

29. 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. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

30. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- Defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- the omissions and misrepresentations were material;

- Riot, Inc. securities are traded in an efficient market;
- the Company's shares were liquid and traded with moderate to heavy volume during the Class Period;
- the Company traded on the NASDAQ and was covered by multiple analysts;
- the misrepresentations and omissions alleged would tend to induce a reasonable investor to misjudge the value of the Company's securities; and
- Plaintiff and members of the Class purchased, acquired and/or sold Riot, Inc. securities between the time the Defendants failed to disclose or misrepresented material facts and the time the true facts were disclosed, without knowledge of the omitted or misrepresented facts.

31. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

32. Alternatively, Plaintiff and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information, as detailed above.

COUNT I

(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against All Defendants)

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

34. This Count is asserted against Defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

35. During the Class Period, Defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions,

practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Riot, Inc. securities; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire Riot, Inc. securities and options at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

36. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the Defendants participated directly or indirectly in the preparation and/or issuance of the quarterly and annual reports, SEC filings, press releases and other statements and documents described above, including statements made to securities analysts and the media that were designed to influence the market for Riot, Inc. securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about Riot Corporation's finances and business prospects.

37. By virtue of their positions at Riot, Inc., Defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made,

although such facts were readily available to Defendants. Said acts and omissions of Defendants were committed willfully or with reckless disregard for the truth. In addition, each Defendant knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

38. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within Defendants' knowledge and control. As the senior managers and/or directors of Riot Corporation, the Individual Defendants had knowledge of the details of Riot Corporation' internal affairs.

39. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of Riot Corporation. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to Riot Corporation' businesses, operations, future financial condition and future prospects. As a result of the dissemination of the aforementioned false and misleading reports, releases and public statements, the market price of Riot, Inc. securities was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning Riot Corporation' business and financial condition which were concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise acquired Riot, Inc. securities at artificially inflated prices and relied upon the price of the securities, the integrity of the market for the securities and/or upon statements disseminated by Defendants, and were damaged thereby.

40. During the Class Period, Riot, Inc. securities were traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false and

misleading statements described herein, which the Defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of Riot, Inc. securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said securities, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of Riot, Inc. securities was substantially lower than the prices paid by Plaintiff and the other members of the Class. The market price of Riot, Inc. securities declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

41. By reason of the conduct alleged herein, Defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

42. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's securities during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

COUNT II

(Violations of Section 20(a) of the Exchange Act Against The Individual Defendants)

43. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

44. During the Class Period, the Individual Defendants participated in the operation and management of Riot Corporation, and conducted and participated, directly and indirectly, in the conduct of Riot Corporation' business affairs. Because of their senior positions, they knew the adverse non-public information about Riot Corporation' misstatement of income and expenses and false financial statements.

45. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Riot Corporation' financial condition and results of operations, and to correct promptly any public statements issued by Riot, Inc. which had become materially false or misleading.

46. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which Riot, Inc. disseminated in the marketplace during the Class Period concerning Riot Corporation' results of operations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause Riot, Inc. to engage in the wrongful acts complained of herein. The Individual Defendants therefore, were "controlling persons" of Riot, Inc. within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of Riot, Inc. securities.

47. Each of the Individual Defendants, therefore, acted as a controlling person of Riot Corporation. By reason of their senior management positions and/or being directors of Riot Corporation, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause, Riot, Inc. to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of Riot,

Inc. and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

48. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by Riot Corporation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;

B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;

C. Awarding Plaintiff and the other members of the Class prejudgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and

D. Awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury.

Dated: February __, 2018