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8 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 LORNE TRITT, BRUCE JOHNSON, and
JOSEPH FISHMAN, *on behalf of themselves*
11 *and all others similarly situated,*

12 Plaintiffs,

13 v.

14 3Commas Technologies OÜ,

15 Defendant.
16
17

Case No.: _____

**CLASS ACTION COMPLAINT
DEMAND FOR JURY TRIAL**

18 Plaintiffs Lorne Tritt, Bruce Johnson, and Joseph Fishman (collectively, “Plaintiffs”), on
19 behalf of themselves and all others similarly situated, bring this class action against Defendant
20 3Commas Technologies OÜ (“3Commas” or “Defendant”), based on their personal knowledge and
21 the investigation of counsel, alleging as follows:

22 **I. INTRODUCTION**

23
24 1. This is a class action brought by Plaintiffs on behalf of themselves and the thousands
25 of similarly situated persons whose cryptocurrency account trading credentials were acquired
26 and/or accessed by unauthorized persons in a data breach (or data breaches) that 3Commas admitted
27 on December 28, 2022 (the “Data Breach”).
28

1 2. Cryptocurrencies, such as Bitcoin, can be traded on centralized exchanges.
2 Exchange account holders can make trades directly within their exchange account (such as on
3 Coinbase or Binance) or set up an automated trading “bot” to send trade requests to their exchange
4 account for execution on the exchange. A trader can instruct the trading bot in advance to execute
5 a trading strategy where cryptocurrencies are bought/sold when certain conditions are met. The
6 bot receives price information from exchanges about the prices of cryptocurrencies on that
7 exchange. Then, based on triggers or signals in the trading prices of cryptocurrencies, the bot
8 executes commands to buy and/or sell cryptocurrencies in the user’s exchange account.

9 3. 3Commas claims to be the largest crypto trading bot platform, having achieved \$225
10 billion in trading volume in 2021 and now over 220,000 monthly users.¹ Further, it boasts that
11 “each month over 70% of 3Commas users get profit from closing the deals through the platform.”²

12 4. 3Commas assures users that its advanced trading bots are secure: “3Commas only
13 interacts with exchanges using API keys. Your funds are secure because we do not have your
14 credentials and cannot initiate withdrawals.” The 3Commas website adds: “Our . . . bots are proven
15 performers that execute your trading strategy at scale. The market never sleeps, and neither do our
16 bots.”³

17 5. 3Commas charges consumers fees to use its automated trading platform. 3Commas
18 charges \$29 per month for the “Starter” subscription plan, \$49 per month for the “Advanced”
19 subscription plan, and \$99 per month for the “Pro” plan.⁴

20 6. 3Commas claims to integrate with most any exchange – including Coinbase’s
21 exchange in the United States. Around November 2022, 3Commas reported it has a “customer
22 base of over 100,000 active traders.”⁵

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24 ¹ <https://3commas.io/about>; <https://3commas.io/blog/best-crypto-trading-tools>

25 ² <https://www.businesswire.com/news/home/20220922005579/en/CORRECTING-and-REPLACING-Largest-Crypto-Trading-Bot-and-Investment-Platform-3Commas-Raises-37M-in-Series-B-Funding-Round>; see https://twitter.com/3commas_io (The 3Commas Twitter account describes the company as the “Largest #crypto trading platform providing traders with ultimate control over their positions on crypto exchanges.”)

26 ³ <https://3commas.io/> (last accessed January 26, 2023)

27 ⁴ <https://3commas.io/pricing>

28 ⁵ <https://3commas.io/blog/october-19-phishing-attack-post-mortem>

1 **II. THE PARTIES**

2 **A. Plaintiffs**

3 3. Plaintiff Lorne Tritt (“Mr. Tritt”) is a citizen of the state of Georgia.

4 4. Plaintiff Bruce Johnson (“Mr. Johnson”) is a citizen of the state of Florida.

5 5. Plaintiff Joseph Fishman (“Mr. Fishman”) is a citizen of the state of New Jersey.

6 6. Plaintiffs used accounts with 3Commas for trading on centralized exchange(s).

7 7. Plaintiffs bring this action on behalf of themselves and as a class action, pursuant to
8 Rule 23 of the Federal Rules of Civil Procedure, on behalf of all persons similarly situated and
9 proximately damaged by the unlawful conduct described herein.

10 **C. Defendant 3Commas**

11 8. Defendant 3Commas Technologies OÜ is an Estonian Private Limited Company. It
12 has an office in Estonia at Harju maakond, Tallinn, Kesklinna linnaosa, Laeva tn 2, 10111, and the
13 3Commas website reports there are over 270 employees worldwide. Upon information and belief,
14 3Commas has multiple employees in the United States, and at least one member of the 3Commas
15 Leadership Team, Jacob Schwartz (VP of Customer Experience) resides and works in the United
16 States.

17 **III. JURISDICTION AND VENUE**

18 9. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act,
19 28 U.S.C. § 1332(d)(2). The aggregate amount-in-controversy, exclusive of costs and interests,
20 exceeds the sum of \$5,000,000.00. This is a class action in which at least one member of the
21 proposed class is a citizen of a state different than Defendant.

22 10. This Court has personal jurisdiction over Defendant because Defendant routinely
23 conducts business in California and has sufficient minimum contacts in California to have
24 intentionally availed itself to this jurisdiction by marketing and selling the 3Commas platform in
25 California.

26 11. Further, Defendant’s data server(s) – where Defendant stores, processes, and
27 delivers data that customers input on its website – are provided by Cloudflare, Inc., which has its
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1 principal executive offices in San Francisco.⁶ Defendant also uses or has used Amazon Web
2 Services, Inc. (“AWS”), to store and safeguard sensitive user data.⁷ The Coinbase exchange, which
3 the 3Commas platform receives market information from and sends trade commands to, also uses
4 AWS services to operate its exchange.⁸ Upon information and belief, both Cloudflare and AWS
5 have data centers in this District.

6 12. Venue is proper in this District under 28 U.S.C. § 1391 because, *inter alia*: (a)
7 Defendant conducts substantial business in this District, (b) Defendant directed its services at
8 residents in this District, and (c) events that give rise to this action took place in this District.

9 **IV. FACTUAL ALLEGATIONS**

10 13. The 3Commas website markets its trading management platform as allowing “users
11 to deploy automated trading bots to execute non-stop cryptocurrency trading, minimize risks, and
12 shop the marketplace for bot presets.”⁹ To do that, 3Commas requires users to connect their
13 3Commas account to the user’s exchange account(s) via a secret API key.

14 14. 3Commas did not live up to its promises to protect users.

15 15. A hacker or hackers obtained thousands of sensitive API keys (and potentially other
16 personal information) for thousands of current or former users of 3Commas.

17 **A. 3Commas Integrates with Exchange Accounts Through API Keys**

18 16. 3Commas connects to a user’s account on a cryptocurrency exchange, such as the
19 user’s Coinbase Pro account or Binance account, by using an application programming interface
20 (“API”) key – credentials comprised of long strings of characters. Upon a user’s request, the user’s
21 exchange supplies API key credentials for directly interacting with the user’s account at the
22 exchange. Then, the user inputs the API key credentials in his or her 3Commas account.

23 17. When 3Commas sends requests for market information or requests for trades to the
24 user’s exchange account, the exchange uses the API key to authenticate those requests.

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⁶ <https://3commas.io/blog/fake-screenshot-cloudflare-logs>

27 ⁷ <https://3commas.io/blog/december-10-update-on-investigation-api-key-exchange-attacks>

28 ⁸ <https://aws.amazon.com/solutions/case-studies/coinbase/>

⁹ <https://3commas.io/about> (last accessed September 8, 2023)

1 18. After linking an exchange account to 3Commas, the user can trade, but 3Commas
2 promises it “will not have access to transfer or withdraw your assets. Each exchange connects with
3 encrypted API keys[.]”¹⁰

4 **B. 3Commas Promises to Protect Users and Belatedly Admits to the Data Breach**

5 19. The 3Commas Privacy Policy, dated September 14, 2022, promises:

6 We have taken necessary technical and organizational security measures to protect
7 your personal data against accidental or unlawful destruction, loss or alteration and
8 against the unauthorized disclosure, abuse or other processing in violation of
9 applicable law.¹¹

10 20. In a blog post, 3Commas’s co-founder represents: “Your funds are secure because
11 they can’t leave your exchange.3Commas secures user data with encrypted API keys and
12 enterprise-grade tools from security services provider Cloudflare, including: Web Application
13 Firewall[,] DDOS attack protection[,] SSL/TLS encryption between visitors and origin servers.”
14 He concluded by boasting: “5 years in the crypto industry without any serious data breaches. That’s
15 a testament to how seriously we take security at 3Commas. Every blockchain and cryptocurrency
16 service is a tempting target for malicious attacks, and 3Commas operates under the assumption that
17 someone is always trying to get access to our user’s information. We take every reasonable
18 precaution to block these attacks before they happen and ensure your accounts are safe.”¹²

19 21. Beginning around October 2022, 3Commas users began noticing that their holdings
20 had been depleted from their accounts on various cryptocurrency exchanges, including Binance,
21 Coinbase, and FTX. The losses occurred as a result of thousands of unauthorized trades where
22 obscure, low-liquidity coins were bought and quickly re-sold for a loss in the victim’s account. By
23 orchestrating both sides of those trades within a short period of time, a third-party can use the trades
24 to move value from the victim’s exchange account to his exchange account. Often the unauthorized
25 trades are executed at night when the account owner is unlikely to see the trades as they happen.

26
27 ¹⁰ <https://help.3commas.io/en/articles/3108971-connect-an-exchange-using-an-api-key>

28 ¹¹ <https://3commas.io/privacy-policy-before-23092022> (last accessed September 8, 2023)

¹² <https://3commas.io/blog/3commas-security> (dated March 8, 2022)

1 22. By November 2022, 3Commas had identified at least 48 of its customers whose
2 exchange account holdings had essentially been traded-away in unauthorized transactions.
3 3Commas insisted that “there have been no breaches of 3Commas’ account security and API
4 encryption systems,” criticizing signs of the Data Breach as “False Rumors” and emphasizing
5 “3Commas traders are safe.”¹³

6 23. 3Commas continued to stridently deny a data breach, decrying claims its employees
7 stole API keys as “fake” claims made with “falsified evidence.”¹⁴

8 24. On or about December 28, 2022, an anonymous hacker claimed he had obtained
9 around 100,000 API keys belonging to 3Commas users and published over 10,000 of the API keys
10 as proof of the hack. The hacker vowed to publish the rest of the 100,000 API keys in the upcoming
11 days.¹⁵

12 25. At that point, 3Commas could no longer deny the Data Breach and was forced to
13 confront the leak. Yuriy Sorokin admitted in a Tweet on December 28, 2022 that “We saw the
14 hacker’s message and can confirm that the data in the files is true...”¹⁶

15 26. On December 29, 2022, 3Commas published a “Notice of API data disclosure
16 incident” that admitted to the Data Breach.¹⁷ The notice stated (in part):

17 On 28 December 2022 there was a post made on the Pastebin website, that has since
18 been taken down, from a supposed hacker claiming that they had got access to API
19 data stored in 3Commas’ database. 3Commas can confirm that 3Commas first
20 found out about the hacking and the hacker’s statement from the same Pastebin post
21 as the rest of the 3Commas community.

21 ¹³ RE: False Rumors of API Leaks or Exposure of our Database,
22 <https://3commas.io/blog/response-to-false-rumors-api-leaks> (dated Nov. 23, 2022). Earlier in
23 November, 3Commas similarly denied it had suffered any data breach, stating “There were no
24 breaches of the account security and API encryption systems of 3Commas or our partner
25 exchanges.” See <https://3commas.io/blog/october-19-phishing-attack-post-mortem> (originally
26 published on Nov. 1, 2022).

27 ¹⁴ See <https://3commas.io/blog/fake-screenshot-cloudflare-logs> (dated Dec. 11, 2022);
28 <https://3commas.io/blog/december-10-update-on-investigation-api-key-exchange-attacks> (dated
Dec. 11, 2022).

¹⁵ See <https://www.coindesk.com/tech/2022/12/28/anonymous-twitter-user-leaks-alleged-3commas-api-database/>;
<https://3commas.io/blog/notice-on-api-data-disclosure-incident> (dated
Dec. 29, 2022).

¹⁶ https://twitter.com/YS_3Commas/status/1608202390121111552

¹⁷ <https://3commas.io/blog/notice-on-api-data-disclosure-incident> (dated Dec. 29, 2022).

1 . . .

2 At this point, 3Commas can unfortunately confirm that some of 3Commas' users'
3 API data (API keys, secrets and passphrases) have been disclosed by a third party.
4 Currently and to the best of our knowledge only API data have been disclosed as
5 part of this incident. As a likely consequence the hacker(s) may use or may have
6 used the API data to connect your exchange accounts to his/their account and/or
7 initiate unauthorized trades.

8 . . .

9 3Commas acknowledges that in the Pastebin post the hacker alleged in a way that
10 some 3Commas' employee has sold to them the above-mentioned user data . . .

11 27. In a post published January 1, 2023 (and updated January 6, 2023), 3Commas
12 admitted: "we believe [the Data Breach] took place in October/November time frame."¹⁸

13 28. 3Commas failed to prevent, detect, and promptly disclose the Data Breach.

14 **C. Plaintiffs Suffered Harm**

15 29. Mr. Tritt linked his 3Commas account to his Coinbase account using an API key
16 stored in his 3Commas account. On October 30, 2022, numerous unauthorized trades occurred in
17 Mr. Tritt's Coinbase account. As a result of numerous unauthorized buys and sells of the same
18 cryptocurrencies within a very short period of time, Mr. Tritt's Coinbase account was depleted by
19 approximately \$2 million worth of cryptocurrency/funds.

20 30. Mr. Johnson linked his 3Commas account to his Coinbase account using an API key
21 stored in his 3Commas account. On November 7, 2022, numerous unauthorized trades occurred in
22 Mr. Johnson's Coinbase account. As a result of numerous unauthorized buys and sells of the same
23 cryptocurrencies within a very short period of time, Mr. Johnson's Coinbase account was depleted
24 by approximately \$400,000 worth of cryptocurrency/funds.

25 31. Mr. Fishman linked his 3Commas account to his Coinbase account using an API
26 key stored in his 3Commas account. On November 7, 2022, numerous unauthorized trades
27 occurred in Mr. Fishman's Coinbase account. As a result of numerous unauthorized buys and sells
28 of the same cryptocurrencies within a very short period of time, Mr. Fishman's Coinbase account
was depleted by approximately \$287,363 worth of cryptocurrency/funds.

¹⁸ <https://3commas.io/blog/api-security-incident-faq>

1 32. Plaintiffs also suffered other damages, including but not limited to loss of privacy,
2 lost time from effort expended to secure accounts after discovering unauthorized transactions, and
3 lost opportunities to trade in their cryptocurrency exchange accounts.

4 **V. CLASS ACTION ALLEGATIONS**

5 33. Plaintiffs bring this action pursuant to the provisions of Rules 23(a), (b)(2), and
6 (b)(3) of the Federal Rules of Civil Procedure, on behalf of themselves and the following class
7 (collectively, the “Class”):

8 All persons residing in the United States whose personal information and/or API
9 keys were exfiltrated as a result of a breach of 3Commas’ information system(s).

10 34. The following individuals and entities are excluded from the proposed Class:
11 Defendant and Defendant’s parents, subsidiaries, affiliates, officers and directors, and any entity in
12 which Defendant has a controlling interest; all individuals who make a timely election to be
13 excluded from this proceeding using the correct protocol for opting out; any and all federal, state
14 or local governments, including but not limited to its departments, agencies, divisions, bureaus,
15 boards, sections, groups, counsels and/or subdivisions; and all judges assigned to hear any aspect
16 of this litigation, as well as their immediate family members.

17 35. The proposed Class meets the requirements of Fed. R. Civ. P. 23(a), (b)(1), (b)(2),
18 (b)(3), and (c)(4).

19 36. **Numerosity:** The proposed Class is believed to be so numerous that joinder of all
20 members is impracticable. Upon information and belief, the total number of Class members is in
21 the thousands of individuals, if not more. Membership in the Class will be determined by analysis
22 of Defendant’s records.

23 37. **Typicality:** Plaintiffs’ claims are typical of the claims of the Class. Plaintiffs and
24 all members of the Class were injured through Defendant’s uniform misconduct. The same event
25 and conduct that gave rise to Plaintiffs’ claims are identical to those that give rise to the claims of
26 every other Class member because Plaintiffs and each member of the Class had their personal
27 information, API data, and/or other sensitive information compromised in the same way by the
28 same conduct of Defendant.

1 38. **Adequacy:** Plaintiffs are adequate representative of the Class because their interests
2 do not conflict with the interests of the Class that each seeks to represent; Plaintiffs have retained
3 counsel competent and highly experienced in data breach class action litigation; and Plaintiffs and
4 Plaintiffs' counsel intend to prosecute this action vigorously. The interests of the Class will be fairly
5 and adequately protected by Plaintiffs and their counsel.

6 39. **Superiority:** A class action is superior to other available means of fair and efficient
7 adjudication of the claims of Plaintiffs and the Class. The injury suffered by each individual Class
8 member is relatively small in comparison to the burden and expense of individual prosecution of
9 complex and expensive litigation. It would be very difficult, if not impossible, for members of the
10 Class individually to effectively redress Defendant's wrongdoing. Even if Class members could
11 afford such individual litigation, the court system could not. Individualized litigation presents a
12 potential for inconsistent or contradictory judgments. Individualized litigation increases the delay
13 and expense to all parties, and to the court system, presented by the complex legal and factual issues
14 of the case. By contrast, the class action device presents far fewer management difficulties and
15 provides benefits of single adjudication, economy of scale, and comprehensive supervision by a
16 single court.

17 40. **Commonality and Predominance:** There are many questions of law and fact
18 common to the claims of Plaintiffs and the other members of the Class, and those questions
19 predominate over any questions that may affect individual members of the Class. Common
20 questions for the Class include:

- 21 a. Whether Defendant engaged in the wrongful conduct alleged herein;
- 22 b. Whether Defendant failed to adequately safeguard Plaintiffs and Class
23 members' personal information and API data;
- 24 c. Whether Defendant owed a duty to Plaintiffs and the Class to adequately
25 protect their personal information and API data, and whether they breached this
26 duty;
- 27 d. Whether Defendant's systems, networks, and data security practices used to
28 protect Plaintiff's and Class members' sensitive information violated the FTC Act,

1 and/or Defendant's other duties discussed herein;

2 e. Whether Defendant knew or should have known that their computer and
3 network security systems were vulnerable to a data breach;

4 f. Whether Defendant's conduct, including their failure to act, resulted in or
5 was the proximate cause of the Data Breach;

6 g. Whether Defendant breached duties to Plaintiffs and the Class to use
7 reasonable care in protecting their PII;

8 h. Whether Defendant failed to adequately respond to the Data Breach,
9 including failing to investigate it diligently and notify affected individuals in the
10 most expedient time possible and without unreasonable delay, and whether this
11 caused damages to Plaintiffs and the Class;

12 i. Whether Defendant continues to breach duties to Plaintiffs and the Class;

13 j. Whether Plaintiffs and the Class suffered injury as a proximate result of
14 Defendant's negligent actions or failures to act;

15 k. Whether Plaintiffs and the Class are entitled to recover damages, equitable
16 relief, and other relief;

17 l. Whether injunctive relief is appropriate and, if so, what injunctive relief is
18 necessary to redress the imminent and currently ongoing harm faced by Plaintiffs,
19 Class members, and the public;

20 m. Whether Defendant's actions alleged herein constitute gross negligence; and

21 n. Whether Plaintiffs and Class members are entitled to punitive damages.

22 41. This class action is also appropriate for certification because Defendant has acted or
23 refused to act on grounds generally applicable to the Class, thereby requiring the Court's imposition
24 of uniform relief to ensure compatible standards of conduct toward the Class members and making
25 final injunctive relief appropriate with respect to the Class in their entirety. Defendant's policies
26 challenged herein apply to and affect Class members uniformly and Plaintiffs' challenge of these
27 policies hinges on Defendant's conduct with respect to the Class in their entirety, not on facts or
28 law applicable only to Plaintiffs.

1 42. Unless a Class-wide injunction is issued, Defendant may continue in its failure to
2 properly secure the sensitive personal and account information of Class Members, and Defendant
3 may continue to act unlawfully as set forth in this Complaint.

4 **VI. CLAIMS FOR RELIEF ON BEHALF OF PLAINTIFFS AND THE CLASS**

5 **FIRST CAUSE OF ACTION**

6 **Negligence**

7 43. Plaintiffs incorporate by reference paragraphs 1 to 42 above.

8 44. Defendant owed Plaintiffs and the Class members a duty of care, *inter alia*, to act
9 with reasonable care to secure and safeguard the API data of Plaintiffs and Class Members and to
10 use commercially reasonable methods to do so. Defendant took on this obligation upon accepting
11 and storing the information provided by Plaintiffs and Class members.

12 45. Defendant breached its general duty of care to Plaintiffs and Class members in at
13 least the following ways:

- 14 a. failing to exercise reasonable care in obtaining, retaining, securing, and protecting API
15 keys in its possession;
- 16 b. failing to protect Plaintiffs' and Class members' API keys in its possession by using
17 reasonable and adequate security procedures and systems;
- 18 c. failing to exercise reasonable care in designing, implementing, maintaining, monitoring,
19 and testing Defendant's networks, systems, protocols, policies, procedures, and
20 practices to ensure that Plaintiffs' and Class members' API keys were adequately
21 secured from impermissible access, viewing, release, disclosure, and publication;
- 22 d. failing to consistently enforce security policies aimed at protecting Plaintiffs' and the
23 Class members' API keys;
- 24 e. failing to implement processes to quickly detect a data breach, security incident, or
25 intrusion; and
- 26 f. failing to promptly notify Plaintiffs and Class members of any data breach, security
27 incident, or intrusion that affected or may have affected their API keys or other personal
28 information.

1 46. There is a close causal connection between Defendant's failure to implement
2 security measures to protect the API data of Plaintiffs and the Class, on the one hand, and the harm
3 suffered by Plaintiffs and the Class, on the other hand. Plaintiffs' and Class members' API key
4 data was accessed as the proximate result of Defendant's failure to exercise reasonable care in
5 safeguarding such information by adopting, implementing, and maintaining appropriate security
6 measures.

7 47. In addition to its duties under common law, Defendant had additional duties
8 imposed by statute and regulations, including duties under the FTC Act. Pursuant to the FTC Act,
9 15 U.S.C. § 45(a), Defendant owed a duty to Plaintiffs and Class members to provide fair and
10 adequate computer systems and data security to safeguard the API keys of Plaintiffs and Class
11 members.

12 48. Plaintiffs and Class members are within the class of persons that the FTC Act was
13 intended to protect. The harm that occurred because of the Data Breach is the type of harm the
14 FTC Act was intended to guard against.

15 49. Defendant violated the FTC Act by failing to use reasonable measures to protect the
16 API keys of Plaintiffs and Class members and by not complying with applicable industry standards,
17 as described herein.

18 50. Defendant breached its duties to Plaintiffs and Class members under the FTC Act
19 by failing to provide fair, reasonable, or adequate computer systems and/or data security practices
20 to safeguard Plaintiffs' and Class members' API keys and exchange accounts.

21 51. Defendant's failure to comply with applicable laws and regulations constitutes
22 negligence *per se*.

23 52. As a result of Defendant's negligence and negligence *per se*, Plaintiffs and Class
24 members have suffered injury, as alleged herein, including but not limited to (a) the compromise,
25 publication, and/or theft of their API keys; (b) out-of-pocket expenses associated with the
26 prevention, detection, and recovery from unauthorized transaction in their account and re-securing
27 their accounts; (c) lost opportunity costs associated with the effort expended and the loss of
28 productivity and trading capabilities while having to address the actual and future consequences of

1 the Data Breach; and (d) the diminished value of Defendant’s services Plaintiffs and other members
2 of the proposed class paid for and received.

3 **SECOND CAUSE OF ACTION**

4 **Fraud**

5 53. Plaintiffs incorporate by reference paragraphs 1 to 42 above.

6 54. 3Commas deceived its customers by misrepresenting the security of customer data
7 and withholding information.

8 55. 3Commas knowingly or recklessly deceived its users by denying a data breach of
9 its systems compromised customer API keys, insisting that “there have been no breaches of
10 3Commas’ account security and API encryption systems.”

11 56. 3Commas’s representations about its security and the Data Breach were false when
12 made.

13 57. 3Commas knew its representations about its security and the Data Breach were false
14 when it made them, or it made those representations recklessly and without regard for their truth.

15 58. After the Data Breach, 3Commas knew or should have known that customer data
16 had been compromised and customer accounts were vulnerable.

17 59. Plaintiffs reasonably relied on 3Commas’s representations about its security and
18 representations denying the Data Breach.

19 60. As a result of Plaintiffs’ and Class Members’ reliance on Defendant’s
20 misrepresentations, Plaintiffs and Class members have suffered injury, as alleged herein, including
21 but not limited to (a) the compromise, publication, and/or theft of their personal API keys; (b) out-
22 of-pocket expenses associated with the prevention, detection, and recovery from unauthorized
23 transaction in their account and re-securing their accounts; (c) lost opportunity costs associated
24 with the effort expended and the loss of productivity and trading capabilities while having to
25 address the actual and future consequences of the Data Breach; and (d) the diminished value of
26 Defendant’s services Plaintiffs and other members of the proposed class paid for and received.

THIRD CAUSE OF ACTION

Breach of Fiduciary Duties

1
2 61. Plaintiffs incorporate by reference paragraphs 1 to 42 above.

3
4 62. As a cryptocurrency trade management platform and custodian of API data for its
5 customers' accounts on exchanges, 3Commas has a fiduciary relationship with Plaintiffs and Class
6 Members, and it must exercise the fiduciary duties it therefore owes with the utmost good faith,
7 integrity, and in the best interest of Plaintiffs and Class Members.

8 63. As the custodian of their valuable assets, Plaintiffs and Class Members trusted
9 3Commas to ensure the protection, security, and success of trading in their exchange accounts.

10 64. As discussed herein, 3Commas represents that it will safeguard user data, including
11 API keys, and its bots will watch over accounts while users sleep.

12 65. 3Commas owed a fiduciary duty to timely notify Plaintiffs and Class Members of
13 any security threats, hacking, and technological issues that present risks to their accounts and
14 trading activity. Defendant breached its fiduciary duty owed to Plaintiffs and Class Members to
15 protect their accounts, their transactions relating to those accounts, and their funds and
16 cryptocurrency assets within those accounts.

17 66. Defendant breached its fiduciary duty to properly employ standard measures to
18 verify the identity of users, including Plaintiffs and Class Members, to reduce the risk of security
19 threats, hacking, and technological issues that led to Plaintiffs' and Class Members' loss of assets
20 and loss of access to their accounts.

21 67. As a result of Defendant's breaches, Plaintiffs and Class members have suffered
22 injury, as alleged herein, including but not limited to (a) the compromise, publication, and/or theft
23 of their personal API keys; (b) out-of-pocket expenses associated with the prevention, detection,
24 and recovery from unauthorized transaction in their account and re-securing their accounts; (c) lost
25 opportunity costs associated with the effort expended and the loss of productivity and trading
26 capabilities while having to address the actual and future consequences of the Data Breach; and (d)
27 the diminished value of Defendant's services Plaintiffs and other members of the proposed class
28 paid for and received.

FOURTH CAUSE OF ACTION
Breach of Contract and Implied Contract

1
2 68. Plaintiffs incorporate by reference paragraphs 1 to 42 above.

3 69. Defendant promised it would take “necessary technical and organizational security
4 measures to protect [Plaintiffs’ and Class members’] personal data.”

5 70. Further, when Plaintiffs and Class members provided their API keys and personal
6 information to Defendant in connection with cryptocurrency trading services, they entered into
7 express and implied contracts in which Defendant agreed to comply with its statutory and common
8 law duties to protect Plaintiffs’ and Class members’ API keys and personal information.

9 71. Defendant required Plaintiffs and Class members to provide API keys to receive
10 cryptocurrency trading services.

11 72. Defendant affirmatively represented that it collected and stored the API keys of
12 Plaintiffs and Class members in using reasonable, industry standard means.

13 73. Based on Defendant’s representations (as described above) and the implicit
14 understanding of the parties, Plaintiffs and Class members accepted Defendant’s offers and
15 provided Defendant with their API keys.

16 74. Plaintiffs and Class members would not have provided their API keys to Defendant
17 had they known that Defendant would not safeguard their API keys and exchange accounts, as
18 promised.

19 75. Plaintiffs and Class members fully performed their obligations under the contracts
20 with Defendant.

21 76. Defendant breached the contracts by failing to safeguard Plaintiffs’ and Class
22 members’ API keys.

23 77. Defendant also breached the contracts when it engaged in acts and/or omissions that
24 are declared unfair trade practices by the FTC and state statutes and regulations. These acts and
25 omissions included: (i) representing that it would maintain adequate data privacy and security
26 practices and procedures to safeguard the API keys from unauthorized disclosures, releases, data
27 breaches, and theft; (ii) omitting, suppressing, and concealing the material fact of the inadequacy
28

1 of the privacy and security protections of Defendant's information systems; and (iii) failing to
2 disclose to Plaintiffs and Class members at the time they provided their API keys that Defendant's
3 data security system and protocols failed to meet applicable legal and industry standards.

4 78. As a result of Defendant's breaches, Plaintiffs and Class members have suffered
5 injury, as alleged herein, including but not limited to (a) the compromise, publication, and/or theft
6 of their personal API keys; (b) out-of-pocket expenses associated with the prevention, detection,
7 and recovery from unauthorized transaction in their account and re-securing their accounts; (c) lost
8 opportunity costs associated with the effort expended and the loss of productivity and trading
9 capabilities while having to address the actual and future consequences of the Data Breach; and (d)
10 the diminished value of Defendant's services Plaintiffs and other members of the proposed class
11 paid for and received.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs and the Class pray for judgment against Defendant as follows:

14 A. An order certifying this action as a class action under Fed. R. Civ. P. 23, defining
15 the Class as requested herein, appointing the undersigned as Class Counsel, and finding that
16 Plaintiffs are proper representatives of the Class requested herein;

17 B. A judgment in favor of Plaintiffs and the Class awarding them appropriate monetary
18 relief, including actual and statutory damages, punitive damages, attorney fees, expenses, costs,
19 and such other and further relief as is just and proper;

20 C. A judgment in favor of Plaintiffs and the Class awarding them pre-judgment and
21 post-judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law;

22 D. An order providing injunctive and other equitable relief as necessary to protect the
23 interests of the Class and the public as requested herein, including, but not limited to:

- 24 i. Ordering that Defendant engage third-party security auditors/penetration testers as
25 well as internal security personnel to conduct testing, including simulated attacks,
26 penetration tests, and audits on Defendant's systems on a periodic basis, and
27 ordering Defendant to promptly correct any problems detected by such auditors;
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- ii. Ordering that Defendant engage third-party security auditors and internal personnel to run automated security monitoring; and
- iii. Ordering that Defendant segment consumer data by, among other things, creating firewalls and access controls so that if one area of Defendant’s systems is compromised, unauthorized parties cannot gain access to other portions of Defendant’s systems;
- E. An order requiring Defendant to pay the costs involved in notifying the Class members about the judgment and administering the claims process; and
- F. An award of such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury as to all issues so triable.

Dated: September 25, 2023

Respectfully submitted,

By: */s/ Azra Mehdi*
 AZRA MEHDI (SBN 220406)

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Counsel for Plaintiffs

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
LORNE TRITT, BRUCE JOHNSON, and JOSEPH FISHMAN
(b) County of Residence of First Listed Plaintiff Fulton County, Georgia
(c) Attorneys (Firm Name, Address, and Telephone Number)
Azra Mehdi, The Mehdi Firm, P.C., 95 Third Street
2nd Floor No. 9122, San Francisco, CA 94103 (415) 905-8880

DEFENDANTS
3Commas Technologies OÜ
County of Residence of First Listed Defendant Harju maakond, Estonia
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing.
28 U.S.C. § 1332(d)
Brief description of cause: Data Breach

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.
DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY
JUDGE Hon. Jon S. Tigar
DOCKET NUMBER 4:23-CV-00101

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
SAN FRANCISCO/OAKLAND
SAN JOSE
EUREKA-MCKINLEYVILLE

DATE 9/25/23
SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint. Class Action.** Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.