UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

COIN CENTER; PATRICK O'SULLIVAN; JOHN DOE; and DAVID HOFFMAN,
 	
                    Plaintiffs,
 	
             v.
 	
JANET YELLEN, in her official capacity as Secretary of the Treasury; DEPARTMENT OF THE TREASURY; ANDREA M. GACKI, in her official capacity as Director of the Office of Foreign Assets Control; and OFFICE OF FOREIGN ASSETS CONTROL,
 	
                    Defendants.
	Case No. _____

COMPLAINT

Plaintiffs file this complaint for declaratory and injunctive relief against Defendants and allege as follows.

NATURE OF THE ACTION

1.   On August 8, 2022, the Biden Administration criminalized the use of Tornado Cash, an open-source software tool that helps Americans maintain their privacy while using cryptocurrency and related assets. It justified this action based on its power to sanction foreign enemies, even though Tornado Cash is not controlled by

foreign enemies and Americans' use of the technology does not involve foreign enemies. The Administration's use of the foreign-affairs power to punish domestic cryptocurrency users was unprecedented and unlawful.

2. Plaintiffs all use Ethereum. Ethereum is a digital marketplace that uses shared online technology to help people order their finances without needing to trust banks, governments, or other third parties. It enables transactions involving cryptocurrency and other similar crypto assets. Tens of millions of Americans, from Tom Brady to local retailers, use Ethereum.

3. Ethereum's functionality depends on a transparent public ledger. When someone completes a transaction using Ethereum, that transaction is posted to a ledger visible to anyone. The transaction can't be erased or hidden from view. Although users transact using pseudonymous addresses, there are a variety of ways to connect a person's identity—and therefore to all his transactions and assets—to his address on the public ledger.

4. If a user doesn't take proactive steps to protect his privacy, the ledger's transparency allows strangers to track his private associations and stalk his intimate relations. It invites publicization of and retaliation for his private contributions to unpopular causes. And it allows anyone to see whether he has a lot of assets, which would put a target on his back.

5. To protect themselves, users of Ethereum employ privacy tools. These tools generally allow users to clear any publicly discernible connection between their

past and future transactions. They do this by making transactions by the same person appear unrelated, thereby stymying bad actors who seek to track, stalk, retaliate, and endanger.

6.   Tornado Cash is the state-of-the-art privacy tool on Ethereum. It is a software program permanently stored on the Ethereum ledger, so it can be accessed or used by anyone. To use Tornado Cash, a user moves his crypto assets to a Tornado Cash address. There are at least 20 such addresses, each for a different type of crypto asset or a different amount thereof. After moving his asset to that address, the user can then direct the asset's release to a new address, controlled either by him or by someone he wishes to receive the asset.

7.   To anyone viewing the public ledger, it is impossible to tell when the person retrieved his asset or which new address it went to. Once it arrives at the new address, it cannot be connected to the earlier address using publicly available data. If the user wishes to relink the two addresses and prove that both were his, he can do so, selectively revealing his identity, but no stranger can perform this re-identification without his consent.

8.   Nobody controls Tornado Cash. It is an immutable tool that automatically executes according to the user's wishes. The tool is software residing on the Ethereum blockchain at specified Ethereum addresses. Anyone with an internet connection can move digital assets to those addresses and the software will automatically perform the aforementioned steps to protect the user's privacy.

Throughout this entire process no human, apart from the user, is empowered or relied upon to hold or move the assets.

9. Cryptocurrencies like Bitcoin are known, in part, for creating irreversible transactions that, once confirmed in the shared public ledger online, cannot be canceled, withdrawn, altered, or rescinded by the sender or any third party. This quality is often referred to as immutability. Ethereum takes this capability a step further and allows technologists to publish immutable software tools to the public ledger. Once published, these tools are available for anyone with an internet connection to use, and they will perform exactly as the rules in their software command. No person can alter their functionality or remove their availability, just as no person can reverse or rescind a cryptocurrency payment.

10. The International Emergency Economic Powers Act of 1977, which is the statutory descendant of the Trading with the Enemy Act of 1917, allows the President to restrict trade with foreign enemies under emergency conditions.

11. As relevant here, it authorizes the President to "declar[e] a national emergency with respect to" an "unusual and extraordinary" foreign threat. 50 U.S.C. §1701(a).

12. Once the President declares that emergency, the Act allows him to criminalize certain transactions, but only if the transactions include "any property in which any foreign country or a national thereof has any interest." §1702(a)(1).

13.   Under executive delegations and regulations, Defendants exercise a subpart of the President's power under IEEPA. Specifically, under certain conditions, Defendants can criminalize transactions that fall within the scope of the statute, but only by designating "persons" with whom Americans cannot trade. 31 C.F.R. §578.201(a).

14.   Invoking this authority last August, Defendants criminalized all transactions involving 38 Ethereum addresses. Those 38 addresses include the 20 addresses that constitute the core of the Tornado Cash privacy tool—the same ones described above and that are at issue in this lawsuit.

15.   As a result of the Biden Administration's action, Americans who use Tornado Cash to protect their privacy while using their own assets are criminals. Additionally, their receipt of any asset through Tornado Cash, even one from a stranger that they did not solicit, is a federal crime. And their use of Tornado Cash to protect their expressive activities is criminal as well.

16.   Defendants' action was unlawful for four main reasons.

17.   First, Defendants' criminalization of Tornado Cash exceeded their statutory authority because Tornado Cash is used to complete functions that do not include "any property in which any foreign country or a national thereof has any interest." 50 U.S.C. §1702(a)(1). Americans use Tornado Cash unilaterally to protect their own property. Defendants' defiance of this statutory element assumes an

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