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And the Putative Class

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FILED

*Superior Court of California,
County of San Francisco*

04/01/2022
Clerk of the Court

BY: KAREN VALDES
Deputy Clerk

CGC-22-598995

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SAN FRANCISCO**

15 **JONATHAN SHOMRONI**, Individually and
16 on behalf of others similarly situated,

17 Plaintiff,

18 v.

19 **FEI LABS INC.**, a Delaware Corporation,
20 **JOSEPH SANTORO**, an Individual,
BRIANNA MONTGOMERY, an Individual,
21 **SEBASTIAN DELGADO**, an Individual, and
DOES 1-10.

22 Defendants,
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Case No:

CLASS ACTION

**COMPLAINT FOR VIOLATION OF THE
SECURITIES ACT OF 1933: 15 U.S.C.
§§ 77e, 77l, and 77o**

JURY TRIAL DEMANDED

1 Plaintiff Jonathan Shomroni (“Plaintiff”), by and through his undersigned counsel, alleges
2 the following against Defendants Fei Labs Inc. (Fei Labs), Joseph Santoro (“Santoro”), Brianna
3 Montgomery (“Montgomery”), Sebastian Delgado (“Delgado”), and Does 1-10 (collectively
4 “Defendants”). Plaintiff bases his allegations upon information and belief, except as to those
5 allegations concerning Plaintiff, which are based upon personal knowledge. Plaintiff’s information
6 and belief is based upon, among other things, counsel’s investigation, which included review and
7 analysis of documents published by Defendants; press releases, newsletters, presentations, and other
8 communications issued and disseminated by Defendants; media reports concerning Defendants; and
9 other public information concerning Defendants. The investigation of the facts pertaining to this case
10 is continuing. Plaintiff believes that substantial evidentiary support will exist for the allegations set
11 forth herein after a reasonable opportunity for discovery.

12 I. NATURE OF THE ACTION

13 1. Plaintiff brings this class action against Defendants under Sections 5, 12 and 15 the
14 Securities Act of 1933 (15 U.S.C. §§ 77e, 77l, and 77o, the “Securities Act”), to redress Defendants’
15 offer and sale of digital assets in an unregistered securities offering that occurred between March 31
16 and April 3, 2021. The action seeks the remedy of rescission to allow Plaintiff and the Class¹ to
17 recover their funds paid in the unregistered offering, and compensatory damages in favor of Plaintiff
18 and the Class against all Defendants, jointly and severally, for all damages sustained as a result of
19 Defendants’ unregistered offering, in an amount to be proven at trial, including pre-judgment and
20 post-judgment interest.

21 2. This action seeks to redress Defendants’ unregistered offer and sale of “FEI” and
22 “TRIBE” digital tokenized assets (colloquially referred to as “crypto”) through an initial “Offering”
23 of these asset described as their “Genesis” Event (defined below at ¶ 33).

24 3. With limited exceptions not applicable here, the Securities Act requires any security
25 that is offered or sold to be registered with the Securities and Exchange Commission (“SEC”). These

26 ¹ As described more fully in Paragraph 158 below, the Class is defined as: *All persons and entities*
27 *who purchased the digital assets “FEI” and “TRIBE” in exchange for ETH as part of the Genesis*
28 *Group, including those who “pre-swapped” their Genesis Group FEI token allocation for TRIBE*
tokens between March 31, 2021 and April 3, 2021.

1 laws are designed to protect the public by requiring various disclosures so that investors can better
2 understand the investment product that is being offered or sold. Under Section 2(a)(1) of the
3 Securities Act (15 U.S.C. § 77b), a “security” is defined to include an “investment contract,” such
4 as the initial sale of FEI and TRIBE through the Genesis Event.

5 **II. JURISDICTION AND VENUE**

6 4. This Court has original subject matter jurisdiction of the claims in this action pursuant
7 to Article 6, § 10 of the California Constitution, and California Code of Civil Procedure §§ 382 and
8 410.10.

9 5. The claims asserted herein arise under and pursuant to Sections 5, 12 and 15 of the
10 Securities Act (15 U.S.C. §§ 77e, 77l, and 77o). As such, this Court has original subject matter
11 jurisdiction pursuant to Section 7(a) and Section 22 of the Securities Act (15 U.S.C. § 77v). Under
12 Section 22 of the Securities Act, this Court has concurrent jurisdiction with the federal courts over
13 claims under the Securities Act, and any action asserting such claims that is brought in a state court
14 of competent jurisdiction may not be removed to federal court.

15 6. This Court has personal jurisdiction over each Defendant named herein because they
16 are registered to conduct, and do conduct, substantial business within the State of California and the
17 County of San Francisco including the offer and sale of FEI and TRIBE tokens as described herein.

18 7. Venue is proper in San Francisco County pursuant to Code of Civil Procedure § 395
19 because Defendants Fei Labs, Joseph Santoro, Brianna Montgomery, and Sebastian Delgado are all
20 residents of San Francisco.

21 8. Venue is also proper in San Francisco County pursuant to Code of Civil Procedure
22 § 395.5 because Fei Labs has its principal place of business in San Francisco, and incurred liability
23 to Plaintiff and the Class in San Francisco.

24 **III. PARTIES**

25 9. Plaintiff Jonathan Shomroni is a citizen of Israel. On April 3, 2021, Plaintiff
26 transferred 7 ETH,² then valued at \$2,009.19 per ETH, for a total value of \$14,064.33 to Defendants’
27

28 ² ETH is the native digital asset of the Ethereum blockchain.

1 Offering for which he received FEI tokens, all of which he “pre-swapped” during the Offering for
2 5,503.18 TRIBE tokens.

3 10. Plaintiff did not have notice of any arbitration agreement or clause at the time he
4 contributed ETH, or at the time he “pre-swapped” ETH for TRIBE, or at the time he redeemed his
5 TRIBE tokens in Defendants’ Offering.

6 11. Defendant Fei Labs Inc. (“Fei Labs”) is a Delaware corporation with its headquarters
7 at 595 Pacific Avenue, 4th Floor, San Francisco, CA 94133. Fei Labs is the entity that undertook the
8 development of and employed the personnel who developed the Fei Protocol—the blockchain-based
9 software application through which the Offering was conducted.

10 12. Defendant Joseph (Joey) Santoro (“Santoro”) is a resident of San Francisco. Santoro
11 is the Chief Executive Officer and a Director of Fei Labs, and one of the co-founders of the Fei
12 Protocol.

13 13. Defendant Brianna Montgomery (“Montgomery”) is a resident of San Francisco and
14 one of the co-founders of Fei Protocol. On information and belief, Montgomery is an officer,
15 director, shareholder, and/or agent of Fei Labs.

16 14. Defendant Sebastian Delgado (“Delgado”) is a resident of San Francisco and one of
17 the co-founders of Fei Protocol. On information and belief, Delgado is an officer, director,
18 shareholder, and/or agent of Fei Labs.

19 15. The roles of Defendants Santoro, Montgomery, and Delgado are more fully described
20 in Section IV.E, *infra*.

21 16. The true names and capacities of those defendants sued herein under Code of Civil
22 Procedure § 474 as DOES 1-10, inclusive, are presently unknown to Plaintiff who therefore sues
23 such Defendants by such fictitious names. Plaintiff will timely seek to amend this Complaint and
24 include these DOE Defendants by their true names and capacities when they are ascertained. Each
25 fictitiously named Defendant is responsible in some manner for the conduct alleged herein and for
26 any injuries suffered by Plaintiff and members of the Class as a consequence thereof.

27 17. At all times mentioned in the causes of action alleged herein, each and every
28 Defendant was an agent, representative, and/or employee of each and every other Defendant, and

1 each Defendant was a principal actor for or aided and abetted the misconduct of any other Defendant.
2 In doing the things alleged in the causes of action stated herein, each and every Defendant was acting
3 within the course and scope of this agency, authority, representation or employment and was acting
4 with the consent, permission and authorization of each of the remaining Defendants. Many of the
5 actions of each Defendant as alleged in the causes of action stated herein were ratified and approved
6 by every other Defendant, or their respective officers or managing agents.

7 **IV. SUBSTANTIVE ALLEGATIONS**

8 **A. BACKGROUND TO DEFI PROTOCOLS GENERALLY**

9 18. Decentralized Finance (colloquially referred to as “DeFi”) protocols allow their users
10 to engage in a variety of transactions that mimic or closely resemble otherwise regulated transactions
11 (including but not limited to lending, market making, exchange, and derivative products) using
12 digital assets, blockchains, and so-called “smart contracts,” mostly anonymously and online.

13 19. The distinguishing feature of DeFi protocols is their attempt to avoid transaction
14 censorship and regulatory compliance typical of those types of transactions enabled by the protocol.

15 20. DeFi applications attempt to achieve censorship resistance by providing users access
16 to financial software services that do not rely on a regulated intermediary. DeFi applications
17 typically facilitate transactions similar to those which otherwise would require regulatory
18 compliance by subtly reconfiguring those transactions and substituting software in place of the
19 regulated counterparty that would otherwise be required.

20 21. DeFi protocols are typically tied to one or more blockchain-based “protocol” tokens
21 that are embedded with a set of profit incentives, which allow the development team and users of
22 the protocol to earn yield through activities such as trading, lending, and the provision of liquidity
23 for other market participants to trade against.

24 22. DeFi protocols are usually launched through an initial development team, sometimes
25 operating through an entity, that writes software code for a multi-user application comprising a token
26 protocol, that is then deployed on a blockchain network.

27 23. In some instances, the ability to modify and control the application’s code, and thus
28 its functionality, is intentionally limited by the initial developer. Control over aspects of the

1 protocol's operation is delegated to others who participate in decision-making through digital assets
2 known as "governance tokens." Such governance tokens control "Decentralized Autonomous
3 Organizations" or "DAOs," which are themselves software protocols that can collect and deploy
4 digital assets, and modify and control the DeFi protocol's code.

5 24. To incentivize market participants to acquire and trade governance tokens, the
6 governance tokens are often created with their own set of profit incentives, and listed on digital asset
7 exchanges for trading by secondary market participants. Such profit incentives include the ability to
8 "stake" or deposit the governance tokens into a software protocol that generates additional tokens
9 over time, creating an "annual percentage rate" ("APR") or "annual percentage yield" ("APY")
10 similar to a certificate of deposit or bond, except the interest is paid and denominated in tokens.

11 25. In this way, DeFi protocols create elaborate and often opaque risk and reward profiles
12 for investors, with inherent information asymmetries that benefit the development team and other
13 sophisticated market participants. The opacity and highly technical nature of such protocols also
14 means that their risk profiles are poorly understood by most investors, making the provision of a
15 registration statement, and the investor disclosures they would otherwise require, of paramount
16 importance.

17 **B. THE FEI-TRIBE OFFERING**

18 26. The initial raise of ETH occurred between March 31, 2021 through April 3, 2021
19 from a "Genesis Group" of investors including Plaintiff and the Class. Defendants raised the digital
20 asset ETH in exchange for selling FEI and TRIBE digital asset tokens.

21 27. During this raise, Plaintiff and the Class purchased FEI and TRIBE tokens by sending
22 ETH to an Ethereum based software protocol designated by the address:
23 0xbffb152b9392e38cddc275d818a3db7fe364596b.

24 28. Specifically, Plaintiff and the Class were directed to a page on the <https://fei.money/>
25 website. There, Plaintiff and the Class inputted the amount of ETH they sought to invest, and were
26 able to "connect" their Ethereum wallets using a web or smart phone based application to the
27 fei.money site to make the investment.

1 29. The address where investors sent their ETH is the address of the Fei Protocol³
2 Ethereum wallet. In sending ETH to this address, investors were simply executing a digital
3 transaction that was irrevocably recorded on the Ethereum blockchain ledger.

4 30. Because the Ethereum blockchain is hosted and maintained by numerous computer
5 “nodes” throughout the world, the transactional ledgers recording the Fei Protocol’s Ethereum wallet
6 holdings simultaneously exist on all of the participating computing “nodes” that comprise the
7 processing and recording power of the Ethereum blockchain, including in the United States.

8 31. After Plaintiff and the Class sent their ETH, they were able to check whether their
9 investments were received by the Fei Protocol by using an Ethereum network scanner.

10 32. Plaintiff and the Class invested through Defendants’ fei.money website, which,
11 according to DNS records, was hosted on a U.S. server. These contributions were then digitally
12 recorded on the Ethereum blockchain ledger maintained on computer systems and servers
13 throughout the United States (as well as worldwide). Thus, Defendants incurred irrevocable liability
14 within the United States to deliver FEI/TRIBE tokens to Plaintiff and the Class.

15 33. The initial raise of ETH, immediately followed by the simultaneous creation (*i.e.*,
16 “minting”) and distribution for secondary market trading of FEI and TRIBE, occurred between 12:01
17 PM on March 31, 2021 and 12:01 PM on April 3, 2021, Pacific Standard Time in an event
18 Defendants called “Genesis” (herein described as the “Genesis Event” or the “Offering”).⁴

19 34. Persons and entities who contributed ETH into the Genesis Event, were described by
20 Defendants as the “Genesis Group.” Plaintiff and the Class are members of the Genesis Group.

21 35. In the Genesis Event, Defendants raised approximately 639,000 ETH from
22 approximately 17,000 addresses owned or controlled by Plaintiff and members of the Class.

23 36. Plaintiff and the Class were able to take possession of the FEI and TRIBE tokens
24 purchased with ETH through the website <https://app.fei.money/> on April 3, 2021.

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26
27 ³ See *infra* Section IV.C for a detailed description of the Fei Protocol.

28 ⁴ A material part of the Offering includes Defendants’ actions and undertakings to develop and
deploy the Fei Protocol software from within this judicial district as described herein.

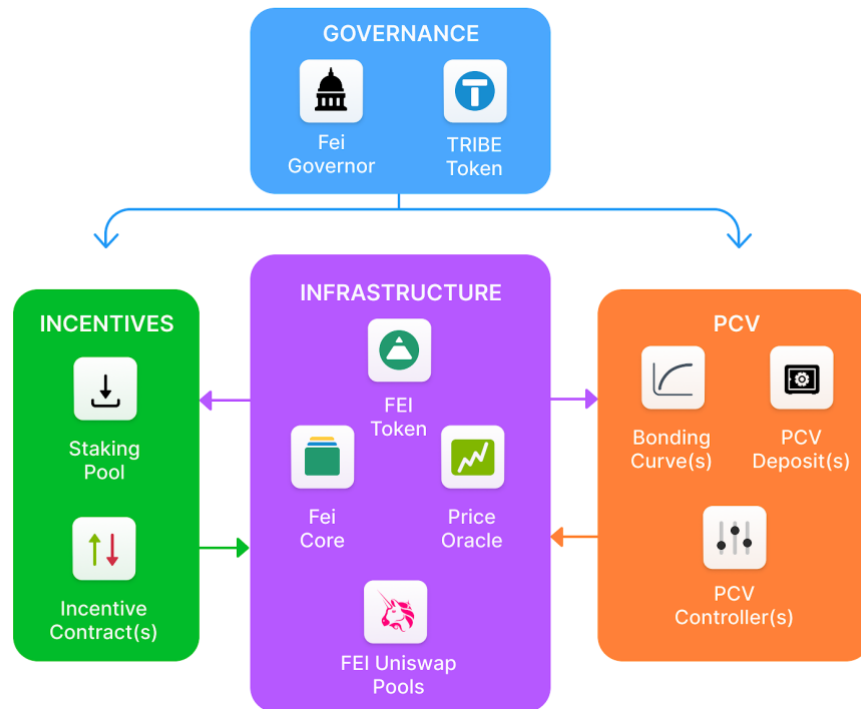
1 37. On information and belief, Defendants, or some of them, were members of the
2 Genesis Group who purchased FEI and TRIBE tokens in the Genesis Event.

3 **C. THE FEI PROTOCOL⁵**

4 38. In approximately December 2020, Defendant Santoro released a whitepaper
5 describing a blockchain entitled *Fei Protocol: A Decentralized, Fair, Liquid, and Scalable*
6 *Stablecoin Platform* (the “White Paper”).

7 39. The purpose of the so-called “Fei Protocol,” as promoted by Defendants, was to
8 create a so-called FEI “stablecoin” that would trade on the secondary market at a price of \$1 per
9 FEI.

10 40. To accomplish this, Defendants developed a complex software suite with “several
11 core components: Fei Core, the FEI stablecoin, bonding curve(s), PCV [Protocol Controlled Value]
12 Deposits, PCV Controllers, FEI Incentives, and the TRIBE governance token and DAO
13 [Decentralized Autonomous Organization],” illustrated in the White Paper as follows:



27 ⁵ The allegations in this Complaint are intended to describe the Fei Protocol as it existed at the time
28 of the Genesis Event on April 3, 2021. Unless otherwise expressly stated herein, changes to the Fei
Protocol after that date are not reflected in this Complaint.

1 41. On information and belief, Defendant Fei Labs owns the software code, and/or
2 intellectual property rights to the Fei Protocol and its various components.

3 42. The entire Fei Protocol was represented to have a mix of economic profit “incentives”
4 for Plaintiff and the Class, for Defendants, and for secondary market traders that are intended to
5 work together to stabilize the trading price of FEI tokens toward \$1 per FEI.

6 43. Defendants have disproportionate power over the Fei Protocol by virtue of owning,
7 *at least*, between 22.4%-31% of the voting power of the Fei DAO, and by controlling significant
8 portions of the secondary market liquidity of FEI and TRIBE tokens, and additional digital asset
9 tokens derivative of FEI and TRIBE that have yield generating properties, as described herein.

10 44. Defendants also control, *inter alia* the “Security Guardian,” a program written into
11 the Fei Protocol, allowing Defendants to undertake certain arbitrary actions such as pausing the
12 Protocol, vetoing governance proposals, and adjusting “critical parameters” through “Guardian
13 contracts.”

14 **1. THE FEI TOKEN**

15 45. The FEI token is a so-called “ERC-20” digital asset token built on the Ethereum
16 blockchain.

17 46. The FEI token was marketed to be a “stablecoin,” intended to track the ETH/USD
18 price, and thereby artificially create a secondary market trading price of \$1 per FEI.

19 47. During the Genesis Event, the Fei Protocol software was programmed to determine
20 the exchange rate of ETH to FEI based on a mathematical formula dependent upon the total amount
21 of ETH invested by all members of the Genesis Group. This formula was called the “bonding curve”.

22 48. The White Paper and other solicitation materials represented that the Fei Protocol’s
23 initial ETH/FEI bonding curve would cause tokens to be sold at a discount to the intended value of
24 \$1 per FEI token.

1 49. These solicitation materials represented that the earliest investors would receive the
2 steepest discount, which would incrementally decrease until a certain number of FEI tokens had
3 been “minted” to sufficiently “Scale” the project, at which point the discounts disappear.⁶

4 50. On March 7, 2021, Fei Labs disclosed that the bonding curve’s initial price for FEI
5 tokens would be \$0.50 per FEI. This led reasonable investors such as Plaintiff to believe they could
6 obtain a potential immediate 100% return. The potential discount incentivized investment with a
7 reasonable expectation of profit.

8 51. In the White Paper, Defendant Santoro represented that Scale would be achieved
9 upon the creation of 250,000,000 FEI tokens.

10 52. On March 7, 2021, Fei Labs represented in an article posted to Medium.com that
11 Scale of the Fei Protocol would be reached at 100,000,000 FEI tokens.⁷

12 53. At Scale, no further discounts to \$1 per FEI were available from the bonding curve
13 exchange rate mechanism.

14 54. However, all discounts would be erased if greater than or equal to 100,000,000 FEI
15 were sold during the Genesis Event. This is because Defendants programmed the bonding curve
16 software so that every participant in the Genesis Event, regardless of when they participated, would
17 only get the *final* FEI to ETH exchange rate price. In other words, the discount was only available
18 if less than 100,000,000 FEI were sold during the Genesis Event.

19 55. Defendants’ representations that the earliest FEI investors could obtain an
20 approximate 50% discount on the expected \$1 trading price of FEI tokens incentivized reasonable
21 investors to believe they could earn an immediate profit by contributing ETH in the Genesis Event.

22 56. Investors in the Genesis Group contributed sufficient ETH to reach Scale in the first
23 few hours on March 30, 2021. Total investments ultimately vastly exceeded Scale, allowing
24

26 ⁶ According to the White Paper, “Scale” is the number of FEI tokens investors must purchase to
27 exhaust the early adopter discount.

28 ⁷ <https://medium.com/fei-protocol/fei-protocol-genesis-group-d6cf1d266139> (last visited March
28, 2022). Medium is an online publishing platform popular in the cryptocurrency industry.

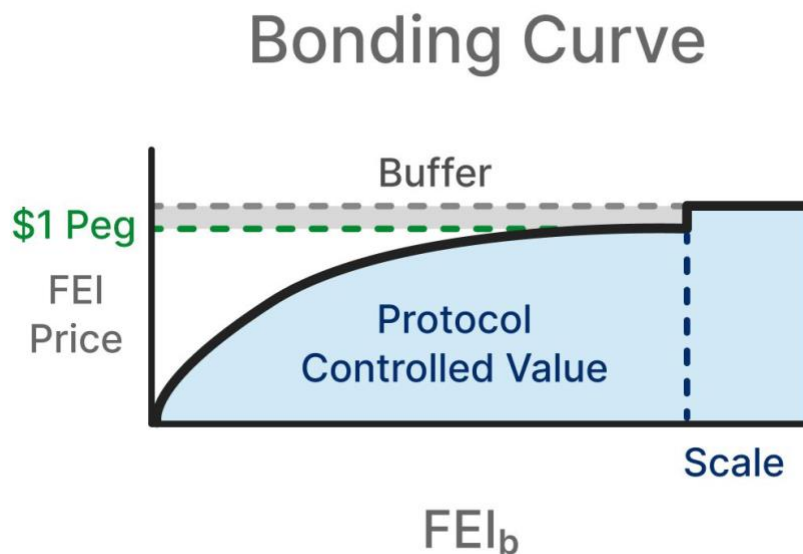
1 Defendants to raise approximately \$1.3 billion of ETH, in exchange for approximately 1.3 billion
2 FEI.

3 57. Because the Genesis Group’s investments exceeded Scale, every member of the
4 Genesis Group paid approximately \$1 per FEI.

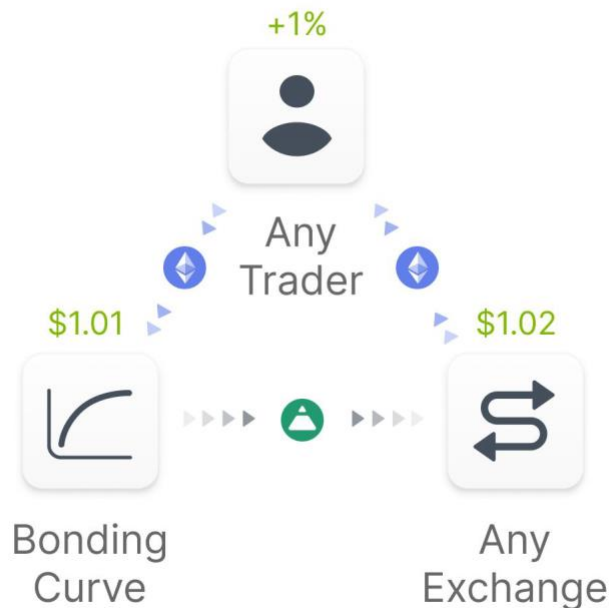
5 58. On April 3, 2021 at approximately 12:01 PT, the Fei Protocol created or “minted”
6 FEI tokens from nothing and made those tokens available for Plaintiff and the Class to “redeem”
7 through the <https://app.feimoney/> website.

8 2. THE FEI TOKEN’S ECONOMIC INCENTIVES

9 59. All tokens “minted” after Scale was reached would be issued by the Fei Protocol
10 bonding curve at \$1 plus a small buffer. According to the White Paper, “[w]hen any secondary
11 market price exceeds \$1 + b[uffer] there is a riskless profit opportunity. Arbitrageurs can purchase
12 [from] the bonding curve and sell on the secondary market,” illustrated as follows:



Arbitrage



60. The ETH contributed by Plaintiff and the Class in exchange for FEI tokens in the Genesis Event was pooled inside a piece of algorithmically controlled trading software called “Protocol Controlled Value,” or “PCV.”

61. PCV is a pool of financial liquidity deployed by the Fei Protocol software to manage the trading price of FEI tokens on the secondary market. As described in the White Paper:

The clearest use case of PCV is to have the protocol be a **liquidity provider** (LP) on an **Automated Market Maker**⁸ (AMM) like Uniswap. At sufficient volume, the protocol would essentially control the exchange rate of the trading pair. It can use its PCV to rebalance the price by **executing trades**⁹ against the market and locking or burning excess tokens.

⁸ See 15 U.S.C. § 78c(a)(38): (Under the Securities and Exchange Act of 1934 (the “Exchange Act”), “[t]he term ‘market maker’ means any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.”).

⁹ See 15 U.S.C. § 78c(a)(1): (Under the Exchange Act, “[t]he term ‘exchange’ means any organization, association, or group of persons, whether incorporated or unincorporated, which constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly

1 (emphasis added).

2 62. The PCV controller does so by deploying ETH and FEI held by the Fei Protocol to a
3 “pool” of liquidity called a decentralized exchange or “DEX,” to create secondary markets for FEI
4 tokens.

5 63. Here, Defendants deployed the PCV to the decentralized exchange “Uniswap.”
6 Uniswap is an algorithmically operated order execution venue deployed on the Ethereum
7 blockchain.

8 64. Uniswap is not registered with the SEC.

9 65. To create sufficient liquidity of FEI in the Uniswap DEX, Defendants also created an
10 additional pool of FEI tokens, issued directly as PCV (not to Plaintiff and the Class), and deposited
11 on the Uniswap DEX.

12 66. Defendants programmed this PCV pool of FEI to exist only in Uniswap to rebalance
13 supply and demand in the DEX. If the supply of FEI became too large relative to the supply of ETH
14 in the Uniswap DEX (which would affect the trading price of FEI), this secondary pool of FEI could
15 be “burned” or destroyed by the Fei Protocol’s PCV Controller.

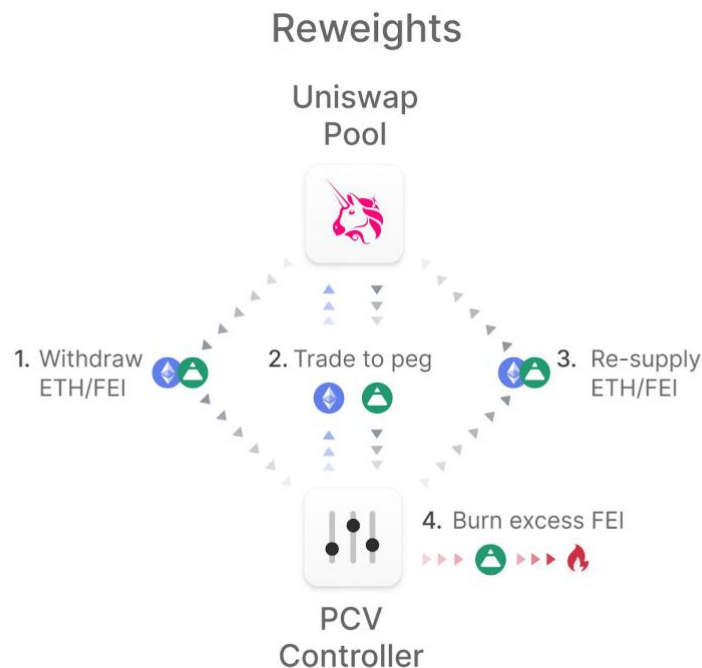
16 67. In short, the Fei Protocol’s PCV is a source of liquidity, controlled by an algorithm
17 called the PCV Controller, used to transact in FEI in hopes of stabilizing the trading price around
18 the \$1 peg.

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28 performed by a stock exchange as that term is generally understood, and includes the market place
and the market facilities maintained by such exchange.”).

68. For the stated purpose of achieving a trading value of \$1 per FEI, Defendants also created direct economic incentives to induce trading of the FEI token through “rewards and penalties” that “drive the price towards the peg.” These so-called “direct incentives” are debits and credits to the token balances held by traders of FEI that economically rewards buyers of FEI and economically penalizes sellers of FEI, as illustrated in the White Paper:



69. The PCV Controller then manages the trading price of FEI tokens on the secondary market, illustrated in the White Paper as follows:



1 70. The PCV Controller can withdraw or supply ETH or FEI, trade directly against
2 secondary market traders as an unregistered market maker, and “burn” or destroy excess FEI. For
3 example, the PCV Controller can programmatically deploy ETH locked as PCV in the Uniswap
4 DEX to purchase FEI if the price falls below \$1, until the trading price of FEI returns to \$1.

5 **3. THE TRIBE TOKEN AND THE FEI DAO**

6 71. A key component of the Fei Protocol is the TRIBE “governance” token. Like FEI,
7 the TRIBE token is an ERC-20 programmable token that is built on the Ethereum blockchain.

8 72. TRIBE tokens control, through the ability to vote, a software protocol called the Fei
9 Protocol “DAO,” meaning “Decentralized Autonomous Organization.”

10 73. However, the Fei Protocol DAO is neither decentralized, nor autonomous. Instead,
11 Defendants, or some of them, have a concentrated level of control over the Fei Protocol DAO
12 because they control a plurality of the TRIBE tokens.

13 74. Defendants also possess control over the Fei Protocol DAO that is disproportionate
14 to their holdings of TRIBE, due to administrative roles overseeing the Fei Protocol DAO software
15 protocol such as “Guardian” and “Governor” roles.

16 75. The Fei Protocol DAO is described in the White Paper as “function[ing] like a central
17 bank of DeFi [Decentralized Finance]. It can use PCV to adjust rates and market incentives on other
18 platforms. This creates a dynamic ecosystem around FEI.”

19 76. The Fei Protocol DAO software is hosted at <https://tribe.fei.money/>, at the same
20 fei.money domain that hosts the rest of the Fei Protocol.

21 77. Through the DAO software, holders of TRIBE tokens propose actions to be taken by
22 the Fei Protocol, and vote on those proposed actions. If a proposal receives sufficient votes to pass,
23 the passing vote acts to execute software implementing the action voted on.

24 78. The Fei Protocol DAO allows holders of TRIBE tokens to make proposals to, and
25 vote on changes to all aspects of the Fei Protocol, including the creation of, and changes to: bonding
26 curves; token supply and exchange rates; token incentives; PCV investments; and other economic
27 incentives underlying the tokens.

1 79. After initial pricing in the Genesis Event, the value of TRIBE tokens is not pegged to
2 anything. Instead, TRIBE are freely traded on secondary markets, and its price fluctuates with supply
3 and demand, and other economic incentives available to holders of TRIBE.

4 80. Defendants gratuitously issued to themselves approximately 130 million TRIBE
5 tokens prior to, or as part of, the Genesis Event. These tokens were scheduled to vest over a four or
6 five-year period.

7 81. Private placement investors such as A16z (formerly Andreessen Horowitz) and
8 others¹⁰ were issued approximately 50 million TRIBE tokens in exchange for a \$19 million
9 investment in Fei Labs.

10 82. The Fei Protocol DAO requires a *de minimus* number of TRIBE tokens to form a
11 quorum for voting, or to vote in favor of a proposal. Upon information and belief, Defendants
12 collectively own or control sufficient TRIBE tokens for effective control over the actions of the Fei
13 Protocol DAO.

14 83. TRIBE tokens were distributed to Plaintiff and the Class during the Genesis Event as
15 an additional profit inducement to purchase FEI tokens. This profit incentive existed because
16 investors were informed that TRIBE tokens would become immediately available for trading on the
17 secondary market after the Genesis Event.

18 84. Defendants programmed the Fei Protocol to have a capped supply of 1 billion TRIBE
19 tokens.

20 85. Defendants allocated 100 million TRIBE tokens to those persons and entities who
21 contributed ETH in the Genesis Event. Plaintiff and the Class were thus allocated 1/10 of the total
22 fully diluted supply of TRIBE tokens as a component of their investment.¹¹

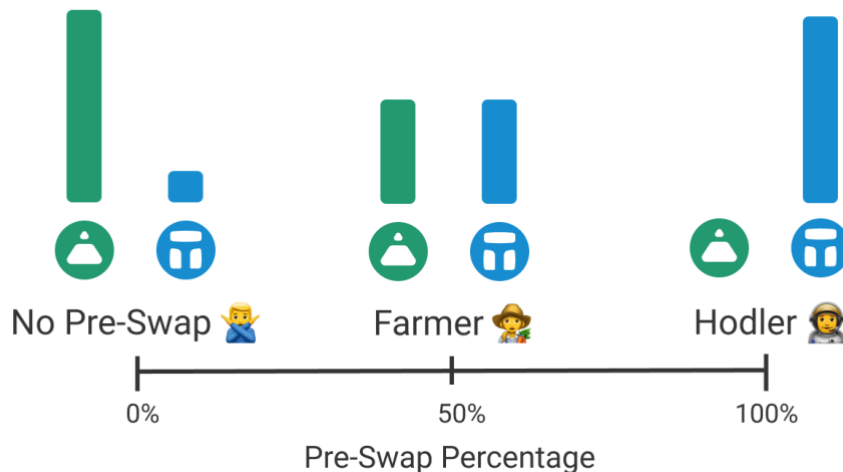
25 ¹⁰ Andreessen Horowitz (“a16z”), Framework Ventures, Coinbase Ventures, ParaFi Capital and
26 Variant Fund participated in a private placement funding round disclosed in Fei Labs’ April 14, 2021
SEC Form D, and elsewhere.

27 ¹¹ For example, if 100 ETH were contributed to the Genesis Event by the Genesis Group in total,
28 each ETH would entitle the contributor to 1 million TRIBE tokens. If 10 ETH total were contributed,
each ETH would receive 10 million TRIBE tokens.

1 86. As part of the Genesis Event, Plaintiff and the Class could also elect to “pre-swap”
2 (or convert) all or a portion of their expected FEI tokens into a separate “Initial DEX” or “Initial
3 DeFi Offering,” (the “IDO”) conducted by Defendants.

4 87. According to a March 7, 2021 Medium article published by Fei Labs:

5 Fei Protocol allows users to elect to exchange their Genesis allocation of FEI for TRIBE
6 directly from the pool. Users can pre-swap any percentage of their Genesis allocation.
7 A pre-swap takes the FEI the participant will receive at Genesis and swaps it for TRIBE
8 when the liquidity pool is initialized at launch. This will be the very first transaction on
9 the pool. ... Fei Protocol users can adopt a number of strategies utilizing this feature.
10 One strategy is to optimize for TRIBE ownership and governance participation by pre-
11 swapping all purchased FEI for TRIBE. Another is optimizing for yield farming with a
12 50/50 split.



13 88. The IDO was a sale and distribution of 200 million of the 1 billion TRIBE tokens that
14 occurred on Uniswap immediately following the Genesis Event.

15 89. The FEI that Plaintiff and the Class contributed during the Genesis Event, plus the
16 FEI they elected to “pre-swap” into TRIBE through the IDO, and the TRIBE tokens sold in the IDO
17 were all released simultaneously. All FEI and TRIBE tokens were simultaneously minted,
18 distributed, and directly listed onto the Uniswap DEX, on April 3, 2021 at 12:01 PM, immediately
19 after the close of the Genesis Event.

20 90. Another 100 million TRIBE tokens were created and made available for distribution
21 to investors through a yield generating practice called “staking” or “yield farming.” By depositing
22 both FEI and TRIBE tokens into a Uniswap liquidity pool, depositors became entitled to a *pro rata*
23 share of trading fees generated by market participants exchanging FEI and TRIBE.
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1 91. When holders of FEI and TRIBE tokens deposit them into the Uniswap DEX, they
2 receive a new digital asset token, a “FEI/TRIBE Uniswap LP” token, created and owned by
3 Defendants, that represents a quasi-receipt for the deposit. To withdraw FEI and TRIBE tokens, the
4 derivative “FEI/TRIBE Uniswap LP” tokens are put back into Uniswap DEX in exchange.

5 92. When FEI/TRIBE Uniswap LP tokens are “staked” in the Fei Protocol at
6 <https://app.fei.money/farm>, the Fei Protocol generates and distributes additional TRIBE tokens as a
7 form of interest or dividend. Depositing FEI and TRIBE in Uniswap, then staking the FEI/TRIBE
8 Uniswap LP tokens in the Fei Protocol, thus generates an “annual percentage yield” (“APY”) or
9 “annual percentage rate” (“APR”) on these tokens similar to an unregistered certificate of deposit or
10 bond, except the interest is paid and denominated in TRIBE tokens.

11 93. On information and belief, Defendants are among the largest depositors and largest
12 holders of FEI/TRIBE Uniswap LP tokens, and thus generated much of the yield in the form of
13 TRIBE tokens as a result of the unregistered Offering described herein.

14 **D. THE TRADING PRICE OF FEI AND TRIBE WAS MATERIALLY**
15 **IMPAIRED AFTER DISTRIBUTION TO PLAINTIFF AND THE CLASS**

16 94. The entire Offering was focused on “Scale,” wide “distribution,” and “early access
17 to liquidity” through a simultaneous listing and distribution immediately after the Genesis Event
18 completed.¹² Thus, the Offering was set up to create immediate liquidity and trading of FEI and
19 TRIBE tokens on the secondary markets.

20 95. Immediately after FEI tokens were distributed to Plaintiff and the Class, the trading
21 price of the FEI token on secondary markets began to fluctuate and failed to maintain its peg of
22 approximately \$1 per FEI.

23 96. As a March 30, 2021 Medium article by Defendant Montgomery makes clear, “Fei
24 Protocol uses direct incentives to penalize trades away from the peg and reward trades towards the
25 peg” through implementing a “burn.” Furthermore, “[t]he burn can be severe, with up to 100% of
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27
28 ¹² See e.g. February 9, 2021 Article: [The TRIBE Token Distribution. The well-rounded launch for Fei... | by Fei Labs | Fei Protocol | Medium](#) (last accessed March 31, 2022).

1 the trade size at a 10% distance from the peg. This means if you need to sell FEI in a quick time
2 frame during a period of high sell pressure, you could incur a significant burn penalty.”

3 97. From approximately April 3, 2021 through approximately May 30, 2021, the FEI
4 token failed to maintain its peg, trading as low as \$0.7128 per FEI on April 19, 2021. Investors
5 rapidly sought to exit their positions, but were penalized by the Fei Protocol’s “direct incentives”
6 when they did so. Anyone who attempted to sell FEI during this period was damaged.

7 98. The TRIBE token also failed to maintain its value, and has dropped in price from
8 approximately \$3.18 on April 3, 2021 to approximately \$0.56 on March 29, 2022, a loss of more
9 than 80% from the Genesis Event opening price.

10 **E. DEFENDANTS SOLICITED PLAINTIFF AND THE CLASS AND WERE**
11 **“SELLERS” AND/OR “CONTROL PERSONS”**

12 99. Upon information and belief, all Defendants were based in and operated from San
13 Francisco, California, prior to and throughout the time of the Offering.

14 100. Fei Labs conducted the Offering and issued both the FEI and TRIBE tokens. Fei Labs
15 was therefore a statutory seller.

16 101. As of the date of this Complaint, Defendant Santoro described himself on his
17 LinkedIn profile as the “founder” of the “Fei Protocol” from “Dec 2020 – Present.”

18 102. According to Defendant Santoro’s LinkedIn profile, he left his prior employment at
19 Okta, Inc. and founded the Fei Protocol in December 2020.

20 103. As of the date of this Complaint, Defendant Montgomery described herself on her
21 LinkedIn profile as a member of the “Founding team” and a “Business lead” at the “Fei Protocol”
22 from “Feb 2021 – Present.” The LinkedIn profile also states “Founding Team at Fei Labs” beneath
23 her name.

24 104. As of the date of this Complaint, Defendant Delgado described himself on his
25 LinkedIn profile as a “Cofounder” of the “Fei Protocol” from “Jan 2021 – Present.” The LinkedIn
26 profile also states “Cofounder at Fei Protocol” beneath his name.

27 105. As of the date of this Complaint, each of Defendants Santoro, Montgomery, and
28 Delgado were listed as “employees” at the “Fei Protocol.”

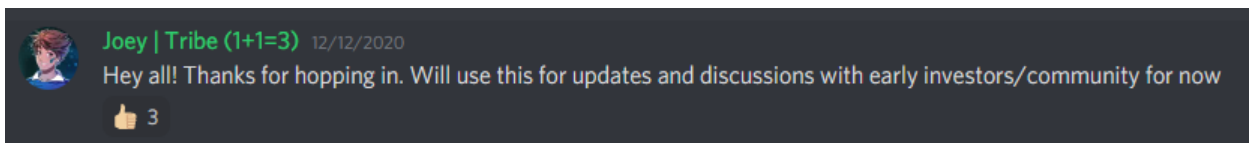
1 106. The Fei Protocol White Paper was drafted “by [Defendant] Joey Santoro” and
2 disseminated to the public in December 2020.

3 107. Details of the Fei Protocol and the Genesis Event was promoted through the website
4 <https://fei.money/>, and also through <https://medium.com/@fei-protocol> and [https://medium.com/fei-](https://medium.com/fei-protocol)
5 [protocol](https://medium.com/fei-protocol).

6 108. Defendants also advertised the Offering through popular social media outlets such as
7 Twitter, and online chatrooms hosted on applications popular with cryptocurrency investors,
8 including the chat applications Discord and Telegram.

9 109. Discord was the primary method through which Defendants communicated with
10 investors.

11 110. On December 12, 2020, Defendant Santoro opened the Fei Protocol Discord channel
12 and sent the first message in it to welcome its first members, stating “Hey all! Thanks for hopping
13 in. Will use this [channel] for updates and discussions *with early investors/community* for now.”



17 111. On December 14, 2020, Defendant Delgado joined the Fei Protocol Discord channel
18 using the screenname “Sebastian/Fei.”

19 112. On December 29, 2020, Defendant Montgomery joined the Fei Protocol Discord
20 channel using the screenname “Brianna/Fei”.

21 113. On January 11, 2021, Defendants caused Fei Labs to publish an article on Medium
22 entitled “Introducing Fei Protocol,” describing various aspects of the protocol and “DeFi Offering”
23 they were planning. The article attracted numerous prospective investors to join Defendants’ Fei
24 Protocol Discord channel.

25 114. On January 12, 2021, a prospective investor named “Alpinestar” asked “What are the
26 benefits for Genesis pool apart from the fact that they get a lower price than peg?” Santoro responded
27 “Lower price plus TRIBE bonus!”
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1 115. The same prospective investor then asked, “So after genesis pool you list [for trading]
2 directly right?” Santoro responded, “yes” and that “Genesis participants have no vesting!”

3 116. On January 13, 2021, in response to the question “w[h]en is the launch?” Defendant
4 Montgomery stated “Feb/Mar 2021.”

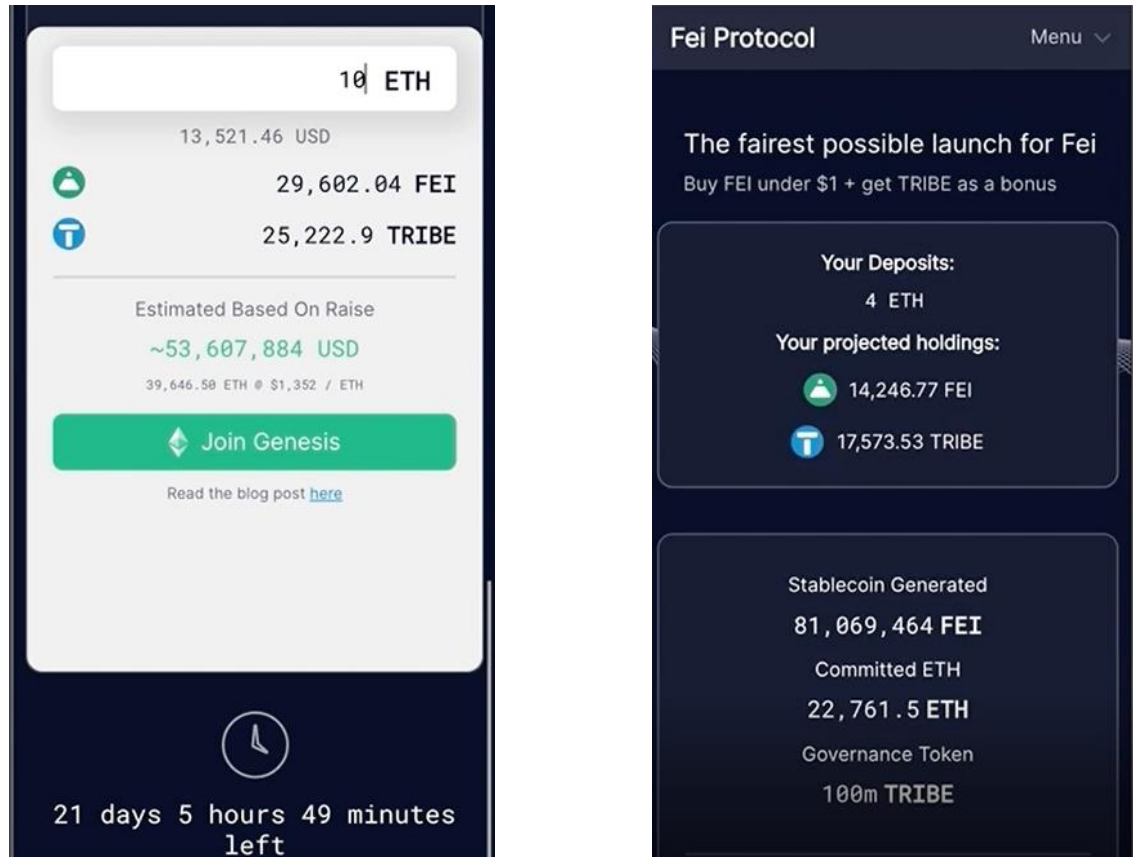
5 117. On January 13, 2021, a prospective investor asked a question in Defendants’ Fei
6 Protocol Discord channel about the January 11, 2021 Medium article. Specifically, the prospective
7 investor cited the article’s statement that “the Uniswap liquidity tokens for this IDO will be stored
8 in a development fund. It will have linear vesting over 4 years to guarantee the liquidity for a
9 sufficient period.” The prospective investor then asked: “Does it mean the PCV contract controls the
10 development fund?”

11 118. Santoro responded: “The goals for this IDO are not finalized yet but are leaning
12 towards it vesting to dev team and investors,” and “[more details] Coming soon 😊”

13 119. On January 21, 2021, in response to the question “[h]ow does one become part of the
14 genesis group?” Montgomery stated “Detailed information on how to participate in the genesis group
15 will be coming out soon,” receiving general applause.

16 120. On January 26, 2021, Defendant Delgado gave an update on website development
17 progress to prospective investors in the Fei Protocol Discord channel, stating “we won’t be coming
18 back to rebuild the genesis period UI [User Interface] until right before launch (assuming we have
19 time). Will definitely be referencing these designs when we do though! Exchange UI is already being
20 built, but we’ll only be starting the staking UI in the next few days. Let me know if you’re interested
21 in doing some revs on that and I’ll fill you in on the deets [details].”

1 121. Moments later, Defendant Delgado uploaded a video demo of the “current mobile
2 version of the genesis [website],” showing how to invest in the Offering, as follows:



17 122. On February 9, 2021, Defendants published an article on Medium entitled “The
18 TRIBE Token Distribution,” which gave “the tl;dr [the summary]: Community/Team/Investors split
19 is 80/15/5. Community liquidity is instant. Investors have a linear time-lock. Team has back-
20 weighted time-lock. The majority of the TRIBE will be controlled by the DAO. Genesis Group gets
21 early access to the Initial DEX Offering.”

22 123. Importantly, the article described all Genesis Event participants as “investors,” by
23 stating under the heading “**IDO Pre-Commitment**” that “An important concern brought up by the
24 Community is the ability of bots to front-run the IDO at the expense *of prospective investors*. We
25 are proud to announce a feature enhancement to the Genesis Group functionality to address this
26 concern! Genesis participants can ‘pre-commit’ their FEI from the bonding curve to go straight to
27 the IDO to purchase TRIBE at Genesis completion. As long as you are in the Genesis Group at any
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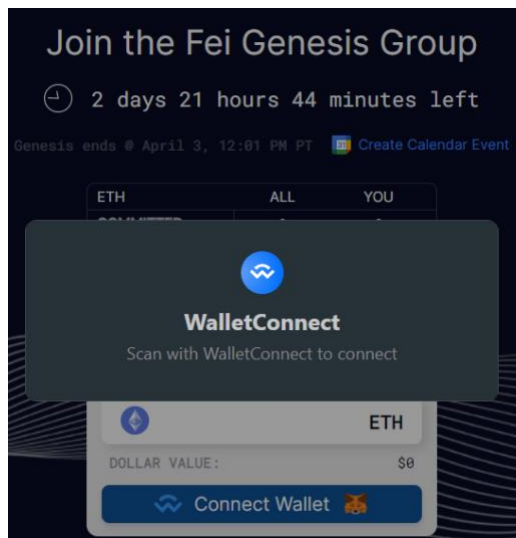
1 time, you can be the first purchaser on the IDO before any bots get a chance! The pre-commit feature
2 allows you to commit any percentage of your stake in Genesis.”

3 124. Defendants were highly attuned to investor comments about what would make it
4 easier for them to invest. For example, on February 17, 2021, a prospective investor made the
5 offhand comment in the Fei Protocol Discord channel that “Fei better support WalletConnect.”

6 125. Even though the vast majority of comments by people in the Fei Protocol Discord
7 channel were ignored, Defendant Delgado, who was apparently responsible for building user
8 interface integrations, immediately responded, asking “Why is WalletConnect important to you?”

9 126. After the commenter explained that “Managing private keys from your phone is IMO
10 the most convenient and secure way,” Delgado responded “Got it, thanks. We definitely have Wallet
11 Connect on our timeline and are going to integrate it at some point. Would love to have it for launch
12 but I’ll have to squeeze it in given all the other security and basic usability priorities we have.”

13 127. The final Genesis Event site did indeed support WalletConnect, as shown below:



23 128. On February 22, 2021, Montgomery posted the Medium article about the planned
24 token distribution mechanics for the upcoming Genesis Event, stating “To participate in Genesis
25 (date will be announced soon, aiming for early March), you need to deposit ETH on our app/UI and
26 receive ‘Genesis ETH’. These Genesis ETH entitle you to a pro-rata percentage of FEI and TRIBE
27 allocated to the Genesis Group (see TRIBE Token Distribution: [https://medium.com/fei-
28 protocol/the-tribe-token-distribution-887f26169e44](https://medium.com/fei-protocol/the-tribe-token-distribution-887f26169e44)).”

1 129. On February 27, 2021, in response to the question “what are the req’s for being part
2 of the genesis group?” Defendant Montgomery stated “No reqs, just need to have ETH ready to
3 deposit through Metamask and do so within the 3 day period that Genesis is open (announcing dates
4 soon).”

5 130. Defendants were focused on soliciting as many people as possible to invest. On
6 March 7, 2021, Defendants published an article on Medium entitled “Fei Protocol Genesis Group.”
7 It stated “[t]he moment we have all been waiting for is here,” and announced that the Offering will
8 being on March 31, 2021 at 12:01 pm PT and end on April 3, 2021 at 12:01 pm PT.

9 131. While Defendants had previously revealed the fact that they had venture capitalist
10 (VC) “investors” in the immediate lead up to the Genesis Event, Defendants also began touting the
11 pedigree of their VC investors in order to attract the public.

12 132. For example, On March 8, 2021, Kathryn Haun, a general partner at A16z, one of the
13 premiere Silicon Valley VCs, sent a tweet to her 95,000 followers “[a]nnouncing our investment in
14 a new stablecoin project! [@a16z](#) is proud to be leading the round in Fei Labs, the team that is
15 building out [@feiprotocol](#). Also participating are [@Coinbase](#) [@hiFramework](#) [@nascentxyz](#) [@Naval](#)
16 [@variantfund](#) & many more. What's [@feiprotocol](#)? More here.”

17 133. Defendant Santoro immediately retweeted this announcement, stating “Been a joy
18 working with ... the whole [@a16z](#) team!” News outlets immediately reported that the VCs had
19 invested \$19 million in Fei Labs.

20 134. Following announcement of the investment by various VCs in Fei Labs, numerous
21 prospective investors rushed to join the Fei Protocol Discord channel.

22 135. On March 9, 2021, in response to questions about the VC investment, Defendant
23 Santoro stated, that “the [VC] round wasn’t priced because it[’]s impossible to know how Genesis
24 will perform and that impacts the value of the IDO tokens.”

25 136. Then, in response to a follow-up question “what did the investors pay [\$]19m for?”
26 Santoro stated: “Equity in Fei labs.” Thus, Santoro himself linked “the IDO tokens” to the equity
27 investment round by VCs, and the “pricing” of the tokens by VCs round to the “value of” such
28 tokens.

1 137. Santoro then explained that, in addition to equity in Fei Labs, “Investors also get
2 some [Uniswap FEI-TRIBE] LP [Liquidity Provider] tokens, I can’t say much more than that right
3 but everything is vested [on a schedule] and only the 5% are voting TRIBE [¶] Not a single investor
4 has much more than 2% of the network. I’m personally really excited about these funds and how
5 they’ve met me in the middle trying to fight hard for more community ownership [of tokens] [¶] We
6 are all in this together, and everyone I’ve decided to partner with is long term FEI and TRIBE
7 believers ... ”¹³

8 138. On March 9, 2021, Defendant Santoro stated that “I personally invested a lot of
9 energy trying to design the token distro and launch to be balanced among all of the stakeholders.”

10 139. On March 10, 2021, Defendant Montgomery stated: “We will be coming out with a
11 video next week to walk you through the steps of participating in Genesis and pre-committing your
12 FEI to the IDO for TRIBE.”

13 140. On March 11, 2021, a potential investor asked “why don[’]t you guys set a
14 invest[ment amount] limit?” In response, Defendant Santoro stated that “We’ve decided investment
15 limits don’t meaningfully deter large participants with sophisticated infrastructure. We’d rather leave
16 it open. There are no incentives for joining only to dump because everyone gets the same price.”

17 141. On March 22, 2021, Defendant Montgomery responded to a request to “please share
18 with me the info of the team?” In response, she described “the team” as including Santoro, Delgado,
19 and herself, and stated that “Joey and Seb[astian] both come from a strong technical background,
20 and as a team we focus on creating the right tools and incentives to drive the ecosystem forward.
21 Seb was previously at Dharma and Uber and Joey at Okta and Duke University. I previously worked
22 at ConsenSys Diligence as a business lead for the team, which works in close cooperation with other
23 top ecosystem projects on their security.”

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26 ¹³ Approximately 2 percent (25 million TRIBE) is all that is required for a quorum to vote in the
27 Fei Protocol DAO, granting the VC investors in Fei Labs an ability to control the direction of the
28 Fei Protocol. On information and belief, some or all of a16z, Framework Ventures, Coinbase
Ventures, ParaFi Capital and/or Variant Fund have the ability to control the DAO and may have
liability as control persons after a reasonable opportunity for discovery.

1 142. On March 24, 2021, Defendant Delgado stated in the Fei Protocol Discord channel
2 “Genesis begins at noon pacific on march 31st and then genesis ends + the protocol gets launched
3 on april 3rd at 12:01pm.”

4 143. On March 29, 2021, Defendant Montgomery posted the following Q&A on the
5 “genesis-faq” sub channel of the Fei Protocol Discord channel: “Q: Which wallet do I need to
6 participate in the Genesis Group A: Any WalletConnect compatible wallet
7 (<https://walletconnect.org/wallets/>).”

8 144. On April 2, 2021, a day before the completion of the Offering, Defendant
9 Montgomery confirmed to an investor that there would be “no lockup” for anyone who invested,
10 meaning that secondary market trading can occur immediately.

11 145. Throughout the Genesis Event from March 31, 2021 to April 3, 2021, all three
12 individual Defendants made announcements, posted advertisements, and fielded numerous
13 questions, technical or otherwise, from investors.

14 146. For example, on March 31, 2021, Defendant Santoro posted an “announcement” in
15 the announcements Fei Protocol Discord subchannel, stating “Fei Genesis is here [emoji] The
16 Genesis Group receives \$FEI and \$TRIBE for their \$ETH.” The message contained a video of a
17 space shuttle launch.

18 147. Simultaneously, Defendant Montgomery posted an article on Medium, which she
19 authored, entitled “How to Participate in Fei Protocol Genesis.” The article provided a step-by-step
20 guide on how to invest, walking prospective investors through each step of the investment process
21 with dynamic GIF images that displayed screenshots of each step of the process.¹⁴

22 148. On March 31, 2021, a prospective investor asked “is there a point in which the genesis
23 period ends early?” Defendant Delgado responded, “No, Genesis will last 3 days.”

24 149. On March 31, 2021, the first day of the Genesis Event, Defendant Delgado, closely
25 monitoring the rush of incoming investments, stated in the Fei Protocol Discord channel that “the
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27
28 ¹⁴ Available at: <https://medium.com/fei-protocol/how-to-participate-in-fei-protocol-genesis-afbdddac23c70> (last accessed March 29, 2022).

1 wallet connect servers are having a hard time handling the traffic, so the wallet connect experience
2 might be degraded for the next few hours.”

3 150. Shortly thereafter, Defendant Delgado also posted an “announcement” in the Discord
4 announcements subchannel, stating “If you try to use WalletConnect it may be slow or not allow
5 you to connect at all. If you are experiencing this issue, please try again later when the traffic on the
6 site is lower and we have had more time to address issues. In the meantime, MetaMask continues to
7 work.” Metamask is a popular tool for users of crypto to manage their holdings and transactions.

8 151. On April 1, 2021, the second day of the Genesis Event, Defendant Delgado stated:
9 “Hey everyone, we are seeing issues where Metamask takes a really long time to submit transactions.
10 We are working on replacing Metamasks web3 provider to get better consistency.”

11 152. The FEI/TRIBE market opened for trading as of 12:01 PM on April 3, 2021, at which
12 moment Defendants’ delivery of tokens commenced.

13 153. Defendant Delgado therefore advised eager investors at 9:11 AM that day that
14 “You’ll be able to redeem your FEI and TRIBE later today. Unless you preswapped 100%, in which
15 case you’ll receive only tribe.”

16 154. In response to investor questions on how to trade, Defendant Delgado stated at 2:10
17 PM that day to “keep in mind that the market was created 2 hours ago so it may be hard to trade on
18 that market with default slippage parameters.”

19 155. Defendants, aware that investors sought to profit from a rise in TRIBE’s trading
20 value, maintained a “Speculation” subchannel on the Fei Protocol Discord channel, where traders
21 could “speculate” on the trading and value of the FEI/TRIBE tokens.

22 156. Illustratively, on April 3, 2021, the day the Offering completed and trading began,
23 the FEI token immediately lost its \$1 peg. In the Fei Protocol Discord channel, an investor asked
24 “may I ask you if there is a proposal to restore the 1\$ peg? Or the only solution is to wait the ETH
25 price to moon or that people mass buy fei?”

26 157. Defendant Delgado stated in response, “This is a great conversation topic for the 🌙
27 speculation channel! You should post about it there.”

1 **V. CLASS ACTION ALLEGATIONS**

2 158. Plaintiff brings this action as a class action pursuant to California Code of Civil
3 Procedure § 382 for the following Class of persons:

4 *All persons and entities who purchased the digital assets “FEI” and “TRIBE” in*
5 *exchange for ETH as part of the Genesis Group, including those who “pre-swapped”*
6 *their Genesis Group FEI token allocation for TRIBE tokens between March 31, 2021*
7 *and April 3, 2021.*

8 Excluded from the Class are Defendants herein and any person, firm, trust, corporation, or other entity
9 directly affiliated with any defendant, as well as any judge, justice or judicial officer presiding over
10 this matter and members of their immediate families and judicial staff.

11 159. Plaintiff reserves the right to amend the Class definition if further investigation and/or
12 discovery indicate that the Class definition should be narrowed or otherwise modified.

13 160. The members of the Class are so numerous that joinder of all members is
14 impracticable. While the exact number of Class members is unknown to Plaintiff at this time and
15 can be ascertained only through appropriate discovery, Plaintiff believes that there are approximately
16 17,000 members in the proposed Class. The members of the Class may be identified from records
17 maintained by the Fei Protocol and from the Ethereum blockchain, and may be notified of the
18 pendency of this action.

19 161. Plaintiff’s claims are typical of the Class because Plaintiff’s and the Class members’
20 claims and damages arise from the same unregistered Genesis Event, which sold FEI and TRIBE
21 tokens. All members of the Class have been and/or continue to be similarly affected by Defendants’
22 wrongful conduct as complained of herein, in violation of federal law. Plaintiff is unaware of any
23 interests that conflict with or are antagonistic to the interests of the Class.

24 162. Plaintiff will fairly and adequately protect the interests of the members of the Class
25 and has retained counsel competent and experienced in securities class actions and complex
26 litigation. Plaintiff and his counsel will adequately and vigorously litigate this class action, and
27 Plaintiff is aware of his duties and responsibilities to the Class.

28 163. Defendants have acted with respect to the Class in a manner generally applicable to
each Class member. Common questions of law and fact exist as to all Class members and

1 predominate over any questions wholly affecting individual Class members. There is a well-defined
2 community of interest in the questions of law and fact involved in the action, which affect all Class
3 members. Among the questions of law and fact common to the Class are, *inter alia*:

- 4 (a) Whether the offer and sale of FEI and TRIBE tokens through the Genesis
5 Event constituted the sale or offer of “securities”;
- 6 (b) Whether Defendants were required to file a registration statement for the offer
7 and sale of FEI and TRIBE tokens through the Genesis Event;
- 8 (c) Whether Defendants are “issuers,” “underwriters” and/or “necessary
9 participants” in the offer and sale of FEI and TRIBE tokens through the
10 Genesis Event;
- 11 (d) Whether Defendants Santoro, Delgado, and Montgomery are “control
12 persons” under the Securities Act;
- 13 (e) Whether the federal securities laws were violated by Defendants’ acts and
14 omissions as alleged herein; and
- 15 (f) Whether Plaintiff and the Class are entitled to rescission, damages, or
16 restitution, and the proper calculation and amount of those remedies.

17 164. A class action is superior to all other available methods for the fair and efficient
18 adjudication of this controversy because joinder of all members is impracticable. Furthermore, as
19 the damages suffered by individual Class members may be relatively small, the expense and burden
20 of individual litigation make it impossible for members of the Class to individually redress the
21 wrongs done to them. There will be no difficulty in the management of this action as a class action.

22 165. Defendants have acted on grounds generally applicable to the entire Class with
23 respect to the matters complained of herein, thereby making appropriate the relief sought herein with
24 respect to the Class as a whole.

1 **VI. CAUSES OF ACTION**

2 **COUNT I**
3 **VIOLATION OF SECTIONS 5 AND 12(a)(1) OF THE SECURITIES ACT**
4 **(Against All Defendants)**

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

7 167. This Count is brought pursuant to Sections 5 and 12(a)(1) of the Securities Act, 15
8 U.S.C. §§ 77e and 77l(a)(1), against all Defendants.

9 168. The sale of FEI and TRIBE tokens through the Genesis Event was neither registered
10 as required under the Securities Act, nor subject to any exemption from registration.

11 169. Plaintiff and the Class were able to redeem the FEI and TRIBE tokens purchased with
12 ETH through the website <https://app.fei.money/> on April 3, 2021. According to Domain Name
13 Server (DNS) records for <https://app.fei.money/>, the IP addresses for the computers hosting this
14 website are owned by Amazon.com, Inc., and located in Dulles Virginia, USA. As of April 6, 2021,
15 37.35% of all Ethereum nodes, which validate transactions on the Ethereum blockchain, were
16 located in the United States. Thus, the obligation to deliver FEI and TRIBE tokens purchased by
17 Plaintiff and the Class during the Genesis Event was incurred in the United States, and actual
18 delivery occurred in the United States.

19 170. The sale of FEI and TRIBE tokens through the Genesis Event was the sale of a
20 security within the meaning of Section 2(a)(1) of the Securities Act, 15 U.S.C. § 77b(a)(1).

21 171. Defendants, and each of them, promoted, offered, solicited offers to buy and/or sold
22 securities in the Genesis Event.

23 172. Defendants, and each of them, are issuers and/or necessary participants of/in the
24 Genesis Event.

25 173. No Defendant or other person filed with the SEC a registration statement for the offer
26 and sale of FEI and TRIBE tokens through the Genesis Event, no registration statement was in effect
27 at the time of the Genesis Event, and no exemption to the registration statement was available.

28 174. Defendants, and each of them, used the instrumentalities of interstate commerce in
connection with the offer and sale of FEI and TRIBE tokens through the Genesis Event.

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COUNT II
VIOLATION OF SECTIONS 15 OF THE SECURITIES ACT
(Against Defendants Santoro, Montgomery, and Delgado)

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

176. This Count is asserted against Defendants Santoro, Montgomery and Delgado (collectively, the “Control Person Defendants”) under Section 15 of the Securities Act, 15 U.S.C. § 770.

177. The Control Person Defendants, by virtue of their offices, stock ownership, agency, agreements or understandings, and specific acts were, at the times of the wrongs alleged herein, and as set forth herein, were controlling persons within the meaning of Section 15 of the Securities Act.

178. The Control Person Defendants, and each of them, had the power and influence and exercised the same to cause the unlawful offer and sale of FEI and TRIBE tokens through the Genesis Event as described herein.

179. The Control Person Defendants, separately or together, possess, directly or indirectly, the power to direct or cause the direction of the management and policies of Fei Labs Inc., through the ownership of voting securities, by contract, subscription agreement, or otherwise.

180. The Control Person Defendants, separately or together, have sufficient influence such that they could have caused Fei Labs Inc. to submit a registration statement.

181. The Control Person Defendants, separately or together, jointly participated in, and/or aided and abetted, Fei Labs, Inc.’s failure to register the sale of FEI and TRIBE tokens through the Genesis Event.

182. By virtue of the conduct alleged herein, the Control Person Defendants are liable for the wrongful conduct complained of herein and are liable to the Class for rescission and/or damages.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment as follows:

A. Declaring that this action is properly maintainable as a class action under California Code of Civil Procedure Section 382, certifying Plaintiff as class representative, and appointing his counsel The Restis Law Firm, P.C., HGT Law, and AFN Law PLLC as Co-Class Counsel;

1 B. Declaring that Defendants offered and sold unregistered securities in violation of
2 Sections 5, 12(a)(1) and 15 of the Securities Act;

3 C. Awarding Plaintiff and the members of the Class the remedy of rescission of their
4 purchase of FEI and TRIBE tokens in the Genesis Event, and/or awarding compensatory damages
5 in favor of Plaintiffs and the Class against all Defendants, jointly and severally, for all damages
6 sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including pre-
7 judgment and post-judgment interest thereon;

8 D. Awarding Plaintiff and other members of the Class their reasonable costs and
9 expenses incurred in this action, and their attorneys' fees and expert fees;

10 E. Awarding such equitable/injunctive or other relief as the Court may deem just and
11 proper, including permitting any putative Class members to exclude themselves by requesting
12 exclusion through noticed procedures; and

13 F. Awarding Plaintiff and the other members of the Class such other and further relief
14 as the Court may deem just and proper.

15 **VIII. JURY DEMAND**

16 Plaintiff hereby demands a trial by jury.
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Respectfully submitted,

DATED: April 1, 2022

THE RESTIS LAW FIRM, P.C.

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*ATTORNEYS FOR PLAINTIFF
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