

**ATTACHMENT 1**

## SELECTED PROPOSED DEFINITIONS

1. "CRYPTOCURRENCY" as used herein refers to any and all digital currency and/or assets in which transactions are verified and records maintained by a decentralized system using cryptography, rather than by a centralized authority, including but not limited to Bitcoin, Ethereum, Tether, Cardano, Binance Coin, XRP, Solana, USD Coin, Dogecoin, Polkadot, Dinance USD, Avalanche, Uniswap, Litecoin, Terra, ChainLink, Bitcoin Cash, Algorland, Wrapped Bitcoin, Filecoin, Internet Computer, Polygon, Cosmos, Dai, Tron, Stellar, Ethereum Classic, FTX Token, VeChain, Theta, PancakeSwap, Tezos, Monero, Crypto.com Coin, Elrond, EOS, eCash, Aave, Bitcoin BEP2, IOTA, Quant, Axie Infinity, The Graph, NEAR Protocol, Hedera Hashgraph, UNUS SED LEO, Bitcoin SV, Neo, TerraUSD, SHIBA INU, etc.

2. "CRYPTOCURRENCY WALLET" means: a software program or hardware device that allows YOU to store, send, and receive digital currencies, including but not limited to LoafWallet, MetaMask Wallet, Sugi Wallet, KeepKey Wallet, Trezor One Wallet, Atomic Wallet, Ledger Nano S Wallet, Trezor Model T Wallet, Zengo, Ledger Nano X Wallet, etc.

3. "DIGITAL SECURITIES" or DIGITAL SECURITY" means: any investment instrument(s) or financial security(ies) that are issued, recorded, and transferred using distributed ledger technology (DLT), blockchain, or other digital systems, which represent ownership or rights to underlying assets, such as equities, bonds, derivatives, or investment contracts, and are typically issued and managed electronically."

4. "ELECTRONICALLY STORED INFORMATION" ("ESI") includes any information stored electronically on any COMPUTER or other social media device in YOUR actual or constructive possession, custody, or control. ESI shall include, but shall not be limited to, e-mails and other electronic communication, word-processing documents, contact manager information, accounting

## SELECTED PROPOSED DEFINITIONS

information, internet usage files, and network access information. “COMPUTER” shall include, but shall not be limited to, servers (including file servers, email servers, database servers, and all other such “server”-type devices), workstations, desktops, laptops, PDAs, and any other such type of computing or related devices that can process and/or store data or ESI. “COMPUTER MEDIA” shall include, but not be limited to, all devices that are associated with a computer or device and can store data and/or ESI that are internal, external, or removable, that are related to a COMPUTER or device, such as hard disks, floppy disks, CDs, DVDs, thumb drives, USB and/or FireWire devices, memory sticks, ram chips or cards, backup tapes, and the like.

ATTACHMENT 2

## **Selected key characteristics associated with Web 3.0:**

- a) **Decentralization**: Web 3.0 emphasizes decentralization by leveraging blockchain technology and distributed networks. This means reducing reliance on centralized servers and intermediaries, enabling peer-to-peer interactions, and granting users more control over their data and online experiences.
- b) **Interoperability**: Web 3.0 aims to enable seamless data exchange and communication between different platforms, services, and applications. It envisions a web where information can flow freely across various systems and where users have greater control over their digital identities and personal data.
- c) **Semantic Web**: Web 3.0 seeks to enhance the understanding of information by machines through the use of semantic data. This involves associating meaning to data, allowing intelligent systems to better interpret and process information for more personalized and context-aware experiences.
- d) **Artificial Intelligence (AI) Integration**: Web 3.0 envisions tighter integration of AI technologies, allowing for more intelligent and adaptive web experiences. AI algorithms and machine learning systems would assist in understanding user preferences, providing personalized recommendations, and automating various tasks.
- e) **Enhanced User Experiences**: Web 3.0 aims to provide richer and more immersive user experiences through advancements such as virtual reality (VR), augmented reality (AR), and mixed reality (MR). These technologies could transform how users interact with digital content and create new ways of collaboration and communication.
- f) **User Empowerment**: Web 3.0 emphasizes user empowerment, giving individuals greater ownership and control over their online presence, data privacy, and digital assets. It envisions users having more say in how their data is used and shared, as well as the ability to easily switch between different services and platforms.

## **Definitions and examples of services available in Web 3.0:**

- a) **Decentralized Finance (DeFi)**: DeFi applications aim to recreate traditional financial systems, such as lending, borrowing, trading, and asset management, using blockchain and smart contracts. These services eliminate intermediaries, increase transparency, and provide greater accessibility to financial tools
- b) **Non-Fungible Tokens (NFTs)**: NFTs are unique digital assets that represent ownership or proof of authenticity for items like artwork,

- collectibles, virtual real estate, or in-game assets. Web 3.0 enables the creation, trading, and ownership of NFTs, providing new opportunities for creators and collectors.
- c) **Decentralized Storage and Computing:** Web 3.0 aims to create decentralized alternatives to centralized cloud storage and computing platforms. Projects like IPFS (InterPlanetary File System) and Filecoin offer distributed storage solutions, while platforms like Golem and iExec provide decentralized computing power.
  - d) **Decentralized Social Networks:** Web 3.0 envisions social networking platforms that prioritize user privacy, data ownership, and censorship resistance. Projects like Mastodon, Diaspora, and Steemit explore decentralized alternatives to traditional social media platforms.
  - e) **Decentralized Identity and Authentication:** Web 3.0 aims to enable users to have self-sovereign identities and control over their personal data. Projects like uPort, Sovrin, and Civic focus on providing decentralized identity management solutions using blockchain technology.
  - f) **Supply Chain Management:** Blockchain-based supply chain solutions allow for transparent and secure tracking of goods and services across the supply chain. These systems enhance traceability, reduce fraud, and improve efficiency. Projects like VeChain and IBM's Food Trust are examples of such applications.
  - g) **Gaming and Virtual Reality:** Web 3.0 enables the creation of decentralized gaming and virtual reality (VR) experiences. Blockchain-based gaming platforms like Axie Infinity and Decentraland offer immersive, player-owned virtual worlds and economies.

**ATTACHMENT 3**

< Newsroom

# BNY Mellon Launches New Digital Asset Custody Platform

NEW YORK

October 11, 2022

*World's largest custodian bank leads development of financial infrastructure to support digital assets*

NEW YORK, Oct. 11, 2022 - BNY Mellon today announced that its **Digital Asset Custody platform** is live in the U.S. With select clients now able to hold and transfer bitcoin and ether, this milestone reinforces BNY Mellon's commitment to support client demand for a trusted provider of both traditional and digital asset servicing.

As America's oldest bank, BNY Mellon has a 238-year legacy of trust, resilience, and innovation. In this spirit, BNY Mellon formed an enterprise Digital Assets Unit in 2021 to develop solutions for digital asset technology, with plans to launch the industry's first multi-asset platform that bridges digital and traditional asset custody.

"Touching more than 20% of the world's investable assets, BNY Mellon has the scale to reimagine financial markets through blockchain technology and digital assets," said Robin Vince, Chief Executive Officer and President at BNY Mellon. "We are excited to help drive the financial industry forward as we begin the next chapter in our innovation journey."

A **recent survey** sponsored by BNY Mellon highlights already significant institutional demand for a resilient, scalable financial infrastructure built to accommodate both traditional and digital assets. According to the survey, almost all institutional investors (91%) are interested in investing in tokenized products. Additionally, 41% of institutional investors hold cryptocurrency in their portfolio today, with an additional 15% planning to hold digital assets in their portfolios within the next two to five years.



"With Digital Asset Custody, we continue our journey of trust and innovation into the evolving digital assets space, while embracing leading technology and collaborating with fintechs," said Roman Regelman, CEO of Securities Services & Digital at BNY Mellon.

BNY Mellon has been working closely with market-leading fintechs. The firm tapped digital asset technology specialists Fireblocks and Chainalysis to integrate their technology in order to meet the present and future security and compliance needs of clients across the digital asset space.

"As the world's largest custodian, BNY Mellon is the natural provider to create a safe and secure Digital Asset Custody Platform for institutional clients," said Caroline Butler, CEO of Custody Services at BNY Mellon. "We will continue to innovate, embrace new technology and work closely with clients to address their evolving needs."

### **About BNY Mellon**

BNY Mellon is a global investments company dedicated to helping its clients manage and service their financial assets throughout the investment lifecycle. Whether providing financial services for institutions, corporations or individual investors, BNY Mellon delivers informed investment and wealth management and investment services in 35 countries. As of June 30, 2022, BNY Mellon had \$43.0 trillion in assets under custody and/or administration, and \$1.9 trillion in assets under management. BNY Mellon can act as a single point of contact for clients looking to create, trade, hold, manage, service, distribute or restructure investments. BNY Mellon is the corporate brand of The Bank of New York Mellon Corporation (NYSE: BK). Additional information is available on [www.bnymellon.com](http://www.bnymellon.com). Follow us on Twitter @BNYMellon or visit our newsroom at [www.bnymellon.com/newsroom](http://www.bnymellon.com/newsroom) for the latest company news.

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ATTACHMENT 4

## MOST COMMONLY USED EXCHANGES

1. Binance
2. Coinbase
3. OKX
4. ByBit
5. Kraken
6. Bitstamp
7. Bitfinex
8. KuCoin
9. Huobi
10. OKX
11. Bittrex
12. Gemini
13. CoinEx
14. Poloniex
15. HitBTC
16. BitMEX
17. Upbit
18. Bitso
19. Coincheck
20. Liquid
21. Bitbank
22. Coinone

And... many more (nearly 600 exchanges worldwide) (this is why we need regulation)

ATTACHMENT 5



# Know Your Client (KYC): What It Means, Compliance Requirements

By [JAMES CHEN](#) Updated April 29, 2023

Reviewed by [ERIC ESTEVEZ](#)

Fact checked by [JIWON MA](#)



Investopedia / Yurle Villegas

## What Is Know Your Client (KYC)?

Know Your Client (KYC) is a standard in the investment industry that ensures [advisors](#) can verify a client's identity and know their client's investment knowledge and financial profile.

Three components of KYC include the customer identification program (CIP), imposed under the USA Patriot Act in 2001, customer due diligence (CDD), and ongoing monitoring or enhanced due diligence (EDD) of a customer's account once it is established



## KEY TAKEAWAYS

- Know Your Client (KYC) are standards used in the investment and financial services industry to verify customers and know their risk and financial profiles.
- Three components of KYC include the customer identification program (CIP), customer due diligence (CDD), and enhanced due diligence (EDD).
- The SEC requires that each new customer provide detailed financial information before opening an investment or banking account. <sup>[1]</sup>

## Understanding Know Your Client (KYC)

The Know Your Client (KYC) rule is an ethical requirement for those in the securities industry dealing with customers during the opening and ongoing maintenance of accounts.

It is implemented at the onset of the customer-broker relationship to establish the essential personal profile of each customer before any financial recommendations are made. The customer is also made aware of the need to comply with all the laws, regulations, and rules of the securities industry. <sup>[2]</sup>

## KYC Requirements

### Customer Identification Program

CIP requires that financial firms must obtain four pieces of identifying information about a client, including name, date of birth, address, and identification number.

## Take the Next Step to Invest

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## Customer Due Diligence

CDD is a process in which all of a customer's credentials are collected to verify their identity and evaluate their risk profile for suspicious account activity.

## Enhanced Due Diligence

EDD is used for customers that are at a higher risk of infiltration, terrorism financing, or money laundering and additional information collection is often necessary.

## KYC Compliance

Two rules governing KYC include [Financial Industry Regulatory Authority](#) (FINRA) Rule 2090 (Know Your Customer) and FINRA Rule 2111 (Suitability).<sup>[3]</sup>  
<sup>[4]</sup>

FINRA Rule 2090 states that every broker-dealer uses reasonable effort when opening and maintaining client accounts and are required to know and keep records on the profile of each customer, as well as identify each person who has authority to act on the customer's behalf.<sup>[5]</sup>

FINRA Rule 2111 notes that a broker-dealer must have a reasonable belief that a recommendation is suitable for a customer based on the client's financial situation and needs. This rule assumes that the broker-dealer has completed a review of the current facts and profile of the customer, including the customer's



exchange of a security on the client's behalf.

## AML and KYC

The U.S. Financial Crimes Enforcement Network (FinCEN) requires both customers and financial institutions to comply with KYC standards to prevent illegal activity, specifically money laundering. AML, anti-money laundering, is a term for the range of measures and processes used to achieve regulatory compliance. KYC is a component of AML.

FinCEN requires financial institutions to understand the type and purpose of the customer relationship and develop a customer risk profile, used as a baseline for detecting suspicious customer activities. <sup>[7]</sup> <sup>[8]</sup>

Financial institutions must also maintain current and accurate customer information and continue to monitor accounts for suspicious and illegal activities. When detected, they are required to promptly report their findings. <sup>[9]</sup>

## KYC and Cryptocurrency

The cryptocurrency market is praised for providing a decentralized medium of exchange that promotes confidentiality. However, these benefits also present challenges in preventing money laundering. Criminals see cryptocurrency as a vehicle to launder money and as a result, governing bodies are looking for ways to impose KYC on cryptocurrency markets.

Requiring cryptocurrency platforms to [verify their customers](#) would align with financial institutions, and although not yet required, many crypto platforms have implemented KYC practices. <sup>[10]</sup>

Fiat-to-crypto exchanges facilitate transactions involving fiat currencies and cryptocurrencies. Since fiat currency is the official currency of a nation, most of these exchanges employ a measure of KYC and financial institutions would have vetted their customers according to KYC requirements. <sup>[11]</sup>





*The penalty assessed against Bitcoin mixer Larry Dean Harmon for violating anti-money laundering laws.* <sup>[12]</sup>

In early 2021, FinCEN proposed that cryptocurrency and digital asset market participants submit, maintain, and verify customers' identities. <sup>[13]</sup> This proposal would classify certain cryptocurrencies as monetary instruments, subjecting them to KYC requirements.

## What Is KYC Verification?

The Know Your Client (KYC) verification is a set of standards and requirements used in the investment and financial services industries to ensure brokers have sufficient information about their clients, their risk profiles, and their financial position. <sup>[1]</sup>

## What Is KYC in the Banking Sector?

KYC in the banking sector requires bankers and advisors to identify their customers, beneficial owners of businesses, and the nature and purpose of customer relationships. Banks must also review customer accounts for suspicious and illegal activity and maintain and ensure the accuracy of the customer accounts.

## What Are KYC Documents?

Account owners generally must provide a government-issued ID as proof of identity. Some institutions require two forms of ID, such as a driver's license, birth certificate, social security card, or passport. In addition to confirming identity, the address must be confirmed. This can be done with proof of ID or with an accompanying document confirming the address of the client. <sup>[14]</sup>

## The Bottom Line

Know Your Client (KYC) are a set of standards and requirements investment and financial services companies use to verify the identity of their customers and any associated risks with the customer relationship. KYC requires customers to



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### ARTICLE SOURCES ▼

## Open a New Bank Account

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## Related Terms

### [Anti Money Laundering \(AML\) Definition: Its History and How It Works](#)

Anti-money laundering (AML) refers to laws and regulations intended to stop criminals



## Hyperledger Iroha

Hyperledger Iroha is a business blockchain framework designed for infrastructure projects that need distributed ledger technology. [more](#)

## Regulation Best Interest (BI): Definition, Broker Obligations

Regulation Best Interest (BI) is an SEC rule that requires broker-dealers to recommend only products that are in their customers' best interests. [more](#)

## Vostro Account: Definition, Purpose, Services, and Example

A vostro account is an important part of correspondent banking in which a foreign bank provides financial services on behalf of a domestic bank. [more](#)

## Correspondent Bank: Definition and How It Works

A correspondent bank is a financial institution authorized to provide services on behalf of another financial institution. Learn how correspondent banks work. [more](#)

## Five Percent Rule: What it is, How it Works, Example

The five percent rule requires brokers to use fair and ethical practices when setting commission rates on over-the-counter transactions. [more](#)

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## Related Articles

A shot of a young couple consulting a financial advisor.

**BROKERS**

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How to Create a Crypto Wallet



ATTACHMENT 6



Neutral

As of: July 11, 2023 5:42 PM Z

## In re Marriage of DeSouza

Court of Appeal of California, First Appellate District, Division Three

August 10, 2020, Opinion Filed

A156311

### Reporter

54 Cal. App. 5th 25 \*; 266 Cal. Rptr. 3d 890 \*\*; 2020 Cal. App. LEXIS 822 \*\*\*

In re the Marriage of ERICA and FRANCIS DESOUZA. ERICA DESOUZA, Respondent, v. FRANCIS DESOUZA, Appellant.

### Outcome

Order affirmed.

**Subsequent History:** [\*\*\*1] The Publication Status of this Document has been Changed by the Court from Unpublished to Published August 26, 2020.

**Prior History:** Superior Court of San Francisco City & County, No. FDI12778498, Richard C. Berra, Temporary Judge.\*

[In re Desouza, 2020 Cal. App. Unpub. LEXIS 5082 \(Cal. App. 1st Dist., Aug. 10, 2020\)](#)

### Core Terms

bitcoins, spouse, fiduciary duty, community estate, disclosure, impaired, substantial evidence, disclose, proxies, fail to disclose, cryptocurrency, transferred, breached, wallet, trial court, purchases, funds

### Case Summary

#### Overview

**HOLDINGS:** [1]-A trial court properly found that a husband breached his fiduciary duty to his former wife and ordered him to transfer bitcoins and other cryptocurrency to her pursuant to the parties' judgment of dissolution and to pay her attorney fees and costs because information he withheld about his cryptocurrency investments was material, and there was substantial evidence that his breach impaired the wife's interest in their community estate.

### LexisNexis® Headnotes

Family Law > ... > Property  
Rights > Characterization > Community Property

Real Property Law > ... > Present Estates > Marital Estates > Community Property

#### [HN1](#) [↓] Characterization, Community Property

[Fam. Code, § 721](#), recognizes the confidential relationship held by spouses. That relationship is a fiduciary relationship imposing a duty of the highest good faith and fair dealing on each spouse. Also within that division, [Fam. Code, § 1100](#), addresses management and control of community property.

Family Law > ... > Property  
Distribution > Characterization > Community Property

#### [HN2](#) [↓] Characterization, Community Property

The fiduciary duty spouses owe one another continues after separation, including the accurate and complete disclosure of all assets and liabilities in which the party has or may have an interest or obligation and all current earnings, accumulations, and expenses, including an immediate, full, and accurate update or augmentation to the extent there have been material changes. [Fam. Code, § 2012, subd. \(a\)\(1\)](#). Taken together, [Fam. Code, §§ 721, 1100](#), and [2102](#), impose on a managing spouse

\* Pursuant to [article VI, section 21 of the California Constitution](#).

affirmative, wide-ranging duties to disclose and account for the existence, valuation, and disposition of all community assets from the date of separation through final division. These statutes obligate a managing spouse to disclose soon after separation all the property that belongs or might belong to the community, and its value, and then to account for the management of that property, revealing any material changes in the community estate, such as the transfer or loss of assets. This strict transparency both discourages unfair dealing and empowers the nonmanaging spouse to remedy any breach of fiduciary duty by giving that spouse the information concerning the community's business needed for the exercise of his or her rights, including the right to pursue a claim for impairment to his or her interest in the community estate.

Family Law > ... > Property  
Distribution > Characterization > Community  
Property

### [HN3](#) Characterization, Community Property

[Fam. Code, § 1101](#), affords each spouse a claim against the other for any breach of fiduciary duty that results in an impairment to his or her interest in the community estate, including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's interest in the community estate. [§1101, subd. \(a\)](#). Remedies for a breach of this duty that impairs another spouse's interest in the community estate include an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney fees and court costs. [§ 1101](#), subs. (a), (g).

Civil Procedure > Appeals > Standards of  
Review > Abuse of Discretion

Civil Procedure > Appeals > Standards of  
Review > Questions of Fact & Law

### [HN4](#) Standards of Review, Abuse of Discretion

The abuse of discretion standard is not a unified standard; the deference it calls for varies according to the aspect of a trial court's ruling under review. The trial court's findings of fact are reviewed for substantial

evidence, its conclusions of law are reviewed de novo, and its application of the law to the facts is reversible only if arbitrary and capricious. When a trial court's factual determination is attacked on the ground that there is no substantial evidence to sustain it, the power of an appellate court begins and ends with the determination as to whether, on the entire record, there is substantial evidence, contradicted or uncontradicted, which will support the determination, and when two or more inferences can reasonably be, or deduced from the facts, a reviewing court is without power to substitute its deductions for those of the trial court. If such substantial evidence be found, it is of no consequence that the trial court believing other evidence, or drawing other reasonable inferences, might have reached a contrary conclusion.

Family Law > ... > Property  
Distribution > Characterization > Community  
Property

### [HN5](#) Characterization, Community Property

[Fam. Code, § 1100, subd. \(e\)](#), requires each spouse to fully disclose all material facts regarding community assets.

Family Law > ... > Property  
Distribution > Characterization > Community  
Property

### [HN6](#) Characterization, Community Property

The statutory policy in favor of disclosure contains no exception for debts and assets that offset each other. [Fam. Code, § 2102](#), together with [Fam. Code, §§ 721, 1100](#), and [1101](#), is part of the integrated statutory scheme that implements the policy of fiduciary care by imposing wide-ranging duties to disclose and account for the existence, valuation, and disposition of all community assets from the date of separation through final division.

## Headnotes/Summary

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### Summary

[\*25] CALIFORNIA OFFICIAL REPORTS SUMMARY

In a postjudgment proceeding, the trial court found that



a husband breached his fiduciary duty to his former wife and ordered him to transfer bitcoins and other cryptocurrency to her pursuant to the parties' judgment of dissolution and to pay her attorney fees and costs. (Superior Court of the City and County of San Francisco, No. FDI12778498, Richard C. Berra, Temporary Judge.\*)

The Court of Appeal affirmed the order. The court held that the trial court's finding that the husband failed to disclose material information about his bitcoin investments was supported by substantial evidence and within its broad discretion. Had the husband disclosed the important facts about the bitcoin investments, the wife would have had the ability to object to a division in kind of the total bitcoins and/or protect her interest in the bitcoins by requesting the trial court use its equitable powers to protect her from the husband's unilateral decision to purchase the bitcoins. Moreover, the trial court reasonably disagreed with the husband's contention that, even if he failed to disclose material information, his disclosure caused no impairment to the wife's community interest because the bitcoins from one of the investments earned millions of dollars for the community, thereby greatly enriching, not impairing, the community estate. The financial success of one undisclosed investment did not erase the harm to the community estate, and the wife, occasioned by a separate undisclosed transaction. (Opinion by Siggins, P. J., with Fujisaki and Petrou, JJ., concurring.)

## Headnotes

### CALIFORNIA OFFICIAL REPORTS HEADNOTES

#### [CA\(1\)](#) [↓] (1)

##### **Husband and Wife § 2—Fiduciary Relationship—Duty of Good Faith and Fair Dealing.**

[Fam. Code, § 721](#), recognizes the confidential relationship held by spouses. That relationship is a fiduciary relationship imposing a duty of the highest good faith and fair dealing on each spouse. Also within that division, [Fam. Code, § 1100](#), addresses management and control of community property.

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\* Pursuant to [article VI, section 21 of the California Constitution](#).

#### [CA\(2\)](#) [↓] (2)

##### **Dissolution of Marriage; Separation § 50—Community Assets—Duty of Disclosure—Breach of Fiduciary Duty.**

The fiduciary duty spouses owe one another continues after separation, including the accurate and complete disclosure of all assets and liabilities in which the party has or may have an interest or obligation and all current earnings, accumulations, and expenses, including an immediate, full, and accurate update or augmentation to the extent there have been material changes ([Fam. Code, § 2102, subd. \(a\)\(1\)](#)). Taken together, [Fam. Code, §§ 721, 1100](#), and [2102](#), impose on a managing spouse affirmative, wide-ranging duties to disclose and account for the existence, valuation, and disposition of all community assets from the date of separation through final property division. These statutes obligate a managing spouse to disclose soon after separation all the property that belongs or might belong to the community, and its value, and then to account for the management of that property, revealing any material changes in the community estate, such as the transfer or loss of assets. This strict transparency both discourages unfair dealing and empowers the nonmanaging spouse to remedy any breach of fiduciary duty by giving that spouse the information concerning the community's business needed for the exercise of his or her rights, including the right to pursue a claim for impairment to his or her interest in the community estate.

#### [CA\(3\)](#) [↓] (3)

##### **Husband and Wife § 38—Community Property—Remedies and Actions—Breach of Fiduciary Duty.**

[Fam. Code, § 1101, subd. \(a\)](#), affords each spouse a claim against the other for any breach of fiduciary duty that results in an impairment to his or her interest in the community estate, including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's interest in the community estate. Remedies for a breach of this duty that impairs another spouse's interest in the community estate include an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney fees and court costs ([§ 1101, subds. \(a\), \(g\)](#)).

[\*27] [CA\(4\)](#) (4)**Dissolution of Marriage; Separation § 50—Community Assets—Duty of Disclosure—Impairment to Community Interest.**

The trial court reasonably disagreed with a husband's contention that, even if he failed to disclose material information about his cryptocurrency investments, his disclosure caused no impairment to his former wife's community interest because the bitcoins from one of the investments earned millions of dollars for the community, thereby greatly enriching, not impairing, the community estate. The financial success of one undisclosed investment did not erase the harm to the community estate, and the wife, occasioned by a separate undisclosed transaction.

[[Kirkland et al., Cal. Family Law Practice and Procedure \(2020\) ch. 24, § 24.11](#); [Cal. Forms of Pleading and Practice \(2020\) ch. 122, Community Property, § 122.51](#).]

[CA\(5\)](#) (5)**Dissolution of Marriage; Separation § 50—Community Assets—Duty of Disclosure.**

The statutory policy in favor of disclosure contains no exception for debts and assets that offset each other. [Fam. Code, § 2102](#), together with [Fam. Code, §§ 721, 1100](#), and [1101](#), is part of the integrated statutory scheme that implements the policy of fiduciary care by imposing wide-ranging duties to disclose and account for the existence, valuation, and disposition of all community assets from the date of separation through final division.

**Counsel:** Philip S. Silvestry and Gregory R. Ellis for Appellant.

Samantha Bley DeJean, Juliana Yanez, Robert A. Olson and Eleanor S. Ruth for Respondent.

**Judges:** Opinion by [\*891] Siggins, P. J., with Fujisaki and Petrou, JJ., concurring.

**Opinion by:** Siggins, P. J.

**Opinion**

**SIGGINS, P. J.**—Francis DeSouza appeals from a postjudgment order finding he breached his fiduciary duty to his former wife Erica and ordering him to transfer bitcoins and other cryptocurrency to her pursuant to the parties' judgment of dissolution and to pay her attorneys' fees and costs.<sup>1</sup> Francis argues he did not breach his fiduciary duty because information he [\*28] withheld about his cryptocurrency investments was not material and, alternatively, there was no substantial evidence his breach impaired Erica's interest in their community estate. Neither point has merit. We affirm.

**BACKGROUND***I. Francis Invests in Bitcoins*

In January 2013 Erica served Francis with a petition for dissolution of marriage, along with an automatic temporary restraining order that, among other things, [\*\*\*2] prohibited him from “[t]ransferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life.”

In April 2013, Francis initiated three bitcoin-related transactions. On April 9 or 10, he wired \$45,000 to **Mt. Gox** Company Ltd. (**Mt. Gox**), a Japanese bitcoin exchange, to purchase bitcoins. Francis never received any bitcoins for this money, nor recovered the transferred funds.

[\*\*892] On April 10, 2013, Francis arranged for his friend and colleague Wences Casares to purchase 558.32 bitcoins from **Mt. Gox** for \$99,451 on his behalf. Wences completed the purchase and transferred the bitcoins, along with an additional gift of five bitcoins (jointly, the Wences bitcoins), to Francis's digital wallet.<sup>2</sup>

On April 12, Francis had his associate Khaled Hassounah purchase an additional 498.89 bitcoins from **Mt. Gox** for \$44,940 (the Khaled bitcoins) on his behalf. Khaled was to transfer these bitcoins from his own **Mt. Gox** account to Francis's digital wallet. Although he

<sup>1</sup>For clarity, we adopt the parties' practice of identifying themselves and other key actors by their first names. We intend no disrespect by this practice.

<sup>2</sup>A digital wallet is a secure storage method that can only be accessed by the holder of a private key.

bought the bitcoins [\*\*\*3] as agreed, Khaled never completed the transfer and the 498.89 bitcoins remained with Mt. Gox.

In December 2013 and again in August 2014, Francis moved the Wences bitcoins from one digital wallet to another. In 2017 he learned that the Wences bitcoins had “forked,” an automatic process that generates dividends from bitcoin holdings in the form of new currency, “bitcoin cash” and “bitcoin gold.”

## II. *The Khaled Bitcoins Are Enmeshed in the Mt. Gox Bankruptcy*

By April 2013, Mt. Gox was having regulatory difficulties with the U.S. government. On April 11 it briefly suspended trading. In June 2013 federal [\*29] agents froze two bank accounts associated with the exchange and seized millions of dollars for its alleged failures to comply with federal regulations. Mt. Gox suspended withdrawals to be processed in U.S. dollars.

By late 2013 or early 2014, Mt. Gox lost hundreds of thousands of bitcoins to hacking, embezzlement, or both. Bitcoin expert Dr. Charles Evans testified for Erica that as early as March 2013, “anyone who was active on the Bitcoin discussion boards, anyone who was making an effort to get to know the Bitcoin community, knew that Mt. Gox was having trouble left, right, and sideways. [\*\*\*4] [¶] And my personal opinion at the time was only an idiot would leave his Bitcoins on Mt. Gox.” Dr. Evans reviewed e-mails between Francis, Khaled and Wences in the spring of 2013. One such e-mail from Wences to Francis advised him to “[b]uy your Bitcoins on Mt. Gox, then get the Bitcoins off and put them into Blockchain.info,” and led Dr. Evans to conclude Francis was aware of the problems with Mt. Gox when he arranged his proxy purchases in April 2013.<sup>3</sup>

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<sup>3</sup> In his written report, Dr. Evans elaborated that “Hack #1 took place beginning as far back as 2011 through the time that MtGOX ceased operation. According to MtGOX CEO, Mark Karpeles, hackers siphoned off approximately 750,000 bitcoins held in reserve for customer accounts along with 100,000 of MtGOX’s own bitcoins. This amounted to between 6% and 7% of the total number of all the bitcoins in circulation at that time, worth approximately \$7.25 billion at current prices as of the date of this report.

“Whether Hack # 1 indeed was a hack, in the sense of an external breach, or it was an ‘inside job’, remains the subject of speculation among persons who are interested in the MtGOX saga. Relevant here is not whether the theft was committed by external or internal actors, but that it was widely

Francis discovered by December 2013 that he could not get the Khaled bitcoins [\*\*893] out of Mt. Gox. In February 2014, Mt. Gox halted all withdrawals and filed for bankruptcy. By May 2014, Francis knew of the bankruptcy. He hoped the situation would get resolved but made no effort to recover the Khaled bitcoins or the initial \$45,000 he wired to Mt. Gox, which were tied up in the bankruptcy. He testified, “[t]here wasn’t much money when they went bankrupt, so at the point it wasn’t worth chasing them for little money, and now there’s nobody to chase.” Eventually Khaled filed a proof of claim in bankruptcy for the 498.8 bitcoins, which were still in his name, on Francis’s behalf.

[\*30]

Francis filed his preliminary schedule of assets and debts in the [\*\*\*5] divorce action in February 2014 and his final disclosure in July 2016. Both schedules disclosed his ownership of 1,062.21 bitcoins.

The parties’ property issues were tried in February 2017. In September 2017 the court issued a final statement of decision, found the Wences and Khaled bitcoins to be community property and ordered them divided evenly in kind between the parties, along with any derivative cryptocurrency.

After entry of the dissolution judgment on December 8, 2017, Erica sought her half of the community bitcoins. Only then did Francis disclose that the Khaled bitcoins were tied up in the Mt. Gox bankruptcy. On December 18, 2017, the day after bitcoin’s value hit a high of \$19,783.06, Francis divulged that he possessed only 613.53 of the 1062.21 community bitcoins. In a December 22, 2017 e-mail to his attorney copied to Erica’s counsel, Francis wrote that “[t]he exchange I was using to buy bitcoins, Mt. Gox, was hacked and then went bankrupt. I was able to take out 613.53 bitcoins.”<sup>4</sup> Francis had also failed to inform Erica prior to the

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recognized that MtGOX was an accidental success, and its founder and chief executive was in over his head, as evidenced by email from Wences Casares to Francis DeSouza dated 22 March 2013, in which Casares instructed DeSouza, ‘To buy bitcoin open an account at mtgox.com ... . To store and use bitcoins open an account at blockchain.info. ... [¶] • Hack #2 took place in March 2014, concurrent with MtGOX’s bankruptcy filing. In this instance, the hackers released a file called MtGox2014Leak.zip that they claimed was a database of MtGOX transaction records, with users’ personal data intentionally removed.’”

<sup>4</sup> Apparently a “forking” event in August 2017 added 50.205 bitcoins to the bitcoins Wences purchased for Francis, resulting in the 613.53 figure he reported in December 2017.

judgment that he used Wences and Khaled as proxies for his bitcoin purchases, that bitcoin cash and gold had been generated from the bitcoin investments, [\*\*\*6] and that he transferred of cryptocurrency between digital wallets.

On December 31, 2017, the price of bitcoin was \$13,500. The Khaled bitcoins had appreciated from their initial purchase price of approximately \$45,000 to around \$8 million.

### III. Erica Seeks Postjudgment Relief

In January 2018 Erica moved for an emergency order compelling Francis to immediately transfer her full interest in community bitcoins to her and for remedies afforded by the Family Code for his failure to timely and adequately disclose information about the bitcoin investments. Following a January 12, 2018 hearing the court ordered Francis to immediately transfer to Erica half of the 613.53 bitcoins and associated bitcoin cash and gold he had in his possession, to show cause why he should not be ordered to transfer an additional 224.34 bitcoins and proportional cryptocurrency, and to pay Erica's attorney's fees and costs pursuant to [Family Code sections 721](#) and [1100](#). It is undisputed that Francis transferred 306.765 bitcoins to Erica in order to comply with the first part of the court's order.

Erica's request for the order was tried over four days between June and August 2018. On October 19 the court issued its final statement of decision [\*31] finding [\*\*\*7] that Francis committed a series of transgressions surrounding [\*\*894] his purchase and handling of the bitcoins. The court found Francis violated the automatic restraining order and his fiduciary duties when, without Erica's knowledge or agreement, he sent \$45,000 to Mt. Gox to purchase bitcoins, committed additional community funds so that Wences and Khaled could purchase bitcoins on his behalf, and moved the Wences bitcoins between bitcoin wallets. The court further found that while Francis possessed documentation of the proxy purchases since April 2013, he "not only refused to disclose, but affirmatively hid from [Erica] their involvement until February 9, 2018."

In addition to concealing his bitcoin purchases and use of proxies, Francis's failure to inform Erica about the Mt. Gox bankruptcy further breached his fiduciary duty. "This was a material fact he should have disclosed to [Erica]. Had he disclosed these important facts [Erica] would have had the ability to object to a division in kind of the bitcoins and/or protect her interest in the bitcoins by requesting the Court to use its equitable powers to

protect her from [Francis's] decision to purchase the bitcoins as he did which tied [\*\*\*8] up a substantial portion in bankruptcy." Francis again breached his fiduciary duty when he failed to list the \$45,000 sent to Mt. Gox in either of his declarations of disclosure, failed to file a bankruptcy claim for those funds, withheld information about his bitcoin investments during discovery, failed to produce and falsely denied having documentation related to the bitcoins, and failed to disclose the cryptocurrency generated by forks.

The court ordered Francis to transfer \$22,500 in cash and 249.445 additional bitcoins to Erica, along with the corresponding bitcoin gold and bitcoin cash. Francis was also ordered to pay Erica's attorneys' fees and costs incurred in bringing her motion.

Francis filed a timely appeal after the court denied his new trial motion.

## DISCUSSION

### I. Legal Principles

[CA\(1\)](#)[↑] (1) [HN1](#)[↑] [Family Code section 721](#)<sup>5</sup> "recognizes the confidential relationship held by

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<sup>5</sup>With exceptions not relevant here, [subdivision \(b\) of Family Code, section 721](#) provides that "in transactions between themselves, spouses are subject to the general rules governing fiduciary relationships that control the actions of persons occupying confidential relations with each other. This confidential relationship imposes a duty of the highest good faith and fair dealing on each spouse, and neither shall take any unfair advantage of the other. This confidential relationship is a fiduciary relationship subject to the same rights and duties of nonmarital business partners, as provided in [Sections 16403](#), [16404](#), and [16503 of the Corporations Code](#), including, but not limited to, the following:

"(1) Providing each spouse access at all times to any books kept regarding a transaction for the purposes of inspection and copying. [¶] (2) Rendering upon request, true and full information of all things affecting any transaction that concerns the community property. Nothing in this section is intended to impose a duty for either spouse to keep detailed books and records of community property transactions. [¶] (3) Accounting to the spouse, and holding as a trustee, any benefit or profit derived from any transaction by one spouse without the consent of the other spouse that concerns the community property."

Further statutory citations are to the Family Code.

spouses. That relationship is a fiduciary relationship ‘impos[ing] a [\*32] duty of the highest good faith and fair dealing on each spouse.’ [Citation.] Also within that division, [section 1100](#) addresses management and control of community property. [Subdivision \(e\) of section 1100](#) provides: ‘Each spouse shall act with respect to the other spouse in the management and control of the community [\*895] assets [\*\*\*9] and liabilities in accordance with the general rules governing fiduciary relationships which control the actions of persons having relationships of personal confidence as specified in [Section 721](#), until such time as the assets and liabilities have been divided by the parties or by a court. This duty includes the obligation to make full disclosure to the other spouse of all material facts and information regarding the existence, characterization, and valuation of all assets in which the community has or may have an interest and debts for which the community is or may be liable, and to provide equal access to all information, records, and books that pertain to the value and character of those assets and debts, upon request.’” ([In re Marriage of Schleich \(2017\) 8 Cal.App.5th 267, 276–277 \[213 Cal. Rptr. 3d 665\]](#) (*Schleich*)).

[CA\(2\)\[↑\] \(2\) HN2\[↑\]](#) This fiduciary duty continues after separation, including “[t]he accurate and complete disclosure of all assets and liabilities in which the party has or may have an interest or obligation and all current earnings, accumulations, and expenses, including an immediate, full, and accurate update or augmentation to the extent there have been material changes.” ([§ 2102, subd. \(a\)\(1\)](#).) “Taken together, these Family Code provisions impose on a managing spouse affirmative, wide-ranging duties [\*\*\*10] to disclose and account for the existence, valuation, and disposition of all community assets from the date of separation through final property division. These statutes obligate a managing spouse to disclose soon after separation all the property that belongs or might belong to the community, and its value, and then to account for the management of that property, revealing any material changes in the community estate, such as the transfer or loss of assets. This strict transparency both discourages unfair dealing and empowers the nonmanaging spouse to remedy any breach of fiduciary duty by giving that spouse the ‘information concerning the [community’s] business’ needed for the exercise of his or her rights [citations], including the right to pursue a claim for ‘impairment to’ his or her interest in [\*33] the community estate [citation].” ([In re Marriage of Prentis-Margulis & Margulis \(2011\) 198 Cal.App.4th 1252, 1270–1271 \[130 Cal. Rptr. 3d 327\]](#), italics omitted (*Margulis*)).

[CA\(3\)\[↑\] \(3\) HN3\[↑\]](#) [Section 1101](#) thus affords each spouse a claim against the other for any breach of fiduciary duty that results in an impairment to his or her interest in the community estate, “including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact” to the claimant [\*\*\*11] spouse’s interest in the community estate. ([§ 1101, subd. \(a\)](#).) Remedies for a breach of this duty that impairs another spouse’s interest in the community estate include “an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney’s fees and court costs.” ([§ 1101, subd. \(g\)](#); see [id., subd. \(a\)](#).)

Our courts have varied in stating the standard of review that applies when the trier of fact has found a breach of this duty. (See [In re Marriage of Kamgar \(2017\) 18 Cal.App.5th 136, 144 \[226 Cal. Rptr. 3d 234\]](#) [substantial evidence]; [Schleich, supra, 8 Cal.App.5th at pp. 283–284](#) [abuse of discretion].) The difference in approach does not matter here. [HN4\[↑\]](#) “The abuse of discretion standard is not a unified standard; the deference it calls for varies according to the aspect of a trial court’s ruling under review. The trial court’s findings of fact are reviewed for substantial evidence, its conclusions of law are reviewed de novo, and its application of the law to the facts is reversible only if arbitrary and capricious.” ([Haraguchi v. Superior Court \(2008\) 43 Cal.4th 706, 711–712 \[76 Cal. Rptr. 3d 250, 182 P.3d 579\]](#).) [\*\*\*896] “When a trial court’s factual determination is attacked on the ground that there is no substantial evidence to sustain it, the power of an appellate court begins and ends with the determination as to whether, on the entire [\*\*\*12] record, there is substantial evidence, contradicted or uncontradicted, which will support the determination, and when two or more inferences can reasonably be deduced from the facts, a reviewing court is without power to substitute its deductions for those of the trial court. If such substantial evidence be found, it is of no consequence that the trial court believing other evidence, or drawing other reasonable inferences, might have reached a contrary conclusion.” ([In re Marriage of Goodwin-Mitchell & Mitchell \(2019\) 40 Cal.App.5th 232, 238–239 \[253 Cal. Rptr. 3d 123\]](#).)

## II. Materiality

As noted in [Schleich, supra, 8 Cal.App.5th at pages 276–277](#), [HN5\[↑\]](#) [subdivision \(e\) of section 1100](#)

requires each spouse to fully disclose all material facts regarding community assets. Francis argues his failure to fully inform Erica [\*34] about the bitcoin investments was not “material” within the meaning of this provision because “no evidence suggested Erica's knowledge of this information would have affected her decision-making in the least.” The court's contrary finding is supported by substantial evidence and within its discretion.

The court found the suspension and bankruptcy of Mt. Gox less than a year after Francis used community funds and proxies to purchase bitcoins from the exchange “substantially impaired [Erica's] undivided one-half interest in the community Bitcoin estate. [\*\*\*13] She was unable to sell or transfer a substantial portion of her bitcoins. The purchase made by Wences was previously transferred to [Francis's] blockchain wallet but Khaled's purchase and the \$45,000 deposit by [Francis] are subject to the bankruptcy and are inaccessible and if [Erica] were ever to receive some or all of her bitcoins or the cash it most likely will be at a significant loss, or even turn out to be worthless.” The court further found that Francis's 2014 and 2015 declarations of disclosure listed the total amount of his bitcoin purchases, but failed to disclose that 498 of those 1062.21 bitcoins were (1) purchased by and still in Khaled's nominal possession; and (2) tied up in the Mt. Gox bankruptcy. These facts, the court found, were material. “Had he disclosed these important facts [Erica] would have had the ability to object to a division in kind of the [total] bitcoins and/or protect her interest in the bitcoins by requesting the Court use its equitable powers to protect her from [Francis's] unilateral decision to purchase the bitcoins.”

Francis asserts the evidence that Erica generally took no interest in the couple's finances during or after their marriage proved [\*\*\*14] that she would not have done anything to protect her interest in the bitcoin investments had he informed her about them. The trial court reasonably disagreed. Erica's lack of involvement or interest in the couple's finances before they separated is undisputed, but it sheds little if any light on what she would do to protect her financial interests after retaining divorce counsel, filing for divorce, and serving Francis with restraining orders that barred him from making unilateral decisions involving the community estate. Even Francis acknowledges in his reply brief the “general validity” of Erica's point that “[a] spouse who may be reliant on and trusting of the other during marriage, may well exercise independent judgment and rely on new advisors after separation.” Indeed.

[\*\*897] Nor did Francis's evidence compel the court to accept his view that Erica “continued her indifference to issues surrounding the community's investments” after the parties separated. His support for this characterization consists of his own conclusory testimony to that effect and one postseparation incident in which Erica agreed to his request to invest \$50,000 of community funds in a friend's company. None of this, [\*\*\*15] plainly, compels a finding that Erica would have done nothing throughout years of divorce litigation to [\*35] preserve her interest in an investment that was worth millions of dollars by the time the property judgment issued.

Francis more specifically asserts that his failure to disclose his initial purchase of bitcoins is immaterial because “the court did not base its Family Code section 1101, subdivision (g) award on a finding that Francis had breached his fiduciary duty by failing to disclose his investment to Erica beforehand, or for that matter by keeping the Khaled bitcoins at Mt. Gox or by employing proxies to purchase bitcoins.” Rather, he maintains, the findings of breach “[a]t most” “related to [his] failure to tell Erica at various times *well after* he purchased the bitcoins about his use of proxies and the Mt. Gox bankruptcy.” Not so. The court expressly (and nonexclusively) found that Francis “breached his fiduciary duties to [Erica] *when he purchased the bitcoins in 2013 ...*” (Italics added.) And it found the Mt. Gox suspension and bankruptcy “substantially impaired” Erica's interest in the Khaled bitcoins by rendering them inaccessible and potentially worthless. “[T]hese facts were clearly ‘material’ information [\*\*\*16] that should have been made known” to her. Francis's distortion of the court's express findings does not help him.

Neither does his suggestion he cannot be faulted for failing to disclose the Mt. Gox bankruptcy because, although he received a notice of bankruptcy in May 2014, he testified that he was unaware the Khaled bitcoins were caught up in it before Khaled told him in December 2017. The trial court expressly disbelieved this testimony. “Given the fact that Khaled testified that he worked with [Francis's] brother for a period of at least ten years and had not only socialized with Francis, but had traveled with him too, it is more likely than not that [Francis] knew of the loss of bitcoins to bankruptcy earlier than December 2017.” We will not second-guess the court's credibility assessment. (Thompson v. Asimos (2016) 6 Cal.App.5th 970, 981 [212 Cal. Rptr. 3d 158].)

The court's finding that Francis failed to disclose material information about his bitcoin investments is

supported by substantial evidence and within its broad discretion.

### III. Impairment

[CA\(4\)](#)<sup>[↑]</sup> (4) Francis argues that, even if he failed to disclose material information, his disclosure caused no impairment to Erica's community interest because, even with the Khaled bitcoins tied up in the *Mt. Gox* bankruptcy, **[\*\*\*17]** the Wences bitcoins “earned millions of dollars for the community, thereby greatly **[\*36]** enriching, not impairing, the community estate.” Again, the trial court reasonably disagreed. True, the bitcoins Wences purchased for Francis and moved out of *Mt. Gox* before the bankruptcy grew from an initial value of roughly \$100,000 to around \$3.45 million by August 2018.<sup>6</sup> But the financial success of one **[\*\*898]** undisclosed investment does not erase the harm to the community estate, and Erica, occasioned by a separate undisclosed transaction.

[CA\(5\)](#)<sup>[↑]</sup> (5) *In re Marriage of Feldman (2007) 153 Cal.App.4th 1470, 1483 [64 Cal. Rptr. 3d 29]* is instructive. There, a husband contended his failure to include a \$1 million bond in his financial disclosures in violation of [section 2102, subdivision \(a\)\(1\)](#) was excused by his failure to include the corresponding debt he incurred to finance the bond's purchase. The contention was unavailing. As the appellate court observed, [HN6](#)<sup>[↑]</sup> “[t]he statutory policy in favor of disclosure contains no exception for debts and assets that offset each other, and [husband] has cited no authority to support such a position.” (*Feldman, at p. 1483.*) So too here. Francis attempts to distinguish *Feldman* on the ground it addresses sanctions for failures to comply with financial disclosure obligations under [section 2102](#) rather than spousal **[\*\*\*18]** liability for fiduciary breaches more generally, but the distinction is immaterial. As observed in [Margulis, supra, 198 Cal.App.4th at p. 1270, section 2102](#), together with [sections 721, 1100 and 1101](#), is part of the integrated statutory scheme that implements the policy of fiduciary care by imposing “wide-ranging duties to disclose and account for the existence, valuation, and disposition of all community assets from the date of separation through final division.” (*Margulis, at pp. 1270–1271, italics omitted.*) The statutory policy at issue in *Feldman*, therefore, is equally compelling here. Alternatively,

Francis insists the Khaled and Wences bitcoins were merely two facets of one unitary investment and, therefore, he cannot be penalized for one and not credited for the other. But the trial reasonably court drew a different inference from the evidence, so we will not disturb it.

Lastly, Francis's contention that his nondisclosures did not *cause* the bankruptcy and resulting devaluation of the Khaled bitcoins largely rests on and reiterates his argument that the nondisclosures were immaterial. Accordingly, it fails for the same reasons. In any event, nothing in the trial court's order suggests its findings are premised on such an unlikely surmise.

**[\*37]**

### DISPOSITION

The order is affirmed.

Fujisaki, J., and **[\*\*\*19]** Petrou, J., concurred.

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End of Document

<sup>6</sup> Francis does not dispute his liability to the community for the initial \$45,000 wired to *Mt. Gox*.

ATTACHMENT 7



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**CONFIDENTIAL CLIENT MEMORANDUM**

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**TO:** \*\*\*\*\* \*\*\*\*\*  
**FROM:** RESPONSIBLE ATTORNEY  
**SUBJECT:** REQUIRED DOCUMENT PRODUCTION FOR YOUR DISSOLUTION  
PROCEEDING  
**DATE:** \*\*/\*\*/\*\*\*\*  
**CC:** FILE

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Hello, \*\*\*\*\*,

I am wanting to get a jump on information- and document-gathering as soon as possible; the sooner I have the below information the sooner (and better) I can identify issues in the case that we may have to address.

This is an inventory that I will be relying on in future, to ensure that I have asked necessary questions and eliminated areas that we don't need to worry about later as efficiently as possible.

***So, for Step One:*** please review this document, check the appropriate boxes in the first sentence of each category to indicate whether or not that category may be at issue in your case, review the document lists and notes under each category, initial each page, and sign the last page. This saves us an extended question-and-answer session and gets us plenty of information which we can then rely upon.

***Then, for Step Two:*** please try to start gathering documents<sup>1</sup>. Keep in mind: a lot of this is nothing more than a "wish list" so early in the proceeding. You'll save a lot of money if you can gather these documents for us early on; but there are usually ways for us to get necessary documents if you cannot locate them.

**Real Estate**

To my knowledge, there  is at least one real estate parcel  are not any real estate parcels in which either you or your spouse has or may have an interest.

If any real estate interest<sup>2</sup> is at issue, we need:

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<sup>1</sup> We suggest you use this MEMO as a guide. After you've returned this to us with boxes checked, pages initialed and last page signed, go through the document and write, for each type of document, that you've either gathered that class of document or you have been unable to find it. The initial return of the questionnaire predates the documents later produced and serves as a guide for that production.

<sup>2</sup> This also includes any time-shares which you or your spouse may own.

- The address of each real property parcel.
- Grant Deeds, Deeds of Trust, Quitclaim Deeds, and Interspousal Transfer Deeds recorded from date of marriage to the present date.
- Mortgage statements, HELOC statements.
  - Generally we want mortgage or HELOC statements for the past 12 months, but if we are served with a discovery demand, or wish to assert reimbursement claims, we will require more than 12 months of such documents.
- Lease Agreement, Rental Agreement
  - For real estate you have rented to third parties, we need either a Schedule E from your most recently filed tax return, or a Profit & Loss Report for the past year
  - For real estate you are renting in which you work or reside, we simply need the rental agreement.

**Vehicles, Boats, Trailers**

To my knowledge, there  is at least one vehicle  are not any vehicles in which either you or your spouse has or may have an interest<sup>3</sup>.

If any vehicle is at issue, for each vehicle we need:

- Copies of pink slips, if any
- Copies of registration
- Copies of proof of insurance
- Loan statements for vehicles, boats, trailers, etc.
  - Generally we want loan statements for the past 12 months, but if we are served with a discovery demand, or wish to assert reimbursement claims, we will require more than 12 months of such documents.

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<sup>3</sup> This includes any vehicle which either of you are leasing.

**Bank Accounts**

To my knowledge, there  is at least one banking account  are not any bank accounts in which either you or your spouse has or may have an interest.

If any bank account is at issue, for each account we need:

- Savings Account statements (whether from a bank, credit union, money market, or other deposit account) from date of marriage<sup>4</sup>, date of separation, and current date.
- Checking Account statements (whether from a bank, credit union, money market, or other deposit account) for the past 12 months, for each account to which you have access.
  - If we are served with a discovery demand, or we wish to raise some other issue for which these accounts may be helpful, we will require more the few statements requested in this list.

**Life Insurance**

To my knowledge, there  is at least one life insurance policy  are not any life insurance policies in which either you or your spouse has or may have an interest.

If any life insurance policy is at issue, for each account we need:

- Copies of policies including the face sheet
- Monthly/Annual Premium Statements from date of marriage, date of separation, and current date.

**Brokerage Accounts (stocks, bonds, mutual funds, and the like)**

To my knowledge, there  is at least one brokerage account  are not any brokerage accounts in which either you or your spouse has or may have an interest.

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<sup>4</sup> For this and all other documents where we ask for a date of marriage document, please note we are aware that the asset/liability may have developed post-marriage. In that case, try to get us (if you can) a statement as close to the inception of the loan or acquisition of the asset as you possibly can.

If any brokerage account is at issue, for each account we need:

- Copies of statements and/or bonds from date of marriage, date of separation, and current date, for each account.
  - If we are served with a discovery demand, or we wish to raise some other issue for which these accounts may be helpful, we will require more the few statements requested in this list.

**Digital Currency (cryptocurrency, non-fungible tokens, airline miles, and the like)**

To my knowledge, there  is at least one digital currency account/wallet  is not at least one digital currency account/wallet  in which either you or your spouse has or may have an interest.

If any digital currency account or wallet is at issue, for each account we need:

- Copies of statements and/or transaction records from date of marriage, date of separation, and current date, for each account/wallet<sup>5</sup>.
  - If we are served with a discovery demand, or we wish to raise some other issue for which these accounts may be helpful, we will require more than the few statements requested in this list.

**Private Equity Investments (stocks or shares held in non-public or pre-IPO companies)**

To my knowledge, there  is at least one private equity investment  are not any private equity investments  in which either you or your spouse has or may have an interest.

If any private equity investment<sup>6</sup> is at issue, for each account we need:

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<sup>5</sup> We recognize that if these items are being held in a wallet, it's often very difficult to print statements for specific dates. Get us what you can. Generally, if you don't have the statements, you can find transfers to the wallets or exchanges from bank accounts or from credit cards. Coinbase, Binance, Kraken are common exchanges and will take money from bank accounts or credit cards. MyEtherWallet (MEW) and 1Inch are common self-custodial wallets which do the same.

<sup>6</sup> Generally to locate these, you want to check bank and credit card statements for transfers to private equity firms or exchanges. Republic.com, Equifund.com, Wefunder.com are three well known private equity exchanges and offer shares in pre-IPO companies. Firms issuing their own private shares without using an exchange are generally going to be named by the firm..

- Copies of statements and/or bonds from date of marriage, date of separation, and current date, for each account.
  - If we are served with a discovery demand, or we wish to raise some other issue for which these accounts may be helpful, we will require more the few statements requested in this list.

**Tax-deferred Accounts (retirements, pensions, profit-sharing, annuities, IRAs, and the like)**

To my knowledge, there  is at least one tax-deferred account  are not any tax-deferred accounts in which either you or your spouse has or may have an interest.

If any tax-deferred account is at issue, for each account we need:

- Statements from date of marriage, date of separation, and current date.
  - If we are served with a discovery demand, or we wish to raise some other issue for which these accounts may be helpful, we will require more the few statements requested in this list.

**Accounts Receivable (whether secured or unsecured)**

To my knowledge, there  is at least one account receivable  are not any accounts receivable in which either you or your spouse has or may have an interest.

If any account receivables are at issue, for each account we need:

- Statements from date of marriage, date of separation, and current date.
- Copies of all promissory notes
  - If these exist, it's better to produce them early in the proceeding rather than later. These often go to reimbursement rights for taking on a debt, particularly if family loaned the parties money during marriage, or if the parties loaned money to a family member.

**Partnerships and Other Business Interests**

To my knowledge, there  is at least one partnership or business interest  are not any partnerships or business interests in which either you or your spouse has or may have an interest.

If any partnerships or business interests are at issue, for each one we need:

- The name of the business and type of entity (LLC, corporation, etc.)
- K-1
- Schedule C
- Profit and Loss
  - When dealing with business interests, we are generally looking for three years of the above documents.
- Any and all agreements/contracts

**Pets and/or Livestock**

To my knowledge, there  is at least one animal (whether pet or livestock)  are not any animals for which either you or your spouse are or may be responsible.

If any such animals are at issue, for each one we need:

- A description of each animal;
- An approximate value (resale, not purchase value) for the animal;
- If papered, a copy of the animal's registration (this can be difficult to obtain and is not essential if the animal has been spayed/neutered).

**Student Loans**

To my knowledge, there  is at least student loan (whether for a party or a party's child)  are not any student loans for which either you or your spouse are or may be liable.

If any student loans are at issue, for each one we need:

- Copies of statements for date of marriage, date of separation, and current date.
- Approximate dates of the education received, and by whom.

## **Taxes**

To my knowledge, I  have  have not filed tax returns in the past three years.

If any tax returns have been filed in the last three years, for each one we need:

- Copies of all Tax Returns – state, federal, individual and business, with all forms and schedules - for the last three years.
- Property Tax statements, if any

## **Loans – Unsecured<sup>7</sup>**

To my knowledge, there  is at least one unsecured loan  are not any unsecured loans for which either you or your spouse are or may be liable.

For each loan of which you are aware<sup>8</sup>, we need:

- Copies of statements for date of marriage, date of separation, and current date.
- Any and all copies of promissory notes signed by either party for the benefit of any other person.

## **Credit Cards**

To my knowledge, there  is at least one credit card account  are not any credit card accounts for which either you or your spouse are or may be liable.

For each credit card account of which you are aware, we need:

- Copies of credit cards statements from date of marriage, date of separation, and current date.
  - If we are served with a discovery demand, or some other issue is raised for which these accounts may be helpful, we will require more than the few statements requested here.

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<sup>7</sup> This is often a loan between family members, or a cash bank loan, but there are other types of unsecured loans.

<sup>8</sup> We know sometimes spouses conceal debts and other obligations. You cannot produce something you don't know anything about. But if you do know... we need you to tell us.

### **Other Debts**

To my knowledge, there  are no other debts not listed above<sup>9</sup>  are not any other debts not listed above for which either you or your spouse are or may be liable.

For each debt not listed above of which you are aware, we need:

- The bills at date of marriage, date of separation, and current date.
  - If we are served with a discovery demand, or wish to assert a reimbursement claim, we will require more than the few statements requested here.

### **Documents in Support of Reimbursement Claims**

As parties can assert a wide variety of reimbursement claims, discuss this with your attorney(s) so we can tailor the documentation requirements specifically to you.

### **Paystubs**

I  have  have not worked for any form of compensation in the past three years.

If you have worked, whether as a W-2 employee or as an 1099 contractor, within the last three years, for each place you worked<sup>10</sup> we need:

- Your last three paystubs (or, if self-employed, proof of deposits);
- Your year-end W-2, 1099, or K-1, if available to you.
  - If we are served with a discovery demand, or wish to assert a reimbursement claim, we will require more than the few documents requested here.

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<sup>9</sup> This can be medical bills, home improvement bills, private school tuition, almost anything.

<sup>10</sup> If you are currently working two or more jobs,



- If you don't have these documents, you will need to reach out to your employers to obtain them.

### **Other Income**

I  have  have not received other income in the form of disability payments/insurance, social security, unemployment, inherited funds, gambling winnings, or any other type of payment, in the past three years.

If you have received any other income from sources other than employment, within the last three years, for each place you worked we need documentation for those monies.

### **Current Monthly Bills**

I  do  do not have access to the monthly bills for my place of residence and current lifestyle.

This information is essential for us to complete your Income and Expense Declaration, and also to determine the marital standard of living<sup>11</sup>.

If you do have access to such bills, we need your most recent monthly bill and the bill just prior to date of separation<sup>12</sup> for the following:

- Rent/lease/mortgage
- Property tax bill
- Homeowner's insurance/renter's insurance
- Maintenance for the home (gardener, housekeeper, pool guy, repairman, etc.)
- Utilities (electric, gas, water, trash, etc.)
- Communications (telephone/cell phone, internet, data plans)
- Health insurance

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<sup>11</sup> The marital standard of living serves as a cap on spousal support in years to come. It's a bit complicated for this memo but worth an in-depth exploration for a party with your exposure for spousal support.

<sup>12</sup> These could be one and the same, if you have recently separated. For purposes of determining the marital standard of living, we would like the bills for the month prior to date of separation.

- Vehicle insurance
- Groceries and household supplies<sup>13</sup>
- Eating out<sup>14</sup>
- Laundry/Dry cleaning
- Education (yours or your children's)
- Gas for your car, repairs, etc.
- Disability or other type of insurance
- Charitable contributions
- Gym membership
- Uninsured health care costs (can include cosmetic procedures)
- Other regular expenses

**Losses**

- I  have  have not knowledge of losses suffered by the community due to lawsuits, gambling losses, natural disasters, accidents, or any other type of loss, in the past three years.
- If you have knowledge of the community incurring some loss, within the last three years, probably we are going to need a description from you of the type of loss before we decide what documents we are looking for.

**Certification:**

I have received and reviewed this document, have checked the appropriate boxes identifying what is or is not at issue in this case, and initialed each page.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

\_\_\_\_\_  
<sup>13</sup> This may just have to be based on the most recent month's worth of receipts.

<sup>14</sup> This, too, is likely to be based on either the most recent month's worth of receipts, or will be reflected in credit/debit card statements.