

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

THE STATE OF ILLINOIS, ex rel. Mark
Lavery,

Plaintiff-Relator,

v.

NORTH AMERICAN DERIVATIVES
EXCHANGE INC., d/b/a CRYPTO.COM
DERIVATIVES NORTH AMERICA,

Defendant.

Case No.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446, Defendant North American Derivatives Exchange, Inc. d/b/a Crypto.com | Derivatives North America (“CDNA”) removes this case from the Circuit Court of Cook County, Illinois to this Court by filing this Notice of Removal and respectfully states as follows:

1. On January 14, 2025, Plaintiff-Relator The State of Illinois, ex rel. Mark Lavery (“Relator”) commenced a civil action by filing under seal a Complaint in the Circuit Court of Cook County, Illinois against CDNA, captioned *The State of Illinois, ex rel. Mark Lavery v. North American Derivatives Exchange Inc., using assumed name Crypto.com Derivatives North America*, No. 2025L000545 (hereinafter the “State Court Action”). The State Court Action is pending in Illinois state court.

2. On August 7, 2025, CDNA was served with a copy of the Summons and Complaint in the State Court Action. Thus, this Notice of Removal is timely filed within 30 days of service of the Summons and Complaint.

3. Copies of the Summons and Complaint are attached as Exhibit A, and, together, constitute all process, pleadings, and orders served on CDNA in the Civil Action to date.

4. CDNA has made no appearance in the Circuit Court of Cook County, Illinois in the State Court Action.

5. This action is removable under 28 U.S.C. § 1441(a), which allows removal of any action over which the federal district courts have original jurisdiction.

6. This Court has federal question jurisdiction under 28 U.S.C. § 1331 because Relator's Illinois False Claims Act claim requires the adjudication of federal-law issues that are "(1) necessarily raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal court without disrupting the federal-state balance approved by Congress." *Gunn v. Minton*, 568 U.S. 251, 258 (2013) (citing *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 313–14 (2005)). The Supreme Court has held that when these factors are met, "jurisdiction is proper because there is a 'serious federal interest in claiming the advantages thought to be inherent in a federal forum,' which can be vindicated without disrupting Congress's intended division of labor between state and federal courts." *Id.* (quoting *Grable*, 545 U.S. at 313).

7. In the Complaint, Relator brings a claim under the Illinois False Claims Act, 740 ILCS 175/1 *et seq.* Ex. A ¶ 1. Relator purports to bring a "Reverse False Claim" that requires a relator to plead that "the defendant (i) had an obligation to pay or transmit money to the State, (ii) concealed or avoided that obligation, and (iii) acted knowingly." Ex. A ¶¶ 26–27 (citing 740 ILCS 175/3(a)(1)(G)). Relator contends that CDNA's "obligation" to pay money to the state stems from the Illinois Sports Wagering Act that requires obtaining a license to offer sports wagering products in the state. Ex. A ¶ 28 (citing ILCS 45/25-20, 45).

8. CDNA is a Designated Contract Market (“DCM”) regulated by the Commodity Futures Trading Commission (“CFTC”). As a DCM, CDNA lists for trading in a national derivatives market derivatives products regulated by the CFTC pursuant to the Commodity Exchange Act (“CEA”). CDNA has, in accordance with the procedures for listing such products and subject to CFTC oversight, listed for trading event contracts that reference the outcomes of live sports events (“Sports Event Contracts”).

9. Relator alleges that CDNA has “disguise[d] and misclassif[ied]” its Sports Event Contracts as “financial products” regulated under the CEA and CFTC regulations instead of sports wagering under Illinois law, thus “intentionally misrepresent[ing] them as financial products to evade obligation to pay” a “licensing fee” to the Illinois Gaming Board and “gambling taxes mandated under Illinois law.” Ex. A ¶¶ 10–12. Relator bases his scienter allegations on the existence of a 2012 order from the CFTC prohibiting the listing of a completely different class of event contracts—ones that reference the outcome of political events. Ex. A ¶¶ 15–18; *see In re the Self-Certification by N. Am. Derivatives Exch., Inc., of Pol. Event Derivatives Contracts and Related Rule Amends. under Part 40 of the Reguls. of the CFTC*, Order Prohibiting the Listing or Trading of Pol. Event Contracts (CFTC Apr. 2, 2012) (available at <https://www.cftc.gov/sites/default/files/stellent/groups/public/@rulesandproducts/documents/ifdocs/nadexorder040212.pdf>). Thus, by his allegations on the face of the Complaint, Relator’s claim would require him to prove that the Sports Event Contracts are *not* what CDNA allegedly represents them to be—financial products subject to CFTC regulation.

10. The deception that Relator alleges is, at its heart, the assertion that CDNA has misrepresented the regulatory status of the Sports Event Contracts under federal law. Relator specifically identifies CDNA’s alleged misrepresentations of CDNA’s products as “part of the

CDNA scheme” of avoidance on which his claims are premised. Ex. A ¶ 12. Those allegations necessarily put front and center the question of whether CDNA is in compliance with federal law. If it is, Relator’s allegations are incorrect and his claim fails.

11. To prove his claim, Relator must show both that the Sports Event Contracts were not, in fact, financial products under federal law *and* that CDNA’s interpretation of federal law as applied to Sports Event Contracts was knowingly or recklessly incorrect. The proof of Relator’s claim can be answered only by reference to the CEA and CFTC regulations. Specifically, federal law and regulation governs the registration of DCMs like CDNA, defines event contracts, and sets forth the rules and requirements for their trading. *See* 7 U.S.C. § 7 (setting forth requirements for DCMs); 7 U.S.C. § 1a(19)(iv) (defining “excluded commodity”); 7 U.S.C. § 1a(47)(A)(ii), (iv), (vi) (defining “swaps”); 7 U.S.C. § 7a-2 (setting forth certification process and “Special Rule” for CFTC review of event contracts); 17 C.F.R. § 38.3 (setting forth designation procedure and mandating compliance with “Core Principles” for DCMs); 17 C.F.R. 40.11 (providing for CFTC review of event contracts).

12. Relator himself seems to recognize the role the CFTC plays in determining the status of financial products like Sports Event Contracts by referencing the 2012 CFTC Order. Ex. A ¶ 17. But his allegations otherwise ignore the very federal regulatory scheme that governs the question of whether CDNA knowingly or recklessly mischaracterized Sports Event Contracts as federally regulated financial products. This “artful plead[ing]” does not change the fact that his claims require a court to reckon with federal law. *See Citadel Secs. LLC v. Chi. Bd. Options Exch., Inc.*, 2017 WL 118419, at *3 (N.D. Ill. Jan. 12, 2017) (finding that a court may uphold removal when “a plaintiff has ‘artfully pleaded’ to omit necessary federal questions.”) (citation omitted).

13. While there are other deficiencies with Relator’s claim, if the Court were to reach the merits, then the outcome of this case would turn almost exclusively on questions of federal law. The appropriate classification of Sports Event Contracts is a substantial issue that is actually disputed on the face of the Complaint. “The relevant sense of substantiality is . . . ‘the importance of the issue to the federal system as a whole.’” *Sarauer v. Int’l Ass’n of Machinists & Aerospace Workers, Dist. No. 10*, 966 F.3d 661, 674 (7th Cir. 2020) (quoting *Gunn*, 568 U.S. at 260). In fact, a federal court has already considered the very same issue considered in the 2012 CFTC order that serves as the basis for Relator’s scienter allegations. *KalshiEX LLC v. Commodity Futures Trading Comm’n*, 2024 WL 4164684 (D.D.C. Sept. 12, 2024). In that case, the United States District Court for the District of Columbia invalidated a CFTC order prohibiting the listing of political events contracts on a DCM with reasoning that would apply equally to the 2012 CFTC order. *Id.* at *7–12. Federal courts in three circuits—including two cases on appeal in the Third and Fourth Circuits—are right now considering related issues of whether the CEA preempts state gaming law as applied to trading on DCMs of event contracts that reference the outcome of sports events. *See KalshiEX LLC v. Flaherty*, No. 25-01922 (3d Cir.); *KalshiEx v. Martin, et al.*, No. 25-1892 (4th Cir.); *KalshiEx LLC v. Martin*, 2025 WL 2194908 (D. Md. Aug. 1, 2025); *KalshiEX LLC v. Flaherty*, 2025 WL 1218313 (D.N.J. Apr. 28, 2025); *KalshiEX, LLC v. Hendrick*, 2025 WL 1073495 (D. Nev. Apr. 9, 2025); *see also* Compl. for Permanent Inj. and Declaratory Relief, *N. Am. Derivatives Exch., Inc. v. Martin*, No. 25-cv-01285 (D. MD. Apr. 21, 2025); Compl. for Permanent Inj. and Declaratory Relief, *N. Am. Derivatives Exch., Inc. v. Hendrick*, No. 25-cv-00978 (D. Nev. June 3, 2025). The federal significance of the issue is heightened, not diminished, by the fact that the Relator here attempts to cabin his claim that trading of Sports Events Contracts on CDNA is subject to the jurisdiction of state gaming regulators in terms of state law.

14. Further, removal would not upset the federal-state balance approved by Congress. To the contrary, it would give effect to Congress's intentional apportionment of the regulation of derivatives like Sports Event Contracts to the federal government. *See* 7 U.S.C. § 2(a)(1)(A) (vesting in the CFTC "exclusive jurisdiction" over derivatives traded on federal exchanges). As the Seventh Circuit has recognized, the CEA was passed in part due to Congressional concern that the states "might step in to regulate futures markets themselves," thus "subject[ing] the national futures trading apparatus to conflicting regulatory demands." *Am. Agric. Movement, Inc. v. Bd. of Trade*, 977 F.2d 1147, 1156 (7th Cir. 1992) (citing *Commodity Futures Trading Commission Act: Hearings Before the Senate Committee on Agriculture & Forestry*, 93d Cong., 2d Sess. 685 (1974) (statement of Sen. Clark)). Congress enacted the CEA to establish "a comprehensive regulatory structure to oversee the volatile and esoteric futures trading complex." *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353, 355–56, 386 (1982) (quoting H.R. Rep. No. 93–975, p. 1 (1974)). A federal court considering the applicability of federal law to Sports Event Contracts in the context of Relator's claims is entirely consistent with the statutory balance prescribed by Congress.

15. In accordance with 28 U.S.C. § 1441(a), venue lies with this Court, as the State Court Action is pending in Cook County, Illinois, which is within this judicial district and division.

16. CDNA will provide Relator with written notice of this filing and will promptly file a true and correct copy of this Notice of Removal with the Clerk of the Circuit Court of Cook County, Illinois. The Notice of Filing of Notice of Removal to be filed with the Circuit Court of Cook County, Illinois is attached as Exhibit B.

WHEREFORE, Defendant CDNA files this Notice of Removal and respectfully requests that this matter be removed to this Court from the Circuit Court of Cook County, Illinois and that this Court assume full jurisdiction over this action for all further proceedings.

Dated: September 8, 2025.

Respectfully submitted,

/s/ Patrick M. Smith

Patrick M. Smith (Illinois Bar No. 41832)

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*Attorneys for North American Derivatives Exchange,
Inc., d/b/a Crypto.com | Derivatives North America*

EXHIBIT A

Hearing Date: No hearing scheduled

Location: <<CourtRoomNumber>>

Judge: Calendar, Q

FILED DATE: 8/6/2025 8:46 AM 2025L000545



SUMMONS

IN THE STATE OF ILLINOIS, CIRCUIT COURT

Alias Summons

Check if this is not the 1st Summons issued for this Defendant/Respondent.

COUNTY: Cook

County Where You Are Filing the Case

Enter the case information as it appears on your other court documents.

PLAINTIFF/PETITIONER OR IN RE: State of Illinois ex rel Lavery

Who started the case.

First, Middle, and Last Name or Business Name

DEFENDANTS/RESPONDENTS: North American Derivatives ~~X~~

Who the case was filed against.

Exchange, Inc. d/b/a Crypto.com

Derivatives North America

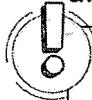
First, Middle, and Last Name or Business Name

FILED
8/6/2025 8:46 AM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2025L000545
Calendar, Q
33890305

2025 L 00545

Case Number

The Defendant/Respondent named above has been sued. Read this form for information about how to respond to this lawsuit. Also see page 4 for next steps.



For the person filling out this form: Read all instructions in this box.

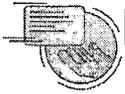
This *Summons* can only be used for certain types of cases. See the *How To Serve a Summons* Instructions for more information: ilcourts.info/summons-instructions.

Check 1 if this is a 30-day summons, or check 2 if this is a date certain summons. Fill in all the information in 1 or 2.

- Use a **date certain summons** if you are asking for money of \$50,000 or less or recovery of your personal property that you think the Defendant has, and for some mandatory arbitration cases. In 2, fill in your court date and how to go to court. You may get the court date when you e-file or you may need to ask the Circuit Clerk's office.
- Use a **30-day summons** for most other case types.

Complete the rest of the form with the Defendant/Respondent's information and information about the lawsuit.

If you are suing more than 1 Defendant/Respondent, attach an *Additional Defendant/Respondent Address and Service Information* form for **each** additional Defendant/Respondent.



1. 30-DAY SUMMONS

To participate in this case, you must **file** your *Appearance* and *Answer/Response* forms with the court within 30 days after you are served with this *Summons* (not counting the day of service) by e-filing or at:

Court Address: 50 W. Washington, Chicago

Courthouse Street Address

- or -

2. DATE CERTAIN SUMMONS

Your court date is listed below. Information about getting a court date and how to attend is available from the Circuit Clerk. You can find their contact information at ilcourts.info/CircuitClerks.

To respond to this *Summons*, you must **attend court** in one of the ways checked below on:

_____ at _____ a.m. p.m. in _____
Month, Day, Year *Time* *Courtroom Number*

Case Number: 2025 L 00545

Going to Court for a Date Certain Summons

Court dates may be in-person, remote, or a combination of in-person and remote.

In person at: _____
Courtroom Address *Courtroom Number*

Remotely (video or telephone)

By video conference at: _____
Video Conference Website

Log-in information: _____
Video Conference Log-in Information, Meeting ID, Password, etc.

By telephone at: _____
Call-in Number for Telephone Remote Appearance

To find out more about remote court options:

Phone: _____ or Website: _____
Circuit Clerk's Phone Number *Website URL*



3. ADDITIONAL INFORMATION ABOUT THE LAWSUIT

a. I am asking for the following amount of money in my *Complaint/Petition*: \$ _____.
(Enter 0 if you are not asking for money)

b. I am asking for the return of tangible personal property (items in the Defendant/Respondent's possession) in my *Complaint/Petition*.
 Yes No

4. DEFENDANT/RESPONDENT'S INFORMATION

a. Number of Defendants/Respondents being served:
 I am having 1 Defendant/Respondent served and their information is on this form below.
 I am having more than 1 Defendant/Respondent served. The first is listed below. I have attached *Additional Defendant/Respondent Address and Service Information* forms for the following number of additional Defendants/Respondents: _____
Number

b. First Defendant/Respondent's **primary address/information** for service:
Name: North American Derivatives Exchange, Inc. d/b/a Crypto.com Derivatives North America
First, Middle, and Last Name, or Business Name
Registered Agent's Name (if you are serving the Registered Agent of a business):
Illinois Corporation Service Co.
First, Middle, and Last Name
Street Address: 801 Adlai Stevenson Dr.
Street, Apt #
City, State, ZIP: Springfield, IL 62703
City *State* *Zip*
Telephone: _____ Email: _____

FILED DATE: 8/6/2025 8:46 AM 2025L000545

Case Number: 2025 L 00545

c. **Second address** for this Defendant/Respondent:

- I do **not** have another address where the Defendant/Respondent might be found.
- I have another address where this Defendant/Respondent might be found. It is:

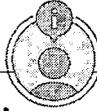
Street Address: _____
Street, Apt #

City, State, ZIP: _____
City State Zip

Telephone: _____ Email: _____

d. Person who will serve your documents on this Defendant/Respondent:

- Sheriff in Illinois Special process server Licensed private detective
- Sheriff outside Illinois: _____
County & State



PLAINTIFF/PETITIONER INFORMATION:

Enter your information below.

Name Chris Langone (attorney for Plaintiff)
First, Middle and Last Name

Registered Agent's name, if any _____
First, Middle and Last Name

Street Address 205 N. Michigan, #205
Street, Apt #

City, State, ZIP: Chicago IL 60602
City State Zip

Telephone: (312) 720-9191 Email: LangoneLaw@gmail.com

Be sure to **check your email every day** so you do not miss important information, court dates, or documents from other parties.

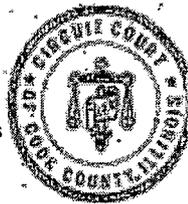


The Circuit Clerk and officer or process server will fill in this section.

To be filled in by the Circuit Clerk:

Witness this Date: _____

Clerk of the Court: 8/6/2025 8:46 AM Mariyana T. Spyropoulos



Seal of Court

To be filled in by an officer or process server:

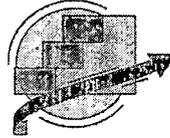
Date of Service: _____

Fill in the date above and give this copy of the Summons to the person served.

Note to officer or process server:

- If 1 is checked, this is a 30-day *Summons* and must be served within 30 days of the witness date.
- If 2 is checked, this is a date certain *Summons* and must be served at least 21 days before the court date, unless 3b is checked yes.
 - If 2 is checked **and** 3b is checked yes, the *Summons* must be served at least 3 days before the court date.
- Fill in the date above and give this copy of the *Summons* to the person served.
- You must also complete the attached *Proof of Service* form and file it with the court or return it to the Plaintiff.

FILED DATE: 8/6/2025 8:46 AM 2025L000545



WHAT'S NEXT

NEXT STEPS FOR PERSON FILLING OUT THIS FORM:

When you file a lawsuit, you must notify the person or business you are suing of the court case by having the *Summons* and Complaint or Petition delivered to them. This is called "serving" them.

File your *Summons* and Complaint or Petition with the Circuit Clerk in the county where your court case should be filed. The Circuit Clerk will "issue" the *Summons* by putting a court seal on the form.

Have the sheriff or a private process server serve the *Summons* and a copy of the Complaint or Petition on the Defendant/Respondent. You cannot serve the *Summons* yourself.



Learn more about each step in the process and how to file in the instructions:
ilcourts.info/summons-instructions.

NEXT STEPS FOR PERSON RECEIVING THIS DOCUMENT:



You have been sued:

- Read all documents attached to this *Summons*.
- All documents referred to in this *Summons* can be found at ilcourts.info/forms. Other documents may be available from your local Circuit Court Clerk's office or website.
- You may be charged filing fees, but if you cannot pay them, you can file an *Application for Waiver of Court Fees (Civil)*.
- When you go to court, it is possible that the court will allow you to attend the first court date in this case in-person or remotely by video or phone. Contact the Circuit Court Clerk's office or visit the Court's website to find out whether this is possible and, if so, how to do this.

If Section 1 on page 1 of this *Summons* is checked (30-day summons):

- You **must** file official documents called an *Appearance* and an *Answer/Response* with the court within 30 days of the date you were served with this *Summons*.
- If you do not file an *Appearance* and *Answer/Response* on time, the judge may decide the case without hearing from you. This is called "default." As a result, you could lose the case.
- After you fill out the necessary documents, you need to electronically file (e-file) them with the court. To e-file, you must create an account with an e-filing service provider. For more information, go to ilcourts.info/efiling. If you cannot e-file, you can get an exemption that allows you to file in-person or by mail.
- You should be notified of any future court dates.

If Section 2 on page 1 of on this *Summons* is checked (date certain summons):

- You **must** attend court on the date listed in Section 2 of this *Summons*.
- If you do not attend that court date, the judge may decide the case without hearing from you. This is called "default." As a result, you could lose the case.

Need Help? ¿Necesita ayuda?

- Call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov for information about going to court, including how to fill out and file documents.
- Llame o envíe un mensaje de texto a Illinois Court Help al 833-411-1121, o visite ilcourthelp.gov para obtener información sobre los casos de la corte y cómo completar y presentar formularios.
- You can also get free legal information and legal referrals at illinoislegalaid.org.
- If there are any words or terms that you do not understand, please **visit Illinois Legal Aid Online** at ilao.info/glossary. You may also find more information, resources, and the location of your local legal self-help center at: ilao.info/lshc-directory.

Case Number: 2025 L 00545

FILED DATE: 8/6/2025 8:46 AM 2025L000545



PROOF OF SERVICE OF SUMMONS AND COMPLAINT/PETITION

IN THE STATE OF ILLINOIS, CIRCUIT COURT

Alias Summons

Check if this is not the 1st Summons issued for this Defendant/Respondent.

COUNTY: Cook
County Where You Are Filing the Case

Enter the case information as it appears on your other court documents.

PLAINTIFF/PETITIONER OR IN RE: State of Illinois ex rel Lavery
Who started the case. First, Middle, and Last Name or Business Name

2025 L 00545
Case Number

DEFENDANTS/RESPONDENTS: North American Derivatives
Who the case was filed against. Exchange, Inc. d/b/a Crypto.com
Derivatives North America
First, Middle, and Last Name or Business Name



Do not complete the rest of the form. **The sheriff or special process server will fill in the form.**
Give them one copy of this blank *Proof of Service* form for each Defendant/Respondent who will be served.

My name is _____ and I state: _____
Officer/Process Server First, Middle, Last Name

SERVICE INFORMATION

Defendant/Respondent: _____
First, Middle, Last Name, or Business Name

I was not able to serve the *Summons* and Complaint/Petition on the Defendant/Respondent named above.

- or -

I served the *Summons* and Complaint/Petition on the Defendant/Respondent named above as follows:

Personally on the Defendant/Respondent:

Male Female Non-Binary Approx. Age: _____ Race: _____

On this date: _____ at this time: _____ a.m. p.m.

Address, Unit#: _____

City, State, ZIP: _____

On **someone else at the Defendant/Respondent's home** who is at least 13 years old and is a family member or lives there:

Name of person served: _____
First, Middle, Last Name

Male Female Non-Binary Approx. Age: _____ Race: _____

On this date: _____ at this time: _____ a.m. p.m.

Address, Unit#: _____

City, State, ZIP: _____

and by sending a copy to this Defendant/Respondent in a postage-paid, sealed envelope to the above address on this date: _____.

Case Number: 2025 L 00545

On the **Business's agent:** _____
First, Middle, Last Name
 Male Female Non-Binary Approx. Age: _____ Race: _____
On this date: _____ at this time: _____ a.m. p.m.
Address, Unit#: _____
City, State, ZIP: _____

SERVICE ATTEMPTS

I made the following attempts to serve the *Summons* and Complaint/Petition on the Defendant/Respondent:

First Attempt: On this date: _____ at this time: _____ a.m. p.m.

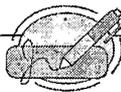
Address, Unit#: _____
City, State, ZIP: _____
Other information about service attempt:

Second Attempt: On this date: _____ at this time: _____ a.m. p.m.

Address, Unit#: _____
City, State, ZIP: _____
Other information about service attempt:

Third Attempt: On this date: _____ at this time: _____ a.m. p.m.

Address, Unit#: _____
City, State, ZIP: _____
Other information about service attempt:



SIGN

I certify under 735 ILCS 5/1-109 that:

- 1) everything in this document is true and correct, or I have been informed or I believe it to be true and correct, and
- 2) I understand that making a false statement on this form is perjury and has penalties provided by law.

Your Signature /s/ _____ Print Your Name _____

You are: Sheriff in Illinois Special process server
 Sheriff outside Illinois: _____ Licensed private detective, license number: _____
County and State *License number*

FEES:

Service and Return: \$ _____ Miles: \$ _____ Total: \$ _____

FILED DATE: 8/6/2025 8:46 AM 2025L000545

Law Division Motion Section Initial Case Management Dates for CALENDARS (A,B,C,D,E,F,H,R,X,Z) will be heard In Person.
All other Law Division Initial Case Management Dates will be heard via Zoom
For more information and Zoom Meeting IDs go to https://www.cookcountycourt.org/HOME?Zoom-Links?Agg4906_SelectTab/12
Court Date: <<CmsHearingStart>>

FILED
1/14/2025 1:57 PM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2025L000545
Calendar, Q
30966946

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION
COMMERCIAL CALENDAR**

THE STATE OF ILLINOIS, ex rel.)
Mark Lavery,)
)
Plaintiff-Relator,)
)
v.)
)
NORTH AMERICAN DERIVATIVES)
EXCHANGE INC., using assumed name)
CRYPTO.COM DERIVATIVES NORTH)
AMERICA,)
)
Defendant.)

FILED UNDER SEAL

FALSE CLAIMS ACT COMPLAINT

PARTIES

1. Plaintiff-Relator, Mark Lavery ("Relator"), is a citizen of Illinois and brings this action on behalf of the State of Illinois under the qui tam provisions of the Illinois False Claims Act, 740 ILCS 175/1 et seq.

2. Defendant North American Derivatives Exchange Inc. ("CDNA") is a Delaware corporation with a principal place of business in Chicago, Illinois and does business under the assumed named Crypto.com Derivatives North America using acronym CDNA. Defendant will be referred to CDNA hereafter.

JURISDICTION AND VENUE

3. This Court has jurisdiction under the Illinois False Claims Act, 740 ILCS 175/1 et. seq., and the Illinois Constitution.

FILED DATE: 1/14/2025 1:57 PM 2025L000545

4. Venue is proper in Cook County because Defendant has a principal place of business in Cook County in Chicago, Illinois, conducts substantial business within Cook County and the alleged violations occurred, in part, in Cook County.

INTRODUCTION

5. This case arises from a calculated scheme by CDNA to evade Illinois sports wagering fee and tax obligations through the deliberate misclassification of online gambling as financial products rather than sports wagering. By disguising its Sports Event Trading (“SET”) contracts through misclassifying exchange wagering as “financial products”, CDNA is intentionally avoiding tax and fee obligations mandated by Illinois law.

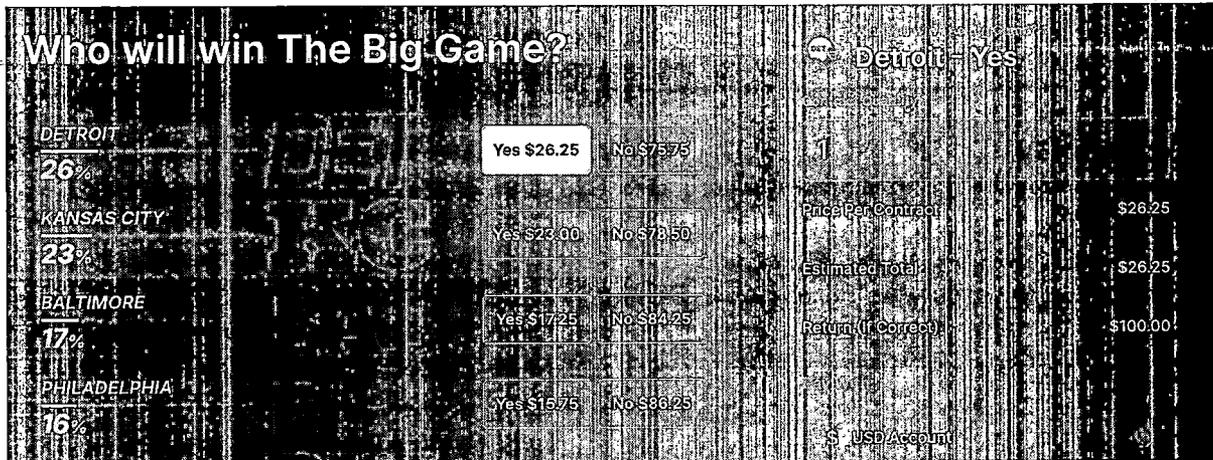
6. CDNA’s actions constitute clear violations of the Illinois False Claims Act (“IFCA”), designed to deter and penalize entities that knowingly defraud the state by avoiding tax payments. This complaint seeks to hold CDNA accountable for its deceptive conduct and to recover damages and penalties owed to the State of Illinois.

7. The Illinois False Claims Act (ICFA) prohibits any individual or entity from knowingly avoiding an obligation to the State of Illinois.

8. Illinois law classifies “exchange wagering” and “proposition bets” on the outcome of sporting events as sports wagering and this law mandates licensure requirements and the obligation to remit applicable taxes on gambling revenues. See Illinois Sports Wagering Act (ISWA) at 230 ILCS 45/25-10.

9. CDNA offers exchange wagering on proposition bets on the outcome of the NFL Super Bowl also known as “The Big Game” and this conduct falls squarely within the scope of activities regulated under the ISWA and IFCA. See below images from <https://crypto.com/us/sports> on January 14, 2025.

FILED DATE: 1/14/2025 1:57 PM 2025L000545



FACTUAL ALLEGATIONS

10. CDNA developed and offered so-called “Sports Event Trading” (“SET”) contracts starting December 19, 2024, which allowed users to wager on the Super Bowl. These contracts disguise and misclassify traditional sports “exchange wagering” and “proposition bets” as defined under 230 ILCS 45/25-10 as “financial products.”

11. Rather than classify these SET contracts as sports exchange wagering subject to the ISWA, CDNA intentionally misrepresented them as financial products to evade obligation to pay the Illinois Gaming Board as required by ISWA.

12. This misrepresentation is part of the CDNA scheme to avoid the licensing fees and gambling taxes mandated by Illinois law.

SCIENTER FACTS

13. Defendant and Crypto.com CEO Kris Marszalek made misrepresentations on December 23, 2024, on crypto.com stating:

While the first product of its kind, the sports event trading product is similar to other event contracts on cryptocurrency offered by Crypto.com | Derivatives North America, a CFTC-regulated exchange.

“Sports Events Trading offers an entirely new platform for U.S. users to engage nationwide at Crypto.com and in the Crypto.com app,” said Kris Marszalek, co-founder and CEO of Crypto.com. “This unique financial product allows users to trade their prediction on the outcome of a sports event. It’s a fundamentally new concept for sports, and we’re thrilled to be the first regulated platform in the U.S. to offer it to our users.”

14. These statements by Defendant and Kris Marszalek made on December 23, 2024, on crypto.com were false and materially misleading and part of the CDNA misclassification scheme to deceive consumers and regulators into believing that its exchange wagering method of sports wagering on the Super Bowl was a “financial product” rather than truthfully disclosing that it is an online sports wagering platform.

15. Defendant has had knowledge since 2012 that state law gambling applies to this type of conduct, yet CDNA sought no licensure from the Illinois Gaming Board, indicating willful disregard for its obligation under state law.

16. CDNA when using the name Nadex previously had a CFTC investigation into Nadex’s “Political Event Contracts.” The CFTC ruled these contracts constituted gambling under the Commodity Exchange Act, directly linking event-based contracts to gambling regulations.

17. The CFTC explicitly warned in its order in 2012:

"Several state statutes, on their face, link the terms gaming or gambling to betting..."

18. Travis McGhee worked for Nadex before the Crypto.com acquisition and therefore had direct involvement in developing and promoting Nadex event contracts and this demonstrates a deliberate strategy to continue misclassifying sports wagering as financial derivatives despite the 2012 CFTC order to Nadex which put it on notice that these types of contracts were subject to state gambling laws. Defendant never challenged the 2012 CFTC order.

19. This CDNA misclassification scheme has resulted in damages to Illinois due to Defendant's avoidance of paying fees and taxes mandated by ISWA to the Illinois Gaming Board.

20. By avoiding proper classification and regulatory compliance, Defendant damaged the State of Illinois and deprived the State of Illinois of substantial revenue of over \$20 million.

RELATOR'S STATUS AS ORIGINAL SOURCE

21. Relator independently investigated CDNA's SET offerings that disguised online sports wagering as financial products; independently investigated scienter of Defendant with respect to state gambling law obligations; uncovered Defendant's misclassification Illinois tax avoidance scheme independently; and voluntarily disclosed Defendant's tax avoidance misclassification scheme to the Illinois Gaming Board on January 9, 2025.

22. Relator's independent investigation involved reviewing evidence from sources outside of (1) a criminal, civil, or administrative hearing in which the state of Illinois is a party; (2) an Illinois state legislative, state auditor general, or other state report, hearing, audit, or investigation; or (3) the news media.

23. No source from: (1) a criminal, civil, or administrative hearing in which the state of Illinois is a party; or (2) Illinois state legislative, state auditor general, or other state report, hearing, audit, or investigation; or (3) the news media has disclosed that (1) Defendant is

knowingly and intentionally misrepresenting its sports wagering platform as a “financial product” due to its knowledge of the unchallenged 2012 CFTC Order to Nadex about gaming; (2) Defendant while operating in Cook County is knowingly misclassifying its online sports wagering conducted in Illinois as a “financial product” rather than sports exchange wagering in order to avoid paying fees and taxes to the Illinois Gaming Board and (3) Defendant’s conduct has caused damages of over \$20 million in lost fees and taxes obligated to the Illinois Gaming Board of the State of Illinois.

24. No other individual or entity publicly has disclosed information that is substantially the same as the allegations in this complaint and no other source has identified both (1) the knowingly misrepresented facts that Defendant offers “financial “products” on the Super Bowl and (2) the true facts that Defendant offers “exchange wagering” and “proposition bets” on the Super Bowl as defined by the ISWA in any disclosure before Relator’s voluntary disclosure to Illinois Gaming Board qualifying Relator as an “original source” under 740 ILCS 175/4(e)(4)(A).

25. Relator has provided material assistance to the State of Illinois.

VIOLATION OF THE ILLINOIS FALSE CLAIMS ACT
Count I – Reverse False Claim
Avoidance of Obligation to Pay the State (740 ILCS 175/3(a)(2))

26. Plaintiff incorporates allegations from paragraphs 1-25 and now brings what is called a “reverse false claim” cause of action against Defendant.

27. The appellate court analyzed a reverse false claim in *People ex rel. Lindblom v. Sears Brands, LLC*, stating the elements:

“To state an action for a reverse false claim, a relator must plead that the defendant (i) had an obligation to pay or transmit money to the State, (ii) concealed or avoided that obligation,

FILED DATE: 1/14/2025 1:57 PM 2025L000545

FILED DATE: 1/14/2025 1:57 PM 2025L000545

and (iii) acted knowingly. 740 ILCS 175/3(a)(1)(G) (West 2014). Under the Act, "a party 'knowingly' conceals or avoids an obligation to pay when it has 'actual knowledge' of the obligation, or 'acts in deliberate ignorance' or 'reckless disregard' of the obligation." National Business Furniture, 2016 IL App (1st) 150526, ¶ 29, 407 Ill. Dec. 139, 62 N.E.3d 1061 (quoting 740 ILCS 175/3(b)(1)(A)(i)-(iii) (West 2010)). There is no requirement that a defendant concealing or avoiding a payment to the State must make a false statement or record to come within the purview of the Act. 2019 IL App (1st) 180588, at ¶ 29 (Ill. Ct. App. 2019).

28. Defendant's obligation to pay money to the State of Illinois is imposed by 230 ILCS 45/25-20, which states in relevant part:

No person may engage in any activity in connection with sports wagering in this State unless all necessary licenses have been obtained in accordance with this Act and the rules of the Board and the Department.... No person or entity may engage in a sports wagering operation or activity without first obtaining the appropriate license. ISWA, 230 ILCS 45/25-20 (emphasis added). In this case, the appropriate license is a "master sports wagering license.

230 ILCS 45/25-45.

29. The words "unless" and "first obtaining," clearly and unambiguously require an applicable license as a mandatory pre-requisite – i.e., an obligation – before engaging in any activity in connection with sports wagering.

30. To obtain a license in accordance with the ISWA, an operator must pay, "a nonrefundable license fee of \$20,000,000." ISWA, 230 ILCS 45/25-45.

31. "Wager" is defined in the ISWA as "a sum of money or thing of value risked on an uncertain occurrence." ISWA, 230 ILCS 45/25-10.

32. "'Sports wagering' means accepting wagers on sports events or portions of sports events, or on the individual performance statistics of athletes in a sports event or combination of sports events, by any system or method of wagering, including but not limited to, in person or

over the Internet through websites and on mobile devices. “Sports wagering” includes, but is not limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, *exchange wagering*, in-game wagering, in-play bets, *proposition bets*, and straight bets.” ISWA, 230 ILCS 45/25-10 (emphasis added)

33. Defendant offers proposition bets on the Super Bowl through an exchange wagering method of sports wagering on crypto.com and using the crypto.com app.

34. Since December 19, 2024, Defendant is offering online exchange wagering on the outcome of the Big Game also known as the National Football League Super Bowl.

35. “[S]ports wagering is only lawful when conducted in accordance with the provisions of this Act and the rules of the Illinois Gaming Board and the Department of the Lottery.” 230 ILCS 45/25-25(a)

36. Defendant has knowingly avoided its obligation to pay a \$20 million licensing fee and 15% taxes on adjusted gross receipts required under the ISWA. 230 ILCS 45/25-20

37. That obligation requires payment of a \$20 million nonrefundable fee before engaging in online sports wagering. See 230 ILCS 45/25-45

38. Defendant knowingly and improperly avoided its legal obligations under the ISWA including the obligation to pay \$20 million to the State of Illinois.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Relator, MARK LAVERY, on behalf of the State of Illinois, respectfully requests that this Court enter judgment against Defendant NORTH AMERICAN DERIVATIVE EXCHANGE INC. using the assumed name Crypto.com Derivatives North America and award the following relief:

- A. Treble damages for the State of Illinois for damages as provided by 740 ILCS 175/3(a) in an amount in excess of \$60 million.

FILED DATE: 1/14/2025 1:57 PM 2025L000545

- B. Civil penalties of \$11,463 to \$22,927 for each month from December of 2024 until judgment while Defendant continues offering sports wagering while avoiding paying fees and taxes to the Illinois Gaming Board during that month.
- C. Costs, expenses, and reasonable attorneys' fees incurred in bringing this action.
- D. An appropriate Relator's share of the recovery, pursuant to 740 ILCS 175/4(d).
- E. Any further relief this Court deems just and proper.

Respectfully Submitted,

/s/ Christopher V. Langone
One of the Attorneys for Plaintiff

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EXHIBIT B

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

THE STATE OF ILLINOIS, ex rel. Mark
Lavery,

Plaintiff-Relator,

v.

NORTH AMERICAN DERIVATIVES
EXCHANGE INC., d/b/a CRYPTO.COM
DERIVATIVES NORTH AMERICA,

Defendant.

Case No. 2025L00545

DEFENDANT'S NOTICE OF FILING OF NOTICE OF REMOVAL

TO: Clerk of the Circuit Court of Cook County, Illinois
50 W. Washington St., Room 801
Chicago, IL 60602

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Please take notice that Defendant North American Derivatives Exchange, Inc., d/b/a Crypto.com | Derivatives North America, on this 8th day of September, timely filed its Notice of Removal of the above-captioned case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois. A copy of the Notice of Removal and its exhibits is attached hereto.

Please be advised that the filing of such Notice of Removal within the United States District Court for the Northern District of Illinois, together with the filing of the Notice with the Clerk of the Circuit Court of Cook County, Illinois, effects the removal of this action.

Accordingly, this Circuit Court of Cook County, Illinois shall proceed no further with this action unless and until it is remanded. *See* 28 U.S.C. § 1446(d).

Dated: September 8, 2025

Respectfully submitted,

/s/ Patrick M. Smith
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*Attorneys for North American Derivatives Exchange, Inc.,
d/b/a Crypto.com | Derivatives North America*

CERTIFICATE OF SERVICE

I, Patrick M. Smith, an attorney, hereby certify under Section 1-109 of the Code of Civil Procedure that on September 8, 2025 I caused true and accurate copies of Defendant's Notice of Filing of Notice of Removal to be served electronically on the following on September 8, 2025:

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