IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

VETON VEJSELI *and* BRETT PERRY, on behalf of themselves and all similarly situated stockholders of Ionic Digital, Inc.,	)	
Plaintiffs,	)	
v.	)	C.A. No. 2025-____-___
SCOTT DUFFY, THOMAS DIFIORE, SCOTT FLANDERS, ELIZABETH LAPUMA, *and* IONIC DIGITAL, INC.,	)	
Defendants.	)	

VERIFIED CLASS ACTION COMPLAINT
<u>CHALLENGING BOARD REDUCTION RESOLUTION</u>

Plaintiffs Veton Vejseli and Brett Perry, by and through their undersigned counsel, respectfully submit this Verified Class Action Complaint for declaratory and injunctive relief against the incumbent directors of Ionic Digital, Inc. ("Ionic," or the "Company") challenging their disloyal and invalid resolution reducing the number of board seats up for election at Ionic's upcoming annual meeting (the "Board Reduction Resolution") in the face of an impending proxy contest. Upon knowledge as to themselves and their own actions, and upon information and belief as to all other matters, including the investigation of their undersigned counsel, Plaintiffs allege as follows:

Nature of the Action

1. Ionic is a company in crisis.

2. Since its formation in January 2024, the Company has employed three CEOs, three CFOs and two chief legal officers. The Company's auditor resigned and was not replaced for months. The Company has seen its classified board of directors (the "Board") dwindle from eight to four sitting members, notwithstanding a bylaw requirement that the Board "consist of no less than five members."

3. To the great consternation of its stockholders, despite repeated promises that Ionic would become listed on NASDAQ by May 1, 2024, the Company's stock remains illiquid, unregistered and unlisted, and the Board has declined to lift transfer restrictions that would enable stockholders to exit their investments.

4. Dismayed by the dysfunction at Ionic, and locked into their investments in the Company, Plaintiffs have worked for months to inspire change at the Board level. On September 5, 2024, Plaintiff Vejseli sent Ionic a books and records demand (the "September Demand") seeking a stock list and other material.

5. On December 11, 2024, Plaintiff Perry and eight other stockholders sent Ionic a books and records demand (the "December Demand") seeking a stock list and related material. Ionic's refusal to produce the stock list is currently the subject of litigation in C.A. No. 2025-0138-BWD.

6. Throughout the fall and winter of 2024, Plaintiffs and their counsel interfaced with the Company regarding the September and December Demands and the possibility of Board-level change, including the stockholders' interest in calling a special meeting of stockholders and the need to fill the Board's many vacancies. Mr. Vejseli emailed Board Chair and Class I Director Elizabeth LaPuma on this topic, asking to meet "in a friendlier setting."

7. On January 20, 2025, Ms. LaPuma informed Mr. Vejseli and his supporters that she was terminating discussions because she had learned of certain unflattering comments Mr. Vejseli had made regarding Celsius's Plan of Reorganization and the selection of two directors. Ms. LaPuma specifically called Mr. Vejseli "a putative Board candidate."

8. Two weeks later, at 10:26 p.m. E.T. on February 6, 2025, Ionic issued a press release announcing that it intended to hold its annual meeting (the "Annual Meeting") on March 17, 2025. The announcement did not disclose the number of Class I seats that would be up for election. Although Ionic now claims that its Board voted to shrink its size to five and to reduce the seats up for election at the Annual Meeting from two to one on this date, the February 6 announcement did not disclose this highly material fact. Accordingly, any reasonable investor would have concluded that stockholders would be able to fill at least two seats at the upcoming Annual Meeting.

9. The February 6 announcement triggered a ten-day nomination deadline under Ionic's bylaws. But because the deadline would fall on the Sunday of Presidents' Day weekend, and physical delivery of any nomination notice to Ionic's offices was not possible outside of business hours, Ionic's late-night announcement artificially compressed the ten-day nomination window to just seven days.

10. On February 9, 2025, Plaintiffs and fellow stockholder Chris Villinger filed summary actions in this Court seeking (*i*) an order compelling Ionic to produce its stock list and related materials under 8 *Del. C.* § 220 and (*ii*) an order that the statutory quorum under 8 *Del. C.* § 211(c) would apply to the Annual Meeting, whenever it took place. The complaints in both proceedings alleged that Plaintiffs intended to nominate a "slate" of "director nominees."

11. On February 14, 2025, Plaintiffs submitted a nomination notice identifying two candidates for the two Class I seats Plaintiffs believed were up for election. On February 17, 2025, Plaintiffs submitted two questionnaires (one for each nominee) in accordance with Ionic's bylaws. Ionic mentioned nothing about any Board decision to shrink the Board to five (and reduce the seats up for election from two to one). Accordingly, when Plaintiffs began soliciting proxies on February 21, 2025, they did so for both their director candidates.

12. On February 24, 2025, at approximately 6 p.m. E.T., three days after Plaintiffs had begun soliciting proxies for their slate, Ionic released its own proxy

materials. Ionic's proxy materials did not disclose to stockholders that, just days earlier, Ionic's Board had adopted the Board Reduction Resolution and reduced the number of Class I director seats. However, Ionic's proxy materials announced that the only business at the Annual Meeting would be "[t]he election of a single Class I director to the Board to serve until the Company's 2028 Annual Meeting."

13. At 11:09 p.m. E.T. that night, Ionic issued a press release urging stockholders to vote for the Company slate. In a transparent effort to mislead stockholders into thinking Plaintiffs' nominations were improper, the Company questioned, "[w]hether or not the Dissident Stockholders have complied with Bylaw Section 2.4 and are legally entitled to bring forth any nominations." This was news to Plaintiffs and materially misleading, including because there is nothing defective about Plaintiffs' nomination materials.

14. On February 25, 2025, at approximately 10:11 a.m. E.T., Ionic updated its website. The website now claims that, purportedly on February 6, 2025, "pursuant to Amended & Restated Certificate of Incorporation, article VI section 2(a) and Bylaws section 3.2, by resolution of the Board, the number of directors was set to 5 directors, with the number of Class I directors set at 1."

15. As explained in detail below, the Board Reduction Resolution was improper and inequitable and should be set aside. *See Pell v. Kill*, 135 A.3d 764 (Del. Ch. 2016) (holding that reduction of board size by eliminating two vacant seats

ahead of a contested election was inequitable). The Board's conduct was also wrongful because Section 3.2 of the bylaws requires that "the Board shall consist of no less than five members," and the Board Reduction Resolution effectively prevents the stockholders from electing a fifth director to satisfy that requirement.

16. Importantly, at no time prior to the issuance of its proxy materials did Ionic ever suggest that only one Class I seat would be up for election at the Annual Meeting. If Defendants did in fact adopt the Board Reduction Resolution back on February 6 as they now claim, they must have decided to conceal this highly material fact until the last possible moment. Presumably they did so to minimize Plaintiffs' ability to take action against this inequitable conduct. Defendants' sandbagging has only deepened the inequity associated with the Board Reduction Resolution.

17. In this action, Plaintiffs seek a judicial determination that the Board breached its fiduciary duties by adopting the Board Reduction Resolution to reduce the number of Class I board seats up for election in the face of an imminent proxy contest. Plaintiffs also seek an order invalidating the Board Reduction Resolution and declaring that two Class I seats remain up for election at the Annual Meeting. Ahead of that determination, Plaintiffs seek a preliminary injunction delaying the meeting until the Court resolves this dispute and the stockholders have a fully informed opportunity to vote their shares.

Jurisdiction

18. This Court has jurisdiction over the matter pursuant to 10 *Del. C.* § 341 because Plaintiffs have alleged an equitable cause of action and seek equitable relief.

The Parties

19. Plaintiff Veton (Tony) Vejseli is an Ionic stockholder. Mr. Vejseli is a retail investor who runs a private transport business for the elderly/disabled and who lost hundreds of thousands of dollars in connection with the bankruptcy of Celsius Networks, LLC and its affiliates ("Celsius"). He served on the steering committee for both the custody *ad hoc* group and the loan *ad hoc* group in the Celsius bankruptcy cases. Mr. Vejseli, with Messrs. Perry and Villinger, has nominated two director candidates to the Board.

20. Plaintiff Brett Perry is an Ionic stockholder and entrepreneur, who was also one of the top fifty creditors in the Celsius bankruptcy, where he lost millions. Under the court-approved plan for Celsius's reorganization (the "Plan"), Mr. Perry was appointed to be an observer of the Ionic board, but since August 8, 2024, the Ionic Board has excluded him from meetings. Mr. Perry, with Messrs. Vejseli and Villinger, has nominated two director candidates to the Board.

21. Defendant Scott Duffy is a Class III director of Ionic and the former Co-Chair of the Official Committee of Unsecured Creditors for Celsius (the "UCC"). Duffy has served on the Board since January 26, 2024.

22. Defendant Thomas DiFiore is a Class III director and former Co-Chair of the UCC. DiFiore has served on the Board since January 26, 2024.

23. Defendant Scott N. Flanders has served as an Ionic director since July 2024, when he replaced Max Holmes, a Class II director.

24. Defendant Elizabeth LaPuma is a Class I director who has served on the Board since January 26, 2024.

25. Duffy, DiFiore, Flanders, and LaPuma collectively are referred to as the "Director Defendants."

26. Defendant Ionic Digital, Inc. is a Delaware corporation headquartered in Coral Gables, Florida. Incorporated on January 5, 2024, Ionic holds and operates Celsius's digital currency mining assets for the benefit of its stockholders—former creditors of Celsius that have lost hundreds of thousands or even millions of dollars as a result of Celsius's collapse.

<u>Factual Background</u>

A. Ionic's Governance

27. Ionic was incorporated on January 5, 2024, after the U.S. Bankruptcy Court for the Southern District of New York ordered the Plan's implementation over the objection of many creditors and the U.S. Trustee.[1]

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[1] The background of this case has been presented in Plaintiffs' Amended Verified Complaint in the 220 Action, C.A. No. 2025-0138-BWD; this section focuses on the facts

28. Pursuant to that Plan, Ionic would (i) hold and manage Celsius's cryptocurrency mining assets; (ii) file a Form 10 and use its "best efforts" to have the Form 10 declared effective by May 1, 2024 in order to provide stockholders with liquidity; (iii) enter into a four-year contract with winning-bidder U.S. Bitcoin; and (iv) have an eight-member board, with six members appointed by the UCC and two "Class B" members appointed by U.S. Bitcoin, the only holder of Ionic's Class B Common Stock.

29. Ionic has a three-class staggered Board under 8 *Del. C.* §141(d). Directors in each "Class" are entitled to serve for a three-year term after their election.

30. The Board started with eight members. The UCC appointed Duffy, DiFiore and LaPuma, each of whom remain on the Board. The UCC also appointed Max Holmes, Emmanuel Aidoo, and Frederick Arnold,[2] who have since resigned. U.S. Bitcoin, known by then as Hut 8, appointed Asher Genoot (Class II) and Jordan Levy (Class I) as their initial "Class B" representatives.

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most pertinent to the Board's wrongful and belated attempt to reduce the number of the Class I director seats.

[2] According to public disclosures, Mr. Arnold appears to have been on the board as of January 26, 2024, but he was no longer a member of the Board by April 30, 2024, and he does not appear to have been replaced.

B. Plaintiffs Seek Ionic's Stock List

31. Following Ionic's incorporation, stockholders waited for the Company to become publicly listed with increasing impatience. On July 31, 2024, Mr. Vejseli publicly filed a letter with the Bankruptcy Court protesting the Board's lack of transparency regarding the Company's efforts to register its stock and expressing consternation that the Company's Form 10 was still not effective.

32. On August 8, 2024, Ionic belatedly disclosed multiple material changes: (i) its initial CEO, Matt Prusak, had decided not to extend his contract; (ii) two directors had been replaced; (iii) Ionic's auditor had resigned in May; and (iv) Hut 8's management services agreement had been amended in June.

33. Stockholders of Ionic, including Mr. Vejseli, reacted in frustration on X/Twitter. Later that day, Mr. Vejseli discussed his frustrations about Ionic's governance with Mr. Cagney and Mr. Abbate, both of Figure Markets, Inc. ("Figure Markets").

34. Figure Markets is a blockchain-native, decentralized custody exchange for digital assets. Figure Markets's affiliate Figure Securities Inc., established in 2021, offers securities trading on its alternative trading system to customers, and is both registered by the SEC and a member of FINRA. Certain individuals and entities

affiliated with Figure Markets were previously associated with unsuccessful stalking horse bidders in the Celsius bankruptcy.

35. Although Figure Markets is not an Ionic stockholder, in or around August 2024, it sought to buy Ionic stock. The Company's transfer agent told Figure Markets that it could not make the purchases due to a transfer restriction that required Board approval.

36. On August 9, 2024, after learning that a request to call a special meeting of Ionic's stockholders would need the support of holders of at least 25% of Ionic's stock, Mr. Vejseli began to reach out to Ionic stockholders.

37. Figure Markets, which had made a commercial proposal that Ionic should list its stock on Figure Market's alternative trading system ahead of its listing on NASDAQ, supported Mr. Vejseli's effort to investigate the Board's conduct and drive Board-level change.

38. Through outreach on X and other web-based platforms, Figure Markets and Mr. Vejseli have collected names and contact information from the holders of over 4,300 stockholders – *representing approximately 25% of Ionic's outstanding stock* – who expressed support for calling a special meeting of stockholders. One form utilized to collect this information specifically listed four intentions for the special meeting, including that "the shareholders with whom we are working intend

to [r]emove directors Thomas DiFiore, Scott Duffy and Emmanuel Aidoo from the board of directors of the Company (the "Board") for cause…."

39. Since Fall 2024, the Board of Ionic has known about Plaintiffs' dissatisfaction with the Board's performance and their intention to nominate and run an alternative slate at Ionic's next stockholder meeting.

40. On September 4, 2024, Mr. Vejseli sent a formal demand to the Company to inspect and copy certain books and records pursuant to Section 220, including a stock list for use in contacting stockholders to secure a special meeting. Resting on manufactured outrage that Mr. Vejseli had allied with Figure Markets, the Company declined to produce the stock list unless Mr. Vejseli signed a non-disclosure agreement containing an unprecedented and improper provision providing that

> no entity or individual other than Stockholder, including, but not limited to [Figure Markets and other non-stockholders], will directly or indirectly pay, reimburse, or otherwise cover any costs incurred by the Stockholder in connection with the Company, the Demand, or this Agreement … This provision applies to any services rendered or expenses incurred in connection with Stockholders' use of the Produced List Materials.

(the "Outside Funds Provision").

41. Frustrated with the lack of any progress, on November 21, 2024, Mr. Vejseli wrote William K. Harrington, the U.S. Trustee for Region 2. In that letter, Mr. Vejseli made clear his desire for material Board change:

> Our current initiatives revolve around organizing the roughly 80,000 stockholders of Ionic Digital to facilitate a material refreshment and reconstitution of the Board, with competent directors who possess the right skillsets to be able to put Ionic on the path to success and unlock its value and liquidity for all stockholders. Specifically, we believe a reconstitution of the Board involves removing the directors who we view as the architects of this debacle—Mr. Duffy, Mr. DiFiore, and Mr. Aidoo—from the Board and replacing with competent professionals who can then work to achieve four critical objectives.

42. When Mr. Perry and eight other stockholders aligned with Mr. Vejseli submitted another demand for a stock list in December 2024, the Company again insisted on the Outside Funds Provision.

43. The Company's letter response made clear that it was tracking every effort by Mr. Vejseli to bring about Board change, as well as any posts by Figure Markets on social media. For example, the Company's letter attached a copy of the form soliciting interest in a special meeting (Exhibit G); a November 2024 presentation deck to the Board prepared by Figure Markets, GXD and Mr. Vejseli providing the rationale for the director removal proposal (Exhibit I); a link to a November 21, 2024, letter that Mr. Vejseli sent to the U.S. Trustee (Exhibit J); and excerpts from Mr. Vejseli's twitter page calling for a special meeting (Exhibit K).

44. Plaintiffs have challenged the Company's refusal to produce its stock list and related materials (the "Stock List Materials") without a confidentiality agreement containing the Outside Funds Provision in the proceeding styled *Vejseli v. Ionic Digital, Inc.*, C.A. No. 2025-0138-BWD.

C. The Board Dwindles; Stockholder Discontent Rises

45. Ionic's April 30, 2024 amended Form 10 announced that "[o]ur Board is currently composed of eight directors. Subject to the terms of our amended and restated certificate of incorporation and amended and restated bylaws, our Board will consist of eight members and will be a classified board with each director serving a staggered, three-year term."

46. The amended Form 10 included a chart disclosing Ionic's intention to divide its Board into 3 classes, with three directors in Class I, three in Class II, and two in Class III:

- the Class I directors will be , and and their terms will expire at the first annual meeting of stockholders;
- the Class II directors will be , and and their terms will expire at the second annual meeting of stockholders; and
- the Class III directors will be and and their terms will expire at the third annual meeting of stockholders.

47. By November 25, 2024, the Board had shrunk from eight to four members, with at least one Class I seat and two Class II seats standing vacant.

Ionic Board Composition January 2024 to January 2025				
Source	**Form 10 - 1/26/2024**	**Form 10 - 4/30/2024**	**PR - 8/20/2024**	**PR - 11/25/2025**
Class I	Elizabeth LaPuma	Elizabeth LaPuma	Elizabeth LaPuma	Elizabeth LaPuma- Chair
Class I	Jordan Levy (Class B)	Steven Price (Class B)	Vacant (Class B)	Vacant (Class B)

Class I	Frederick Arnold[3]	Vacant	Vacant	Vacant
Class II	Emmanuel Aidoo (Chair)	Emmanuel Aidoo (Chair)	Emmanuel Aidoo (Chair)	Vacant
Class II	Asher Grenoot (Class B)	Asher Grenoot (Class B)	Mac Gardner (Class B)	Vacant (Class B)
Class II	Max Holmes	Max Holmes	Scott Flanders	Scott Flanders
Class III	Thomas DiFiore	Thomas DiFiore	Thomas DiFiore	Thomas DiFiore
Class III	Scott Duffy	Scott Duffy	Scott Duffy	Scott Duffy

48. In July 2024, Mr. Price resigned, vacating his Class I director seat. On information and belief, his Class I director seat was never filled.

49. Messrs. Aidoo and Gardner, Class II directors, resigned from the Board simultaneously in late November 2024; they were quickly followed by Ionic's then CEO and CFO, John Penver, who resigned in early December.

50. The December Demand, sent December 11, 2024, made crystal clear that a group of stockholders, including Plaintiffs, sought to run a slate at "the next

[3] Although the Company's public filings state that Mr. Arnold was a director as of January 26, 2024, it appears he left the Board prior to April 30, 2024, when the Company filed the amended Form 10. The Company never disclosed Mr. Arnold's class, but it had to be Class I given that Class I seat had three seats, and the Form 10 discloses the class assignments of the seven directors then serving.

meeting of stockholders of the Company, whether annual or special, . . . at which directors are to be elected to the Company's board of directors."

51. On January 8 and January 11, 2025, Mr. Vejseli sent direct correspondence to Director Defendant Ms. LaPuma, copying Figure Markets, in which he noted the vacancies on the Board, informed her that 3,500 stockholders had expressed interest in calling a special stockholder meeting to create board change, and offered to meet to discuss candidates for those vacancies. In each of these communications, Mr. Vejseli indicated that he was contemplating the addition of *multiple* directors to Ionic's Board.

52. On January 20, 2025, Ms. LaPuma terminated discussions with Mr. Vejseli and Figure Markets on the purported basis that Mr. Vejseli had made unflattering comments to other stockholders on January 14, 2025, regarding the board and Hut 8. At that time, she groused that, "as a putative Board candidate, [Mr. Vejseli's] engaging in that type of behavior is unacceptable and unbecoming of an aspiring fiduciary."

53. Ms. LaPuma's assumption that Mr. Vejseli was a "putative Board candidate" confirms that, as late as January 20, 2025, she understood that Mr. Vejseli intended to nominate alternative candidates.

54. On information and belief, Defendants were also monitoring any posts made by Mr. Perry on social media. They took note when Mr. Perry retweeted

January 20, 2025, posts by Michael Cagney of Figure Markets that stated, "Join over 3,500 of your shareholders (including the most largest) who have committed to back change when you vote in February," and "Under Delaware law the company needs to call an annual meeting in February. We expect a hastily called meeting to try to jam through a board slate."

55. At the Board's direction, Ionic acted to make running a proxy contest as difficult as possible.

D. The Board Tactically Announces the Annual Meeting

56. At 10:26 PM E.T. on February 6, 2025, Ionic announced via a press release that it would hold its annual meeting on March 17, 2025. That late-night announcement triggered the ten-day nomination deadline under Ionic's bylaws. The unusual timing of the announcement artificially compressed this period to seven days, because the bylaws required physical delivery of the nomination notice at the Company's executive offices, and ten days ended on a Sunday when those offices would be closed.

57. Ionic's announcement lacked any information regarding the number of Class I seats that would be up for election at the annual meeting—information clearly material to stockholders in deciding how to nominate and how to vote.

58. Just before midnight on February 6, 2025, Plaintiffs' counsel was able to submit a request for questionnaires and other nomination materials to the

Company. The timing was critical, because the Company's bylaws gave the Company five business days to provide the forms. Making the request before midnight ensured that Plaintiffs would receive the forms the day before (instead of the day of) the effective deadline for submitting the nomination notice.

59. On February 7, 2025, Mr. Perry and Mr. Vejseli retweeted a post from Mr. Cagney of Figure Markets that discussed their intent to nominate two candidates. Mr. Vejseli wrote, "Board nominations coming soon 💪💪." Plaintiffs' attorneys also emailed counsel for Ionic in a last ditch attempt to convince them to produce the Stock List Materials subject to a non-disclosure agreement without the Outside Funds Provision.

60. On February 9, 2025, Plaintiffs and fellow stockholder Chris Villinger filed summary proceedings in this Court seeking (*i*) an order compelling Ionic to provide Plaintiffs with the stock list pursuant to DGCL Section 220 and (*ii*) an order that the statutory quorum under DGCL Section 211(c) would apply to the annual meeting, which would be held more than thirteen months from incorporation. These complaints alleged that Plaintiffs had "nominees" in mind and intended to nominate a "slate."

61. On February 12, 2025, Mr. Vejseli tweeted regarding plans to run candidates against Ms. LaPuma. In one post, Mr. Vejseli described why the stock list is important: "The shareholder list goes directly to a proxy solicitor which will

then solicit ur [sic] votes . . . so you can vote on the two director seats up for a vote. Ionic will be doing the exact same thing but they are refusing to share with our solicitor bc they don't want to lose their control…."

62. Mr. Vejseli also described his intent to nominate two candidates: "Ionic will be running Liz Lapuma, formerly of EBIX inc and WeWork (Google the stock performance 😂), and presumably another candidate. We are nominating two independent directors that we think will do a significantly better job at executing the business plan outlined in the bankruptcy (i.e., providing the maximum amount of liquidity for creditors/shareholders as humanly possible."

63. Plaintiffs or their attorneys also communicated their plans to nominate multiple directors directly to Ionic and its attorneys several times, including (1) in communications from Plaintiffs' attorneys to Ionic's counsel on February 10, 2025, inquiring whether delivery of questionnaires for Plaintiffs' *nominees* could be made electronically; (2) in Plaintiffs' February 14, 2025 nomination notice that identified two candidates for the two Class I seats and (3) by Plaintiffs' submission of two questionnaires, one for each nominee, on February 17, 2025.

64. Plaintiffs' nominees include one candidate affiliated with Figure Markets, Michael Abbate, and one unaffiliated candidate, Oliver Wiener.

65. Despite knowing that Plaintiffs understood that there were two Class I seats available, Ionic neither informed Plaintiffs of nor publicly disclosed any

reduction in the number of Class I seats—though doing so would have been standard in a typical annual meeting announcement.

66. On February 21, 2025, Plaintiffs commenced their proxy solicitation campaign. Despite interest from stockholders, Plaintiffs' campaign faces an uphill battle because they lack the Stock List Materials and therefore cannot directly contact the majority of Ionic stockholders or confirm certain details relating to the shares they own.

E. The Board Claims To Have Reduced The Number of Class I Seats

67. At approximately 6:00 p.m. E.T on February 24, 2025, three days after Plaintiffs had begun soliciting proxies for their slate, Ionic stockholders received an email from the Company announcing that the annual meeting would be held virtually on March 17, 2025, at 9:00 a.m. E.T.

68. Ionic's email directed Ionic stockholders to a new website for details (the "Proxy Website"). The Proxy Website states that Ionic's sole nominee is Defendant LaPuma, an incumbent who has served on the Board since the Company's inception in January 2024. The Proxy Website contains links to an "Ionic Stockholder Letter," a "Notice of 2024 Annual Meeting of Stockholders," a press release and investor "FAQs" (collectively, the "Proxy Materials").

69. Ionic's Proxy Materials are replete with multiple misleading statements.

70. First, the formal Notice of 2025 Annual Meeting of Stockholders nowhere states that the Board reduced the number of Class I seats in advance of the proxy contest, or that without the reduction, stockholders could have elected two directors.

71. Second, the "Ionic Stockholder Letter" misleadingly states that "Ms. LaPuma is standing for re-election to the single Class I seat on the Board that is up for election at the Annual Meeting." The letter continues with a "Dissident Stockholder Warning," that states,

> Whether or not the Dissident Stockholders have complied with Bylaw Section 2.4 and are legally entitled to bring forth any nominations, the Dissident Stockholders (Brett Perry, Veton Vejseli and Christopher Villinger), each a stockholder of record of the Company, have purported to provide notice that they intend to propose two nominees (the "Dissident Nominees") Mike Abbate, and Oliver Wiener, to stand for election to our board of directors (the "Board"), in opposition to the nominee recommended by the Board, Elizabeth LaPuma."

72. The suggestion that Plaintiffs have not complied with the bylaws is false and appears to have been designed to sow confusion. Plaintiffs' notice of nomination complied with the bylaws.

73. Third, the Stockholder Letter falsely states that the "Dissident Stockholders" are "acting on behalf of" Michael Cagney and Figure Markets, and that "on behalf of Mr. Cagney, [they] are seeking to elect the Dissident Nominees to advance the financial interests of Mr. Cagney and Figure Markets by listing Ionic's

shares on Figure Markets, an unproven Alternative Trading System ("ATS"), which the Board believes poses significant risk to the value of Ionic's shares." Neither Plaintiffs nor Mr. Villinger has any agreement (nor power) to cause Ionic stock to be listed on Figure Market's ATS.

74. The Press Release amplifies the misleading statements in the "Ionic Stockholder Letter," again questioning, "[w]hether or not the Dissident Stockholders have complied with Bylaw Section 2.4 and are legally entitled to bring forth any nominations," and again claiming that Plaintiffs and Mr. Villinger "are acting on behalf of" Figure Markets and GXD.

75. Versions of the same misstatements appear in the Company's FAQs. In response to the prompt, "**Q. Do other candidates claim to have been nominated for election as a Class I director in opposition to the Board's nominees?**," the Company asserts, "Brett Perry, Veton Vejseli, and Christopher Villinger . . . each claim that they have complied with Bylaw Section 2.4, and thus claim entitlement to bring forth nominee(s) for election to the Board at the annual meeting. *The nominations may be invalid*, as the Company is entitled to reject the nominations for failure to comply with Bylaw Section 2.4." (emphasis added). This is a bald attempt to discourage voting for Plaintiffs' nominees on the grounds that Plaintiffs' nominations are invalid.

76. On February 25, 2025, at approximately 15:11:19 GMT (or 10:11 a.m. E.T.), Ionic quietly updated the "governance page" of its pre-existing website to disclose the Board Reduction Resolution. According to Ionic, on February 6, 2025, "pursuant to Amended & Restated Certificate of Incorporation, article VI section 2(a) and Bylaws section 3.2, by resolution of the Board, the number of directors was set to 5 directors, with the number of Class I directors set at 1."

77. Because Ionic did not disclose this news on the Proxy Website or in its Proxy Materials, the disclosure might have gone unnoticed. Plaintiffs' counsel discovered Ionic's pre-existing website update by accident on February 26, 2025.

78. Even if the Board did in fact adopt the Board Reduction Resolution on February 6, which Plaintiffs doubt, by that time the Board fully anticipated a potential proxy contest. After all, it never attempted to reduce the number of Class I directors in April 2024, after one Class I director resigned. The vacant seat has been open for almost a year.

79. In its Board Reduction Resolution, the Board purported to reduce the number of Class I seats to *one*, leaving two Class II seats (one unoccupied) and two Class III seats. If valid, the Board Reduction Resolution would make it impossible for stockholders to elect two directors at the upcoming annual meeting; absent this change, Plaintiffs' nomination would have guaranteed that at least one of Plaintiffs' candidates would be seated (assuming a quorum at the Annual Meeting).

80. The Court should strike down the Board Reduction Resolution.

81. First, the Board acted inequitably, in breach of its fiduciary duties, by adopting the Board Reduction Resolution in the face of an impending proxy contest.

82. Second, Section 3.2 of Ionic's bylaws, titled "Board Size," specifies that "the Board shall consist of no less than five members … each of whom shall be a natural person" (the "Board Size Requirement"). By purporting to reduce the number of seats up for election from two to one, the Board effectively prevented the stockholders from electing a fifth director capable of satisfying the Board Size Requirement.

CLASS ACTION ALLEGATIONS

83. Plaintiffs bring this action as a class action pursuant to Rule 23 of the Rules of the Court of Chancery of the State of Delaware on behalf of themselves and all similarly situated holders of shares of Ionic common stock (the "Class"). Excluded from the Class are the Defendants named herein and any person, firm, trust, corporation, or other entity related to or affiliated with any Defendant.

84. This action is properly maintainable as a class action.

85. The Class is so numerous that joinder of all members is impracticable, as Ionic has over 77,000 stockholders of record.

86. There are questions of law and fact that are common to the Class, including whether:

a. Defendants breached their fiduciary duties by resolving to shrink the Board and eliminate a Class I board seat in anticipation of a contested election;

b. The Class has been or will be harmed by the Defendants' conduct.

c. The Class is entitled to injunctive or equitable relief.

87. Each Plaintiff is committed to prosecuting this action, is an adequate representative of the Class, and has retained competent counsel experienced in litigation of this nature.

88. Plaintiffs' claims are typical of those of the other members of the Class.

89. Plaintiffs have no interests that are adverse to the Class.

90. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications for individual members of the Class, which may as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede other members' ability to protect their interests. Litigation of separate actions would also create the risk of establishing incompatible standards of conduct for the party opposing the Class.

91. Plaintiffs anticipate that there will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair

and efficient adjudication of this controversy, and common questions of law and fact predominate over individual inquiries.

COUNT I
(Breach of Fiduciary Duty against the Director Defendants)

92. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

93. The Board Reduction Resolution was not a proportional response to any reasonably perceived threat to corporate policy and effectiveness and constitutes a breach of the fiduciary duty of loyalty by all the Director Defendants.

94. The Board Reduction Resolution was adopted with the purpose, and has the effect, of inequitably entrenching the Director Defendants and diminishing the influence of any of Plaintiffs' director candidates if they are elected to the Board.

95. The Board Reduction Resolution is continuing to cause stockholders irreparable harm as it interferes with and even potentially precludes the fair exercise of the stockholder franchise at the Annual Meeting.

96. An actual controversy exists as to the validity, legality, and enforceability of the Board Reduction Resolution.

97. Plaintiffs and the Class have no adequate remedy at law.

COUNT II
(Invalidity of Board Reduction Resolution Under Ionic's Bylaws)

98. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

99. Section 3.2 of the bylaws requires that "the Board shall consist of no less than five members and no more than 15 members."

100. As of February 6, 2025, the Board had four members and had had only four members since November 2024.

101. The Director Defendants had the power to fill vacancies and could have appointed a fifth director to comply with the bylaws, but they did not do so.

102. The adoption of the Board Reduction Resolution was wrongful because, by purporting to reduce the number of director seats up for election from two to one, the Director Defendants effectively prevented the stockholders from electing a fifth director capable of satisfying the Board Size Requirement.

103. Plaintiffs and the Class have no adequate remedy at law.

COUNT III
(Breach of Fiduciary Duty of Disclosure against the Director Defendants)

104. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

105. The Director Defendants have violated their fiduciary duty of disclosure by making materially misleading statements ahead of the Annual Meeting.

106. First, their Proxy Materials state that only one Class I seat is up for election at the Annual Meeting when in fact the Board Reduction Resolution was invalid. Two seats are up for election.

107. Second, the Director Defendants misleadingly suggest that Plaintiffs and Mr. Villinger failed to comply with the bylaws when they submitted their notice of nominations. In fact, Plaintiffs satisfied the bylaws.

108. Third, the Director Defendants falsely claim that Plaintiffs and Mr. Villinger are acting "on behalf of" Figure Markets and Michael Cagney.

109. The information above is highly material at a stockholder meeting where the only business is the election of directors. Absent corrective disclosure, the Company's stockholders will not be able to make an informed decision concerning the election.

110. Plaintiffs and the Class will be irreparably harmed as a direct and proximate result of the aforementioned acts.

111. Plaintiffs and the Class have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court enter an Order:

A. Enjoining the Annual Meeting until a reasonable time after the Court resolves this dispute on the merits;

B. Declaring that this action is properly maintainable as a class action, and certifying Plaintiffs as Class representatives and Plaintiff's counsel as Class Counsel;

C. Declaring and decreeing that the Board Reduction Resolution is invalid and unenforceable;

D. Declaring and decreeing that the Defendant Directors have each breached their fiduciary duties of loyalty by adopting the Board Reduction Resolution;

E. Declaring that Plaintiffs' notice of nominations satisfied the bylaws;

F. Declaring and decreeing that the Defendant Directors have each breached their fiduciary duties of disclosure;

G. Temporarily, preliminarily, and permanently enjoining the Board Reduction Resolution;

H. Enjoining Defendants from soliciting proxies until such time as they make corrective disclosures;

I. Awarding Plaintiffs and the Class the costs and expenses incurred in this action, including reasonable attorneys' fees; and

J. Granting Plaintiffs and the Class any and all further relief as the Court deems just and proper.

/s/ A. Thompson Bayliss

A. Thompson Bayliss (#4379)
Daniel J. McBride (#6305)
Nicholas F. Mastria (#7085)
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New York, New York 10019
(212) 451-2300

Dated: March 3, 2025

VERIFICATION

STATE OF NEW JERSEY)
) SS
COUNTY OF BERGEN)

I, Veton Vejseli, being duly sworn according to law, depose and say as follows:

1. I am a plaintiff in this action.

2. I have reviewed the Verified Clas Action Complaint Challenging Board Reduction Plan (the "Complaint").

3. To the extent the Complaint concerns my actions or matters of which I have direct personal knowledge, I verify that the Complaint is true and correct to the best of my knowledge, information, and belief.

4. To the extent the Complaint concerns the actions of others or matters of which I do not have direct personal knowledge, I believe that the Complaint is true and correct.

Veton Vejseli

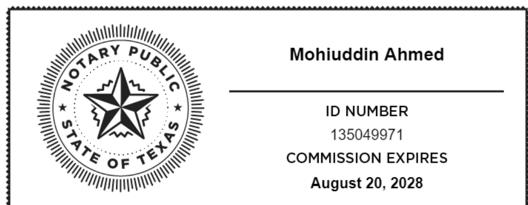
Veton Vejseli

State : Texas
County : Dallas

SWORN TO AND SUBSCRIBED before me
this 2nd day of March, 2025 by Veton Vejseli

Mohiuddin Ahmed Mohiuddin Ahmed

Notary Public



Electronically signed and notarized online using the Proof platform.

VERIFICATION

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

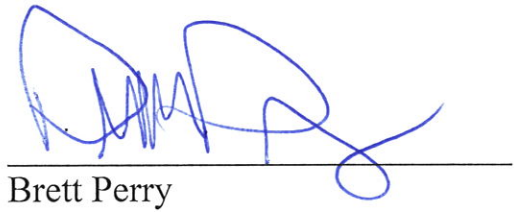
I, Brett Perry, being duly sworn according to law, depose and say as follows:

1. I am a plaintiff in this action.

2. I have reviewed the Verified Class Action Complaint Challenging Board Reduction Plan (the "Complaint").

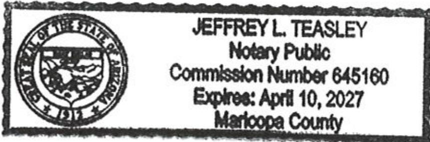
3. To the extent the Complaint concerns my actions or matters of which I have direct personal knowledge, I verify that the Complaint is true and correct to the best of my knowledge, information, and belief.

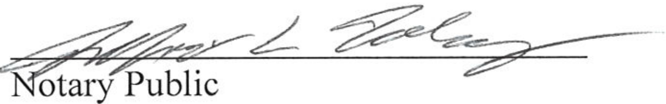
4. To the extent the Complaint concerns the actions of others or matters of which I do not have direct personal knowledge, I believe that the Complaint is true and correct.



Brett Perry

SWORN TO AND SUBSCRIBED before me
this 3rd day of March, 2025





Notary Public

SUPPLEMENTAL INFORMATION PURSUANT TO RULE 3(A)
OF THE RULES OF THE COURT OF CHANCERY

The information contained herein is for the use by the Court for statistical and administrative purposes. Nothing in this document shall be deemed binding for purposes of the merits of the case.

1. Case caption:
***Veton Vejseli and Brett Perry v. Scott Duffy, Thomas DiFiore, Scott Flanders, Elizabeth LaPuma, and Ionic Digital, Inc.*, C.A. No. 2025-____-___**

2. Date filed: **March 3, 2025**

3. Name and address of counsel for plaintiff(s):

A. Thompson Bayliss (#4379)	**Abrams & Bayliss LLP**
Daniel J. McBride (#6305)	**20 Montchanin Road, Suite 200**
Nicholas F. Mastria (#7085)	**Wilmington, Delaware 19807**

4. Short statement and nature of claim(s) asserted: **Plaintiffs seek an order invalidating the defendants' resolution to shrink the size of Ionic Digital, Inc.'s board and a declaration that two Class I directorships are up for election at Ionic Digital, Inc.'s upcoming 2025 annual meeting.**

5. Substantive field of law involved (check one):

____Administrative law	____Labor law	____Trusts, Wills and Estates
____Commercial law	____Real Property	____Consent trust petitions
____Constitutional law	____348 Deed Restriction	____Partition
_X_ Corporation law	____Zoning	____Rapid Arbitration (Rules 96,97)
____Trade secrets/trade mark/or other intellectual property		____Other

6. Identify any related cases, including any Register of Wills matter. This question is intended to promote jurisdiction efficiency by assigning cases involving similar parties or issues to a single judicial officer. By signing this form, an attorney represents that the attorney has done reasonable diligence sufficient to respond to this question. ***Veton Vejseli and Brett Perry v. Ionic Digital, Inc.*, C.A. No. 2025-0137-BWD (Del. Ch.); *Veton Vejseli, Brett Perry, and Christopher Villinger v. Ionic Digital, Inc.*, 2025-0138-BWD (Del. Ch.).**

7. State all bases for the court's exercise of subject matter jurisdiction by citing to the relevant statute. Specify if 8 *Del. C.* § 111, 6 *Del. C.* § 17-111, or 6 *Del. C.* § 18-111. State if the case seeks monetary relief, even if secondarily or in the alternative, under a merger agreement, asset purchase agreement, or equity purchase agreement. **10 *Del. C.* § 341.**

8. If the complaint initiates a summary proceeding under Sections 8 *Del. C.* §§ 145(k), 205, 211(c), 220, or comparable statutes, check here: ____. (If #8 is checked, you must either (i) file a motion to expedite with a proposed form of order identifying the schedule requested or (ii) submit a letter stating that you do not seek an expedited schedule and the reason(s)—e.g., you have filed to preserve standing and do not seek immediate relief.) **N/A**

9. If the complaint is accompanied by a request for a temporary restraining order, a preliminary injunction, a status quo order, or expedited proceedings other than in a summary proceeding, check here __**X**_. (If #9 is checked, a motion to expedite must accompany the transaction with a proposed form of order identifying the schedule requested.)

10. If counsel believe that the case should not be assigned to a Magistrate in the first instance, check here and attach a statement of good cause. **X**

/s/ A. Thompson Bayliss
A. Thompson Bayliss (#4379)

3/1/2023

STATEMENT OF GOOD CAUSE

I am an attorney at Abrams & Bayliss LLP and a member in good standing of the Bar of the State of Delaware. With my firm, I am counsel to plaintiffs Veton Vejseli and Brett Perry ("Plaintiffs"). Plaintiffs respectfully submit that this action is inappropriate for submission to a Magistrate in the first instance and should proceed directly before the Chancellor or a Vice Chancellor.

This action is the third proceeding before this Court arising from Plaintiffs' pending proxy contest at Ionic Digital, Inc. ("Ionic"), a Delaware corporation. The first two, a books and records action and a Section 211 action, are currently pending before Vice Chancellor David. Plaintiffs submitted a notice of nomination for two director candidates on February 14, 2025.

Purportedly in early February 2025, Ionic's board of directors adopted a resolution shrinking the size of its board to five and eliminating one of the director seats up for election at Ionic's 2025 annual meeting. Ionic concealed this highly material fact from stockholders until February 25, when Ionic updated its website without notice. The resolution is inequitable and contravenes Ionic's bylaws.

In this action, Plaintiffs seek an order invalidating the director defendants' resolution to shrink the size of Ionic's board and a declaration that two Class I directorships are up for election at Ionic's upcoming 2025 annual meeting. Plaintiffs also seek to enjoin the 2025 annual meeting of stockholders currently

scheduled for March 17, 2025 until a reasonable time after the Court rule on the merits of the claims in this action.

/s/ A. Thompson Bayliss
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Dated: March 3, 2025