

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUZANNE POIRIER, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BAKKT HOLDINGS, INC. f/k/a VPC
IMPACT ACQUISITION HOLDINGS,
JOHN MARTIN, OLIBIA
STAMATOGLOU, GORDON WATSON,
KAI SCHMITZ, and KURT SUMMERS,

Defendants.

Case No. 1:22-cv-02283-EK-PK

**STIPULATION AND ~~PROPOSED~~
ORDER APPOINTING CO-LEAD
PLAINTIFFS AND CO-LEAD COUNSEL**

Lead plaintiff movants (i) Rachna Mehrotra and (ii) Tse Winston Wing Kuen and James Liner, by and through their undersigned counsel, hereby stipulate as follows in support of their request for appointment as lead plaintiff and approval of selection of lead counsel:

WHEREAS, on April 21, 2022, Plaintiff Suzanne Poirier commenced the above-captioned action (the “Action”) alleging violations of the federal securities laws on behalf of a putative class consisting of investors in the securities of Bakkt Holdings, Inc. (“Bakkt”) f/k/a VPC Impact Acquisition Holdings;

WHEREAS, as a putative class action alleging violations of the federal securities laws, the Action is governed by the Private Securities Litigation Reform Act of 1995 (“PSLRA”), which provides, in relevant part, that any putative class member may move for appointment as Lead Plaintiff in the Action within 60 days of publication of notice of pendency of the Action—here, on or before June 21, 2022 (15 U.S.C. §§ 77z-1(a)(3)(B)(iii)(I)(aa), 78u-4(a)(3)(B)(iii)(I)(aa));

WHEREAS, on June 21, 2022, six motions seeking appointment as Lead Plaintiff pursuant to the PSLRA were filed on behalf of the following alleged class members: (i) Rachna Mehrotra

(“Mehrotra”) (Dkt. No. 13); (ii) Christopher H. Sheffield (“Sheffield”) (Dkt. No. 16); (iii) Jeffrey Fandl (“Fandl”) (Dkt. No. 19); (iv) Jeremy Petrus, Richard Petrus, and Bonnie Petrus (collectively, the “Petrus Family”) (Dkt. No. 21); (v) Tse Winston Wing Kuen (“Kuen”) and James Liner (“Liner”) (Dkt. No. 24); and (vi) Alessandro Pizzo (“Pizzo”) and Lawrence Rutherford (“Rutherford”) (Dkt. No. 25).

WHEREAS, Pizzo, Rutherford, the Petrus Family, Sheffield, and Fandl subsequently filed notices either withdrawing their motions or stating their non-opposition to the other pending Lead Plaintiff motions (Dkt. Nos. 29, 36, 38-39);

WHEREAS, the PSLRA, 15 U.S.C. §§ 77z-1(a)(3)(B)(iii) and 78u-4(a)(3)(B)(iii), provides, *inter alia*, that the most adequate plaintiff to serve as Lead Plaintiff is, in the determination of the Court, the “person or group of persons” that has the largest financial interest in the relief sought by the class and otherwise satisfies the relevant requirements of Rule 23 of the Federal Rules of Civil Procedure (“Rule 23”);

WHEREAS, 15 U.S.C. §§ 77z-1(a)(3)(B)(v) and 78u-4(a)(3)(B)(v) provide that, subject to the approval of the Court, the most adequate plaintiff will select and retain counsel to represent the class;

WHEREAS, Kuen, Liner, and Mehrotra have each provided sworn Certifications pursuant to the PSLRA in support of their respective applications for Lead Plaintiff appointment, setting forth, *inter alia*, their transactions in Bakkt securities;

WHEREAS, Kuen and Liner claim that they collectively sustained approximately \$237,227 in losses as a result of Defendants’ alleged misconduct;

WHEREAS, Mehrotra claims that she sustained approximately \$210,918.36 in losses as a result of Defendants’ alleged misconduct;

WHEREAS, Kuen, Liner, and Mehrotra each have a significant financial interest in the

outcome of this litigation;

WHEREAS, Kuen, Liner, and Mehrotra are also each qualified to serve as co-lead plaintiffs in this case given, among other things, their respective lead plaintiff submissions (Dkt. Nos. 13, 24);

WHEREAS, having reviewed one another's submissions to the Court, Kuen, Liner, and Mehrotra believe that they each satisfy the typicality and adequacy requirements of Rule 23;

WHEREAS, Kuen, Liner, and Mehrotra believe that, rather than continuing to litigate their competing motions, it is in the best interests of the Class to amicably resolve the motions and pool their resources to effectively and efficiently prosecute the Action; and

WHEREAS, having reviewed one another's submissions to the Court, Kuen, Liner, and Mehrotra believe that it is in the best interests of the Class for Kuen, Liner, and Mehrotra to serve as Co-Lead Plaintiffs and for their respective selections of Pomerantz LLP ("Pomerantz") and Levi & Korsinsky, LLP ("Levi & Korsinsky") to serve as Co-Lead Counsel;

WHEREAS, courts have endorsed stipulations among competing lead plaintiff movants with comparable losses, like here, as promoting the statutory purposes of the PSLRA, and have permitted "independent lead plaintiff movants [to] join together to help ensure that adequate resources and experience are available to the prospective class in the prosecution of th[e] action" and because "[e]mploying a co-lead plaintiff structure . . . will also provide the proposed class with the substantial benefits of joint decision-making." *In re Rockwell Med., Inc. Sec. Litig.*, No. 1:16-cv-01691-RJS, ECF No. 18 at 2-3 (S.D.N.Y. May 20, 2016) (citing *Pirelli Armstrong Tire Corp. Retiree Med. Benefits Tr. v. LaBranche & Co, Inc.*, 229 F.R.D. 395 (S.D.N.Y. 2004)); *see also In re: Phillip Morris Int'l Inc. Sec. Litig.*, No. 1:18-cv-08049-RA, ECF No. 82 (S.D.N.Y. Feb. 25, 2019); *In re Facebook, Inc. Sec. Litig.*, No. 5:18-cv-01725-EJD, ECF No. 56 at 2-3 (N.D. Cal. Aug. 3, 2018) (approving stipulation of lead plaintiff movants where movants "concluded that a

protracted dispute concerning lead plaintiff appointment . . . [was] not in the best interests of the class and that jointly prosecuting [the] litigation would be appropriate and assist with the speedy commencement of [the] litigation”);

IT IS HEREBY STIPULATED AND AGREED THAT, subject to the Court’s approval, as follows:

1. Kuen, Liner, and Mehrotra are hereby appointed Co-Lead Plaintiffs in this Action and any subsequently filed or transferred actions that are consolidated with this Action, pursuant to 15 U.S.C. §§ 77z-1(a)(3)(B) and 78u-4(a)(3)(B);

2. Co-Lead Plaintiffs’ selections of Pomerantz and Levi & Korsinsky as Co-Lead Counsel are hereby approved; and

3. Co-Lead Plaintiffs and Defendants shall comply with the Court’s Order granting the Stipulation and Order regarding service and scheduling (Dkt. No. 35) and submit a schedule for the filing of an amended complaint and briefing for any motion to dismiss within ten (10) days of the date of entry of an Order granting this Stipulation Appointing Co-Lead Plaintiffs and Co-Lead Counsel.

IT IS SO STIPULATED.

Dated: July 5, 2022

Respectfully submitted,

POMERANTZ LLP

/s/ Jeremy A. Lieberman

Jeremy A. Lieberman

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*Counsel for Tse Winston Wing Kuen and James
Liner and Proposed Co-Lead Counsel for the Class*

Dated: July 5, 2022

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*Counsel for Rachna Mehrotra and Proposed Co-
Lead Counsel for the Class*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: August 3, 2022

Brooklyn, New York

Peggy Kuo

Honorable Peggy Kuo, U.S.M.J.