

1 Gary S. Lincenberg - State Bar No. 123058
glinenberg@birdmarella.com
2 Thomas V. Reichert - State Bar No. 171299
treichert@birdmarella.com
3 Christopher J. Lee - State Bar No. 322140
clee@birdmarella.com
4 BIRD, MARELLA, BOXER, WOLPERT, NESSIM,
DROOKS, LINCENBERG & RHOW, P.C.
5 1875 Century Park East, 23rd Floor
Los Angeles, California 90067-2561
6 Telephone: (310) 201-2100
Facsimile: (310) 201-2110

7 Attorneys for Plaintiff James Alexander
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN MATEO, SOUTHERN BRANCH**
11

12 James Alexander,

13 Plaintiff,

14 vs.

15 Daniel Brian Schatt and Does 1 to 25,

16 Defendant.
17
18
19

CASE NO20-CIV-02728

COMPLAINT FOR:

- (1) DECLARATORY RELIEF;**
- (2) BREACH OF ORAL CONTRACT;**
- (3) CONVERSION;**
- (4) INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS.**

DEMAND FOR JURY TRIAL

20 1. James Alexander (“Alexander” or “Plaintiff”) is an individual who resides in
21 Los Angeles, California and is a citizen of the State of California.

22 2. Defendant Daniel Brian Schatt (“Schatt” or “Defendant”), is an individual
23 who resides in San Mateo, California, and is a citizen of the State of California.

24 3. The true names and capacities, whether individual, corporate, associate, or
25 otherwise of defendants named herein as Does 1 through 25, inclusive, are unknown to
26 Alexander who therefore names these defendants by such fictitious names. Alexander will
27 amend this Complaint to show the true names and capacities of these defendants when the
28 same have been ascertained. Alexander is informed and believes that each fictitiously

**Electronically
FILED**
by Superior Court of California, County of San Mateo
ON **7/2/2020**
By /s/ Una Finau
Deputy Clerk

1 named defendant is responsible in law and in fact for the conduct alleged herein.

2 **JURISDICTION AND VENUE**

3 4. Jurisdiction is proper in the Superior Court for the State of California in and
4 for the County of San Mateo pursuant to Section 410.10 of the California Code of Civil
5 procedure because it has general subject matter jurisdiction and no statutory exceptions to
6 jurisdiction exist. The amount in controversy exceeds the jurisdictional minimum of this
7 Court.

8 5. Venue is proper in the County of San Mateo pursuant to section 395 of the
9 California Code of Civil Procedure because Defendant Schatt is a resident of San Mateo
10 County.

11 **FACTS**

12 6. Cred Capital, Inc. (“Cred Capital”) was incorporated in Delaware in March
13 2020 as an affiliated company with Cred, Inc., the successor-in-interest to Cred, LLC
14 (“Cred, Inc.”), to independently pursue investment management and capital markets
15 activities in the digital asset (crypto) class.

16 7. Alexander is the President of Cred Capital and its sole Director. He was
17 previously employed as Head of Capital Markets by Cred, Inc.

18 8. Cred Capital was established with two separate classes of stock. The “A”
19 Shares have voting rights, while the “B” shares do not.

20 9. Alexander secured an investor who was granted Class A shares. This is the
21 sole shareholder holding Class A shares.

22 10. Cred, Inc. and Lu Hua were each granted Class B shares in Cred Capital in
23 exchange for certain contributions of assets. Class B shares have no voting rights.

24 11. Schatt is the CEO of Cred, Inc.

25 12. Cred Capital was formed pursuant to certain oral and written agreements
26 between Alexander and Schatt regarding its intended structure and operation, which
27 included the following material provisions, among others:

28 a) Cred Capital and Cred, Inc. would enter into an Asset Management

- 1 Agreement that would give Cred Capital the exclusive right to manage
2 Cred, Inc.'s assets for a period of two years;
- 3 b) Cred Capital would be capitalized in part by Cred, Inc. and in part by
4 third party investors, who would provide Alexander through a proxy with
5 effective control of Cred Capital;
- 6 c) Cred Capital would operate as an autonomous entity beginning on April
7 1, 2020;
- 8 d) Cred Capital and Cred, Inc. would enter into a shared services agreement
9 to facilitate each entity's operation.

10 13. In March and April 2020, Alexander and Schatt implemented several of
11 these provisions, including but not limited to the following:

- 12 a) Cred Capital and Cred, Inc. entered into an Asset Management
13 Agreement in March 2020, which in fact gave Cred Capital the exclusive
14 right to manage Cred, Inc.'s assets for a period of two years;
- 15 b) In April 2020 Cred Capital was capitalized in part by Cred, Inc. and third
16 party investors;
- 17 c) Cred Capital began operating as an autonomous entity on April 1, 2020,
18 with three employees and five consultants.

19 14. In May 2020 a draft shared services agreement between Cred, Inc. and Cred
20 Capital was circulated, but Schatt declined to sign it or further negotiate its terms.

21 15. Beginning in May 2020, as it began to become apparent that Cred, Inc. was
22 undercapitalized, Schatt began sending a series of emails to Alexander demanding control
23 of Cred Capital and revisions to the various written and oral agreements already in place
24 between Cred, Inc. and Cred Capital, which were contrary to the written and oral
25 agreements already in place. Schatt also began to demand that Cred Capital's structure be
26 altered to provide majority voting rights to the B Class investors. Alexander declined to
27 give in to Schatt's unreasonable and unfounded demands.

28 16. On June 23, 2020, Schatt sent an email to Alexander stating that he had

1 found an error in the incorporation documents for Cred Capital in that a corporate
2 paralegal involved in the incorporation had failed to sign a particular document. Schatt
3 also asserted that the paralegal, who continues to work for the same firm as when the
4 incorporation occurred in March 2020, was unavailable to correct the alleged error. Schatt
5 informed Alexander in the same email that, accordingly, due to this purported error,
6 everything that Alexander had subsequently done, as the sole director, was a nullity; and
7 that he had caused Cred Capital to be re-incorporated, with only a single class of shares,
8 wiping out the investment for the “A” Shares shareholder, and that Schatt was unilaterally
9 reconstituting the Cred Capital board and ownership structure to strip Alexander of
10 control.

11 17. Mr. Schatt’s actions were transparently pretextual, illegal, and based on a
12 false premise. The incorporator was not “unavailable” or unreachable in any way, but was
13 and remains a corporate paralegal at a nationally known law firm based in Chicago and
14 could have easily been contacted to correct any purported deficiency.

15 18. In fact, however, the incorporation document in question had been signed by
16 the paralegal. Schatt’s efforts to swoop in and wipe away the separate corporate form of
17 Cred Capital, and the legal authority of Alexander as its President and sole director, are
18 wholly improper.

19 19. Schatt is a shareholder of Cred, Inc. Cred, Inc. is a Class B shareholder of
20 Cred Capital. It has no voting rights, and therefore Schatt has no voting rights, as to Cred
21 Capital.

22 20. Schatt’s purported changes in the capital structure and governance of Cred
23 Capital are of no force and effect.

24 21. On June 26, 2020, Schatt purported to terminate Alexander’s employment
25 relationship with Cred, Inc.; this included locking him out of his Cred Capital corporate
26 email and other technology resources registered to Cred Capital, through which he was
27 conducting business with present and prospective clients as Cred Capital’s President.
28 Schatt has effectively expelled Alexander from Cred Capital, although Alexander is the

1 appointed President and sole Director of Cred Capital and Schatt has no actual authority
2 over the operation of Cred Capital.

3 22. Schatt has interfered with Alexander's operation and management of Cred
4 Capital in many ways, including but not limited to, the following:

- 5 a) Schatt has fraudulently gained control of Cred Capital's credcapital.io
6 domain and now has unauthorized access to confidential and proprietary
7 data (G Suite);
- 8 b) Schatt has fraudulently gained administrative control of Cred Capital's
9 bank accounts (Silvergate);
- 10 c) Schatt has fraudulently gained administrative control of Cred Capital's
11 employee benefits (Sequoia One);
- 12 d) Schatt has excessively and unnecessarily allocated Cred, Inc.'s own
13 expenses to Cred Capital;
- 14 e) Schatt has attempted to co-opt Cred Capital's employees after the
15 employees were expressly hired to work for Cred Capital only;
- 16 f) Schatt has called Cred Capital employees and consultants and informed
17 them that Alexander is no longer employed by Cred, Inc. and no longer in
18 control of Cred Capital; and
- 19 g) Schatt has communicated with current and prospective Cred Capital
20 clients, falsely claiming that Cred Capital is now a wholly-owned
21 subsidiary of Cred, Inc.

22 23. Schatt's interference with Alexander's operation of Cred Capital has caused
23 the loss of business opportunities for Cred Capital worth in excess of \$1 million. In
24 addition, Schatt has acted with oppression, fraud and malice, entitling Alexander to
25 punitive damages.

26 **FIRST CAUSE OF ACTION**

27 **(Declaratory Relief)**

28 24. Alexander incorporates and realleges each of the preceding paragraphs 1

1 actions:

2 33. Refusing to negotiate and execute the shared services agreement;

3 34. Attempting to take control of Cred Capital, including by way of a false and
4 pre-textual excuse; and

5 35. Interfering in ongoing business opportunities available to Alexander as
6 President and controlling shareholder of Cred Capital.

7 36. As a result of these and other breaches of by Schatt, Cred Capital has not
8 been able to properly function and Alexander has been incapable of carrying out his duties
9 as President of Cred Capital.

10 37. Schatt has therefore breached his oral contract with Alexander, who has been
11 damaged by Defendant's actions in excess of \$1 million.

12 **THIRD CAUSE OF ACTION**

13 **(Conversion)**

14 38. Alexander incorporates and realleges each of the preceding paragraphs 1
15 through 23 as if fully incorporated herein.

16 39. Alexander had a property interest in a controlling bloc of Cred Capital stock
17 by way of a proxy from a third party investor.

18 40. Schatt intentionally and substantially interfered with Alexander's property by
19 filing an amended and restated Certificate of Incorporation of Cred Capital on June 22,
20 2020, and wrongfully taking possession of Alexander's shares, based on a false and pre-
21 textual defect in the original incorporation documents.

22 41. Alexander did not consent in any manner to Schatt's wrongful change to the
23 governance and capital structure of Cred Capital.

24 42. Alexander was damaged in his property interest in the shares of stock.

25 43. Schatt's conduct was undertaken with oppression, fraud and malice and was
26 a substantial factor in causing Alexander's harm.

27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOURTH CAUSE OF ACTION

(Intentional Interference with Prospective Economic Relations)

44. Alexander incorporates and realleges each of the preceding paragraphs 1 through 23 as if fully incorporated herein.

45. Schatt intentionally interfered with Alexander’s and Cred Capital’s prospective economic relationships, including Alexander and Cred Capital’s relationship with other entities whose assets they were potentially contracted to manage and would have resulted in a future economic benefit to Alexander and Cred Capital.

46. Schatt knew of Alexander and Cred Capital’s relationship with these other entities through his fraudulent and unauthorized access to Cred Capital’s technology infrastructure, notably email and data storage; and his understanding that Cred Capital’s business plan was to serve as an asset manager not only for Cred, Inc., but for other entities as well.

47. Schatt knew that Alexander’s success hinged on Alexander’s ability to lead Cred Capital independently of interference from Cred, Inc.

48. The prospective economic relationship between Alexander and Cred Capital, on the one hand, and other potential asset management clients on the other, was potentially disrupted because of Schatt’s wrongful conduct.

49. As a proximate result of Schatt’s wrongful conduct, Alexander has been damaged in an amount to be proven at trial, but in an amount not less than \$1 million. In addition, Schatt has acted with oppression, fraud and malice, entitling Alexander to punitive damages.

REQUEST FOR RELIEF

WHEREFORE, Alexander requests that this Court grant the following relief:


- 1. For a declaratory judgment of the parties respective rights;
- 2. For injunctive relief;
- 3. For general and special damages in an amount to be proven at trial not less than \$1 million;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 4. For punitive damages according to proof at trial;
- 5. For Alexander's costs and reasonable attorneys' fees incurred herein;
- 6. For pre-judgment and post-judgment interest on all damages at the highest rate allowed by law from the date of injury until paid in full; and
- 7. For such other and further relief as the Court deems just and proper.

DATED: July 2, 2020

Gary S. Lincenberg
 Thomas V. Reichert
 Christopher J. Lee
 Bird, Marella, Boxer, Wolpert, Nessim,
 Dooks, Lincenberg & Rhow, P.C.

By: 


 Thomas V. Reichert
 Attorneys for Plaintiff James Alexander

DEMAND FOR JURY TRIAL

Alexander hereby demands a jury trial.

DATED: July 2, 2020

Gary S. Lincenberg
 Thomas V. Reichert
 Christopher J. Lee
 Bird, Marella, Boxer, Wolpert, Nessim,
 Dooks, Lincenberg & Rhow, P.C.

By: 

 Thomas V. Reichert
 Attorneys for Plaintiff James Alexander