

Client Alert

Staying Warm in a Crypto Winter

December 5, 2022

In June, the crypto world saw the first signs of concern as cryptocurrency exchange Cred filed for bankruptcy. Since then, Crowell's Digital Assets and Bankruptcy, Restructuring, and Insolvency teams have worked together counseling parties on their relative rights in these bankruptcy cases as well as assisting buyer and sellers of related claims. The news has only snowballed, and our [Crypto Digest Blog](#) has tracked the fast-moving crypto winter. In addition to client questions, our team has been quoted in [The Wall Street Journal](#), [Yahoo Finance](#), [MarketWatch](#), [CoinDesk](#), [protocol](#), and [The Journal of Bankruptcy Law](#).

To subscribe to the blog and receive updates on upcoming posts, use the following link:

<https://www.crowellcryptodigest.com/>

Most recently, the blog has covered stories including:

FTX Contagion – BlockFi Follows FTX and Others Into Bankruptcy - BlockFi Inc. and eight of its affiliates followed the paths of crypto platforms Voyager, Celsius and FTX by filing for bankruptcy protection. The case, commenced in the District of New Jersey, on November 28, 2022, is off to a fast start. BlockFi filed a plan of reorganization on the first day of its case. The plan proposes a standalone restructuring but allows the company to toggle to a sale of all or substantially all of the company's assets. The company had its first day hearing in New Jersey on November 29th and expressed an interest in exiting bankruptcy expeditiously.

Crypto Commingling: Celsius Examiner files Initial Report- Shoba Pillay, the Examiner appointed in Celsius' bankruptcy cases, filed her interim report on November 19, 2022. The Celsius Examiner's report provides some important insight into a crypto-exchange's operational and risk management failures which may provide investors and creditors some insight into what to expect in the FTX bankruptcy case.

Legal Issues for Institutional Investors of FTX - FTX has warned its investors, customers and the crypto-world that they may have to file for bankruptcy protection without rescue financing to address its immediate liquidity crisis. Unlike the bankruptcy cases of Celsius and Voyager, FTX's case, should it file, will likely involve many institutional investors with secured and unsecured claims. These institutional investors are now having to take steps to limit their exposure in the face of such uncertainty while considering the consequences of an FTX filing. While history rarely repeats itself, it does rhyme quite often, and lessons learned from Lehman's epic bankruptcy in dealing with securities trades, loans, swaps, repos, customer property and dozens of other structured transactions may be useful guidance. Of course, adding the novelty and complexity of digital assets and absence of regulatory clarity, an FTX case could be a tangle of confusion.

Celsius Contagion?: Another Crypto Miner Expected to File Bankruptcy - In an earlier post we discussed the bankruptcy filing of Compute North Holdings, Inc., a bitcoin miner felled by high electricity costs and falling

cryptocurrency prices. It may be followed shortly by another miner, Core Scientific, Inc., which announced on October 26, 2022 that it has similarly been severely impacted by rising electricity costs and the price of bitcoin. It also noted increases in the “global bitcoin network hash rate” as well as ongoing litigation with Celsius Networks and its affiliates. The company, whose stock is listed on NASDAQ under the symbol CORZ, is engaged in a battle with Celsius regarding the latter’s failure to pay certain “utility tariffs” purportedly owing in relation to the hosting of Celsius’ mining equipment at Core Scientific’s data centers, among other things. In a filing earlier this month in Celsius’ bankruptcy case, Core Scientific asserted that it was “losing approximately \$1.65 million per month subsidizing Celsius’s business.” A hearing on Core Scientific’s demand that Celsius pay these administrative expenses, among other things, has been scheduled for November 9, 2022 in Celsius’ case. Core Scientific may have commenced its own case by that time.

Another Victim of the Crypto Winter - On September 22, 2022, Compute North Holdings, Inc. and certain affiliates filed bankruptcy in the Southern District of Texas in Houston. The company describes itself as “a leader in data centers, focused on delivering sustainable, cost-effective infrastructure for customers in the blockchain, cryptocurrency mining and distributed computing space.” See Declaration of Harold Coulby, Chief Financial Officer and Treasurer of the Debtors (Doc. 22). It owns and operates three operating facilities that provide remote computing capacity and has rights to two others that remain in development. Its main business lines include (i) hosted cryptocurrency mining services, (b) bitcoin mining, and (c) cryptocurrency equipment sales.

While the Crypto Digest blog certainly focused on the news of bankruptcies and distress, it also provided a wide range of overviews, thought leadership, and interviews, including: [Blockchain Analysis by Chainalysis](#); an [Interview with Jorge Pesok of The HBAR Foundation](#); [Digital Asset Collateral](#); and an [Interview with Kayvan Ghaffari of MakersPlace](#).

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