



AMERICAN
BANKRUPTCY
INSTITUTE

Central States Bankruptcy Workshop

Advanced Fraud-Based Litigation

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Advanced Fraud Litigation

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Where We Are Heading

- Background
- Cryptocurrency
- Ponzi Scheme
- Judge's Perspective



What is a Fraudulent Transfer?

- Two types of fraudulent transfer schemes (section 548 & state law).
- Actual Fraudulent Transfer:
 - Transfers made with actual intent to hinder, delay, or defraud creditors.
- Constructive Fraudulent Transfers:
 - Transfers made for less than reasonably equivalent value when a debtor was in financial trouble.
- Purpose:
 - Avoid such transactions in order to recover property or value of property (section 550).



What is a Fraudulent Transfer, *cont.*?

- Burden of Proof:
 - Party claiming that fraud has occurred (*i.e.*, movant)
 - Preponderance of the evidence
- Actual Fraudulent Transfer Elements (Bankruptcy Code):
 - (1) a transfer of an interest of the debtor in property; (2) made on or within two years before the date of the filing of the petition or entry of the order for relief; and (3) such transfer was made with actual intent to hinder, delay, or defraud any of the debtor's creditors.
- Constructive Fraudulent Transfer Elements (Bankruptcy Code):
 - (1) the transfer of an interest of the debtor in property; (2) the transfer was made or incurred on or within two years before the date of the filing of the petition; (3) the debtor voluntarily or involuntarily received less than reasonably equivalent value in exchange for such transfer or obligation; and (4) the debtor was insolvent on the date that the transfer was made or became insolvent as a result of the transfer.
- Not Always Clear
 - "Transfer" Example: *In re Pazzo Pazzo* (3rd Cir. 2022) & *In re Great Lakes Quick Lube* (7th Cir. 2016).



What is a Fraudulent Transfer, *cont.*?

- Actual Fraudulent Transfer "Badges of Fraud"
- Not expressly listed in Bankruptcy Code, but certain Circuits consider the following list:
 - (1) the lack or inadequacy of consideration; (2) the family, friendship, or close associate relationship between the parties; (3) the retention of possession, benefit or use of the property in question; (4) the financial condition of the party sought to be charged both before and after the transaction in question; (5) the existence or cumulative effect of the pattern or series of transactions or course of conduct after incurring of debt, onset of financial difficulties, or pendency or threat of suits by creditors; and (6) the general chronology of events and transactions under inquiry.
- Some states do expressly list badges of fraud (*e.g.*, TUFTA section 24.005(b)):
 - (1) the transfer or obligation was to an insider; (2) the retained possession or control of the property transferred after the transfer; (3) the transfer or obligation was concealed; (4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit; (5) the transfer was of substantially all of the debtor's assets; (6) the debtor absconded; (7) the debtor removed or concealed assets; (8) the value of consideration received by the debtor was [less than] reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred; (9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred; (10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and (11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.



Ponzi Scheme: What is it?

- “Any sort of inherently fraudulent arrangement under which the debtor-transferor must utilize after-acquired investment funds to pay off previous investors in order to forestall disclosure of the fraud.” *In re Bayou Group, LLC*, 362 B.R. 624 (Bankr. S.D.N.Y. 2007).
- Charles Ponzi: The namesake of the Ponzi scheme “was always insolvent, and became daily more so, the more his business succeeded. He made no investments of any kind, so that all the money he had at any time was solely the result of loans by his dupes.” *Cunningham v. Brown*, 265 U.S. 1, 8 (1924). He received over \$9 million and promised to pay over \$14 million for supposedly investing in international postal coupons and selling them for twice the price because of the turbulent foreign exchange rate post-WWI (e.g., 50% return in 90 days). *Id.*
- Bernie Madoff: Returns were not from a “split-strike conversion strategy (i.e., purchase basket of stocks listed on S&P 100 index and hedge through options). But no trading occurred, Madoff just “used customer funds to support operations and fulfill other investors” requests for distributions of profits to perpetuate his Ponzi scheme.” *In re Bernard L. Madoff Investment Securities LLC*, 424 B.R. 122, 128 (Bankr. S.D.N.Y. 2010). “Madoff’s scheme collapsed when the flow of new investments could no longer support the payments required on earlier invested funds.”
- Ponzi Schemes are, by definition, at all times insolvent. *In re Bernard L. Madoff Investment Securities LLC*, 458 B.R. 87, n.15 (Bankr. S.D.N.Y. 2011). This is true because the cumulative losses and obligations exceed its cumulative gains, which were nothing.



Ponzi Scheme: The Easy Elements

- Actual Fraudulent Transfer: Actual Intent
 - “The mere existence of a Ponzi scheme is sufficient to establish actual intent to defraud.” *Donell v. Kowell*, 533 F.3d 762, 770 (9th Cir. 2008); *see also In re Manhattan Inv. Fund, Ltd.*, 397 B.R. 1, 11 (S.D.N.Y. 2007) (every payment made by the debtor to keep a Ponzi scheme going is presumed to be with actual intent to hinder, delay or defraud creditors, primarily the new ones).
- Constructive Fraudulent Transfer: Remaining Property Post-Transfer Constituted Unreasonably Small Capital
 - “‘Unreasonably small capital’ is not defined in the Bankruptcy Code or the UFTA. It’s meaning must be ascertained upon a ‘review of the capital structure of a debtor’s business.’” *In re Suburban Motor Freight, Inc.*, 124 B.R. 984, 998 (Bankr. S.D. Ohio 1990).
 - Because Ponzi schemes are insolvent from inception, that insolvency constitutes unreasonably small capital per se – indeed, all capital was exclusively obtained fraudulently. *See, e.g., In re Mark Benskin & Co.*, 161 B.R. 644, 650 (Bankr. W.D. Tenn. 1993); *see also, In re Taubman*, 160 B.R. 964, 986 (Bankr. S.D. Ohio 1993).



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Ponzi Scheme: The Tough Element (Actual & Constructive Fraudulent Transfers)

- An interest of the debtor in property . . .
 - “Property that would have been part of the estate had it not been transferred before the commencement of bankruptcy proceedings.” *Begier v. IRS*, 496 U.S. 53, 58 (1990).
 - Dominion/Control Test: Did debtor exercise dominion or control over the property? (1st, 5th, 6th, 9th, 10th Circuits).
 - Diminution of the Estate Test: Transfer diminished resources from which creditors could have sought payment? (1st, 5th, 9th, and 10th Circuits).



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Ponzi Scheme: The Tough Element (Actual & Constructive Fraudulent Transfers), *cont.*

- *Mann v. LSQ Funding Group, L.C.*, 71 F.4th 640 (7th Cir. 2023)
 - Accounts receivable factoring agreements for financing (*i.e.*, collateralized future funds anticipated from operations).
 - Example: Debtor issues invoice to customers, debtor submits the receivables to funder (*e.g.*, LSQ Funding Group) for purchase, funder pays debtor **portion** of face value of invoice, and funder eventually pays **outstanding balance** (minus fees) when funder receives the accounts receivable payment from debtor’s customer.
 - Doesn’t work when the invoices are fake. In this case, the Debtor (Engstrom, Inc.) produced fake invoices in the name of its real customers. Debtor would provide these fake invoices to LSQ Funding Group to receive a portion of the payment. With some of this payment, the Debtor funneled payments back to LSQ lying that it was a customer’s payment for a previous invoice.
 - LSQ learned of scheme, terminated their factoring agreement, and demanded \$10.3 million: the outstanding balance of all of the fake invoices LSQ purchased.



Ponzi Scheme: The Tough Element (Actual & Constructive Fraudulent Transfers), *cont.*

- *Mann v. LSQ Funding Group, L.C.*, 71 F.4th 640 (7th Cir. 2023)
 - Debtor sought a second victim to satisfy the \$10.3 million payment to LSQ.
 - Millennium Funding: Another factoring company selected to replace LSQ. The Debtor convinced Millennium to buy the \$10.3 million of fake invoices LSQ previously purchased.
 - LSQ made no effort to alert Millennium of the underlying scheme and Millennium wire-transferred \$10.3 million to LSQ in January 2020. Thereafter, the Debtor was indebted to Millennium for \$10.3 million, which was secured by the fake invoices.
 - Millennium soon learned of the Debtor's Ponzi scheme and LSQ's participation.
 - In April 2020, the Debtor filed for bankruptcy and commenced an adversary proceeding to avoid the \$10.3 million payment by Millennium to LSQ as a fraudulent transfer (and/or preferential). The case was later converted to a case under chapter 7.

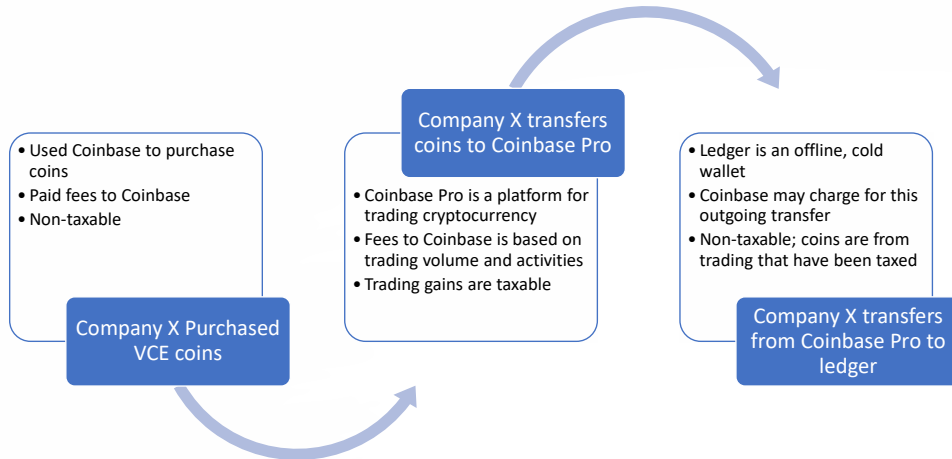


Ponzi Scheme: The Tough Element (Actual & Constructive Fraudulent Transfers), *cont.*

- *Mann v. LSQ Funding Group, L.C.*, 71 F.4th 640 (7th Cir. 2023)
 - Bankruptcy Court: Granted summary judgment in favor of LSQ because; (1) Debtor never exercised dominion and control over the transferred funds; and (2) the funds were never transferred by the Debtor and therefore did not diminish the property of the estate.
 - District Court: Affirmed.
 - Seventh Circuit: Affirmed. Purpose is "to preserve the property includable within the bankruptcy estate—the property available for distribution to creditors."
 - Even in a Ponzi scheme context, "outright fraud alone cannot bring a transaction within the avoiding powers of the Bankruptcy Code—the baseline avoiding requirements of the statute must still be met."
 - No dominion or control: Debtor did not ultimately determine the disposition of the funds or accounts themselves.
 - No diminution: Debtor never possessed the funds, the funds never passed through its accounts, and the accounts sold would never be a part of the Debtor's estates.
 - No debtor benefit: Avoiding the transfer would only benefit one creditor, Millennium, which would cause a "perverse result."



Example of a crypto transaction



Cryptocurrency Impacts - Generally

- **Disclosures**
 - Schedule A issues – stocks, bonds, deposits of money, other financial assets
 - Value and storage/location
- **Compensation and income**
 - Staking and interest yields
- **Taxes**
 - Checkbox on the tax return
 - Disclosure of income and transactions (buy, sell, transfer, exchange)
 - Statements and transaction history (application versus website)
- **Fraud/Scams**



Cryptocurrency Impacts – Chapter 7 cases

- Liquidation analysis
 - Determination of Value
 - Costs to liquidate
 - Difficulties in locating/tracing
 - Statements/transactions
 - *In re Ismalaj*, DC BK 22-50-ELG
- Failure to disclose and 727 actions
 - *Fitzgerald v. Solanke*, 22-07012-SCS – did not disclose income, cryptocurrency venture on behalf of others for commission, cryptocurrency assets, CashApp and various cryptocurrency wallets via online vendors
 - What to disclose:

Income/Assets	Accounts	Transactions
Gross v. Net	SOFA	



Cryptocurrency Impacts – Chapter 11, 13 cases

- Liquidation analysis
 - *In re Moon*, EDVA BK 19-10614
 - Chapter 13 debtor did not disclose the crypto valued at \$2,100 as of filing and \$3,300 as of issue
 - Amended plan filed to pay that amount in addition to payments over plan
- Other forms of compensation/benefits
- Insurance/security of accounts



Cryptocurrency Impacts – Business issues versus individual cases

- Individual cases focus on assets, income and transactions
- Business cases have an added component:
 - Equipment
 - Operational costs and utilities
 - Tax returns and business expenses
 - Benefits/compensation to individuals in the form of crypto



Virtual Currency - Definitions

The term “virtual currency” is not defined in the Uniform Fraudulent Transfer Act, Uniform Voidable Transactions Act, or U.S. Bankruptcy Code. However, there are certain federal laws and regulations that either implicitly define or provide guidance on virtual currency. Here are some examples:

- **Internal Revenue Code (IRC):** The IRS treats virtual currency as property for federal tax purposes rather than currency. This treatment is outlined in IRS Notice 2014-21 and subsequent guidance. This approach helps establish how virtual currency transactions are taxed, providing important guidance for users and businesses.
- **FinCEN Regulations:** The Financial Crimes Enforcement Network (FinCEN) has issued guidance on virtual currency and considers certain virtual currency businesses as Money Services Businesses (MSBs) subject to the Bank Secrecy Act (BSA) regulations. This guidance provides insight into how virtual currency activities are regulated from an anti-money laundering (AML) and counter-terrorist financing (CTF) perspective.
- **Commodity Exchange Act (CEA):** The Commodity Futures Trading Commission (CFTC) has asserted its jurisdiction over certain virtual currencies as commodities. While this doesn't define virtual currency outright, it establishes a regulatory framework for derivatives and other financial products based on virtual currencies.
- **Securities Laws:** The Securities and Exchange Commission (SEC) has issued guidance on when certain virtual assets may be considered securities, which falls under the Securities Act of 1933 and the Securities Exchange Act of 1934. This guidance helps determine which virtual assets are subject to securities regulations.
- **Electronic Fund Transfer Act (EFTA) and Regulation E:** While not explicitly defining virtual currency, these regulations govern electronic transfers of funds and provide some consumer protection provisions that may apply to virtual currency transactions, especially those involving virtual currency wallets and transfers.

These laws and regulations, while not providing a universal definition of virtual currency, offer important guidance on how virtual currency transactions are treated, regulated, and taxed under federal law in the United States.



Virtual Currency - Definitions

The Uniform Commercial Code (UCC), in revised Article 12, defines "virtual currency" in a way that accommodates modern digital financial instruments. According to the UCC, virtual currency is defined as:

Virtual Currency: A digital representation of value that (i) is used as a medium of exchange, a unit of account, or a store of value and (ii) is not legal tender, whether or not denominated in legal tender.

UCC § 12-001.



UCC Article 12 specifically addresses the regulation of "controllable electronic records." This new article modernizes the UCC to accommodate emerging technologies such as digital assets and blockchain technologies. Here are the key provisions and allowances under UCC Article 12:

1. **Controllable Electronic Records (CERs):** Article 12 introduces and defines "controllable electronic records," which include digital assets like cryptocurrencies and non-fungible tokens (NFTs). These are essentially electronic records that can be controlled and transferred electronically.
2. **Transfer and Control:** The article outlines the legal framework for transferring control of these digital assets. It provides clarity on what constitutes control over a CER, enabling legal recognition of possession in a digital context.
3. **Rights of Transferees:** UCC Article 12 specifies the rights of transferees (those who receive the CER). This includes protections similar to those provided for traditional negotiable instruments, ensuring that transferees can obtain rights to the CER free from certain claims and defenses.
4. **Security Interests:** The article allows for the creation and perfection of security interests in CERs. This means that digital assets can be used as collateral for loans and other obligations, similar to how physical assets are used.
5. **Priority Rules:** UCC Article 12 sets out priority rules for competing claims over CERs, providing legal certainty for parties involved in transactions involving digital assets.
6. **Compatibility with Other UCC Articles:** The article is designed to integrate seamlessly with other articles of the UCC, ensuring that transactions involving CERs are treated consistently with other types of secured transactions.

In essence, UCC Article 12 allows for the legal recognition, transfer, and use of digital assets within the existing framework of commercial law, providing a much-needed update to accommodate the digital economy.



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Virtual Currency - Definitions

The Financial Crimes Enforcement Network (FinCEN) defines "virtual currency" in a slightly different but related manner to ensure compliance with regulations concerning money laundering and financial crimes. According to FinCEN, virtual currency is defined as:

Virtual Currency: A medium of exchange that operates like a currency in some environments, but does not have all the attributes of real currency. In particular, virtual currency does not have legal tender status in any jurisdiction.

FIN-2013-G001.



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Virtual Currency - Definitions

The Internal Revenue Service (IRS) defines virtual currency with a focus on its tax implications and how it is treated under U.S. tax law. According to the IRS, virtual currency is:

Virtual Currency: A digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value. In some environments, it operates like "real" currency (i.e., the coin and paper money of the United States or any other country that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance), but it does not have legal tender status in any jurisdiction.

IRS Notice 2014-21.



Virtual Currency - Definitions

The Internal Revenue Service (IRS) defines virtual currency with a focus on its tax implications and how it is treated under U.S. tax law. According to the IRS, virtual currency is:

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IRS Notice 2014-21.



Virtual Currency – Statistics

- As of March 2024, there were 13,217 total cryptocurrencies. However, not all cryptocurrencies are active or valuable. Discounting many “dead” cryptos leaves only around 8,985 active cryptocurrencies.
- In June 2024, the total market cap of all cryptocurrencies was around \$2.77 trillion.
- In June 2024, the trading volume of all cryptocurrencies per 24 hours was around \$99 billion.
- In June 2024, Bitcoin has the highest current market cap at approximately \$1.4 trillion – around 3x its closest rival Ethereum.
- Approximately 8% of the US population trades cryptocurrency.
- Around 26 percent of millennials owned Bitcoin, according to a July 2023 Morning Consult survey, compared to 14 percent of all U.S. adults.

Sources: [CoinGecko](#), [CoinMarketCap](#), [investing.com](#), [Triple-a](#), [Bankrate.com](#)



Virtual Currency – Discovery

- Review tax returns.

1040 Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return **2023** OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2023, or other tax year beginning _____, 2023, ending _____, 20____

See separate instructions.

Your first name and middle initial _____ Last name _____ Your social security number _____

If joint return, spouse's first name and middle initial _____ Last name _____ Spouse's social security number _____

Home address (number and street). If you have a P.O. box, see instructions. _____ Apt. no. _____

City, town, or post office. If you have a foreign address, also complete spaces below: _____ State _____ ZIP code _____

Foreign country name _____ Foreign province/state/country _____ Foreign postal code _____

Filing Status ☐ Single ☐ Head of household (HOH) ☐ Married filing jointly (even if only one had income) ☐ Married filing separately (MFS) ☐ Qualifying surviving spouse (QSS)

Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QSS box, enter the child's name if the qualifying person is a child but not your dependent: _____

Digital Assets At any time during 2023, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.) ☐ Yes ☐ No



Virtual Currency – Discovery

- Review bank statements for transactions with a virtual currency exchange.
- Examples of virtual currency exchanges:
 - Coinbase
 - Gemini
 - Kraken
 - Robinhood
 - eToro
 - Crypto.com
 - Binance
 - Bitcoin IRA
 - Coinmama



Virtual Currency – Discovery

- Review bank statements for payments with lengthy alphanumeric transaction reference numbers.
 - When a person buys or sells cryptocurrency through an exchange, the transaction on the bank statement may show an alphanumeric identifier.
 - This identifier is usually a transaction reference number from the exchange rather than an actual cryptocurrency wallet address.
 - If you get access to the cryptocurrency exchange account, you can review the transaction history and cross-reference the dates and amounts to match them with the alphanumeric codes on the bank statements.



Virtual Currency – Discovery

- Review cryptocurrency exchange account statements.
 - Starting and ending balances for each cryptocurrency held in the account.
 - Transaction history with details of transactions.
 - Information about deposits and withdrawals from the account.
 - Records of trades executed on the exchange.
 - Information about linked accounts:
 - Bank accounts
 - Payment processors.
 - Investment accounts.
 - Crypto wallets.



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Virtual Currency – Discovery

- Most major cryptocurrency exchanges have adopted “know your customer” rules that require users to provide proof of identity before being allowed to trade.
- It is possible to seek injunctive relief directly against an exchange (if known) for information on a debtor’s accounts.



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Virtual Currency – Discovery

- Coinbase, the most popular exchange, “has a team set up to provide support to Trustees appointed in cases pending in the United States Bankruptcy Court and abroad.”
- Coinbase has a guide for bankruptcy trustees on its website.
 - [Bankruptcy trustee guide | Coinbase Help](#)
- The guide “contain[s] information on (1) how to serve and communicate with Coinbase and (2) what information to provide such that Coinbase can help you execute your duties as a Bankruptcy Trustee.”



Virtual Currency – Discovery

- Review cryptocurrency wallet account statements or transaction histories.
 - Balance information
 - Transaction history
 - Analytics and charts
 - Security information
 - For example, recent login attempts and locations.



Virtual Currency – Cryptocurrency Forensics and Tracing

- Understanding the Blockchain
 - Blockchain Technology:
 - A blockchain is a decentralized ledger that records all transactions across a network of computers. Each block contains a list of transactions, a timestamp, and a reference to the previous block, forming a chain.
 - Public blockchains, like Bitcoin and Ethereum, allow anyone to view transaction history, providing transparency.
- Data Collection
 - Public Ledger Analysis:
 - Forensic analysts collect data from the blockchain, which includes transaction IDs, wallet addresses, and the amounts transferred.
 - Network Nodes:
 - Analysts may run their own blockchain nodes to access detailed transaction data and ensure data integrity.



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Virtual Currency – Cryptocurrency Forensics and Tracing

- Address Attribution
 - Identify Waller Owners:
 - Wallet addresses are pseudonymous. Forensic analysts use various techniques to link these addresses to real-world identities. This can include analyzing transaction patterns, clustering addresses controlled by the same entity, and leveraging known information from exchanges and other sources.
 - Public records, leaked data, and online activities can also provide clues to link addresses to individuals or organizations.
- Transaction Analysis
 - Transaction Graph Analysis:
 - Analysts create visual maps of transactions (transaction graphs) to follow the flow of funds through the blockchain. This helps identify patterns, such as mixing services (tumblers) or exchanges.
 - Heuristics and algorithms are used to detect suspicious activity, such as rapid fund transfers or transactions involving known illicit entities
 - Clustering:
 - By grouping addresses controlled by a single entity, analysts can get a clearer picture of the movement of funds.



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Virtual Currency – Cryptocurrency Forensics and Tracing

- Cross-Referencing with External Data
 - Forensic Reports:
 - Analysts compile their findings into detailed reports, which can be used in legal proceedings. These reports typically include transaction paths, linked addresses, and evidence supporting the identification of individuals or organizations.
 - Expert Testimony:
 - Forensic experts may testify in court to explain their findings and validate the methods used in their analysis.



Virtual Currency – Cryptocurrency Forensics and Tracing

- Legal and Compliance Aspects
 - Regulatory Compliance:
 - Forensic analysis must adhere to legal standards and often involves working with law enforcement agencies.
 - Ensuring compliance with regulations such as AML (Anti-Money Laundering) and KYC (Know Your Customer) is critical.
- Tools and Software
 - Forensic Tools:
 - Specialized software like Chainalysis, Elliptic, and CipherTrace are used for blockchain analysis. These tools offer features for mapping transactions, clustering addresses, and identifying suspicious activities.
 - Machine Learning:
 - Machine learning algorithms are increasingly used to detect patterns and predict illicit activities on the blockchain.



Virtual Currency – Cryptocurrency Forensics and Tracing

- Reporting and Legal Proceedings
 - Forensic Reports:
 - Analysts compile their findings into detailed reports, which can be used in legal proceedings. These reports typically include transaction paths, linked addresses, and evidence supporting the identification of individuals or organizations.
 - Expert Testimony:
 - Forensic experts may testify in court to explain their findings and validate the methods used in their analysis.



Questions?

Faculty

Hon. James R. Ahler is Chief U.S. Bankruptcy Judge for the Northern District of Indiana in Hammond, initially appointed in June 2017. Previously, he served as the judge of the Jasper Superior Court in Jasper County, Ind., from 2007-17. During his tenure as a state trial judge, Judge Ahler presided over hundreds of significant criminal and civil trials, including many jury trials. By appointment of the Indiana Supreme Court, he also served as a hearing officer to preside over attorney misconduct allegations prosecuted by the Indiana Disciplinary Commission. Prior to his judicial service, Judge Ahler was a litigation attorney for approximately 10 years. He also completed two separate federal judicial clerkships, the first for Hon. Michael S. Kanne and the second for Hon. William J. Bauer, both of the U.S. Court of Appeals for the Seventh Circuit. Judge Ahler received his Bachelor's degree from Indiana University-Bloomington and his J.D. from Saint Louis University School of Law.

Kyle F. Arendsen is a senior associate with Squire Patton Boggs and a member of its Restructuring & Insolvency Practice Group in Cincinnati. He is involved in all aspects of corporate in- and out-of-court restructuring, bankruptcy and insolvency proceedings. Mr. Arendsen has experience representing debtors and creditors throughout the restructuring process. His restructuring matters encompass a wide variety of industries, including coal mining, commercial real estate, oil and natural gas, and franchises. Mr. Arendsen is a member of ABI and the Turnaround Management Association. He received his B.S. in 2013 from Cornell University and his J.D. in 2016 from the University of Virginia School of Law.

Scott A. Eisenberg, CPA is a partner with Amherst Partners in Birmingham, Mich., and has nearly 40 years of experience structuring and negotiating transactions and advising companies on financial matters. His experience includes M&A transactions, restructuring and turnaround engagements, and a wide variety of management advisory services. Mr. Eisenberg has acted as CRO, court-appointed receiver and trustee for clients in a wide range of industries, and he has worked on over 75 investment banking transactions with middle-market sized companies and advised more than 200 such companies in regards to their operations, business plans, projections and other financial matters. He also has advised numerous companies and their respective management teams in regards to restructurings, strategic plans and exit strategies for lenders and investors in connection with the restructuring advisory services he offers. Prior to founding the firm, Mr. Eisenberg served as a manager the National Office Corporate Finance Group at Deloitte & Touche from 1983-91 and was responsible for providing merger and acquisition, financing assistance and valuation services for middle-market clients. Before that, he was vice president of Onset BIDCO, Inc., a subordinated debt investment company, from 1991-93, where he was part of the management team that built a large and successful portfolio consisting of more than 20 investments in small and medium-sized companies. Mr. Eisenberg received his undergraduate degree in accounting from the University of Illinois and his M.B.A. in finance from Indiana University.

Jacob W. Sparks is a partner and trial attorney with Nelson Mullins Riley & Scarborough LLP in Plano, Texas, who focuses primarily on bankruptcy litigation, commercial litigation, and banking and financial services litigation. He works closely with financial institutions and frequently handles high-stakes disputes, often involving fraud claims and other torts involving misrepresentations. Addition-

ally, Mr. Sparks has represented chapter 11 and 7 bankruptcy trustees and secured creditors in several hundred bankruptcy cases. He is admitted to practice in Texas and Arizona. Mr. Sparks received his B.B.A. in 2004 from Oklahoma Christian University and his J.D. in 2008 from the University of Oklahoma College of Law.

Jolene E. Wee, CIRA is the owner, managing director and founder of JW Infinity Consulting, LLC in New York, a financial advisory firm specialized in providing transaction advisory, interim management, litigation consulting, and forensic accounting services to distressed companies and its stakeholders. Using her mathematics and computer science background, she deploys large-scale data analytics to derive forward-looking business insights based on her professional training in accounting, finance and economics. Ms. Wee has served as an advisor to investors, fiduciaries, creditor committees, debtors, legal counsel, distressed companies, high-net-worth individuals, and public agencies on restructuring, bankruptcy, litigation, forensic, financing, merger and buyout matters. She has also performed fraudulent-transfer analyses and business valuations on bankruptcy litigation matters. Her case experience includes companies in the banking, e-commerce, financial services, health care, insurance, manufacturing, professional services, real estate and retail industries with revenues of up to \$15B. Fluent in several Chinese and Southeast Asian languages, Ms. Wee was selected as a member of ABI's 2020 "40 Under 40" class. In 2018, she was named Valuation Adviser of the Year by *Finance Monthly Global Awards*. Ms. Wee is a subchapter V trustee in Region 2, covering the Eastern and Southern Districts of New York, and Region 4, covering Maryland, the District of Columbia and the Eastern District of Virginia. She received her bachelor's degrees in mathematics and business administration with a focus on finance from Berea College, and her M.B.A. from Miami University of Ohio.