



THE MONITOR

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Bitcoin – Fraud or Future?



Laissez-faire is an economic system in which transactions between private parties are free from government intervention such as regulation, privileges, tariffs, and subsidies. Enter Bitcoin. On October 31, 2008, a person or group named “Satoshi Nakamoto” released a white paper called “Bitcoin: A Peer-to-Peer Electronic Cash System.” The white paper was sent to subscribers of a cryptography mailing list, and it detailed a new technology that would create the first genuine peer-to-peer and decentralized monetary system.

When Bitcoin began, it was trading for less than \$1 in 2011. By the end of 2017, it was selling for around

\$20,000. The concept behind Bitcoin is not fraudulent; but when there is a ton of money to be made, fraudsters almost always follow suit, preying on those hoping to join in what looks like an extremely profitable opportunity.

The phrase “there's a sucker born every minute” is one often attributed to P. T. Barnum, an American showman who built a fortune on his hoaxes. And coincidentally, a movie was made about his life around the same time Bitcoin and other cryptocurrencies became all the rage on Wall Street.

How Bitcoin Works

The peer-to-peer payment system is

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based upon a public ledger, known as the block chain. Essentially, everyone has access to the block chain and can verify all transactions. A Bitcoin is not issued by a bank or any government. It is not a physical coin that one holds. Rather, each Bitcoin is assigned a string of numbers and letters created by mathematical encryption algorithms (or a private “key”).

Where do Bitcoins come from? Bitcoins are derived from a process called “mining.” Years ago, mining could be done with access to the Internet and a CPU with appropriate software. Today, there are a number of “mining farms,” (companies devoted to mining Bitcoins) and they have warehouses full of high-end computers running around the clock to work through and solve a series of difficult calculations. When a miner executes a series of transactions to solve a new problem, the transactions are verified, and the miner is rewarded with Bitcoins that are added to the block chain. But there is a limit. There are only 21 million Bitcoins or solutions that fit the algorithm. Several experts estimate that it will take another 20 years before the last Bitcoin will be mined. Once 21 million Bitcoins have been created, no more solutions will be available and, thus, no more Bitcoins will ever be created. But all it takes is a clever mathematician to come up with a new algorithm and start a new cryptocurrency. So, the number of potential competing cryptocurrencies is infinite.

If you don’t have the skills, equipment, or patience to mine Bitcoins, you can buy them from different exchanges and keep them in a digital wallet app. The value of the Bitcoin changes dramatically. Investors can hold Bitcoins in hopes that they increase in value, trade them for currency at fluctuating exchange rates



(like exchanging dollars for euros), or use them to purchase merchandise. Many large companies accept Bitcoins as a legitimate source of funds. A search on the Internet for companies that accept Bitcoin will yield well over 100 well-known companies (such as, Microsoft, Subway, and Expedia). One benefit to the retailer is that, unlike credit cards, they're not charged a processing fee.

Now To The Scams And How To Avoid Them

Where fast money can be made, such as with Bitcoin, investors should be extra cautious before investing in cryptocurrency. Since as early as 2013, the Securities and Exchange Commission (the “SEC”) has been shuttering cryptocurrency companies engaged in alleged Ponzi schemes and, in February 2014, one of the largest Tokyo-based Bitcoin exchanges stopped its operations and filed for bankruptcy protection. Despite the SEC’s efforts, the number of new Bitcoin companies and cryptocurrencies has grown exponentially.

Industry Regulatory Authority (“FINRA”) issued a publication that highlighted a number of risks to help investors be on high alert. FINRA warned that the platforms one which Bitcoins are bought and sold can be hacked. Also, unlike U.S. banks and credit unions that provide certain guarantees of safety to depositors, there are no such safeguards provided to digital wallets.

Despite these warnings and the SEC’s efforts, the number of new cryptocurrencies and scams are on the rise. According to Wikipedia, by early January 2018, there were more than 1,384 different cryptocurrencies available on the internet, and that number continues to grow. On December 21, 2017, FINRA issued another alert “to warn investors to be cautious when considering the purchase of shares of companies that tout the potential of high returns associated with cryptocurrency-related activities without the business fundamentals and transparent financial reporting to back up such claims.” FINRA provided these tips to

In December 2015, the Financial

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avoid costly mistakes.

- Do not say “yes” to cryptocurrency stock purchases from an aggressive cold caller, even if the claims sound plausible, particularly if the recommended stocks are very low-priced. Don’t feel guilty about hanging up. Not answering at all, or putting down the phone, are generally the best and safest responses to a cold caller or anyone aggressively pitching low-priced stocks or other investment opportunities.

- Be suspect of anyone who makes guarantees that an investment will perform a certain way, or makes pushy sales pitches that encourage you to “act now.”

- Use FINRA BrokerCheck® to the check registration status of, and additional information about, the people and firms who tout these opportunities.

- Check the SEC’s EDGAR database to find out whether the company files with the SEC. If so, read the reports and verify any information you have heard about the company. But remember, the fact that a company that has

registered its securities or filed reports with the SEC doesn’t mean that the company will be a good investment.

- Be wary of stocks with huge spikes in price: this could signal potential manipulation or fraud.

- Know where the stock trades and pay attention to any cautions associated with the stock.

What You Can Do If You’ve Been Scammed

If you have already lost money by investing in a publicly-traded cryptocurrency company, the federal securities laws may provide you some relief. Johnson Fistel is experienced in securities fraud class actions, as well as other cases arising from false statements made by companies or their executives to the market, causing the company’s stock price to be artificially inflated.

By way of example, in December 2017, the SEC suspended trading in the securities of The Crypto Company after its meteoric share-price rise caused concerns over a possible pump-and-dump scheme. Before its trading was suspended, its share price surged nearly 160% in

the preceding five days, more than 1,800% in the preceding month, and 17,000% in the preceding three months.

A few days after the SEC suspended trading in securities of The Crypto Company, a shareholder filed a class action lawsuit in the U.S. District Court for the Central District of California alleging violations of federal securities laws in connection with certain allegedly false and misleading statements made between August 21, 2017, and December 18, 2017.

Johnson Fistel recently launched an investigation into more than 10 private and publicly held cryptocurrency companies. If you have information that could assist in this investigation, including facts about or from former employees and/or others, or if you are interested in learning more about the investigation, your legal rights, and remedies, please contact Jim Baker by email jimb@JohnsonFistel.com or by phone (619) 814-4471.

Recent Accomplishments

Johnson Fistel Defeats Motion to Dismiss in *re Flowers Foods, Inc. Securities Litigation*, No. 7:16-cv-00222-WLS (M.D. Ga.). Judge W. Louis Sands, Sr. of the United States District Court for the Middle District of Georgia denied a motion to dismiss in a case alleging securities fraud relating to the risks associated with the classification of certain Flowers Foods’ workers as employees versus independent contractors. When the truth emerged, Flowers Foods stock lost a substantial amount of value, and stockholders were harmed. The defendants filed a motion to dismiss, but the court denied the motion, finding that the plaintiffs had adequately pled that the defendants’ statements were materially false or misleading. The parties are currently engaged in discovery.

Johnson Fistel Defeats Motion to Dismiss in *Gerneth v. Chiasma, Inc.*, No. 1:16-cv-11082-DJC (D. Mass.). Judge Denise J. Casper of the United States District Court for the District of Massachusetts denied a motion to dismiss in a case arising out of alleged misrepresentations and omissions in a registration statement which Chiasma, Inc. filed with the SEC in connection with its public offering. The court-appointed lead plaintiff, represented by Johnson Fistel as co-lead counsel, alleges that the company’s offering documents and related statements obscured, and downplayed risks associated with regulatory approval of one of its drug candidates. When the truth emerged, Chiasma’s stock plummeted, costing investors millions of dollars. The court upheld the plaintiffs’ complaint, finding that they had stated a claim against the defendants. This case is proceeding into discovery.

\$94 Billion Recovered from 4,500 Private Investor Class Actions

When companies violate the federal securities laws, the impact on investors is often devastating, causing hundreds of millions, and in some cases billions, of dollars to evaporate from investor portfolios as the market reacts to the newly disclosed adverse information. Private investor class actions and shareholder derivative litigation have long been important tools in policing corporate misconduct. Since the passage of the Private Securities Litigation Reform Act of 1995 (“PSLRA”), according to statistics compiled by Stanford Law School’s Securities Class Action Clearinghouse, in collaboration with Cornerstone Research, more than 4,500 private investor class actions have been filed, yielding approximately \$94 billion in aggregate recoveries.

However, the PSLRA enacted a specific lead plaintiff selection process which incentivized plaintiffs’ firms to recruit large institutional investors to serve as lead plaintiffs, leaving individual

investors on the sidelines. That began to change in 2010, beginning with a wave of litigation targeting Chinese companies, wherein the number of individual investors outweighed the number of larger institutional investors. Thus, individual investors began becoming more involved in securities class actions, and with that involvement, began seeing the benefits of taking action to protect their portfolios.

But how do you, as an individual investor, know when corporate conduct crosses the line to become *misconduct*?

Large institutional investors often take advantage of portfolio monitoring programs offered by shareholder firms to police their portfolios. Such portfolio monitoring programs enable institutional investors to quickly



identify losses that may have been caused by financial misconduct. This in turn then serves as launching pad for further analysis of the merits of a potential claim by the law firm monitoring the institutional investor’s portfolio.

While many law firms (including Johnson Fistel) offer portfolio monitoring programs to institutional investors, few law firms simultaneously offer such services to individual investors. Johnson Fistel’s proprietary portfolio monitoring system — StockMonitor — is designed to alert institutional *and* individual investors when any of their investments may be affected by securities fraud, corporate waste, or other wrongdoing. StockMonitor is available to both U.S. and foreign investors. There are no minimum portfolio requirements or costs to participate, making StockMonitor accessible to individual investors.

For more information on StockMonitor, and updates on how you can help keep Corporate America accountable, please visit our website at <https://www.JohnsonFistel.com/stockmonitor-free-portfolio-monitoring/> or call us at (619) 230-0063.

StockMonitor Free Portfolio Monitoring

Johnson Fistel recognizes that there are inherent risks when investing in the stock market. But the risks that an investor assumes do not, and should not, include the risk that the company or its officers and directors will make false and misleading statements to artificially inflate the company’s stock price or sell their own stock based on insider information.

StockMonitor is designed to alert institutional and individual investors when one of their investments may be affected by securities fraud, corporate waste, or other wrongdoing. StockMonitor is available to both U.S. and foreign investors. There are no minimum portfolio requirements or costs to participate.



In-House Monitoring
Confidential Data Protection
Complimentary Service

For more information visit:

<https://www.JohnsonFistel.com/stockmonitor-free-portfolio-monitoring/>

Upcoming Lead Plaintiff Deadlines

Johnson Fistel is investigating many potential cases arising under the federal securities laws. If you would like more information, or if you wish to participate in an action, please contact us as soon as possible to ensure that your rights are fully protected. Listed below are matters that the firm is investigating and the applicable deadlines for filing a motion with the court to be appointed as a “lead plaintiff” under the Private Securities Litigation Reform Act of 1995.

Company	Deadline
Atlas Financial Holdings, Inc. (NASDAQ: AFH)	May 4, 2018
Grupo Televisa, S.A.B. (NYSE: TV)	May 4, 2018
Henry Schein, Inc. (NASDAQ: HSIC)	May 6, 2018
Akorn, Inc. (NASDAQ: AKRX)	May 7, 2018
Foot Locker, Inc. (NASDAQ: FL)	May 8, 2018
WageWorks, Inc. (NYSE: WAGE)	May 8, 2018
BRF S.A. (NYSE: BRFS)	May 11, 2018
Credit Suisse Group AG (NYSE: XIV)	May 13, 2018
Cemex, S.A.B. de C.V. (NYSE: CX)	May 15, 2018
Facebook, Inc. (NASDAQ: FB)	May 19, 2018
A10 Networks, Inc. (NYSE: ATEN)	May 21, 2018
Solid Biosciences, Inc. (NASDAQ: SLDB)	May 26, 2018
Patterson Companies, Inc. (NASDAQ: PDCO)	May 27, 2018
Celgene Corporation (NASDAQ: CELG)	May 28, 2018
Overstock.com, Inc. (NASDAQ: OSTK)	May 28, 2018
TrueCar, Inc. (NASDAQ: TRUE)	June 1, 2018
Longfin Corp. (NASDAQ: LFIN)	June 2, 2018
Funko, Inc. (NASDAQ: FNKO)	June 3, 2018

Equal Employment Opportunity Commission Determinations Must Be Taken with a Grain of Salt

Many are aware that when it comes to workplace harassment and discrimination, the Equal Employment Opportunity Commission (“EEOC”) is a helpful—and in many instances, necessary—means of recourse for workers. However, there are many common, critical misconceptions about the EEOC process, and the EEOC’s investigations and determinations. Two particular, major misunderstandings concern the implications of receiving notice of right to sue (“RTS”) from the EEOC, and the legal value of an EEOC determination in favor of a worker (*i.e.*, a finding that a worker was unlawfully harassed or discriminated or retaliated against).

For example, many believe that receiving the RTS means that one **should** sue, or even that the EEOC is **encouraging** one to sue simply by issuing the RTS; but in reality, the EEOC is required by law to issue an RTS, regardless of how meritorious or frivolous it believes a claim to be. On the other hand, the issuance of a no-cause finding by the EEOC does not foreclose or condemn a lawsuit, particularly when the finding is issued at the request of the charging party prior to conclusion of the EEOC’s investigation.

Additionally, in the relatively rare instances in which the EEOC finds in favor of a charging party, many misapprehend that the EEOC’s for-cause determination necessarily or likely portends a successful legal claim brought on the same grounds as the EEOC charge. To the contrary, “EEOC findings are not binding on the district court,” *Barnette v. Fed. Express Corp.*, 491 F. App’x 176, 184 (11th Cir. 2012), because “an EEOC determination . . . is not an adjudication of rights and liabilities.” *Stacombe v. New Process*

Steel LP, 652 F. App’x 729, 732 n.2 (11th Cir. 2016) (citing *Goldsmith v. Bagby Elevator Co., Inc.*, 513 F.3d 1261, 1289 (11th Cir. 2008)). Indeed, “[i]t is the Court’s, not the EEOC investigator’s, duty to determine whether issues of material fact exist.” *Keaton v. Cobb Cnty.*, 545 F. Supp. 2d 1275, 1311 (N.D. Ga. 2007) (citing *Walker v. NationsBank N.A.*, 53 F.3d 1548, 1554-55 (11th Cir. 1995); *Williams v. Ala. Indus. Dev’t Tr’g*, 146 F. Supp. 2d 1214, 1224 (M.D. Ala. 2001)).

Simply put, workers who complain to the EEOC should take the EEOC’s actions and determinations with a grain of salt. While the EEOC process is a mandatory prerequisite to many employment discrimination claims, the result of such process is not itself a good indicator of the strength, or the likelihood of success, of legal claims. Those who believe they have suffered harassment or discrimination in the workplace are strongly urged to contact an attorney, who can maneuver the EEOC process on the worker’s behalf, and/or assess the viability of legal claims once the worker has received a determination and/or notice of the right to sue from the EEOC.

The attorneys at Johnson Fistel are experienced and successful in guiding workers through the EEOC process, and in evaluating and pursuing employment discrimination and harassment claims. If you believe you have suffered unlawful treatment in the workplace, contact the attorneys at Johnson Fistel today, at (619) 230-0063.



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About the Firm

Johnson Fistel was founded on the following five core values: trust, hard work, determination, integrity, and excellence in everything we do. Our interests are aligned with those of our clients — their success determines our own. We embrace and embody those ideals in everything we do. Whether we're pursuing damages for or against a billion-dollar corporation or we're challenging a small transaction, Johnson Fistel devotes the necessary resources to secure the best result possible.

We believe we are only as good as our people, and Johnson Fistel recruits only the best, brightest, and most determined candidates possible. Our lawyers include those who started their training by working for esteemed judges in both state and federal courts, and have also worked at the largest law firms in the world. We pride ourselves on providing the same level of service with a greater level of efficiency. As a result, we have developed the reputation for delivering big-firm results with the efficiency and personal touch of a small firm.