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Lost Your Investment In Cryptocurrency? There is a Remedy for That!

Whether you invested in a cryptocurrency venture that was a scam from the start or a failed venture chasing a “sure thing” for your valuable investment dollars, if you lost money investing in cryptocurrencies, digital tokens or other blockchain assets, you may have a solid remedy to seek a return of those lost funds.

Offerings of cryptocurrencies, digital tokens or other blockchain assets will generally fall within the category of a securities offering. As we discussed in our blog earlier this year, [Whether You Are Raising Capital For Bitcoins Or Beavers Securities Laws Will Apply](#), complying with securities laws is complicated. Most companies, promoters and issuers fail to adequately comply (if they even try to comply in the first place). Most offerings we have seen, especially before 2018, did not even acknowledge that securities laws applied.

The bad news for you – you lost your investment!

The good news for you – you can get it back!!

Both Federal and State securities laws provide a means to rescind your investment and receive a return of the amount lost in connection with a securities investment. A claim for rescission is essentially seeking to unwind the investment transaction where there was a violation of securities laws.

Typical violations include:

- Failure to register a security;
- Failure to properly qualify for an exemption from registration of a security;
- Using a “finder” or otherwise paying an improperly licensed party a fee in connection with the capital raise; and/or

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- Failure to properly disclose all material information needed for the investors to make an informed investment decision.

In a situation where a company is looking back in time at a previously closed initial coin offering (ICO) or other digital token sale where such sales were done without complying with applicable securities laws, the violation of securities laws is essentially a given. In such a case, all investors may seek rescission damages from those who participated in the issuance and sale of the security (i.e., ICO or other digital asset). In a failed venture, even where an attempt to comply with securities laws was made, there are often material facts omitted or fraudulent statements made to lure in investors.

In almost all states, like Utah, not just the company issuing a security is liable to the investors that have a claim for rescission. Additional parties that can be “jointly and severally” liable (i.e. liable for the full amount) with the issuing company are “every person who directly or indirectly controls a seller..., every partner, officer, or director of such a seller or buyer, every person occupying a similar status or performing similar functions, every employee of such a seller ... who materially aids in the sale ...with and to the same extent as the seller....” Essentially, everyone involved! Note that by statute the employees/officers/directors and other involved parties are individually liable for rescission damages – the “corporate veil” does not need to be pierced as the statute pierces it for the plaintiff.

So while the company that you invested with may be gone, perhaps the parties who took your investment have sources of income or insurance policies to recover your damages.

Rescission Damages:

Rescission seeks to put the party who was harmed in the same position as though he/she had not made the investment in the first place. Almost every state has a recession statute that provides for the calculation of rescission damages. In Utah, for example, rescission damages equal:

- The amount invested; plus
- 12% per annum in interest since the date of investment; plus
- Legal fees – minus
- Any distributions already made on the investment; and
- When it can be shown that the applicable violation was reckless or intentional, treble (3X) damages can be awarded.

So, what now? If you have lost money in an investment in cryptocurrencies, digital tokens or other blockchain assets, you may be entitled to seek Rescission Damages yourself and should consult with an experience securities attorney.

Michael Best has an integrated team that works with clients in the cryptocurrency, ICO, and blockchain space.

We assist in securities, investment, Bitcoin and other cryptocurrencies, intellectual property, privacy and security, blockchain implementation, and other matters in this space.



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