

BLOCKCHAIN—N.Y. Sup.: Cryptocurrency company investigated for covering up \$850M loss,(Apr. 26, 2019)

By Jay Fishman, J.D.

Virtual currency companies selling bitcoins will be investigated like issuers offering other investments.

The New York Supreme Court, at the New York Attorney General's request, issued an order demanding that a virtual asset trading platform operator (Bitfinex) and a virtual currency issuer (Tether) cease their ongoing activities and produce specified documents while the A.G.'s office investigates whether the entities have defrauded New York investors in violation of New York securities law (In the Matter of the Inquiry by Letitia James, April 24, 2019, James, D.).

The cover-up. The A.G.'s office learned that the Bitfinex trading platform permits New Yorkers to buy and trade virtual currencies, including the tether stablecoin, a virtual currency that the company long claimed was "backed 1-to-1" by U.S. dollars held in cash reserves. But the investigation, begun in the fall of 2018, revealed that Bitfinex no longer had access to over \$850 million of its commingled client and corporate funds because it transferred them to a Panamanian entity called "Crypto Capital Corporation" without a contract or assurances and without disclosing the hand-off to the clients.

Furthermore, to hide the financial gap, Bitfinex executives engaged in conflicted corporate transactions comprised of secretly giving Bitfinex access to up to \$900 million of Tether's cash reserves, which Tether repeatedly told investors for years that their funds were back up 1-to-1 by Tether's virtual currency. When the investigation uncovered that Bitfinex had already taken at least \$700 million from Tether's reserves without telling investors, the A.G. requested the court order which, among other mandates, ordered Bitfinex to stop draining the reserves.

Attorney General Letitia James stated, "our investigation has determined that the operators of the 'Bitfinex' trading platform, which also controls the 'tether' virtual currency, have engaged in a cover-up to hide the apparent loss of \$850 million dollars of co-mingled client and corporate funds. New York state has led the way

in requiring virtual currency businesses to operate according to the law. And we will continue to stand-up for investors and seek justice on their behalf when [they are] misled or cheated by any of these companies."

This order is No. 450545/2019.

Attorneys: Brian Matthew Whitehurst, Office of the Attorney General, for Letitia James.

Companies: iFinex Inc.; BFXNA Inc.; BFXWW Inc.

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