LOWENSTEIN BANKRUPTCY LOWDOWN

Lowenstein Bankruptcy Lowdown
Video 12 – What Happens When a Crypto Currency Platform Goes Bankrupt?

By Jeffrey Cohen and Andrew Behlmann

AUGUST 2022

Jeffrey Cohen: Welcome to the first installment of this special series of **Lowenstein Lowdown** videos on crypto platform bankruptcies—two-minute discussions of timely topics of interest to the cryptocurrency community.

Andrew Behlmann: Just a few months after Bitcoin hit an all-time high—just shy of 69,000—and Ethereum was flirting with 5,000, the collapse of Three Arrows Capital led to crypto platform liquidity crises and credit contagion on a level we haven't seen since the collapse of Lehman Brothers. The ensuing Chapter 11 filings of two of those platforms—Voyager Digital and Celsius Network—have rather abruptly introduced many customers to the bankruptcy process for the first time.

Jeffrey Cohen: As a customer, you're probably wondering: how are your rights going to be protected, and who will be looking out for your interests? That’s where the official committee of unsecured creditors comes into play.

At the outset of a Chapter 11 case, the United States Trustee contacts the largest unsecured creditors to form a committee. Committee members are volunteers, but gain a seat at the table and a powerful voice in the case. The committee is empowered to act on behalf of all unsecured creditors, and it has the ability to go into court and be heard on any issue in the case.

Andrew Behlmann: Committees play three primary roles:

- Keeping the debtor honest
- Preventing lenders, insiders, and others from using the case to benefit themselves
- And investigating any claims that the estate has against insiders, lenders, and other parties that could be pursued for the benefit of creditors.

The committee plays a crucial role in setting the tone and direction of the Chapter 11 case.

Jeffrey Cohen: The committee's role in crypto platform bankruptcy cases is perhaps more important than ever. Some of the issues committees will consider in crypto bankruptcy cases include:

- Whether a sale or reorganization maximizes overall value for unsecured creditors
- In a sale case, what the bidder is really proposing to buy—is it essentially just buying out customers' claims against the platform at a discount, or is it assuming obligations?
- What causes of action might exist against the debtor management, third parties, insurance carriers, and others?
- What were the debtor's marketing practices leading up to the collapse? Are any individuals or other non-debtor actors implicated in those practices?

Obviously, that is not a complete list of everything that might arise, but those are some of the highlights.

Andrew Behlmann: Stay tuned for future **Lowenstein Lowdown** videos in this Special Crypto Bankruptcy & Restructuring Series, as well as client alerts and articles on topics of interest to the crypto community. And if there are any topics you'd like to hear about in future videos, please send them to **lowdown@lowenstein.com**.

Thank you for watching, and we'll see you next time.