

# THE COLLAPSE OF FTX—AND THE ENSUING LEGAL FALLOUT

## THE PRACTICE MAKES PERFECT

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By **Jeffrey Brochin, Esq.**

**GreenPoint**>  
Law & Compliance

[william.anderson@greenpointglobal.com](mailto:william.anderson@greenpointglobal.com) | [pranav.menon@greenpointglobal.com](mailto:pranav.menon@greenpointglobal.com)

International Corporate Center, 555 Theodore Fremd Avenue, Suite A102 Rye, NY 10580

[www.greenpointlegal.com](http://www.greenpointlegal.com)

**Long after the dust has settled over the sudden collapse of FTX—which was, up until their November 2022 bankruptcy filing, the world’s second-largest cryptocurrency exchange—business schools will be studying just exactly how it was that highly sophisticated investment bankers could be hoodwinked out of a staggering \$32 billion (quite possibly more) in the blink of an eye.** But even before the discussion reaches the halls of academia, it is already being debated, analyzed, and briefed by lawyers who are being called upon to represent billions of dollars worth of investors—and defendants—as they learn the art of crypto bankruptcy. And if the crypto pundits are right, bankruptcy lawyers are just getting started.

## Better in the Bahamas?

Think ‘Bahamas’ and your mind’s eye immediately pieces together a picture of sun, sand, and surf. But crypto swingling? Hardly. Yet, this past November, it was revealed that the founder and CEO of Bahamas-based cryptocurrency exchange FTX allegedly engaged in widespread wire fraud, securities fraud, and other offenses arising out of his handling of FTX funds and an affiliated crypto hedge fund, Alameda Research. Regardless of the mechanics of the dealings, it is estimated that FTX’s bankruptcy filing could affect more than one million individual investors and businesses who went for a classic ‘run on the bank’ following rumors of doubtful balance sheets and regulators’ investigations but abruptly found themselves unable to withdraw their investments.

## Crash Course in Crypto Crashes

Not only will the FTX bankruptcy drag on for years—rivaling that of Enron and other financial house-of-cards insolvencies—but it is also anticipated that other cryptocurrency exchanges will likely follow suit. Industry observers noted the recent crypto market history of last May when other exchange leaders, Voyager Digital, Celsius Network, and Three Arrows Capital, all experienced a crash within a short period of time. That scenario kicked off a rush by

traditional bankruptcy lawyers to bone up on cryptocurrency bankruptcies, which, like cryptocurrency investments themselves, are the same—yet different.

FTX’s failure is expected to be contagious, reverberating throughout the cryptocurrency market and threatening the stability of that investment vehicle—if it ever had any. If such predictions come true, it will mean a windfall for law firms that will be called upon to handle what could be the biggest bankruptcies in history. Given the relatively uncharted waters of cryptocurrency bankruptcy law, the FTX bankruptcy and those it spawns will amount to a crash course in cryptocurrency bankruptcy practice for hundreds of firms. And, given the complexity of those cases, it will also mean justifiably exorbitant billable hours.

## The Future Looks... More Regulated

But it is not just the exchange bankruptcies that will generate business for lawyers, but also the myriad of securities fraud cases that will arise as well, as investors, both individual and institutional, file their lawsuits seeking to answer the questions: How could there be such a total lack of corporate controls where billions of dollars were at stake? How much material misrepresentation took place? And where were the due diligence evaluations?

**“EVERYONE’S LEARNING CRYPTO BANKRUPTCY RIGHT NOW, AND I THINK THERE’S A LOT OF WORK THAT WILL BE THERE FOR HOW TO DEAL WITH CRYPTO BANKRUPTCY.”**

**— Anthony Casey,  
University of Chicago  
Law Professor**

Allegations that have surfaced so far include misuse of corporate funds to pay for employees' luxury items and even their homes.

Going forward, there will be a demand for new control mechanisms, changes in corporate governance protocols, and the need to address stricter financial regulation, which will be a logical outcome of the FTX crash. All of these issues will also put corporate and financial sector lawyers in the spotlight—and on the payroll. One blockchain and cryptocurrency expert pointed out that the fallout from the FTX collapse will mean changes in corporate structure by other cryptocurrency exchanges and a reevaluation of their board makeup, given the reported inexperience and lack of sophistication of various FTX board members.

## Story Behind the Story

Regardless of how many heads roll over the FTX collapse and whether or not hard prison time is meted out to certain individuals, the bigger story is that of over 100 Delaware bankruptcies being filed by affiliated entities, the likelihood of over one million creditors, and global investigations by not just U.S. and Bahamian investigators but also by other international regulatory agencies.

Christmas, it seems, will extend far, far, beyond December 25th for thousands of lawyers.

## Executive Summary

### 1. The Issue

How the collapse of FTX will impact lawyers and law firms.

### 2. The Gravamen

The crash of FTX is so profound and far-reaching that it will have ramifications throughout numerous legal practice areas including in bankruptcy, securities, regulation, and corporate governance.

### 3. The Path Forward

Lawyers who have practiced in traditional bankruptcy law and other areas would do well to quickly become versed in how to re-tool their practices for the emerging opportunities in cryptocurrency industry law.



## Action Items:

### 1 The Crypto Security:

Research all you can into the workings of cryptocurrency, how it is traded, how the exchanges are regulated, the role of collateral, and all other factors that make cryptocurrency a quite distinct asset.

### 2 Crypto Creditors:

Learn what the role is of the various parties in the cryptocurrency market, the rights of cryptocurrency creditors, the role of receivers when cryptocurrency exchanges file for bankruptcy, and what claims are enforceable and which are not.

### 3 Cross-border Crypto:

Rules and regulations regarding cryptocurrency trading vary widely from one jurisdiction to another, and there are few, if any, universal rules governing the industry. Therefore, determining the domicile and the 'jurisdiction' of a cryptocurrency will be crucial in determining which country's laws will apply and how they impact your client's position.

### 4 Follow FTX:

Clearly, new laws will emerge from the gargantuan FTX bankruptcy and its related lawsuits. By studying FTX now, you will be better positioned to catch the crypto-crash wave that is widely anticipated to follow.

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## Further Readings

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1. <https://www.jdsupra.com/legalnews/the-impact-of-ftx-s-collapse-insights-5015090>
2. <https://fortune.com/crypto/2022/11/19/ftx-crypto-bankruptcy-lawyers-gold-rush-restructuring/>
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5. <https://licensinginternational.org/news/the-impact-of-ftxs-collapse-on-the-licensing-industry/>



## Jeffrey Brochin, Esq.

GREENPOINT STAFF COUNSEL  
AND CONTENT EDITOR

After receiving his Juris Doctor degree from The John Marshall Law School in Chicago, Mr. Brochin served as an Administrative Law Judge with the Illinois Department of Labor for six years where he presided over cases dealing with job separation issues and matters pertaining to contested Unemployment Insurance claims. He also co-wrote the agency's administrative rules, and periodically served as a 'ghost writer' for Board of Review decisions. Following that position, he was Director of Development for a Chicago-area non-profit college where he was responsible for High Net Worth donations to the institution. For the next eighteen years he practiced as a solo practitioner attorney with an emphasis in the fields of Real Estate law and Commercial Contracts transactions, and was an agent for several national title insurance agencies.

In 2003 he was recruited to head up a U.S. title insurance research office in Israel, a position he held for four years, and between 2007-2017 he participated in litigation support for several high-profile cases. He has taught Business Law as a faculty member of the Jerusalem College of Technology, and has authored a wide variety of legal White Papers and timely legal articles as a professional legal content writer for GPL clients. Separate from his legal writing, he has co-authored academic articles on Middle East security topics that have been published in peer-reviewed publications.



## William H. Anderson, Esq.

MANAGING DIRECTOR AND HEAD OF  
FINANCIAL PRODUCTS AND SERVICES

William Anderson is Managing Director and Head of Law & Compliance. He leads the GreenPoint practice in providing regulatory, legal, and technology solutions to law firms, legal publishers, and in-house law departments around the world, overseeing our team of experienced US attorneys and data and technology experts. Will has over 25 years' experience working with corporations to improve the management of their legal and corporate compliance functions. Will began his legal career as a litigator with a predecessor firm to Drinker, Biddle LLP. He then served as in-house counsel to Andersen Consulting LLP, managing risk and working with outside counsel on active litigation involving the firm.

Will has leveraged his legal experience interpreting regulations and appearing before federal (DOJ, SEC, FTC) and state agencies (NYAG) to oversee research and other areas at Bear Stearns. In this capacity, he counseled analysts on regulatory risk and evolving compliance requirements. Will also consulted on the development of a proprietary tool to ensure effective documentation of compliance clearance of research reports. Will then went on to work in product development and content creation for a global online compliance development firm pioneering the dynamic updating of regulated firms' policies and procedures from online updates and resources. Will holds a Juris Doctorate with High Honors from the Washington University School of Law in Saint Louis and is admitted to state and federal bars. He lives in Pawling, NY, with his wife and daughter.



## Sanjay Sharma, PhD

FOUNDER AND CHAIRMAN



## Pranav Menon, Esq.

LEGAL RECRUITMENT  
MANAGER AND DATA  
PRIVACY SPECIALIST – LAW  
& COMPLIANCE | GPESR

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