

First Ever Third-Party Debt Order Granted in English 'ICO Fraud' Proceedings

In a judgment made public on 24 February 2022, the English High Court has granted what is thought to be the first ever third-party debt order in proceedings arising from cryptocurrency fraud.

Sitting in the High Court Business and Property Division, Master David Cook made final an interim third-party debt order against Payward, Inc, a subsidiary of cryptocurrency exchange and bank, Kraken.

The judgment is the latest in the *Ion Science and Duncan Johns v Persons Unknown and Ors* proceedings, which arise out of claims by an English company and its sole director that they were fraudulently induced into investing in a bogus Initial Coin Offering ("ICO") called Oileum.

Comment

The *Ion* dispute was the first ICO fraud case to come before the English High Court, and so it is unsurprising that it has generated so much jurisprudence in this fast evolving area of law.

This year has already seen an influx of momentous judgments in the crypto-sphere, including the recognition of digital currency as assets and property¹ in the British Virgin Islands,

the refusal to accept digital assets as security to cover future litigation costs², the first seizure of Non-Fungible Token and other digital assets by Her Majesty's Revenue and Customs³, and now the first third-party debt order to be granted in a crypto-fraud.

The world of asset tracing and enforcement is developing at lightning speed, and it is becoming ever clearer that the veil of anonymity which has long been associated with digital assets and currency is now beginning to slip.

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¹ <https://www.eccourts.org/philip-smith-v-torque-group-holdings-limited-et-al/>

² <https://maples.com/en/knowledge-centre/2022/1/posting-security-digital-assets-not-a-replacement-for-payments-into-court>

³ <https://amp-theguardian.com.cdn.ampproject.org/c/s/amp.theguardian.com/technology/2022/feb/14/hmrc-seizes-nfts-for-first-time-amid-fraud-inquiry>