

Insights



Timothy de Swardt and Merrick Watson, in Collaboration with Kalo Advisors, on Recovering Stolen Cryptocurrency in the BVI

September 20, 2021

Though cryptocurrencies and other digital assets have soared in popularity, the lack of mature regulation and surge of unsophisticated investors have led to a corresponding rise in fraud. However, as Kobre & Kim's Timothy de Swardt and Merrick Watson wrote in collaboration with Kalo's James Drury, there are many tools available, especially in the British Virgin Islands (BVI) where many crypto firms and exchanges are based, that enhance the prospect of recovery.

Though all cryptocurrency transactions are publicly recorded on the blockchain, fraudsters often dissipate transactions through multiple wallets to complicate tracing, and the anonymity of these transactions is easy to maintain. However, courts have adopted a flexible approach to suing anonymous defendants, allowing enforcement of identifiable assets owned by an unknown person.

Another possible strategy is through insolvency, which in the BVI unlocks powers for liquidators that exceed those available to ordinary litigants. These include powers to request information and depose people, as well as access to valuable clawback-type claims. Interim remedies are also available, such as freezing injunctions, with BVI courts especially experienced in helping investors whose assets have been stolen.

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