



February 14, 2019

## FLORIDA COURT DETERMINES CASH-FOR-BITCOIN BUSINESS REQUIRES MONEY SERVICE BUSINESS REGISTRATION

Florida's Third District Court of Appeals has opined that Bitcoin is considered "money" under the Florida Money Service Business statute and a cash-for-bitcoin business must be registered as a money service business. *Florida v. Espinoza*, No. 3D16-1860, 2019-WL-361893 (Fla. Dist. Ct. App. 2019).

The defendant in this case was deemed operating an unlicensed cash-for-bitcoin business when he agreed to trade bitcoins in exchange for cash during four separate meetings with an undercover law enforcement agent. During these exchanges, the undercover agent suggested that the cash was derived from engaging in illegal activity and that the agent was planning to use the bitcoins to engage in more illegal activity. The State of Florida charged the defendant with one count of unlawfully engaging in the business of money transmitter while not being registered as a money transmitter or authorized vendor and two counts of money laundering.

The lower trial court granted the defendant a dismissal order on all charges because the trial court agreed with the defendant's argument that trading bitcoins for cash does not qualify as money transmitting under Florida law because Bitcoin is not "money" under the statute. The appellate court disagreed on other grounds and reversed the order.

The appellate court held that the defendant was acting as a payment instrument seller or engaging in the business of money transmitter, either of which require registration as a money service business under Florida law. The court stated that a "money service business" is defined to include any person who acts as a payment instrument seller or money transmitter. Under the Florida statute, a "payment instrument" includes a payment of money or monetary value, and "monetary value" means a medium of exchange, whether or not redeemable in currency. The court noted that a "money transmitter" is a corporation qualified to do business in Florida which receives currency, monetary value or payment instruments for the purpose of transmitting the same by any means. The court ultimately concluded that Bitcoin falls under the definition of "payment

instrument" and that the defendant was required to register as a money service business in Florida.

The appellate court also disagreed with the defendant's argument that in order to be a money transmitter, a third party must be involved. The court stated that the money transmitter statute's plain language clearly contains no third party transmission requirement in order for an individual's conduct to fall under the "money transmitter" definition.

Decisions like this may hamper the adoption of cryptocurrencies for payments.

Money Transmitter statutes vary from state to state on what qualifies as "money" under the statute. In January 2018, the Uniform Law Commission released the Uniform Regulation of Virtual Currency Businesses Act ("Act"). See our prior ALERT of January 18, 2018. No state has enacted the Act, but it was recently introduced in the Hawaii and Oklahoma legislature. If you have any questions about state money transmission laws, please let us know. □

✧ *Michael Tomkies and Lindsay Valentine*

Darrell L. Dreher  
ddreher@dtlaw.com

Elizabeth L. Anstaett  
eanstaett@dtlaw.com

Emily C. Cellier  
ecellier@dtlaw.com

Susan L. Ostrander  
sostrander@dtlaw.com

2750 HUNTINGTON CENTER  
41 S. HIGH STREET  
COLUMBUS, OHIO 43215  
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600  
WWW.DTLAW.COM

To see previously sent ALERTS, visit our website at [www.dtlaw.com](http://www.dtlaw.com)

To decline future ALERTS, please contact us at [ALERTS@DLT.LAW.COM](mailto:ALERTS@DLT.LAW.COM).  
This ALERT has been prepared for informational purposes only. It does not constitute legal advice and does not create an attorney-client relationship.

Michael C. Tomkies  
mtomkies@dtlaw.com

Susan M. Seaman  
sseaman@dtlaw.com

Lindsay P. Valentine  
lvalentine@dtlaw.com

Judith M. Scheiderer  
jscheiderer@dtlaw.com

Robin R. De Leo  
robin@deher-la.com