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# Hughes Hubbard & Reed

## Firm Wins Key Ruling for Minority Investor in Cryptocurrency Ponzi Suit

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**February 1, 2019** — Hughes Hubbard won a key ruling for the last remaining defendant in a civil suit accusing two cryptocurrency mining companies and their founder of defrauding customers and investors in a \$10 million Ponzi scheme.

On Jan. 22, U.S. Magistrate Judge Donna Martinez of Connecticut granted HHR's motion to compel discovery, ruling that the information requested was not confidential.

HHR client Stuart Fraser faces "control person" liability claims for his purported role in GAW Miners and ZenMiner, both founded by Josh Garza, who pleaded guilty in July 2017 to wire fraud in a related criminal action. Garza was sentenced last September to 21 months in prison and ordered to pay \$9.1 million restitution to his companies' victims.

Fraser, former vice chairman of Wall Street investment bank Cantor Fitzgerald, was only a minority investor in the companies and one of Garza's biggest victims. But he was named as a defendant alongside Garza and the companies in a civil suit filed in 2016, accusing them of running a cryptocurrency Ponzi scheme that resulted in the plaintiffs losing more than \$10 million.

According to the suit, Garza and Fraser each held a 41 percent interest in GAW Miners; Garza described Fraser as an active partner; and plaintiffs claim that emails show Fraser directing and advising Garza about GAW Miners' operations.

Plaintiffs dropped Garza from the suit several months later, only days after he agreed to give plaintiffs information to support their claims against Fraser. Fraser takes the position that plaintiffs made "a deal with the Devil, agreeing with the previously alleged mastermind of the fraud ... Joshua Garza, to dismiss all the claims against him in exchange for purported information from him in the hope that it could cure the deficiencies in their claims against

Fraser."

In discovery, HHR sought access to detailed notes taken during a meeting between Garza and the plaintiffs' counsel in October 2016, less than a week after Garza agreed to work with the plaintiffs. But plaintiffs objected, claiming the notes were protected from discovery as work product.

In her ruling, Judge Martinez disagreed, noting that plaintiffs gave the notes to an FBI special agent. "The record before the court shows that [one of the plaintiffs] voluntarily shared the notes with the FBI," Judge Martinez said. "Nothing in the record suggests that the disclosure was made pursuant to any agreement that the notes would be kept confidential."

As reported in [Law360](#), Sarah Cave said, "We are pleased the court granted access to these notes, taken just days after the plaintiffs struck a deal with Garza -- the former lead defendant and a convicted felon -- to let him off the hook in exchange for his made-up stories involving Mr. Fraser, who was one of the biggest victims of Garza's fraud."

In addition to Cave, Dan Weiner leads the HHR team, which includes Sara Echenique, Hannah Miller, Mel Pudig, Landon Reid and Natalie McCrea.

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**Daniel H. Weiner**



**Hannah Miller**



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