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DC Bar OKs Cryptocurrency Payments For Legal Fees

By **Mike LaSusa**

Law360 (June 30, 2020, 10:50 PM EDT) -- The District of Columbia Bar has given lawyers the green light to accept cryptocurrencies in exchange for legal services, although the body's ethics opinion said attorneys should take care to ensure the arrangements are fair and that the payments are secure.

The D.C. Bar said in its undated June opinion that it didn't see a reason to treat cryptocurrencies as "a uniquely unethical form of payment" despite some of their potentially troublesome aspects.

"The nature of digital currency — as a new technology, a volatile alternative currency or asset, or client property — raises ethical challenges for lawyers that simply do not exist with fiat currency," the bar said. "But lawyers cannot hold back the tides of change even if they would like to, and cryptocurrency is increasingly accepted as a payment method by vendors and service providers, including lawyers."

The bar pointed out that cryptocurrencies can fluctuate widely in value, possibly complicating an assessment of whether a particular fee arrangement is fair, especially when a client pays for services in advance.

"The reasonableness of a fee agreement involving cryptocurrency will depend not only on the terms of the fee agreement itself and whether or not payment is for services rendered or in advance, but also on whether and how well the lawyer explains the nature of a client's particularized financial risks, in light of both the agreed fee structure and the inherent volatility of cryptocurrency," the bar said.

Moreover, lawyers need to make sure they keep the payments safe from loss, scammers and thieves, the bar said.

"Because blockchain transactions are unregulated, uninsured, anonymous, and irreversible, cryptocurrency is regularly targeted for digital fraud and theft," the bar said.

John Reed Stark, the president of John Reed Stark Consulting LLC, a data breach response and digital compliance firm, told Law360 on Tuesday that the D.C. Bar's decision was "disappointing."

"Crypto's liquidity risk; price volatility; cybersecurity vulnerabilities; commission fees; AML implications; OFAC concerns; ethical dilemmas; tax burdens; entanglement mishaps and the rest, create a situation that could be unmanageable or even untenable for a law firm's shareholders or partners," Stark said. "Not to mention that for the most part, the entire crypto system resides

amid an unregulated, mysterious and arguably sinister environment — certainly a poor choice of virtual venue."

A growing number of lawyers have been **making the jump** into virtual currency and accepting client fees in the form of cryptocurrencies like bitcoin in recent years. And the trend has started to make its way into the world of BigLaw.

In November, Quinn Emanuel Urquhart & Sullivan LLP **announced** it had started receiving fee payments from clients in bitcoins.

With that decision, Quinn Emanuel followed in the footsteps of **other large firms** that have started taking **bitcoin fee payments**, including Perkins Coie LLP and Steptoe & Johnson LLP.

--Additional reporting by Philip Rosenstein and Andrew Strickler. Editing by Emily Kokoll.

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