

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

WILLIAM MCGREEVY, ASHWIN
GOWDA, TRANSLUNAR CRYPTO, LP,
CHRISTOPHER BUTTENHAM, and
ALEX SOPINKA, individually and on
behalf of all others similar situated,

Plaintiffs,

v.

DIGITAL CURRENCY GROUP, INC.,
and BARRY SILBERT,

Defendants.

No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs William McGreevy, Ashwin Gowda, Translunar Crypto LP, Christopher Buttenham, and Alex Sopinka (collectively, “Plaintiffs”), individually and on behalf of all others similarly situated, allege the following against Digital Currency Group, Inc. (“DCG”) and Barry Silbert (“Silbert”) (collectively with DCG, “Defendants”), based on personal knowledge, the investigation of counsel, and information and belief. Plaintiffs believe substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

INTRODUCTION

1. Plaintiffs bring this action against Defendants DCG and Barry Silbert seeking damages for their liability as Control Persons as provided for by the federal securities laws. Plaintiffs are digital asset lenders who engaged in digital asset lending transactions with Defendant-controlled subsidiary company Genesis Global Capital, Inc. (“Genesis Global Capital”) from February 2, 2021 through November 16, 2022 (the “Class Period”).

2. As a result of the violations of the federal securities laws described herein, Plaintiffs and members of the Classes have been denied access to their digital assets since

November 16, 2022 and face little prospect of recovering a meaningful amount of the digital assets they lent to Genesis Global Capital.

3. Defendant DCG is the parent entity of a conglomerate of subsidiaries which includes Genesis Global Capital. At all times alleged herein DCG was the 100% owner of Genesis Global Capital.

4. Defendant Barry Silbert is the founder of DCG, Genesis Global Capital, and several other DCG subsidiary companies. Silbert is the controlling shareholder of DCG (owning 40%), chief executive officer of DCG, and chairman of DCG's board of directors.

5. During the Class Period, Genesis Global Capital ran a borrow/lend business for the DCG conglomerate, attracting capital from digital asset owners by offering high rates of return via interest on the lending transactions.

6. Genesis Global Capital executed lending transactions with its customers such as Plaintiffs via agreements sometimes styled "Master Digital Asset Loan Agreement(s)" (the "MDAL Agreement") and other times called "Master Borrow Agreement(s)" (collectively, the "Lending Agreements") whereby lenders such as Plaintiffs provided digital assets to Genesis Global Capital in exchange for interest payments and the eventual return of the digital assets.

7. Genesis Global Capital pooled the digital assets it received pursuant to the Lending Agreements and, at the direction of DCG and Barry Silbert, deployed the digital assets pursuant to certain strategies designed to generate revenue for the DCG conglomerate and Silbert and to pay lenders interest.

8. Genesis Global Capital, subject to the direction and control of DCG and Silbert, did not register the Lending Agreements with the U.S. Securities & Exchange Commission.

9. Because the Lending Agreements meet the definition of investment contracts and notes under the federal securities laws, as offered and sold, the Lending Agreements constituted offers and sales of securities under the federal securities laws, including the Securities Act of 1933 (the “Securities Act”), 15 U.S.C. §§ 77e, 77l(a)(1), 77o.

10. Because no applicable exemption from registration applied, Genesis Global Capital’s failure to register its securities offerings violated the federal securities laws, including Section 5 of the Securities Act.

11. Independent of the federal securities laws’ registration requirements, the federal securities laws prohibit parties from defrauding or deceiving, including through misrepresentation of material information, someone in connection with the purchase or sale of security.

12. During the Class Period DCG and Silbert deployed the digital assets Genesis Global Capital received from lenders in ways designed to line DCG’s and Silbert’s own pockets.

13. For example, DCG and Silbert directed Genesis Global Capital to use lenders’ digital assets to engage in transactions designed to benefit the DCG conglomerate, including the purchase of GBTC, a publicly traded security managed by DCG and Silbert’s Grayscale Investments subsidiary, to maximize the management fees collectable by the DCG conglomerate.

14. DCG and Silbert also caused Genesis Global Capital to take on an unreasonable amount of counterparty concentration risk by lending almost 30% of Genesis Global Capital’s total loan book to a single party: digital asset hedge fund Three Arrows Capital. This too was designed to benefit the DCG conglomerate by maximizing the management fees earned for managing GBTC.

15. Predictably, these practices had disastrous results. Three Arrows Capital declared bankruptcy in June 2022, and after Three Arrows Capital liquidated its assets Genesis Global Capital was left with an uncollectable \$1.1 billion debt, an impairment in value which Genesis Global Capital should have immediately recognized on its balance sheet regularly distributed to lenders such as Plaintiffs, members of the Classes, and their agents.

16. Recognition of the impairment, however, would have meant Genesis Global Capital recognizing its own insolvency, which would have terminated all Lending Agreements and entitled lenders such as Plaintiffs and members of the Classes to the return of their digital assets. It also would have meant the end of the Genesis Global Capital's business and DCG's source of capital.

17. Instead of recognizing the impairment, DCG and Barry Silbert directed and caused Genesis Global Capital to engage in a misleading sham transaction without any economic reality, designed to conceal its insolvency. At DCG and Silbert's direction, Genesis Global Capital proceeded to "sell" the uncollectable \$1.1 billion Three Arrows Capital debt to DCG in exchange for a 10-year promissory note (the "DCG Promissory Note") with an interest rate of 1% per year due in 2032. Importantly, no cash, cash equivalents, or any assets meeting the definition of a current asset changed hands in this transaction, which meant that Genesis Global Capital received zero capitalization from DCG. Instead, Genesis Global Capital magically erased the bad debt from its books and replaced it with a "good" debt.

18. Genesis Global Capital proceeded to misleadingly include the \$1.1 billion amount of the DCG Promissory Note on its balance sheet as a current asset and/or receivable, which falsely portrayed Genesis Global Capital as solvent when, in fact, it was insolvent.

19. Genesis Global Capital circulated balance sheets and other documents containing misrepresentations as to its solvency to Plaintiffs, members of the Classes, and their agent in order to induce the parties to continue to loan Genesis Global Capital digital assets and/or to prevent them from requesting redemptions of their loans.

20. Importantly, Genesis Global Capital represented in *every lending transaction it executed* from July 1, 2022 forward that it was in fact solvent, when it was not.

21. These misrepresentations and omissions concerning the Genesis Global Capital-DCG transaction and Genesis Global Capital's solvency violated of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and SEC Rule 10b-5, codified at 17 CFR 240.10b-5, which prohibit defrauding or deceiving, including through misrepresentation of material information, someone in connection with the purchase or sale of security.

22. The misrepresentations and omissions were material, as no reasonable lender would have loaned digital assets to Genesis Global Capital had they known of Genesis Global Capital's true financial condition or the details of the \$1.1 billion DCG Promissory Note.

23. Plaintiffs, members of the Classes, and their agents reasonably relied on Genesis Global Capital's misrepresentations and omissions as to Genesis Global Capital's solvency in deciding to lend digital assets to Genesis Global Capital or to rollover existing loans with Genesis Global Capital into new terms.

24. Thus, as a result of the misrepresentations and omissions, Genesis Global Capital received billions of dollars in new loans and loan roll-overs from Plaintiffs and members of the Classes Genesis Global Capital otherwise would not have.

25. These misrepresentations and omissions came to light after Genesis Global Capital experienced a slew of withdrawal requests in November 2022 in the wake of the collapse

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