

CRYPTOCURRENCY

FTX investors sue Sam Bankman-Fried and celebrity endorsers

Proposed class action names Tom Brady, Gisele Bündchen, Stephen Curry, Larry David and others who have appeared in commercials for the cryptocurrency exchange

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A [lawsuit filed](#) by one of the country's most prominent attorneys seeks to extract billions of dollars from a cryptocurrency executive as well as a star-studded cast of his 11 paid endorsers, including quarterback Tom Brady, supermodel Gisele Bündchen, comedian Larry David, NBA star Stephen Curry and tennis star Naomi Osaka.

The scope of the case filed Wednesday by David Boies, known for representing Al Gore in the 2000 Supreme Court case deciding the presidential election and [Elizabeth Holmes in her Theranos fraud trial](#), is ambitious. It attempts to put former CEO Sam Bankman-Fried and numerous celebrities on the hook for persuading customers to purchase cryptocurrency through FTX, the crypto exchange [that collapsed last week](#). The money in scores of FTX customer accounts is now frozen.

The suit did not include a figure but said that defendants were “responsible for the many billions of dollars in damages they caused.”

The lawsuit, filed Tuesday in U.S. District Court in Miami, alleges that FTX was designed “to take advantage of unsophisticated investors” by persuading them to use the company’s services to invest in crypto. None of the defendants who appeared in advertisements for the investment platform “performed any due diligence before marketing these FTX products to the public,” the filing added. A crypto exchange is a platform that allows consumers to invest in cryptocurrencies such as bitcoin, ethereum and others.

The proposed class action said that overall American consumers have lost more than \$11 billion as a result of FTX's actions. The suit was filed on behalf of Edwin Garrison, an Oklahoma resident it said had a yield-bearing account that he opened after "being exposed to some or all of defendants' misrepresentations and omissions."

The celebrity appearances ran the gamut, from Brady, Bündchen and Curry appearing in buzzy commercials that ran during sports broadcasts to Osaka and "Shark Tank" star Kevin O'Leary, who acted as brand ambassadors. David's spot had the highest profile — it debuted during the Super Bowl and received acclaim from many ad monitors.

The proposed class action alleges the celebrities promoted unregistered securities and accuses them of violating Florida laws protecting investors from fraud and deception. The suit was filed in Florida because FTX has offices there. The company is based in the Bahamas.

Bankman-Fried did not reply to a request for comment. Representatives at Brady, Bündchen, O'Leary and David's talent agencies did not reply to requests for comment. Osaka's representative did not immediately respond to a request for comment. Curry's representative did not reply to a request for comment. Curry's Warriors, an FTX partner, also were named; a spokeswoman said the team's policy is not to comment on ongoing litigation.

Boies and Adam Moskowitz, another counsel for the plaintiffs, did not reply to requests for comment.

FTX filed for bankruptcy last week after failing to raise cash to solve liquidity issues, leaving scores of investors in the lurch.

The suit raises the question of what celebrities know about the companies they're aligning with. At least one — David — seems to have not known much.

The comic's longtime collaborator Jeff Schaffer, who directed the Super Bowl spot, told the Hollywood Reporter in February that "I remember our first meeting and we were speaking to the FTX guys. ... They started to explain it to us and I said, 'I don't know if you can tell over Zoom when our eyes glazed over, but I still don't understand it. But that's OK. I don't have to know everything.'"

David Chase, a Florida securities lawyer, said a big advantage of filing the lawsuit in Florida is that the state's laws provide greater protection to investors than certain federal securities laws.

"It's a very favorable pro-plaintiff statutory provision to sue under," Chase said, explaining that federal securities laws also have a higher burden of proof.

But some legal experts aren't convinced that the bid to make celebrities pay will bear fruit.

The plaintiffs are more likely to extract damages from Bankman-Fried than they are from the celebrity endorsers, said Darren Heitner, a Florida lawyer who specializes in athletes and technology. "I don't think people signed up to FTX because Tom Brady said 'I put all my money there' — in fact he never said that. I wouldn't be terribly surprised if the celebrities prevail on a motion to dismiss," he added.

He said the most promising path for Boies might be to pursue a disclosure argument, which was effective in a Securities and Exchange Commission case against Kim Kardashian last month. In that case the reality star and influencer did not disclose how much was she paid for a cryptocurrency promotion on her Instagram account.

“But when you have a TV commercial, it’s inherently understood an individual is getting paid,” Heitner said. “Were the celebrities here required to do more to explain things like the amount of compensation? That’s what the plaintiff could argue, at least.”

Kardashian paid \$1.26 million to settle her case. Because she was promoting an investment product the SEC thinks is a security, it said Kardashian had to detail what she was paid so as not to mislead investors. Kardashian neither admitted to nor denied the SEC’s findings.

Jiaying Jiang, an assistant law professor at the University of Florida who specializes in financial technology, said the class-action lawsuit could lead to more. “It’s a strong bellwether for others,” she told The Washington Post in an email. “Many other crypto exchanges are likely doing the same things.”