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NEWS

  **Mark Cuban to Be Deposed as Plaintiffs Gain Momentum From SEC Claim in Crypto Suit**

 The proposed class action names as defendants billionaire Mark Cuban, who is owner of the Dallas Mavericks, and Stephen Ehrlich, CEO and co-founder of Voyager.

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 Litigation



Lisa Willis



What You Need to Know

- SEC says FTT exchange tokens are securities.
- Bitcoin is a cryptocurrency, which has virtual tokens or coins that can be used to trade or make purchases.
- The courts have yet to decide whether to rule in SEC's favor.

Cryptocurrency fallen angel FTX's exchange token FTT was sold as an investment contract, and is a "security," the U.S. Securities and Exchange Commission said in a complaint filed late Wednesday.

That claim from the regulatory body could pave an avenue of recovery for investors who lost billions, and spell legal troubles for celebrity endorsers of some of the largest crypto platforms like FTX, observers say.

One group of litigants in federal court in Miami is paying attention, hoping this development will help their case.

And they might not be off base.

Fort Lauderdale lawyer David R. Chase is a former Securities and Exchange Commission enforcement attorney, who suggests the new SEC allegation in the unrelated lawsuit could embolden their case.

“When you’ve got another case presumably with an exchange token that is extremely similar or essentially the same in terms of the legal characteristics that would be considered by a court in determining whether it’s a security ... it’s certainly a good thing,” said Chase, who is not involved in the litigation.

[Click here to read the SEC lawsuit](#)

Florida attorney Adam Moskowitz thinks this is great news for his class-action clients.

The Moskowitz Law Firm has been litigating against Voyager, billionaire Mark Cuban and the Dallas Mavericks in federal court in Miami for more than a year on behalf of for hundreds of clients, and millions of Voyager customers, whom they say allegedly peddled a deceptive Voyager platform.

Related: [Mark Cuban, Dallas Mavericks in Crosshairs of Investors in Cryptocurrency Class Action](#)

Moskowitz is pleased with the latest development, as he litigates claims Cuban, the Mavericks and Voyager directly damaged his clients. Cuban has been seen in many online platforms touting crypto company.

“So while a lot of these brand new cases are popping up, based upon some of the headlines, we actually have been working with world-class crypto experts from Oxford and all around the country for the last year against Voyager and we were the first ones to raise in our pleadings, that these are unregistered securities that hasn’t even been mentioned by some of these recent lawyers that are filing quick cases”, Moskowitz said.

New Developments

Moskowitz said U.S. District Court Magistrate Lizette Marie Reid in Miami Wednesday ordered that Mark Cuban must be deposed in February, and Voyager’s attorney’s were denied the motion to stay all discovery by the court.

In November 2017, the SEC issued a letter of warning concerning promotion of an unregistered product which he says the celebrity who endorses did not heed.

“And with all that warning, they (celebrities) still decided to take the chance and make you know, \$50 or \$100 million by being the spokesman,” Moskowitz said referring to Cuban and other famous athletes and movie and television personalities.

[Click here to read the full SEC statement](#)

Now, experts like Chase think if the courts agree with the SEC claim—that the FTT exchange token is a security—then it could have implications for those who endorse it.

“There are significant legal implications flowing from that finding,” Chase said. “Depending upon what the celebrity was saying ... what representations were being made, the context etc., it could be argued against, depending upon the facts and circumstances that that individual was unlawfully offering and selling an unregistered, non-exempt security in violation of Section Five of the federal of the Securities Act of 33.”

Chase, who represents SEC whistleblowers in securities fraud cases, says unregistered securities are at the forefront of this newest development for celebrity spokespeople.

“Depending upon your role, you could be found to have violated that section, which prohibits the unregistered sale of securities,” he said, but he cautions that the SEC ruling is not law yet.

Plaintiffs in the case are listed as Pierce Robertson, Rachel Gold, Sanford Gold, Rahil Sayed, Christopher Ehrentraut, Todd Manganiello, Dan Newsom, William Ayer, Anthony Dorn, Dameco Gates, Marshall and Edwin Garrison, who filed a proposed class action complaint on behalf of themselves and others.

They name as defendants television personality Cuban, who is owner of the Dallas Mavericks, and Stephen Ehrlich, CEO and co-founder of Voyager.

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