

Many Celebrities Named in Class-Action Lawsuits for Touting Cryptocurrency on Social Media

By Scott Shaffer on 12.13.2022

Class-action lawsuits by disgruntled investors are nothing new, but in recent weeks, such actions have taken on a decidedly crypto twist. One cryptocurrency class action was filed against eleven athletes and celebrities in the Southern District of Florida in the wake of the FTX scandal. A similar one concerning EthereumMax (EMAX) was dismissed in the Central District of California but is expected to press forward with amended claims.

In the FTX-related action, a very interesting group of celebrities were named as defendants, along with the notorious Sam Bankman-Fried, after last month's crash and burn of the FTX cryptocurrency exchange. Bankman-Fried will be joined at the defendants' table by NFL superstar Tom Brady and his ex-wife, super model Gisele Bundchen, another NFL quarterback, Trevor Lawrence, NBA stars Stephen Curry, Shaquille O'Neal, Udonis Haslem and the Golden State Warriors franchise, baseball stars David Ortiz and Shohei Ohtani, tennis player Naomi Osaka and entertainment personalities Larry David and Kevin O'Leary.

FTX was touted as an exchange platform for various forms of cryptocurrency. But it fell apart when there was a run on FTX as many nervous investors tried to withdraw their money simultaneously and the platform lacked sufficient assets to fund the withdrawals. Represented by David Boies and Adam Moskowitz, plaintiff Edwin Garrison alleges violations of the Florida Deceptive and Unfair Trade Practices Act, the Florida Securities and Investor Protection Act as well as civil conspiracy. Except for Bankman-Fried, the gist of the lawsuit against the celebrities is that they participated with FTX in a fraudulent scheme to convince unsophisticated investors to make unsound investments through mobile apps. As a result, alleges the lawsuit, American consumers collectively sustained over \$11 billion in damages.

Although the celebrity defendants disclosed their partnerships with FTX and related entities, they are accused of concealing the nature, scope, and amount of compensation they received in exchange for promoting the FTX platform. Their legal complaint alleges that "failure to disclose this information would be a violation of the anti-touting provisions of the federal securities laws. Moreover, none of these defendants performed any due diligence prior to marketing these FTX products to the public."

The complaint, filed on November 15, 2022, said that many celebrities had equity stakes in FTX entities while others were "brand ambassadors." None of the defendants have responded to the lawsuit yet.

While private suits for falsely touting crypto investment schemes are relatively new, one precedent is found in the EMAX lawsuit, which was dismissed, with permission to refile, on December 6, 2022. Sued in that action were Kim Kardashian, boxer Floyd Mayweather and retired basketball star Paul Pierce. The lawsuit alleged that the celebrities made false or misleading statements to investors about EthereumMax through social media advertisements, personal appearances

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and other promotional activities. The court dismissed the lawsuit because the plaintiffs had not plausibly alleged that each of the celebrities' statements caused their damages. The plaintiffs did not allege which endorsements they actually saw or heard, or even whether they purchased EMAX Tokens prior to each alleged misrepresentations.

The dismissal was without prejudice, meaning the plaintiffs can refile most of their claims, as set forth in the court's order:

This action demonstrates that just about anyone with the technical skills and/or connections can mint a new currency and create their own digital market overnight. Likewise, the action emphasizes the power of social media in allowing celebrities to directly communicate with their millions of fans with a touch of a button. These two facts, together, have seemingly allowed unvetted and highly volatile investment ventures to go viral based solely on the paid-for word of celebrity promoters. Losses have inevitably followed. The Court acknowledges that this action raises legitimate concerns over celebrities' ability to readily persuade millions of undiscerning followers to buy snake oil with unprecedented ease and reach. But, while the law certainly places limits on those advertisers, it also expects investors to act reasonably before basing their bets on the zeitgeist of the moment.

TAKEAWAY: While attempts are being made to hold celebrities accountable for touting failed cryptocurrency investments, such accountability is not unlimited and will be applied within the traditional framework of endorsement liability.

Tags: Celebrities, Class Action Lawsuit, Cryptocurrency, Social Media