

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.

EDWIN GARRISON, *et al.*, on behalf of
themselves and all others similarly situated,

Plaintiffs,

CLASS ACTION COMPLAINT

v.

JURY DEMAND

SAM BANKMAN-FRIED, *et al.*,

Defendants.

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

“Then there’s things that have happened with Voyager *and with FTX now*—that’s somebody running a company that’s *just dumb as fu** greedy*. So, what does Sam Bankman do? He just, give me more, give me more, give me more, so I’m gonna borrow money, loan it to my affiliated company, and hope and pretend to myself that the FTT tokens that are in there on my balance sheet are gonna sustain their value.”¹

– Mark Cuban, Nov. 12, 2022



– Defendant Sam Bankman Fried (Former CEO, FTX)

¹ <https://www.yahoo.com/video/ftx-twitter-chaos-embarrassing-athletes-195343800.html> (accessed November 15, 2022).

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Plaintiff Edwin Garrison (“Plaintiffs”) files this class action complaint on behalf of himself, and all others similarly situated, against Sam Bankman-Fried, Tom Brady, Gisele Bundchen, Stephen Curry, Golden State Warriors, Shaquille O’Neal, Udonis Haslem, David Ortiz, William Trevor Lawrence, Shohei Ohtani, Naomi Osaka, Lawrence Gene David, and Kevin O’Leary (collectively, “Defendants”), all parties who either controlled, promoted, assisted in, and actively participated in FTX Trading LTD d/b/a FTX’s (“FTX Trading”) and West Realm Shires Services Inc. d/b/a FTX US’s (“FTX US”) (collectively, the “FTX Entities”), offer and sale of unregistered securities in the form of yield-bearing accounts (“YBAs”) to residents of the United States, seeking to recover damages, declaratory and/or injunctive relief stemming from the offer and sale of FTX Trading’s and FTX US’s yield-bearing cryptocurrency accounts.²

INTRODUCTION

1. The Deceptive and failed FTX Platform was based upon false representations and deceptive conduct. Although many incriminating FTX emails and texts have already been destroyed, we located them and they evidence how FTX’s fraudulent scheme was designed to take advantage of unsophisticated investors from across the country, who utilize mobile apps to make their investments. As a result, American consumers collectively sustained over \$11 billion dollars in damages. FTX organized and emanated its fraudulent plan from its worldwide headquarters located here in Miami, Florida. Miami became the “hot spot” for crypto companies, hosting the most investments in crypto startups as well as the annual Bitcoin Miami 2022 Global Forum. Several crypto companies, including crypto exchange Blockchain.com, Ripple and FTX.US, moved their headquarters to Miami. Others, including fellow exchange eToro, expanded their U.S. presence with offices in Miami. FTX was already very familiar with Miami, signing a deal worth more than \$135 million dollars for the naming rights of the waterfront arena, where 3-time NBA Champions the Miami Heat play.

FACTUAL BACKGROUND

2. On December 24, 2021, counsel for Plaintiff and the proposed class members brought the first (and only) putative nationwide class action complaint against the now-defunct cryptocurrency trading app, Voyager, styled *Mark Cassidy v. Voyager Digital Ltd., et al.*, Case No. 21-24441-CIV-

² Undersigned Counsel represents many hundreds of injured Voyager investors in the related action against Mark Cuban and the Dallas Mavericks, styled *Pierce Robertson, et al., v. Mark Cuban, et al.*, No. 22-CV-22538-ALTMAN/REID (S.D. Fla.), currently pending before the Honorable Federal Judge Roy Altman here in the Southern District of Florida, and have been following these FTX events as they unfolded very closely. Moreover, discovery has yet to commence, but Plaintiff’s counsel anticipates adding additional responsible parties as Defendants.

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ALTONAGA/Torres (the “*Cassidy* Action”), alleging that the platform owned and operated by Voyager Digital Ltd. (“Voyager”) and Voyager Digital LLC (“VDL”) was an unregulated and unsustainable fraud. In the *Cassidy* Action, Plaintiffs also alleged that Defendant Ehrlich, Voyager’s CEO, teamed up with Defendants Cuban and the Dallas Mavericks to promote Voyager, by making false representations and employing other means of deception. As a result, the Voyager plaintiff and Voyager class members, all sustained losses in excess of \$5 billion.

3. The allegations in the *Cassidy* complaint—and specifically Mark Cuban’s role in promoting Voyager—received national attention. *See* <https://www.jdsupra.com/legalnews/new-lawsuits-target-cryptocurrency-9604406/> (summarizing the allegations and explaining that “Mark Cuban, owner of the NBA’s Dallas Mavericks, is a major stakeholder in Voyager. The complaint alleges that he made comments at a press conference in which he specifically targeted unsophisticated investors ‘with false and misleading promises of reaping large profits in the cryptocurrency market.’”); <https://www.law.com/dailybusinessreview/2021/12/29/mark-cuban-linked-crypto-platform-hit-with-florida-nationwide-class-action-lawsuit-in-miami-federal-court/?slreturn=20220701214901> (same, in the *Daily Business Review*).

4. After the *Cassidy* Complaint was filed, the following important actions took place:

- (a) the United States Securities and Exchange Commission (SEC) began an enforcement review focused on whether Voyager’s Earn Program Accounts (“EPAs”) constitute unregistered securities;
- (b) seven state Attorneys General (New Jersey, Alabama, Kentucky, Oklahoma, Texas, Vermont and Washington) took specific action finding that Voyager was violating their state laws, including issuing “cease and desist” letters to Voyager, finding that the EPA was an unregistered security, prohibiting the crypto-asset broker-dealer from selling any more unregistered securities (finding that Voyager used these EPAs to raise millions of dollars in revenue worldwide as of March 1, 2022; and
- (c) on March 29, 2002, the State of New Jersey Bureau of Securities entered a Cease and Desist Order against Voyager, finding that the EPA was not exempt from registration under the law, and instead that

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it must be registered—and as a result, Voyager’s stock price tanked by 25% in a day and is down over 80% for the year.³

5. On July 5, 2022, Voyager Digital Holdings, Inc. and two affiliated debtors (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of Title 11 of the United States Code. Voyager’s bankruptcy cases (the “Voyager Bankruptcy Cases”) are jointly administered under Case No. 22-10943 before the Honorable Michael E. Wiles in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”).

6. On September 28, 2022, Voyager filed a motion in the Voyager Bankruptcy Cases seeking authority to enter into an asset purchase agreement with West Realm Shires Inc., d/b/a FTX US whereby Voyager will sell substantially all of its assets for a purchase price of approximately \$1.422 billion, which includes (i) the value of cryptocurrency on the Voyager platform as of a date to be determined, which, as of September 26, 2022, is estimated to be \$1.311 billion, plus (ii) additional consideration which is estimated to provide at least approximately \$111 million of incremental value to the Debtors’ estates.

7. Everyone involved in the Voyager Bankruptcy Cases thought that the FTX Entities were the *deus ex machina* come to save the day by bailing out Voyager and paying back at least some of the losses the Voyager customers sustained.

8. Instead, as explained below, the FTX Entities imploded, their over \$30 billion in value evaporated almost overnight, and the FTX Entities found themselves filing their own emergency Chapter 11 bankruptcy petition in Delaware. The Deceptive FTX Platform maintained by the FTX Entities was truly a house of cards, a Ponzi scheme where the FTX Entities shuffled customer funds between their opaque affiliated entities, using new investor funds obtained through investments in the YBAs and loans to pay interest to the old ones and to attempt to maintain the appearance of liquidity.

9. Part of the scheme employed by the FTX Entities involved utilizing some of the biggest names in sports and entertainment—like these Defendants—to raise funds and drive American consumers to invest in the YBAs, which were offered and sold largely from the FTX Entities’ domestic base of operations here in Miami, Florida, pouring billions of dollars into the Deceptive FTX Platform to keep the whole scheme afloat.

³ <https://seekingalpha.com/article/4498956-voyager-digital-plunged-25-percent-heres-why> (accessed October 28, 2022); <https://seekingalpha.com/article/4503716-voyager-digital-buy-dip-during-crypto-crash> (accessed November 15, 2022).

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10. Importantly, although Defendants disclosed their partnerships with the FTX Entities, they have never disclosed the nature, scope, and amount of compensation they personally received in exchange for the promotion of the Deceptive FTX Platform, which the SEC has explained that a failure to disclose this information would be a violation of the anti-touting provisions of the federal securities laws.⁴ Moreover, none of these defendants performed any due diligence prior to marketing these FTX products to the public.

11. The SEC took action against boxing champ Floyd Mayweather and music producer DJ Khaled after they were paid by cryptocurrency issuers to tweet promotional statements about investing in Initial Coin Offerings (ICOs), ordering them both to pay disgorgement, penalties and interest for promoting investments in ICOs, including one from cryptocurrency issuer Centra Tech, Inc, for a combined total of \$767,500 because they failed to disclose that their promotional efforts on Twitter were paid endorsements.⁵

12. Other celebrities similarly accused and prosecuted for failing to disclose their paid endorsements include Kim Kardashian and basketball player Paul Pierce.⁶ According to the Federal Trade Commission, cryptocurrency scams have increased more than ten-fold year-over-year with consumers losing more than \$80 million since October 2020, due in large part to the use of such celebrity endorsements.⁷

13. As explained more fully in this Complaint, Defendants' misrepresentations and omissions made and broadcast around the country through the television and internet render them liable to Plaintiff and class members for soliciting their purchases of the unregistered YBAs. *Wildes v. Bitconnect Int'l PLC*, No. 20-11675 (11th Cir. Feb. 18, 2022) (holding that promoters of cryptocurrency through online videos could be liable for soliciting the purchase of unregistered securities through mass communication, and no "personal solicitation" was necessary for solicitation to be actionable).

⁴ <https://www.ubergizmo.com/2017/11/sec-celebrities-disclose-payment-cryptocurrency-endorsements/#:~:text=It%20has%20issued%20a%20statement%20warning%20celebrities%20that,without%20disclosing%20that%20they%E2%80%99ve%20been%20paid%20for%20it> (accessed November 15, 2022).

⁵ <https://news.bloomberglaw.com/us-law-week/insights-celebrity-endorsements-and-cryptocurrency-a-cautionary-tale> (accessed November 15, 2022).

⁶ <https://blockbulletin.com/news/altcoins/kim-kardashian-among-other-celebrities-sued-for-promoting-cryptocurrencies/> (accessed November 15, 2022).

⁷ <https://florida.foolproofme.org/articles/770-celebrity-cryptocurrency-scam> (accessed August 10, 2022).

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