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Binance, NBA star Jimmy Butler, and crypto influencers hit with \$1 billion suit for promoting unregistered securities

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April 1, 2023, 3:54 PM UTC



Binance CEO Changpeng Zhao. BEN MCSHANE—SPORTSFILE FOR WEB SUMMIT VIA GETTY IMAGES



Just four days after the Commodity Futures Trading Commission [brought a highly-publicized suit](#) against Binance, the world’s largest cryptocurrency exchange is facing another high-profile legal challenge.

Late on the evening of March 31, The Moskowitz Law Firm and Boies Schiller Flexner, home to super-attorney David Boies, filed a class action suit that targets Binance, its founder Changpeng Zhao (CZ)—the world’s leading spokesman for the crypto industry—and hoops star Jimmy Butler of the Miami Heat.

Adam Moskowitz, founding and managing partner of The Moskowitz Law Firm, discussed the suit with *Fortune* shortly after the filing, made in the Southern District of Florida.

The law firms previously teamed up to bring a class action [against Voyager](#), which subsequently went bankrupt, and two suits tied to the failure of FTX. The first of the latter targeted celebrities who served as the exchange’s highly-paid brand ambassadors, a roster that included comedian Larry David, basketballers Shaquille O’Neal and Steph Curry, and football legend Tom Brady. In mid-March, Moskowitz Law and Boies Schiller sued eight compensated “influencers” for promoting FTT, FTX’s native coin. That suit alleges that the influencers are liable for customer losses on the collapsed coin because it qualified as an “unregistered security.”

The new action against Binance rests on the same basic assertion: that the exchange was trading cryptocurrencies that are in reality unregistered securities, and that social media influencers paid by Binance promoted these instruments unlawfully. “This is a classic example of a centralized exchange, which is promoting the sale of an unregistered security,” charges the complaint. The suit seeks damages in excess of \$1 billion, in total, from the Binance companies and the influencers. “We’ve been investigating these same unregistered security issues against Binance for over a year,” notes Moskowitz.

The complaint states that under relevant state securities laws, anyone who purchases unregistered securities is entitled to damages equal to all losses they suffered. The defendants have no obligation to prove that they were deceived or even swayed by the social media posts or ads that touted the coins, only that they saw them. As Moskowitz told *Fortune*, “The statute clearly states that if an influencer is promoting an unregistered security, and has a financial interest in doing so, the influencer may be liable to everyone who bought the assets. The exchange that facilitates the trades would be liable as well.”

The plaintiffs are two Florida residents and a person from California, all of whom lost money trading coins promoted by Binance and the influencers. But the complaint estimates that the people eligible for damages could number “in the millions.” The defendants are Binance’s U.S. affiliate, Binance’s three principal international entities, CZ himself, and three influencers. Besides Butler, the influencer defendants at this stage are big-time crypto promoters Ben Armstrong, known as BitBoy Crypto, and Graham Stephan, who boasts 4.1 million subscribers on [YouTube](#).

It’s especially noteworthy that the complaint cites both Binance’s native token, BNB, and its Affiliate Program, which is little known to the public. The action makes the case that CZ “burns” or eliminates BNB, reducing the supply in an effort to boost its price, an action that brands BNB as a security. It also gives detail on how Binance Affiliates receive rebates on the trades for investors they recruit and “click through their link” to buy and sell coins on the Binance platform. Hence, Armstrong and Stephan were allegedly getting paid for illegally promoting unregistered securities, via the Affiliate kickbacks. Moskowitz told *Fortune* that it will add a number of other Binance influencers to the suit in future filings.

The suit isn’t simply seeking damages for Floridians who lost money. It’s also suing under California law. The suit goes much further, citing the CFTC charges that Binance marketed secretly and heavily to customers all over the U.S., so that all people residing stateside who suffered losses are eligible for damages. The complaint doesn’t stop there: It includes a “global class” that encompasses “all persons and entities residing outside the U.S.”

Of course, it’s not at all certain that the Florida court will deem BNB and other coins as unregistered securities. Moskowitz is encouraged that the SEC made that determination in actions against FTT and a recent suit versus Tron’s currency TRX.

“If we win on the unregistered securities issue, there will be no question that Binance and the influencers are liable,” Moskowitz told *Fortune*. “It’s ironic that FTX was going to be the savior of Voyager until their fraud was uncovered, and now Binance is supposed to be the next savior. Given the cases in bankruptcy, this may be the last chance for the victims to seek any recovery from their losses from crypto fraud.”

The case is potentially a pivotal one. If the plaintiffs prevail, the social media cheerleaders who’ve done so much to boost this populist phenomenon could retreat, dealing a heavy blow to the crypto-verse.

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