

The Fab Five's \$2 Billion Crypto-Fraud Flop

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On May 28, 2021, the U.S. Securities and Exchange Commission ("SEC") commenced an enforcement action against five U.S. individuals who, between January 2017 and January 2018 participated in BitConnect's fraudulent scheme, which collectively raised an eye-popping \$2 billion from investors throughout the world. The [complaint](#) alleges that: (i) the Fab Five promoted investments into a "lending program" to U.S. retail investors, promising significant return on investment; (ii) the sale of these investments into BitConnect's lending program was an illegal, unregistered securities offering, sold without a valid exemption from the SEC's securities registration requirement; and (iii) that the crew were part of a network of promoters selling these investments. BitConnect represented to its investors that the company could "deploy investor funds to trade in and profit from the volatility of Bitcoin," promising monthly returns of up to 40%, or over 566% a year. In return for his promotion efforts, each defendant received compensation based on a percentage of investor funds received by BitConnect.

The BitConnect complaint is one of a long list of SEC enforcement actions asserting that the sale of products promising returns, whether from trading in cash or cryptocurrency, are sales of securities. Others include *Securities and Exchange Commission v. Trendon T. Shavers and Bitcoin Savings and Trust* and *In the Matter of Erik T. Voorhees*. It is also a reminder that promoters cannot profit from the sale of securities—even unregistered securities—without being a registered broker-dealer, or affiliating with a licensed broker. Indeed, the complaint explains that receipt of transaction-based compensation, which often occurs "in the form of a percentage of the funds raised for investments," is an important hallmark of a broker-dealer. (In a somewhat analogous anti-touting law, the SEC has obtained cease and desist orders against celebrities such as [Floyd Mayweather, Jr.](#), [DJ Khaled](#) and [Steven Seagal](#) for promoting securities sold via initial coin offerings or ICOs without publicly disclosing the compensation paid for these promotions.)

The global reach of the BitConnect fraud also highlights how the SEC often cooperates with its overseas companion-agencies. Indeed the [press release](#) made specific mention of the assistance it received from the Cayman Islands Monetary Authority, the Hong Kong Securities and Futures Commission, the Monetary Authority of Singapore, the Ontario Securities Commission, the Romanian Financial Supervisory Authority, and the Thailand Securities and Exchange Commission.

Ultimately, the BitConnect enforcement action serves as a reminder that the SEC is actively investigating the offer and sale of digital asset securities and fraudulent conduct surrounding these assets, even offerings as far back as the 2017 ICO Boom.

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