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Former FTX chief compliance officer cooperating in crypto lawsuit against Tom Brady, Shaq and celebrity promoters

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Celebs like Tom Brady, Shaq, Larry David and Naomi Osaka are targets of the crypto class action lawsuit.
FRAZER HARRISON—WIREIMAGE/GETTY IMAGES; ETHAN MILLER—GETTY IMAGES; KEVIN WINTER—GETTY IMAGES; RYAN PIERSE—GETTY IMAGES

Dan Friedberg, the former chief compliance officer of bankrupt crypto exchange FTX, is cooperating with the plaintiffs bringing a class action suit versus a group of sports stars and entertainers, *Fortune* has learned from a new legal filing. The lawsuit's targets include, among others, Shaquille O'Neal, Tom Brady, Naomi Osaka, and Larry David.

Friedberg's role in assisting the plaintiffs was disclosed in an amended complaint in the case, filed late in the afternoon of May 11 in Federal Court in the Southern District of Florida. The complaint alleges that important promotional activity originated from Florida, which could be an important issue in the case. That evidence could be especially relevant on the pending jurisdictional issues. (The attorneys for the plaintiffs are Moskowitz Law of Miami, and New York's Boies, Schiller, Flexner. The firms representing the defendants include Latham & Watkins and Colson Hicks Eidson of Coral Gables.)

Defense lawyers argue that the case lacks jurisdiction for non-Florida celebs

The plaintiffs first filed their action against eleven celebrities—the list of others includes David Ortiz and Udonis Haslem—as well as the Golden State Warriors, in November 15, 2022, days after FTX collapsed. As *Fortune* has detailed, high-profile promotors and influencers supercharged the growth and adoption of crypto over the past several years. The plaintiffs contend that the FTX paid "Brand Ambassadors" who unlawfully promoted interest bearing accounts that were in reality securities, but that FTX failed to register as required by the SEC. Under Florida law, the plaintiffs assert, anyone promoting an unregistered security is liable for all losses customers suffered from holding the investment—for example, a drop in the value of a portfolio of sundry digital coins that fared poorly. The class action suit seeks several billion dollars in damages from the celebrities and Warriors.

Attorneys for the defense, however, are making two main arguments, the second of which has effectively put the case in limbo. First, they maintain that the suit should be dismissed because their clients made only generally favorable comments about FTX in their advertisements, and never once mentioned the accounts that the plaintiffs claim are unregistered securities. Since the marquee names didn't push the product that allegedly caused the losses, the argument goes, they're not responsible for any damages.

The second position applies to the promoters who don't live in Florida, Curry, Osaka, David, and L.A. Angels pitcher Shoehi Ohtani, as well as the LA-based Warriors. All of those defendants contend that none of their contract signings, ad tapings or other activities on behalf of FTX took place in the Sunshine State. In a declaration filed on April 14, David stated that "I did not appear in Florida on behalf of any FTX entity nor did I take any action in the State of Florida related to the Advertising Contract." The thrust holds that the suit has no "personal jurisdiction" over the non-resident defendants.

The non-residents are also claiming that because their business with FTX was unrelated to the state, the plaintiffs' lawyers have no right to depose them or obtain documents regarding any links to the state of Florida. (That same discovery was previously required, according to plaintiffs' papers, in the Voyager class actions pending before two federal judges in Miami.) So far, the courts are still mulling the question, and it doesn't appear that the judge has yet required any of the defendants to sit for the jurisdictional depositions. That's in contrast to what appears to have happened in the Voyager class action, where Mark Cuban provided a deposition. The plaintiffs also facing strong resistance from the celebs who do live in Florida. In their filings, lawyers for the celebrities argue that they have no obligation to provide depositions.

Where the crypto promo case goes from here

Friedberg was actually a defendant in the original complaint. And officially, he remains a defendant. But according to his declaration that's in the court file, he reached an agreement with the plaintiffs that would free him from liability. Friedberg says in the filing that he called the plaintiffs' counsel to "say that I wanted to cooperate and assist for the benefit of the FTX customers," rather than submit a formal response, which was due that day. The plan is for the "class," with the court's approval, not to pursue possible claims against him in exchange for his assistance. In a declaration included in the new complaint, Friedberg explains that he's cooperating with both the federal prosecutors in the cases versus FTX insiders, and the bankruptcy proceedings. He states that his assistance in the celebrities' case would in no way interfere with his cooperation on the criminal and bankruptcy actions.

In the declaration, Friedberg explains that he was introduced to Sam Bankman-Fried by his father, Sam Bankman, a tax law professor at Stanford Law School. He represented SBF as outside counsel after the founder left Jane Street to start FTX in 2017. When SBF launched FTX.US in 2020, Friedberg joined full time as chief compliance officer. In that role, he oversaw a dozen attorneys and supervised three general counsels working respectively for FTX International, FTX.US, and the captive hedge fund, Alameda. Friedberg stated that on

November 9, 2022, he received a call from the GC of FTX International saying that FTX faced an $8 billion deficit. Friedberg claims he'd believed that clients funds "were backed one to one" and was totally blindsided. He says that he resigned the next day because "I no longer trusted Sam, Gary [Wang], and Nishad [Singh]."

In the declaration, Friedberg asserts that "many of the activities" related to FTX brand ambassadors "occurred in, and/or were emanated, from our FTX offices in Miami, Florida." Friedberg states that FTX maintained an office in Miami starting in early 2021, and moved the domestic headquarters to the Brickell financial district in 2022.

The Miami office, he says, was run by Avinash Dabir, a former NBA exec who served as VP of business development. "Mr. Dabir operated from the Miami office, and he was formulating and executing our important FTX celebrity partnerships," writes Friedberg. It was Dabir, he notes, who landed a seventeen year deal for FTX the naming rights to the Miami Arena, home of the Heat, for $135 million. "The naming of the FTX Arena was an important centerpiece for our efforts to reach other FTX partnerships with celebrities," Friedberg states in the declaration. "Mr. Dabir was responsible for creating, consummating and implanting deals between FTX and other partners...such as Tom Brady, Stephen Curry, the Golden State Warriors, Naomi Osaka, Larry David, and Shohei Ohtani." Friedberg goes on to say that Dabir "deserves much of the credit for creating the idea and concept and collaborating with Mr. David and his team," for the Super Bowl commercial "that was a very big event for FTX."

In the amended complaint, the plaintiffs also includes the transcript from a podcast featuring Dabir, from late March of 2022. During the interview, Dabir discussed his strategy for luring celebs. "They're generally so busy, so it's hard to get their time. So when you have it, you want to have a plan as to what you wanna do. So we have a plan, right? We have a script. We're like, 'Hey, here's the theme.' Steph and his team involved throughout the process because they gotta be comfortable doing it." Dabir also described his role in the orchestrating the 2022 Super Bowl ad starring Larry David. "When we saw the script," he recalled on the podcast, "we were like, this is awesome, this script is awesome! And then we're like, 'We need to get Larry David...I don't know how the commercial works if it's not Larry David, right?"

It up to the courts to decide whether these connections are sufficient to allow jurisdiction over these defendants. Then they will be asked to determine if those accounts are really unregistered securities. That decision, if it happens, could determine whether some of America's most celebrated and richest athletes will really need to pay billions in damages.