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Investors lost billions betting on crypto. Now this lawyer wants Sam Bankman-Fried, Shaq, and dozens of other celeb endorsers to pay the price

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Adam Moskowitz found a creative way to crack down on crypto—go after the influencers.

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Last October, Florida attorney Adam Moskowitz sorely needed what he dubs “extra firepower” to propel a high-profile class action lawsuit against the Dallas Mavericks and their owner, Mark Cuban. Moskowitz saw the move as essentially the start of a new legal campaign: targeting celebrities and influencers who had promoted failed crypto products on behalf of ordinary folks who’d lost, in total, tens of billions of dollars to those heavily touted schemes. In late 2021, Moskowitz had sued digital currency lender Voyager for allegedly selling deceptive, unlawful accounts. But in July of 2022, Voyager went bankrupt, and Moskowitz had little hope of getting much money back for the 3.5 million customers who’d lost an estimated \$3.5 billion on the coins held in their accounts. So Moskowitz shifted course and decided to go after deep-pocketed defendant Cuban and the his NBA team. The Mavericks had signed a big endorsement deal with Voyager, granting it the naming rights for the Mavs’ sprawling e-sports venue in Dallas, and Cuban praised the then-thriving platform as an “attractive investment for novice investors and a perfect fit for Mav Fans.”

But Moskowitz's case versus Cuban and the Mavericks stood stalled in bankruptcy court. Instead of allowing Moskowitz to seek damages, the panel sought to reserve recoveries for repaying the creditors. To keep the suit and his crusade alive, Moskowitz aimed to lure as a partner arguably the biggest name in the legal game, David Boies.

The founder of Moskowitz Law didn't rate his odds of success as terribly high, given that at 82, Boies personally handles extremely few cases. But Moskowitz, ever the ebullient optimist, managed to secure an intro from a partner at Boies, Schiller, Flexner in Miami. Then he so captivated Linda Carlsen, Boies' executive assistant of 40 years, by exalting the righteousness of his suit against Cuban that she immediately relayed the message to her boss. The promise of nailing rich and famous crypto boosters proved irresistible to Boies. After a slight nudge from Carlsen, he invited the combatant pioneering the field to lunch the very next day in Manhattan. Moskowitz marveled at how Carlsen had worked the "near miracle of getting David to talk to me," and soon found an opportunity to express his gratitude. Moskowitz quizzed Carlsen on what she'd enjoyed on a rare trip to Miami, and when she recalled relishing the eponymous specialty from famed Miami Beach eatery Joe's Stone Crab, the Sunshine State attorney sent her a sampling, heightened by servings of Key lime pie, for Christmas. "We don't have a big opportunity to get them in New York," Carlsen told *Fortune*. The culinary overture, jokes Moskowitz, helps ensure that the super-busy Boies "returns my calls in a hurry."

Boies and Moskowitz dined with the former's son and law partner Alex Boies and Moskowitz' partner, Joey Kaye, at Estiatorio Milos, an upscale Mediterranean on the fifth floor of the Hudson Yards mall. "We ordered fresh seafood by the pound, though no crabs," recalls Moskowitz. The jurist who represented Al Gore in the dispute over Florida polling that ended in a Supreme Court decision swinging the 2000 presidential election to George W. Bush regaled Moskowitz with accounts of such coups as tracking down the camera shop that developed the original photo of Prince Andrew grinning alongside a teenage Virginia Giuffre, one of around ten victims from whom won large settlements in the Jeffrey Epstein sexual exploitation lawsuits. "David told me about his movie studio and his vineyard in California," says Moskowitz. "Hearing all the tales and at the same time getting to know this legend in our business was pretty cool."

By the time the group ordered coffee, Boies told *Fortune*, he'd agreed to become Moskowitz's co-counsel on the Mavericks-Cuban case. "What Adam explained, and what attracted me to these cases is that they involve a combination of important legal issues and individual harm done to millions of investors who deserve better," Boies related in a phone interview. "The celebrities used their credibility to promote very risky ventures. They said this is as risk-free as it gets, that it's a faster, quicker, easier way to earn money than conventional investments. They pulled in a lot of average people, not sophisticated investors, to put their life savings and 401(k) funds into those ventures. The securities laws are designed to prevent people from selling instruments where they don't disclose the risks, and that's exactly what happened here." Boies charges that the celebrities served as "shills" who broke the law by failing to "disclose the nature and extent of their compensation" in hawking the investments.

Together, Moskowitz and Boies secured a hard-won agreement from the Voyager bankruptcy counsel to proceed with their class-action case against Cuban and the Mavericks. In April, Boies and Moskowitz traveled to Dallas and split the seven hours allocated to deposing Cuban so that Moskowitz took the first five-hour session, and Boies followed for two hours, and repeated the tag-team process for former Voyager CEO Stephen Ehrlich. (The agreement still required that Ehrlich provide sworn testimony in the case, though they agreed to drop him as a defendant in exchange for his sworn declaration that he had no assets other than those he would contribute towards the bankruptcy recovery.) Cuban and the Mavericks have filed motions to dismiss the case. The Cuban-Maverick attorneys state in the filings that Moskowitz and Boies base their entire case on a single press conference where Cuban made only general favorable comments about Voyager, and never mentioned the interest-bearing accounts at all. None of the plaintiffs, they point out, even say they watched the event. The

defendants ascribe losses by the account holders to the broad downturn in crypto prices during 2022, not bad advice from Cuban and the team.

As of this date, the attorneys could not share any of the substance of the depositions because they've been marked as "highly confidential" by Cuban and Ehrlich, and hence aren't publicly available. The two attorneys have asked the court to permit them to file their amended complaint in Florida federal court, allowing a trial to commence early next year. But in the meantime, Moskowitz and Boies have already notched a victory of sorts. Says Moskowitz: "Celebrities won't go near crypto ads now, and we've had a big role in that."

Launching lawsuits against celebrities who endorsed crypto

By joining forces, Moskowitz and Boies have launched a broad legal attack that's already muzzling the once-buzzing celebrity-driven hype that so charged enthusiasm for crypto. Their overriding strategy consists of pursuing celebrities and influencers for money lost by individual investors they could never recover in bankruptcy court. "First, we sued Voyager, and FTX is supposed to save them, and they go bankrupt," says Moskowitz. "Two of the biggest players with the most liability implode, so it's extremely hard for the small customers we represent to recover their money from the companies themselves." For the new teammates, going after the crypto hucksters is the route to big recoveries.

The Cuban-Mavericks case was just the first of *four* principal suits where the two lawyers have locked arms. Their roster of defendants comprises the starriest of names from sports and Tinseltown. In November, they sued Sam Bankman-Fried and 11 celebrities who'd served as highly-paid "brand ambassadors" for his collapsed FTX exchange, a cast that included Tom Brady, Shaquille O'Neal, Stephan Curry, David Ortiz, tennis star Naomi Osaka, and CNBC personality Kevin O'Leary, as well as the Golden State Warriors. The suit alleges that all of this misconduct was directed from Miami, where it contends that FTX had its headquarters. During COVID, FTX swooped in to grab the naming rights for the Miami Heat arena, and used the prestige it gained as a big-time NBA sponsor to lure the famed athletes as brand ambassadors.

In March, Moskowitz and Boies filed a complaint versus a group of top crypto social media influencers whom, they contend, secretly got paid for championing FTX and its native token FTT on the likes of [Twitter](#) and [Instagram](#), among them Graham Stephan and Ben Armstrong, AKA BitBoy. And on March 31, Markowitz and Boies took aim at Binance, the world's biggest crypto exchange, its founder Changpeng Zhao, now the industry's leading "statesman"; and Miami Heat star Jimmy Butler.

The suits spurred an outbreak of showbiz travesty seldom witnessed in serious legal matters. Armstrong lashed out at Moskowitz, asserting in a barrage of emails to that he's coming "after [Moskowitz's] law license," and that his legal nemesis is "literally a walking piece of human garbage." Summoned to a hearing in Miami that Moskowitz demanded to stop the "harassment," BitBoy grouched that Moskowitz purposely tormented him by "pulling me off a cruise" in the Bahamas and mocked the lawyer as "*Mousekowitz*." The court sternly instructed BitBoy to cease all future attacks on Moskowitz and his team.

The quest to serve Shaq a summons devolved into a surreal episode that might be titled "chasing the phantom." The process servers couldn't find him for five months. "Here's one of the biggest people you'll ever see at 7'2" and over 325 pounds, and he suddenly goes invisible!" says Moskowitz. "He kept dodging our process servers." The servers went to his house near Dallas, where he was residing while launching a string of "Big Chicken" restaurants in the Lone Star State, no fewer than eight times, leaving [FedEx](#) packages containing the papers, which never got picked up, only to learn from his housekeeper that he'd relocated to the Bahamas, where the servers failed to spot him on the beach. "We even

sent the papers to the police department in central Georgia where he's a Director of Community Relations with a \$50 check. They cashed the check, but said they couldn't find Shaq," says Moskowitz.

Moskowitz Law finally succeeded in what they maintain amounts to officially serving O'Neal at his Atlanta residence on Sunday, April 16. According to their affidavits, two Moskowitz process servers had staked out O'Neal's residence 30 miles southeast of Atlanta. When Shaq exited the gates in a black Ford Expedition, one of the servers—according to his testimony—stood in front of his car brandishing the documents. When Shaq didn't stop, the Moskowitz rep "tossed" the documents at the front of the Expedition,. According to the server's testimony, Shaq "drove around and past me...and continued to loudly accelerate at a high rate of speed," sending the papers bouncing off the fenders and onto the public road. Representatives for O'Neal couldn't be reached for comment on the process-serving hunt. Famously, one of the few superstars who was courted by FTX, but didn't sign, was singer Taylor Swift.

In all of these cases, Moskowitz and Boies cite the violation of two laws, contending that in many instances the defendants broke both of them. The first breach is illegally selling or promoting products that are really "securities" under the law, and must be registered with the SEC, but that Voyager, FTX and Binance marketed without approval from the capital markets chief regulator. The complaints focus on one main "investment," interest-bearing brokerage accounts that they maintain are really "unregistered securities." "Florida, New Jersey and other state laws stipulate that if someone sells or promotes unregistered securities, they're liable for *all* of the losses customers suffered from the assets held, in this case, in the interest-bearing accounts," explains Moskowitz. It doesn't matter whether the "victims" were swayed by the celebrities' ads or even saw them, he notes; you sell unregistered securities, you'll be liable for all the money lost. It may sound illogical that a single promoter could be financially accountable for all the losses resulting from the sale of such instruments. But as Moskowitz notes, the framers of this legislation concluded that the responsibility should fall on those who promoted an illegal product, not on the victims. He adds that it's extremely rare to have a confluence of billions of dollars in potential damages, and defendants wealthy enough to pay them.

Put simply, if the declines in cryptocurrencies that an account harbors exceeded the gains, the customer's entitled to recoup the entire net deficit. If the courts deem the products securities, which is far from certain, Moskowitz and Boies could win giant settlements, given the wealth of the promoters and size of the losses that Moskowitz estimates at that \$3.5 billion for Voyager and \$5 billion at FTX. Though still to be determined, Binance's potential liability, says Moskowitz, will also be in the billions.

The suits all charge a second unlawful act: skirting the federal and Florida state "anti-touting" laws. These statutes hold that people cannot promote stocks, bonds, or any other security unless they publicly disclose first, that they're receiving compensation, and second, the precise amount they're getting. This time, the standard for recovery is different than that for pumping unregistered securities. If found in violation, the celebrity or influencer is typically obligated to pay the defendants suing them disgorgement of the money received for making the pitch, plus interest.

In a best-case outcome for Boies and Moskowitz, the plaintiffs would recoup a big part of their losses on the "unregistered security" designation, which would yield a lot more money than just prevailing on anti-touting. "We expect to recover the vast majority of the damages we're seeking because the celebrities have the resources to pay them," says Moskowitz.

"I give Boies and Moskowitz a good chance of winning," says Lee Reiners, a lecturing fellow at Duke University School of Law. "The main thing is that they're giving the people who invested a chance for relief they're not going to get from the bankruptcy court. It's the point

of the class-action process. For the people who invested and lost, the suits are their best and only hope.”

A class-action whiz

Adam Moskowitz, 55, views himself as a onetime little guy who’s mastered class action as a sword for the average folks now exploited by crypto tycoons and their paid cheerleaders. Moskowitz was born in Brooklyn, but when he was 3, his father left the family for good, and his mother moved on to Miami, where her dad was a plasterer who adorned many of the city’s celebrated art deco buildings. Goldie Moskowitz, who worked in a doctor’s office, was a dynamo who drove into what’s now the Palmer Trinity prep school unannounced and talked the headmaster into admitting her son Adam on a full scholarship. “My daughter goes there now,” says Moskowitz of the prestigious Episcopal academy. “When you first drive in, right next to the sign that says Palmer Trinity, you see the sign for the Moskowitz Tennis Center!”

As a senior, Moskowitz spent several weeks as an apprentice soldier in Israel’s Bow and Arrow program. “I learned to fire an Uzi and read battlefield topography and all that fun stuff,” he recalls. At Syracuse University, Moskowitz headed the debate team, and on a semester abroad in London, got to test his skills in a renowned crucible, Speaker’s Corner in London. “I’d go every Sunday and stand on a milk carton. I’d debate people from Arab countries about things like Israel’s war for independence, and the audience would push me off the carton. It could get a bit rough, but it was good practice for going to court.” None of the six top-tier law schools Moskowitz applied to accepted him, so he took a post-grad gig at Miami’s famed (and still flourishing) Bagel Emporium, where he drove a truck and served as a waiter. The clientele, he avows, constituted one of his toughest juries. “I’d have tables of 10 with people being extremely vocal in insisting that I make sure their bagels were scooped and double-toasted,” he recalls. After the yearlong “break,” he enrolled in the institution that happens to be across the street from Bagel Emporium: the University of Miami School of Law.

His love became class-action law as the embodiment of justice for all. “The whole idea is that it allows people with no resources to wield a weapon against the biggest corporations with the best lawyers—it can change history,” he says. Moskowitz advanced to partner at the prestigious Miami firm Kozyak Tropin & Throckmorton, where he won a number of large settlements, including cases against managed-care providers that allegedly shortchanged doctors by automatically downgrading the billing level for the actual procedure performed to codes for less expensive service, and versus banks that received kickbacks from insurers for putting homeowners into excessively pricey policies. But his personal life was a shambles. “I was skating through life at 100 miles an hour, and drinking a lot, though on the surface appearing very successful,” he says. “I’d drive after drinking. My wife said, ‘You’re going to kill yourself.’ So 11 years ago, I just stopped.” That rebirth gave Moskowitz what he calls “the unity of purpose” to launch his own boutique firm, Moskowitz Law.

Today, he characterizes his home life as that of a family man writ large. “I have a ‘date’ with one of my four kids every week to go to a restaurant, say, or a Heat game, and we’re surrounded by eight dogs. I was so lucky to marry my amazing wife of 15 years, Jessica. I wasn’t nearly as confident in dating as I was in class action.”

In mid-2021, Moskowitz joined the leadership in one of the biggest cases in the recent annals of class action—and he landed a huge settlement for the same reason he hopes to win big for the plaintiffs in the crypto suits: the potential fruits of suing defendants rich in resources. The collapse of the Champlain Towers South condo building in Miami neighborhood of Surfside was one of the deadliest structural failures in U.S. history, killing 44 people including 16 children, and leaving 120 homeless. “The building had just \$30 million in insurance, so at first it looked like we’d only get tiny amounts for the survivors and families suing for wrongful death, and certainly no attorneys’ fees,” says Moskowitz. But he learned from survivors that construction on a luxury condo building a few feet away

shook the walls at Champlain. Though it was never proven that the project next door caused the crash, the builder was heavily insured, and agreed to pay around \$200 million.

Months into negotiations with the 34 defendants, Moskowitz heard to his amazement that when the Champlain began to teeter, the person at the security desk failed to push the button activating newly installed alarms in all apartments. Fortunately for the plaintiffs, the security contractor was a large, publicly traded company, Securitas of Sweden. Securitas—again, well-insured—contributed over \$500 million to the settlement. In less than a year, the plaintiffs’ leadership team obtained total payments of over \$1 billion going to the plaintiffs. In the Champlain case, it was strong insurance coverage that saved the day. In the crypto cases, the money tree for shaking is the gigantic wealth of the movie stars and sports icons involved.

A Moskowitz-Boies victory hinges on a crucial ruling that’s yet to come

Surprisingly, the U.S. courts haven’t so far determined whether either the interest-bearing accounts spotlighted by the Moskowitz-Boies class actions (in which customers were paid rates up to 12% in return for lending their deposits in coins or fiat currency to a crypto company), or such cryptocurrencies as BNB, Ether or Solana, are actually securities. For Moskowitz and Boies, notching a big win hinges on getting the courts to take their view, and they’re pushing hard for a decision that, they maintain, their opponents never want a state or federal judge to make.

The legal standard for identifying a security is called the Howey Test, arising from a 1946 Supreme Court decision. Under Howey, the ultimate judicial body clearly sought to make the rules flexible enough to encompass financial innovations to come. Howey maintains that to qualify as a security, an asset must be “part of a common enterprise,” and be purchased by a customer “with the expectation of profit” generated “from the efforts of others.” If an asset passes the Howey Test, it’s classified as “an investment contract,” and rates as a security just like a stock or bond.

The complaints assert that the interest-bearing accounts fit all the Howey criteria. They claim that Voyager, FTX, and Binance offered them to broad audiences, and pooled their money to make investments, so the offers clearly belonged to a “common enterprise.” Clients specifically chose the accounts because they expected return or “profit” in the form of the interest the platform promised and paid. The gains, the plaintiffs argue, came from the investment and loans the platforms made with their sole discretion. CZ’s burning of his BNB, for example, is allegedly a way that Binance produces a profit for its customers, and the prospect of those profits—in addition to the trading discounts and other goodies—is a major reason folks choose the offerings that require holding the native token. Moskowitz adds that all FTX trading accounts paid interest. Therefore, anyone signing on to FTX was automatically enrolled.

Boosting the prospects for Moskowitz and Boies is that the SEC has consistently determined that these accounts are securities, and has already killed several of the plans. Early last year, the agency reached a settlement with BlockFi in which the digital asset lender agreed to cancel its interest-bearing product, and pay a total of \$100 million in state and federal penalties and fines. Last September, the SEC announced it would sue [Coinbase](#) over planned lending accounts, and America’s largest exchange scrapped the project. In February, the SEC forced crypto exchange Kraken to scotch a program offering returns as high as 21%.

Reiners, among many top academics, also believes the plans meet the Howey Test as securities. “The SEC’s been clear and consistent for quite a while that interest-bearing accounts are securities,” he says. “I think the facts are on Adam’s side.”

The commission is also aggressively pursuing celebrities who promote crypto assets that are really securities without following the rules. Those rules are the same as for touting individual stocks: You need to say publicly that you're receiving comp, and how much. As early as 2017, the SEC issued a letter warning celebrity endorsers of initial coin offerings that they risked violating securities laws. In October, the SEC charged Kim Kardashian with receiving \$250,000 for endorsing the EMAX token and not revealing the payment, securing a \$1.25 million settlement from the reality star; and in February, former NBA all-star Paul Pierce paid the SEC \$1.4 million to resolve charges for making "misleading promotional statements" on EMAX.

So far, the SEC's actions have been taken against prominent figures who tout cryptocurrencies. But with reason, Moskowitz and Boies hold that since interest-bearing accounts are securities as well, promoting them also requires the full disclosure the celebrities never supplied.

As for the celebrities and influencers, most have let their prestigious attorneys do the talking via court filings. "BitBoy" Ben Armstrong is among the few who's spoken out; he vehemently denies that he's received any compensation from promoting FTX. In mid-December, Shaq declared on CNBC, "A lot of people think I'm involved, but I was just a paid spokesperson for a commercial." Cuban and the Mavericks and the FTX brand ambassadors have filed motions to dismiss their cases. The FTX influencers and Binance have yet to respond.

Though the opposing lawyers haven't even addressed the "securities" issue, they've been successful so far in delaying any decision on the issue. Moskowitz and Boies had first filed a separate case in Florida state court against Brady, O'Leary, and Ortiz in an attempt to get a quick ruling on whether the accounts are indeed securities. "We thought the process would go a lot faster than in federal court," Boies told *Fortune*. But their opponents succeeded in getting the case moved to slower-moving federal court on the grounds that the FTX bankruptcy is a federal court proceeding.

The move frustrated Moskowitz. "The other side is doing everything to prevent a judge from ruling on the securities issue, because they know what the court will probably rule against them based on all of the SEC precedents," he says. But he plans to ask the federal judges in each one of the lawsuits to make a single, quick ruling on that one topic, and he's hopeful a decision will come quickly, and in his judgment, ensure victory. A ruling that the accounts are securities would mean his campaign likely transforms regulation of cryptocurrencies, he predicts. "The ruling wouldn't set a precedent, but it would be extremely influential with other judges across the country asked to rule on the issue," he says. That the uniform hype once emanating from the famous has already gone silent is already a tribute to the Moskowitz-Boies joint offensive. Hey, any duo that can get Big Shaq running for cover must be doing something right.