

Advertising + Marketing

The SEC Takes on Lindsay Lohan, Jake Paul and Six Other Celebrities Over Paid Crypto Posts

The Bottom Line

- The SEC is continuing to make good on its repeated warnings that it will aggressively enforce Section 17(b) of the Securities Act against influencers, including mainstream celebrities, who fail to disclose the nature, scope and amount of compensation received in exchange for their sponsored posts.
- Even if sponsored posts are provided and/or approved by a company, or if a company specifically requests that no disclosures be made, the celebrity or influencer posting the content can still be held liable if their post fails to comply with the law, including any industry-specific regulations.

The SEC charged eight celebrities, including Lindsay Lohan, Jake Paul and Austin Mahone, with failing to disclose their commercial relationships with Justin Sun's crypto companies: Tron Foundation Limited, BitTorrent Foundation Ltd. and Rainberry, Inc. (collectively, the Crypto Companies). The charges, filed in the U.S. District Court for the Southern District of New York, resulted in more than \$400,000 in penalties. The charges come on the heels of [the SEC penalizing Kim Kardashian](#) more than \$1 million for violating Section 17(b) of the Securities Act for her failure to disclose "the nature, scope, and amount of compensation" she received in connection with the promotion of a security.

The Social Posts

In 2021, Sun, on behalf of the Crypto Companies, paid celebrities with significant social media followings to promote their crypto assets, "TRX" and/or "BTT" (the tokens). Sun approved payments to the celebrities and sent the payments to a Rainberry employee to funnel through an offshore intermediary to engage celebrities to tout the tokens.

The celebrity posts, including,



"Exploring #DeFi and already liking \$JST, \$SUN on \$TRX. Super fast and 0 fee. Good job @justinsuntron"

Lindsay Lohan



"When \$TRX hits 50 cents and \$BTT hits 1 cent I'm getting a tattoo of @justinsuntron's face,"
Austin Mahone

were provided or approved by Sun or the Rainberry employee. The posts were later amplified by Sun, who commented on the posts or retweeted them to his more than 3 million Twitter followers.

To combat rumors that Sun engaged celebrities to post about the tokens, Sun posted, "There have been rumors lately of third-party celebrities being paid to promote #TRON. #TRON Foundation is not involved in these activities. Nor is the foundation aware of the actors behind this." Sun doubled down and later that day tweeted, "[I]f any celebrities are paid to promote TRON, we require them to disclose."

In direct juxtaposition to his tweets, Sun specifically instructed the Rainberry employee to ensure that no celebrity disclosed that they were paid to promote the tokens. In addition, and unsurprisingly, none of the celebrity posts included clear and conspicuous disclosure of the payments in accordance with the FTC's Endorsement Guides or the amounts paid for the posts in accordance with Section 17(b) of the Securities Act.

The SEC Settlements

The settlements, reached with most of the celebrities charged, include disgorgement of the fees they were paid to post in the first instance, as well as prejudgment interest and civil penalties totaling more than \$400,000, including \$40,670 from Lohan and \$101,587 from Paul. In addition, the celebrities must:

- continue to cooperate with the SEC's investigation into the matter and
- forgo receiving or agreeing to receive any form of compensation or consideration from any issuer, underwriter or dealer for publishing, giving publicity to, circulating any notice, circular advertisement, newspaper, article, letter, investment service, or communication, which though not purporting to offer a crypto asset security for sale, describes such crypto security asset, for three years from the date of their respective orders.

For More Information

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