

Securities Regulation Daily Wrap Up, BLOCKCHAIN—SEC fines Kim Kardashian \$1.26 million for failing to disclose she was paid to promote digital tokens, (Oct 3, 2022)

By Suzanne Cosgrove

A social media influencer and reality TV celebrity, Kardashian was paid approximately \$250,000 to promote an EthereumMax offering on her Instagram account last year.

The SEC has announced charges against Kim Kardashian for plugging a crypto asset security that was offered and sold by EthereumMax without disclosing that she was paid to promote it on her social media site. Kardashian has agreed to settle the charges, pay penalties, disgorgement and interest, and cooperate with an ongoing investigation by the Commission (*In the Matter of Kimberly Kardashian*, [Release No. 1116](#), October 3, 2022).

The SEC's [order](#) found Kardashian violated the anti-touting provision of the federal securities laws. Specifically, her failure to disclose her compensation violated Section 17(b) of the Securities Act.

Without admitting or denying the SEC's findings, Kardashian agreed to pay \$1.26 million, including approximately \$260,000 in disgorgement, which represents her promotional payment plus prejudgment interest and a \$1 million penalty.

Kardashian also agreed to not promote any crypto asset securities for three years.

Celebrities, not investment gurus. "This case is a reminder that, when celebrities or influencers endorse investment opportunities, including crypto asset securities, it doesn't mean that those investment products are right for all investors," SEC Chairman Gary Gensler said [in a press release](#). "We encourage investors to consider an investment's potential risks and opportunities in light of their own financial goals."

"Investors are entitled to know whether the publicity of a security is unbiased, and Ms. Kardashian failed to disclose this information," said Gurbir Grewal, director of the SEC's Division of Enforcement.

Social media post, video. Beginning around May 14, 2021, EthereumMax made EMAX tokens available for public trading on a decentralized crypto asset trading platform.

As recounted in the SEC's order, EthereumMax's public statements indicated the company and its agents would make significant efforts to develop the EthereumMax platform, which would increase the value of their tokens. The company's marketing materials also suggested EthereumMax would ensure a secondary trading market for EMAX tokens by creating a trading market for the tokens.

The EMAX tokens were offered and sold as investment contracts and therefore were securities under the SEC's oversight, pursuant to Section 2(a)(1) of the Securities Act, the Commission noted.

Kardashian's Instagram message, posted June 13, 2021, to her then-225 million followers, contained a link to the EthereumMax website, which provided instructions for potential investors to purchase EMAX tokens. She also posted an introductory video, stating she had a "big announcement."

Kardashian also included #AD, as in ad, at the bottom of her post.

The SEC said its investigation is continuing.

This is release [No. 11116](#).

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