Securities Regulation Daily Wrap Up, ENFORCEMENT—S.D.N.Y.: SEC, Ripple bump up against procedural hurdle, (May 19, 2025)

By Anne Mathews, J.D.

The parties' attempt to clear their way for a settlement invoked the wrong procedural rule.

The district court that ruled that Ripple violated the securities laws is not letting the SEC reverse course too easily. In response to the parties' request for an indicative ruling clearing the way for them to go forward with a settlement, the Southern District of New York said they invoked Federal Rule of Civil Procedure 62.1 when the applicable rule is Rule 60. Because the parties did not make any effort to satisfy the "heavy burden" under Rule 60, their motion would be denied (*SEC v. Ripple Labs, Inc.*, No. 20-cv-10832 (S.D.N.Y. May 15, 2025)).

In July 2023, the district court held that sales of the XRP crypto token constituted the offer and sale of an "investment contract" in the context of institutional investors, but not in programmatic sales to public buyers on digital asset exchanges or in other distributions. In August 2024, the court ordered first-tier civil penalties totaling just over $125 million, which Ripple deposited into escrow while the Second Circuit considered the parties' cross-appeals.

The parties agreed to settle the action for $50 million, with the balance of the escrow account to be returned to Ripple. To help effect the settlement, they asked the district court for an indicative ruling as to whether the court would, if the Second Circuit dismissed the appeals, dissolve the injunction included in the final judgment and order that the escrow account be released and the funds distributed per the settlement agreement.

The parties cited Federal Rule of Civil Procedure 62.1(a)(3), which sets out the process for an indicative ruling on a motion that is barred by a pending appeal.

However, the court said that this was the wrong avenue for the parties' request. The relief the parties asked for would vacate significant portions of the final judgment, and that is a request properly made under Rule 60.

"By styling their motion as one for 'settlement approval,' the parties fail to address the heavy burden they must overcome to vacate the injunction and substantially reduce the Civil Penalty," the court wrote. "Relief from judgment under Rule 60 is granted 'only upon a showing of exceptional circumstances.'"

Accordingly, the court said that if jurisdiction were restored to it, it would deny the parties' motion.

The SEC under the new administration has drastically scaled down its crypto enforcement, including by dropping pending activities against numerous firms. While a $50 million penalty is more than a token (pun intended) amount, it is far less than the $2 billion in penalties and disgorgement that the SEC had originally sought. Ripple last year lauded the comparatively small $125 million judgment as "a victory for Ripple, the industry and the rule of law."

The case is No. 20-cv-10832.

Judge: Torres, A.

Attorneys: Jorge G. Tenreiro for the SEC. Andrew J. Ceresney (Debevoise & Plimpton LLP) for Ripple Labs Inc.

Companies: Ripple Labs Inc.

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