

[Securities Regulation Daily Wrap Up, TOP STORY—S.D.N.Y.: CFTC's first crackdown for manipulation involving digital assets snares tech tycoon John McAfee, \(Mar. 5, 2021\)](#)

Securities Regulation Daily Wrap Up

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By [Lene Powell, J.D.](#)

75-year-old tech magnate John McAfee and an associate potentially face years in prison and millions of dollars in penalties for engaging in multiple fraudulent schemes involving digital assets.

In parallel actions, the CFTC and DOJ charged businessman and computer programmer John McAfee and his former employee Jimmy Gale Watson with engaging in a "pump and dump" scheme involving numerous digital assets. The two were indicted Friday on multiple charges including commodities and securities fraud and money laundering. They are also facing civil charges previously brought by the SEC ([CFTC v. McAfee](#), March 5, 2021).

McAfee is publicly well-known for his previous affiliation with the antivirus software company he founded, and has hundreds of thousands of followers on Twitter. In the CFTC's first enforcement action for a manipulative scheme involving digital assets, McAfee is said to have secretly amassed and deceptively promoted multiple digital assets on Twitter. When the asset prices rose as a result, he sold the assets for handsome profits.

"Manipulative and fraudulent schemes, like that alleged in this case, undermine the integrity and development of digital assets and cheat innocent people out of their hard-earned money," said Acting Director of Enforcement Vincent McGonagle. "Financial innovation is constantly breaking new ground, and the CFTC's enforcement efforts must keep up.

Digital pump and dump. The [CFTC](#) alleges a series of pump-and-dump schemes designed to create an artificial price for cryptocurrencies and sell the McAfee team's holdings for a profit. The [DOJ](#) alleges the same scheme as well as an additional fraudulent scheme involving ICOs.

First, McAfee, Watson, and other team members bought large quantities of publicly traded low-priced cryptocurrency "altcoins," including verge (XVG), dogecoin (DOGE), and reddcoin (RDD). Then, the team promoted the coins on Twitter and elsewhere in a "Coin of the Day" program, spotlighting the assets as deeply researched, selected without bias from the vast majority of inferior digital assets, and providing long-term value to investors.

According to the CFTC, McAfee consistently concealed his profit motive, elaborately claiming that he held no position in the coins. For example, in an interview, McAfee said, "I promise you I don't own any of it, I am not affiliated with it, and I'm not interested in whether or not you buy it ... I'm 72 years old, what am I going to do with more money? Seriously, I mean, my knees are bad. What am I going to buy? I don't need money. What I need is to create a better world for [the] children."

The Coin of the Day program was allegedly merely a series of pump-and-dump schemes. After the altcoin prices abruptly rose as a result of the touting, the team sold them for bitcoin. The CFTC alleges the team raked in more than \$2 million in profits as a result of the scheme.

ICO touting. In the second scheme, the DOJ charges that the McAfee team publicly touted initial coin offerings (ICOs) in exchange for undisclosed compensation. As the SEC had publicly warned and the defendants allegedly knew, the federal securities laws required them to disclose any compensation paid by ICO issuers for touting securities offerings styled as ICOs. But the defendants publicly promoted the ICOs while actively hiding the \$11 million in compensation they received from ICO issuers, making false and misleading statements to

conceal the connection. Further, the defendants allegedly engaged in money laundering, causing a McAfee team member to engage in banking transactions to launder proceeds of the fraudulent ICO touting scheme.

The defendants were previously [charged by the SEC](#) for the conduct involving deceptive ICO touting.

In addition to the civil penalties sought by the CFTC and SEC, McAfee and Watson are charged in a seven-count indictment with:

- one count of conspiracy to commit commodities and securities fraud, which carries a maximum potential sentence of five years in prison;
- one count of conspiracy to commit securities and touting fraud, with a maximum potential sentence of five years;
- two counts of conspiracy to commit wire fraud and two counts of substantive wire fraud, each of which carries a maximum potential sentence of 20 years; and
- one count of conspiracy to commit money laundering, with a maximum potential sentence of ten years.

In addition to potential prison sentences, each charge also carries potential financial penalties.

"When engaging in illegal activity, simply finding new ways to carry out old tricks won't produce different results. Investment fraud and money laundering schemes carry a strict penalty under federal law," said FBI Assistant Director William F. Sweeney Jr.

This is case [No. 21-CV-1919](#).

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