

[Securities Regulation Daily Wrap Up, TOP STORY—S.D.N.Y.: Tech tycoon McAfee did not disclose he was paid to tout ICOs, \(Oct. 6, 2020\)](#)

Securities Regulation Daily Wrap Up

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By [Rodney F. Tonkovic, J.D.](#)

John McAfee faces charges for fraudulently touting ICOs and, separately, for tax evasion and failing to file tax returns.

Anti-virus magnate John McAfee has been charged by the SEC for fraudulently touting ICOs. McAfee promoted the ICOs on Twitter but did not disclose that he was paid millions to do so and lied about it when directly asked. While McAfee profited from his actions, the investors were left with virtually worthless digital assets. McAfee is charged with violations of the antifraud and anti-touting provisions of the securities laws. Having also been indicted on charges of tax evasion, McAfee has been arrested in Spain and is awaiting extradition ([SEC v. McAfee](#), October 5, 2020).

McAfee stakes his anatomy on Bitcoin price. McAfee, the developer of the antivirus software bearing his name (he no longer has any connection with that company), has hundreds of thousands of followers on Twitter. McAfee became especially famous in the digital asset community when he predicted in July 2017 that the price of one bitcoin would reach \$500,000 by the end of 2020; he raised his predicted price to \$1 million on November 29, 2017. McAfee's predictions and outrageous language—he memorably promised to "eat my d**k on national television" if the prediction did not pan out—attracted over half a million Twitter followers. McAfee did not make the promised television appearance, and presumably remains whole; he eventually admitted that his statements were a ruse to attract new users.

Promotional Tweets. According to the [Commission](#), between November 2017 and February 2018, McAfee leveraged his fame to recommend at least seven "initial coin offerings." McAfee, joined later by his bodyguard and co-defendant Jimmy Watson, privately told the issuers that he would promote their offerings if they gave McAfee a percentage of the digital assets being offered or payments in bitcoin. In his Tweets, McAfee would refer to the investments he was promoting as sure winners that he had vetted himself, while warning that others that he was not promoting were "jokes or outright scams." In all, McAfee was paid over \$23.2 million in bitcoin, ether, or promoted tokens and Watson was paid \$316,000 for his assistance. The investors were left with assets that were essentially worthless.

McAfee did not disclose that he was being paid to promote the ICOs, and this constituted "touting" in violation of the securities laws. And, when directly asked if he was being compensated by the issuers, McAfee lied and denied it. Later, after the paid promotions had been exposed by a blogger, McAfee paid a separate promoter to tout what had become almost worthless tokens so that he could cash out at an inflated price. In addition, the Commission charged McAfee and Watson with "scalping" a digital asset by secretly accumulating a large position, touting the asset on Twitter without disclosing that he intended to sell it, and then selling the holdings after the price rose.

The complaint, filed in the U.S. District Court for the Southern District of New York, charges McAfee and Watson with violating antifraud provisions of the federal securities laws. McAfee is also charged with violating the anti-touting provisions, and Watson with aiding and abetting McAfee's violations. The Commission seeks injunctions, disgorgement, civil penalties, and that McAfee be barred from serving as an officer or director.

"Potential investors in digital asset securities are entitled to know if promoters were compensated by the issuers of those securities," said Kristina Littman, Cyber Unit Chief. "McAfee, assisted by Watson, allegedly leveraged

his fame to deceptively tout numerous digital asset securities to his followers without informing investors of his role as a paid promoter."

Tax evasion charges. The Tax Division of the [Department of Justice](#) also unsealed an indictment charging McAfee with tax evasion and willful failure to file tax returns. According to the [indictment](#), McAfee received considerable income from promoting cryptocurrencies, consulting work, speaking engagements, and selling the rights to his life story for a documentary, but failed to file tax returns from 2014 to 2018. He evaded tax liability by directing that his income be paid into bank and cryptocurrency exchange accounts in the names of nominees and also concealed assets such as real estate and a yacht in the names of others. If convicted, McAfee faces a maximum of five years in prison for each of five counts of tax evasion and one year for each of five counts of failure to file tax returns. The June 2020 indictment was unsealed following McAfee's arrest in Spain pending extradition.

The case is [No. 1:20-cv-08281](#).

Attorneys: Richard Halsey Best for the SEC.

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