

Congress of the United States
Washington, DC 20515

September 9, 2024

Gurbir Grewal
Director
Division of Enforcement
U.S. Securities and Exchange Commission
100 F Street NE
Washington D.C. 20549

Dear Director Grewal:

We write to express our strong concerns about the “regulation by enforcement” and the seemingly arbitrary and capricious nature of the enforcement of securities laws by the Securities and Exchange Commission (“SEC”) during your tenure as the Director of the Division of Enforcement (“Division”). Since your appointment to the position, the SEC has dedicated a disproportionate amount of its enforcement resources to pursue actions against digital asset companies and reflect Chair Gensler’s politicized agenda against the industry.¹

For market participants that want to comply with the law, this has led to one of the most challenging periods for the digital asset ecosystem. Under your direction, it has become commonplace for the SEC to issue Wells notices, announce settlements, or bring enforcement actions against the digital asset ecosystem in lieu of the SEC issuing clear guidance to the digital asset ecosystem’s legitimate and well-intentioned market participants. The Division’s high-profile lawsuits against digital asset intermediaries and celebrities like Kim Kardashian also demonstrate the SEC is more occupied with making a political stunt than providing regulatory clarity.²

To make matters worse, this inconsistent and aggressive approach to enforcement has taken a toll on SEC staff and has impacted ongoing enforcement actions.³ There have been reports of an accelerated pattern of senior staff attorneys departing your Division.⁴ Furthermore,

¹ Declan Harty, *SEC’s Gensler turns tide against crypto in courts*, POLITICO, (May 5, 2024), available at <https://www.politico.com/news/2024/05/05/gary-gensler-sec-crypto-00154769>

² See SEC Cryptocurrency Enforcement 2023 Update, Cornerstone Research, (Jan. 24, 2024) <https://www.cornerstone.com/wp-content/uploads/2024/01/SEC-Cryptocurrency-Enforcement-2023-Update.pdf>.

³ See e.g., SEC Office of the Inspector General, *The Inspector General’s Statement on the SEC’s Management and Performance Challenges*, (Oct. 13, 2022), available at <https://www.sec.gov/files/inspector-generals-statement-sec-mgmt-and-perf-challenges-october-2022.pdf> (“Despite OHR’s and OMWT’s efforts and the SEC being recognized as one of the best places to work in the federal government, the SEC seems to be facing challenges to its retention efforts.”)

⁴ See e.g. Justin Wise, *SEC Crypto Litigation Unit Leader Leaves to Join White & Case*, Bloomberg, (Feb. 21, 2024), available at <https://news.bloomberglaw.com/business-and-practice/sec-crypto-litigation-unit-leader-leaves-to-join-white-case>; Bruce Love, *When Jumping Ship Gathers Momentum*, Law.com, Aug. 22, 2022, available at <https://www.law.com/nationallawjournal/2022/08/22/when-jumping-ship-gathers-momentum/>; Eleanor Terrett &

on March 18, 2024, the U.S. District Court of Utah sanctioned two SEC attorneys for acting in “bad faith” when it was discovered that those attorneys obtained a temporary restraining order against a defendant under false pretenses.⁵ In a rare rebuke, the Court determined that the attorneys’ actions “constitute[d] a gross abuse of the power entrusted to it by Congress” such that sanctions were warranted.⁶ These sanctions damage the SEC’s reputation while also confirming the widely held belief that the agency’s current leadership will pursue enforcement actions against digital asset companies at any cost.

The U.S. possesses the most robust and liquid capital markets in the world, and it is disconcerting that the SEC’s enforcement arm continues to erode its well-earned reputation and credibility in the eyes of the investing public. Congress should have confidence in the SEC’s ability to faithfully and impartially enforce our securities laws. Under the Biden Administration, we have not seen the SEC demonstrate the independence needed to help carry out its mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. We urge you to reconsider your current approach and redirect the SEC’s focus towards fostering a fair and transparent regulatory environment for all market participants. Immediate action is needed to restore faith in the Division’s ability to operate without bias or political influence.

Sincerely,



French Hill
Member of Congress



Bill Huizenga
Member of Congress



Pete Sessions
Member of Congress



Tom Emmer
Member of Congress



Alexander X. Mooney
Member of Congress



Warren Davidson
Member of Congress

Charlie Gasparino, *SEC leaders with nearly 50 years' experience quit under Gary Gensler's tenure*, Fox Business, (May 31, 2022), available at

<https://www.foxbusiness.com/politics/sec-leaders-50-years-experience-quit-gary-gensler>

⁵ SEC v. Digital Licensing, Inc., et al., No. 2:23-cv-00482-RJS-DBP (D. Utah filed Mar. 18, 2024) ECF No. 275.

⁶ *Id.* at p. 73.



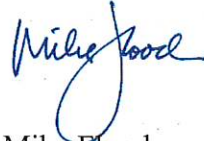
John Rose
Member of Congress



Dan Meuser
Member of Congress



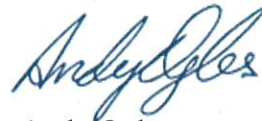
Byron Donalds
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Mike Flood
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Erin Houchin
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Andy Ogles
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