

Lawsuit Over Crypto Promotion Targets Celebrity Endorsements

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December 13, 2022

Imagine a “vast scheme between a blockchain start-up company,” a “highly-connected Hollywood talent agent,” and a “front operation,” who all united “for the purpose of promoting and selling a suite of digital assets.” No, that’s not the plot of a Hollywood movie – at least not yet – but it is the plot of a lawsuit that was filed against Yuga Labs (the company), Guy Oseary (the agent), MoonPay (the front operation), and over a dozen celebrities (including Jimmy Fallon and Post Malone).

One of the central themes in the 94-page complaint involves an alleged plot in which Yuga Labs and Oseary engaged celebrities to promote Yuga Labs’ Bored Ape Yacht Club NFTs without disclosing their connection to the company. For example, on a November 11, 2021 episode of the *Tonight Show*, Jimmy Fallon announced that he “did his homework” on how to purchase an NFT and found MoonPay, which was “like the PayPal of crypto.” Using MoonPay, he “bought an ape.”

Later that day, MoonPay posted a clip from the show on Twitter, suggesting that it was surprised by Fallon’s on-air announcement. Over the next few days, Fallon tweeted about his NFT and MoonPay’s CEO responded, congratulating Fallon on his purchase. The plaintiffs argue that although these exchanges were designed to look spontaneous, Fallon was actually compensated for his promotion. Nevertheless, neither he, MoonPay, or YugaLabs disclosed that.

https://twitter.com/moonpay/status/1458761049075769351?s=20&t=ntA_vzg_M2poZo2ADKag7g

The complaint includes examples of collaborations with other celebrities. For example, the plaintiffs allege that a wallet owned by Post Malone received over \$1.4M in ether cryptocurrency from MoonPay, in addition to a Bored Ape Yacht Club NFT, around the same time Malone released a music video that included a clip of him using the MoonPay app phone to purchase an NFT. Again, MoonPay tweeted its surprise. Neither the video nor the tweet mentioned that the video was sponsored.

The plaintiffs claim, among other things, that they wouldn’t have purchased Bored Ape Yacht Club NFTs had they known that the celebrity endorsements were sponsored, “as opposed to being the result of an organic and genuine interest.” Although the complaint doesn’t mention the FTC’s Endorsement Guides, it certainly echoes themes that are central to the Guides, including the idea that influencers should disclose the connections they have to the companies whose products they promote.

This case covers a lot of ground – ranging from alleged violations of consumer protection laws to alleged violations of securities laws – and it will be interesting to see how it plays out. For now, it’s worth noting that although the [FTC](#), [state AGs](#), and [other regulators](#) have taken the lead in ensuring that companies and influencers comply with the Endorsement Guides, plaintiffs’ attorneys are also

paying attention to paid promotions that are disguised as “organic and genuine interest.”