

Cryptocurrency

SEC Charges Apex Partner Behind \$852K Alleged Crypto Fraud

September 11, 2024 By  **Michael A. Mora**

What You Need to Know

- The U.S. Securities and Exchange Commission sued an investment fund manager in a federal district court in Alabama.
- Apex Financial Institute Pvt. Ltd. had at least \$852,000 in crypto assets from approximately 70 domestic and international investors.
- An expert not involved in the matter said,

The U.S. Securities and Exchange Commission charged a private fund manager in a federal district court in Alabama with defrauding approximately 70 domestic and international investors from whom he raised at least \$852,000 of crypto assets.

Renato Mariotti, a partner at Paul Hastings's investigations and white-collar defense practice in the Am Law 50 firm's Chicago office, is not involved in the SEC's three-count fraud lawsuit against the defendant, James O. Ward, Jr., head of marketing for Apex Financial Institute Pvt. Ltd.

"It is amazing that someone like Ward can get away with repeated frauds," Mariotti said. "Here's a man who has already been investigated for a Ponzi scheme and destroyed evidence. Nonetheless, during the same time period, he was engaged in a different type of fraud. If the allegations are true, it shows that for some people, fraud comes naturally to them."

Now, the case is pending before U.S. District Judge Kristi K. DuBose, who presides on the Southern District of Alabama bench.

For Ward, the action brought by the SEC is not his first rodeo with the federal government, court records show. In a consent order entered with the Commodity Futures Trading Commission in March 2022, Ward admitted that between May 2017 and August 2017, he engaged in a Ponzi scheme in which he used a website to solicit over \$20 million of investments and destroyed relevant evidence.



U.S. Securities and Exchange Commission building. (Photo: Diego M. Radzinski/ALM)

Meanwhile, Ward and two other individuals formed Apex in the British Virgin Islands in February 2021, court records show. In doing so, Ward was responsible for marketing Apex to potential investors while his two parents handled its administrative functions. Apex began accepting investments the next month in what it planned to offer as "pooled investment fund interests."

Over the next six months, Apex received at least \$852,000 worth of crypto assets, per the SEC lawsuit. Each of the 70 investors created an account on Apex's website and received a unique crypto asset address to which they sent crypto assets as part of their investment. Apex did not receive any upfront or management fees. Instead, Apex was to receive 30% of investor profits.

To solicit investors, Ward live-streamed several Apex investor presentations that were "replete with material misrepresentations and materially misleading omissions concerning, among other things, Apex and its history, the nature of investments in Apex, and historical returns achieved by Apex," according to the lawsuit.



Renato Mariotti, partner at Paul Hastings. (Courtesy photo)



Arlo Devlin-Brown of Covington & Burling. (Courtesy photo)

For instance, Apex claimed it was a hedge fund with offices in Dubai and Cyprus when it was run remotely out of the homes of its three principals, per the lawsuit. Apex also represented that it had developed trading strategies in crypto assets, commodities, real estate, and other assets that eliminated any risk of loss for investors.

Apex initially placed investor money with two outside funds, one engaged in commodity trading and another in high-frequency crypto asset trading, according to the lawsuit. The commodity trading fund incurred losses of 80%, while the crypto-asset trading fund was never deployed because it was in the process of restructuring.

In September 2021, Ward disclosed to his two partners that he was under investigation by the Commodity Futures Trading Commission because he was involved in something that might be a Ponzi scheme and that "it was bad," per the lawsuit. As a result of the revelation, along with the investment losses, Ward's parents decided to shut down Apex.

"This shows that individuals appear to be still using crypto as bait to lure investors into what are essentially old-fashioned get-

rich-quick schemes," said Arlo Devlin-Brown, a partner at Covington & Burling in the Am Law 50 firm's New York office who is an expert in white-collar defense and is not involved in the matter.

"The allegations here are bread and butter fraud."

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