

News **Securities Litigation**

SEC Commissioner: Ripple Settlement Shows Regulator at War With Itself

May 09, 2025 By  **Michael A. Mora**

What You Need to Know

- The SEC's settlement with Ripple Labs is part of the agency's pivotal shift in enforcement strategy.
- An SEC commissioner claimed that the agency is retreating from its own legal arguments to avoid a binding appellate ruling.
- An expert said the agency's settlement marks a larger pattern of resolving or pausing crypto-related litigation until it develops and announces rules for regulating digital assets.



U.S. Securities and Exchange Commission building in Washington, D.C. Photo: Mike Scarcella/ALM

While the U.S. Securities and Exchange Commission confirmed a settlement with Ripple Labs Inc. late Thursday, Commissioner Caroline A. Crenshaw urged the courts, in her dissent, “to take a long hard look at the Commission’s attempt to claw back the meritorious claims it previously made, and gut its own enforcement program from the inside out.”

And in the dissent, Crenshaw wrote that she has full confidence in the arguments the SEC made to the U.S. Court of Appeals for the Second Circuit on appeal over the Ripple litigation and equal confidence in the talent of the agency's attorneys who advanced those arguments—which motivated her dissent to the settlement.

“Our agency is, I fear, worried that the appellate court would issue a sound ruling that agreed with the legal arguments already laid out by the Commission,” Crenshaw said. “That would undermine

the agency's new apparent mission of dismantling our crypto enforcement program and eroding investor protections. For these reasons, I cannot support our settlement."

'Innovation and Risk'

The SEC filed an enforcement action against Ripple, its CEO, Bradley Garlinghouse, and its executive chair, Christian A. Larsen, in 2020. The SEC alleged that the sale of Ripple Lab's XRP tokens amounted to a \$1.3 billion unregistered securities offering.

U.S. District Judge Annalisa Torres, who presides in the U.S. District Court for the Southern District of New York, held on summary judgment that Ripple did sell unregistered securities to the direct buyers, characterized as "institutional buyers," but that the crypto exchange did not sell unregistered securities to the secondary market, labeled "programmatic buyers" who purchased the XRP token through platforms or exchanges.

But the SEC disagreed with the partial ruling and filed an appeal to overturn that decision. The court also ordered Ripple to stop breaking the law against selling securities and issued a \$125 million fine, which the crypto exchange appealed.

Meanwhile, under the Biden administration, then SEC Chair Gary Gensler, with the backing of the Commission, issued Wells notices and sued a broad array of crypto companies. Those actions led to hundreds of millions of dollars in campaign donations from the industry ahead of the 2024 presidential and congressional elections.

Among the recipients was Donald Trump, whose presidential platform included promises to create a strategic digital asset reserve and to end the SEC's "war on crypto." That war led the SEC to claim several wins in litigation against various crypto companies, their executives and investors, resulting in precedential rulings.

Trump has mostly followed through on his promises while also facing calls of corruption based upon his family's pivot, ahead of and following the election, to investments in the digital asset space—for instance, impeding the passage on Thursday of a first-of-its-kind bill aimed at regulating cryptocurrencies because of the president's ties (an ironic outcome as Democrats, who traditionally favor regulation, were the main last minute drivers against the legislation).

Now, it will be up to the federal court to approve the settlement the SEC obtained from Ripple, Garlinghouse and Larsen to resolve the Commission's civil enforcement action. In doing so, the SEC confirmed the defendant's announcement in March that the agency likely has ended its four-year legal battle against the exchange.

And the settlement provides that the Commission and Ripple would jointly request the district court to issue an indicative ruling that would dissolve the injunction against Ripple in the district court's Aug. 7 final judgment, as well as order the release of the escrow account holding the more than \$125,000 civil penalty imposed by the final judgment, with \$50 million paid to the Commission in full satisfaction of that penalty and the remainder returned to Ripple.

Following that, the settlement provides that the Commission and Ripple will seek a limited remand to the district court for that relief, after which they would move to dismiss their respective appeals from the final judgment, which are currently pending in the Second Circuit.

"The Commission's decision to exercise its discretion and seek a resolution of this pending enforcement action rests on its judgment that such resolution will facilitate the Commission's ongoing efforts to reform and renew its regulatory approach to the crypto industry, not on any assessment of the merits of the claims alleged in the action," the SEC said in a statement.

Arlo Devlin Brown, a partner at Covington & Burling and former chief of the Southern District of New York's public corruption unit, said in an email that the settlement with Ripple is part of the SEC's continuing pattern of resolving or pausing crypto-related litigation until it develops and announces rules for the regulation of digital assets.

"It's far from clear when we'll get those rules, though, as efforts to enact a new regulatory regime have been stalling in Congress," Brown said. "Until new regulatory guidance is issued, the crypto world will continue to operate in a vacuum. The SEC's decision to back off has encouraged players in the industry to push the envelope in both innovation and risk, but how this all shakes out in the end is anyone's guess."

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