Articles + Publications | September 16, 2022

Plea Deal in First-Ever Cryptocurrency Insider Trading Case

WRITTEN BY

Jay A. Dubow | Megan Conway Rahman | Ghillaine A. Reid

In what the Manhattan federal prosecutors have touted as the first-ever guilty plea in an insider trading case involving cryptocurrency, the brother of a former Coinbase Global, Inc. (Coinbase) product manager pled guilty to one count of conspiracy to commit wire fraud in connection with a scheme to commit insider trading in cryptocurrency assets.

On September 12, Nikhil Wahi admitted to trading crypto assets based on Coinbase confidential information he received from his brother who participated in the highly confidential process of listing crypto assets on Coinbase's exchanges. U.S. Attorney for the Southern District of New York Damian Williams said in a statement that "[t]oday's guilty plea should serve as a reminder to those who participate in the cryptocurrency markets that the Southern District of New York will continue to steadfastly police frauds of all stripes and will adapt as technology evolves."

Wahi was charged in July in an indictment, alleging that he and a friend received advanced tips from his brother about new digital assets Coinbase planned to list on its exchanges. They then then used anonymous Ethereum blockchain wallets to acquire those crypto assets before Coinbase publicly announced its listings, resulting in at least 14 trades before the June 2021 and April 2022 announcements. Following Coinbase's public listing announcements, Wahi and his friend sold the crypto assets for a profit. To conceal the purchases, they used accounts at centralized exchanges held in others' names and transferred funds, crypto assets, and the proceeds through multiple anonymous Ethereum blockchain wallets. Prosecutors alleged that the scheme resulted in at least $1.5 million in profits for the defendants.

The plea deal included a $54,000 forfeiture order, and prosecutors agreed to a stipulated nonbinding guidelines range of 10 to 16 months in prison. Sentencing is scheduled for December 13.

During his plea hearing, Wahi stated: "While I did not believe cryptocurrency was a security, I knew it was wrong to receive Coinbase's confidential information and make trading decisions based on that confidential information." In response, Assistant U.S. Attorney Noah Solowiejczyk said that whether or not cryptocurrency is a security is not relevant to the charge of conspiracy to commit wire fraud.

"It's not an element of the offense to which the defendant is pleading guilty, and for that reason the defendant's decision to resolve this case with a wire fraud plea should not be understood as a statement about whether these crypto assets at issue were in fact securities or whether the defendant needed to know that they were securities,"

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Solowiejczyk said.

Significantly, the plea legitimizes the government's use of wire fraud in crypto insider trading cases, which the government argues does not require proof that the crypto assets are securities or commodities. This also will put pressure on defendants to settle with the U.S. Securities and Exchange Commission (SEC), which accused Wahi and others of securities fraud. A settlement will help the agency avoid having to try a case where it would need to prove that tokens traded on Coinbase are actually securities. It is likely that in other cases, defendants will challenge the SEC as to whether or not these assets are securities, and we will continue to monitor the cases as they work their way through the judicial system.

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