

Securities Investigations and Enforcement Newsletter — July 2025

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TROUTMAN PEPPER LOCKE'S SECURITIES INVESTIGATIONS + ENFORCEMENT PRACTICE

Our Securities Investigations + Enforcement practice has expanded significantly due to our recent merger, enhancing our capabilities nationwide, including in our San Francisco, Dallas, and New York offices. We counsel and defend clients throughout all stages of securities enforcement proceedings, representing a diverse range of clients, including major financial institutions, senior corporate executives, boards of directors, and various entities in the financial services industry. Our team handles investigations by regulatory bodies such as the SEC, FINRA, and the Department of Justice. Leveraging decades of experience and including former key government officials, we develop informed and effective strategies tailored to each client's unique needs. To read more about our capabilities, please click [here](#).

In the Spotlight

Team Member Spotlight

Casselle Smith, a partner in Troutman Pepper Locke's Raleigh office, effectively navigates the complexities of SEC investigations. She represents public companies and senior executives in matters involving cybersecurity breaches, SPAC mergers, initial public offerings, and off-channel communications. Casselle's practice involves providing strategic guidance to help clients navigate federal securities laws, reduce regulatory exposure, and strengthen compliance programs.

Casselle takes on matters at every organizational level, from allegations involving frontline employees to high-stakes cases concerning corporate officers and directors. Casselle also has extensive experience representing major broker-dealers and investment advisers during regulatory investigations, addressing both routine exams and targeted inquiries due to significant customer harm concerns.

For more information, please see [Casselle's bio](#).

In the News

Our team frequently comments on emerging trends and developments in the legal industry. Below are several media quotes from one of our esteemed team members, offering insights and perspectives on current issues.

Jay Dubow was recently quoted in:

- [“SEC Chair Atkins Shakes Up Pre-Enforcement Action Process,”](#) *FundFire*, July 14, 2025.
- [“Will SEC Examiner Departures Mean Less Retail Alts Scrutiny?,”](#) *FundFire*, May 15, 2025.

Webinars

- Jay Dubow recently participated in a webinar hosted by the American Bar Association’s Business Law Section, which focused on the latest developments in jurisprudence related to derivative suits.

Title: [Review of Derivative Suits and Demands on Boards of Directors: What Is Demand Futility?](#)

SEC Updates

SEC WHISTLEBLOWER AWARDS FACE SCRUTINY AS DENIALS RISE

By [Jay A. Dubow](#) and [Ghillaine A. Reid](#)

A recent article by Bloomberg Law highlighted a significant shift in the Securities and Exchange Commission’s (SEC) approach to whistleblower claims. The article, [“Whistleblower Awards Slow to Trickle as SEC Raises Bar on Claims,”](#) reveals that the SEC has denied awards in 31 consecutive orders between April 21 and July 15, marking the longest drought in the history of the program established by the Dodd-Frank Act of 2010.

Bloomberg Law’s Findings

Bloomberg Law’s review of 65 final orders issued this year shows that the SEC has approved only about 13% of claims, a stark contrast to last year’s 37% approval rate by the end of July. According to Bloomberg Law, this decline has raised concerns among attorneys and whistleblower advocates about the commission’s current practices, with both groups agreeing that the SEC is scrutinizing cases more closely.

The article also discusses the SEC’s recent rebuke of a \$14 million award given to Carson Block, CEO of Muddy Waters Capital, in 2022. Block’s award, initially granted despite not following formal tip submission procedures, has become entangled in lawsuits and allegations of inconsistent rule application. The SEC’s May 5 order disavowed the previous commission’s approach, emphasizing adherence to statutory requirements.

Perspectives on the Program’s Future

The SEC has previously touted its Whistleblower program as a key component of its enforcement efforts. In the past, the SEC also has widely publicized its whistleblower monetary awards to encourage others to become whistleblowers. The findings published by Bloomberg Law suggest that the current SEC may be trying to tamp down on the program.

JUDICIAL SCRUTINY INTENSIFIES: THE EVOLVING ROLE OF SHORT-SELLER REPORTS IN SECURITIES

CLAIMS

By [Jay A. Dubow](#), [Mary Weeks](#), [Bianca DiBella](#), and [Chloe Ann C. Lee](#)

Courts have shown a growing skepticism toward plaintiffs' use of short-seller reports to plead loss causation for securities claims. Recent decisions have increasingly dissected when a short-seller report will fail to survive attacks from a motion to dismiss. This article will address recent case developments across various circuits before addressing the key takeaways from this narrowing trend.

[Click here to read the full article in *Business Law Today*.](#)

CONVICTION IN INSIDER TRADING CASE BRINGS NEW ATTENTION TO 10B5-1 PLANS

By [Jay A. Dubow](#), Rob Evans, [Stanley Keller](#), [Eugene W. McDermott Jr.](#), [David I. Meyers](#), and [Ghillaine A. Reid](#)

On June 23, the U.S. Department of Justice [announced](#) that Terren Scott Peizer, founder of Ontrak Inc., a Miami-based publicly traded health care company, has been sentenced to three and a half years in prison by a California federal judge. This conviction is notable for its focus on the misuse of 10b5-1 trading plans, which are designed to allow corporate insiders to schedule stock transactions in advance, ensuring that decisions are not influenced by undisclosed material information. Alongside the prison sentence, Peizer has been ordered to pay a \$5.25 million fine and forfeit over \$12.7 million in gains deemed illicit.

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SEC BRIEFS DISGORGEMENT AND INVESTOR HARM IN *NAVELLIER V. SEC*

By [Jay A. Dubow](#) and [Ghillaine A. Reid](#)

In the recent Supreme Court case, *Navellier & Associates, Inc. v. Securities and Exchange Commission* (SEC), the petitioners sought a writ of certiorari challenging the decisions of the lower courts regarding the scope of disgorgement and the materiality standard applied in securities fraud cases. On May 5, the SEC filed its [brief in opposition](#) to the petition.

[Read more](#)

Cannabis Updates

RECENT SEC AML ENFORCEMENT ACTIONS' IMPACT ON COMPLIANCE EFFORTS IN THE CANNABIS SECTOR

By [Jay Dubow](#) and [Jessica McClellan](#)

Investing in the cannabis industry is not without its risks, given the evolving regulatory landscape and the varying state and federal statuses of the product itself. The Financial Crimes Enforcement Network (FinCEN) has shown it will continue to enforce its 2014 Marijuana Bank Secrecy Act (BSA) Guidance, despite the rescission of the Cole Memo in 2018, which initially informed this guidance. Additionally, for public companies and other entities subject

to oversight by the Securities and Exchange Commission (SEC), recent SEC enforcement cases reinforce the necessity of rigorous due diligence and adherence to anti-money laundering (AML) protocols, especially given that FinCEN maintains that all financial transactions involving marijuana remain federally illegal.

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Foreign Private Issuers Updates

FOREIGN PRIVATE ISSUERS: HAVE YOU ASSESSED YOUR STATUS UNDER US SECURITIES LAWS?

By [Thomas M. Rose](#), [Nicole A. Edmonds](#), [Shona Smith](#), [Jason L. Langford](#), and [Joseph T. Cataldo](#)

For foreign private issuers registered with the U.S. Securities and Exchange Commission (SEC), there are several filing statuses that affect the content of various disclosures that must be made public. Foreign private issuers filing periodic reports with the SEC must at least annually assess their status to determine which SEC requirements are applicable to them. This alert explores these various SEC statuses as applicable to foreign private issuers.

[Read more](#)

TIME TO ASSESS “FOREIGN PRIVATE ISSUER” STATUS – 2025

By [Thomas M. Rose](#), [Shona Smith](#), [Nicole A. Edmonds](#), [Jason L. Langford](#), and [Joseph T. Cataldo](#)

It is time to assess “foreign private issuer” status. Foreign public and private issuers enjoy the benefits of significant exemptions and exclusions from registration under U.S. federal securities laws based on whether they are “foreign private issuers” as defined under the U.S. federal securities laws. The determination of whether issuers satisfy the definition must be run on the last business day in June for issuers with a December 31 fiscal year end.

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SEC CONSIDERS CHANGES TO DEFINITION OF FOREIGN PRIVATE ISSUER

By [Thomas M. Rose](#), [Nicole A. Edmonds](#), [Shona Smith](#), [Alexander T. Yarbrough](#), and [Joseph T. Cataldo](#)

On June 4, 2025, the U.S. Securities and Exchange Commission (SEC) published a [concept release](#) soliciting public comment on the definition of a foreign private issuer (FPI) and whether changes are needed to reflect the current state of the U.S. markets. Concept releases typically outline a topic of concern, identify different potential approaches, and raise a series of questions for public input.

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Supreme Court Updates

SUPREME COURT DENIES CERTIORARI IN SEC DISGORGEMENT CASE

By [Jay A. Dubow](#) and [Ghillaine A. Reid](#)

On June 6, the U.S. Supreme Court [denied](#) the petition for certiorari in the case of *Navellier & Associates, Inc. v. Securities and Exchange Commission* (SEC). This decision effectively upholds the lower courts' rulings, allowing the SEC to continue its practice of disgorging profits obtained through fraudulent activities without needing to prove direct financial harm to investors.

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Digital Assets Updates

NAVIGATING CHANGE: FIRST 100 DAYS UNDER THE TRUMP ADMINISTRATION

By Alexandra Steinberg Barrage, [Ethan G. Ostroff](#), [Akshay N. Belani](#), [Jaremi Chilton](#), [Jay A. Dubow](#), [Seth M. Erickson](#), [Peter E. Jeydel](#), [Heryka R. Knoespel](#), [Deborah Kovsky-Apap](#), [Peter D. Leary](#), [Michael S. Lowe](#), [Joseph "Joe" Reilly](#), [Alex R. Rovira](#), [Chris J. Willis](#), [Carlos Marin](#), [Jesse B. Silverman](#), [Matthew R. Cali](#), [Christopher J. Capurso](#), [Alyssa P. Cavanaugh](#), [Nicole S. Giffin](#), [Charlene C. Goldfield](#), [David Madrazo](#), [Keegan T. McCoy](#), [Matthew Morris](#), [William C. Mullen](#), [Philip D. Nickerson](#), [Isabela P. Herlihy](#), [Julia St. John](#), and [William "Trey" Smith](#)

We are pleased to share with you our latest publication, "Navigating Change: First 100 Days under the Trump Administration," authored by our Digital Assets + Blockchain team. This retrospective examines the pivotal developments in the digital assets industry during the initial phase of the Trump administration.

[Read more](#)

SEC CLARIFIES DISCLOSURE REQUIREMENTS FOR CRYPTO ASSET SECURITIES

By [Genna Garver](#) and [Ethan G. Ostroff](#)

On April 10, the Securities and Exchange Commission's (SEC) Division of Corporation Finance (the Division) issued a [statement](#) aimed at providing greater clarity on the application of federal securities laws to crypto assets. These offerings may involve equity or debt securities of issuers whose operations relate to networks, applications, and/or crypto assets. The offerings may also relate to crypto assets offered as part of or subject to an investment contract (such a crypto asset, a "subject crypto asset"). The statement does not modify or amend existing rules, but instead tries to translate the traditional disclosure requirements for the unique realities of the crypto asset universe. Notably, the statement also does not address whether or not crypto assets are deemed securities for purposes of federal securities laws, rather, the statement addresses disclosure requirements for those issuers offering crypto assets as part of or subject to an investment contract.

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Our Cannabis Practice provides advice on issues related to applicable federal and state law. Cannabis remains an illegal controlled substance under federal law.

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