Demolition by Design: The Atkins SEC's Abandonment of Its Investor-Protection Mission Under the False Flag of Innovation

Prepared Written Testimony of John Reed Stark

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Permanent Subcommittee on Investigations

&

Banking, Housing, and Urban Affairs Committee

"Trump's Crypto Corruption"

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John Reed Stark
President, John Reed Stark Consulting LLC
Former Chief, Office of Internet Enforcement, U.S. Securities and Exchange Commission

Opening Statement

Ranking Member Blumenthal and Senior Member Van Hollen: Thank you for the honor of appearing before you.

Imagine a Surgeon General who spends his weekends filming cigarette commercials. Or a fire marshal who tours the country selling kerosene and space heaters to families living in wooden houses. Or a lifeguard who charges swimmers admission to the riptide.

That is precisely what has happened at the U.S. Securities and Exchange Commission. Paul Atkins, the Chairman of the agency created in the wreckage of the Crash of 1929, the agency whose singular purpose for more than ninety years has been to stand between the investing public and engineered euphoria, has become the single most powerful promoter of the most dangerous, most demonstrably worthless, and most crime-enabling asset class in the history of American finance.

Yes, you heard that right. The man who runs the agency built to police crypto's Ponzi economics has become the structure's most credentialed recruiter. That is why I say, carefully and advisedly: Paul Atkins has become, in function and effect, America's first Chief Ponzi Officer. Because when the head of the agency built to police Ponzi schemes personally tours conferences, television studios, and social media promoting a so-called asset class whose returns to early holders depend entirely on recruiting later buyers, while dismantling every protection those later buyers would otherwise enjoy, what other title fits?

That label is not rhetoric. It is arithmetic. The numbers are in, and they are worse than anyone imagined. For example, nearly one million buyers of the President's memecoin have reportedly lost money: $3.81 billion in all. The profits ran the other way: $4 billion, concentrated in a small cohort of early, sophisticated wallets that got out on the way up. And the promoters collected $636 million, up or down, win or lose, paid on every trade. Money in from the many, out to the early few, with the house collecting every hand. A classic Ponzi scheme.

And what is Chairman Atkins's answer to one million investors holding those losses? Not an investigation. Not an enforcement action. Not even a word of caution or concern. In every other precinct of American life, a million casualties triggers a response: the product is recalled, the fleet is grounded, the assembly line stops. At today's SEC, a million casualties triggers a Paul Atkins crypto circus and road show, with the same pitch every time: America will be the "Crypto Capital of the World." And still he persists, insisting that America's 401(k)s and IRAs belong in the very asset class that just produced this body count. That is indefensible.

Just ask the question every analyst asks of every asset, including the mathematical computational blather of crypto: what am I buying? A stock is a claim on earnings. A bond is a promise of repayment. Real estate pays rent. Crypto tokens typically have no cash flow, no yield, no earnings, no employees, no products, no balance sheet, and no claim on anything, a boundless data vacuum that makes genuine valuation impossible and leaves only one price support: the arrival of the next buyer. The mechanism that fills the valuation vacuum is not analysis; it is social proof (Madoffesque groupthink, weaponized) and the nation's chief investor-protection officer has made himself its most potent signal.

Just watch what Atkins does next, because the next act is already in rehearsal. Five days before this hearing, the SEC reshuffled its enforcement leadership, and the forecast is a shiny new era of retail-investor protection built on Regulation Best Interest, the rule that forbids a financial professional from recommending an investment unless it is in the customer's best interest.

Yet the SEC cannot enforce best interest with one hand and run Project Crypto with the other. Why? Because crypto remains the single riskiest product being mass-marketed to retail investors in America. How could it ever be in a retail customer's best interest to buy an asset with no financial statements, no prospectus, no earnings, no federal audits, no insurance, no recourse when the private key disappears, and the worst loss record of any investment product in modern history? A broker who recommended a conventional security with that profile would be drafting the SEC's complaint against himself.

Atkins has silenced the SEC's own enforcement program to the point of no return, and I mean that literally. Where the hobnail boots of yesteryear once stood, there is now an invisibility cloak. And the SEC abdication is sold to you, and to the American people, under one word: innovation. That is Atkins's signature ruse, and it borders on the absurd.

Chairman Atkins has bet the entire SEC on blockchain and tokenization: Project Crypto, Regulation Crypto, and a regulatory agenda promising a Fourth Industrial Revolution of on-chain finance. Yet, who is not making that bet? Amazon, Apple, Google, Meta, Microsoft, and Oracle. Their blockchain spending, rounding generously to zero. Read their earnings calls and their annual reports: blockchain appears nowhere, not as a strategy, not as a growth driver, not even as a risk factor. The "innovation" Atkins is selling is a technology America's actual innovators examined, tested, and buried. Tokenization is the showpiece: it solves no problem any investor actually has, it strips the vote, the dividend, and the safety net from shares investors can already buy outright, and it relabels that subtraction as progress. Retail investors never asked for any of it; they are simply being volunteered, to be the liquidity, the customers, and the eventual victims.

This week Congress is being asked to make the Atkins demolition permanent. Senators are deciding the fate of a bill its sponsors call the CLARITY Act, which is the worst piece of financial legislation in modern American history.

The CLARITY Act would transfer the bulk of crypto oversight from a 4,000-person expert agency to a 556-person CFTC that currently operates with a single confirmed commissioner, a chairman who previously served as counsel to Paul Atkins himself, and whose predecessor-nominee was withdrawn after crypto billionaires objected. The industry now vets its own regulator. The Act would preempt state blue-sky enforcement, hand issuers a self-certification pathway, and consign DeFi to a supervisory black hole beyond both agencies. For four straight financial catastrophes across a century, Congress answered darkness with sunlight; the CLARITY Act would be the first major financial legislation in American history enacted to answer darkness with less light, enabling a post-apocalyptic Walking Dead-like cesspool of greed, chicanery, and grift.

Finally, let me take you beyond this hearing room, because crypto's dire externalities are not abstractions, the carnage is not theoretical. Every sanctioned drone and missile program topped up in stablecoins is an externality. Every retiree's savings drained through a crypto ATM, parked where the payday lenders used to be, is an externality. Every ransomware payment is an externality: the hospital diverted, the school district locked out of its own files – because but for crypto, especially bitcoin, ransomware would not exist. When I sat in a meeting at FBI headquarters with the government’s senior cyber officials and asked how often the FBI recovers a ransomware payment once it is made, a senior FBI agent answered my question firmly, and in one word: “never.”

The Stark Reality is this, and it cannot be overstated: Paul Atkins tours the crypto circuit like a raving Big Crypto sycophant, force-feeding investors his Atkins Diet of crypto laissez-faire, all while reveling in his role as America’s first Chief Ponzi Officer. It’s time to stop the hustle.

Thank you, and I look forward to your questions.

Written Testimony

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I. Introduction

Ranking Member Blumenthal, and Senior Member Van Hollen: Thank you for the honor of appearing before you.

Thank you for inviting me to testify at today’s hearing. My name is John Reed Stark, and I am the President of John Reed Stark Consulting LLC. I have spent the past 37 years working as a lawyer in multiple roles at the intersection of law, business, and technology. My experience includes over 18 years at the Enforcement Division of the U.S. Securities and Exchange Commission (SEC) (including 11 years as Chief of the SEC’s Office of Internet Enforcement and 4 years before that as Special Counsel for Internet Projects). In addition, I have been teaching various courses on securities regulation and cybersecurity law at the Georgetown and Duke law schools for the past 20 years or so. I also spent 5 years at the Washington, D.C. office of data breach response and digital forensics firm Stroz Friedberg (4 years of which as Managing Director in Charge of the office). The views expressed today are my own.

Imagine a Surgeon General who spends his weekends filming cigarette commercials. Or a fire marshal who tours the country selling kerosene and space heaters, door to door, to families living in wooden houses. Or a lifeguard who charges swimmers admission to the riptide.

You would stop asking about the official's judgment and start asking whether the office itself still existed, whether the title had become a costume.

That is precisely what has happened at the United States Securities and Exchange Commission. The Chairman of the agency created in the wreckage of the Crash of 1929, the agency whose singular purpose for more than ninety years has been to stand between the investing public and engineered euphoria, has become the single most powerful promoter of the most dangerous, most demonstrably worthless, and most crime-enabling asset class in the history of American finance. He has dismissed the SEC's own winning cases.[1] He has dismantled the SEC's own specialized enforcement unit. He has silenced the SEC's own enforcement program to the point of invisibility, and I do not use the word "invisibility" as rhetoric. As I will demonstrate with empirical precision, invisibility is not a side effect of Chairman Paul Atkins's SEC. Invisibility is the goal.

I do not come to this conclusion casually, and I do not come to it as a stranger to Paul Atkins. I know Paul Atkins. I worked at the SEC's Division of Enforcement for the entirety of his term as an SEC Commissioner, from 2002 through 2008. Across my nearly two decades at the SEC, of all the Commissioners I served under during those years, he was the one I admired most. I say that without qualification, and it is precisely why my testimony today is delivered more in sorrow than in anger, and precisely why I am left with a question I never imagined asking about a man I once held in such high regard: *How does Paul Atkins sleep at night, knowing the financial destruction his agency now enables?*

My background. I spent over 18 years in the SEC's Division of Enforcement, including 11 years as Chief of the SEC's Office of Internet Enforcement, a unit created 28 years ago to police fraud conducted through emerging technology, and a unit whose mission the current SEC has, with no apparent sense of irony, resurrected in name while burying in practice. I also served as Counselor to several of the Directors of the Division of Enforcement. After the SEC, I spent more than five years leading the incident response practice of a global cybersecurity firm, and for over 20 years I served on the law school faculties of Georgetown University and Duke University, teaching courses on securities regulation, cybersecurity, and the law of emerging technologies. For the past three decades, I have investigated, prosecuted, studied, taught, and written about financial fraud committed with new technology, from the earliest Internet pump-and-dump schemes to today's cryptocurrency catastrophes.

My independence. I have no stake in the crypto-game of any kind. I own no cryptocurrency and never have. I have no crypto clients, no blockchain practice group, no firm whose revenues depend in any way on the outcome of crypto regulation or deregulation. No one who pays me has any financial interest in whether the SEC enforces aggressively or retreats entirely. I am semi-retired and have even begun collecting Social Security. I raise this not as boilerplate, but because it matters enormously in this particular debate: virtually every voice the Senate will hear defending the current SEC's crypto posture (every industry executive, every fund manager, every outside counsel, every paid commentator) carries a financial stake in the answer. They are not offering analysis; they are marketing their inventory. When the herd looks unanimous, I respectfully urge the Members of the Senate to ask why. The people manufacturing the consensus are, almost without exception, the same people who profit from it.

My intellectual honesty, on the record. So that the Senate may calibrate my testimony fairly, four disclosures:

First, I am not a partisan critic of Republican SEC leadership. I am a lifelong Republican. In my twenties I interned for Republican Congressman Dick Cheney, and later worked as a legislative aide for the late conservative New York State Senator Michael J. Tully; I even once

[1] See infra Section III.B; e.g., SEC Litigation Release No. 26316 (May 29, 2025) (Binance dismissal with prejudice).

worked for Roger Gale, a Conservative member of the British House of Commons. I have been a registered Republican for virtually my entire adult life, I consider the Republican Party my own, and anyone in my family will tell you I am not afraid to speak up to defend it. My record on SEC leadership reflects the same loyalty, honestly applied. I have publicly praised Republican SEC Chairman Harvey Pitt as one of the most effective and prolific enforcement chairs in the agency's history; I served as Counselor to the Enforcement Director during his tenure and watched his record-breaking "Real-Time Enforcement" program from the inside. Nor did I spare Democratic leadership: within days of the November 2024 election, I publicly called for SEC Chair Gary Gensler's resignation, writing that "the people have spoken and should be respected."[2]

Second, I do not defend every enforcement case the prior SEC brought. I have written publicly that the SEC's twin cases against Elon Musk were, in my opinion, meritless and politically motivated, and should have been dismissed long ago. My objection, as I will explain, is not to *what* the Atkins SEC did in that matter, but to *how* it did it: by negotiating a settlement behind the backs of the SEC's own trial counsel, in a manner that stunned a federal judge in open court.[3]

Third, this testimony is not a criticism of President Trump for pursuing the crypto agenda he campaigned on. The President told the American people, clearly and repeatedly, that he intended to make the United States the "crypto capital of the world."[4] The voters were told exactly what they were getting, and they got it. He is keeping his promises with remarkable fidelity. But "making America the crypto capital of the world" is not the same thing as making America a safe haven for money launderers, terrorist financiers, and fraudsters, and it is emphatically not the same thing as ordering the SEC to abandon the statutory mission Congress assigned it in 1933 and 1934. That mission belongs to Congress, and only Congress can repeal it.

Fourth, every factual assertion in this testimony is drawn from publicly available sources, federal court decisions, Federal Register notices, Government Accountability Office reports, SEC Inspector General findings, the SEC's own press releases and staff statements, Treasury Department correspondence, sworn congressional testimony, blockchain forensic data, and contemporaneous reporting by major news organizations, each of which is cited in the footnotes

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[2] John Reed Stark (@JohnReedStark), post on X (Nov. 13, 2024), https://x.com/JohnReedStark/status/1856708829016109215 ("SEC Chair Gensler should resign. Like it or not, the people have spoken and their will must be respected."); see also the same-day follow-up post, https://x.com/JohnReedStark/status/1856757447832006920 ("the people have spoken and should be respected"); John Reed Stark, "Possible SEC Chair Nominations of Atkins, Bondi, Gallagher and Stebbins — Who Are These Guys?," LinkedIn (Nov. 17, 2024), https://www.linkedin.com/posts/john-reed-stark-3806866_possible-sec-chair-nominations-of-atkins-activity-7263877941560799232-aEY4, reproduced at Securities Docket (Nov. 18, 2024), https://www.securitiesdocket.com/2024/11/18/possible-sec-chair-nominations-of-atkins-bondi-gallagher-and-stebbins-who-are-these-guys/. On Chairman Pitt's "Real-Time Enforcement" record, see John Reed Stark, "SEC Chairman Paul Atkins Just Gave Another Speech About What the SEC Won't Do. This One May Be the Most Dangerous Yet," LinkedIn (Apr. 10, 2026), https://www.linkedin.com/pulse/sec-chairman-paul-atkins-just-gave-another-speech-what-stark-joage.

[3] See infra Section VI(4); *SEC v. Musk*, No. 1:25-cv-00105 (D.D.C.), Hr'g Tr. (Mar. 4, 2026) (order transcript from docket before filing).

[4] Donald J. Trump, Remarks at the Bitcoin 2024 Conference, Nashville, Tenn. (July 27, 2024) (pledging to make America the "crypto capital of the planet"; the "crypto capital of the world" formulation recurs in later statements); see NBC News, Trump Hails Crypto at Largest Bitcoin Conference (July 27, 2024), https://www.nbcnews.com/politics/donald-trump/trump-hails-crypto-largest-bitcoin-conference-rcna163925.

so that the Members and staff of the Senate may independently verify the underlying material. The receipts are in plain view, and the receipts *are* the argument.

Why this hearing matters now. The Senate's inquiry is not academic. On March 30, 2026, Ranking Member Blumenthal wrote directly to Chairman Atkins, on the Senate's letterhead and as part of its ongoing inquiry into the illicit use of cryptocurrencies, demanding records and communications between the SEC's Division of Enforcement and the Office of the Chairman; between the Office of the Chairman and any member of the Trump or Witkoff families; and records relating to the SEC's settlements with cryptocurrency companies.[5] That letter remains, to my knowledge, inadequately answered. Meanwhile, as I testify, the CLARITY Act, legislation that would permanently ratify the very demolition this testimony documents, sits on the Senate Legislative Calendar awaiting a floor vote that may occur within days.[6] Congress is being asked to codify, forever, an experiment whose first-year results are already in. Those results are the subject of my testimony.

One final introductory note. Don't get me wrong: the SEC has never been perfect. I have criticized the agency publicly and repeatedly across my career, its handling of cybersecurity enforcement, its disclosure rules, its treatment of witnesses, its administrative courts. Reasonable regulatory reform is always worth debating, and a new administration is entitled to new priorities. But what has occurred at the SEC since January 20, 2025, is not reform, and it is not a priority shift. It is the systematic dismantlement of the most successful investor protection agency in the history of the world, executed at record speed, celebrated in press releases, and masquerading as philosophy. The pattern I will describe (an agency that no longer announces what it does, but gleefully announces what it will *not* do) has no precedent in the SEC's 92-year history.

When the regulator becomes the promoter, investors stand unprotected. History is unambiguous about who absorbs the losses that follow: ordinary Americans, last in and least able to bear them.

II. Executive Summary

My testimony makes sixteen findings, each meticulously documented in the sections that follow:[7]

Finding 1, The crypto-enforcement demolition. In under eighteen months, the Atkins SEC dismissed, dropped, or settled away essentially the entire federal crypto-enforcement program, including cases the SEC had already *won* in court, dismissed the Binance case *with prejudice* eighteen months after Binance's $4.3 billion criminal guilty plea, disbanded the Crypto Assets and Cyber Unit, and issued a cascade of staff statements declaring, category by category,

[5] Letter from Sen. Richard Blumenthal, Ranking Member, PSI, to Chairman Paul Atkins (Mar. 30, 2026); press release.
[6] See The Defiant, "SEC Adds Three Crypto Rules to 2026 Regulatory Agenda" (July 2026) (CLARITY Act awaiting full Senate vote before the August 7 deadline).
[7] Citations for the figures and factual assertions summarized in this Executive Summary appear in the corresponding Findings below and are not duplicated here.

what the SEC will never police: including and especially memecoins, mining, most stablecoins, staking, and digital wallet interfaces.

Finding 2, The enforcement collapse is general, not crypto-specific. Per Cornerstone Research,[8] Paul Weiss,[9] King & Spalding,[10] the Brattle Group, and the SEC's own belated statistics,[11] FY 2025 produced the lowest SEC enforcement output in more than two decades, 313 standalone actions, four new public-company actions initiated by the new administration, $808 million in monetary settlements (the lowest since FY 2012), zero FCPA cases in the most recent half-year, and FY 2026 is pacing toward roughly 120 standalone actions, a level with no modern precedent. The comparison that destroys every excuse: under Republican Chairman Jay Clayton, also a deregulator, enforcement went *up* in his first full year.

Finding 3, The institution itself has been hollowed out. Per GAO report GAO-26-107813 and the SEC Inspector General,[12] the SEC lost 18% of its workforce, 871 employees, in a single fiscal year, disproportionately its most senior experts; the FY 2026 budget request formally encodes the reduced headcount; the whistleblower program's awards have collapsed roughly 90% from FY 2023, with a 100% denial rate in the most recent quarter; and crypto has been scrubbed entirely from the SEC's examination priorities for the first time since 2018, removed at the precise moment retail-crushing volatility was accelerating.

Finding 4, Invisibility is the strategy. The Atkins SEC stopped issuing routine enforcement press releases; withheld its annual enforcement statistics for six months past their customary release; refused to provide enforcement data to the House Financial Services Committee;[13] installed an Enforcement Director who made one three-sentence public statement in her entire tenure before resigning "effective immediately";[14] and negotiated the settlement of a major federal case behind the backs of the SEC's own trial counsel, a fact disclosed by opposing counsel in open court, to the visible astonishment of the presiding judge. Meanwhile, the agency's *only* affirmative press release in recent memory announced the launch of the Chairman's self-promotional podcast.[15]

Finding 5, The rule of law cannot be repealed by press release. More than 200 SEC crypto-enforcement actions produced a judicial library, Article III judges appointed by presidents of both parties, in New York, California, Massachusetts, Utah, New Hampshire, and the District of Columbia, holding, seriatim and emphatically, that digital assets sold as investments are securities. The Atkins SEC has not appealed those rulings, has not persuaded a single court that any of them was wrongly decided, and has instead simply pretended they do not exist. Worse, it

[8] See "Cornerstone Research," https://www.cornerstone.com/insights/press-releases/sec-enforcement-actions-fy-2025/.
[9] See "Paul Weiss," https://www.paulweiss.com/insights/client-memos/sec-enforcement-2025-year-in-review.
[10] See "King & Spalding," https://www.kslaw.com/news-and-insights/sec-enforcement-under-the-current-administration-takeaways-from-the-fy-2025-results-and-the-first-six-months-of-fy-2026.
[11] See "belated statistics," https://www.sec.gov/newsroom/press-releases/2026-34.
[12] See "GAO report GAO-26-107813," https://www.gao.gov/products/gao-26-107813.
[13] See "House Financial Services Committee," https://democrats-financialservices.house.gov/uploadedfiles/01.14.2026_ltr_sec_rfcryptoe.pdf.
[14] See Reuters on the enforcement chief resigning "effective immediately," https://www.reuters.com/business/finance/us-secs-ex-enforcement-chief-clashed-with-bosses-before-leaving-sources-say-2026-03-23/.
[15] See "the launch of the Chairman's self-promotional podcast," https://www.sec.gov/newsroom/press-releases/2026-39-chairman-atkins-launches-material-matters-podcast.

has contradicted *itself*: on March 5, 2026, it settled with Justin Sun's entity on a theory that necessarily asserts Howey jurisdiction over crypto tokens; twelve days later, it issued a joint interpretation declaring most crypto assets are not securities.[16] Both positions cannot be true.

Finding 6, The complete abandonment of investor protection. The Atkins SEC has systematically closed every door through which a defrauded investor could seek protection or recourse: enforcement (collapsed), examination (crypto scrubbed), broker-dealer registration (waived for wallet providers by staff statement), class actions (a mandatory-arbitration policy statement adopted 3–1 without a single public comment), and federal jurisdiction itself (a declared "pillar" of deferring securities governance to states whose combined annual enforcement recoveries, $259 million across all fifty states, are a rounding error against the SEC's historical $1.9 billion). Fifty state regulators, however dedicated, cannot fill the void the SEC has abandoned. A $259 million patchwork is no substitute for a $1.9 billion enforcement program, and no appeal to federalism changes that arithmetic.

Finding 7, The blockchain bet has no evidentiary basis. The Chairman has staked the agency ("Project Crypto," "Regulation Crypto," and now a 2026 Regulatory Agenda organized around tokenization) on a technology that the world's greatest technology and database companies have examined and abandoned.[17] Amazon, Apple, Google, Microsoft, and Oracle will spend on the order of $700 billion on AI infrastructure this year and effectively nothing on blockchain; the word does not appear in their earnings calls or Forms 10-K even as a risk factor. Every major enterprise blockchain consortium, TradeLens, We.Trade, Marco Polo, Contour, B3i, Azure Blockchain, the Australian Securities Exchange project, is dead. A securities regulator is now more enthusiastic about blockchain than Oracle, Microsoft, Amazon, Apple, and Google combined.

Finding 8, The emperor has no clothes. Crypto tokens typically have no cash flow, no yield, no earnings, no employees, no products, no balance sheet, and no claim on anything, a boundless data vacuum that makes genuine valuation impossible and leaves only one price support: the arrival of the next buyer. More than half of all crypto tokens ever created, over 13 million, are already dead, with 2025 alone accounting for the majority of all token failures in crypto's history.[18] The mechanism that fills the valuation vacuum is not analysis; it is *social proof* (Madoffesque groupthink, weaponized) and the nation's chief investor-protection officer has made himself its most potent signal.

Finding 9, The Chairman has become, in function and effect, America's Chief Ponzi Officer. When the head of the agency built to police Ponzi schemes personally tours conferences, television studios, and social media promoting a so-called asset class whose returns

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[16] SEC & CFTC, Joint Interpretation, Release Nos. 33-11412, 34-105020 (Mar. 17, 2026); see Paul, Weiss client memo; Blumenthal Letter, supra note 5 (Sun settlement, Mar. 5, 2026).
[17] John Reed Stark, Blockchain's Inconvenient Truth (Apr. 2026); final memorandum (Apr. 13, 2026).
[18] Shaun Paul Lee, "Dead Coins: Over 50% of Cryptocurrencies Have Failed," CoinGecko Research (Jan. 11, 2026; updated Apr. 17, 2026), https://www.coingecko.com/research/publications/how-many-cryptocurrencies-failed; see also the CoinGecko research index entry (reporting more than 25.2 million tokens listed and 13.4 million failed, or 53.2%), https://www.coingecko.com/research/latest?page=2 (dated copy retained by the author); as analyzed in John Reed Stark, "Paul Atkins: America's First Chief Ponzi Officer," LinkedIn (July 5, 2026), https://www.linkedin.com/pulse/paul-atkins-americas-first-chief-ponzi-officer-john-reed-stark-abige, and John Reed Stark, "Look What Happened to NFTs. Look What Happened to the Metaverse. Look What Happened to Blockchain. Crypto Is Next," LinkedIn (June 1, 2026), https://www.linkedin.com/pulse/look-what-happened-nfts-metaverse-blockchain-crypto-next-stark-jovee.

to early holders depend entirely on recruiting later buyers, while dismantling every protection those later buyers would otherwise enjoy, what other title fits? The results are in: per Reuters, from November 2024 through April 2026, Trump-family crypto ventures generated roughly $2.3 billion in family gains, matched almost dollar for dollar by roughly $2.3 billion in investor losses; per Chainalysis,[19] some 764,000 wallets, most of them small holders, lost money on the $TRUMP memecoin alone. FOMO and hype jack up the price; a few get very rich; a great many get very poor. It is the oldest story in securities markets, a pump-and-dump scheme, now performed with the watchdog leading the applause.

Finding 10, The CLARITY Act would make it permanent. The pending legislation would transfer the bulk of crypto oversight from a 4,000-person expert agency to a 556-person CFTC that currently operates with a single confirmed commissioner, a chairman who previously served as counsel to Paul Atkins himself, and whose predecessor-nominee was withdrawn after crypto billionaires objected. The industry now vets its own regulator. The Act would preempt state blue-sky enforcement, hand issuers a self-certification pathway, and consign DeFi to a supervisory black hole beyond both agencies. For four straight financial catastrophes across a century, Congress answered darkness with sunlight; the CLARITY Act would be the first major financial legislation in American history enacted to answer darkness with *less* light.

Finding 11, Crypto remains the killer app for crime. 2025 was the worst year in history for crypto crime: $17 billion in total losses to hacks, scams, and fraud per Chainalysis; $154 billion in illicit transaction volume; a 694% increase in sanctioned-entity activity; the $1.46 billion Bybit theft, the largest financial theft ever recorded; ransomware that would not exist without crypto; and $2.8 billion in reported crypto fraud losses among Americans over 60 in a single year.[20] The pattern spans the entire criminal code: from ransomware and sanctions evasion to narcotics trafficking, stolen data, and the sexual exploitation of children, there is scarcely a serious crime that crypto has not made cheaper, faster, or harder to police, a conclusion the Department of Justice reached in its own enforcement framework, which found that cryptocurrency “plays a role in many of the most significant criminal and national security threats that the United States faces.”[21]

Finding 12, Traceability is a myth, and the myth is dangerous. The claim that blockchain's transparency makes crypto crime manageable is refuted by the U.S. Treasury Department, the Department of Justice, the FBI, the GAO, and the arithmetic of ransomware itself: if crypto were easy to trace, the tens of thousands of ransomware attackers collecting billions in extortion would be getting caught. They are not. The celebrated recoveries, a popcorn tin in a bathroom closet; celebrity defendants who stored their private keys in a subpoena-friendly cloud account, prove the opposite of what crypto's defenders claim.

Finding 13, The national-security dimension is a catastrophe in progress. Iranian wallets received a record $7.78 billion in cryptocurrency in 2025; IRGC-linked networks are financing Hezbollah, Hamas, the Houthis, and the Shahed drone program on the same Tether-on-Tron rails that have been publicly identified, sanctioned, and seized for years; North Korea has reportedly stolen $6.75 billion in crypto since 2017, $2.02 billion in 2025 alone, to fund its

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[19] See "Chainalysis," https://www.cnbc.com/2025/05/06/trump-meme-coin-crypto.html.
[20] Chainalysis, 2026 Crypto Crime Report, chainalysis.com/reports; FBI IC3 annual data, ic3.gov.
[21] U.S. Department of Justice, Cyber-Digital Task Force, Cryptocurrency: An Enforcement Framework (Oct. 2020); Lin William Cong, Campbell R. Harvey, Daniel Rabetti & Zong-Yu Wu, An Anatomy of Crypto-Enabled Cybercrimes, Management Science 71(4) 3622 (2025).

nuclear weapons program. Against that record, the SEC dismissed its Binance case with prejudice,[22] the last live federal civil enforcement hammer over the world's largest exchange, five months before the President pardoned Binance's convicted founder. The world's most prominent pro-crypto Republican Senator and the Republican Chairman of House Financial Services had demanded Binance be criminally charged. The SEC walked away anyway. This is worse than a fox guarding the chicken coop: no one is guarding the chicken coop at all.

Finding 14, The next systemic crisis is being manufactured in plain sight. The firewalls that contained the 2022 crypto collapse, the accounting, banking, and retirement-plan barriers that kept a $2.2 trillion wipeout from touching the real economy, have been deliberately demolished one by one, while the Chairman has declared three separate times, against the express warnings of the Bank of England, the Financial Stability Board, the IMF, and his own dissenting Commissioner, that the private credit market poses no systemic risk. He is running the precise playbook, Garn-St. Germain before the S&L collapse, Glass-Steagall repeal before 2008, the 2004 net-capital rule he personally voted for before Bear and Lehman, that has preceded every major financial crisis in modern American history. They are removing the smoke detectors, unplugging the sprinklers, sending the fire department home, and dousing the building in accelerant, and calling it innovation.

Finding 15, The abdication extends beyond crypto. From the shadow settlement of the Musk litigation, to exchange listing-standard rewrites that will conscript hundreds of millions of dollars of ordinary Americans' index-fund savings into a single company's thinly floated IPO, to the wave of withdrawn investor-protection rules, the pattern is general: wherever power and money concentrate, this SEC reliably (and obligingly) looks away.

Finding 16, The victims are real, countable, and growing. Behind every statistic in this testimony is a schoolteacher, a veteran, a widow, a retiree, the 764,000 wallets; the elderly Americans defrauded of $2.8 billion in a single year; the millions of customers of collapsed platforms. The Commission's own staff statements now function, in practice, as evidence *for the defense* in the private lawsuits those victims must bring alone.

I will now present each finding in detail.

III. Finding One: The Methodical Dismantling of the SEC's Crypto-Enforcement Program

A. What Was Destroyed: The Most Successful Enforcement Program in SEC History

To understand the magnitude of what has been dismantled, the Senate must first understand what existed. Beginning in 2017 and accelerating through 2024, the SEC built and executed the most successful specialized enforcement program in its history: more than 200 crypto-related enforcement actions, many prosecuted by the Crypto Assets and Cyber Unit, prevailing in court in virtually every contested matter. Federal judges appointed by presidents of both parties, in the Southern and Eastern Districts of New York, the Northern District of

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[22] See "dismissed its Binance case with prejudice," https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26316.

California, the District of Massachusetts, the District of Utah, the District of New Hampshire, the Western District of Texas, the Western District of Washington, and the District of Columbia, systematically and emphatically rejected every defense the crypto industry could conjure: fair notice, due process, void-for-vagueness, "regulation by enforcement," and the major questions doctrine. All of it. Seriatim. In fact, up until January 20, 2025, it was easier to list the crypto companies that were *not* being sued by the SEC than the ones that were operating lawfully.[23]

The industry lost so consistently, and so expensively, that it stopped litigating and started spending: at least $238 million on the 2024 election cycle, the largest corporate political expenditure, by any industry, in American history.[24] What matters here is the simple, empirically verifiable fact: the program being demolished was a winning experiment, not a failed one. The courts were unambiguous that crypto assets sold as investments are securities. The law did not change. The election did.

B. The Demolition Catalogue

Beginning within days of January 20, 2025 (under Acting Chairman Mark Uyeda and continuing under Chairman Atkins after his April 21, 2025 swearing-in) the SEC executed what securities commentators have called a "Reverse Sweep": the coordinated termination of the agency's entire crypto docket. The dismissals and abandonments include, without limitation:[25]

- **Coinbase: dismissed** with prejudice (February 2025), after the SEC had already *defeated* Coinbase's motion to dismiss in an 84-page opinion;[26]
- **Binance**: dismissed *with prejudice* (May 2025), eighteen months after Binance pleaded guilty to federal criminal charges and paid $4.3 billion, the largest penalty in the history of the U.S. Treasury Department, and after the SEC had already defeated the bulk of Binance's motion to dismiss;[27]
- **Kraken (Payward): dismissed** (March 2025), after the SEC had already defeated Kraken's motion to dismiss;[28]
- **Consensys, Cumberland DRW, OpenSea, Uniswap, Gemini, Tron, Dragonchain, Balina: dismissed,** dropped, or closed;[29]

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[23] Cornerstone Research, SEC Cryptocurrency Enforcement: 2024 Update (Jan. 2025) (cumulative action counts since 2013), https://www.cornerstone.com/insights/reports/sec-cryptocurrency-enforcement/; the decisions are collected infra Section VII.A.
[24] FEC disclosures compiled by Public Citizen (2024 cycle); inauguration-donor disclosures.
[25] For the "Reverse Sweep" characterization, see Securities Docket, The SEC's "Reverse Sweep" in Crypto Enforcement Rolls On, https://securitiesdocket.beehiiv.com/p/the-sec-s-reverse-sweep-in-crypto-enforcement-rolls-on; for the swearing-in date, SEC Press Release No. 2025-47 (Apr. 21, 2025), sec.gov/newsroom/press-releases/2025-47.
[26] *SEC v. Coinbase*, Inc., 726 F. Supp. 3d 260 (S.D.N.Y. 2024) (Failla, J.); joint stipulation of dismissal with prejudice (Feb. 27, 2025).
[27] SEC Litigation Release No. 26316 (May 29, 2025); *SEC v. Binance Holdings Ltd.*, No. 1:23-cv-01599 (D.D.C. June 28, 2024) (Jackson, J.) (denying in principal part motion to dismiss).
[28] SEC v. Payward, Inc., Litigation Release No. 26278 (Mar. 2025) (dismissal), https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26278; the denial of Kraken's motion to dismiss is cited infra note 75.
[29] See, e.g., Yahoo Finance, SEC Officially Drops Cases Against Kraken, Consensys, and Cumberland (Mar. 2025), https://finance.yahoo.com/news/sec-officially-drops-cases-against-223036788.html; the dismissals and closures are collected in the Democracy Defenders Fund analysis cited infra note 32.

- **Ripple: the** SEC's appeal abandoned (2025), walking away from the opportunity to correct a decision that even the issuing judge declared non-precedential;[30]
- **Justin Sun / Rainberry: settled** (March 5, 2026) on terms whose doctrinal significance I address in Finding Five.[31]

A March 2026 analysis by the Democracy Defenders Fund counted fourteen crypto enforcement cases dropped by the SEC, and found that eight of the fourteen had direct Trump-family business ties.[32]

I want the Senate to sit with the Binance dismissal in particular, because it is not a close call, and it is the single act that most cleanly separates policy from something darker. In November 2023, Binance pleaded guilty to federal criminal charges.[33] Its founder and CEO, Changpeng Zhao, personally pleaded guilty and was sentenced to federal prison. The conduct was not a regulatory gray area: per the government's own filings, Binance willfully failed to report more than 100,000 suspicious transactions tied to sanctioned groups including Hamas's Al-Qassam Brigades, Palestinian Islamic Jihad, Al-Qaeda, and ISIS, and matched trades with users in Iran, North Korea, Syria, and Crimea. Then-Treasury Secretary Janet Yellen said it plainly: "Binance turned a blind eye to its legal obligations in the pursuit of profit. Its willful failures allegedly allowed money to flow to terrorists, cybercriminals, and child abusers through its platform."[34]

The SEC's parallel civil case rested on the same architecture of deliberate evasion alleged in the Commission's complaint, the falsified compliance representations, the steering of U.S. customers offshore, the systems designed precisely to defeat the controls that would have flagged Iran-linked and Hamas-linked transactions. That is the definition of a slam-dunk case. And the Atkins SEC dismissed it *with prejudice*, meaning those claims can never be refiled, on any facts, ever. Within hours, Binance's official corporate account thanked the Chairman *by name*: "Huge win for crypto today. The SEC's case against us is dismissed. Thank you to Chairman Atkins & the Trump team for pushing back against regulation by enforcement."[35] That post is still up. The world's largest cryptocurrency exchange, fresh off the largest criminal resolution in Treasury history, publicly thanked the nation's chief securities regulator, by name, on the day his agency

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[30] Joint stipulation withdrawing the appeal and cross-appeal, SEC v. Ripple Labs, Inc. (2d Cir. Aug. 2025); see Holland & Knight, SEC and Ripple Labs Officially End Multiyear Securities Battle (Aug. 2025), https://www.hklaw.com/en/news/intheheadlines/2025/08/sec-and-ripple-labs-officially-end-multiyear-securities-battle.
[31] Blumenthal Letter, supra note 5 (dismissal of fraud charges against Sun and companies upon $10 million civil penalty, Mar. 5, 2026).
[32] Norman L. Eisen, Virginia Canter, Christopher Swartz & Lee A. Reiners, "Political Capital: How the Trump Family's Crypto Ventures Are Distorting the Market," Democracy Defenders Fund (Mar. 11, 2026), https://www.democracydefendersfund.org/resource/political-capital/ (direct PDF: https://dea5edf3-e27d-4adc-a42a-b9c082bc3167.usrfiles.com/ugd/dea5ed_d40db8db1b044f38b4d62a02d98f6571.pdf) (finding that the SEC inherited 23 crypto enforcement cases, pulled back from 14, and that eight of the 14 involved defendants with business ties to the President or his family).
[33] U.S. Dep't of Justice, "Binance and CEO Plead Guilty to Federal Charges in $4B Resolution" (Nov. 21, 2023).
[34] U.S. Dep't of the Treasury, press release and remarks of Secretary Yellen (Nov. 21, 2023), https://home.treasury.gov/news/press-releases/jy1925; remarks of Secretary Yellen, https://home.treasury.gov/news/press-releases/jy1926.
[35] Binance (@binance), post on X (May 29, 2025), quoted in PYMNTS (May 30, 2025).

walked away. I ask the Members of the Senate: in ninety-two years of SEC history, can anyone identify a precedent?

C. The Unit, Disappeared

At the same time, the SEC cancelled the Crypto Assets and Cyber Unit itself, quietly removing one of its co-chiefs, gutting its ranks from approximately 50 attorneys to approximately 30, and rebranding the remainder as the "Cyber and Emerging Technologies Unit," referred to internally by SEC staff as "C2." I note, with no small measure of personal irony, that it was 28 years ago that the SEC, under Enforcement Director Richard H. Walker, created the Office of Internet Enforcement, which I was honored to lead, to do essentially what "C2" now nominally exists to do. The difference is that we were built to bring cases. C2 was built to absorb headlines.

D. Regulation by Exemption: The Cascade of "We Will Not Police This" Pronouncements

The dismissals were only half the demolition. The other half was definitional: a rolling series of staff statements and interpretations, none adopted through notice-and-comment rulemaking, most carrying the express disclaimer that they have "no legal force or effect", announcing, category by category, the conduct the SEC will not police:[36]

- **Memecoins** (staff statement, February 2025), not securities;[37]
- **Proof-of-work mining** (staff statement, March 2025), not securities transactions;[38]
- **Certain "covered" stablecoins** (staff statement, April 2025), not securities;[39]
- **Protocol staking** (staff statement, May 2025), not securities transactions;[40]
- **Digital wallet user interfaces** (staff statement, April 13, 2026), providers need not register as broker-dealers, a statement I address at length in Finding Six because of what it abandons;[41]
- **The joint "crypto asset taxonomy" interpretation** (March 17, 2026), declaring that most crypto assets are not securities, in direct contradiction of the judicial record and of the SEC's own settlement filed twelve days earlier.[42]

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[36] SEC Division of Corporation Finance staff statements: Meme Coins (Feb. 27, 2025); Certain Proof-of-Work Mining Activities (Mar. 20, 2025); Certain Stablecoins (Apr. 4, 2025); Certain Protocol Staking Activities (May 29, 2025), Meme Coins statement at https://www.sec.gov/newsroom/speeches-statements/staff-statement-meme-coins; the remaining statements are collected at sec.gov/newsroom/speeches-statements.

[37] SEC Division of Corporation Finance, Staff Statement on Meme Coins (Feb. 27, 2025), https://www.sec.gov/newsroom/speeches-statements/staff-statement-meme-coins.

[38] SEC Division of Corporation Finance, Statement on Certain Proof-of-Work Mining Activities (Mar. 20, 2025), https://www.sec.gov/newsroom/speeches-statements/statement-certain-proof-work-mining-activities-032025.

[39] SEC Division of Corporation Finance, Statement on Stablecoins (Apr. 4, 2025) (addressing "Covered Stablecoins"), https://www.sec.gov/newsroom/speeches-statements/statement-stablecoins-040425.

[40] SEC Division of Corporation Finance, Statement on Certain Protocol Staking Activities (May 29, 2025), https://www.sec.gov/newsroom/speeches-statements/statement-certain-protocol-staking-activities-052925.

[41] SEC Division of Trading & Markets, staff statement re Covered User Interface Providers (Apr. 13, 2026), sec.gov; see Commissioner Peirce, Interfacing With Our Inner Demons (Apr. 13, 2026), https://www.sec.gov/newsroom/speeches-statements/peirce-041326-interfacing-our-inner-demons-comments-division-trading-markets-statement-certain-user-interfaces.

[42] See supra note 16; Orrick client alert (Apr. 2026).

And on November 17, 2025, the Division of Examinations released its FY 2026 priorities, the document that tells every registered firm in America what the agency will scrutinize, containing, for the first time since 2018, no mention of crypto assets, digital assets, virtual currency, or blockchain anywhere.[43] Not in the standalone categories. Not in the anti-money-laundering section. Not even in the section on emerging financial technology. The Chairman's own framing, delivered in an October 2025 keynote: examinations should not be a "gotcha" game. Translation: examinations will produce no findings, because the agency is not looking.

Nor did the retreat stop at the SEC's doors. Across the federal government, the same pattern: the Department of Justice disbanded its National Cryptocurrency Enforcement Team; Treasury delisted Tornado Cash, a mixer that, per Treasury's own 2022 designation, had laundered over $7 billion, from the sanctions list; and the digital-asset broker reporting rule was repealed.[44] The entire federal apparatus that once policed this ecosystem has been methodically switched off, agency by agency, statement by statement.

The pattern deserves a name, and I will give it one: this is not deregulation. Deregulation removes rules. What has occurred here is the removal of *consequences, for* an industry whose defining characteristic, established in over 200 federal court decisions, is noncompliance with rules that remain fully on the books.

IV. Finding Two: The Enforcement Collapse Is General, the Empirical Record

If the story ended with crypto, the Chairman's defenders could characterize this as a policy pivot within a contested asset class. It does not end with crypto. The enforcement collapse is agency-wide, historically unprecedented, and documented by every independent body that measures SEC output. I present the studies seriatim, because the Chairman has, before the Senate Banking Committee, professed unfamiliarity with this data, a profession that prompted the Ranking Member of that Committee to formally accuse him of misleading Congress.

Cornerstone Research / NYU Pollack Center. FY 2025 produced 313 standalone enforcement actions (down 27% from FY 2024's 431 and down 38% from FY 2023's 501), the lowest standalone total in more than a decade and, by broader measures, the lowest level of SEC enforcement activity in modern history.[45] Of the 56 enforcement actions involving public companies and subsidiaries, 52, 93%, were initiated under the prior administration. The new administration initiated *four*. Total monetary settlements in public-company actions collapsed 45% to $808 million, the lowest figure since FY 2012 and less than half the FY 2016–FY 2024 average of $1.9 billion.

[43] SEC Division of Examinations, FY 2026 Examination Priorities (Nov. 17, 2025), https://www.sec.gov/files/2026-exam-priorities.pdf; SEC Press Release No. 2025-132 (Nov. 17, 2025).
[44] DOJ memorandum disbanding the National Cryptocurrency Enforcement Team (Apr. 2025); OFAC delisting of Tornado Cash (Mar. 21, 2025); repeal of the digital-asset broker reporting rule (2025).
[45] Cornerstone Research & NYU Pollack Center, SEC Enforcement Activity: Public Companies and Subsidiaries — FY 2025 (Nov. 19, 2025); report PDF; see also White & Case (Jan. 2026).

Paul Weiss. The fourth quarter of FY 2025, the first full quarter attributable entirely to the new leadership's pipeline, produced *two* new public-company enforcement actions. Two. The lowest quarterly total since systematic tracking began.[46]

The Brattle Group. The second half of FY 2025 exhibited what Brattle called "an unprecedented decline in enforcement activity", a finding that matters enormously because it predates the government shutdown that the agency's defenders now invoke as an excuse.[47]

King & Spalding. In the first six months of FY 2026, the Chairman's first full half-year, the Commission filed approximately 60 standalone enforcement actions: a pace projecting to roughly 120 for the full fiscal year.[48] That would represent a decline of approximately 62% from FY 2025's already-historic low and approximately 72% from FY 2024, a level of enforcement output with no precedent in the modern history of the agency. King & Spalding further noted that no FCPA cases were brought in the entire first half of FY 2026, continuing the disappearance of foreign-bribery enforcement.

The SEC's own April 7, 2026 release, issued more than six months after the fiscal year closed, roughly five months past the agency's customary November publication (FY 2024's report was released November 22, 2024; FY 2023's on November 14, 2023; FY 2022's on November 15, 2022), confirmed the collapse while attempting to disguise it.[49] The release trumpeted "$17.9 billion in total monetary relief," a number the Chairman's defenders will inevitably cite. The Senate should read the footnotes, as I did. Of that $17.9 billion, $14.9 billion came from a single judgment in the Stanford International Bank Ponzi litigation, a case that predates this administration by more than fifteen years.[50] After excluding the Stanford judgment and amounts "deemed satisfied" through parallel criminal proceedings, actual FY 2025 monetary relief was approximately $2.7 billion, a roughly one-third reduction year over year. A headline number engineered to fool the casual reader is the opposite of transparency.

The same release disclosed, for the first time in SEC history, that 1,095 investigations of "potentially violative conduct" were closed without enforcement action in FY 2025.[51] The Commission offered this figure as evidence of diligence. The arithmetic tells a different story: against 303 standalone actions filed (by the SEC's own count), the agency closed nearly four investigations for every one it pursued, a 3.6-to-1 ratio of cases dropped to cases brought. No prior SEC has ever published this number, almost certainly because no prior SEC's ratio has ever been this lopsided. Far from an alibi, the 1,095 closures are the iceberg beneath the waterline of the visible collapse.

The Jay Clayton comparison, the one that ends the debate. The Chairman's defenders will tell the Senate that every new administration brings an enforcement slowdown. The historical record refutes them. Jay Clayton, the first Trump-era SEC Chairman, a Republican deregulator who campaigned explicitly against "regulation by enforcement," took office in May 2017. In his transition fiscal year, the SEC brought 754 total enforcement actions, including 446

[46] Paul, Weiss, SEC Enforcement: 2025 Year in Review.
[47] The Brattle Group, analysis of 2H FY 2025 SEC enforcement activity, https://www.brattle.com/insights-events/publications/sec-enforcement-activity-for-fiscal-year-2025-a-tale-of-two-halves/.
[48] King & Spalding, SEC Enforcement Under the Current Administration (Apr. 2026).
[49] SEC Press Release 2026-34, "SEC Announces Enforcement Results for Fiscal Year 2025" (Apr. 7, 2026).
[50] Id.; Cooley, Investigations & Enforcement Watch (Apr. 14, 2026) ($14.9B Stanford; $2.7B excluding Stanford and deemed-satisfied amounts).
[51] SEC Press Release 2026-34, supra note 49; Sidley analysis via Harvard Law School Forum (May 5, 2026).

standalone actions. In Clayton's first full fiscal year, FY 2018, the SEC brought 821 total actions, a 9% *increase*, including 38% more securities-offering fraud cases and 24% more insider trading cases.[52] Chairman Atkins's transition year produced 303–313 standalone actions, roughly 30% below Clayton's transition number, and his first full year is pacing roughly 73% below Clayton's first full year. What is happening at the SEC goes far beyond a Republican administration recalibrating priorities: the Republican SEC of Jay Clayton would not recognize it.

The shutdown alibi, preempted. The Chairman's defenders will attribute FY 2026's numbers to the 43-day government shutdown. That defense fails twice over. First, the trajectory was collapsing before October: Brattle documented the "unprecedented decline" in the *second half of FY 2025*, months before any appropriations lapse. Second, even crediting the shutdown entirely, the agency had five and a half months of normal operations in the first half of FY 2026 in which to file more than 60 cases. It did not. The shutdown poured fuel on a fire the Chairman himself had already lit.[53]

The pipeline is the future. The SEC's own April 7 release confessed, inadvertently, why the next several years are already determined: fraud cases, it explained, "inherently require more time and resources to develop and bring, often requiring up to two or more years to manifest results." Precisely. The investigative pipeline opened during FY 2025–2026, under a hiring freeze, an 18% workforce contraction, a resigned Enforcement Director, and the rescission of the Division's authority to open formal investigations without Commission sign-off, is the pipeline that will determine FY 2027 and FY 2028 output. Even an immediate course correction could not restore visible enforcement before 2028. The coming drought is already baked in.[54]

Finally, the Senate should note who is trying to fill the vacuum: a coalition of 21 state attorneys general has formally urged the SEC to act; New York's Attorney General has begun deploying the Martin Act to pursue cases the SEC will not; California's Attorney General announced state-law enforcement of foreign-bribery violations after federal FCPA enforcement was paused.[55] When the federal securities cop walks off the beat, fifty smaller cops with patchwork jurisdiction try to cover the corner. They cannot replace what the SEC was, and, as I detail in Finding Six, this SEC is simultaneously campaigning to strip even those smaller cops of their jurisdiction.

Deterrence is the entire economic logic of securities enforcement: the certainty that someone is watching disciplines the millions of transactions no regulator will ever see. Guidance without a credible enforcement threat is just polite suggestion. And when deterrence collapses, misconduct expands, a lesson this country learned definitively during the enforcement pullback

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[52] SEC Division of Enforcement, Annual Report FY 2018 (Nov. 2, 2018), sec.gov.

[53] On the pre-shutdown trajectory, supra note 47 (Brattle); on the 43-day October–November 2025 lapse in appropriations, see contemporaneous reporting of its November 12, 2025 conclusion (the longest shutdown in U.S. history).

[54] Supra note 49 (the April 7, 2026 release).

[55] Coalition letter of 21 state attorneys general; N.Y. Attorney General Martin Act filings; California Attorney General FCPA-enforcement announcement; see Troutman Pepper Locke, State AGs Urge SEC to Preserve State Authority in Crypto Regulation (Nov. 11, 2025), https://www.regulatoryoversight.com/2025/11/state-ags-urge-sec-to-preserve-state-authority-in-crypto-regulation/ (Oct. 20, 2025 letter of 21 state attorneys general); on New York and California enforcement, Anti-Fraud Coalition, State-Level Crypto Fraud Enforcement, https://www.taf.org/state-level-crypto-fraud-enforcement/.

of 2006–2007, which preceded the largest financial crisis since the Depression. We are apparently determined to learn it again.

V. Finding Three: The Hollowing of the Institution Itself

The numbers above measure output. This section measures capacity, because even a future Chairman determined to reverse course will inherit an agency that has been structurally demolished, and the demolition is documented by the government's own auditors.

The workforce collapse, GAO-26-107813. The Government Accountability Office documented the departure of 871 employees, approximately 18% of the SEC's workforce, over fiscal year 2025, concluding bluntly that "the workforce changes SEC made in 2025 were significant and could pose risks to the agency's ability to fulfill its mission."[56] The composition is worse than the topline: the Division of Investment Management lost 24% of its staff; Trading and Markets lost 22%; the Office of the Chief Accountant lost 23%; the Division of Enforcement lost 18%. More than half of the SEC employees GAO interviewed said the departing staff held "either unique knowledge from many years of experience or specific subject-matter expertise", producing, in GAO's own framing, a measurable depletion of institutional knowledge and, in some offices, "single points of failure."

I ask the Senate to understand what that means operationally, from someone who spent nearly two decades inside that building. Senior enforcement staff are the case engines of the institution: the judgment, the settlement instincts, the trial scars, the memory of how comparable fact patterns were handled across administrations. They are not fungible, and they are not quickly replaced. When they leave, deterrence leaves with them, and deterrence, once lost, can take decades to rebuild.

The Inspector General. The SEC's own Inspector General documented the hemorrhage: 13% of SEC staff departed in early 2025, with some offices losing 26%; FY 2025 attrition reached 17.8%, more than five times the 2024 rate; contract staff declined 27%.[57]

The enforcement of loyalty. The hollowing is enforced from outside as well: senior crypto executives have publicly boasted of blacklisting, warning law firms that hiring former SEC crypto-enforcement attorneys would cost them industry business.[58] Career staff who built the enforcement program have been reassigned to information-technology functions. The message to every remaining SEC attorney is unmistakable: the personal cost of enforcing the law against this industry will follow you out the door.

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[56] GAO-26-107813, SEC: Recent Workforce Reductions and Other Personnel Management Changes (Mar. 27, 2026); full report text.

[57] SEC Office of Inspector General, Statement on Management and Performance Challenges (Oct. 2025), sec.gov/oig.

[58] Public posts of the referenced executives; see Legal Dive, Crypto Leaders Have Knives Out for Attorneys Leaving the SEC (Dec. 4, 2024), https://www.legaldive.com/news/crypto-leaders-knives-out-for-attorneys-leaving-sec-armstrong-alderoty-coinbase-ripple/734631/; CoinGape, Ex-SEC Official Joins This Law Firm; Winklevoss, XRP Lawyer Deaton Condemn (Dec. 2024), https://coingape.com/ex-sec-official-joins-this-law-firm-winklevoss-xrp-lawyer-deaton-condemn/.

The budget encodes the demolition. This is the detail that reveals intent. The SEC's FY 2026 budget request seeks authorization for only 4,101 full-time-equivalent positions, a net reduction of 447 FTEs from FY 2025's authorized levels, with the Enforcement Division specifically budgeted at 1,178 FTEs, down approximately 17% from FY 2024's actual staffing.[59] The Atkins SEC is not budgeting for recovery. It is asking Congress to *ratify* the new, lower equilibrium, to convert a temporary exodus into a permanent architecture.

The formal-order rescission. In March 2025, the Commission revoked the Enforcement Division's delegated authority, in place for fifteen years, to open formal investigations, and therefore to issue subpoenas, without prior Commission approval.[60] Every investigation of any consequence now requires the sign-off of the very political leadership whose posture this testimony documents. The staff cannot investigate whom the Chairman does not wish investigated. A mechanism like that has one function: to stop cases before they start.

The whistleblower program, defunded by attrition. The whistleblower program is the SEC's single most important post-Madoff reform, the mechanism Congress created in Dodd-Frank precisely because the Madoff catastrophe proved the agency could not rely on its own detection. Under this administration, whistleblower awards have collapsed approximately 90% from FY 2023 levels, and the first quarter of FY 2026 produced a 100% denial rate.[61] Whistleblowers are rational actors: they risk their careers, their finances, and sometimes their safety on the premise that the agency will act on what they bring. An agency that stops paying awards, stops bringing cases, and stops answering the phone has done more than weaken the program: it has switched off the only early-warning radar Congress ever gave it. Every undetected fraud from this point forward carries that decision's fingerprints.

The examination retreat, timed to the harm. As noted, crypto was scrubbed from the FY 2026 examination priorities. The Senate should mark the timing: the scrubbing became operative precisely as Bitcoin shed roughly 30% from its peak and the broader crypto market lost approximately $1 trillion in six weeks, the very volatility that harms retail investors most.[62] The regulator walked off the watch at the exact moment the watch mattered.

VI. Finding Four: Invisibility Is the Strategy, Governance by Silence, Evasion, and Self-Promotion

Members of the Senate, I want to be precise about the most disturbing finding in this testimony, because it is a claim about intent, and claims about intent demand the highest evidentiary standard. My claim is this: the invisibility of SEC enforcement is not a byproduct of

[59] SEC FY 2026 Congressional Budget Justification, https://www.sec.gov/files/fy-2026-congressional-budget-justification.pdf.
[60] Commission rescission of delegated formal-order authority (Mar. 2025), Release No. 33-11366, 90 Fed. Reg. Doc. 2025-04064 (Mar. 14, 2025), https://www.federalregister.gov/documents/2025/03/14/2025-04064/delegation-of-authority-to-director-of-the-division-of-enforcement.
[61] SEC Office of the Whistleblower award data, FY 2023–FY 2026; SEC, 2025 Annual Report to Congress on the Dodd-Frank Whistleblower Program (Feb. 11, 2026), available at sec.gov/about/secreports.
[62] See, e.g., Forbes, Serious $1 Trillion Crypto Crash Warning Sparks Panic As Bitcoin Drop Suddenly Accelerates (Nov. 18, 2025), https://www.forbes.com/sites/digital-assets/2025/11/18/serious-1-trillion-crypto-crash-warning-sparks-panic-as-bitcoin-drop-suddenly-accelerates/, and contemporaneous November 2025 market-data reporting.

the Atkins SEC's policies. It is the *objective* of those policies. The agency has adopted, deliberately, a new ethos of absence, silence, and regulatory invisibility, an Atkinsonian invisibility cloak where the hobnail boots of yesteryear once stood. The evidence:

1. The enforcement press releases stopped. For decades, across Chairmen of both parties, the SEC announced its enforcement actions publicly, because publicity *is* deterrence: the announcement of one case disciplines a thousand boardrooms. Under this administration, routine enforcement press releases quietly ceased, as if the agency's diminished output produced a shame so intense that it sought to hide its remaining work in plain sight. An enforcement program no one can see deters no one.

2. The statistics were withheld, including from Congress. As detailed above, the annual enforcement results, customarily released each November, were withheld until April 7, 2026, the most prolonged statistical blackout in the agency's modern history, forcing independent analysts to reconstruct the agency's output by hand from individual litigation releases. When the House Financial Services Committee requested the enforcement data directly, the agency refused to provide it.[63] And when Senator Warren confronted the Chairman with the enforcement decline at a February 12, 2026 Banking Committee hearing, he testified that he was "not sure what data" she was referencing, testimony that, when the April release confirmed the data precisely, prompted her formal accusation that the Chairman had misled Congress.[64]

3. The Enforcement Director was rendered a ghost, and then she vanished. For fifty years, the Director of the SEC's Division of Enforcement has been among the most consequential law-enforcement voices in America. Stanley Sporkin. Bill McLucas. Dick Walker. Rob Khuzami. These were names that made general counsels lose sleep, occupants of what was often called the second most powerful law-enforcement post in the federal government. I served as Counselor to several of them. Against that lineage, consider Judge Margaret Ryan: a Marine Corps veteran, a former military appellate judge, a former clerk to Justice Clarence Thomas, a name on the President's own Supreme Court shortlist, by any measure a serious and credentialed lawyer. In her entire tenure as Enforcement Director, her *only* public statement was a perfunctory three-sentence acknowledgment of a jury verdict in a case she did not bring. No agenda-setting speeches. No interviews. No stated priorities. The most powerful securities-enforcement post in the world carried less public visibility than the building's security desk.

And then, on March 16, 2026, she resigned, effective immediately, reportedly after clashing with agency leadership over pursuing matters involving individuals connected to the President.[65] I have been around government for nearly forty years. Directors do not resign "effective immediately" unless something forces it. Judge Ryan is no partisan resistance figure; she is a conservative jurist of impeccable pedigree, hired by this Chairman. That is precisely why the Senate should hear from her under oath: she is the witness whose account the conservative legal establishment cannot dismiss.

4. The shadow settlement, disclosed by opposing counsel, in open court, to an astonished federal judge. On March 4, 2026, in federal court in the District of Columbia,

[63] Letter from House Financial Services Committee Democrats to Chairman Atkins (Jan. 14, 2026).
[64] Oversight of the SEC: Hearing Before the S. Comm. on Banking (Feb. 12, 2026); subsequent letter of Sen. Warren (Apr. 2026).
[65] Reuters, "US SEC's ex-enforcement chief clashed with bosses over Trump cases before leaving, sources say" (Mar. 23, 2026); Reuters (Mar. 16, 2026) (resignation).

counsel for Elon Musk disclosed, apparently to explain scheduling, that settlement discussions had been conducted directly with the Chairman's office, adding that the SEC's own litigation team was, in his words, "not fully read in on that."[66] The presiding judge, Judge Sooknanan, asked (twice, because the answer beggared belief) whether the SEC's own lawyers had truly been excluded from negotiations to resolve their own case, before counsel requested a sidebar because, as he noted, there was press in the gallery.[67] I say this as someone on record that the underlying Musk cases were meritless and should have been dismissed long ago: my objection is not to the outcome.[68] Even a bad case deserves a proper burial. My objection is that the SEC's trial counsel (officers of the court, standing at the plaintiff's table) were cut out of the resolution of their own litigation by their own agency's political leadership. It raises, at minimum, a serious and unanswered question under the professional no-contact rule: with whom, exactly, was defense counsel negotiating, and with whose authorization, while the represented party's counsel of record were kept in the dark? The name of that official exists. It is simply not yet in a transcript. The Senate can put it in one.

5. Rule by instruments designed to evade accountability. The through-line of this administration's most consequential actions is the deliberate selection of *unaccountable instruments*: staff statements bearing the disclaimer "no legal force or effect" (which nonetheless move markets and, as I explain in Finding Six, arm defense counsel); a mandatory-arbitration policy statement adopted 3–1 without soliciting a single public comment; a fourteen-rule withdrawal executed in one eight-page Federal Register notice; a tokenization exemption developed entirely through anonymous leaks to the press, with the agency's only on-record voice being the social-media posts of a departing commissioner.[69] An agency rewriting the rules for a hundred-trillion-dollar market, mute on the record. When the 2018 joint staff statement on digital-asset broker-dealer obligations was functionally reversed in April 2026, the reversing statement did not even cite it. It simply pretended the prior position had never existed. Agencies are permitted to change their minds. They are not permitted to change them invisibly.

6. And then, the podcast. After a year in which the agency stopped announcing its enforcement work to the public, stopped providing its enforcement data to Congress, and stopped publishing its annual statistics on time, the SEC's press office found its voice again, to announce that the Chairman had launched a podcast, whose inaugural episode features sitting Commissioners discussing what the agency's own release described as their "distinguished careers."[70] I was always taught that "distinguished" is something other people call you, not something you announce about yourself on your own government media channel. The voice the agency found is not the one investors lost. In other words, transparency about everything but the mission is publicity.

The pattern, assembled, is unmistakable, and for those of us who lived through the aftermath of the Madoff catastrophe, it is chillingly familiar. When the congressional hearings inevitably reconstruct this period, and they will, the transcript will read like the Madoff hearings

[66] *SEC v. Musk, supra note 3, Hr'g Tr. (Mar. 4*, 2026).
[67] John Reed Stark, From Gensler's Revenge to Atkins' Gift: The SEC v. Musk Fiasco, LinkedIn (Mar. 2026), https://www.linkedin.com/pulse/from-genslers-revenge-atkins-gift-sec-v-musk-fiasco-judge-stark-rek3e/.
[68] Stark, supra note 67.
[69] See supra notes 63, 66; infra note 72.
[70] SEC Press Release 2026-39, "Chairman Atkins Launches 'Material Matters' Podcast" (Apr. 16, 2026); episode page.

did: an agency that chose not to see what was directly in front of it, and called the blindness a philosophy. I would note, for the Senate's investigative attention, one final detail: the SEC staffer who famously asserted executive privilege rather than answer questions at the Madoff hearings now serves, by public reporting, as one of Chairman Atkins's senior counselors. History is doing more than repeating itself here. It has been rehired.

VII. Finding Five: The Rule of Law Cannot Be Repealed by Press Release

A. The Judicial Library the SEC Pretends Does Not Exist

The most corrosive feature of the Atkins SEC's crypto reversal is not its policy substance. It is its posture toward the federal judiciary. Between 2018 and 2024, Article III judges (appointed by Presidents Reagan, Clinton, Bush, Obama, Trump, and Biden) built a deep, consistent, and emphatic body of law holding that crypto assets sold as investments are securities subject to the federal securities laws. A sampling, so the record before the Senate is concrete:[71]

- **SEC v. Green United** (D. Utah 2024, Judge Ann Marie McIff Allen, a Trump appointee): rejecting the industry's "regulation by enforcement" framing by name, and holding that applying Howey to crypto "does not broaden the SEC's enforcement authority" but rather "enables the SEC to fulfill its purpose of enforcing regulatory goals as identified by Congress", goals, the court noted, that Congress set some ninety years ago.[72]
- **SEC v. Coinbase** (S.D.N.Y. 2024, Judge Katherine Polk Failla): an 84-page opinion holding the SEC's claims "fall comfortably within the framework that courts have applied to investment contracts for nearly eighty years," and observing that the crypto industry's arguments would have courts ignore that framework.[73]
- **SEC v. Terraform Labs** (S.D.N.Y. 2023, Judge Jed Rakoff): rejecting the major-questions defense and the fair-notice defense, and later granting summary judgment that Terraform's tokens were securities, a case that ended in a $4.5 billion settlement.[74]
- **SEC v. Payward (Kraken)** (N.D. Cal. 2024, Judge William Orrick): denying Kraken's motion to dismiss, rejecting its major-questions and fair-notice defenses, and remarking that some of the industry's arguments "defy common sense."[75]

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[71] *SEC v. Green United*, LLC (D. Utah 2024); *SEC v. Coinbase*, 726 F. Supp. 3d 260 (S.D.N.Y. 2024); *SEC v. Terraform Labs*, 684 F. Supp. 3d 170 (S.D.N.Y. 2023); *SEC v. Payward*, Inc. (N.D. Cal. Aug. 23, 2024); *SEC v. Binance (D.D.C. June 28*, 2024); *SEC v. Kik Interactive*, 492 F. Supp. 3d 169 (S.D.N.Y. 2020); *SEC v. Telegram Grp.*, 448 F. Supp. 3d 352 (S.D.N.Y. 2020); *SEC v. LBRY*, Inc., 639 F. Supp. 3d 211 (D.N.H. 2022); *Friel v. Dapper Labs*, 657 F. Supp. 3d 422 (S.D.N.Y. 2023); SEC v. Opporty Int'l (E.D.N.Y. 2024).
[72] *SEC v. Green United*, LLC, No. 2:23-cv-00159 (D. Utah Sept. 23, 2024) (McIff Allen, J.) (denying motion to dismiss), https://law.justia.com/cases/federal/district-courts/utah/utdce/2:2023cv00159/138270/104/.
[73] *SEC v. Coinbase*, Inc., 726 F. Supp. 3d 260 (S.D.N.Y. 2024) (Failla, J.), https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2023cv04738/599908/105/.
[74] *SEC v. Terraform Labs Pte. Ltd.*, 684 F. Supp. 3d 170 (S.D.N.Y. 2023) (Rakoff, J.) (denying motion to dismiss), https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2023cv01346/594150/51/; summary judgment granted in part, 2023 WL 8944860 (S.D.N.Y. Dec. 28, 2023).
[75] *SEC v. Payward*, Inc., No. 3:23-cv-06003-WHO, 2024 WL 4511499 (N.D. Cal. Aug. 23, 2024) (Orrick, J.) (denying motion to dismiss); analysis at https://www.cahill.com/publications/client-alerts/2024-09-05-unclear-at-best-sec-v-payward-inc-et-al-and-the-ongoing-struggle-to-understand-secondary-crypto-transactions.

- **SEC v. Binance** (D.D.C. 2024, Judge Amy Berman Jackson): sustaining the bulk of the SEC's complaint, and observing that the industry's public indignation about regulation by enforcement, however loudly expressed, "cannot open that door", the courthouse door, to defenses the law does not recognize.[76]
- **SEC v. Kik Interactive** (S.D.N.Y. 2020): summary judgment for the SEC; the Howey test applied without difficulty.[77]
- **SEC v. Telegram** (S.D.N.Y. 2020, Judge P. Kevin Castel): preliminary injunction granted; a $1.7 billion token offering halted; $1.224 billion returned to investors.[78]
- **SEC v. LBRY** (D.N.H. 2022, Judge Paul Barbadoro): summary judgment for the SEC, with the court noting the Howey framework has served for some seventy years and disposed of the fair-notice defense "with little difficulty."[79]
- **In re NBA Top Shot / Dapper Labs** (S.D.N.Y. 2023): even *NFTs*, on proper facts, plausibly alleged to be securities.[80]
- **SEC v. Opporty** (E.D.N.Y. 2024, Judge Eric Komitee): a 69-page opinion methodically rejecting the vagueness defense as, in the court's word, "untenable."[81]

I could extend this list considerably, Rivetz,[82] NovaTech,[83] GTV Media,[84] Bittrex,[85] and onward. The point is not any single case. The point is the *unanimity*. In litigated federal court decisions on the merits, the SEC's core legal theory prevailed essentially everywhere, before judges of every ideological stripe, surviving every constitutional and administrative-law attack the best-funded defense bar in America could mount. The industry's sole meaningful bright spot, a partial summary-judgment ruling on one category of programmatic exchange sales in *SEC v.*

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[76] *SEC v. Binance Holdings Ltd.*, No. 1:23-cv-01599, 2024 WL 3225974 (D.D.C. June 28, 2024) (Jackson, J.), https://law.justia.com/cases/federal/district-courts/district-of-columbia/dcdce/1:2023cv01599/256060/248/.
[77] *SEC v. Kik Interactive Inc.*, 492 F. Supp. 3d 169 (S.D.N.Y. 2020), https://caselaw.findlaw.com/court/us-dis-crt-sd-new-yor/2089129.html.
[78] *SEC v. Telegram Group Inc.*, 448 F. Supp. 3d 352 (S.D.N.Y. 2020) (Castel, J.), https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2019cv09439/524448/227/.
[79] *SEC v. LBRY*, Inc., 639 F. Supp. 3d 211 (D.N.H. 2022) (Barbadoro, J.), https://law.justia.com/cases/federal/district-courts/new-hampshire/nhdce/1:2021cv00260/56253/86/.
[80] *Friel v. Dapper Labs*, Inc., 657 F. Supp. 3d 422 (S.D.N.Y. 2023) (Marrero, J.), https://caselaw.findlaw.com/court/us-dis-crt-sd-new-yor/2189687.html.
[81] *SEC v. Grybniak (Opporty International*, Inc.), No. 1:20-cv-327-EK (E.D.N.Y. Sept. 24, 2024) (Komitee, J.); see SEC Litigation Release No. 26257 (Feb. 26, 2025), https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26257.
[82] *SEC v. Rivetz Corp.*, No. 3:21-cv-30092 (D. Mass. filed Sept. 8, 2021) (summary judgment for the SEC on the unregistered RvT token offering, Sept. 30, 2024) (Mastroianni, J.); SEC Litigation Release No. 25198, https://sec.gov/enforcement-litigation/litigation-releases/lr-25198.
[83] *SEC v. NovaTech Ltd.*, No. 1:24-cv-23058 (S.D. Fla. filed Aug. 12, 2024) ($650 million crypto fraud affecting more than 200,000 investors); SEC Litigation Release No. 26072, https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26072.
[84] In re GTV Media Group Inc., Saraca Media Group Inc., and Voice of Guo Media Inc. (settled Sept. 13, 2021) ($539 million to resolve unregistered offerings of GTV stock and the G-Coins/G-Dollars digital assets); SEC Press Release No. 2021-175, https://www.sec.gov/newsroom/press-releases/2021-175.
[85] *SEC v. Bittrex*, Inc. (W.D. Wash. 2023) ($24 million settlement resolving charges of operating an unregistered exchange, broker, and clearing agency); see Fortune, Bittrex Agrees to $24 Million Settlement (Aug. 2023), https://www.aol.com/finance/bittrex-agrees-24-million-settlement-133812056.html.

Ripple, was expressly non-precedential, was arguably nonsensical,[86] was criticized by name by other judges (Judge Rakoff in *Terraform* rejected its reasoning within weeks), was on appeal when the Atkins SEC abandoned it.[87]

Here is the constitutional problem, stated plainly: an administrative agency confronted with adverse (or in this case, overwhelmingly *favorable*) judicial precedent has lawful options. It may litigate, appeal, ask Congress to change the statute, or conduct notice-and-comment rulemaking and defend the new rule in court. What it may not do is un-decide federal court rulings by staff statement, to erase a judicial library not by persuading a single court that a single case was wrongly decided, but simply by pretending the library does not exist. Yet that is precisely the Atkins SEC's method. The March 17, 2026 joint interpretation[88] declaring most crypto assets non-securities does not distinguish Telegram, Kik, LBRY, Terraform, Coinbase, or Binance. It does not cite them. Ninety years of Supreme Court doctrine, Howey's instruction that substance governs over form, that the securities laws reach "the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits", displaced by a press release.

And when the SEC attempted the same maneuver inside a live case, jointly asking Judge Analisa Torres to dissolve Ripple's injunction and slash a final judgment as part of the settlement retreat, the court refused, twice, reminding the parties that final judgments are not bargaining chips and that the public interest does not evaporate because an agency changed administrations.[89] The one place the retreat failed was the one place this SEC no longer controlled: a courtroom. And even the friendliest SEC in crypto history, it turns out, cannot make a federal judge disappear.

B. The Doctrinal Trap: The SEC Contradicting Itself Within Twelve Days

The clearest proof that the new framework is results-driven rather than law-driven comes from the SEC's own filings, twelve days apart:

- **On March 5, 2026**, the SEC filed a settled action against Justin Sun's Rainberry entity premised on the sale of crypto assets as unregistered securities, a settlement that is legally coherent *only* if Howey reaches those tokens.[90]
- **On March 17, 2026**, the SEC and CFTC issued their joint interpretation declaring that most crypto assets are not securities.[91]

Both positions cannot be true.[92] Either the Commission extracted a settlement on a legal theory it did not believe, which is its own scandal, or the March 17 interpretation is not a good-

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[86] John Reed Stark, post on X (Dec. 2024) (analyzing the Ripple programmatic-sales ruling), https://x.com/JohnReedStark/status/1867739591559586070.
[87] *SEC v. Ripple Labs*, 682 F. Supp. 3d 308 (S.D.N.Y. 2023); SEC v. Terraform Labs (S.D.N.Y. 2023) (Rakoff, J.) (rejecting Ripple's reasoning).
[88] See "March 17, 2026 joint interpretation," https://www.paulweiss.com/insights/client-memos/sec-and-cftc-release-interpretation-on-application-of-federal-securities-laws-to-crypto-assets.
[89] SEC v. Ripple Labs, orders of Judge Torres (2025) (declining to dissolve injunction and reduce judgment).
[90] Supra notes 5, 14.
[91] Supra note 16.
[92] John Reed Stark, Paul Atkins Is Not Surviving the Year, LinkedIn (2026), https://www.linkedin.com/posts/john-reed-stark-3806866_paul-atkins-is-not-surviving-the-year-as-activity-7459578063069118464-E6R8/.

faith statement of law. There is no third option.[93] I flag this contradiction for the Senate not as a debater's point but because it will matter enormously in litigation for years: every defendant in every future securities case involving digital assets will wave the March 17 interpretation at a judge, and every investor plaintiff will be told the government itself declared the product unregulated. The SEC has manufactured exculpatory evidence against its own future cases, and against the private cases of the very investors it exists to protect.

VIII. Finding Six: The Complete Abandonment of Investor Protection, the Closing of Every Door

The federal securities regime is not a single protection; it is an interlocking system of doors through which a wronged investor may walk: SEC enforcement, SEC examination, registered-intermediary obligations, private litigation, and state securities enforcement. The Atkins SEC has closed, or is actively closing, every one of them. Simultaneously. I will take them in turn, and I ask the Senate's patience for the level of detail, because the detail is the point: each closure, viewed alone, may be defensible as a policy choice; viewed together, they are the demolition.

A. The April 13, 2026 Digital-Wallet Statement: A Case Study in Gleeful Abandonment

On April 13, 2026, the very same day the Commission finally released the enforcement statistics documenting its worst year in more than two decades, the SEC's Division of Trading and Markets issued a staff statement announcing that so-called "Covered User Interface Providers", the companies operating the digital wallets through which tens of millions of Americans buy, hold, and transact in crypto, need not register as broker-dealers, provided they recite compliance with a list of conditions.[94] A senior staffer celebrated the statement on LinkedIn the same afternoon. Mark the split screen: on one side of the agency's website, the statistical confession of historic enforcement collapse; on the other, a cheerful announcement of yet another category of intermediary excused from oversight. An agency that no longer announces what it does, but proudly (and eagerly) announces what it will not do.

What does broker-dealer registration actually provide? Since the statement airily waves it away, permit me, as someone who spent eighteen years enforcing this architecture, to itemize what the SEC just told wallet users they do not need:[95]

- **Licensure and accountability**: registration, Form BD disclosure, fingerprinting, qualification examinations, and a public disciplinary record (CRD/BrokerCheck) so an investor can look up who is holding her money;
- **Examination**: periodic, unannounced inspection by SEC and FINRA examiners, the mechanism that catches misconduct before it metastasizes;
- **Net capital** (Exchange Act Rule 15c3-1): the requirement that the firm maintain sufficient liquid capital so that customer claims can actually be paid;

[93] Stark, supra note 92.
[94] Supra note 41.
[95] 17 C.F.R. §§ 240.15c3-1, 240.15c3-3, 240.17a-3, 240.17a-4; Regulation Best Interest, 17 C.F.R. § 240.15l-1.

- **Customer protection** (Rule 15c3-3): the segregation of customer assets from firm assets, the rule with a nearly fifty-year track record of ensuring that when brokerages fail, customers recover, a track record crypto's serial bankruptcies (FTX, Celsius, Voyager, BlockFi) threw into the sharpest possible relief;
- **Recordkeeping** (Rules 17a-3 and 17a-4): the audit trail that makes fraud provable and restitution possible;
- **Regulation Best Interest and best execution**: the obligations that convert a salesman into a fiduciary-adjacent professional;
- **Dispute resolution and insurance**: FINRA arbitration and SIPC protection, the difference between a remedy and a shrug.

Every one of those protections exists because investors died without them, figuratively and, in the desperate aftermath of 1929, sometimes literally. The staff statement's treatment of cybersecurity deserves special mention: it instructs wallet providers to disclose their security practices, "if any." *If any.* In an ecosystem that suffered $3.41 billion in thefts in 2025 alone, the SEC's considered position is that safeguarding customer assets is optional, so long as its absence is disclosed. When a crypto platform is hacked or collapses, there is no Rule 15c3-3 reserve, no SIPC, no FINRA arbitration. There is an FBI intake form and a case agent who will tell the victim, as the FBI's own public guidance effectively does, that there is usually nothing to be done. One collapsed platform's terms of service told its customers, in effect and nearly in words, to go pound sand. That is the regime the SEC has now blessed in advance.[96]

And here is the statement's most cynical feature, what I have called its evidentiary paradox. The document disclaims any "legal force or effect," which conveniently exempts it from notice-and-comment rulemaking and judicial review. But it will have enormous *practical* force in exactly one direction: every wallet provider sued by a defrauded customer will attach it as Exhibit A, *the SEC itself said we need not register*, and every court will weigh it. A statement with no legal force to protect investors, and real rhetorical force to protect the industry from investors. The agency has withdrawn from the field and, on the evidentiary record, switched sides.

B. Mandatory Arbitration: Disenfranchisement by Policy Statement

On September 17, 2025, the Commission voted 3–1 to announce that it would no longer deny acceleration of registration statements for issuers whose charters force shareholders into mandatory individual arbitration, reversing decades of settled practice that preserved investors' access to court and to class actions.[97] The Commission adopted this policy statement without soliciting a single public comment, a procedural choice made necessary, one suspects, because the comments were predictable: the nation's largest institutional investors, including CalPERS, had long and vehemently opposed exactly this change. The Chairman's own framing was candid

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[96] The 2025 theft figure is cited infra note 154. The referenced terms of service were Celsius's; see In re Celsius Network LLC, 649 B.R. 87 (Bankr. S.D.N.Y. 2023) (holding, based on the platform's terms of use, that customer crypto deposits were property of the bankruptcy estate).

[97] SEC Policy Statement re mandatory arbitration provisions (Sept. 17, 2025), and dissenting statement of Commissioner Crenshaw, Mandatory Dis-Agreements (Sept. 17, 2025), https://www.sec.gov/newsroom/speeches-statements/crenshaw-statement-mandatory-dis-agreements-the-commissions-policy-of-quietly-shutting-the-door-on-investors-091725.

to the point of chilling: the federal securities laws, he said, "do not guarantee the right to pursue claims in court." Commissioner Crenshaw's dissent said what needed saying. I will say the rest: securities class actions recovered billions annually for defrauded investors, the private enforcement mechanism the Supreme Court itself has called a "necessary supplement" to SEC action. Extinguish it by charter provision, at the very moment public enforcement has collapsed, and the defrauded investors' remaining remedy is an individual arbitration they cannot afford, against a defendant who drafted the rules. The polite word is deregulation. The accurate word is disenfranchisement.

C. The State-Deferral Charade: A Garden Hose for a Fire Hydrant

The Chairman and his allies have elevated "deference to state securities regulation" into a declared pillar of the new philosophy, the claim that as the SEC withdraws, state regulators will backstop investors. The arithmetic annihilates the claim. Per NASAA's own most recent annual report, all fifty-plus state and provincial securities regulators combined: roughly 8,800 investigations, roughly 1,200 enforcement actions, and approximately $259 million in total monetary relief in a year.[98] The SEC alone, in a typical pre-2025 year: north of 700 total actions and monetary remedies historically averaging $1.9 billion or more. The states' combined national output is a fraction of what one regional SEC office once produced. State regulators are dedicated professionals, I have worked alongside them my entire career, but they lack nationwide subpoena reach over foreign entities, treaty-based evidence-gathering, cross-border asset-freeze capability, and the scale to police global platforms. Asking NASAA's members to replace the SEC is asking a garden hose to replace a fire hydrant, and calling the substitution federalism.

And the federalism is selective. Even as this administration preaches deference to states, the CFTC, crypto's designated new regulator under the pending legislation, has *sued state regulators* to stop them from policing prediction-market platforms operating in their jurisdictions.[99] States are sovereign when they decline to act, and preempted when they try. That is not a theory of federalism. It is a theory of impunity. I watched this movie's prequel from inside the SEC: when federal enforcement receded in the early 2000s, it was a state official, New York's Attorney General, who exposed the research-analyst scandals, to the SEC's institutional embarrassment.[100] The lesson then was that the vacuum always gets filled by *someone*. The innovation now is to close the vacuum to everyone at once.

D. The Quiet Bonfire of the Rulebook

Round out the architecture: fourteen proposed investor-protection rules (including cybersecurity risk-management requirements for advisers and funds) withdrawn in a single eight-page Federal Register notice; a concept release exploring the reduction of public-company

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[98] NASAA Enforcement Report (2025), nasaa.org, https://www.nasaa.org/wp-content/uploads/2025/10/2025-NASAA-Enforcement-Report_FINAL.pdf.
[99] CFTC litigation against state regulators re prediction-market platforms (CFTC and DOJ suits against Arizona, Connecticut, and Illinois, filed Apr. 2, 2026); see Forbes (Apr. 9, 2026), https://www.forbes.com/sites/jasonbrett/2026/04/09/prediction-market-regulator-sues-3-states-as-kalshi-wins-in-new-jersey/.
[100] New York Attorney General Eliot Spitzer's investigation of conflicted research analysts culminated in the $1.4 billion Global Research Analyst Settlement among the SEC, the New York Attorney General, NASD, NYSE, and state securities regulators. SEC Press Release No. 2002-179 (Dec. 20, 2002), https://www.sec.gov/news/press/2002-179.htm; SEC Press Release No. 2003-54 (Apr. 28, 2003), https://www.sec.gov/news/press/2003-54.htm.

reporting from quarterly to semiannual, halving the flow of information to markets; a proposal to reclassify approximately three-quarters of registered investment advisers as "small entities," lightening their regulatory obligations; and the gutting of Form PF, the confidential systemic-risk data feed that Congress created after 2008 so that regulators could see leverage building inside private funds *before* it detonates.[101] Each individually defensible-sounding; collectively, the methodical dimming of every light Congress installed after every prior catastrophe.

Close the enforcement door. Close the examination door. Close the registration door. Close the courthouse door. Close the state-regulator door. Then dim the disclosure lights on the way out. The Closing of Every Door may sound like a metaphor stretched over disparate events. The record shows something plainer: an observable program, door after door closed by the same hand.

And the next act is already in rehearsal. On July 22, 2026, five days before this hearing, the Commission announced the departure of the Enforcement Division's Principal Deputy Director and the elevation of Osman Nawaz, a serious and respected agency veteran, to the post. The commentary surrounding the appointment forecasts a new era of retail-investor protection built on Regulation Best Interest, the rule that forbids a financial professional from recommending an investment unless it is in the retail customer's best interest; Mr. Nawaz himself, at an industry forum earlier this year, keyed on Reg BI as "primed for this particular Commission."[102] I take him at his word, and I wish him every success. But watch the boundary of the coming campaign, because it is visible in advance: Reg BI cases about unsuitable annuities and overpriced share classes, retail-protection press releases in a steady stream, and not one word about the single riskiest product being mass-marketed to retail investors in America.

Because here is the question no retail-protection initiative that excludes crypto can survive: how could it ever be in a retail customer's best interest to buy an asset with no financial statements, no prospectus, no earnings, no cash flow, no audit of the exchange that sells it, no audit of the custodian that holds it, no deposit insurance behind the custody, no recourse when the private key disappears, and the worst loss record of any investment product in modern history? A broker who recommended a conventional security bearing that profile would be drafting the Commission's complaint against himself. Yet the agency now preparing to enforce "best interest" against annuity switching is the same agency running Project Crypto, a chairman's initiative to shepherd those very customers into the void. A regulator cannot enforce Regulation Best Interest with one hand and promote the worst-interest product in America with the other. The retail-protection era this SEC is about to announce is a ruse in plain view, and I respectfully urge the Senate to say so before the press releases start.

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[101] Withdrawal of fourteen proposed rules, 90 Fed. Reg. (June 2025); Form PF amendments; concept release on semiannual reporting; small-entity reclassification proposal, sec.gov.

[102] SEC Press Release No. 2026-68, SEC Announces Departure of Principal Deputy Director of Enforcement Sam Waldon (July 22, 2026), https://www.sec.gov/newsroom/press-releases/2026-68-sec-announces-departure-principal-deputy-director-enforcement-sam-waldon (announcing Osman Nawaz, formerly Chief of the Complex Financial Instruments Unit, as successor); Osman Nawaz, remarks at the Securities Docket New York forum (2026), as reported by Securities Docket (July 2026).

IX. Finding Seven: The Blockchain Charade, Betting the Agency on a Technology Big Tech Buried

The entire edifice of the Atkins SEC's transformation rests on a single factual premise: that blockchain is a transformative technology (in the Chairman's own repeated formulation, the engine of a "Fourth Industrial Revolution") and that the securities laws must therefore bend to accommodate it. If that premise is false, everything built upon it collapses. The premise is false, and the proof requires no expertise, only observation.[103]

Consider who is NOT betting on blockchain. Amazon, Apple, Google, Microsoft, and Oracle, the five greatest technology and database companies in history, with a combined market capitalization in the tens of trillions and combined annual R&D and capital budgets approaching a trillion dollars, will spend on the order of $700 billion this year on artificial-intelligence infrastructure. Their blockchain spending is, rounding generously, zero. The word "blockchain" appears nowhere in their earnings calls as a business driver and nowhere in their Forms 10-K, not as a strategic priority, not as a growth initiative, not even as an emerging *risk factor*, the section where public companies are legally obligated to list anything that might plausibly matter.[104] These are the most sophisticated evaluators of technology on Earth, with every incentive to seize any genuine platform shift. They looked at blockchain, carefully and at length, and walked away. And Meta is the exception that proves the rule: the one technology giant that did bet on blockchain, assembling a consortium of partners and years of engineering behind the Libra/Diem stablecoin, abandoned the project in 2022 and sold its parts to a bank that has since gone bankrupt; asked about it three years later, Mark Zuckerberg needed only one word, "dead."[105] The public-interest scholarship has reached the same verdict: as Tonantzin Carmona observed for Brookings, crypto has delivered nothing like the everyday public value of smartphones, GPS, or cloud computing; sixteen years after its creation, its primary legal use case remains financial speculation, enriching a small class of insiders at ordinary Americans' expense.[106]

Now consider who IS betting on blockchain: Paul Atkins. The SEC Chairman has made blockchain the cornerstone and defining mission of his tenure, "Project Crypto" in July 2025; the July 7, 2026 Regulatory Agenda[107] organized around crypto rulemaking and tokenized securities, with "Regulation Crypto" teed up for this very month; speeches invoking blockchain more than a dozen times apiece; a declared "mandate to preserve the promise of our capital markets for the next quarter millennium," in service of on-chain finance. A securities regulator is now more enthusiastic about blockchain than Oracle, Microsoft, Amazon, Apple, and Google combined.

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[103] Stark, Blockchain's Inconvenient Truth, supra note 17 (with underlying sources for each item in Sections IX.A–B).

[104] Id. (Forms 10-K and earnings-call analysis).

[105] Fortune, Exclusive: Meta in Talks to Deploy Stablecoins Three Years After Giving Up on Landmark Crypto Project (May 8, 2025), https://fortune.com/crypto/2025/05/08/meta-stablecoins-exploration-usdc-circle-diem-libra/; CoinDesk, Diem Confirms Shutdown as Silvergate Acquires the Project's Assets (Jan. 31, 2022), https://www.coindesk.com/business/2022/01/31/silvergate-bank-confirms-diem-tech-acquisition.

[106] Tonantzin Carmona, Protecting the American Public from Crypto Risks and Harms, Brookings Institution (June 2025), https://www.brookings.edu/articles/protecting-the-american-public-from-crypto-risks-and-harms/.

[107] See "July 7, 2026 Regulatory Agenda," https://thedefiant.io/converge/regulation/sec-adds-three-crypto-rules-to-2026-regulatory-agenda.

The enterprise graveyard. This is not a case of a young technology awaiting adoption. Blockchain is roughly seventeen years old, ancient by technology standards; the iPhone conquered the planet in less time, and the world's most powerful institutions spent a decade and billions of dollars trying to make it useful. The results:[108]

- **TradeLens** (IBM/Maersk global shipping platform, 300+ organizations): shut down 2022, the companies could not achieve "commercial viability";[109]
- **We.Trade** (Deutsche Bank, HSBC, Santander, UBS, IBM): insolvent 2022;[110]
- **Marco Polo** (45 global banks): insolvent 2023;[111]
- **Contour** (HSBC, BNP Paribas, Citi, Standard Chartered): shut down 2023, after processing roughly 60–70 transactions *per month, a* volume a single fax machine handled in 1985;[112]
- **B3i** (the global insurance consortium): insolvent 2022;[113]
- **Microsoft Azure Blockchain-as-a-Service**: discontinued 2021;[114]
- **The Australian Securities Exchange** blockchain clearing replacement: abandoned after seven years and a write-off on the order of A$250 million, with an independent review finding the project unfit for purpose;[115]
- **IBM World Wire, Meta's Diem/Libra, Everledger**, and, my personal favorite for what it says about the era, the Long Island Iced Tea Corporation, which renamed itself "Long Blockchain Corp," watched its stock triple on the name change alone, never deployed any blockchain, and was delisted and charged.[116]

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[108] Id. (enterprise failure catalogue, with primary sources).
[109] A.P. Moller-Maersk and IBM, A.P. Moller-Maersk and IBM to Discontinue TradeLens, a Blockchain-Enabled Global Trade Platform (Nov. 29, 2022), https://www.maersk.com/news/articles/2022/11/29/maersk-and-ibm-to-discontinue-tradelens (the "commercial viability" language is Maersk's own).
[110] Ledger Insights, HSBC, SocGen, IBM Backed Blockchain Company We.Trade Starts Insolvency Procedure (June 2022), https://www.ledgerinsights.com/hsbc-socgen-ibm-backed-blockchain-company-we-trade-starts-insolvency-procedure/.
[111] Global Trade Review, Marco Polo Brings in Liquidators as Funds Run Dry (Feb. 2023), https://www.gtreview.com/news/top-stories/marco-polo-brings-in-liquidators-as-funds-run-dry/.
[112] Global Trade Review, Exclusive: Contour to Shut Down as Bank Shareholders Pull Funding (Oct. 2023), https://www.gtreview.com/news/top-stories/exclusive-contour-to-shut-down-as-bank-shareholders-pull-funding/; the 60-70 transactions-per-month figure is per Ledger Insights, Blockchain Trade Finance Network Contour to Shutter (Oct. 2023), https://www.ledgerinsights.com/contour-blockchain-trade-finance-network-shutter/.
[113] Insurance Journal, Industry's Blockchain Project, B3i, Ceases to Trade After Filing for Insolvency (July 29, 2022), https://www.insurancejournal.com/news/international/2022/07/29/677926.htm.
[114] Microsoft, Action Required: Migrate Your Azure Blockchain Service Data by 10 September 2021, https://azure.microsoft.com/en-us/updates/action-required-migrate-your-azure-blockchain-service-data-by-10-september-2021/; see also InfoQ, Microsoft Retires Azure Blockchain (June 2021), https://www.infoq.com/news/2021/06/microsoft-drops-azure-blockchain.
[115] Ledger Insights, ASX Pauses DLT Settlement Project, Writes Off Capital Investment (Nov. 2022), https://www.ledgerinsights.com/asx-pauses-dlt-settlement-chess/ (A$245-255 million pre-tax write-off following Accenture's independent review); see also iTnews, ASX Axes Blockchain-Based Core Replacement (Nov. 17, 2022), https://www.itnews.com.au/news/asx-axes-blockchain-based-core-replacement-587904.
[116] On Diem, see supra note 105. On Everledger, see Ledger Insights, ESG, Blockchain Traceability Startup Everledger Goes Bust (May 2023), https://www.ledgerinsights.com/everledger-bankruptcy-esg-blockchain-traceability/. On Long Blockchain Corp., see SEC Press Release No. 2021-121 (July 9, 2021) (insider-trading

Gartner found that only about 5% of enterprise blockchain projects ever reach production, and that 90% of those require replacement within two years; industry analyses estimate over $3 trillion of announced blockchain initiatives have been quietly retired. Peer-reviewed and government technical evaluations consistently find that adding blockchain to a system *increases* latency dramatically while *reducing* throughput, a database, in other words, that is slower, costlier, and harder to fix, whose sole distinguishing feature (decentralized trustlessness) is the first thing every serious enterprise deployment removes. In 2022, more than 1,500 computer scientists and technologists, including some of the most celebrated engineers alive, wrote to this Congress stating that blockchain is "poorly suited for just about every purpose currently touted as a present or potential source of public benefit."[117]

The exceptions prove the rule. Defenders will cite J.P. Morgan's Kinexys. Kinexys processes roughly $5 billion daily, approximately 0.05% of JPMorgan's $10 trillion in daily payment flows, on a *permissioned, private* ledger that shares nothing with public crypto networks except vocabulary; JPMorgan's own chief market strategist has stated flatly that none of it enhances the value proposition of crypto, stablecoins, or crypto exchanges. Defenders will cite BlackRock's tokenized fund, BUIDL, a few billion dollars whose *only* customers are crypto firms needing collateral inside their own closed loop; not one traditional finance participant has adopted it for any purpose, making it the perfect specimen of crypto's defining pathology: a technology whose only demonstrated market is servicing itself. Defenders will cite the DTCC's new tokenization pilot, and here the record is almost poetic, because DTCC's own filings give the game away: DTC will assign its tokenized positions *no collateral value and no settlement value* (that is, the institution running the experiment declines to trust its output anywhere risk actually counts) while its officially designated books and records remain exactly where they have always been. And the New York Stock Exchange's own 2026 rule filing on tokenized securities concedes, in plain regulatory prose, that a "tokenized" share is the same share, same ticker, same CUSIP, same rights, same DTC settlement, a back-end notation change marketed as a revolution.[118] As one respected technologist put it, tokenization is a semantic smokescreen; or in the words of another observer, the remarkable thing about blockchain is how much better everything works when you take it out.

Which brings me to the "innovation" exemption the SEC leaked into the press in May 2026, the plan to let tokenized versions of NMS stocks trade outside the national market system's protections. Begin with the word itself, because "innovation" is doing an extraordinary amount of dishonest work in this debate. What, exactly, does a third-party tokenized stock give investors that they lack? They can already buy shares outright with full voting and dividend rights; buy fractional shares with real custody and SIPC coverage; buy mutual funds; buy ETFs at penny spreads; and hold any of them inside a tax-advantaged retirement account. Five ways, at least, all of them liquid, all of them regulated, all of them protected by ninety years of patiently constructed market structure. The retail investor who wants exposure to Apple is not stranded; he

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charges arising from the name-change announcement; registration revoked Feb. 19, 2021), https://www.sec.gov/newsroom/press-releases/2021-121. IBM announced World Wire's production launch in March 2019, https://www.prnewswire.com/news-releases/ibm-blockchain-world-wire-a-new-global-payment-network-to-support-payments-and-foreign-exchange-in-more-than-50-countries-300813674.html; IBM has since discontinued the offering.

[117] Letter from 1,500+ technologists to Congressional leadership (June 1, 2022), available at http://www.johnreedstark.com/wp-content/uploads/sites/180/2025/06/Concerned.Tech-Letter.pdf.

[118] DTCC tokenization filings; NYSE rule filing (2026); Kinexys volume data — all sourced in Stark, supra note 17.

is swimming in good options. A third-party token adds none of this and strips away what the investor already has: the vote, the dividend, the issuer relationship, the recourse, the customer-protection rule, SIPC coverage, the examined broker-dealer standing behind the trade. It is a rights-stripped, protection-stripped, issuer-unauthorized, price-tracking wrapper, an equity NFT, and a solution in search of a problem.[119]

And once that is seen clearly, the next question answers itself: if tokenized equities solve no problem for investors, whose problem do they solve? They solve the industry's problem. The crypto industry needs new product to sell, new instruments to list, new venues to operate, new fees to collect, new volume to generate. Tokenized equities are not a response to retail demand; there is no groundswell of ordinary Americans marching on Washington demanding the right to buy a rights-stripped synthetic wrapper of a stock they could simply buy outright. They are a response to industry demand. The retail investor never asked for this. The retail investor is, as so often happens, simply being volunteered: volunteered to be the liquidity, volunteered to be the customer, volunteered to be the eventual victim.

Real innovation gives people something they did not have before: the Internet, the iPhone, the cloud, AI. Tokenization does the opposite. It takes a fully functional, fully protected instrument, the ordinary share, strips it of its rights and its protections, wraps the diminished remainder in software, and relabels that act of subtraction as progress. Calling subtraction "innovation" does not make it innovation; it just makes it a marketing campaign. Nor is the underlying claim of novelty even true: the financial markets already digitized equity ownership, and they did it in the 1980s. "Blockchain" and "tokenization" have long functioned less as technical terms than as incantations, words invoked to confer an aura of futurism on arrangements that, examined soberly, are either mundane or actively worse than what they propose to replace. Dressing a decades-old reality in the vocabulary of revolution, and then using that vocabulary to justify dismantling investor protections, is not technological progress. It is innovation theater, and the audience is being charged admission with their life savings.[120]

I know where this leads, because I watched the first version of this movie from inside the SEC. From 1991 through 2009, in case after case, I saw ordinary retail investors who could not reliably tell one kind of "stock" from another. A company listed on the New York Stock Exchange, a company quoted on the OTC Bulletin Board, and a shell languishing in the Pink Sheets all looked identical on a screen: a name, a ticker, a moving price, a buy button. But those distinctions were the entire architecture of investor protection, and the fraudsters understood the asymmetry perfectly; the classic microcap pump-and-dump depended on it. The victim believed he was buying "a stock," the same as any other stock, and learned what he had actually purchased only after the collapse. It took the markets and their regulators three decades of structural work, listing standards, disclosure requirements, quotation rules, tiering, and labeling, to partially contain that confusion. A tokenized stock re-creates that confusion deliberately: a famous name, a live price, a slick buy button, and none of the rights or protections of the real share. The SEC is proposing to manufacture the precise category-confusion problem that took

[119] See infra note 122 (Bloomberg reporting, May 18 and 22, 2026).
[120] These arguments are developed at length in John Reed Stark, "The Gleeful Unmaking of the SEC and Why 'Hyperbole' Is the Wrong Word for Noticing," LinkedIn (May 23, 2026), https://www.linkedin.com/pulse/gleeful-unmaking-sec-why-hyperbole-wrong-word-noticing-stark-pmawe.

thirty years to fix, and to drop it into the laps of the same investors who never fully learned the distinction the first time.[121]

Tokenization gives investors a worse version of what they already own. Calling that a Fourth Industrial Revolution is an affront to the intelligence of every thinking person asked to applaud it. The exemption was shelved in late May, only after public criticism, and announced, characteristically, through anonymous sources and a departing commissioner's social-media posts rather than any Commission statement.[122] Shelved is not dead: the July 2026 Regulatory Agenda restores on-chain trading of tokenized securities to the top of the rulemaking queue.[123] Perhaps this will prove the SEC's New Coke moment, 1985's solution to a problem nobody had, which Coca-Cola had the institutional honesty to kill 79 days after launch.[124] But Coca-Cola admitted its blunder. The chances that this Chairman admits his, and risks the wrath of the industry that installed him, are slim and none (and Slim just left town).

One final point, because it connects the technology record to the securities laws: under Howey, the *absence* of genuine utility is not a debating point; it is the legal foundation. An instrument purchased overwhelmingly in the expectation of profit from others' efforts, with no meaningful consumptive use, is the paradigm investment contract. Seventeen years of failed deployments are worse than embarrassing for the Fourth Industrial Revolution thesis. They are evidence, the very evidence the SEC's March 17 interpretation had to ignore to reach its conclusion.

X. Finding Eight: The Emperor Has No Clothes, Crypto as an "Investment"

A. The Data Vacuum

Strip away the vocabulary and ask the question every securities analyst asks of every asset: what am I buying? A share of stock is a claim on a company's earnings and assets. A bond

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[121] U.S. Securities and Exchange Commission, Microcap Fraud, investor.gov, https://www.investor.gov/additional-resources/spotlight/microcap-fraud; Securities Enforcement Remedies and Penny Stock Reform Act of 1990, Pub. L. No. 101-429; NASD OTC Bulletin Board Eligibility Rule (1999); the author's firsthand account is developed in the article cited supra note 120.

[122] Scott Patterson, "SEC Is Said to Ready Plan for Trading Crypto Versions of Stocks," Bloomberg (May 18, 2026), https://www.bloomberg.com/news/articles/2026-05-18/sec-is-said-to-ready-plan-for-trading-crypto-versions-of-stocks; Scott Patterson, "SEC Delays Plan Allowing for Crypto Versions of US Stocks," Bloomberg (May 22, 2026), https://www.bloomberg.com/news/articles/2026-05-22/sec-delays-plan-allowing-for-crypto-versions-of-us-stocks; Commissioner Hester Peirce (@HesterPeirce), posts on X (May 21 and 22, 2026), https://x.com/HesterPeirce/status/2057563897507532864 and https://x.com/HesterPeirce/status/2057848784856440957; the materials are collected and analyzed in John Reed Stark, "The Gleeful Unmaking of the SEC — and Why 'Hyperbole' Is the Wrong Word for Noticing," LinkedIn (May 23, 2026), https://www.linkedin.com/pulse/gleeful-unmaking-sec-why-hyperbole-wrong-word-noticing-stark-pmawe.

[123] Cryptonomist, "SEC crypto safe harbor: Regulatory Proposal Set for July 2026" (July 8, 2026); The Defiant, supra note 6.

[124] The Coca-Cola Company, New Coke: The Most Memorable Marketing Blunder Ever?, https://www.coca-colacompany.com/about-us/history/new-coke-the-most-memorable-marketing-blunder-ever (New Coke launched April 23, 1985; the original formula returned 79 days later, on July 11, 1985); see also History.com, New Coke Debuts, One of the Biggest Product Flops in History, https://www.history.com/this-day-in-history/april-23/new-coke-debuts-one-of-the-biggest-product-flops-in-history.

is a contractual promise of repayment. Real estate yields rent. Even gold has industrial and ornamental demand measured across millennia. A crypto token, in the typical case, has: no cash flow; no yield; no earnings; no dividends; no employees; no products; no customers; no balance sheet; no assets; no liquidation preference; no legal claim on anything or anyone. It is a boundless data vacuum. There is nothing to analyze, you cannot value mathematical blather, and therefore nothing beneath the price except the single load-bearing assumption of every scheme this agency was built to police: that another buyer will arrive and pay more. When the buyers stop arriving, there is no floor, because there was never anything under the price to begin with.

B. The Body Count

This is not theoretical. The empirical record of crypto "investment" is a casualty ledger without precedent in financial history:[125]

- Of approximately 25 million crypto tokens ever created, more than 13 million, over half, are already dead, and 2025 alone accounted for the majority of all token failures in crypto's entire history, including millions of collapses in a single quarter following a $19 billion cascade of forced liquidations;[126]
- For perspective: American capitalism, across 400 years, has produced roughly 60,000 listed public companies worldwide, each vetted by underwriters, auditors, exchanges, and regulators. Crypto minted roughly 400 tokens for every one of those companies, most costing minutes and dollars to create, none vetted by anyone;[127]
- The 2022 collapse erased approximately $2.2 trillion, roughly 73% of the asset class, and took with it Terra/LUNA (a "$40 billion ecosystem" to functionally zero), Three Arrows, Celsius, Voyager, BlockFi, and FTX;[128]
- The headstones are legion and instructive: LUNA, down 99.99%; FTT; SafeMoon (its executives criminally charged); "play-to-earn" gaming tokens down 95%+; and my favorite museum piece, an NFT collection whose floor was once appraised at eight figures now transacting, when it transacts at all, for less than the price of a sandwich;[129]
- NFTs broadly: multiple studies place 95–96% of collections at effectively zero value; the flagship "blue chip" collections are down roughly 95% from peak; and because the images themselves typically live on ordinary web servers rather than any chain, a meaningful share of NFTs now point at dead links, receipts for property that no longer exists;[130]

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[125] Supra note 18.
[126] Supra note 18 (token-mortality data); on the October 10, 2025 liquidation cascade, see CoinDesk Research, Market Spotlight: Inside Crypto’s $19 Billion Liquidation Event (Oct. 2025), https://www.coindesk.com/research/market-spotlight-the-19-billion-liquidation-that-shook-crypto.
[127] World Bank / World Federation of Exchanges data, Listed Domestic Companies, Total, https://data.worldbank.org/indicator/CM.MKT.LDOM.NO (worldwide listed-company counts).
[128] Infra note 137 (BIS); bankruptcy filings of Terraform, Celsius, Voyager, BlockFi, FTX.
[129] SEC Press Release No. 2023-229 (Nov. 1, 2023) (charges against SafeMoon LLC and its executives), with parallel criminal charges announced the same day by the U.S. Attorney’s Office for the Eastern District of New York; on Terra/LUNA, supra note 128; on NFT collections, infra note 130.
[130] dappGambl, Dead NFTs: The Evolving Landscape of the NFT Market (Sept. 2023) (finding 69,795 of 73,257 NFT collections analyzed, roughly 95%, carried a market capitalization of zero Ether); see Business Insider, https://www.aol.com/remember-nfts-sold-millions-dollars-135646632.html.

- The metaverse, the last "next big thing" this industry sold, consumed tens of billions of dollars of shareholder capital and produced virtual worlds whose daily active user counts were measured in the *dozens*.[131]

Every one of those tokens, at its peak, had believers, influencers, conference keynotes, and price targets. Every one had "institutional adoption" narratives. The asset class's own history is the disclosure document its promoters refuse to write.

C. Social Proof: The Mechanism That Fills the Vacuum

If there is nothing to analyze, what sustains the price? The Senate should understand the answer with precision, because it explains why a promoting SEC Chairman is unseemly and, worse, mechanically dangerous. Psychologist Robert Cialdini gave the phenomenon its name: Social Proof, the human reflex to treat the herd as evidence.[132] As I have taught my students for three decades, social proof and its institutional cousin, groupthink, are the laziest substitutes for analysis ever devised, and crypto has weaponized them. The crypto pitch is never about utility, cash flows, or intrinsic value, because there are none. It is always, and only, about who else is in the pool: Ten billionaires bought in. Wall Street is "warming." A president launched a coin. An SEC Chairman proclaims the Fourth Industrial Revolution. Therefore: buy.

Turn on financial television and observe the machine in operation: the advertisements are overwhelmingly crypto; and virtually every on-air commentator promoting crypto already owns a significant stake, the fund manager talking his book, the founder pumping his own token, the "analyst" whose firm is long. Not one disinterested voice in the chain. They are not offering analysis; they are marketing their inventory. When one of the few genuinely disinterested figures in American finance, a legendary investor who called both the dot-com crash and the housing collapse, and who owns no crypto and never has, recently dismissed Bitcoin on air as an "unnecessary piece of nonsense" destined to dwindle away, the anchor's rebuttal was not evidence. It was a recitation of who else was buying. That exchange, in miniature, is the entire epistemology of this asset class: groupthink in a tailored suit, with a vested interest underneath.[133]

Now place the Chairman of the SEC inside that machine. For ninety years, the SEC's silence functioned as a warning and its actions as the market's immune system. Investors reasonably treat the posture of the nation's chief investor-protection officer as information. When that officer tours Bitcoin conferences, launches "Project Crypto," and amplifies presidential crypto promotions from his official account, he is not merely declining to warn. He is *manufacturing the social proof, emitting,* from the single most authoritative source in American finance, the signal that the water is safe. The Madoff-era SEC's sin was silence that

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[131] Meta Platforms, Inc. Forms 10-K (Reality Labs segment operating losses, cumulatively exceeding $60 billion since 2020); CoinDesk, It's Lonely in the Metaverse (Oct. 7, 2022) (DappRadar data showing Decentraland's ~38 daily active users), https://www.coindesk.com/web3/2022/10/07/its-lonely-in-the-metaverse-decentralands-38-daily-active-users-in-a-13b-ecosystem/.
[132] Robert B. Cialdini, Influence: The Psychology of Persuasion (1984).
[133] Jeremy Grantham, interview on The Diary of a CEO (June 2026) ("I think it's an unnecessary piece of nonsense," and, on bitcoin's long-run value, "it will certainly go to zero, but it may take a long time"); see https://news.bitcoin.com/jeremy-grantham-says-spacex-defines-ai-bubble-peak-and-dismisses-bitcoin-as-unnecessary-nonsense/.

investors mistook for a clean bill of health. This SEC's sin is worse: not silent assent, but active applause.

Even the era's most famous boosters are quietly heading for the exits. Mark Cuban, the billionaire who evangelized crypto through the last boom and whose endorsed platform, Voyager Digital, collapsed into bankruptcy with its customers' savings inside, now concedes that crypto is "disappointing" because it "hasn't come up with an application for grandma." He has sold most of his Bitcoin. His one-word verdict on memecoins: "garbage."[134] Elon Musk, the most powerful crypto amplifier alive, the man whose tweets once sent Dogecoin to the moon and whose company put $1.5 billion of Bitcoin on its balance sheet, was asked this April, under oath before a federal jury in Oakland, to explain cryptocurrency. His answer, in words I could not improve upon: "Some of them have merit, but most of them are scams."[135] Under oath concentrates the mind wonderfully. And the flagship corporate proof-of-concept, the software company that converted itself into a leveraged Bitcoin holding vehicle and spawned dozens of imitators, now trades below the value of the coins it holds, has posted quarterly losses in the billions, and is a standing demonstration that the reflexive machine runs in reverse just as efficiently.[136] The emperor's own courtiers are edging toward the door. The SEC Chairman is still leading the parade.

D. The Containment That Was, and Is Being Dismantled

One last empirical point, which the Senate should carry into Finding Fourteen. When the 2022 collapse erased $2.2 trillion, the Bank for International Settlements examined the wreckage and reached a remarkable conclusion: the catastrophe had "little discernible impact" on the broader financial system, because crypto remained "largely self-referential", a casino whose losses stayed inside the casino.[137] That containment was not luck. It was *regulatory engineering*: the accounting guidance that kept crypto off bank balance sheets, the banking-agency warnings, the retirement-plan guardrails, the enforcement posture that kept the doors between the casino and the economy locked. Every one of those locks has now been removed, deliberately, proudly,

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[134] Gizmodo, 'Lost the Plot': Mark Cuban Reveals Why He Sold Most of His Bitcoin (May 2026), https://gizmodo.com/lost-the-plot-mark-cuban-reveals-why-he-sold-most-of-his-bitcoin-2000762634; see also Inc., How This Crisis Helped Convince Mark Cuban That Bitcoin Has 'Lost the Plot' (May 2026), https://www.inc.com/brian-contreras/mark-cuban-crypto-bitcoin-crisis-ethereum-shark-tank/91350834. On Voyager Digital's July 2022 Chapter 11 bankruptcy (approximately $1.3 billion in customer crypto assets) and Cuban's promotion of the platform, see Crowdfund Insider, Mark Cuban and Dallas Mavericks Prevail in Voyager Digital Promotion Lawsuit (Jan. 2026), https://www.crowdfundinsider.com/2026/01/257014-mark-cuban-and-dallas-mavericks-prevail-in-voyager-digital-promotion-lawsuit/.

[135] Fortune, Elon Musk Likes Bitcoin, But He Just Told a Jury Most Crypto Coins Are Scams (Apr. 30, 2026), https://fortune.com/2026/04/30/elon-musk-bitcoin-crypto-scams/ (quoting trial testimony as reported by the New York Times's Mike Isaac).

[136] Public filings and quarterly results of the referenced bitcoin-treasury issuer, Strategy, Inc. (Q1 2026 net loss of $12.54 billion); see Forbes, What's Happening With MSTR Stock? (Jan. 30, 2026), https://www.forbes.com/sites/greatspeculations/2026/01/30/whats-happening-with-mstr-stock/ (shares trading below the value of the company's bitcoin holdings); CoinDesk (July 6, 2026), https://www.coindesk.com/markets/2026/07/06/one-month-that-shook-the-market-saylor-s-struggles-over-bitcoin-strategy-yields-big-loss ($8.31 billion second-quarter unrealized loss).

[137] Bank for International Settlements, analysis of the 2022 crypto collapse ("largely self-referential"; "little discernible impact"), BIS Bulletin No. 69, Crypto Shocks and Retail Losses (Feb. 20, 2023), https://www.bis.org/publ/bisbull69.htm.

and by name. The next $2.2 trillion loss will not stay inside the casino. With every guardrail gone, the only question left is when.

XI. Finding Nine: America's First Chief Ponzi Officer

I use a provocative phrase in this section's title, and I owe the Senate a rigorous defense of it. The phrase is my characterization (my opinion, offered as a witness with thirty years in this field) of a documented pattern of official conduct. Here is the pattern.

A. The Promotion Record

Chairman Atkins has done more than permit crypto. He has *sold* it, with an energy and ubiquity no SEC Chairman has ever devoted to any asset class:

- **"Project Crypto"** (announced July 31, 2025): a chairman's initiative to make America the "crypto capital of the world", the President's campaign slogan, adopted verbatim as the mission statement of an independent agency;[138]
- **The 2026 Regulatory Agenda** (July 7, 2026): organized explicitly around crypto capital-raising, digital-asset custody, and on-chain trading of tokenized securities, with "Regulation Crypto" (temporary exemptions and safe harbors for crypto issuers) slotted for this very month, and accompanied by the Chairman's declaration of a "mandate to preserve the promise of our capital markets for the next quarter millennium";[139]
- **The conference circuit**: the first sitting SEC Chairman in history to keynote a Bitcoin promotional conference, plus the Economic Club of New York (July 2, 2026) and a holiday-weekend financial-television tour, the nation's securities regulator working the midway on the Fourth of July, pitching the product;[140]
- **The official social-media amplification**: from his verified official account, the Chairman amplified and reproduced a presidential post proclaiming that the prior SEC "nearly DESTROYED" crypto but "'TRUMP' SAVED IT," that America is the "CRYPTO CAPITAL of the WORLD," and, the sentence that should end any debate about regulatory independence, that "'TRUMP' will NEVER let Crypto down!" The Chairman's own appended words: "That era is over. Under President Trump's leadership... we are delivering much needed clarity to digital asset markets." I respectfully direct the Senators to Exhibit A [screenshot appended], because no paraphrase can capture it: the head of an independent law-enforcement agency, publicly subordinating his agency to "the President's leadership," on the precise subject where the President's family holds a documented multi-billion-dollar financial stake.[141] In ninety-two years, no SEC Chairman (not one, of either party) has done anything remotely comparable;

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[138] Chairman Paul S. Atkins, "Project Crypto" address (July 31, 2025), sec.gov/newsroom/speeches-statements.
[139] Supra notes 6, 73.
[140] Bitcoin conference keynote (2025); Economic Club of New York remarks (July 2, 2026).
[141] Paul S. Atkins (@SECPaulSAtkins), post on X (May 28, 2026), https://x.com/SECPaulSAtkins/status/2059990180723859958, responding to and reproducing Donald J. Trump (@realDonaldTrump), Truth Social post (May 27, 2026),

- **The catchphrase**: the Chairman's oft-repeated quip that the agency is not "the Securities and *Everything* Commission." It is a good line. It is also a precise inversion of the jurisdictional truth: the securities laws reach "the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits" (Howey's words, not mine) and the assets the Chairman has read out of that definition are the ones federal judges spent seven years reading *in*.[142]

Note also the inversion of the agency's operating question. For ninety years, every SEC initiative began with: *what protects investors?* Every initiative of this SEC begins with: *what accelerates adoption?* The burden of proof has been reversed, the product is now the client, and the investor is the externality.

B. Why "Ponzi" Is the Accurate Frame

A Ponzi scheme, reduced to its economics, is an arrangement in which returns to earlier participants are paid from the capital of later participants, sustained by recruitment and by the manufactured appearance of legitimacy, and doomed by arithmetic the moment recruitment slows. Now recall Finding Eight: the typical crypto token has no cash flow, no earnings, no claim on anything; its price is supported *solely* by the arrival of subsequent buyers. Gains to early holders are, necessarily and mechanically, funded by later entrants. The asset class does more than resemble the structure; absent utility (Finding Seven) and absent cash flows (Finding Eight), it *is* the structure, at civilizational scale. I did not invent this observation, the world's central-bank economists described crypto as "largely self-referential," and Warren Buffett and Charlie Munger said it less politely, but ninety years of securities law gave the SEC one job with respect to such structures: police them.[143]

Instead, the man who runs the agency built to police Ponzi economics has become the structure's most credentialed recruiter. FOMO, hype, and technological gobbledygook jack up the price; a few get very rich; a great many get very poor. It is the oldest story in securities markets, now performed with the watchdog leading the applause. That is why I say, carefully and advisedly: Paul Atkins has become, in function and effect, America's first Chief Ponzi Officer. "SEC Project Crypto" might as well be renamed "SEC Project Ponzi."

C. The Results Are in: The Loss Ledger

This is not prospective harm. The first full accounting of the promoted era has been published, and the Senate should enter it into the record:

- Per Reuters' comprehensive accounting, from November 2024 through April 2026, Trump-family crypto ventures generated roughly **$2.3 billion in gains for the family, matched,** almost dollar for dollar, by roughly **$2.3 billion in losses borne by**

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https://truthsocial.com/@realDonaldTrump/posts/116648950505497613; see also Exhibit A (screen capture retained by the author).

[142] Paul S. Atkins, Regulation Crypto Assets: A Token Safe Harbor, Remarks at the DC Blockchain Summit (Mar. 17, 2026) ("We are not the Securities and Everything Commission, anymore."), https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-regulation-crypto-assets-031726.

[143] Supra note 137 (BIS, "largely self-referential"); Warren Buffett, remarks at the Berkshire Hathaway annual meeting (May 5, 2018) (bitcoin is "probably rat poison squared"), as widely reported, e.g., by CNBC (May 5, 2018).

investors in those ventures' tokens.[144] A closed loop: the wealth did not appear; it *transferred*;

- Per Chainalysis, approximately **764,000 wallets, most of them small holders, lost money on the $TRUMP memecoin alone**, an instrument that shed roughly 97% of its peak value while trading fees flowed to its sponsors;[145]
- And per the most recent accounting, a Nansen analysis reported by the New York Times on July 4, 2026: **988,905 investors — nearly one million buyers, two out of every three — have lost money on the $TRUMP memecoin, $3.81 billion in all**, while approximately $4 billion in profits concentrated in a small cohort of early, sophisticated wallets that got out on the way up, and the token's promoters collected $636 million in trading fees — up or down, win or lose, paid on every trade;[146]
- The New York Times, reporting on that wreckage, quoted my assessment, which I repeat here under oath because I meant every word: I find it sad that these investors have no protection from the SEC, the agency has gleefully abandoned them. It is all about a scam as old as securities markets themselves: a pump-and-dump that enriches a few at the expense of the masses.[147]

And to be scrupulously fair, one more time: this finding is not an indictment of the President for keeping a campaign promise. It is an indictment of the officer whose entire statutory function was to stand between that promise and the 764,000 wallets, and who chose, instead, to hold the megaphone.

D. The CLARITY Act: Codifying the Demolition, Forever

Which brings me to the legislation now awaiting this chamber's vote, because the Chairman, beyond implementing the demolition, has championed the statute that would make it permanent and bipartisan-proof. I published a detailed analysis of the CLARITY Act last week; I summarize its fatal defects for the record:[148]

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[144] Reuters, special report on Trump-family crypto ventures (June 9, 2026), official Reuters link (Trump-family crypto gains of roughly $2.3 billion from November 2024 through April 2026, matched by roughly $2.3 billion in investor losses); figures also collected at https://cryptoslate.com/trump-familys-2-3b-crypto-windfall-matched-by-2-25b-in-investor-losses-reuters-finds/; see also Yahoo Finance summary.

[145] MacKenzie Sigalos, "58 crypto wallets have made millions on Trump's meme coin while 764,000 have lost money," CNBC (May 6, 2025); on the ~97% decline, see Fortune (July 7, 2026), https://fortune.com/2026/07/07/donald-trump-meme-coin-world-liberty-financial-finance-politics/ (token trading at $1.68, down 97% from its $75.35 peak, with roughly 988,905 wallets holding $3.8 billion in combined losses per Nansen).

[146] Eric Lipton and David Yaffe-Bellany, "Nearly a Million Investors Lost a Total of $3.8 Billion on Trump Crypto Coin," New York Times (July 4, 2026) (reporting Nansen analysis finding 988,905 losing wallets and $3.81 billion in combined realized and unrealized losses through the end of June 2026, approximately $4 billion in gains concentrated among early wallets, and $636 million in fees collected by the token's sponsors).

[147] Eric Lipton, Andrea Fuller & David Yaffe-Bellany, "Crypto Brought Trump a Huge Windfall, Even as Many Investors Lost Big," New York Times (July 1, 2026), https://www.nytimes.com/2026/07/01/us/politics/trump-crypto-memecoin-world-liberty.html (quoting the author's assessment).

[148] John Reed Stark, "Twelve Reasons Why the CLARITY Act Is the Worst Financial Legislation in Modern American History," LinkedIn (July 20, 2026), https://www.linkedin.com/pulse/twelve-reasons-why-clarity-act-worst-financial-modern-john-reed-stark-u5hhe.

1. It reassigns the market to an agency that cannot do the job, and that the industry has already captured. The Act hands primary oversight of most digital assets to the CFTC: an agency of approximately 556 employees and a budget around $365 million (the SEC: roughly ten times the enforcement capacity), currently operating with a *single confirmed commissioner*, a chairman who previously served as chief counsel to Paul Atkins's own crypto task force, and who received the nomination only after the industry's billionaires publicly torpedoed the prior nominee.[149] Sit with that sequence: crypto's largest donors objected to a nominee; the nominee was withdrawn; the replacement came from inside the deregulatory project itself. The industry now vets its own regulator. That is not a confirmation process. It is a franchise agreement.

2. It preempts the states, extinguishing blue-sky enforcement authority that has protected local investors since Kansas invented it in 1911, at the very moment (Finding Six) state enforcement is the only enforcement happening.[150]

3. It hands issuers a self-certification hall pass, a pathway by which a token sponsor certifies its own network as "mature," with the burden effectively on a shrunken agency to disprove it on a shot clock, plus generous capital-raising exemptions untethered from the disclosure architecture that makes exemptions tolerable elsewhere in the securities laws. Disclosure without a discloser: no audited financials, no liable officers, no one who answers for the prospectus. No story? No problem.

4. It consigns DeFi to a black hole beyond both agencies, the corner of the ecosystem most saturated with the sanctions evasion and laundering documented in Findings Eleven through Thirteen. A prominent member of the Senate Banking Committee called the framework a ticket to sanctions evasion. The record in Finding Thirteen suggests she understated it.

5. It breaks a century-old covenant. After 1929, Congress answered with the '33 and '34 Acts, the disclosure regime and the SEC itself. After the paperwork crisis of the late 1960s, SIPC. After Enron and WorldCom, Sarbanes-Oxley. After 2008, Dodd-Frank. Four catastrophes; four times Congress answered darkness with sunlight. The CLARITY Act would be the first major financial statute in American history enacted to answer darkness with *less* light, codifying, in the immediate wake of $17 billion in annual crypto crime losses and the collapse documented throughout this testimony, a regime of fewer disclosures, weaker registration, smaller regulators, and preempted states. Members of this body: the courts did their job. The career staff did their job, until they were removed. The question of whether this asset class receives a permanent, bespoke exemption from ninety years of investor protection now sits with the people in this room, and unlike a chairman, a statute cannot be fired.

The China canard. Before leaving this statute, the Senate should weigh the argument its proponents reach for when the merits run out, repeated by industry lobbyists and echoed at the

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[149] Taylor Giorno, "White House Pulls CFTC Nominee After Criticism From Crypto Moguls," NOTUS (Sept. 30, 2025), https://www.notus.org/trump-white-house/brian-quintenz-white-house-cftc-nominee-winklevoss-twins; "Trump's CFTC Pick Says Entrepreneur Winklevoss Lobbied President to Delay Nomination," Reuters (Sept. 10, 2025), https://www.reuters.com/sustainability/boards-policy-regulation/trumps-cftc-pick-says-entrepreneur-winklevoss-lobbied-president-delay-nomination-2025-09-10/; "Trump Names Michael Selig to Chair CFTC," Reuters (Oct. 27, 2025), https://www.reuters.com/business/trump-chooses-michael-selig-cftc-chair-bloomberg-news-reports-2025-10-24/; CFTC, "Chairman Michael S. Selig" (official biography identifying Selig as former chief counsel of the SEC Crypto Task Force and senior adviser to SEC Chairman Atkins), https://www.cftc.gov/About/Commissioners/MichaelSelig/index.htm; CFTC FY 2026 budget materials, cftc.gov.
[150] Jonathan R. Macey & Geoffrey P. Miller, Origin of the Blue Sky Laws, 70 Tex. L. Rev. 347 (1991).

highest levels of government: that America must pass the CLARITY Act or China will win the crypto race. The claim is not merely wrong; it is inverted. There is no crypto race with China, because China outlawed the sport: in September 2021, the People's Bank of China and nine other agencies declared virtually all cryptocurrency transactions illegal and banned mining outright, and just five months ago, in February 2026, Beijing doubled down, reissuing and expanding the prohibition to cover stablecoins and tokenized real-world assets.[151] China's actual digital-currency project, the state-controlled e-CNY, is a central-bank instrument that has nothing to do with the private tokens this Act would deregulate. That the campaign for this legislation leans so heavily on a talking point refuted by five minutes of reading is itself a datum for the record: it is a measure of how extreme, and how unembarrassed, the industry's misinformation machine has become.

XII. Finding Eleven: Crypto's Killer App Is Crime, and Finding Twelve: The Traceability Myth

A. The Crime Ledger, 2025 Edition

Seventeen years into the blockchain era, the technology has achieved genuine product-market fit in exactly one industry. Per Chainalysis's 2026 Crypto Crime Report and related forensic data, calendar 2025 was the worst year for crypto crime in history:[152]

- **$17 billion** lost to hacks, scams, and fraud, an all-time record;[153]
- **$3.41 billion** stolen in thefts, including the **$1.46 billion Bybit hack, the** largest single financial theft, in any medium, ever recorded (executed, per the FBI, by North Korea);[154]
- Approximately **$154 billion** in total illicit transaction volume;[155]
- A **694% increase** in activity involving sanctioned entities;[156]
- **$2.8 billion** in reported crypto-fraud losses among Americans aged 60 and over in a single year (FBI IC3), the "pig butchering" romance-investment scams, the fake exchange dashboards, the approval-phishing schemes that drain a retiree's wallet with one deceptive signature (a scheme category significant enough that a multinational law-enforcement operation was organized against it this spring);[157]
- Ransomware, an industry that **does not exist without cryptocurrency**, extracting over a billion dollars annually, at an average payment in the millions, against projections of an attack every two seconds by decade's end. Before crypto, "ransomware" meant a

[151] People's Bank of China et al., Notice on Further Preventing and Handling the Risks of Virtual Currency Trading and Speculation (Sept. 24, 2021) (ten-agency notice declaring virtually all cryptocurrency transactions illegal and banning mining); People's Bank of China et al., Yin Fa [2026] No. 42 (Feb. 6, 2026) (eight-agency joint notice reissuing the prohibition and extending it to stablecoins and real-world-asset tokenization).
[152] Chainalysis, 2026 Crypto Crime Report, chainalysis.com/reports.
[153] Supra note 152.
[154] FBI, Public Service Announcement re Bybit theft attribution to DPRK (Feb. 26, 2025), ic3.gov.
[155] Supra note 152.
[156] Supra note 152.
[157] FBI IC3, Elder Fraud Annual Report (2025), ic3.gov.

criminal asking a corporation to wire money to a traceable bank account, which is why it barely existed. Crypto did not facilitate this crime. Crypto *invented* it;[158]

- Single-victim losses now reaching nine figures; laundering-as-a-service marketplaces processing tens of billions before takedown; deepfake-enabled crypto fraud up over 1,400%.[159]

When critics respond, and they will, "now do fiat," the answer is arithmetic, not whataboutism. Yes, dollars are used in crime; dollars are used in *everything*, because dollars are used. The question is proportion and enablement. And proportion is where the whataboutism collapses: measured against the size of each system, crime in crypto runs orders of magnitude greater than crime in traditional finance. In the dollar economy, fraud is a parasite on legitimate activity; in crypto, it is a market segment. No duffel bag of cash can collect a $5 million ransom from another continent in eleven minutes. No wire transfer settles irreversibly, pseudonymously, outside any bank's sanctions screening. No suitcase of cash raises $10 million for a terrorist cell from anonymous donors on three continents, buys seven figures of narcotics from a counterparty the buyer never meets, or purchases child sexual abuse material from a seller no subpoena can reach. [160]

The crimes crypto enables at scale (ransomware, cross-border pig butchering, sanctions-proof terror finance) are crimes that fiat's chokepoints made difficult or impossible. That is not an incidental externality of the asset class. Per seventeen years of revealed preference, it is the asset class's core competency, its one killer app.

The privacy myth. Beneath the whataboutism sits a deeper article of faith, and the Senate will hear it in one form or another: that Americans have a right to transact financially without the government knowing about it. No such right exists, and none has existed for more than half a century. The Bank Secrecy Act of 1970 requires every financial institution in this country to keep records and report transactions, currency transactions over $10,000, suspicious activity in any amount, precisely so that the financial system cannot become a sanctuary for crime;[161] the Supreme Court upheld that regime against constitutional challenge in 1974[162] and held in 1976 that bank records enjoy no Fourth Amendment shield at all.[163] The sanctions laws, from the Trading with the Enemy Act to the International Emergency Economic Powers Act,[164] flatly prohibit sending money to this nation's enemies, a prohibition that is unenforceable if the money cannot be seen. Financial transparency is not some regrettable intrusion on American liberty; it is a load-bearing wall of American law, and every bank, broker, and money transmitter in the country carries its weight. What crypto's evangelists market as "financial privacy" is a demand

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[158] Chainalysis ransomware data, supra note 152.
[159] Supra note 152; on deepfake- and impersonation-enabled fraud, Chainalysis, 2026 Crypto Crime Report (scams chapter), https://www.chainalysis.com/blog/crypto-scams-2026/.
[160] See supra note 21 (Cong, Harvey, Rabetti & Wu, An Anatomy of Crypto-Enabled Cybercrimes).
[161] Bank Secrecy Act of 1970, Pub. L. No. 91-508, codified as amended at 31 U.S.C. § 5311 et seq.; see 31 U.S.C. § 5313 and 31 C.F.R. § 1010.311 (currency-transaction reports for transactions exceeding $10,000); 31 U.S.C. § 5318(g) and 31 C.F.R. § 1020.320 (suspicious-activity reporting).
[162] California Bankers Ass'n v. Shultz, 416 U.S. 21 (1974) (upholding the Bank Secrecy Act's recordkeeping and reporting requirements against Fourth and Fifth Amendment challenge).
[163] United States v. Miller, 425 U.S. 435 (1976) (holding that a depositor has no reasonable expectation of privacy in records held by his bank).
[164] Trading with the Enemy Act, 50 U.S.C. § 4301 et seq.; International Emergency Economic Powers Act, 50 U.S.C. § 1701 et seq.; see also 31 C.F.R. ch. V (OFAC sanctions regulations implementing those prohibitions).

that one asset class, and one alone, be excused from that wall, and the ledger above shows exactly who walks through the gap.

B. The Traceability Myth

Against this ledger, crypto's defenders offer a single talisman: "the blockchain is transparent — crypto is *more* traceable than cash." I have been publicly dismantling this myth since November 2022, long before the current administration, which I note so the Senate understands these views are not politically occasioned. The myth fails on the government's own record:[165]

First, the Treasury Department's own DeFi illicit-finance risk assessment, the Department of Justice's leadership, and the FBI's operational statements all concede the core problem: only a fraction of the crime is visible on-chain at all.[166] The ledger records transfers between addresses; it does not record who controls the addresses, what was promised off-chain, or where the off-chain books, the FTX-style spreadsheets, hide the fraud. The iceberg is below the waterline.

Second, the celebrated "traceability" victories prove the opposite on inspection. The famous multi-billion-dollar Bitfinex recovery happened because the defendants stored their private keys in a cloud account reachable by subpoena, old-fashioned opsec failure, not blockchain magic.[167] The largest Silk Road recovery was consummated when agents found the keys on a device hidden in a popcorn tin in a bathroom closet.[168] The government did not trace its way to those fortunes; it stumbled into custody of the keys. Meanwhile, senior DOJ and FBI officials have said plainly that they cannot freeze digital-asset transactions in flight and that recovery generally requires "hands on a keyboard", custody of keys, which sophisticated criminals, unlike celebrity defendants, do not surrender.

Third, the criminal toolkit defeats tracing at industrial scale: mixers (one of which reportedly laundered over $7 billion before sanctions, sanctions this administration lifted);[169] privacy coins engineered for untraceability; cross-chain "hopping" through bridges that moved billions in illicit value; nested exchanges and over-the-counter brokers in non-cooperative jurisdictions; unhosted wallets beyond any subpoena. The proof is the ransomware industry itself: if crypto were readily traceable, the tens of thousands of ransomware operators collecting billions annually would be getting caught. On this point I can offer the Senate something better than statistics: firsthand experience. At a meeting at FBI headquarters with the senior cyber officials of both the FBI and the Department of Justice, I asked how often

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[165] John Reed Stark, "Crypto-Traceability: Don't Believe The Hype," johnreedstark.com (Nov. 8, 2022), https://www.johnreedstark.com/publications/crypto-traceability-dont-believe-the-hype/; originally published on LinkedIn, https://www.linkedin.com/pulse/crypto-traceability-dont-believe-hype-john-reed-stark; reproduced at Securities Docket (Nov. 9, 2022), https://www.securitiesdocket.com/2022/11/09/crypto-traceability-dont-believe-the-hype-john-reed-stark/; reiterated in the author's subsequent posts on X, e.g., https://x.com/JohnReedStark/status/1714294386505515085 (Oct. 17, 2023), https://x.com/JohnReedStark/status/1757044315388289155 (Feb. 12, 2024), and https://x.com/JohnReedStark/status/1866573313369415680 (Dec. 10, 2024).
[166] U.S. Dep't of the Treasury, Illicit Finance Risk Assessment of Decentralized Finance (Apr. 2023), home.treasury.gov.
[167] U.S. Dep't of Justice, press release re Bitfinex seizure (Feb. 8, 2022), justice.gov.
[168] U.S. Dep't of Justice, press release re Silk Road/James Zhong seizure (Nov. 7, 2022), justice.gov.
[169] OFAC designation of Tornado Cash (Aug. 8, 2022); delisting (Mar. 21, 2025), home.treasury.gov.

the Bureau is able to recover a ransomware payment once it has been made. A senior FBI agent answered the question firmly, and in one word: never.

The traceability myth is not a harmless simplification. It is the analytical predicate for the entire deregulatory project, the assurance that lets officials wave away the crime ledger. The assurance is false, and the officials repeating it have every reason to know it is false.

XIII. Finding Thirteen: The National-Security Catastrophe

Members of the Senate, everything to this point concerns money. This section concerns blood, and I will present it with the gravity it demands.

Iran. Per blockchain-forensic reporting, Iranian-linked wallets received a record **$7.78 billion** in cryptocurrency in 2025, with IRGC-linked networks accounting for the majority of flows in the year's final quarter, and billions confirmed to networks financing Hezbollah, Hamas, the Houthis, and Iran's drone-procurement apparatus, overwhelmingly in Tether on the Tron network, the same rails identified publicly for years.[170] Israeli seizure orders have repeatedly targeted precisely this plumbing: Hezbollah- and Quds-Force-linked wallets, Gaza-based exchange networks, tens of millions in Hamas- and PIJ-associated accounts, all Tether-on-Tron. OFAC has designated network after network procuring components for the Shahed drone program, the drones Iran exports and its proxies fly.[171]

On March 1, 2026, a drone, reportedly an Iranian-designed Shahed-model, struck a U.S. facility in the Gulf region and killed six American Army Reservists.[172][173] I cannot tell the Senate that any specific coin financed any specific airframe. No one can, that is the traceability problem in its cruelest form. What I can tell you, because public forensic reporting supports it, is that the procurement networks behind that drone program reportedly run on cryptocurrency; that those networks reportedly moved record volume in 2025;[174] and that the United States government's response, across that very period, was to dismantle the enforcement architecture policing those

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[170] Blockchain-forensic reporting on Iranian-linked wallet inflows (2025): Chainalysis, Inside Iran's Growing $7.8 Billion Crypto Ecosystem (2026), https://www.chainalysis.com/blog/iranian-crypto-activity-geopolitical-tensions-2026/ ($7.78 billion received in 2025; IRGC-linked addresses roughly half of Q4 value); see also CoinDesk (Feb. 3, 2026), https://www.coindesk.com/policy/2026/02/03/u-s-treasury-probes-crypto-exchanges-over-iran-sanctions-evasion-trm-labs-says (TRM Labs estimates).

[171] Israeli NBCTF seizure orders; OFAC designations of Shahed-procurement networks, home.treasury.gov.

[172] See CBS News, Military Questioned Use of Makeshift Office Space in Kuwait Where U.S. Troops Were Killed (Mar. 2026), https://www.cbsnews.com/news/iran-strike-kuwait-officials-question-fortifications/ (reporting the March 1, 2026 strike at Port Shuaiba, Kuwait, attributed to Iran); the Pentagon casualty identifications are cited infra note 173.

[173] U.S. Department of Defense casualty releases (Mar. 3–4, 2026), as reported in Stars and Stripes, Pentagon Names Final 2 Victims of Kuwait Drone Attack (Mar. 4, 2026), https://www.stripes.com/theaters/middle_east/2026-03-04/army-reserve-soldiers-identified-kuwait-attack-20954719.html; Task & Purpose, These Are the US Soldiers Killed in Iran's Drone Strike in Kuwait (Mar. 2026), https://taskandpurpose.com/news/military-troops-identified-iran/; Washington Post, Army Reservists Killed in Kuwait Remembered as Loving Parents, Dedicated Students (Mar. 3, 2026), https://www.washingtonpost.com/nation/2026/03/03/soldiers-killed-kuwait-drone-attack/.

[174] Supra notes 170 and 171 (blockchain-forensic reporting on Iranian-linked wallet flows and OFAC-designated Shahed-procurement networks).

rails, the DOJ's crypto task force disbanded, the mixer sanctions lifted, and the SEC's cases dismissed.[175]

North Korea. The regime has reportedly stolen approximately **$6.75 billion** in cryptocurrency since 2017 (including **$2.02 billion in 2025 alone**, up roughly 51%) with UN and U.S. assessments consistently linking the proceeds to the DPRK's nuclear-weapons and ballistic-missile programs.[176] The Bybit theft, the largest in financial history, was Pyongyang's. Cryptocurrency is no longer incidental to North Korean proliferation finance. It is the primary channel.

And Binance sits at the center of the map. Recall Finding One: Binance's criminal plea rested on willful failures that let funds flow to Hamas, PIJ, Al-Qaeda, and ISIS, and on systems designed to evade the controls that would have flagged Iranian business. Since then: Treasury's own correspondence this spring pressed Binance on monitorship compliance even as the monitorship was being wound down; major investigative reporting has described continuing DOJ scrutiny of roughly two thousand Iran-linked accounts and billions in post-plea transfer volume, including flows from Chinese clients to Iranian proxies (allegations Binance vigorously disputes, and is litigating against the publisher);[177] and in October 2025, the President pardoned Binance's convicted founder, months after Binance-linked interests began spending heavily on lobbying and reportedly entered a business relationship with the President's family stablecoin venture, a pardon a former chief of DOJ's pardon office publicly described as unprecedented corruption.[178] And here is the fact I most want the Senate to weigh: the demand to hold Binance accountable is *bipartisan*. The Senate's most prominent crypto-friendly Republican and the Republican Chairman of the House Financial Services Committee jointly and publicly demanded criminal accountability for Binance and Tether, "let's get after" them, in the Senator's words.[179] Against that backdrop, the SEC's dismissal of its Binance case *with prejudice*[180] extinguished the last live federal civil enforcement hammer over the world's largest exchange. The SEC complaint the agency abandoned was substantially about KYC evasion, the exact conduct at issue in the national-security record. It is not that the fox is guarding the

175 Supra note 44 (DOJ task-force disbanding and Tornado Cash delisting); the dismissed SEC cases are catalogued supra Section III.B.
176 Chainalysis DPRK theft data; UN Panel of Experts reports.
177 Treasury correspondence re Binance monitorship (spring 2026); investigative reporting (noting Binance's denial and litigation).
178 Executive Grant of Clemency (Oct. 23, 2025); see House FSC Letter, supra note 63; statement of former DOJ Pardon Attorney Elizabeth Oyer ("The influence that money played in securing this pardon is unprecedented"), 60 Minutes (Nov. 2025), https://www.cbsnews.com/news/trump-pardon-of-crypto-billionaire-sparks-concerns-over-use-of-pardon-power-60-minutes-transcript/.
179 Letter from Senators Warren, Van Hollen, and Marshall regarding Binance (Mar. 2, 2023); Chairwoman Maxine Waters, "Chairwoman Maxine Waters' Statement on Recent Binance and FTX Events," House Committee on Financial Services (Nov. 10, 2022), https://democrats-financialservices.house.gov/news/documentsingle.aspx?DocumentID=409888; "McHenry, Waters Announce December Hearing to Investigate FTX Collapse," House Committee on Financial Services (Nov. 16, 2022) (describing the hearing as bipartisan, identifying Binance among expected participants, and stating that Congress must "hold bad actors accountable"), https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=408471; see also Letter to the Departments of Justice and Treasury re the Binance Pardon, banking.senate.gov, https://www.banking.senate.gov/imo/media/doc/letter_to_doj_treasury_re_binance_pardon.pdf.
180 See "dismissal of its Binance case with prejudice," https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26316.

chicken coop. It is that no one is guarding the chicken coop, and the farmer is out front, selling tickets to the henhouse.

XIV. Finding Fourteen: Manufacturing the Next Systemic Crisis

A. The Firewalls, Demolished by Name and Date

I return to the BIS finding from Finding Eight: the 2022 crypto collapse, $2.2 trillion, had "little discernible impact" on the real financial system because crypto was "largely self-referential." That containment was engineered by specific, identifiable barriers. Here is the demolition schedule, item by item:[181]

- **January 2025**: SAB 121, the accounting bulletin that kept custodied crypto off bank balance sheets, rescinded (a commissioner celebrated on social media: "Bye, bye SAB 121!");[182]
- **March–April 2025**: FDIC rescinds its prior-approval requirement for bank crypto activities; OCC rescinds its supervisory non-objection process; the Federal Reserve withdraws its crypto guardrail letters, the three federal banking agencies, in one spring, unlocking the doors between crypto and the banking system;[183]
- **May 2025**: the Department of Labor rescinds its "extreme care" guidance on crypto in 401(k) plans;[184]
- **July 2025**: the GENIUS Act charters the stablecoin bridge between crypto and the payments system;[185]
- **August 7, 2025**: Executive Order 14330 directs the opening of the **$8.7 trillion** defined-contribution retirement market, 401(k)s, to "alternative assets," expressly including digital assets; the Labor Department guidance cautioning against private equity in retirement plans is rescinded within days;[186]
- **Throughout**: spot crypto ETFs proliferate into brokerage accounts and model portfolios; the tokenization agenda (Finding Seven) works to wire crypto rails directly into the national market system itself.

Every lock, named and dated. The self-referential casino is being hard-piped into banks, payments, brokerage accounts, and the retirement savings of American workers, so that the *next* $2.2 trillion loss arrives not as a curiosity in the financial press but as a hole in the 401(k) statements of people who never bought a token.

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[181] Supra note 137 (BIS).
[182] SEC Staff Accounting Bulletin No. 122 (Jan. 23, 2025), sec.gov.
[183] FDIC FIL-7-2025 (Mar. 28, 2025); OCC Interpretive Letter 1183 (Mar. 7, 2025); Federal Reserve press release withdrawing crypto guidance (Apr. 24, 2025).
[184] U.S. Dep't of Labor, Compliance Assistance Release No. 2025-01 (May 28, 2025), dol.gov.
[185] GENIUS Act, Pub. L. No. 119-27 (July 18, 2025).
[186] Exec. Order No. 14330, 90 Fed. Reg. (Aug. 7, 2025); subsequent DOL rescission.

B. Private Credit: "Not a Systemic Risk," Times Three

The same reflex (see no risk, measure no risk, and dismantle the instruments that measure it) now governs the SEC's posture toward the $1.5-to-2 trillion private-credit market. Chairman Atkins has publicly declared, on at least three occasions across late 2025 and 2026, that private credit poses no systemic risk.[187] Arrayed against him: the Governor of the Bank of England, warning of "alarm bells" and invoking the canary in the coal mine; the Bank of England's deputy leadership, drawing explicit parallels to the run-up to the global financial crisis; the Financial Stability Board, whose 2026 report documented extraordinary concentration (a handful of firms holding a third of the market) and multiplying retail exposure; the IMF's Global Financial Stability Report, cataloguing five distinct vulnerability channels;[188] and his own Commissioner, whose dissents have described the agency's posture as regulatory Jenga, pulling out block after block and expressing surprise that the tower wobbles.[189]

The early wobbles are on the record: private-credit-financed borrowers failing with hundreds of millions in double-pledged collateral; multi-billion-dollar bankruptcies with collateral unaccounted for; redemption runs on retail-facing private-credit funds, with liquidations recovering cents on the dollar and sponsors injecting insider capital to stem outflows; a Federal Reserve research note observing that life insurers' below-investment-grade private exposures now exceed, in relevant respects, their 2007 subprime holdings.[190] And what has the SEC done while the warnings accumulate? Gutted Form PF, the confidential data feed Congress built after 2008 precisely so regulators could see this leverage forming. Not content to ignore the smoke, they are unplugging the smoke detectors.

C. The Chairman Has Run This Play Before

I would be remiss not to remind the Senate of the relevant history, because it is not incidental; it is a pattern with a named protagonist. In 2004, Commissioner Paul Atkins voted for the net-capital rule change that allowed the great investment banks to dramatically increase leverage; within four years, Bear Stearns and Lehman Brothers, supervised under that regime, were gone, and the SEC's own Inspector General and Chairman conceded the program had failed.[191] He dissented from hedge-fund adviser registration. The broader deregulatory lineage is equally familiar: Garn-St. Germain before the S&L collapse; Glass-Steagall's repeal and the

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[187] See Nicola M. White, "SEC's Atkins Says Ballooning Private Markets Not a Systemic Risk," Bloomberg Law (Oct. 7, 2025) (remarks at MFA Policy Outlook 2025), https://news.bloomberglaw.com/capital-markets/secs-atkins-says-ballooning-private-markets-not-a-systemic-risk; Martin Arnold, "Wall Street Watchdog Says Private Credit Is 'Not a Systemic Risk,'" Financial Times (Apr. 13, 2026) (remarks at the Third IMF–IOSCO Conference on Market-Based Finance), https://www.ft.com/content/9bde1fe8-059c-4c68-bf19-5ef7a36eab22; Paul S. Atkins, "Advancing a Modern Regulatory Framework," Milken Institute Global Conference (May 4, 2026), recording and transcript at https://archive.org/details/CSPAN_20260504_175000_U.S._Securities__Exchange_Commission_Chair_on_Financial_Markets ("we don't see this as a systemic risk"); see also SIFMA joint-trades submission (reproducing the formulation "at least as of now, it is not a systemic risk"), https://www.sifma.org/advocacy/letters/form-pf-reporting-requirements-for-all-filers-and-private-credit-funds-joint-trades.

[188] Bank of England Financial Stability Report and remarks of the Governor; Financial Stability Board report (2026); IMF Global Financial Stability Report.

[189] Statements and dissents of Commissioner Crenshaw, sec.gov.

[190] Bankruptcy filings and contemporaneous reporting on the referenced private-credit failures; Federal Reserve research note on life-insurer private-credit exposures.

[191] SEC Release No. 34-49830 (2004) (alternative net capital); SEC Office of Inspector General, Report No. 446-A (Sept. 2008).

CFMA's derivatives carve-out before 2008. Every modern American financial catastrophe was preceded by a confident bipartisan consensus that this time, the safeguards were obsolete. The Atkins SEC is not deviating from that pattern. It has read every one of those post-mortems and drawn the one conclusion none of them supports: that the problem, all along, was the safeguards.

The scholarship sees the same pattern forming. In a comprehensive 2025 analysis for the Brookings Institution, Tonantzin Carmona mapped today's crypto landscape onto the 2008 crisis and the savings-and-loan collapse, both born of regulatory complacency and the deregulation of speculative products, and issued a warning the Senate should hear in her own words: without stronger oversight and structural safeguards, a major disruption in crypto markets could reach pensions, savings, and small-business credit, and "if a taxpayer-funded bailout becomes necessary, even those who never engaged with crypto could bear the cost."[192]

XV. Finding Fifteen: The Abdication Is General, the Non-Crypto Proof

If any Member remains persuaded that this testimony describes merely a crypto policy dispute, I offer a closing counterexample from an entirely different corner of the markets. In the spring of 2026, a national exchange rewrote its listing standards, creating a "fast entry" pathway and removing minimum-float protections, on the eve of the largest IPO in history: a mega-capitalization private company proposing to float roughly five percent of itself into public markets.[193] Commentators promptly dubbed the rewrite "Lex" plus the company's name, a law for one company.[194] The mechanics should alarm every Member with constituents who own index funds, which is to say every Member: upon index inclusion, on the order of $60 billion of *automatic, non-discretionary* buying (schoolteachers' 403(b)s, firefighters' pensions, ordinary 401(k)s) would be conscripted into a security with a sliver of float, at whatever price scarcity dictates, with insider lockups expiring on a schedule mismatched to the forced buying. One prominent investor's summary was indelicate but accurate: your 401(k) is the exit liquidity. Even the *competing* exchange's chief executive said publicly that market integrity should not be a competitive dynamic. And the SEC? It possesses at least five levers, examination authority over the exchanges' listing-standard changes; Section 21 investigative authority; rulemaking to close the index-inclusion gap; the convening power of a public hearing; even emergency authority in extremis. It has pulled none. Not one. The agency has every tool. What it lacks is only the will to look, anywhere except away.

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[192] Tonantzin Carmona, Protecting the American Public from Crypto Risks and Harms, Brookings Institution (June 2025), https://www.brookings.edu/articles/protecting-the-american-public-from-crypto-risks-and-harms/.
[193] Exchange listing-standard rule filing (spring 2026), sec.gov/rules/sro; contemporaneous commentary; see infra note 194.
[194] Heise Online, Lex SpaceX? Nasdaq Changes Index Rules for Musk's IPO (May 28, 2026), https://www.heise.de/en/background/Lex-SpaceX-Nasdaq-changes-index-rules-for-Musk-s-IPO-11308935.html (describing the fast-entry index pathway and the removal of the minimum-float requirement).

XVI. Finding Sixteen: The Human Ledger

Statistics anesthetize, so before I conclude, let me de-anesthetize the record. Behind Finding Nine's "764,000 wallets" are 764,000 decisions by mostly small holders (the barber in Ohio, the staff sergeant at Fort Cavazos, the retired schoolteacher in Scranton) each of whom trusted a signal: a president's name on a coin, a chairman's "Fourth Industrial Revolution," an anchor's enthusiasm, an influencer's certainty. Behind Finding Eleven's "$2.8 billion in elder losses" are seniors like the 68-year-old retiree who liquidated an IRA one wallet-drain at a time for a "friend" who never existed, and the 74-year-old widower who mortgaged a paid-off house for a trading dashboard that was a JPEG. Behind the platform bankruptcies are millions of customers (three and a half million on a single failed platform) whose "accounts" turned out to be unsecured claims; the congressional record from those collapses includes parents describing vanished college funds.[195] When these Americans call the FBI, they encounter compassionate professionals who must tell them the truth this testimony has documented: the money is usually gone, and there is usually nothing to be done. And when they sue, they now discover the final indignity, the SEC's own staff statements, waiting in the defendant's exhibit list. The agency Congress built to be their advocate has become a witness for the other side.

And the ledger is not evenly distributed, because the marketing aimed it. Crypto's most sanctimonious pitch, that it is a revolutionary equalizer for the unbanked, a cure for generations of financial exclusion, turned out to be the oldest trick in the predatory playbook wearing new clothes. The scholarship has a name for it: predatory inclusion, access granted to historically excluded communities on terms that leave them worse off. As Tonantzin Carmona demonstrated for the Brookings Institution, crypto's capabilities do not match the needs of the communities it claims to serve, and its parallels to payday lending and other predatory products highlight its "potential to exacerbate unequal financial services to historically excluded groups."[196] As Michelle Singletary warned in her Washington Post column, crypto was marketed to Black investors as the engine of generational wealth; it did not cure historical financial inequities, it minted new ones.[197] The data vindicated both women: 44 percent of Americans trading crypto were people of color; lower-income buyers disproportionately purchased at peak prices; and over the five years ending in 2022, while the S&P 500 rose roughly 61 percent, the median cryptocurrency lost nearly half its value.[198] And just as payday-lender storefronts cluster in Black

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[195] FBI IC3 public guidance; bankruptcy-court records of the referenced platform (3.5 million customers); congressional hearing record.

[196] Tonantzin Carmona, Debunking the Narratives About Cryptocurrency and Financial Inclusion, Brookings Institution (Oct. 26, 2022), https://www.brookings.edu/articles/debunking-the-narratives-about-cryptocurrency-and-financial-inclusion/.

[197] Michelle Singletary, Crypto Was Pitched as a Path to Black Generational Wealth. It Hasn't Delivered., Wash. Post (Apr. 26, 2023), https://www.washingtonpost.com/business/2023/04/26/cryptocurrency-black-generational-wealth/.

[198] University of Chicago (NORC), “More Than One in Ten Americans Surveyed Invest in Cryptocurrencies” (July 22, 2021) (44% of surveyed cryptocurrency investors nonwhite; 41% women; 35% with household income below $60,000), https://www.norc.org/research/library/more-than-one-in-ten-americans-surveyed-invest-in-cryptocurrenci.html; JPMorgan Chase Institute, “The Dynamics and Demographics of U.S. Household Crypto-Asset Use” (Dec. 2022) (lower-income users generally entered later and at higher prices than higher-income users), https://www.jpmorganchase.com/institute/all-topics/household-financial-health/dynamics-demographics-us-household-crypto-asset-cryptocurrency-use; Algernon Austin & Julia Tache, “Stock Market Index Funds Can Beat Crypto: On Cryptocurrency Investing and Building Black Wealth,” Center for Economic and Policy Research (Jan.

and Hispanic neighborhoods, crypto ATMs, with fees running 7 to 20 percent per transaction, have followed the same map, and the FBI logged nearly 11,000 crypto-ATM scam complaints in 2024 alone, a 99 percent increase in a single year.[199] Inclusion was the sales pitch; extraction was the business model.

No portfolio is an island. Ask not for whom the bell tolls; it tolls for our retirement accounts, our pension funds, our neighbors, our parents, and if the firewalls stay down, eventually for people who never touched a token in their lives.

XVII. Recommendations

What a serious SEC would do tomorrow, cost: approximately nothing. Resume enforcement press releases and publish enforcement statistics on schedule, every November, audited and complete. Restore the Enforcement Division's formal-order authority. Restore crypto to the examination priorities. Rescind or formally rulemake the staff statements, if the positions are defensible, defend them in notice-and-comment and in court. Require every crypto intermediary touching retail to display a plain-English warning label (the asset has no cash flows, no guarantees, no SIPC, and a documented majority failure rate) the way we label cigarettes, for the same reason. Answer congressional document requests. And speak, about the mission, not the brand.

The Chenery discipline. Let me be precise about what I am and am not asserting, because precision here is a form of respect for this institution. I am not asserting a corrupt bargain; I cannot see inside any official's mind, and the Senate's investigative tools, not a witness's inferences, are the proper instrument for that question. What I am asserting is structural, and it is the insight embedded in eighty years of administrative law: agencies must act for reasons they can state, on records that support them. The Atkins SEC's stated reasons, innovation (refuted in Finding Seven), investor benefit (refuted in Findings Six, Eight, and Nine), and legal compulsion (refuted in Finding Five), do not survive contact with the record. When every stated reason fails, and the unstated variable is a quarter-billion-dollar political expenditure plus a multi-billion-dollar family financial interest, the Senate does not need me to name the residual explanation. It needs to subpoena it.

What the Senate should do. *First*, enforce the Ranking Member's March 30, 2026 letter,[200] by subpoena if necessary. The communications between the Chairman's office, the Division of Enforcement, and any Trump- or Witkoff-family interest are the spine of this inquiry. *Second*, identify under oath the official who negotiated the Musk resolution around the

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10, 2023) (S&P 500 up 60.8% versus median cryptocurrency down 46.6%, August 2017 to August 2022), https://cepr.net/publications/stock-market-index-funds-can-beat-crypto-on-cryptocurrency-investing-and-building-black-wealth/; each collected in John Reed Stark, Written Statement for the SEC Crypto Task Force Roundtable 52–53 (Mar. 21, 2025), https://www.johnreedstark.com/wp-content/uploads/sites/180/2025/03/3-21-2025-StarkRoundtableWrittenStatement.pdf.

[199] FBI Internet Crime Complaint Center, 2024 Internet Crime Report, https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf (nearly 11,000 crypto-ATM scam complaints in 2024); Tonantzin Carmona, Protecting the American Public from Crypto Risks and Harms, Brookings Institution (June 2025), https://www.brookings.edu/articles/protecting-the-american-public-from-crypto-risks-and-harms/.

[200] See "March 30, 2026 letter," https://www.hsgac.senate.gov/wp-content/uploads/2026-03-30-Letter-from-Sen-Blumenthal-to-Chairman-Atkins-1.pdf.

SEC's own trial counsel; the name exists, and the Senate can put it in a transcript. *Third*, secure the testimony of Judge Margaret Ryan; a former federal appellate judge who resigned "effective immediately" is the one witness whose account cannot be partisan-proofed away. *Fourth*, open a documented inquiry into the whistleblower program's collapse, the denial-rate data, the award backlog, and the message both send. *Fifth*, commission the follow-up GAO work: capacity, attrition, and single points of failure, division by division. *Sixth*, demand the FY 2026 enforcement statistics in November, on time, and reconciled to the independent trackers.

What Congress should do. Shelve the CLARITY Act. Not amend at the margins, shelve, until the oversight record the Senate is building is complete, until the CFTC has a functioning commission and a credible budget, and until the ethics questions surrounding officials' and their families' digital-asset interests are resolved by statute rather than by trust. And refuse to ratify the demolition through appropriations: an agency budget that permanently encodes an 18% workforce cut is a policy choice masquerading as a spreadsheet, and it belongs to this branch, not to the Chairman.

A closing caution for the hearing room itself. In the testimony that will follow mine (today and in future hearings) I respectfully urge the Members to apply one filter to every witness defending the current regime: *does this witness, or this witness's clients, employer, or portfolio, have a financial stake in the answer?* In my experience, the unanimity of crypto's defenders is not the sound of independent minds converging on truth. It is the sound of inventory being marketed. Social proof is not evidence, even, especially, under oath and klieg lights.

XVIII. Conclusion

Members of the Senate, let me end where honest testimony must: with what I know, what I fear, and what I hope.

Don't get me wrong. The SEC I served for a large part of my professional life was never perfect, no agency is, but it was, by any fair measure, the most successful investor-protection institution ever created: the reason American markets became the deepest, most trusted, most capital-attracting markets in human history. Trust was the product. Enforcement was the factory. I served under more than half a dozen Chairmen, appointees of both parties, and not once, during any transition, did I or anyone around me wonder whether the enforcement mission was about to change; the subject never even came up. It was axiomatic among the staff that vigorous enforcement was critical to the success of every Chair, whatever the President's party. And for ninety-two years, the covenant held: whatever else changed, somebody was watching the door.

That covenant is broken. This testimony has documented, with the government's own numbers, an agency that dismissed its winning cases and closed four investigations for every one it brought; that lost a fifth of its workforce and asked Congress to make the loss permanent; that silenced its enforcement voice so completely that its Director's resignation made more news than any case she filed; that closed the courthouse door, the examination door, the registration door, and the state-regulator door on the same investors, in the same eighteen months; that staked its credibility on a technology the world's actual technologists buried years ago; and whose

Chairman, the Commissioner I once admired most in that building, now tours the country as the most powerful promoter of the most crime-enabling, failure-prone asset class in financial history.

The Pied Piper of Hamelin was hired to lead the rats out of town. The version we are living is darker: the piper has turned his flute toward the children, and the town elders are being asked (this month, on this floor) to write the tune into permanent law. Wall Street's cop is on crypto's payroll now, in every way that matters but the W-2.

I keep returning to a question a colleague from the industry once put to me in debate, invoking a case in which the SEC held the executives of Stanford Financial accountable, one of the proudest chapters in the modern agency's history. That case happened, he and I agreed, because the SEC had the institutional will and the independence to pursue powerful people. The question that should organize the Senate’s entire inquiry is the one I asked him: *Does it still?* Everything I have seen, everything I have documented across these pages, suggests the answer is no.

Because history is already assembling itself. Somewhere in America right now is the next Madoff whistleblower, deciding whether the SEC is worth calling. Somewhere is the next Enron accountant, watching what happens to enforcement attorneys who pursue the powerful. Somewhere are the hearings that will someday reconstruct this period the way Congress reconstructed 1929, and 2008, and the Madoff catastrophe, and when those transcripts are written, this hearing will be in them. You will be in them. The only open question is on which side of the reckoning this moment falls: the warnings ignored, or the warning heeded.

How does Paul Atkins sleep at night? I genuinely do not know. But I know how the rest of us should: uneasily, until the referee puts the stripes back on, or Congress finds a referee who will.

The Stark Reality is this, and it cannot be overstated: Paul Atkins tours the crypto circuit like a raving Big Crypto sycophant, force-feeding investors his Atkins Diet of crypto laissez-faire — and reveling in his role as America's first Chief Ponzi Officer.

It's time to stop the hustle.

Thank you, Ranking Member Blumenthal and Senior Member Van Hollen, for the honor of appearing before you. I welcome your questions.