

Equitable Estoppel Against the Federal Government: The Case of *SEC v. Coinbase*

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I. INTRODUCTION

On April 21, 2025, Paul Atkins was sworn in as chairman of the Securities and Exchange Commission (SEC).¹ Atkins is no stranger to the SEC, having served as a commissioner from 2002 to 2008.² Atkins has now replaced Gary Gensler, who resigned when President Trump took office.³ The resignation occurred more than one year before Gensler's term was due to conclude.

Atkins has strong ties to the cryptocurrency industry, serving on the board of The Digital Chamber (a crypto lobbying firm) and leading the Token Alliance initiative (an industry-led effort to develop best practices for crypto assets).⁴ The crypto community expressed excitement over Atkins' support for

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¹ Press Release, SEC, Paul S. Atkins Sworn In as SEC Chairman (Apr. 21, 2025), <https://www.sec.gov/newsroom/press-releases/2025-68>.

² David Krause, New SEC Chair and Crypto Czar Signal a Major Regulatory Shift 4 (Dec. 8, 2024) (unpublished manuscript) (available at https://www.researchgate.net/profile/David-Krause-16/publication/386549114_New_SEC_Chair_and_Crypto_Czar_Signal_a_Major_Regulatory_Shift/links/6755b254ef2dc67228b4212a/New-SEC-Chair-and-Crypto-Czar-Signal-a-Major-Regulatory-Shift.pdf).

³ Press Release, SEC, SEC Chair Gensler to Depart Agency on January 20 (Nov. 21, 2024), <https://www.sec.gov/newsroom/press-releases/2024-182>.

⁴ Aleks Gilbert, *Trump taps crypto ally Atkins to lead SEC*, DLNEWS (Dec. 4, 2024), <https://www.dlnews.com/articles/regulation/trump-taps-crypto-ally-atkins-to-lead-sec/>.

crypto since his nomination.⁵ Coinbase’s chief legal officer, Paul Grewal, congratulated Atkins on X. “We appreciate [Atkins]’ commitment to balance in regulating US securities markets and look forward to his fresh leadership at @SECGov. It’s sorely needed and cannot come a day too soon.”⁶ Since becoming SEC Chairman, Atkins has promised to make it easier to trade crypto assets and publish rules and guidance for asset management firms wanting to trade such assets.⁷

The change in administration and cryptocurrency policy has also led to the SEC’s recently dismissed complaint against Coinbase.⁸ The litigation commenced on June 6, 2023, when the SEC filed a complaint in the Southern District of New York, alleging that Coinbase had been operating as an unregistered national securities exchange, broker, and clearing agency since at least 2019.⁹ The complaint revolved around whether the definitions of a security and an investment contract include certain cryptocurrency products that Coinbase hosts on its platform. Specifically, Coinbase contested the SEC’s regulatory authority over cryptocurrencies on their exchange, arguing that they are not investment contracts.¹⁰ On February 27, 2025, the SEC, under the new administration, and Coinbase filed a joint stipulation dismissing the case.¹¹

The now-dismissed case against Coinbase is a symptom of a dynamic regulatory environment where rules for cryptocurrency trading are uncertain. The hallmark uncertainty within the cryptocurrency industry creates a fertile

⁵ Brady Dale, *Enthusiasm for Atkins*, AXIOS (Dec. 10, 2024), <https://www.axios.com/2024/12/10/enthusiasm-for-atkins-crypto>.

⁶ Paul Grewal, X, (Dec. 4, 2024, 12:10PM), <https://perma.cc/YWM7-K7K4>.

⁷ Nino Paoli, *The SEC opened the ‘floodgates’ for crypto ETFs, experts say, marking a new era for the industry*, FORTUNE CRYPTO (July 10, 2025), <https://fortune.com/crypto/2025/07/10/sec-atkins-trump-gensler-etf-crypto-investing-business/>; See also Paul Atkins, Chairman, Remarks at the Crypto Task Force Roundtable on Decentralized Finance (June 9, 2025), <https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-defi-roundtable-060925> (noting that Atkins direct staff to consider “expeditiously allow[ing] registrants and non-registrants to bring on-chain products and services to market”).

⁸ Press Release, SEC, SEC Announces Dismissal of Civil Enforcement Action Against Coinbase (Feb. 27, 2025), <https://www.sec.gov/newsroom/press-releases/2025-47>.

⁹ Complaint at 2, SEC v. Coinbase, Inc. and Coinbase Global, Inc., No. 23 Civ. 4738 (S.D.N.Y. June 6, 2023) (“Since at least 2019, through the Coinbase Platform, Coinbase has operated as: an unregistered broker, including by soliciting potential investors, handling customer funds and assets, and charging transaction-based fees; an unregistered exchange, including by providing a market place that, among other things, brings together orders of multiple buyers and sellers of crypto assets and matches and executes those orders; and an unregistered clearing agency, including by holding its customers’ assets in Coinbase-controlled wallets and settling its customers’ transactions by debiting and crediting the relevant accounts.”).

¹⁰ Coinbase’s Answer to Plaintiff’s Complaint at 5, SEC v. Coinbase, Inc. and Coinbase Global, Inc., No. 23 Civ. 4738 (S.D.N.Y. June 28, 2023) (“None of the assets the SEC has now identified are in fact securities, and for that and other reasons, secondary transactions in those assets are also not securities. Nor are Coinbase’s ‘staking’ services a securities offering. None of these satisfy Howey’s definition of an ‘investment contract’ — the only type of ‘security’ the SEC says is at issue here.”).

¹¹ Press Release, SEC, SEC Announces Dismissal of Civil Enforcement Action Against Coinbase (Feb. 27, 2025), <https://www.sec.gov/newsroom/press-releases/2025-47>.

ground for evaluating equitable estoppel claims, where companies are forced to rely on inconsistent messages and unsettled policy to their detriment.

Indeed, Coinbase raised an equitable estoppel defense in its case against the SEC. Coinbase argued that it relied on the SEC's representations that Coinbase was not violating securities law.¹² The facts of Coinbase's case could lay the groundwork for future cases to push the traditionally strict boundaries of equitable estoppel against government entities.

The purpose of this comment is to evaluate the strength of Coinbase's equitable estoppel claims. Given the case's dismissal, equitable estoppel is no longer relevant to Coinbase. But by evaluating the strength of the doctrine against this case, future cryptocurrency firms may be able to use its lessons as a defense should the policies shift against cryptocurrency firms again.

This comment is organized into three parts.

Part A introduces the doctrine of equitable estoppel, identifies Coinbase's equitable estoppel arguments, and argues that the facts of the case were not favorable to Coinbase's claims.

Part B argues that even if the facts were favorable to Coinbase, courts have been reluctant to allow equitable estoppel claims against the federal government. However, in the context of this case, the courts' traditional rationale for prohibiting equitable estoppel claims against the federal government are questionable. Thus, Coinbase's case may preview a future where defendants can successfully claim equitable estoppel against the federal government.

Part C suggests that despite courts' reluctance to allow equitable estoppel claims against federal entities, cryptocurrency firms will likely no longer need the doctrine if Atkins follows through on promises to create clearer rulemaking and guidance on cryptocurrencies.

II. ANALYSIS

A. Coinbase's Equitable Estoppel Arguments

Equitable estoppel doctrine allows a litigant to preclude an opponent's claim when the opponent's conduct induced the litigant's action that resulted in the claim.¹³ To assert equitable estoppel, "a defendant must prove (1) that

¹² Coinbase, Inc., Wells Submission on Behalf of Coinbase Global, Inc., and Coinbase, Inc. 35 (Wells Submission) (Apr. 19, 2023).

¹³ David K. Thompson, *Equitable Estoppel of the Government*, 79 COLUM. L. REV. 551, 552 (1979) ("Equitable estoppel is a judicial remedy by which a party to a legal controversy is precluded, because of some improper action on his part, from asserting a claim or defense, regardless of its objective validity.⁹ Specifically, it is applied against a person whose words or conduct have induced another to act or refrain from action in a manner that has resulted in harm or loss or would do so if the responsible person is not estopped.").

the plaintiff made a material misrepresentation, (2) upon which the defendant relied, (3) to his detriment.”¹⁴

Coinbase argued that it relied on interactions with the SEC to continue operating an exchange and subsequently faced the detriment of a civil complaint by the SEC. They argued that they meet at least two of the basic elements of equitable estoppel (reliance (2) and detriment (3)). Thus, Coinbase’s equitable estoppel arguments turned on whether the SEC made a “material misrepresentation.” The Court has also explained that such a misrepresentation could be shown by “some type of ‘affirmative misconduct’.”¹⁵

In Coinbase’s Answer¹⁶ and Wells Submission,¹⁷ Coinbase argued specific points at which the SEC’s actions amounted to “material misrepresentation.” These points can be grouped into two categories: (i) Coinbase’s April 2021 Initial Public Offering (“IPO”) and (ii) the SEC’s public statements.

Coinbase IPO: On February 25, 2021, Coinbase filed an S-1 Form with the SEC requesting to register as an offeror of Class A Common Stock.¹⁸ The SEC typically reviews these forms for “compliance with the applicable accounting standards and the disclosure requirements of the federal securities laws and regulations.”¹⁹ On April 1, 2021, the SEC declared Coinbase’s S-1 Form effective, allowing Coinbase shares to be publicly traded.²⁰

Coinbase argued that it “reasonably relied on . . . the Commission’s continued silence[] by . . . devoting substantial resources to engaging with the Commission prior to, during, and after its public listing process.”²¹ Moreover, “[i]f the Commission *had* believed in April 2021 that Coinbase’s core businesses violated securities law, it would have been required by its own mandate to prevent the S-1 from becoming effective to protect the investing public.”²² Coinbase argued that the SEC silently omitted any statement on whether Coinbase’s products violated securities law, and, in doing so, the SEC misrepresented its position on whether Coinbase’s products were illegal.

Coinbase’s arguments that the SEC made a misrepresentation falter in two ways. First, the SEC’s public offering review only checks for “disclosure” and “accounting” compliance.²³ A declaration of S-1 Form effectiveness does not necessarily express the SEC’s approval of the legality of the underlying business or products. For instance, in 2015, the SEC approved the registration

¹⁴ SEC v. Rayat, 21-cv-4777, 2021 WL 4868590, at *3 (S.D.N.Y. October 18, 2021).

¹⁵ Off. of Pers. Mgmt. v. Richmond, 496 U.S. 414, 420–426 (1990).

¹⁶ Coinbase’s Answer at 172.

¹⁷ Wells Submission, *supra* note 11.

¹⁸ Complaint at 31–32.

¹⁹ SEC, Filing Review Process (2019), <https://www.sec.gov/divisions/corpfin/cffilingreview>.

²⁰ Complaint at 32.

²¹ Wells Submission, *supra* note 11 at 35.

²² Wells Submission, *supra* note 11 at 4.

²³ SEC, *supra* note 18.

of Terra Tech Corp., a business who grows and sells marijuana, which is federally illegal.²⁴ Similarly, in Coinbase’s case, the SEC’s approval of their S-1 Form does not bind the SEC to a tacit approval of any legal position of Coinbase’s underlying business.

Second, while there is some caselaw that considers acts of omission to be “material misrepresentations,” these cases deal with private litigants.²⁵ Given the “affirmative misconduct” standard for equitable estoppel for the government, Coinbase would not have prevailed in identifying the SEC’s silence (omission) as “material misrepresentation.”²⁶ Silence is not “affirmative” action.

Some district courts have shown a willingness to give weight to an SEC’s S-1 approval on topics that are at issue in subsequent litigation. For instance, in *Spielman v. Gen. Host Corp.*, Judge Weinfeld (S.D.N.Y.) held that “[w]hile the registration of securities by the SEC does not constitute Commission approval of the language of the prospectus, [. . .] clearance by the Commission in the face of charges identical with those presented here may be given some weight.”²⁷ Coinbase appeared to make some headway with this argument. In a recent motion for judgement hearing, Judge Failla suggested she might be sympathetic to this argument, stating that “Coinbase could’ve been ‘forewarned that maybe someday there could be a problem.’”²⁸ The precise amount of weight that this argument carries and whether it meets the standard of “affirmative misconduct” has yet to be answered.

Former SEC Chair’s public statements: Coinbase has also pointed to misrepresentations in former SEC Chair Gary Gensler’s statements. For instance, Coinbase pointed a speech where Gensler asked digital asset platforms to “come in, talk to us, and register.”²⁹ Even the House Committee on Financial Services agreed that some amount of misrepresentation occurred with these comments. The Committee responded to these comments in a letter to Gensler, writing “[w]ithout clear rules of the road, your push for firms to ‘come in and register’ is a *willful misrepresentation* of the SEC’s non-existent registration process.”³⁰ Coinbase argued that “[a]n enforcement action should . . . be barred because Chair Gensler misrepresented his position when he said

²⁴ Martha Neil, *Company Whose Business Plan Includes Marijuana Gets SEC Approval of Share Registration*, ABA JOURNAL (Jan. 28, 2015), <https://perma.cc/Q6MB-98M9>.

²⁵ See generally *Hillyer v. Pahan Am. Petroleum Corp.*, 348 F.2d 613 (10th Cir. 1965).

²⁶ *Off. of Pers. Mgmt. v. Richmond*, 496 U.S. 414, 421 (1990).

²⁷ 402 F. Supp. 190, 197 (S.D.N.Y. 1975); See also, *Pabst Brewing Co. v. Jacobs*, 549 F. Supp. 1068, 1076 (D. Del. 1982).

²⁸ Andre Beganski, *Judge in Coinbase Case Expresses ‘Skepticism’ Over SEC’s Prior S-1 Approval*, YAHOO!FINANCE (July 16, 2023), <https://finance.yahoo.com/news/judge-coinbase-case-expresses-skepticism-202619359.html>.

²⁹ Coinbase’s Answer at 28.

³⁰ Letter from the House Committee on Financial Services to Gary Gensler, Chair of the U.S. SEC (Apr. 18, 2023), <https://perma.cc/FD64-VMXM> (emphasis added).

to ‘come in and register,’ even though registration of any part of Coinbase’s business was simultaneously foreclosed by the Commission.”³¹

Here, Coinbase’s arguments also faced an uphill climb because Gensler’s invitation to “come in and register” does not constitute a plaintiff’s material misrepresentation. Gensler made that statement in a speech in which he indicated that he was “not speaking on behalf of the Commission or SEC staff.”³² Because Gensler was not representing the plaintiff (the SEC) with those remarks, the remarks cannot be attributed as a plaintiff’s misrepresentation.

Coinbase has also cited other public statements made by Gensler implying that the SEC lacked authority to regulate the digital assets on Coinbase’s platform.³³ Coinbase argued that “the Commission misrepresented its position when it said that . . . it lacked authority to regulate digital asset platforms.”³⁴ The Supreme Court has held that government agencies can be liable for authorized acts of government agents (such as when a new prosecutor revokes a plea deal made under a previous prosecutor)³⁵ but not liable for erroneous statements and advice made by its agent.³⁶ Here, Coinbase did not cite any authorized SEC actions, such as guidance statements or adjudicative rulings.³⁷ Rather, the cited statements came from Gensler’s public speeches. These statements were more closely aligned to an agent’s advice than to an SEC’s authorized acts. Thus, the SEC was likely not liable for an asserted misrepresentation based on those statements.

B. Courts’ Reluctance to Allow Equitable Estoppel Against Government Entities

Beyond the challenging facts of the case, Coinbase also faced a significant obstacle with the doctrine itself. Equitable estoppel is readily available against private parties, but the Supreme Court has enforced a near blanket prohibition on its use against the government, beyond liability for individual government employee’s actions.³⁸ But, while the Court has never accepted an equitable estoppel defense against the U.S. government, it has declined to establish a *per se* prohibition.³⁹ Instead, the Court has stated that

³¹ *Wells Submission*, *supra* note 11, at 36.

³² Gary Gensler, Chairman, Speech at SEC Speaks (Sep. 8, 2022), <https://www.sec.gov/news/speech/gensler-sec-speaks-090822>.

³³ *Wells Submission*, *supra* note 11, at 35.

³⁴ *Id.*

³⁵ See Fred Ansell, *A Restrictive Rule of Equitable Estoppel Against the Government*, 53 U. CHI. L. REV. 1026, 1027 (1986).

³⁶ *Heckler v. Commun. Health Servs.*, 467 U.S. 51, 64 (1984).

³⁷ *Wells Submission*, *supra* note 11, at 5.

³⁸ *Off. of Pers. Mgmt. v. Richmond*, 496 U.S. 414, 419 (1990) (stating that “equitable estoppel will not lie against the Government as against private litigants”).

³⁹ *Id.* at 420–426.

“some type of ‘affirmative misconduct’ might give rise to estoppel against the Government.”⁴⁰ Further compounding the difficulty of establishing an equitable estoppel claim, the Court has never clearly defined this “affirmative misconduct” standard.⁴¹ It remains to be seen whether the Court, or a lower court, will allow a defendant to successfully assert equitable estoppel against the federal government.

To evaluate when the Court is likely to allow an equitable estoppel assertion against the federal government, this section identifies the Court’s rationales in prohibiting use of equitable estoppel against the government and concludes that because the rationales did not apply to *SEC v. Coinbase*, the case could have been a suitable vehicle to expand this doctrine.

1. Responsibility to Know and Obey the Law:

One reason the Court has denied the use of equitable estoppel against the government is to hold individuals responsible for knowing the law and to prevent them from shirking this responsibility.⁴² The Court has reiterated that “[w]hen the Government is unable to enforce the law because the conduct of its agents has given rise to an estoppel, the interest of the citizenry as a whole in obedience to the rule of law is undermined.”⁴³ In other words, the Court is reluctant to allow equitable estoppel against the government in instances where a government agent makes a mistake because doing so would disincentivize individuals from learning the law.

Here, such a rationale does not apply, because Coinbase did not forsake its responsibility to know and obey the law. It “spent millions of dollars on legal support to build these proposals and repeatedly asked for the SEC’s feedback.”⁴⁴ Coinbase’s investments and engagements with the SEC demonstrated that it was not ignoring knowledge of the law. Moreover, cryptocurrency law is unsettled, making it difficult for firms to be knowledgeable about the law. The regulatory uncertainty surrounding cryptocurrencies demonstrates that there is no clearly accepted law to which digital asset platforms can adhere. Thus, the responsibility to know the law in this context is not an achievable standard to use to deny the use of equitable estoppel.

⁴⁰ *Id.* at 421.

⁴¹ Fred Ansell, *A Restrictive Rule of Equitable Estoppel Against the Government*, 53 U. Chi. L. Rev. 1026, 1044 (1986).

⁴² *Fed. Crop Insurance Corp. v. Merrill*, 332 U.S. 380, 384–85 (1947) (noting that “[j]ust as everyone is charged with knowledge of the United States Statutes at Large, Congress has provided that the appearance of rules and regulations in the Federal Register gives legal notice of their contents”).

⁴³ *Heckler*, 467 U.S. at 60 (1984).

⁴⁴ Paul Grewal, *We Asked the SEC for Reasonable Crypto Rules for Americans. We got Legal Threats Instead*, COINBASE (Mar. 22, 2023), <https://www.coinbase.com/blog/we-asked-the-sec-for-reasonable-crypto-rules-for-americans-we-got-legal>.

2. Separation of Powers Between Congress and the Judiciary

A second reason the Court has denied the use of equitable estoppel against the government is to protect the separation of powers between Congress and the judiciary. For example, in instances where Congress has created rules for appropriating funds, the Court has supported a strict approach to estoppel on separation of powers grounds because it “merely expresses the duty of all courts to observe the conditions defined by Congress for charging the public treasury . . . no matter with what good reason the respondents thought they had obtained [a benefit] from the Government.”⁴⁵ A court’s approval of equitable estoppel against a democratically approved piece of legislation would encroach on Congress’ power to legislate. This rationale fails when applied to Coinbase. Congressional legislation on cryptocurrency registration is non-existent and, therefore, no such conflict between the judiciary and Congress exists. By allowing equitable estoppel against the government, a court does not necessarily authorize Coinbase’s disobedience of Congressional laws because no law specifically codifies the procedures for digital asset registration.

Both rationales fail in the cryptocurrency context because there is a reasonable dispute about what the law requires for digital asset registration. Coinbase’s claim was not a typical equitable estoppel assertion, where a complicated set of statutes led a government agent to provide incorrect advice. On the contrary, there is a dearth of regulation in this space, which has led to a reasonable dispute about what laws apply. In such instances, allowing the use of equitable estoppel would not damage the Supreme Court’s fidelity towards holding individuals accountable for knowing and obeying the law, nor would it overstep the Court’s bounds by allowing a violation of a Congressionally mandated law.

Coinbase v. SEC provides a compelling situation to consider equitable estoppel arguments against the government. Here, the Court’s traditional rationales against using equitable estoppel against the federal government fail. No separation of powers interest exists because no Congressional legislation is at issue. Further, Coinbase demonstrated ample good faith efforts to comply with regulatory authorities in the absence of clear law.

C. Atkins’ Policies May Resolve Equitable Estoppel Concerns in the Cryptocurrency Industry

While Coinbase would have faced a tough challenge overcoming the Court’s hesitation to allow an equitable estoppel claim against the federal

⁴⁵ *Merrill*, 332 U.S. at 385.

government, future cryptocurrency firms' ultimate reliance concerns may be resolved by Atkins' policies and his new position as Chairman of the SEC.

The root of Coinbase's equitable estoppel argument was that the SEC materially misrepresented their position on the legality of Coinbase's products. For instance, Coinbase alleged that the SEC failed to identify issues of the legality of Coinbase's underlying business throughout their IPO filings. Coinbase also alleged that the SEC repeatedly denied Coinbase's request for further rulemaking that would create more clarity.⁴⁶ Several elements of Atkins' past statements and reputation indicate that he may have agreed with these allegations.

First, Atkins is a known advocate of the cryptocurrency industry.⁴⁷ For example, Atkins is on the Board of Advisors for The Digital Chamber,⁴⁸ which aims to "promote the acceptance and use of digital assets and blockchain-based technologies."⁴⁹ Atkins' regulatory philosophy also emphasizes a "lighter touch" on emerging technologies, allowing them to develop with minimal regulatory hindrance.⁵⁰

Second, Atkins has actively advocated for the need for more clarity in cryptocurrency regulation, an argument that is a central tenet of Coinbase's equitable estoppel claims. For instance, in its *Wells* submission, Coinbase argued that it repeatedly and unsuccessfully sought guidance and even rulemaking for how to register its products from the SEC.⁵¹ As a result, former Chair Gensler's "invitations to 'come in, talk to us, and register,' and blithe assertions that 'there's a clear way to [register], and there are forms on our website'"⁵² could be interpreted by Atkins as questionable affirmative misrepresentations.

Third, Atkins has criticized the SEC for not giving clear guidance and argued that the SEC should provide more regulatory guidance and "deal [more] straightforwardly" with the cryptocurrency industry.⁵³ If Atkins follows

⁴⁶ *Wells Submission*, *supra* note 11 at 3–4, 35.

⁴⁷ *See generally*, Paoli, *supra* note 8.

⁴⁸ Gilbert, *supra* note 5.

⁴⁹ *Who we are*, Chamber of Digital Commerce (2019), <https://digitalchamber.org/about/vision/>.

⁵⁰ David Krause, *New SEC Chair and Crypto Czar Signal a Major Regulatory Shift*, 5, 13 (Dec. 8, 2024), https://www.researchgate.net/profile/David-Krause-16/publication/386549114_New_SEC_Chair_and_Crypto_Czar_Signal_a_Major_Regulatory_Shift/links/6755b254ef2dc67228b4212a/New-SEC-Chair-and-Crypto-Czar-Signal-a-Major-Regulatory-Shift.pdf (Atkins "is a strong proponent of principles-based regulation, which he believes allows companies to operate with greater flexibility and creativity by providing broad guidelines, rather than rigid, prescriptive rules that could stifle innovation").

⁵¹ *Wells Submission*, *supra* note 11 at 4 ("Coinbase's long history of engagement will also demonstrate the Commission's repeated refusal to respond to requests for clarity or rulemaking, even when its own practices or the law so required.").

⁵² *Id.* at 5.

⁵³ Ananya Chag, *Paul Atkins' Nomination to SEC Could Carve a Future for Crypto Regulation*, MEDILL ON THE HILL (Dec. 10, 2024), <https://web.archive.org/web/20241210233951/https://www.medillonthehill.medill.northwestern.edu/2024/12/paul-atkins-nomination-to-sec-could-carve-a-future-for-crypto-regulation/>; *see also* Terry Weiss and Alek Smolij, *The Crypto Guys Seem to Like Paul Atkins as a New SEC Commissioner, but Will He Be Good for the*

through on these beliefs and provides the cryptocurrency industry with some regulatory guidance for registration, the SEC will likely satisfy the cryptocurrency industry's concerns that it is not receiving clear guidance from the Commission. Such rulemaking would at least attempt to resolve any alleged affirmative misrepresentation of what exactly Coinbase and other cryptocurrency firms are required to do. Indeed, many industry experts are expecting some form of rulemaking by an Atkins-headed SEC.⁵⁴ As a result of clearer guidance, neither Coinbase, nor any other crypto company, will need to assert an equitable estoppel claim.

III. CONCLUSION

Coinbase faced costly SEC enforcement litigation for allegedly failing to follow securities registration requirements. Simultaneously, the SEC underwent a major change in administration that represents transitioning governing philosophies with Atkins at the helm. Coinbase's equitable estoppel arguments were unlikely to succeed given the traditional reluctance of courts to allow the doctrine to limit government actions. However, the new administration may resolve Coinbase's equity concerns, which are rooted in a lack of SEC clarity on registration requirements. If new SEC Chairman Atkins creates rulemaking action for the cryptocurrency industry, Coinbase and the rest of the cryptocurrency industry will begin to receive some of the clarity they seek.

Securities Industry?, DUANEMORRIS (Dec. 27, 2024), <https://perma.cc/8MDV-6JPN> (“[R]ecently in comments made during SEC Speaks in 2022, [Atkins] was not shy about criticizing the Gensler SEC in its refusal to provide investment advisers with adequate regulatory guidance about custody protocols for digital assets.”).

⁵⁴ See Chag, *supra* note 50 <https://perma.cc/YC9K-UDNP> (“Probably the most prominent change from Gensler’s commission, McLucas and Smith also added that they expect to see ‘rulemaking’ on crypto from Atkins, whom they said has been ‘productive in trying to get the SEC to issue [crypto] guidance,’ especially regarding his work with tokenization.”).