

United States Senate
WASHINGTON, DC 20510

February 7, 2024

The Honorable Gary Gensler
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Dear Chairman Gensler:

We write to express our concerns regarding developments in the Securities and Exchange Commission's ("the Commission") enforcement proceedings against Digital Licensing Inc., also known as "DEBT Box," the company's principals, and 13 other defendants.

As part of these proceedings, the Commission sought a temporary asset freeze, restraining order, and other emergency relief against DEBT Box, all of which were granted by the U.S. District Court for the District of Utah. However, the Court became aware that "the Commission made materially false and misleading representations...and undermined the integrity of the proceedings."¹ In the meantime, the restraining order froze the defendants' personal and business assets, shut down DEBT Box, and caused its native token to crash by more than 56 percent. The Commission's Enforcement Division Director, Grubir Grewal, admitted to these misrepresentations in its request that the court refrain from levying sanctions. We are greatly concerned by the Commission's conduct in this case. It is unconscionable that any federal agency—especially one regularly involved in highly consequential legal procedures and one that, under your leadership, has often pursued its regulatory mission through enforcement actions rather than rulemakings—could operate in such an unethical and unprofessional manner.

In response to Judge Shelby's claims, the Commission wrote in a December filing that "Commission counsel made a representation during the July 28, 2023 hearing that, unbeknownst to him at the time, was inaccurate" and that "Commission attorneys failed to correct that statement when they learned of the inaccuracy." This statement suggests the error was one of negligence rather than malevolence. But even this charitable explanation is unacceptable. That the Commission counsel could be so unfamiliar with the relevant facts of the case, and that Commission attorneys could have such little regard for the veracity of evidence presented to the Court, is deeply troubling. Regardless of whether Commission staff deliberately misrepresented evidence or unknowingly presented false information, this case suggests *other* enforcement cases brought by the Commission may be deserving of scrutiny. It is difficult to maintain confidence that other cases are not predicated upon dubious evidence, obfuscations, or outright misrepresentations.

¹ <https://storage.courtlistener.com/recap/gov.uscourts.utd.141167/gov.uscourts.utd.141167.215.0.pdf>

The Commission's response stated that the Division of Enforcement would require staff to undergo "mandatory training...about the duty of accuracy and candor and the duty to correct any inaccuracies as soon as they come to light." Perhaps such training in the most elementary aspects of legal conduct is necessary. However, we are skeptical that this response and the Commission's pledge to reshuffle personnel is proportionate to the very serious allegations outlined by the Court.

As you know, the Commission's mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation is of the utmost importance. The public must have well-placed confidence in the Commission's enforcement actions, its motives for undertaking them, and its professionalism when carrying them out. This trust is undermined, and your mission compromised, by episodes like the DEBT Box case.

Thank you for your attention to this important matter.

Sincerely,



JD Vance
United States Senator



Thom Tillis
United States Senator



Bill Hagerty
United States Senator



Cynthia Lummis
United States Senator



Katie Boyd Britt
United States Senator