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Under Trump, White Collar Crypto Defense Gets New Playbook

By **Phillip Bantz**

Law360 (August 22, 2025, 4:53 PM EDT) -- A few years ago, Barnes & Thornburg white collar practice co-chair Katie Matsoukas would not have considered knocking on doors at the U.S. Department of Justice or U.S. Securities and Exchange Commission in an effort to negotiate favorable resolutions for clients in cryptocurrency-related cases.

Back then, during President Joe Biden's aggressive crackdown on crypto, white collar lawyers were likely to find those doors firmly shut. But now, reaching out directly to the DOJ and SEC headquarters is becoming a key play for white collar crypto defense.

"One-hundred percent," said Matsoukas, a member of the defense team that secured the late April **dismissal** of federal criminal and civil forfeiture cases against Maximiliano Pilipis, the former operator of virtual crypto exchange AurumXchange. The government moved to dismiss the case after initially appealing a trial judge's ruling that tossed money laundering charges against Pilipis.

Indiana federal prosecutors accused Pilipis of running an unlicensed money transmitting business, laundering money through crypto transactions and failing to file tax returns. Matsoukas and her co-counsel on the case argued that Pilipis' exchange was not a money transmitting business under the law when it was operating from 2009 to 2013.

Pilipis closed the exchange in 2013, in the wake of new guidance from the U.S. Treasury Department's Financial Crimes Enforcement Network that expanded the definition of a money transmitter subject to FinCEN's registration requirements to include exchanges like ArumXchange, according to his attorneys.

"We didn't think that the prosecutors on the ground were listening to reason, understood where we were coming from or the implications of the prosecution. So how do we get this to the decision-makers and help them see this?" Matsoukas told Law360.

"We knew crypto regulation was something [the Trump] administration was thinking about. It was almost like, 'Well, if we've got to go over somebody's head, we'll go over somebody's head,'" she said, referring to the local prosecutors. "So we made every effort to communicate with others at [Main Justice] that we knew to try to make our case."

Matsoukas, who is not a DOJ alum, said the defense team leveraged the connections of former federal prosecutors at Barnes & Thornburg LLP to contact higher-ups at Main Justice, including the Office of the Solicitor General, which decides whether the government will appeal adverse rulings, as well as the Criminal Division's deputy attorney general.

"A lot of it is who knows so-and-so from whenever. It's making phone calls, reaching out through other people in our group that might have relationships with people in those offices," Matsoukas said.

"I wish there was, but there's no hotline where you can just say, 'Hey, we want to put in a good word for our case,'" she added. "But even if you didn't work in the DOJ, a lot of us have relationships with people that have ended up in those offices."

It is unclear what prompted the government to move to dismiss its case against Pilipis. The DOJ did not respond to a request for comment.

"I suppose we'll never know … whether our reaching out to the DOJ had any effect," Matsoukas said. "But you don't lose anything by doing that — and it should be part of the strategy, to make this almost a policy issue."

Calling decision-makers at the DOJ or SEC has emerged as a strategic crypto defense for two primary reasons, according to Seth Goertz, chair of the cybersecurity practice at Dorsey & Whitney LLP. As a former federal prosecutor, he led the District of Arizona's darknet marketplace and digital currency crimes task force.

"You now have the ability to have higher-level priority talks about prosecution," he said. "Before, going to the DOJ and saying, 'This case is outside the parameters of your prosecution priorities' would never fly, because there was a lot more deference to local line prosecutors and there wasn't a dictate of deregulation in these criminal or civil enforcement areas."

Normalizing Crypto

The ArumXchange case is among several that highlight how the blueprint for crypto defense is evolving alongside the Trump administration's embrace of digital assets and abandonment of the Biden era's more forceful approach to the crypto industry.

In early August, Tornado Cash co-founder Roman Storm pumped his fist as he exited a Manhattan federal court after a jury found him guilty of conspiring to operate an unlicensed money transmitting business but **deadlocked** on the more serious charges alleging he laundered money and conspired to violate sanctions.

Storm's partial mistrial followed relatively lenient **guilty pleas** in late July for a pair of Samourai Wallet executives. They admitted to scheming to use their crypto-mixer as an unlicensed money transmitter as part of a deal that allowed them to avoid more serious money-laundering conspiracy charges.

The SEC has dropped many of the crypto investigations and lawsuits that it had launched under Biden's administration, including closely watched suits against crypto exchange giants Binance and Coinbase.

Those developments underscore the shift taking place as a result of enforcement and regulatory policy changes, which is altering defense strategies, and also reflect the growing acceptance of crypto as a legitimate asset and trading platforms as legitimate businesses, experts say.

"The nature of cryptocurrency itself is no longer an immediate red flag from a criminal standpoint," former California federal prosecutor Daniel Silva, co-chair of the white collar practice at Buchalter PC, told Law360.

"For the longest time, there was immediate suspicion if cryptocurrency was involved," he added. "The SEC, DOJ and [Commodity Futures Trading Commission] were largely approaching these cases with a similar concept — that the very nature of how [crypto] works makes it a crime."

Speaking at a conference on Thursday, DOJ Criminal Division leader Matthew R. Galeotti made it clear that the government will still bring crypto cases, including for unlicensed money transmitting.

But Galeotti stressed that there has to be evidence that a "defendant knew of the specific legal requirement and willfully violated it." He also noted that the DOJ is not interested in going after developers of autonomous code, such as Storm of Tornado Cash, simply because third parties have used their products for criminal activities.

"Our view is that merely writing code, without ill-intent, is not a crime," Galeotti told an audience gathered for the American Innovation Project summit in Jackson, Wyoming.

Avoid The Weeds

As the perceived shadiness that had surrounded crypto lifts, defense lawyers can point to the legitimacy of digital assets as part of their strategy to appeal not only to regulators and enforcement agencies but also juries.

"Now that so many people use it and it's such an integral part of our financial system, the jury has to sit back and say, 'OK, the product itself is not illegal.' That is absolutely a key issue when it comes to intent," Shawn Shecter, who co-leads the white collar practice at Lewis Brisbois Bisgaard & Smith LLP, told Law360.

Staying out of the technical weeds as much as possible and focusing instead on delivering a compelling, understandable narrative in defense of a crypto client is not always easy as the cases tend to be highly technical, but it is important.

While preparing for a potential trial in the ArumXchange case, the defense team strategized to paint defendant Pilipis as a techy cryptographer who shut down his business in an attempt to comply with the law, yet still faced prosecution, according to Matsoukas.

"This is a guy trying to navigate a complex regulatory world — and the government is going to come after him for doing that?" she said. "Government overreach and the theme of going after the little guy is something we definitely thought about."

The defense also homed in on complicated charts that the government included in its compliant, according to Barnes & Thornburg partner Aly Hughes, a member of Pilipis' defense team. She added that the government apparently planned to put its full case on through the testimony of one federal agent.

"There are all these charts and none of them really make sense," Hughes told Law360. "When you think about going in front of a jury and that's their story and they're going to have to use one person, we felt like if we ever got to that point, we'd have a strong chance."

In the Tornado Cash case, the defense followed a simple approach, in part, by keeping witness cross-examinations brief and focused. The tactic apparently went over well not just with the jury but also the trial judge, who **complimented** defense counsel for "not wasting anyone's time."

"The appetite for the DOJ to continue to pursue these cases after this [Tornado Cash] verdict is significantly diminished, I would think, especially if they're pursuing what are effectively technical violations," said Goertz of Dorsey & Whitney. "Not only is it hard to convince a jury, it's hard to convince a prosecutor and the agents to do all the work to bring a case like that."

Focus On Policy

Just as the government's pullback on crypto enforcement and regulation provides a potential opening for defense attorneys during negotiations, so too does turnover within the DOJ and SEC as the Trump administration reshapes both agencies.

"If morale isn't sky-high and there's no cohesion in the sense of a higher purpose, it's going to have an effect on the way these cases are prosecuted and the results they get," said Kevin O'Brien, a partner at Ford O'Brien Landy LLP and former Brooklyn federal prosecutor.

Lack of enthusiasm from the top ranks of the DOJ and SEC about pursuing crypto cases also could be an effective talking point for the defense when negotiating for favorable resolutions with the government, according to Silva at Buchalter.

"That's going to be the very first conversation that most defense counsel are going to have with any prosecutor now considering these types of charges: 'I'm not so sure you've got the juice from the DOJ to go forward,'" he said.

--Additional reporting by Aislinn Keely, Stewart Bishop and Pete Brush. Editing by Dave Trumbore.
