

Multiple Documents

Part	Description
1	2 pages
2	Exhibit 1 - Consent of Defendants
3	Exhibit 2 - Proposed Final Judgment

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

SECURITIES AND EXCHANGE COMMISSION,	:	CA NO 2:23-cv-00580 (RSM)
	:	
Plaintiff,	:	PLAINTIFF SECURITIES
	:	AND EXCHANGE
- against -	:	COMMISSION'S CONSENT
	:	MOTION FOR ENTRY OF
BITTREX, INC., BITTREX GLOBAL GMBH, and	:	FINAL JUDGMENT
WILLIAM HIROAKI SHIHARA,	:	AGAINST DEFENDANTS
	:	
Defendants.	:	NOTE ON MOTION
	:	CALENDAR: AUGUST 10,
	:	2023

Plaintiff Securities and Exchange Commission (the "SEC"), with the consent of Defendants Bittrex, Inc. ("Bittrex"), Bittrex Global GmbH ("Bittrex Global"), and William Hiroaki Shihara ("Shihara") (collectively, "Defendants"), respectfully moves the Court to enter Final Judgment as to Defendants Bittrex, Bittrex Global, and Shihara. In support of this motion, the SEC states the following:

1. The SEC and Defendants reached a settlement that will resolve Defendants' liability in connection with the above-captioned litigation.

2. Attached hereto as Exhibit 1 is the signed Consent of Defendants ("Consent"), and attached hereto as Exhibit 2 is the proposed Final Judgment. The Consent sets forth Defendants' agreement to the entry of Final Judgment, which, among other things, will resolve their liability and provide injunctive relief. As set forth in the Consent, Defendants agree to the terms of the proposed Final Judgment and do not oppose this motion.

Accordingly, for all the foregoing reasons, the SEC respectfully requests that the Court enter the proposed Final Judgment attached as Exhibit 2.

1 Dated: August 10, 2023

2 By: s/Ben N. Kuruvilla
3 Ben N. Kuruvilla*

4 *Conditionally admitted pursuant to
5 Local Rule 83.1
6 SECURITIES AND EXCHANGE
7 COMMISSION
8 New York Regional Office
9 100 Pearl Street, Suite 20-100
10 New York, New York 10004
11 (212) 336-1100
12 Email: kuruvillabe@sec.gov

13 *Attorneys for the Plaintiff*

EXHIBIT 1

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

**BITTREX, INC., BITTREX GLOBAL GMBH, and
WILLIAM HIROAKI SHIHARA,**

Defendants.

23 Civ. 580 (RSM)

ECF Case

CONSENT OF DEFENDANTS

1. Defendants Bittrex, Inc. (“Bittrex”), Bittrex Global GmbH (“Bittrex Global”), and William Hiroaki Shihara (“Shihara”) (collectively, “Defendants”), having been served with the complaint in this action, admit the Court’s jurisdiction over Defendants and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as provided here in paragraph 12 and except as to personal and subject matter jurisdiction, which Defendants admit), Defendants hereby consent to the entry of the Proposed Judgment in the form attached hereto (the “Judgment”) and incorporated by reference herein, which, among other things:

- a. permanently restrains and enjoins Defendants Bittrex and Shihara from violation of Section 5 of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78e]; Section 15(a) of the Exchange Act [15 U.S.C. § 78o]; and Section 17A of the Exchange Act [15 U.S.C. § 78q-1];
- b. permanently restrains and enjoins Defendant Bittrex Global from violation of Section 5 of the Exchange Act;
- c. orders Defendants Bittrex and Bittrex Global to pay disgorgement in the amount of \$14,400,000 plus prejudgment interest thereon in the amount of \$4,000,000

pursuant to Sections 21(d)(3), 21(d)(5) and 21(d)(7) of the Exchange Act [15 U.S.C. §78u(a), 78u(d)]; and

- d. orders Defendants Bittrex and Bittrex Global to pay a civil money penalty in the amount of \$5,600,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)].
- e. Bittrex, Inc. and Bittrex Global shall be jointly and severally liable for the entire amount of the Judgment, totaling \$24,000,000, including all disgorgement, prejudgment interest thereon, and civil penalty amounts (the “Judgment”).
- f. Defendants Bittrex, Inc. and Bittrex Global shall satisfy the obligation by paying to the Securities and Exchange Commission \$24,000,000 within 60 days after the Effective Date of a Chapter 11 Plan of Liquidation (the “Plan”) in the Bankruptcy Case of Bittrex Inc., case no. 23-10598 (Bankr. Del. 2023) (“Bankruptcy Case”).
- g. The Commission will not enforce the Court’s judgment for disgorgement, prejudgment interest, and civil penalty in this Final Judgment against Defendant Bittrex Global until 90 days after the Effective Date of the Plan and only to the extent that the Judgment is not paid under the Plan, but if the Plan has not gone effective by March 1, 2024, the Commission may enforce the Court’s judgment against Bittrex Global at any time after March 1, 2024.

3. Defendants Bittrex and Bittrex Global acknowledge that the civil penalty paid pursuant to the Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendants Bittrex and Bittrex Global agree that they shall not, after offset or reduction of any award of compensatory damages in any Related Investor

1 Action based on their payment of disgorgement in this action, argue that they are entitled to, nor shall
 2 they further benefit by, offset or reduction of such compensatory damages award by the amount of any
 3 part of their payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related
 4 Investor Action grants such a Penalty Offset, Defendants Bittrex and Bittrex Global agree that they
 5 shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission’s
 6 counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a
 7 Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty
 8 and shall not be deemed to change the amount of the civil penalty imposed in this action. For
 9 purposes of this paragraph, a “Related Investor Action” means a private damages action brought
 10 against Defendants Bittrex or Bittrex Global by or on behalf of one or more investors based on
 11 substantially the same facts as alleged in the Complaint in this action; provided however that nothing in
 12 this paragraph shall affect or supersede the terms of the confirmed Plan.
 13

14 4. Defendants Bittrex and Bittrex Global agree that they shall not seek or accept, directly
 15 or indirectly, reimbursement or indemnification from any unaffiliated source, including but not limited
 16 to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Bittrex
 17 and Bittrex Global pay pursuant to the Judgment, regardless of whether such penalty amounts or any
 18 part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendants
 19 Bittrex and Bittrex Global further agree that they shall not claim, assert, or apply for a tax deduction or
 20 tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendants Bittrex
 21 and Bittrex Global pay pursuant to the Judgment, regardless of whether such penalty amounts or any
 22 part thereof are added to a distribution fund or otherwise used for the benefit of investors; provided
 23 however that nothing in this paragraph shall affect or supersede the terms of the confirmed Plan.
 24

25 5. Defendants waive the entry of findings of fact and conclusions of law pursuant to Rule
 26 52 of the Federal Rules of Civil Procedure.

6. Defendants waive the right, if any, to a jury trial and to appeal from the entry of the Judgment.

7. Defendants enter into this Consent voluntarily and represent that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendants to enter into this Consent.

8. Defendants agree that this Consent shall be incorporated into the Judgment with the same force and effect as if fully set forth therein.

9. Defendants will not oppose the enforcement of the Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waive any objection based thereon.

10. Defendants waive service of the Judgment and agree that entry of the Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendants of its terms and conditions. Defendants further agree to provide counsel for the Commission, within thirty days after the Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendants have received and read a copy of the Judgment.

11. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Defendants in this civil proceeding. **Defendants acknowledge that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability.** Defendants waive any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendants further acknowledge that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory

1 organization. This statutory disqualification has consequences that are separate from any sanction
 2 imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the
 3 Commission based on the entry of the injunction in this action, Defendants understand that they shall
 4 not be permitted to contest the factual allegations of the complaint in this action.

5 12. Defendants understand and agree to comply with the terms of 17 C.F.R. § 202.5(e),
 6 which provides in part that it is the Commission's policy "not to permit a defendant or respondent to
 7 consent to a judgment or order that imposes a sanction while denying the allegations in the complaint
 8 or order for proceedings." As part of Defendants' agreement to comply with the terms of Section
 9 202.5(e), Defendants: (i) will not take any action or make or permit to be made any public statement
 10 denying, directly or indirectly, any allegation in the complaint or creating the impression that the
 11 complaint is without factual basis; (ii) will not make or permit to be made any public statement to the
 12 effect that Defendants do not admit the allegations of the complaint or that this Consent contains no
 13 admission of the allegations, without also stating that Defendants do not deny the allegations; and
 14 (iii) upon the filing of this Consent, Defendants hereby withdraw any papers filed in this action to the
 15 extent that they deny any allegation in the complaint. If Defendants breach this agreement, the
 16 Commission may petition the Court to vacate the Judgment and restore this action to its active docket.
 17 Nothing in this paragraph affects Defendants': (i) testimonial obligations; or (ii) right to take legal or
 18 factual positions in litigation or other legal proceedings in which the Commission is not a party.

19 13. Defendants hereby waive any rights under the Equal Access to Justice Act, the Small
 20 Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the
 21 United States, or any agency, or any official of the United States acting in his or her official capacity,
 22 directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by
 23 Defendants to defend against this action. For these purposes, Defendants agree that Defendants are
 24 not the prevailing party in this action since the parties have reached a good faith settlement.

25 14. In connection with this action and any related judicial or administrative proceeding or
 26 investigation commenced by the Commission or to which the Commission is a party, Defendants: (i)

1 agree to appear and be interviewed by Commission staff at such times and places as the staff requests
2 upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas
3 issued by the Commission for documents or testimony at depositions, hearings, or trials, or in
4 connection with any related investigation by Commission staff; (iii) appoints Defendants' undersigned
5 attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and
6 subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil
7 Procedure and any applicable local rules, provided that the party requesting the testimony reimburses
8 Defendants' travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem
9 rates; and (v) consents to personal jurisdiction over Defendants in any United States District Court for
10 purposes of enforcing any such subpoena.

11 15. Defendants agree that the Commission may present the Judgment to the Court for
12 signature and entry without further notice.

13 16. Defendants agree that, as to Bittrex, the terms of the settlement reflected in this
14 Consent and in the Judgment are subject to approval by the Bankruptcy Court in the Bankruptcy Case
15 and shall be treated as an allowed, unsecured claim under the terms of any Plan filed by Bittrex in the
16 Bankruptcy Case.

17 17. Defendants agree that this Court shall retain jurisdiction over this matter for the
18 purpose of enforcing the terms of the Judgment.
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1 Dated: 9 August 2023

Bittrex, Inc.

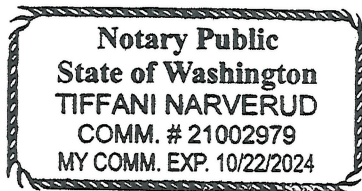
2 By: 

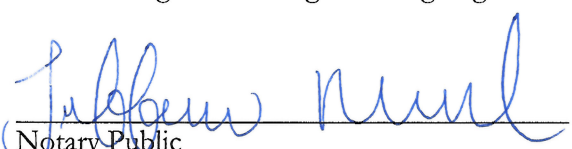
Name: David Maria

Title General Counsel

Address 701 5th Ave, Suite 4200
Seattle, WA 98104

3 On August 9th, 2023, David Maria, a person known to
4 me, personally appeared before me and acknowledged executing the foregoing Consent.




Notary Public

Commission expires: October 22, 2024

10
11 Approved as to form:

12
13
14 MICHAEL LIFTIK

15 **QUINN EMANUEL URQUHART &
SULLIVAN LLP**

16 Michael Liftik

17 1300 I Street NW, Suite 900

Washington, DC 20005

18 Telephone: 202-538-8141

michaelliftik@quinnemanuel.com

19
20 *Lead Counsel for Defendant Bittrex, Inc.*

ALICIA COBB

21 **QUINN EMANUEL URQUHART &
SULLIVAN LLP**

22 Alicia Cobb

1109 First Avenue, Suite 210

Seattle, Washington 98101

23 Telephone: 206-905-7000

aliciacobb@quinnemanuel.com

24
25 *Local Counsel for Defendant Bittrex, Inc.*

1 Dated: _____

Bittrex, Inc.

2 By: _____

3 Name:

4 Title

5 Address

6 On _____, 2023, _____, a person known to
me, personally appeared before me and acknowledged executing the foregoing Consent.

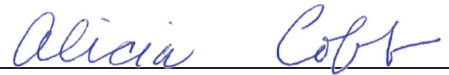
8 _____
Notary Public

9 Commission expires:

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11 Approved as to form:

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13 _____
MICHAEL LIFTIK

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ALICIA COBB

15 **QUINN EMANUEL URQUHART &
SULLIVAN LLP**

16 Michael Liftik
17 1300 I Street NW, Suite 900
Washington, DC 20005
18 Telephone: 202-538-8141
michaelliftik@quinnemanuel.com

15 **QUINN EMANUEL URQUHART &
SULLIVAN LLP**

16 Alicia Cobb
17 1109 First Avenue, Suite 210
Seattle, Washington 98101
18 Telephone: 206-905-7000
aliciacobb@quinnemanuel.com

19
20 *Lead Counsel for Defendant Bittrex, Inc.*

Local Counsel for Defendant Bittrex, Inc.

DocuSign Envelope ID: C3FDA63F-2F50-4999-BFA4-310B672731BE


Dated: 9 AUGUST 2023

Bittrex Global GmbH

By: 

Name: Oliver Linch
Title: Chief Executive Officer
Address: Dr. Grass-strasse 12
9490 Vaduz
Liechtenstein

On 9 August, 2023, Oliver J. Linch, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.


Notary Public

Commission expires: N/A

Approved as to form:



ANDREW MICHAELSON

David H. Smith

DAVID SMITH

KING & SPALDING LLP

Andrew Michaelson
Leigh Nathanson
1185 Avenue of Americas, 35th Floor
New York, NY 10036
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amichaelson@kslaw.com
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*Lead Counsel for Defendant
Bittrex Global GmbH*

SUMMIT LAW GROUP

David Smith
315 5th Ave. South, Suite 1000
Seattle, Washington 98104
Telephone: 206-676-7000
davids@SummitLaw.com

*Local Counsel for Defendant
Bittrex Global GmbH*

Consent of Defendants
SEC v. Bittrex, Inc., et al.
Case No. 23-cv-580 (RSM)

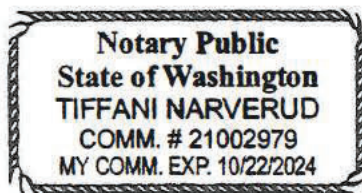
Securities and Exchange Commission
New York Regional Office
100 Pearl Street, Suite 20-100
New York, New York 10004
(212)-336-1100

1 Dated: 9 August 2023

William Hiroaki Shihara

2 By: [Signature]
3 Name: William Hiroaki Shihara
4 Title Co-Founder
5 Address

6 On August 9th, 2023, William Hiroaki Shihara, a person known to
7 me, personally appeared before me and acknowledged executing the foregoing Consent.



12
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15

[Signature]
Notary Public
Commission expires: October 22, 2024

16 Approved as to form:

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23
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25
26

WILLIAM MCGOVERN

KOBRE & KIM
William McGovern
800 3rd Ave, New York,
New York, NY 10022
Telephone: 212-488-1210
William.McGovern@kobrekim.com

Lead Counsel for Defendant
William Hiroaki Shihara

Gregory J. Hollon

**McNAUL EBEL NAWROT &
HELGREN PLLC**
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Timothy B. Fitzgerald
600 University Street, Suite 2700
Seattle, Washington, 98101
Telephone: 206-467-1816
ghollon@mcnaul.com
tfitzgerald@mcnaul.com

Local Counsel for Defendant
William Hiroaki Shihara

1 Dated: _____

William Hiroaki Shihara

2

By: _____

3

Name:

Title

4

Address

5

6

On _____, 2023, _____, a person known to
me, personally appeared before me and acknowledged executing the foregoing Consent.

7

8

9

Notary Public

Commission expires:

10

11

12

Approved as to form:

13



14

WILLIAM MCGOVERN

15



Gregory J. Hollon

16

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New York, NY 10022

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William.McGovern@kobrekim.com

20

21

Lead Counsel for Defendant

22

William Hiroaki Shihara

23

24

25

26

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tfitzgerald@mcnaul.com

Local Counsel for Defendant

William Hiroaki Shihara

EXHIBIT 2

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

-----X	
SECURITIES AND EXCHANGE COMMISSION,	:
	:
Plaintiff,	:
	:
- against -	:
	:
BITTREX, INC., BITTREX GLOBAL GMBH, and	:
WILLIAM HIROAKI SHIHARA,	:
	:
Defendants.	:
	:
-----X	

**FINAL JUDGMENT AS TO DEFENDANTS BITTREX, INC., BITTREX GLOBAL
GMBH, AND WILLIAM HIROAKI SHIHARA**

The Securities and Exchange Commission having filed a Complaint and Defendants Bittrex, Inc. (“Bittrex”), Bittrex Global GmbH (“Bittrex Global”), and William Hiroaki Shihara (“Shihara”) (collectively, “Defendants”) having appeared and having consented to the Court’s jurisdiction over Defendants and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants Bittrex and Shihara are permanently restrained and enjoined from violating, directly or indirectly, Section 5 of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78e] by, directly or indirectly, making use of the mails or any means or instrumentality of interstate commerce for the purpose of using any facility of an exchange within or subject to the jurisdiction of the United States to effect any

1 transaction in a security, or to report any such transaction, unless registered as an exchange in
 2 accordance with Section 5 of the Exchange Act or exempt from such registration;

3 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, Defendants Bittrex and
 4 Shihara are permanently restrained and enjoined from violating, directly or indirectly Section 15(a) of
 5 the Exchange Act [15 U.S.C. § 78o] by, operating as a broker or dealer, making use of the mails or any
 6 means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt
 7 to induce the purchase or sale of, any security unless registered as a broker or dealer in accordance with
 8 Section 15(a) of the Exchange Act; and
 9

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, Defendants Bittrex and
 11 Shihara are permanently restrained and enjoined from violating, directly or indirectly Section 17A of the
 12 Exchange Act [15 U.S.C. § 78q-1] by making use of the mails or any means or instrumentality
 13 of interstate commerce to perform the functions of a clearing agency with respect to any security (other
 14 than an exempted security) without registering as a clearing agency in accordance with Section 17A(b)
 15 of the Exchange Act.
 16

17 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal
 18 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual
 19 notice of this Final Judgment by personal service or otherwise: (a) Defendants Bittrex's and Shihara's
 20 officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or
 21 participation with Defendants Bittrex or Shihara or with anyone described in (a).
 22

23 II.

24 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
 25 Bittrex Global is permanently restrained and enjoined from violating, directly or indirectly, Section 5 of
 26 the Exchange Act [15 U.S.C. § 78e] by, directly or indirectly, making use of the mails or any means or
 instrumentality of interstate commerce for the purpose of using any facility of an exchange within or

1 subject to the jurisdiction of the United States to effect any transaction in a security, or to report any
 2 such transaction, unless registered as an exchange in accordance with Section 5 of the Exchange Act or
 3 exempt from such registration.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal
 5 Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual
 6 notice of this Final Judgment by personal service or otherwise: (a) Defendant Bittrex Global's officers,
 7 agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with
 8 Defendant Bittrex Global or with anyone described in (a).
 9

10 III.

11 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that the Defendants Bittrex
 12 and Bittrex Global are jointly and severally liable for disgorgement in the amount of \$14,400,000.00,
 13 representing profits gained as a result of conduct in the Complaint, together with prejudgment interest
 14 thereon in the amount of \$4,000,000.00, and a civil penalty in the amount of \$5,600,000.00 pursuant to
 15 Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)], for a total of \$24,000,000.00 (the
 16 "Judgment"). The Defendants shall satisfy the obligation by paying to the Securities and Exchange
 17 Commission \$24,000,000 within 60 days after the Effective Date of a Chapter 11 Plan of Liquidation
 18 (the "Plan") in the Bankruptcy Case of Bittrex Inc., case no. 23-10598 (Bankr. Del. 2023) ("Bankruptcy
 19 Case").
 20

21 IV.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Commission will not
 23 enforce the Court's judgment for disgorgement, prejudgment interest, and civil penalty in this Final
 24 Judgment against Defendant Bittrex Global until 90 days after the Effective Date of the Plan and only
 25 to the extent that the Judgment is not paid under the Plan, but if the Plan has not gone effective by
 26 March 1, 2024, the Commission may enforce the Court's judgment against Bittrex Global at any time

1 after March 1, 2024. Any amounts payable from Defendant Bittrex shall be due and owing no later
 2 than 60 days after the Effective Date of the Plan in the Bankruptcy Case. Post judgment interest shall
 3 not begin to accrue until 90 days after the Effective Date of the Plan in the Bankruptcy Case, but if the
 4 Plan has not gone effective by March 1, 2024, post judgment interest will begin to accrue after March 1,
 5 2024. To the extent any post judgment interest is due, Defendants Bittrex and/or Bittrex Global shall
 6 pay such interest.

7
 8 V.

9 Defendants Bittrex and/or Bittrex Global may transmit payment electronically to the
 10 Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment
 11 may also be made directly from a bank account via Pay.gov through the SEC website at
 12 <http://www.sec.gov/about/offices/ofm.htm>. Defendants Bittrex and/or Bittrex Global may also pay
 13 by certified check, bank cashier's check, or United States postal money order payable to the Securities
 14 and Exchange Commission, which shall be delivered or mailed to

15
 16 Enterprise Services Center
 17 Accounts Receivable Branch
 6500 South MacArthur Boulevard
 Oklahoma City, OK 73169

18 and shall be accompanied by a letter identifying the case title, civil action number, and name of this
 19 Court; Bittrex and/or Bittrex Global as defendants in this action; and specifying that payment is made
 20 pursuant to this Final Judgment.

21
 22 Defendants Bittrex and/or Bittrex Global shall simultaneously transmit photocopies of
 23 evidence of payment and case identifying information to the Commission's counsel in this action. By
 24 making this payment, Defendants Bittrex and/or Bittrex Global relinquishes all legal and equitable
 25 right, title, and interest in such funds and no part of the funds shall be returned to Defendant.
 26

1 The Commission shall hold the funds, together with any interest and income earned thereon
 2 (collectively, the “Fund”), pending further order of the Court. The Commission may propose a plan
 3 to distribute the Fund subject to the Court’s approval. Such a plan may provide that the Fund shall be
 4 distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.
 5 The Court shall retain jurisdiction over the administration of any distribution of the Fund and the Fund
 6 may only be disbursed pursuant to an Order of the Court.
 7

8 Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as
 9 civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all
 10 purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendants
 11 Bittrex and/or Bittrex Global shall not, after offset or reduction of any award of compensatory
 12 damages in any Related Investor Action based on Defendants Bittrex’s and/or Bittrex Global’s
 13 payment of disgorgement in this action, argue that they are entitled to, nor shall they further benefit by,
 14 offset or reduction of such compensatory damages award by the amount of any part of Defendants
 15 Bittrex and/or Bittrex Global’s payment of a civil penalty in this action (“Penalty Offset”). If the court
 16 in any Related Investor Action grants such a Penalty Offset, Defendants Bittrex and/or Bittrex Global
 17 shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission’s
 18 counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a
 19 Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty
 20 and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For
 21 purposes of this paragraph, a “Related Investor Action” means a private damages action brought
 22 against Defendants Bittrex and/or Bittrex Global by or on behalf of one or more investors based on
 23 substantially the same facts as alleged in the Complaint in this action; provided however that nothing in
 24 this paragraph shall affect or supersede the terms of the confirmed Plan.
 25
 26

1 VI.

2 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent
3 of Defendants filed herewith is incorporated herein with the same force and effect as if fully set forth
4 herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.
5

6 VII.

7 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that this Court
8 shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.
9

10 Dated: _____, 2023
11

12 _____
13 RICARDO S. MARTINEZ
14 UNITED STATES DISTRICT JUDGE
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General Information

Case Name	Securities and Exchange Commission v. Bittrex Inc et al
Court	U.S. District Court for the Western District of Washington
Date Filed	Mon Apr 17 00:00:00 EDT 2023
Judge(s)	Ricardo S. Martinez
Federal Nature of Suit	Statutes: Securities / Commodities / Exchanges [850]
Docket Number	2:23-cv-00580
Parties	Securities and Exchange Commission; Bittrex Inc; Paradigm Operations LP; Bittrex Global GMBH; William Hiroaki Shihara