

# CRYPTO KLEPTOCRACY

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*Many Americans are worrying about whether they will soon be living in a post-democracy autocracy. But in the meantime, they may already be living in a crypto-fueled kleptocracy. Less than one year into his second presidential term, Donald Trump has reportedly taken his wealth to new heights by embracing, both as a businessman and a politician, the crypto industry. Trump's family businesses are involved in minting Trump-themed meme coins, creating America-themed stablecoins, and mining crypto assets—so successfully that most of Trump's wealth is likely now from crypto, not real estate. All the while, the Trump Administration is rolling back crypto regulations, abandoning ongoing crypto prosecutions, and pardoning crypto criminals.*

*But this Essay is ultimately not about Trump. Crypto creates new channels for public corruption that operate on autopilot, generating wealth without transactions, contracts, or promises for the law to easily pin down, prevent, or punish. Future politicians looking to convert public trust into private fortune need only follow this new playbook: Adoption is cheap, monitoring is hard, and payouts can be tremendous. President Trump's second term makes vivid the potential for abuse, but the dangers won't end there. If the United States fails to adapt, we risk entrenching a twenty-first-century kleptocracy in which the boundary between political power and personal enrichment is no longer blurred—it is erased.*

## INTRODUCTION

In the run-up to the 2024 U.S. presidential election, Donald Trump's real estate empire was facing legal and financial crisis. Both the Trump Organization and its longtime CFO had been criminally convicted;<sup>1</sup> other company executives, including members of Trump's own family, faced regulatory

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1. Michael R. Sisak & Philip Marcelo, *Former Trump Executive Allen Weisselberg Sentenced to 5 Months in Jail for Lying*, ASSOCIATED PRESS, <https://apnews.com/article/weisselberg-trump-perjury-new-york-b76cde56c6cb983ab8789f95d5a0c6c0> [https://perma.cc/8MQJ-SQT6] (last updated Apr. 10, 2024); Kara Scannell & Lauren del Valle, *Trump Organization Found Guilty on All Counts of Criminal Tax Fraud*, CNN, <https://www.cnn.com/2022/12/06/politics/trump-organization-fraud-trial-verdict> [https://perma.cc/HR2Q-USYN] (last updated Dec. 7, 2022).

suspensions;<sup>2</sup> and a court-appointed monitor would be overseeing future business dealings.<sup>3</sup> Trump himself had been ordered to pay more than \$400 million in civil penalties.<sup>4</sup> At one point during this period, it was an open question whether Trump could afford even to pay for his appeal bond without selling prized real estate holdings.<sup>5</sup>

But two things changed Trump's fortunes abruptly: the 2024 U.S. presidential election and crypto. In the first few months of his second term, the Trump Organization reportedly made approximately \$1 billion through crypto.<sup>6</sup> Today, the Trump Organization's 2025 earnings are outpacing those of many Fortune 500 companies, driven overwhelmingly not by real estate but by crypto.<sup>7</sup> Reports value the Trump Organization's current crypto portfolio at more than \$5 billion.<sup>8</sup>

Crypto is no longer just the province of speculative investors. As the second Trump Administration has already laid bare, crypto provides a new infrastructure for political corruption. Politicians can attach their names to minted

2. See Brian Mann, *Trump's N.Y. Business Empire Is 'Greatly At Risk' from Judge's Fraud Ruling*, NPR (Sep. 29, 2023), <https://www.npr.org/2023/09/29/1202534656/trump-fraud-ruling-new-york-business-empire-judge> [https://perma.cc/EJ3P-Y5JH] (discussing penalties resulting from loss of civil lawsuit brought by the State of New York against the Trump Organization and several associated individuals).

3. Jonathan O'Connell, *Meet Barbara Jones, The Ex-Judge Now Policing Trump's Business Moves*, WASH. POST (Sep. 26, 2024), <https://www.washingtonpost.com/politics/2024/09/26/trump-court-monitor-barbara-jones> [https://perma.cc/T2AL-9542].

4. Jeanne Sahadi, *Judge Engoron's Ruling: What Will it Mean for Trump's Businesses?*, CNN (Feb. 17, 2024), <https://www.cnn.com/2024/02/17/economy/donald-trump-trial-ruling-business> [https://perma.cc/ANJ7-WYHL]; Ximena Bustillo, *Jury Orders Trump to Pay \$83 Million for Defaming Columnist E. Jean Carroll*, NPR, <https://www.npr.org/2024/01/26/1226626397/trump-defamation-trial> [https://perma.cc/F39W-2X36] (last updated Jan. 26, 2024). Recently, the New York Supreme Court's Appellate Division vacated those monetary penalties imposed as part of the Trump Organization's New York civil fraud trial; appeals in that case are ongoing. Madeline Halpert, *Appeals Court Throws Out Trump's \$500m Civil Fraud Penalty*, BBC (Aug. 21, 2025), <https://www.bbc.com/news/articles/c5y09q1zgg8o> [https://perma.cc/9LBC-4XV6].

5. See Will Thomas, *Trump Judgments: What's an Appeal Bond? What Happens if He Can't Get a \$454 Million Loan?*, THE CONVERSATION (Mar. 19, 2024), <https://theconversation.com/trump-judgments-whats-an-appeal-bond-what-happens-if-he-cant-get-a-454-million-loan-226187> [https://perma.cc/RM7D-7D59].

6. Dan Alexander, *This Is How Much Trump Has Made from Crypto—So Far*, FORBES (June 5, 2025), <https://www.forbes.com/sites/danalexander/2025/06/05/this-is-how-much-trump-has-made-from-crypto-so-far> [https://perma.cc/69NZ-H7TX]. For convenience, we use "Trump Organization" to refer interchangeably to the Trump Organization, Inc. and to the various business holdings beneficially owned and controlled by members of the Trump family, regardless of whether any specific asset is owned by said corporation.

7. Suzanne Blake, *Here's How Much Donald Trump Is Earning from Crypto During Presidency*, NEWSWEEK (Oct. 29, 2025), <https://www.newsweek.com/how-much-donald-trump-earning-crypto-during-presidency-10959978> [https://perma.cc/E76B-YA3A].

8. Angus Berwick, *Trump Family Amasses \$5 Billion Fortune After Crypto Launch*, WALL ST. J., <https://www.wsj.com/finance/currencies/trump-family-amasses-6-billion-fortune-after-crypto-launch-567faec5> [https://perma.cc/HL2B-ZFFN] (last updated Sep. 1, 2025).

tokens and watch money flow in from supporters and foreign governments alike. Some flows are direct, as with Donald Trump's \$TRUMP, allowing purchasers to express allegiance by buying into a meme coin that enriches its namesake.<sup>9</sup> Other flows are more subtle but arguably more lucrative, as with the Trump Organization's stake in the stablecoin USD1.<sup>10</sup> By anchoring USD1 to U.S. Treasury securities, the coin's issuer captures interest income on third-party transactions in which Trump himself has no involvement.<sup>11</sup> Wealth accrues invisibly, making the traditional quid pro quo—a linchpin of American bribery and corruption law—either impossible to trace or just outright irrelevant.<sup>12</sup>

This dynamic exposes a dangerous legal vacuum.<sup>13</sup> Securities law once promised prosecutors powerful tools for policing fraudulent investment schemes, but political pressure has pried crypto loose from securities jurisdiction. Federal bribery statutes have been steadily narrowed by the Supreme Court and now effectively require a direct exchange of favors for value. Honest-services fraud, once a flexible doctrine capable of combatting public corruption, has been reduced to policing little more than outright kickbacks. The result is an ecosystem in which political figures can quickly, cheaply, and easily monetize their public office through crypto schemes without triggering meaningful legal constraint.

9. Michelle Conlin, *Buyers of \$TRUMP Meme Spent \$148 Million to Win Dinner with President Trump*, REUTERS (May 12, 2025), <https://www.reuters.com/world/us/buyers-trump-meme-coin-pay-millions-win-dinner-with-president-trump-2025-05-12> [<https://perma.cc/GC5M-UWH9>].

10. USD1 is issued by World Liberty Financial Inc., in which the Trump Organization reportedly owns a 38% stake. Tom Bergin, *How Reuters Tallied the Trump Organization's Crypto Income*, REUTERS (Oct. 28, 2025), <https://www.reuters.com/investigations/how-reuters-tallied-trump-organizations-crypto-income-2025-10-28> [<https://perma.cc/A4RK-V6TJ>].

11. See Federico Maccioni, *Trump's Stablecoin Chosen for \$2 Billion Abu Dhabi Investment in Binance, Co-Founder Says*, REUTERS (May 1, 2025), <https://www.reuters.com/world/middle-east/wlfs-zach-witkoff-usd1-selected-official-stablecoin-mgx-investment-binance-2025-05-01> [<https://perma.cc/53FS-7YQP>]; Aimee Picchi, *New Crypto Token Boosts Trump Family's Wealth by \$5 Billion*, CBS NEWS, <https://www.cbsnews.com/news/trump-wlfi-world-liberty-financial-crypto-wealth> [<https://perma.cc/F63G-KLDY>] (last updated Sep. 2, 2025); Christopher J. Waller, Governor, Bd. of Governors of the Fed. Rsr. Sys., *Reflections on a Maturing Stablecoin Market* (Feb. 12, 2025).

12. For example, there has been ample speculation—but, as yet, little direct evidence—attempting to connect Binance's role in promoting USD1 with President Trump's subsequent decision to grant a pardon to Binance's former CEO Changpeng Zhao. See, e.g., Elaine Yu & Dylan Butts, *Binance CEO Dismisses Claims the Firm Boosted a Trump Crypto Venture Ahead of CZ Pardon*, CNBC (Nov. 4, 2025), <https://www.cnbc.com/2025/11/04/binance-ceo-richard-teng-denies-changpeng-zhao-trump-crypto-project-cz-pardon-world-liberty-financial-mgx.html> [<https://perma.cc/DZY5-U5XT>]; Zeke Faux, Muyao Shen & Anthony Cormier, *Binance Aided Trump Crypto Firm Before Founder CZ Sought Pardon*, BLOOMBERG (July 11, 2025), <https://www.bloomberg.com/news/features/2025-07-11/trump-s-crypto-link-with-binance-raises-conflict-of-interest-questions> [<https://perma.cc/5XTU-4G9Q>].

13. See *infra* Section II.B.

Ultimately, this Essay is not about Donald Trump. As experts in white-collar enforcement and financial regulation, our aim is to sound the alarm about how crypto is laying the foundation for a new kleptocracy on top of the United States' weakening legal bedrock for preventing and punishing public corruption.<sup>14</sup> For decades, the Supreme Court has narrowed broad anticorruption statutes and rejected novel theories of fraud.<sup>15</sup> To be clear, each of these decisions might well reflect legitimate, even laudable, rule-of-law concerns: avoiding vague standards, ensuring fair notice, and rejecting theories that threaten ordinary political responsiveness.<sup>16</sup> However, taken together alongside a steady retreat in federal white-collar enforcement, the result is a system increasingly ill-situated to address corruption that operates without contracts, promises, or quid pro quos. Crypto exposes and accelerates this fragility; it provides the structural design for a corruption that sustains itself, converting political power into personal wealth without the need for transactions, contracts, or promises. President Trump may be the first to move in, but he likely won't be the last. Thus, we must urgently dismantle the architecture before it becomes a permanent fixture of American politics. If our laws fail to adapt, we risk entrenching a twenty-first-century kleptocracy in which the boundary between political power and personal enrichment is no longer just blurred—it is erased.

## I. CORRUPTION AND CRYPTO

What, exactly, is happening in American politics that *feels* so corrupt to so many people?<sup>17</sup> After all, Donald Trump is hardly the first president to exploit the trappings of the presidency to advance his political career; during his time in office, President Bill Clinton infamously invited campaign contributors to stay in the White House's Lincoln Bedroom.<sup>18</sup> There is a long tradition of politicians across the political spectrum facing allegations, ranging from

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14. A kleptocracy, in the sense we have in mind in this Essay, refers to a governing system in which public officials regularly siphon away, divert, or extort public funds for their own personal enrichment—what is sometimes referred to as “egregious grand corruption.” Cf. Oliver Bullough, *The Rise of Kleptocracy: The Dark Side of Globalization*, 29 J. DEMOCRACY 25, 25 (2018) (offering a critical history of the term).

15. See *infra* Section II.B.

16. In other words, our assessment of the status quo is structural, not conspiratorial: We don't think that courts or prosecutors are secretly advancing a pro-corruption agenda. And while we focus on the impact of crypto specifically in this Essay, we intend to do a deeper dive in future work. But that's another (much longer) paper for another day.

17. Cf. *The State of Public Trust in Government 2025*, P'SHIP FOR PUB. SERV. (Aug. 12, 2025), <https://ourpublicservice.org/publications/the-state-of-public-trust-in-government-2025> [<https://perma.cc/N4E6-3JTN>] (“Two-thirds of Americans say the federal government is ‘corrupt.’”).

18. See, e.g., *Clinton Ok'd Using Lincoln Bedroom for Contributors*, CNN (Feb. 25, 1997), <https://www.cnn.com/ALLPOLITICS/1997/02/25/clinton.money/> [<https://perma.cc/3B2V-468V>] (noting President Clinton offering campaign supporters a chance to stay in the Lincoln Bedroom).

speculative to credible, about family members exploiting their closeness to power.<sup>19</sup> And we've come to expect, unfortunately, that politicians are likely to leave public office richer than when they started.<sup>20</sup>

What is different, though, is crypto.

#### A. Meme Coins and Stablecoins

The emergence of crypto tokens like meme coins illustrates a novel mechanism by which candidates can monetize loyalty.<sup>21</sup> Unlike traditional campaign paraphernalia—such as hats, T-shirts, or tickets for rallies—these instruments lack any underlying good or service. A meme coin functions less like a collectible in the conventional sense, and more like a vehicle for supporters, and even foreign actors, to channel value directly to a political candidate.<sup>22</sup> This decoupling of political contribution from tangible exchange raises unique concerns, since the “purchase” is not mediated by regulated campaign finance structures.<sup>23</sup> In effect, political allegiance itself is transformed into a commodifiable and tradable token.

Stablecoins present a parallel dynamic. By design, a stablecoin's value is pegged to a reference asset—in many cases, the U.S. dollar—and backed by the issuer's purchase of U.S. Treasuries or other “safe assets,” which in the meantime generate interest income for the coin issuer.<sup>24</sup> If a politician helps to issue

19. See, e.g., Peter Baker, *For Biden, the Troubles of His Son Are Personal and Politically Painful*, N.Y. TIMES (June 20, 2023), <https://www.nytimes.com/2023/06/20/us/politics/joe-biden-hunter-plea-deal.html> [https://perma.cc/3GB7-88JB] (discussing family scandals impacting presidential administrations).

20. See Bryan Metzger, *Here's How Members of Congress Actually Get Rich*, BUS. INSIDER (Mar. 18, 2025), <https://www.businessinsider.com/members-congress-rich-personal-wealth-net-worth-2025-3> [https://perma.cc/NRM3-FDB5]; Gabrielle Olya, *How Obama, Biden and Other Elected Officials Have Made Millions by Being in Office*, YAHOO! FIN. (May 6, 2024), <https://finance.yahoo.com/news/obama-biden-other-elected-officials-120032914.html> [https://perma.cc/ET4W-S4YB].

21. A meme coin's value derives primarily from cultural symbolism, hype, or association with a celebrity or community, rather than from an underlying utility or technological innovation. See F. Dario de Martino & Susan I. Gault-Brown, *Implications of the SEC's Stance That Meme Coins Are Not Securities*, HARVARD L. SCH. F. ON CORP. GOVERNANCE (Mar. 19, 2025), <https://corpgov.law.harvard.edu/2025/03/19/implications-of-the-secs-stance-that-meme-coins-are-not-securities/> [https://perma.cc/2C37-P7JJ].

22. See Nancy Cordes, Madeleine May & Kerry Breen, *Hoping to Get Trump's Attention, Small Business Buys Millions in Cryptocurrency: "We Thought It Was Worth It"*, CBS NEWS, <https://www.cbsnews.com/news/donald-trump-meme-coin-crypto-dinner/> [https://perma.cc/YM9K-755A] (last updated May 22, 2025) (quoting one firm's rationale for purchasing \$2 million worth of \$TRUMP: “I'm sure [Trump] likes to follow who's purchasing his coins.”).

23. See George Nelson, *Experts Explain the Sticky Legal Reason Why Donald Trump's Meme Coin \$TRUMP Is Labeled an Artwork*, ARTNEWS (Jan. 23, 2025), <https://www.artnews.com/art-news/news/donald-trump-meme-coin-price-art-1234730684/> [https://perma.cc/CH79-T7FL].

24. To maintain their advertised stability, stablecoin issuers typically purchase safe assets, such as short-term U.S. Treasuries, to support their coin's peg. Gary B. Gorton & Jeffery Y.

a stablecoin, enrichment can occur passively and at scale. Traditional fund-raising requires rallies, advertisements, or even donation solicitations.<sup>25</sup> But issuing stablecoins allows wealth to accumulate without a single transaction, promise, or (mis)representation by the candidate. Indeed, a politician could even profit from transactions between third parties that ostensibly don't involve the politician at all. For example, as the politician's stablecoins are used to settle transactions between two companies in Latin America and Asia, the politician profits via interest income from the assets that back the coins in circulation. Thus, the political figure need only create the coin, and the broader crypto and financial system does the work of value transfer. This makes the process not just a financial innovation, but a qualitative departure from all prior modes of political enrichment.

What makes these innovations striking is not only their structure but their accessibility. Launching a new crypto token requires minimal capital and expertise; a candidate can create one virtually overnight.<sup>26</sup> This stands in sharp contrast to hotels, golf tournaments, or other forms of quasi-political business ventures, which demand substantial upfront investments and expose the sponsor to continued operational risks.<sup>27</sup> By contrast, crypto lowers the barriers to entry so dramatically that any political actor can instantaneously begin the process. With costs this low, worries about corruption are unlikely to stay at the national level for long; unscrupulous state and local politicians might soon find the lack of scrutiny and enforcement an attractive proposition. In short, the crypto ecosystem allows political allegiances to be monetized at unprecedented speed and scale.

### B. *From Hotels to Tokens*

But some may wonder whether this new crypto enterprise is simply a difference in form, not substance. For comparison, President Trump did not meaningfully divorce himself from the Trump Organization during his first term.<sup>28</sup> Lobbyists and foreign representatives regularly stayed at the Trump

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Zhang, *Taming Wildcat Stablecoins*, 90 U. CHI. L. REV. 909, 910–11 (2023) (defining stablecoins); see GENIUS Act, Pub. L. No. 119-27, 139 Stat. 419, 425 (2025) (requiring covered stablecoin issuers to keep a one-to-one backing ratio).

25. See Ximena Bustillo, *It Takes Lots of Money to Win Elections. Here's What You Need to Know*, NPR (Nov. 1, 2023), <https://www.npr.org/2023/11/01/1205728664/campaign-finance-donations-election-fec-fundraising-ad-spending> [<https://perma.cc/JQF3-58BN>].

26. See, e.g., *How to Make Your Own Cryptocurrency*, KRAKEN (Dec. 30, 2025), <https://www.kraken.com/learn/how-to-make-cryptocurrency> [<https://perma.cc/TWS4-GMSY>] (noting the relative ease of creating a new cryptocurrency—so much so that “virtually anyone with the requisite technical skills” can create one).

27. See, e.g., Cole Stryker, *What Is Operational Risk?*, <https://www.ibm.com/think/topics/operational-risk> [<https://perma.cc/ND29-ATEF>] (providing examples of operational risks faced by businesses).

28. Although Donald Trump purported to place the Trump Organization into a revocable trust for the term of his presidency—a step ethics experts decried as failing to address underlying conflicts of interest—subsequent reporting and litigation suggest that Trump was appraised of,

Hotel in Washington, D.C., ostensibly on the belief that doing so would curry favor with the president.<sup>29</sup> Trump routinely visited, hosted events, and conducted presidential business at his own properties.<sup>30</sup> Even after Trump's first term ended, foreign powers sought to do business with the Trump family.<sup>31</sup>

Coming into 2024, Trump looked ready to supercharge his first-term behavior through the social media platform Truth Social.<sup>32</sup> Whereas the Trump Organization's primary services involved selling hotel rooms, Truth Social created space for a considerably more lucrative service: online advertising.<sup>33</sup> In theory, companies or countries that want to curry favor with Donald Trump can purchase massive advertising packages on the president's signature platform, strengthening their bottom lines and increasing Trump's wealth.<sup>34</sup> And yet, the promise of Truth Social has not meaningfully

and involved with, the Trump Organization during his term. See Derek Kravitz & Al Shaw, *Trump Lawyer Confirms President Can Pull Money from His Businesses Whenever He Wants*, PROPUBLICA (Apr. 4, 2017), <https://www.propublica.org/article/trump-pull-money-his-businesses-when-ever-he-wants-without-telling-us> [<https://perma.cc/U7FQ-TKFT>]; Susanne Craig & Eric Lipton, *Trust Records Show Trump Is Still Closely Tied to His Empire*, N.Y. TIMES (Feb. 3, 2017), <https://www.nytimes.com/2017/02/03/us/politics/donald-trump-business.html> [<https://perma.cc/95HL-BVLT>].

29. Dustin Jones, *Foreign Officials Spent More Than \$750,000 at Trump's D.C. Hotel, New Documents Show*, NPR, <https://www.npr.org/2022/11/14/1136682162/foreign-officials-750-000-dollars-trump-hotel-dc> [<https://perma.cc/VXU3-RJ98>] (last updated Nov. 15, 2022).

30. Kate Plummer, *Secret Service Spends Over \$1.4 Million on Mar-a-Lago Security*, NEWSWEEK (Mar. 5, 2025), <https://www.newsweek.com/donald-trump-mar-lago-security-secret-service-2039384> [<https://perma.cc/PU7N-DABE>]; Barbara Sprunt, *Trump Hotels Charged His Secret Service Protectors 'Exorbitant' Rates*, NPR (Oct. 17, 2022), <https://www.npr.org/2022/10/17/1129491352/trump-hotels-overcharged-secret-service-agents> [<https://perma.cc/DFR7-GWLC>].

31. See, e.g., Bernd Debusmann Jr, *Jared Kushner Defends Controversial \$2bn Saudi Investment*, BBC (Feb. 14, 2024), <https://www.bbc.com/news/world-us-canada-68296877> [<https://perma.cc/J5PS-82J6>]; Curt Devine, Isabelle Chapman & Majlie de Puy Kamp, *Luxury Skyscrapers, Golf Courses and Cryptocurrency: The Trump Family's Rapidly Expanding Middle East Business*, CNN (May 13, 2025), <https://www.cnn.com/2025/05/13/politics/trump-middle-east-business-invs> [<https://perma.cc/WYV6-EWC5>].

32. Truth Social is owned by a publicly traded company, Trump Media & Technology Group Corporation ("TMTG"), of which Trump is the controlling shareholder. See Medha Singh & Yuvraj Malik, *Trump's Media Company Valued at Almost \$8 Bln in Strong Wall St Debut*, REUTERS (Mar. 27, 2024), <https://www.reuters.com/markets/us/trumps-media-company-shares-jump-ahead-backdoor-nasdaq-debut-2024-03-26/> [<https://perma.cc/53RJ-Y3LR>].

33. Moreover, the process by which Trump Social became a publicly traded company—the business was purchased by a special purpose acquisition company (SPAC), thereby avoiding much of the regulatory scrutiny that comes with the traditional IPO process—at the time led to a host of similar concerns. See generally Matt Levine, *The Trump SPAC Is in Business*, BLOOMBERG (May 16, 2022), <https://www.bloomberg.com/opinion/articles/2022-05-16/the-trump-spac-is-in-business> [<https://perma.cc/L9JY-NEQE>].

34. Cf. Abdallah Fayyad, *Trump Has Set Up a Perfect Avenue for Potential Corruption*, VOX (Apr. 4, 2024), <https://www.vox.com/24120166/truth-social-stocks-trump-media-corruption> [<https://perma.cc/Y4KR-A8YD>] (discussing Truth Social).

materialized. The company continues to spend millions to make thousands on the back of a miniscule user base.<sup>35</sup> What happened?

Well, one answer is that Donald Trump got into crypto.<sup>36</sup> Like the Trump Organization, we can only guess what percentages of \$TRUMP, USD1, and other crypto assets in the family's orbit are beneficially owned by Trump.<sup>37</sup> Regardless, these assets are meaningfully different from the Trump Organization in two important respects.

First, \$TRUMP serves no independent business function; its promoters have said as much.<sup>38</sup> By contrast, the Trump Organization's pre-crypto investments, for all their legal problems and deficiencies, still provided legitimate business services. There really was a Trump Hotel in Washington, D.C.; there still are Trump-branded properties around the world. The Trump Organization received revenue, obtained loans, kept accounting records, and so on.

Second, stablecoins arguably provide value as a medium of exchange that can avoid the costs (and oversight provisions) of international money transfer systems. But is that function so necessary that one of the largest, most sophisticated sovereign wealth funds on the planet needs to use USD1 to make a \$2 billion investment in a crypto trading platform?<sup>39</sup> Does the president of the United States—the country that most clearly benefits from the international financial system that stablecoins could sidestep<sup>40</sup>—need to help cofound and own a substantial portion of one of these stablecoins? And is there any business-neutral explanation—one that does not run through the fact that Donald Trump helped to cofound USD1—that explains why USD1 is already one of

35. Matt Egan, *Trump Media's Stock Has Plunged by Nearly Half Since the Election. Now It's Taking Action*, CNN (June 26, 2025), <https://www.cnn.com/2025/06/26/business/trump-media-stock-truth-social> [<https://perma.cc/7TQG-7Y6E>] (noting that X, formerly known as Twitter, has 300 times more daily users than Truth Social); Dan Primack, *Trump's Truth Social Reports Lower 2024 Revenue, \$186 Million Loss*, AXIOS (Feb. 14, 2025), <https://www.axios.com/2025/02/14/trump-truth-social-2024-revenue> [<https://perma.cc/M8Q7-MD2K>].

36. Ironically, TMTG's path forward these days also seems to run through crypto. See Todd Spangler, *Trump's Truth Social Parent Company Posts \$20 Million Loss on \$883,300 in Net Sales for Q2, Ends Quarter with \$3.1 Billion in Assets*, VARIETY (Aug. 1, 2025), <https://variety.com/2025/digital/news/trump-truth-social-tmtg-q2-2025-earnings-1236477039/> [<https://perma.cc/C6GD-PF75>] (noting that TMTG “raise[d] nearly \$2.4 billion for its Bitcoin treasury strategy”).

37. See Bergin, *supra* note 10.

38. See Nelson, *supra* note 23.

39. Two months after USD1 was launched, approximately 95% of the coins issued appeared to be the result of a single transaction between Abu Dhabi and Binance. See Maccioni, *supra* note 11.

40. See Timothy G. Massad, *Stablecoins and National Security: Learning the Lessons of Eurodollars*, BROOKINGS (Apr. 17, 2024), <https://www.brookings.edu/articles/stablecoins-and-national-security-learning-the-lessons-of-eurodollars/> [<https://perma.cc/Q63D-QMFC>] (“[S]tablecoins could destabilize . . . the global financial system plumbing that has been a means to implement sanctions.”). Cf. Gary B. Gorton & Jeffery Y. Zhang, *The Orkney Slew and Central Bank Digital Currencies*, 14 HARV. NAT'L SEC. J. 1, 31–33 (2022) (discussing the link between digital currency and dollar dominance).



the largest stablecoins on the market?<sup>41</sup> This new crypto model is not merely a personal enrichment scheme. It is a template for a new kleptocracy.

## II. “CORRUPT” ISN’T ALWAYS “CRIMINAL”

Meme coins and stablecoins illustrate different pathways to enrichment, neither of which clearly matches the kinds of wrongdoing that federal criminal law is built to capture. One is overtly transactional: supporters and foreign governments buying a loyalty token that has no underlying business function. The other is almost invisible: interest income streaming from stablecoin reserves, without any act of solicitation, promise, or deal. Both arrangements *feel* corrupt in the ordinary sense—political power being monetized for private gain. But when we look to the law, the puzzle sharpens. Bribery statutes demand a concrete quid pro quo, narrowly defined; gratuities require something else. Fraud doctrines require a misrepresentation or deceit. Securities law applies only if tokens meet the elusive test for “investment contracts.” In short, the law’s categories do not match our moral intuitions.

This mismatch between seemingly wrongful and actually criminal is not unique to crypto. It is baked into the way criminal law approaches criminal—especially financial—wrongdoing. To understand how crypto has opened a new frontier for corruption, we first need to reckon with this basic feature of criminal law: the gap between what behavior might feel worthy of punishment and what the criminal law is designed to punish.

### A. *How Criminal Law Condemns (and What It Doesn’t)*

Criminal law traditionally represents the last defense against abuse; it condemns most strongly on behalf of society’s abused expectations of good citizenship.<sup>42</sup> But criminal law has never mapped neatly onto those intuitions. Criminal law does not exist to punish—or, for that matter, outlaw—everything we regard as wrongful. Instead, it requires proof beyond a reasonable doubt of misconduct that aligns with discrete categories: Fraud requires a scheme to defraud of money or property; bribery requires a quid pro quo; securities fraud presupposes that the thing involved is a security. Federal criminal law in particular picks out certain patterns of conduct—mail and wire fraud, bribery, conspiracy, and so on—and leaves others untouched, even when the broader

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41. See Osato Avan-Nomayo, *Trump-Backed USD1 Stablecoin Gets Tech Boost from Blockchain ‘Shortcuts’ Provider*, YAHOO! FIN. (Oct. 27, 2025), <https://finance.yahoo.com/news/trump-backed-usd1-stablecoin-gets-165614147.html> [<https://perma.cc/BH8H-S9N8>] (“USD1’s almost \$3 billion market value makes USD1 the sixth-largest stablecoin in the world.”).

42. See Joel Feinberg, *The Expressive Function of Punishment*, 49 MONIST 397 (1965); Henry M. Hart Jr., *The Aims of the Criminal Law*, 23 L. & CONTEMP. PROBS. 401 (1958). See generally W. Robert Thomas, *The Conventional Problem with Corporate Sentencing (and One Unconventional Solution)*, 24 NEW CRIM. L. REV. 397 (2021) (summarizing literature on expressive theories of corporate and white-collar crime).

situation strikes many as exploitative or corrupt.<sup>43</sup> Investigations into the Global Financial Crisis, for example, pointed to what Judge Jed Rakoff describes as “the widespread conclusion that fraud at every level permeated the bubble in mortgage-backed securities.”<sup>44</sup> Yet—infamously, and despite vocal public outrage—no individual bankers were charged or convicted for their respective roles in contributing to this global economic meltdown.<sup>45</sup> Many factors explain this result, but crucial among them is a broader observation about the limits (and strengths) of criminal law: When perceived misconduct fails to align with doctrinal boxes, it can escape criminal sanction, no matter how corrupt it feels.

Even when criminal law catches up with wrongdoing, its application can sometimes feel incidental to the underlying wrong. This dynamic is especially true in the world of financial and white-collar crime. Systematic failures and widespread cover-ups at Boeing, for example, led to the deaths of 346 individuals across two separate 737 MAX flights.<sup>46</sup> Yet federal prosecutors maintain that these individuals and their families “are not crime victims under federal law; the FAA is.”<sup>47</sup> Theranos knowingly endangered patients’ health by lying about its phony medical devices, for which its founders were convicted of defrauding investors—but were acquitted of defrauding patients themselves.<sup>48</sup> Hell, Al Capone remains one of America’s most notorious, violent gangsters. And when the law finally caught up with him, Capone went to prison for . . . tax evasion.<sup>49</sup> Yes, tax evasion.

The issue is not necessarily that federal criminal law—especially when it comes to white-collar, economic, or business crimes—is failing to work as intended. Often, these outcomes are a function of how the federal government

43. See generally MIRIAM H. BAER, MYTHS AND MISUNDERSTANDINGS IN WHITE-COLLAR CRIME (2023).

44. Jed S. Rakoff, *The Department of Justice and the Prosecution of Fraud*, REGUL. REV. (Jan. 14, 2014), <https://www.theregreview.org/2014/01/14/14-rakoff-doj-prosecution-fraud/> [<https://perma.cc/BV63-2372>].

45. See Kyle D. Logue, W. Robert Thomas & Jeffery Y. Zhang, *Sanctioning Negligent Bankers*, 78 STAN. L. REV. (forthcoming 2026) (manuscript at 19–20) ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5124669](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5124669)) [<https://perma.cc/3T5P-6G2V>].

46. See Mihailis E. Diamantis & W. Robert Thomas, *But We Haven’t Got Corporate Criminal Law!*, 47 J. CORP. L. 991, 996–97 (2022).

47. David Schaper, *Families of 737 Max Crash Victims Want DOJ to Rescind Boeing’s Settlement Agreement*, NPR (Feb. 11, 2022), <https://www.npr.org/2022/02/11/1080049312/families-of-737-max-crash-victims-want-doj-to-rescind-boeings-immunity-de> [<https://perma.cc/8CVV-8Z2D>].

48. See Maria Medina, *Former Theranos CEO Elizabeth Holmes Found Guilty of Conspiracy to Defraud Investors*, CBS NEWS, <https://www.cbsnews.com/sanfrancisco/news/update-jury-elizabeth-holmes-trial-says-unable-reach-verdict-3-counts/> [<https://perma.cc/E7RD-WVHP>] (last updated June 11, 2024); W. Robert Thomas, *Corporate Criminal Law Is Too Broad—Worse, It’s Too Narrow*, 53 ARIZ. ST. L.J. 199, 201–02 (2021).

49. Gabriel S. Mendlow, *Divine Justice and the Library of Babel: Or, Was Al Capone Really Punished for Tax Evasion?*, 16 OHIO ST. J. CRIM. L. 181, 191 (2018).

polices misconduct given its constitutionally limited role in our federal system.<sup>50</sup> The larger point is simply that what the law criminalizes does not necessarily line up with the public's immediate intuitions about what is—or ought to be—condemned.

### B. *The Steady Retreat of Corruption Law*

But if there ever were a place for robust criminal enforcement, public corruption would seem to be it.<sup>51</sup> Our intuitions tell us that government officials should be punished when they trade influence for money or abuse the public's trust for personal gain. To be clear, we do not assume an easy answer to what counts as "corruption." Relying on intuitions is one thing, but drawing a sharp legal distinction between democratic responsiveness and illicit influence is quite another. Courts narrowing the reach of fraud and corruption statutes are plausibly acting not out of indifference to wrongdoing, but instead out of principled concerns about vagueness, overbreadth, and criminalizing ordinary political behavior.<sup>52</sup> But motives aside, the practical result is that the gap between moral wrong and legal wrong has grown wider as federal criminal law steadily retreats from actually policing corruption.

Beginning in the 1980s and 1990s, the Supreme Court began to reject prior expansive readings of anticorruption statutes.<sup>53</sup> The Roberts Court has continued, and even accelerated, this trend. *Skilling v. United States* narrowed honest-services fraud—previously a flexible tool for targeting political self-enrichment—to overt bribes and kickbacks.<sup>54</sup> *McDonnell v. United States* further constrained both honest-services fraud and bribery by construing narrowly what counts as an "official act" for purposes of proving an illegal quid pro

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50. See William J. Stuntz, *The Pathological Politics of Criminal Law*, 100 MICH. L. REV. 505, 542–46 (2001).

51. By no means do we think that criminal law should provide the *exclusive* response to public corruption. Cf. Zephyr Teachout, *The "New" Corruption and the Unhelpful Supreme Court*, 76 PUB. ADMIN. REV. 12, 13 (2016) ("[The Supreme Court has been] decimating the most important tools we have had to fight corruption—not criminal bribery laws, but simple prophylactic rules that ban outside spending and limit contributions."). Rather, our concern here is that criminal law appears increasingly unable to reach even some of most corrupt, brazen instances of corruption.

52. To this point, the Supreme Court has expressed similar concerns about vague, overly broad criminal statutes in other contexts. See, e.g., *United States v. Davis*, 139 S. Ct. 2319, 2323 (2019) ("In our constitutional order, a vague law is no law at all."). For an excellent summary of these trends in the context of white-collar crime specifically, see Miriam H. Baer, *Forecasting the How and Why of Corporate Crime's Demise*, 47 J. CORP. L. 887, 895–902 (2022).

53. *McNally v. United States*, 483 U.S. 350 (1987), is often held out as a watershed decision marking the Supreme Court's turn toward narrower readings of public corruption and related fraud statutes. See *id.* at 360.

54. *Skilling v. United States*, 561 U.S. 358, 367–70 (2010) (rejecting broader interpretations of 18 U.S.C. § 1346 as unconstitutionally vague).

quo.<sup>55</sup> In doing so, the Court effectively insulated from federal bribery law the sort of corrupt influence peddling that had long been considered grounds for criminal punishment.<sup>56</sup> Meanwhile, *Snyder v. United States* established that payments made to state or local public officials *after* performing an official act are not bribes—they are gratuities—and so too fall outside the scope of federal criminal law.<sup>57</sup> *Percoco v. United States* inoculated from honest-services fraud individuals who are temporarily out of—but planning to, or in the process of, returning to—public office.<sup>58</sup> And, in extending its “official act” discussion to the presidency, the Supreme Court’s decision in *Trump v. United States* effectively immunizes current and former presidents from criminal liability for nearly any action taken while in office.<sup>59</sup> Taking this jurisprudence altogether, the Supreme Court has created an environment in which swaths of seeming corruption fall outside the reach of federal prosecutors. Or, as one headline recently snarked: “No One Is Sure if It’s Illegal to Accept a \$50,000 Bribe Stuffed in a Cava Bag, Thanks to the Supreme Court.”<sup>60</sup>

This trend of narrowing anticorruption law reflects a broader jurisprudential skepticism toward white-collar and financial crimes more generally.<sup>61</sup> The current Supreme Court has shown a steady appetite for narrowing the application of fraud and obstruction statutes—including in ways likely to stymie efforts to combat public corruption. In *Kelly v. United States*, for example,

55. *McDonnell v. United States*, 579 U.S. 550, 562 (2016) (incorporating the federal bribery statute, 18 U.S.C. § 201, into honest-services fraud); *id.* at 574 (“Section 201 prohibits *quid pro quo* corruption—the exchange of a thing of value for an ‘official act.’”).

56. See David Voreacos & Neil Weinberg, *Menendez Judge Suggests He May Dismiss Senator’s Bribe Counts*, BLOOMBERG (Oct. 11, 2017), <https://www.bloomberg.com/politics/articles/2017-10-11/menendez-prosecutors-finish-case-as-senator-opens-defense> [<https://perma.cc/HS36-4UW4>] (“[T]he Supreme Court’s McDonnell decision appears to have opened the floodgates for reversals of high-profile public corruption cases.”).

57. See *Snyder v. United States*, 144 S. Ct. 1947, 1954–58 (2024) (interpreting 18 U.S.C. § 666); see also *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398, 404 (1999) (“The distinguishing feature of each crime [bribery and gratuities] is its intent element.”).

58. See *Percoco v. United States*, 143 S. Ct. 1130, 1133 (2023). *Percoco* likely contributed to DOJ’s recent decision to drop its investigation into Tom Homan, Donald Trump’s border czar, despite Homan allegedly accepting \$50,000 in cash from an undercover FBI agent after promising to steer government contracts once in office. See Sarah N. Lynch, *Trump Aide Homan Accepted \$50,000 in Bribery Sting Operation, Sources Say*, REUTERS (Sep. 22, 2025), <https://www.reuters.com/world/us/trump-aide-homan-accepted-50000-bribery-sting-operation-sources-say-2025-09-21> [<https://perma.cc/C54G-3CYE>].

59. *Trump v. United States*, 144 S. Ct. 2312 *passim* (2024) (disagreeing, across opinions, about the impact of the case holding on a hypothetical bribery prosecution).

60. Madiba K. Dennie, *No One Is Sure if It’s Illegal to Accept a \$50,000 Bribe Stuffed in a Cava Bag, Thanks to the Supreme Court*, TALKING POINTS MEMO (Sep. 24, 2025), <https://talkingpointsmemo.com/caf/no-one-is-sure-if-its-illegal-to-accept-a-50000-bribe-stuffed-in-a-cava-bag-thanks-to-the-supreme-court> [<https://perma.cc/E2SJ-5F5W>].

61. Cf. Robert J. Anello & Richard F. Albert, *Implications of a More Conservative Supreme Court for White-Collar Practitioners*, 264 N.Y.L.J. (2020) (cataloguing “the greater tendencies of conservative justices on the Roberts [C]ourt to read criminal statutes narrowly in white-collar cases”).

the Court overturned the Justice Department's attempt to use wire fraud as grounds for prosecuting overt political retribution.<sup>62</sup> Twice the Supreme Court has rejected the government's reading of obstruction statutes passed in response to the Enron scandal—including, most recently, in a decision that partially overturned the convictions of many January 6 defendants.<sup>63</sup> Again, none of this is to say that a narrower approach to federal criminal law is necessarily wrong; indeed, skepticism of expansive, ill-defined criminal statutes is a common rallying cry in criminal justice reform.<sup>64</sup> (On the other hand, defendants in elite-crime contexts appear to have disproportionately benefited from these doctrinal developments.<sup>65</sup>) Even still, the cumulative effect has been to shrink the set of tools available to confront influence-based corruption. And the retreat is not limited to the Supreme Court. Federal enforcement of financial misconduct has been steadily declining for years. The number of white-collar prosecutions brought by the federal government has nearly halved over the past three decades.<sup>66</sup> The second Trump Administration appears to be accelerating this retrenchment, especially in ways that impact corruption law.<sup>67</sup> In February 2025, President Trump issued an executive order pausing enforcement of the Foreign Corrupt Practices Act.<sup>68</sup> DOJ has further deprioritized money laundering and asset recovery; disbanded existing units including the Kleptocracy Team, the Foreign Influence Task Force, and the Corporate Enforcement Unit; and diminished the role of the Fraud Division.<sup>69</sup>

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62. *Kelly v. United States*, 140 S. Ct. 1565 (2020). When a New Jersey mayor declined to support then-Governor Chris Christie's reelection campaign, Christie's aides blocked the town's access to the George Washington Bridge. A unanimous Supreme Court concluded that regulatory retaliation did not satisfy § 1343's requirements that the scheme to defraud concern money or property. *Id.* at 1568–69.

63. *See Fischer v. United States*, 144 S. Ct. 2176 (2024) (construing 18 U.S.C. § 1512(c)(2)); *Yates v. United States*, 574 U.S. 528 (2015) (construing 18 U.S.C. § 1519).

64. *But see* Benjamin Levin, *The Consensus Myth in Criminal Justice Reform*, 117 MICH. L. REV. 259, 261–67 (2018) (arguing that consensus over criminal justice reform risks eliding disagreement around, *inter alia*, the regulation of elite crime).

65. *Compare* Julie R. O'Sullivan, *Is the Corporate Criminal Enforcement Ecosystem Defensible?*, 47 J. CORP. L. 1047 (2022) (arguing that features of the criminal justice system systematically advantage corporate and white-collar defendants), *with* Samuel W. Buell, *Is the White Collar Offender Privileged?*, 63 DUKE L.J. 823 (2014) (arguing assertions of white-collar defendants' privileges are overstated).

66. *Federal Prosecution of White-Collar Crimes Receiving Less and Less Attention*, TRAC (May 23, 2025), <https://tracreports.org/reports/760> [<https://perma.cc/FX2K-7ZXU>].

67. *See* Henry Gass, *Trump Has Reduced US Safeguards Against Corruption and White-Collar Crime*, CHRISTIAN SCI. MONITOR (Feb. 28, 2025), <https://www.csmonitor.com/USA/Justice/2025/0228/white-collar-crime-justice-bondi> [<https://perma.cc/5CPH-FRJP>].

68. Exec. Order No. 14209, *Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security*, 90 Fed. Reg. 9587 (Feb. 10, 2025).

69. *See* Memorandum from the Att'y Gen. on General Policy Regarding Charging, Plea Negotiations, and Sentencing to All Dep't Emps. (Feb. 5, 2025) (<https://www.justice.gov/ag/media/1388541/dl> [<https://perma.cc/6K8S-PA4T>]); Memorandum from the Att'y Gen. on Total Elimination of Cartels and Transnational Criminal

As of September 2025, DOJ's Public Integrity Section, which handles public corruption investigations, has shrunk by over ninety percent from thirty-six full-time attorneys to two.<sup>70</sup>

And with respect to crypto specifically, the SEC has abandoned its own claims to jurisdiction over various crypto assets, walking away from numerous ongoing enforcement actions.<sup>71</sup> Simultaneously, President Trump has wielded his pardon power in defense of convicted crypto and white-collar criminals.<sup>72</sup> Through pardons and deregulatory policies, especially around crypto, the second Trump Administration has helped further normalize the idea that powerful actors can skirt the margins of criminal law with little fear of consequence.<sup>73</sup> The result is a system in which corruption has been legally redefined downward. Where prosecutors once had admittedly imperfect tools to reach behavior that felt crooked, today's enforcement architecture demands a level of precision—about lies, contracts, or exchanges—that many real-world corruption schemes are designed to avoid.

To reiterate, we are not purporting to offer a comprehensive theory of criminal fraud and corruption. Our account does not require construing judicial decisions as themselves corrupt or even misguided. Many reflect legitimate and sometimes laudable instincts: avoid vague criminal statutes; preserve notice; prevent prosecutions based on little more than intuition about improper motives. Recognition of these legitimate rule-of-law concerns,

Organizations to All Dep't Emps. (Feb. 5, 2025) (<https://www.justice.gov/ag/media/1388546/dl?inline> [<https://perma.cc/2BCD-4NXX>]); Memorandum from Matthew R. Galeotti, Head of the Crim. Div., U.S. Dep't of Just. on Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime to all Crim. Div. Pers. (May 12, 2025) (<https://www.justice.gov/opa/media/1400141/dl?inline> [<https://perma.cc/YF2D-3JY9>]).

70. Jose Pagliery, *The Justice Department Had 36 Lawyers Fighting Corruption Full-Time. Under Trump, It's Down to Two.*, NOTUS (Sep. 22, 2025), <https://www.notus.org/courts/doj-public-integrity> [<https://perma.cc/2SRZ-5RBT>].

71. See, e.g., Allison Morrow, *A Crypto Mogul Who Invested Millions Into Trump Coins Is Getting a Reprieve on Civil Fraud Charges*, CNN (Feb. 28, 2025), <https://www.cnn.com/2025/02/28/business/crypto-mogul-trump-coins-civil-fraud-charges> [<https://perma.cc/48X7-V674>]; see also Prashant Jha, *SEC Crypto Reversals: Every Case It Dropped in 2025 and the Legal Battles Still Ahead*, CCN, <https://www.ccn.com/news/crypto/sec-crypto-reversals-2025-lawsuits> [<https://perma.cc/T26J-EVQP>] (last updated May 30, 2025).

72. Eg., David Yaffe-Bellany & Kenneth P. Vogel, *Trump Pardons Founder of the Crypto Exchange Binance*, N.Y. TIMES (Oct. 23, 2025), <https://www.nytimes.com/2025/10/23/technology/trump-pardons-cz-binance.html> [<https://perma.cc/WR8T-G2W9>]; Dan Primak, *Trump Pardons a Bunch of White-Collar Crooks*, AXIOS (Mar. 31, 2025), <https://www.axios.com/2025/03/31/trump-pardons-bitmex-crypto-fraud> [<https://perma.cc/DS32-72RU>]; Eamon Javers & Dan Mangan, *Trump Pardons Three BitMEX Crypto Exchange Co-Founders, and Ex-Employee*, CNBC (Mar. 29, 2025), <https://www.cnbc.com/2025/03/28/trump-pardon-bitmex-crypto-exchange-money-laundering.html> [<https://perma.cc/X9H8-LQ33>]; Christal Hayes, *Trump Pardons Silk Road Dark Web Market Creator Ross Ulbricht*, BBC (Jan. 22, 2025), <https://www.bbc.com/news/articles/cz7e0jve875o> [<https://perma.cc/6EK8-ZFRG>].

73. But cf. Joel Khalili, *Trump's CZ Pardon Has the Crypto World Bracing for Impact*, WIRED (Nov. 3, 2025), <https://www.wired.com/story/trumps-cz-pardon-has-the-crypto-world-bracing-for-impact> [<https://perma.cc/EZ5F-DFGJ>] (discussing industry concerns about public backlash in response to Trump's behavior).

however, should not obscure the systemic consequences. When narrowing doctrine coincides with declining federal enforcement and deliberate dismantling of anticorruption infrastructure, the practical result is to narrow the reach of criminal law precisely as new forms of influence-based enrichment have emerged. And just as the guardrails have weakened, a new technology has emerged that is tailor-made to exploit the gaps.

### III. HOW CRYPTO SUPERCHARGES PUBLIC CORRUPTION

If white-collar and anticorruption enforcement have been increasingly hollowed out over the past generation, crypto arrives as the perfect stress test of the law's limits. Traditional corruption depended on transactions we could at least describe: the lobbyist's hotel bill, the envelope of cash, the inflated invoice. Crypto changes the form. With meme coins, political loyalty can be converted directly into money—supporters and foreign actors buy the token not for its utility, but to show allegiance. With stablecoins, enrichment is even more elusive: Foreign governments and major players transact in the coin, and its reserves generate interest revenue from underlying debt securities. Here, the quid pro quo is not hidden so much as dissolved. The money flows automatically through the architecture of the coin itself, leaving behind nothing that fraud or bribery law is equipped to capture.

#### A. *The Law Is Not Built for This*

Up until January 2025, federal securities laws provided the most obvious starting point for analyzing the legality of political tokens such as \$TRUMP. Under the well-known *Howey* test, an “investment contract” arises when there is (1) an investment of money, (2) in a common enterprise, (3) with a reasonable expectation of profits, (4) to be derived from the efforts of others.<sup>74</sup> Purchasers of \$TRUMP plausibly satisfy this framework: They invest their money, anticipate appreciation in the token's value, and rely on the promotional activities of Trump and his affiliates to drive demand. Were \$TRUMP deemed a security, it would fall within the disclosure, registration, and antifraud provisions that anchor the federal securities regime. Yet political interference has dramatically curtailed this possibility. The second Trump Administration has embraced the view, long advanced by crypto lobbyists, that crypto tokens are not securities at all.<sup>75</sup> If \$TRUMP is not classified as a security, the statutory

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74. SEC v. W.J. Howey Co., 328 U.S. 293 (1946); see Framework for “Investment Contract” Analysis of Digital Assets, SEC, <https://www.sec.gov/about/divisions-offices/division-corporation-finance/framework-investment-contract-analysis-digital-assets> [https://perma.cc/Z78T-78CC] (last updated July 5, 2024) (applying *Howey* test).

75. See Michelle Price, *U.S. Crypto Lobbyists Court Democrats in Fresh Legislative Push*, REUTERS (July 10, 2023), <https://www.reuters.com/technology/us-crypto-lobbyists-court-democrats-fresh-legislative-push-2023-07-10/> [https://perma.cc/K8RN-C8P6]; Brad Goldberg, Beth Sasfai & Reid Hooper, *The Changing Tides of the SEC Under the Second Trump Administration*, HARV. L. SCH. F. ON CORP. GOVERNANCE (Mar. 3, 2025), <https://corpgov.law.harvard.edu/2025/03/03/the-changing-tides-of-the-sec-under-the-second-trump-administration>

predicate for antifraud liability evaporates altogether. More generally, this stance has functionally stripped the SEC and the DOJ of some of the most effective enforcement tools, ensuring that transactions plainly within the spirit of securities law remain untouched.

Existing corruption statutes cannot easily pick up the slack. Honest-services fraud, once a flexible vehicle for prosecuting self-dealing, has been steadily narrowed by *Skilling v. United States* to cases of outright bribes or kickbacks. Bribery's "official act" requirements have been defined narrowly such that many types of influence peddling no longer qualify. But, in the case of stablecoins, enrichment occurs without any official act at all.<sup>76</sup> Passive interest income flows automatically from fixed income securities backing the coin, decoupled from promises or favors that traditional bribery law presupposes. As a result, neither honest-services fraud nor bribery statutes meaningfully constrain enrichment via stablecoins, even though such schemes plainly monetize public office for private gain.

Other fraud statutes fare little better. Wire fraud, for example, requires proof of a scheme to defraud and an intent to deceive.<sup>77</sup> But it is not obvious how or even that the \$TRUMP meme coin involves deception: Trump appears to tell supporters plainly that the token lacks intrinsic value and functions only as a collectible, expression of allegiance, or just "artwork."<sup>78</sup> Similarly, USD1 is marketed as a stablecoin pegged to the U.S. dollar, without pretenses of hidden utility. Commodities fraud might seem more promising, especially as the Commodity Futures Trading Commission (CFTC) assumes jurisdictional responsibility vacated by the SEC.<sup>79</sup> But the same fundamental difficulty persists: Crypto tokens are not inherently fraudulent, and their uses often leave no traceable misrepresentation. Wire and commodities fraud may provide hooks for creative prosecutors, but they are underdeveloped pathways to enforcement and, at best, incidental to our moral intuitions about the wrongfulness of political crypto enrichment.

To be crystal clear, the conclusion here is not that Donald Trump's conduct is necessarily legal. Rather, the claim is that, to the extent one sees behavior by the Trump Organization as corrupt, the pathways for further establishing it as illegal are narrow, uncertain, and indirect. Crypto enterprises like \$TRUMP and USD1 reveal the obsolescence of existing enforcement categories. Where securities laws falter on definitions, and bribery and fraud doctrines stumble on technical elements, crypto slips neatly through the gaps.

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[<https://perma.cc/42XM-XRY9>]; Ben Protess, Andrea Fuller, Sharon LaFraniere & Seamus Hughes, *The S.E.C. Was Tough on Crypto. It Pulled Back After Trump Returned to Office.*, N.Y. TIMES (Dec. 15, 2025), <https://www.nytimes.com/2025/12/14/us/politics/sec-crypto-firms-trump-investigation.html> [<https://perma.cc/NBX5-WY6R>].

76. The newly passed "GENIUS Act" seeks to implement a microprudential framework for stablecoin issuers, but it does not put up any roadblocks to public corruption. See GENIUS Act, Pub. L. No. 119-27, 139 Stat. 419 (2025).

77. See 18 U.S.C. § 1343.

78. See Nelson, *supra* note 23.

79. See 7 U.S.C. §§ 6b, 13 (2024).



What emerges is a troubling enforcement vacuum: Political actors can enrich themselves at scale through digital assets in ways that feel plainly corrupt yet fall outside the reach of existing law.

B. *The Template for a Crypto Kleptocracy*

It would be a mistake to dismiss the threat posed by crypto corruption as being limited to any one politician or administration. The model of crypto corruption summarized above is easily replicable by the unscrupulous, requiring little more than a name, a following, and access to the crypto ecosystem. President Trump might be an aberration—but he might just as easily be a fore-runner.

Going forward, any politician could replicate this model by minting loyalty tokens and issuing stablecoins. A politician with modest technical support can launch a meme coin overnight; transform political loyalty into a speculative asset; and profit from the enthusiasm of supporters, curiosity of investors, or strategic interest of foreign governments. Unlike hotels or media companies—enterprises that require large upfront investments, sustained funding, and managerial oversight—a crypto enterprise demands virtually nothing. They can be conjured into existence with code, marketed on social media, and instantly traded across crypto platforms. Governors, senators, mayors—even candidates with only a fraction of Trump’s celebrity—can adopt the playbook. A state governor could issue a “governor coin” to capitalize on loyalty.

Just as troubling, the model scales internationally. Because digital tokens are borderless, flows of money from foreign companies and foreign governments can enter these markets without the frictions that campaign-finance law once imposed. A foreign sovereign can “support” an American politician not by laundering donations through shell companies but by openly buying up a candidate’s branded token. The result is the quiet erosion of restrictions on foreign influence.

The ease of these crypto schemes makes them especially dangerous for democratic accountability. For instance, a meme coin does not require its sponsor to solicit funds. The enrichment happens in the background, through the infrastructure of crypto markets themselves. The same goes for stablecoins, as demonstrated by USD1’s trajectory—launched in March 2025, it already has one of the largest market caps among stablecoins.<sup>80</sup> Once launched, the crypto scheme requires no additional input from the politician; the flows of wealth continue regardless of public attention or scrutiny.

All in all, the Trump crypto model is not just a personal enrichment scheme. It is a template for a new crypto-backed kleptocracy—one in which the line between office and wealth is not blurred, but erased. Unless the law adapts, future politicians will not need to engage in the hard work and messiness of quid pro quo corruption. They can simply mint a token or launch a

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80. See Avan-Nomayo, *supra* note 41.

stablecoin, and watch as political allegiance and crypto markets turn public power into private fortune.

### C. Closing the Crypto-Corruption Gap

We present the following five ideas as starting places to address, or at least mitigate, the problem. The first is simply to restore the reach of the securities laws to the crypto domain. The Supreme Court's *Howey* test already provides a capacious definition of an "investment contract," but political pressure has stripped it of force in practice. Congress could codify, in unambiguous statutory text, that crypto tokens—including those issued or promoted by politicians—fall within securities law. For that matter, courts could reject the SEC's interpretation of *Howey* as it applies to various crypto assets. Either approach would revive the SEC's disclosure and antifraud toolkit, enabling both public enforcement and private litigation of police misconduct. Just as penny stocks once invited speculative abuse before the securities regime extended to cover them, crypto assets may demand a similar recalibration.

The second idea explicitly takes aim at crypto corruption. Existing fraud and bribery statutes leave troubling gaps when confronted with crypto-driven corruption. These statutes are premised on traditional exchanges: misstatements, contracts, or quid pro quos. Political enrichment through meme coins or stablecoins, by contrast, often requires none of these. Thus, a second course is for Congress to enact targeted "crypto corruption" offenses that capture enrichment through digital assets by sitting politicians and candidates. A bright-line prohibition on officeholders issuing or profiting from tokens or stablecoins while in office would acknowledge that monetizing political allegiance—whether coupled with deception or not—threatens democratic integrity. Such a statute would also sidestep the narrowing doctrines of *Skilling* and *McDonnell*, which have reduced honest-services fraud and bribery to near irrelevance.

Third, and short of outright prohibition, transparency can serve as a safeguard against corruption. Disclosure regimes have long been central to governance, from campaign finance to lobbying to corporate securities. Updating these principles to fit crypto would mean requiring politicians and their families to report their digital-asset holdings, token issuances, and related income streams. Politicians should furnish the requisite information related to their crypto wallets so that the public can track associated transactions in real time. Such disclosures would arm voters, journalists, and watchdog organizations with the information necessary to scrutinize how political figures might be exploiting crypto architectures for private gain. In a domain defined by opacity and speculation, sunlight could supply at least partial accountability.

Fourth, campaign finance law might benefit from renovation. Loyalty tokens such as \$TRUMP functionally operate as campaign contributions: They monetize allegiance, direct value to candidates, and invite foreign participation. Yet because they fall outside the statutory categories of "contribution" or "expenditure," they evade the contribution limits, disclosure rules, and prohibitions on foreign donations that govern traditional finance. Congress or the Federal Election Commission should recognize tokens as campaign

contributions subject to the same safeguards as cash or in-kind donations. Without such an alignment, digital assets will remain a backdoor for foreign powers and domestic special interests to funnel money into American politics.

Finally, legal reform must be backed by strong enforcement. Enforcement of corruption law has historically ebbed with political tides, and we have seen that crypto is spectacularly vulnerable to politicization. To insulate oversight, the United States Attorney General could establish a specialized “crypto corruption” unit within the Department of Justice or could empower inspectors general to investigate executive-branch entanglements with digital assets. These measures would help prevent presidents from sidelining enforcement to serve their own family’s financial interests. In a world where crypto can transform political office into a perpetual multibillion-dollar revenue stream, robust and independent enforcement institutions are indispensable.

#### CONCLUSION

Crypto has created a template for a new kind of kleptocracy—an operating system for corruption that runs automatically atop the United States’ fragile legal safeguards. It enables corruption to reproduce itself, translating political power into personal wealth without the familiar, formalistic markers of explicit exchange or *quid pro quo*. President Trump may be the first to test the program, and his administration may be refining its code, but the greater danger is institutional: Without legal adaptation, crypto risks hardwiring a twenty-first-century kleptocracy in which political power and private enrichment are indistinguishable.