

25-466 SRIPETCH V. SECURITIES AND EXCHANGE COMMISSION

DECISION BELOW: 154 F.4th 980

LOWER COURT CASE NUMBER: 24-3830

QUESTION PRESENTED:

This case presents a clear and acknowledged conflict over an exceptionally important question regarding the SEC's civil-enforcement power.

In *Liu v. SEC*, 591 U.S. 71 (2020), this Court held the SEC may seek equitable "disgorgement" in civil-enforcement actions if an award "does not exceed a wrongdoer's net profits" and "is awarded for *victims*." 591 U.S. at 74- 75 (emphasis added).

In the proceedings below, the Ninth Circuit held that investors can be "victims" for disgorgement purposes despite not suffering pecuniary harm. In so holding, the Ninth Circuit recognized a direct "split" on this question, "reject[ed] the reasoning of the Second Circuit," and "joined the First Circuit in holding that a finding of pecuniary harm is not required." This statutory holding was the sole basis of the Ninth Circuit's decision, and it leaves the SEC's enforcement power in disarray: disgorgement requests are ubiquitous in SEC actions, and there are now conflicting rules in the two main circuits (the Second and Ninth) where enforcement actions are most prominent. There are millions (if not billions) of dollars at stake.

The question presented is:

Whether the SEC may seek equitable disgorgement under 15 U.S.C. 78u(d)(5) and (d)(7) without showing investors suffered pecuniary harm.

CERT. GRANTED 1/9/2026