

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

---

**SECURITIES AND EXCHANGE  
COMMISSION,**

Plaintiff,

v.

**MARK CUBAN,**

Defendant.

---

:  
:  
:  
:  
:  
: Civil Action No.: 3-08-CV-2050-D (SAF)  
:  
:  
:  
:  
:  
:

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S  
NOTICE OF APPEAL**

Notice is hereby given that the Securities and Exchange Commission, plaintiff in the above-named case, hereby appeals to the United States Court of Appeals for the Fifth Circuit from the final judgment entered on August 13, 2009, as amended and then entered on August 14, 2009.

Dated: October 7, 2009

Respectfully submitted,

Toby M. Galloway  
Texas Bar No. 00790733  
Securities and Exchange Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit 18  
Fort Worth, TX 76102  
(817) 978-6447  
(817) 978-2700 (fax)

s/ Kevin P. O'Rourke  
Kevin P. O'Rourke (D.C. Bar No. 254920)  
Julie M. Riewe (D.C. Bar No. 472470)  
Adam S. Aderton (D.C. Bar No. 496247)  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549  
(202) 551-4442 (O'Rourke)  
(202) 772-9246 (fax) (O'Rourke)  
orourkek@sec.gov

*Attorneys for Plaintiff  
Securities and Exchange Commission*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 2009, I electronically filed the foregoing document with the Clerk of the Court for the Northern District of Texas, Dallas Division, by using the CM/ECF system which will send notification of such filing to all CM/ECF participants and counsel of record.

***s/ Kevin P. O'Rourke*** \_\_\_\_\_

Kevin P. O'Rourke