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February 2, 2023

**VIA ECF**

Hon. Valerie E. Caproni  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY

**Re: *CFTC v. Alexandre and EminiFX, Inc.*, No. 22 Civ. 3822 (VEC)  
Application for Payment of Fees and Expenses – November/December 2022**

Dear Judge Caproni:

Pursuant to this Court’s Order dated June 10, 2022 concerning applications for professional fees and expenses [Dkt. 47] (the “Employment Order”), David Castleman, the court-appointed receiver (the “Receiver”) over Defendant EminiFX, Inc. (“EminiFX”) and certain assets of Defendant Eddy Alexandre (“Alexandre”), respectfully submits this application (the “Application”) for the payment of professional fees and expenses for the period of November 1, 2022 through December 31, 2022 (the “Application Period”).<sup>1</sup> The Receiver requests approval of payment of fees and expenses to the Receiver and the following firms: Raines Feldman LLP (“Raines Feldman”), J.S. Held LLC (“JS Held”), Forchelli Deegan Terrana LLP (“FDT”), Crowe LLP (“Crowe”), and Stretto, Inc. (“Stretto”) (collectively, the “Professional Firms”).<sup>2</sup>

The Receiver and each of the Professional Firms have agreed to a public-service discount of their rates given the circumstances of the receivership. The fees and expenses for the Application Period total less than \$350,000, a further decrease since the last Application Period. During the Application Period, the Receiver has recovered \$831,200 in real estate deposits, liquidated vehicles for a net \$167,308, the general receivership estate earned \$115,633 in interest, and the Receiver recovered an additional turnover of \$403,140 in cash from Crypto Exchange 1 – for a total of \$1,504,808 in inflows into the general receivership estate.<sup>3</sup> The general receivership estate also incurred \$473 in general expenses during the Application Period. In addition, during

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<sup>1</sup> Starting in 2023, the Receiver intends to move for fees and expenses on a quarterly basis, and to align such fee applications with the quarterly reports. Time spent on fee applications is not charged to the estate. The Receiver expects to file a quarterly status report with the Court shortly.

<sup>2</sup> The Receiver joined the Otterbourg firm on January 30, 2023, after the Application Period closed. On February 2, the Court granted the Receiver’s application to substitute Otterbourg for Raines Feldman as general counsel effective as of January 30 [Dkt. 187].

<sup>3</sup> In addition, the Alexandre Assets account earned \$19,689 in interest and received \$14,000 in liquidation proceeds during the Application Period. Those funds are not used for general expenses of the estate, per the Consent Order.



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the Application Period, the Receiver recovered cryptocurrency valued at \$61,414,947 at the time of the transfer to the estate's accounts.

For the Application Period, the Receiver requests fees of \$55,143.00; Raines Feldman requests fees of \$36,946.49 and expenses of \$112.49; JS Held requests fees of \$152,420.00 and expenses of \$35.56; FDT requests fees of \$36,911.45 and expenses of \$447.34; Crowe requests fees of \$36,286.30; and Stretto requests fees of \$22,142.90 and expenses of \$6,957.82. The total requested fees of \$339,850.14 and expenses of \$7,553.21 are reasonable given the significant complexity and substantial work completed, as set forth in detail in Part III, below. Moreover, the total fees and expenses requested for 2022 are less than 2% of the total receivership estate (including the over \$120 million of in cash and property turned over to the estate), and are substantially less than the \$3.7 million that the receivership estate received in pre-litigation recoveries and interest income.

The Receiver and his professionals have maintained and presented their time and expense charges as set forth in the Billing Instructions for Receivers in Civil Actions Commenced by the Commodity Futures Trading Commission ("CFTC") (the "CFTC Billing Instructions"), as required by the Employment Order. These detailed time entries have been approved by the CFTC, which consents to this request, and those time entries will be submitted to the Court separately under seal pursuant to the Employment Order. All professionals will be compensated solely from assets of the general receivership estate. Attached as Exhibits 1-5 are affidavits setting forth narrative explanations of the services provided.

This Application will be posted on the homepage of the Receiver's website at [www.eminifxreceivership.com](http://www.eminifxreceivership.com). Any EminiFX investors who have any questions regarding this Application may send an email to the Receiver's team at [EminiFXInquiries@Stretto.com](mailto:EminiFXInquiries@Stretto.com), as directed by this Court in its order dated August 12, 2022 [Dkt. 106]. Unless an investor has made a motion to intervene, and that motion has been granted by the Court, investors should **not** send any inquiries directly to the Court [Dkts. 174, 176].

## **I. Authority for Requested Relief**

A receiver appointed by a court "who reasonably and diligently discharges his duties is entitled to be fairly compensated for services rendered and expenses incurred. The amount of the compensation is to be determined by the court in the exercise of its reasonable discretion." *SEC v. Byers*, 590 F. Supp. 2d 637, 644 (S.D.N.Y. 2008). "This presumption of reasonable compensation extends to a receiver's counsel and professionals." *SEC v. Morgan*, 504 F. Supp. 3d 221, 223 (W.D.N.Y. 2020) (quoting *SEC v. Platinum Mgmt. (NY) LLC*, No. 16-CV-6848 (BMC), 2018 WL 4623012, at \*4 (E.D.N.Y. Sept. 26, 2018)). "The Court considers several factors in determining a reasonable fee, including '(1) the complexity of problems faced, (2) the benefits to the receivership estate, (3) the quality of the work performed, and (4) the time records



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presented.” *Id.* (quotations omitted). The Court may also consider “the reasonableness of the hourly rate charged and the reasonableness of the number of hours billed.” *SEC v. Amerindo Inv. Advisors Inc.*, No. 05 Civ. 5231 (RJS), 2015 WL 13678841, at \*1 (S.D.N.Y. Sept. 14, 2015) (citations omitted). “In addition, in a securities receivership, opposition or acquiescence by the [regulatory agency] to the fee application will be given great weight.” *Byers*, 590 F. Supp. 2d at 644 (quotation marks and alteration omitted).

## II. Procedural History

On May 11, 2022, the CFTC filed a complaint and motion for an *ex parte* statutory restraining order (“SRO”) [Dkt. 5-6]. The Court granted the CFTC’s motion and entered the SRO the same day [Dkt. 9]. On June 15, 2022, the Court entered the Consent Order for Preliminary Injunction, appointing the Receiver as permanent Receiver [Dkt. 56] (“Consent Order”). Additional procedural history is set forth in the Receiver’s Initial Status Report filed on July 20, 2022 [Dkt. 71], the Receiver’s Second Status Report filed on October 12, 2022 [Dkt. 163], and prior fee applications [Dkts. 88, 164, 178].

On September 2, 2022, upon request of the United States Attorney for the Southern District of New York (the “USAO”), this Court entered an Order staying all discovery in this case pending resolution of the criminal case that is pending against defendant Alexandre, *United States v. Alexandre*, No. 22 Cr. 326 (S.D.N.Y.) (the “Criminal Case”), requiring the USAO to provide regular updates to the Court beginning on December 1, 2022 [Dkt. 160]. On December 2, 2022, the USAO filed an update as to the status of the Criminal Case [Dkt. 177].

On November 15, 2022, the Receiver filed a joint request for approval of a turnover agreement to recover approximately \$60 million in cryptocurrency held in an overseas exchange [Dkt. 169], which was granted by the Court [Dkt. 172]. The Receiver provided a further update to the Court with a requested briefing schedule for a Digital Asset Management Protocol on November 21 [Dkt. 175], which was granted by the Court [Dkt. 176]. On December 9, the Receiver filed an application for approval of the Digital Asset Management Protocol [Dkt. 180] (“Protocol Application”) and served the Protocol Application on EminiFX investors and potential claimants on December 9. On December 21, the Receiver submitted a compendium of investor comments in response of the Receiver’s Protocol Application [Dkt. 181]. On December 22, the CFTC responded to the comments submitted by EminiFX customers [Dkt. 182]. The Receiver filed his reply letter in support of the Protocol Application on December 23 [Dkt. 183].<sup>4</sup>

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<sup>4</sup> The Protocol Application was granted by this Court on January 4, 2023 [Dkt. 184], after the close of the Application Period. The Receiver has begun to implement the protocol, posting updates regularly to the Digital Asset Management section of the receivership website: <https://www.eminifxreceivership.com/digitalassetmanagement>.



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On December 8, 2022, the Receiver filed an application for fees and expenses for September and October 2022 [Dkt. 178], and the associated CFTC-approved time entries under seal [Dkt. 179]. That application was granted on January 27, 2023 [Dkt. 185]. Prior fee applications had been granted on August 5 [Dkt. 92] and October 25 [Dkt. 167].

### **III. Summary of Services During the Application Period**

**Securing and Recovering Assets.** During the Application Period, the Receiver recovered over \$400,000 in cash held at Crypto Exchange 1 (in addition to the digital assets held there). In addition, the Receiver and his team recovered digital assets valued at over \$61 million, largely from CoinPayments but also from additional sources. The Receiver and his team at FDT also continued their efforts to recover on the Long Island Real Estate portfolio, which has taken considerable effort and has required negotiation with both lenders and referees, and litigation as necessary in the New York state courts. The total amount recovered on the EminiFX contracts for purchase during the Application Period is \$831,200, bringing the total recovered in this effort to over \$2.3 million. The Receiver and FDT are in the process of recovering the remaining two deposits, which is expected to complete in the coming weeks.

**Investigation into EminiFX Financial Condition.** The Receiver, working closely with his forensics team at JS Held and his legal team at Raines Feldman, continued his investigation into EminiFX's financial condition, primarily in aid of recovering assets and with assessing and determining the value of the tens of thousands of potential investors' claims. The Receiver's forensics team at JS Held continued to analyze the financial data recovered from various EminiFX sources, and made substantial progress in creating a general ledger that will enable the Receiver to obtain a complete and accurate understanding of EminiFX's finances. Part of that effort included analyzing thousands of deposit slips, where the JS Held team used its office in India to achieve a substantial cost saving for the estate. JS Held also assisted the Receiver in developing a strategy for the disposition of the estate's cryptocurrency, as set forth in the Digital Asset Management Protocol.

**Communications with EminiFX Investors.** The Receiver and his team at Stretto spent substantial time communicating with investors that emailed and called with questions, and the Receiver used paraprofessional assistance with such communications where possible. The Receiver and Stretto also maintained the receivership website. The bulk of the communications during the Application Period consisted of reviewing and responding to investor concerns about the Protocol Application, as provided to Court in the compendium of investor feedback [Dkt. 184].

**Administration of the Estate and Case.** The Receiver supervised the administration of the estate, including setting up bank accounts, redirecting and opening mail, and other tasks incidental to the management of the estate. The Receiver and his counsel at Raines Feldman also



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participated in the management of this Action, including filing letters and pleadings where necessary, and filing the Digital Asset Management Protocol.

#### **IV. Summary of Fees and Expenses Requested**

The Receiver includes herewith affidavits from himself and the lead from each of the Professional Firms. Pursuant to the Employment Order, detailed time entries are filed separately under seal. The rates for each professional have been discounted for the public service each firm has been performing. The Receiver and the Professional Firms have reasonably and diligently exercised their duties during the Application Period and respectfully submit that they are entitled to be fairly compensated for services rendered.

**The Receiver.** As set forth above, the Receiver spent substantial time administering all aspects of the receivership. The Receiver respectfully requests the Court approve payment of \$55,143.00 in fees to the Receiver. The Castleman Affidavit attached as Exhibit 1 includes additional detail including hours billed by each professional at the court-approved discounted rates, including detailing the Receiver's supervision of the various Professional Firms. As with prior applications, any time spent preparing fee applications (category B160) has been written down and not charged to the estate, saving nearly \$5,000 during the Application Period.

**Raines Feldman.** As set forth above, Raines Feldman spent substantial time assisting the Receiver in administering the receivership. The Receiver respectfully requests the Court approve payment of \$36,946.49 in fees and \$112.49 in expenses to Raines Feldman. The Castleman Affidavit attached as Exhibit 1 describes in more detail the work performed, including hours billed by each professional at the Court-approved discounted rates. As with prior applications, any time spent preparing fee applications (category B160) has been written down and not charged to the estate, saving over \$9,000 during the Application Period.

**JS Held.** In addition to valuable financial advice, JS Held provided substantial forensic services to the estate, analyzing terabytes of data that will be crucial in determining the financial condition of EminiFX and in analyzing and processing the potential claims of tens of thousands of investors. The Receiver respectfully requests the Court approve payment of \$152,420.00 in fees and \$35.56 in expenses to JS Held. The O'Malley Affidavit attached as Exhibit 2 describes in more detail the work performed, including hours billed by each professional at the Court-approved discounted rates.

**FDT.** The estate received substantial assistance from FDT in unwinding the EminiFX real estate portfolio and in obtaining substantial recoveries of money that had already been paid out as deposits in foreclosure and other sales. The Receiver respectfully requests the Court approve payment of \$36,911.45 in fees and \$447.34 in expenses to FDT. The Luckman Affidavit attached



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as Exhibit 3 describes in more detail the work performed, including hours billed by each professional at the court-approved discounted rates.

**Crowe.** Crowe has provided the estate with critical tax support and analysis. The Receiver respectfully requests the Court approve payment of \$36,286.30 in fees to Crowe. The Tomlinson Affidavit attached as Exhibit 4 describes the work performed, including hours billed by each professional at the court-approved discounted rates.

**Stretto.** Due to the substantial number of investors, it was critical for the estate to engage an experienced provider such as Stretto to assist with investor communications and to prepare to assist with the complex claims process. The Receiver respectfully requests the Court approve payment of \$22,142.90 in fees and \$6,957.82 in expenses to Stretto. The Betance Affidavit attached as Exhibit 5 describes in more detail the work performed, including hours billed by each professional at the court-approved discounted rates.

#### V. Conclusion

The Receiver respectfully requests that the Court approve the fee and expense requests as set forth in this Application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Castleman".

David A. Castleman  
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*Receiver*

Attachments

cc: Counsel of Record (*via ECF*)

# Exhibit 1

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**AFFIDAVIT OF DAVID CASTLEMAN IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (NOVEMBER/DECEMBER 2022)**

1. I am an attorney duly licensed to practice in the State of New York, a member of the firm at Otterbourg, P.C., and the Receiver appointed by the Court in the above-captioned case. During the period from November 1, 2022 to December 31, 2022, I was a partner at the firm of Raines Feldman LLP (“Raines Feldman” or “Firm”). I have personal knowledge of the matters set forth below and if called as a witness, I would and could testify competently to the matters stated herein.

2. On May 11, 2022, the Court entered a Statutory Restraining Order (the “SRO”) appointing me as Temporary Receiver [Dkt. 9], and on June 15, 2022, the Court entered a Consent Order for Preliminary Injunction (the “Consent Order”) appointing me as Receiver [Dkt. 56]. On June 10, 2022, the Court entered an order authorizing the Receiver to employ Raines Feldman, Forchelli Deegan Terrana LLP (“FDT”), JS Held, LLC (“JS Held”), Crowe LLP (“Crowe”), and

Stretto, Inc. (“Stretto”) (collectively, the “Professional Firms”) [Dkt. 47 (the “Employment Order”)].

3. This affidavit is made in support of the Application for Fees and Expenses for the Receiver and the Professional Firms (the “Application”) from November 1, 2022 through December 31, 2022 (the “Application Period”).

4. I directly supervised the professionals and staff of Raines Feldman with respect to this representation during the Application Period, as detailed more fully in the billing statements filed under seal pursuant to the Employment Order. I also generally supervised the work of the other Professional Firms engaged by the estate—JS Held, FDT, Crowe, and Stretto—and I have reviewed and approved their invoices as set forth herein, subject to review by the Commodity Futures Trading Commission (the “CFTC”) and approval of the Court.

5. The Professionals Firms and I have maintained and presented our time and expense charges as set forth in the Billing Instructions for Receivers in Civil Actions Commenced by the CFTC (the “CFTC Billing Instructions”). The CFTC has approved the time and expense charges under the CFTC Billing Instructions and has advised me that it does not have any opposition to the Application.

**THE RECEIVER AND RAINES FELDMAN**

6. During the Application Period, Raines Feldman and I performed a considerable amount of services for the benefit of the estate. Raines Feldman, acting under my direction, performed services administering the estate, analyzing and recovering assets, and assisting me with a broad range of matters that have arisen in the receivership.

7. All of my time records and the time recorded by attorneys and paraprofessionals of Raines Feldman reflect time recorded in the regular and ordinary course of administering the receivership estate contemporaneously with the services provided.

8. As elaborated below, the issues involved in this case are extremely complex. Raines Feldman and I have had to address a number of difficult issues. As Receiver, I understand, and Raines Feldman understands, our duty to provide the best and most efficient service for the benefit of the estate, its creditors, and the EminiFX investors.

9. In recognition of the efficiencies and benefits to the estate, Raines Feldman and I have divided our time among different billing categories. For the Application Period, Raines Feldman and I performed services between the following four billing categories:

B110 – Case Administration

B120 – Asset Analysis and Recovery

B130 – Asset Disposition

In the interests of the estate and pursuant to the Employment Order, my rate has been discounted significantly, to \$495 per hour, and the Raines Feldman rates have been discounted by 15%. Expenses are billed separately. True and correct copies of the billing statements itemizing the legal services provided and the costs incurred during the Application Period are attached as Exhibit 1-1 (Receiver) and 1-2 (Raines Feldman), and filed under seal pursuant to the Employment Order.

B110 – Case Administration

10. As set forth in Exhibit 1-1, during the Application Period, the Receiver performed 37.30 hours for total fees of \$18,463.50 in administering the estate. As set forth in Exhibit 1-2, during the Application Period, Raines Feldman performed 66.10 hours for total fees of \$22,522.29 in assisting the Receiver with administering the estate.

11. I managed receivership operations with the assistance of Raines Feldman and JS Held. Raines Feldman and I coordinated with Stretto regarding the claims process, website administration, and responding to investor communications. Raines Feldman communicated with investors and logged investor communications in Stretto's reports.

12. I drafted an interim status report [Dkt. 175] to apprise the Court and all relevant stakeholders and interested parties of the resolution of the CoinPayments turnover approved by the Court [Dkt. 172]. On November 20, 2022, in accordance with the court-approved agreement entered into between the Receiver and UAB Star Ventures, consented to by Mr. Alexandre, the estate received BTC 3658.33264986, valued at approximately \$60 million based on the trading price of Bitcoin at the time, from CoinPayments in an on-chain transaction.

13. Raines Feldman and I worked with JS Held on the forensic review and analysis of the EminiFX database, including withdrawal attribution analysis and financial statement analysis, working toward creating a general ledger for EminiFX. I reviewed and commented on the unified data model developed by JS Held for the general ledger for EminiFX.

14. Following the return of the documents collected by the Department of Justice during the search of the EminiFX office on May 12, 2022, I reviewed and analyzed the documents. Raines Feldman and I also completed an additional production in response to legal process and conducted research to ensure such production complied with applicable law.

15. Raines Feldman and I monitored activity in the criminal case, *U.S. v. Alexandre*, No. 22 Cr. 326 (JPC) (S.D.N.Y.).

16. I coordinated with counsel for Alexandre on various issues. I also communicated with the CFTC on case status and summarized the estate financial condition for the CFTC. I

drafted the Standardized Fund Accounting Reports for the CFTC for September through October 2022.

17. Raines Feldman and I analyzed cryptocurrency issues and obtained counsel from Sorainen. I conducted research on issues related to cryptocurrency custodial accounts and communicated with Coinbase regarding custodial fee options.

18. I obtained counsel regarding tax issues including tax strategy, reporting obligations, and cryptocurrency issues. I conducted research on cryptocurrency tax issues. Raines Feldman prepared and submitted Forms 56. Raines Feldman, JS Held, and I dealt with an adjustment for unemployment and issuing Forms W-2.

19. Raines Feldman and I reviewed incoming EminiFX mail and investigated outstanding bills. Raines Feldman maintained an unsecured creditor list and worked to terminate ongoing services provided to EminiFX and credit cards to avoid incurring additional bills. Raines Feldman also drafted and maintained a third-party communications log.

20. Raines Feldman and I also performed various administrative tasks related to the management of the estate, including analyzing all banking issues, and keeping detailed financial records of the estate's cash flow. I had consulted with JS Held and Stretto regarding banking issues and options regarding an increase in interest rate for the estate's bank accounts. I opened a new bank account for the benefit of the estate at a bank that was offering higher rates, in order to maximize the return for the estate.

B120 – Asset Analysis and Recovery

21. As set forth in Exhibit 1-1, during the Application Period, the Receiver performed 25.20 hours for total fees of \$12,474.00 in analyzing and recovering the estate's assets. As set

forth in Exhibit 1-2, during the Application Period, Raines Feldman performed 8.10 hours for total fees of \$3,408.12 in assisting the Receiver in analyzing and recovering the estate's assets.

22. I reviewed and analyzed the EminiFX real estate portfolio and related valuation and strategic issues. I worked with FDT (as legal counsel) and JS Held (as financial advisor) to unwind the real estate portfolio and recover the deposits. As a result of those efforts, the estate recovered \$831,200 during the Application Period, and the estate has recovered over \$2.8 million as of the date of this affidavit.

23. Raines Feldman and I reviewed documents related to real estate transfers and deposit acknowledgements. FDT and I drafted a related demand letter and conducted research.

24. I maintained records of frozen assets and communicated with counsel for Alexandre and various third parties to obtain records and information on account disposition and assistance with asset recovery.

25. Raines Feldman, JS Held, Sorainen, and I strategized foreign cryptocurrency account turnover procedure and analyzed data and strategy. I communicated with Sorainen and Star Ventures regarding cryptocurrency recovery from CoinPayments. I drafted a turnover agreement, letter, and proposed order for cryptocurrency recovery and obtained counsel from Sorainen. I obtained input from counsel for Alexandre and the CFTC on the turnover agreement, transmittal letter, and cryptocurrency management and recovery.

26. I drafted and sent letters to cryptocurrency exchanges and made multiple telephone calls regarding recovery of assets. I contacted counsel and an advisory firm in the Caribbean to potentially assist me with this effort.

27. I worked with JS Held on the reconstruction of EminiFX financial records, analyzing financial data and accounting issues with the forensics team, and discussing database issues and cryptocurrency tracing.

28. I conducted a financial condition analysis of EminiFX and strategized with JS Held and Raines Feldman.

29. Raines Feldman and I researched, searched document productions, analyzed, and investigated possible fraudulent transfers.

#### B130 – Asset Disposition

30. As set forth in Exhibit 1-1, during the Application Period, the Receiver performed 48.90 hours for total fees of \$24,205.50 in disposing of the estate's assets. As set forth in Exhibit 1-2, during the Application Period, Raines Feldman performed 39.10 hours for total fees of \$11,016.08 in assisting the Receiver in disposing of the estate's assets.

31. Raines Feldman and I worked with our advisors at JS Held on the remaining issues to dispose of the fleet of vehicles owned or leased by EminiFX. Raines Feldman, JS Held, and I gathered and analyzed information in order to dispose of vehicles, including communications with car financing companies, car dealerships, title search companies, state motor vehicle departments, and insurance companies. As a result of those efforts, the estate recovered \$169,308 during the Application Period.

32. Upon Court approval of the Digital Asset Management Protocol briefing schedule [Dkt. 176], I began drafting and filed the Digital Asset Management Protocol [Dkt. 180]; outlined a project plan to implement; communicated with JS Held, Stretto, and Coinbase; developed cryptocurrency asset disposition strategy; conducted research; communicated with the CFTC and counsel for Alexandre; reviewed investor feedback with Raines Feldman; compiled a compendium

of investor responses with Raines Feldman and filed with the Court [Dkt. 181]; drafted and filed reply in support of the Digital Asset Management Protocol [Dkt. 183]. Raines Feldman coordinated with Stretto regarding tracking and compiling the investor feedback to the Digital Asset Management Protocol and responded to the feedback. Raines Feldman and I reviewed the CFTC's reply in response to comments submitted by investor comments [Dkt. 182].

Expenses

33. As set forth in Exhibit 1-2, Raines Feldman incurred \$112.49 in expenses by paying U.S.P.S. for first class, certified delivery of I.R.S. Forms 56 and FedEx for overnight delivery.

**ATTESTATIONS**

34. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in the Receiver billing statements attached hereto as Exhibit 1-1 are true and correct and comply with the CFTC Billing Instructions.

35. The fees that the Receiver has charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. The Receiver's services and time expenditures are reasonable in light of the labor required for the matters for which the Receiver was appointed. The Receiver respectfully submits that he has not expended time unnecessarily and that he has rendered efficient and effective services.

36. In seeking reimbursement of services for which I purchased or contracted for from a third party, I have only requested reimbursement for the amount billed by the third-party vendor and paid to the vendor. I have not made a profit on such reimbursable services. I have not included in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment, or capital outlay.

**SUPERVISION OF PROFESSIONALS**

37. The fees that Raines Feldman has charged, under my direct supervision during the Application Period, are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. Raines Feldman's services and time expenditures are reasonable in light of the labor required for the matters for which Raines Feldman was retained. Raines Feldman has not expended time unnecessarily and that they have rendered efficient and effective services. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in Exhibit 1-2 comply with the CFTC Billing Instructions.

38. I have reviewed the affidavit submitted by Stephen O'Malley of JS Held attached as Exhibit 2, and the invoice and time entries for JS Held attached as Exhibit 2-1. JS Held spent considerable effort to provide the estate with financial advice, technical and financial analysis of the information recovered from EminiFX and third parties, and various project management and organizational functions.

39. During the Application Period, at my direction, the JS Held assisted me in managing the work in progress as a project manager, as well as analyzing the third party bank statements, evaluating the cash transactions, strategizing the claim process, and analyzing potential tax issues. JS Held also performed a number of tasks related to analyzing the transaction data recorded in the database recovered from the EminiFX servers. JS Held also provided substantial assistance in the estate's disposition of the various vehicles in which the estate has an interest.

40. In my view, the fees that JS Held seeks are reasonable, necessary, and commensurate with the skill and experience required for the activity performed; and JS Held's services and time expenditures are reasonable in light of the labor required for the matters for

which JS Held was retained and performed at my direction. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in Exhibit 2-1 comply with the CFTC Billing Instructions.

41. I have reviewed the affidavit submitted by Gerard Luckman of FDT attached as Exhibit 3, and the invoice and time entries for FDT attached as Exhibit 3-1. FDT, a law firm located in Long Island with a substantial real estate practice, has been instrumental in pursuing the recovery of deposits made by EminiFX to purchase residential real estate in Long Island in 46 different state court foreclosure actions. FDT's actions have resulted in significant recoveries for the estate.

42. During the Application Period, at my direction, FDT assisted me with recovering deposits and unwinding EminiFX's Long Island real estate portfolio, largely consisting of 46 separate contracts to purchase residential properties out of foreclosure. Because each of the 46 foreclosure sales was the result of a separately filed foreclosure proceeding in the New York Supreme Court for either Suffolk or Nassau County, each termination of those sales requires the consent of the Suffolk County court-appointed referee, or an order of the Suffolk or Nassau County Supreme Court itself in each foreclosure action. FDT has continued the process of litigating the return of the remaining deposits in each of the applicable foreclosure actions, and that process is substantially complete.

43. During the Application Period, at my direction, FDT provided me with general counsel regarding recovering retainer paid by EminiFX to real estate counsel, 34th Street office landlord issues, and developing potential litigation strategy.

44. In my view, the fees that FDT seeks are reasonable, necessary, and commensurate with the skill and experience required for the activity performed; and FDT's services and time

expenditures are reasonable in light of the labor required for the matters for which FDT was retained and performed at my direction. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in Exhibit 3-1 comply with the CFTC Billing Instructions.

45. I have reviewed the affidavit submitted by Susan Tomlinson of Crowe attached as Exhibit 4, and the invoice and time entries for Crowe attached as Exhibit 4-1. Crowe has served as the estate's tax advisor and filed necessary forms, at my direction.

46. In my view, the fees that Crowe seeks are reasonable, necessary, and commensurate with the skill and experience required for the activity performed; and Crowe's services and time expenditures are reasonable in light of the labor required for the matters for which Crowe was retained and performed at my direction. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in Exhibit 4-1 comply with the CFTC Billing Instructions.

47. I have reviewed the affidavit submitted by Sheryl Betance of Stretto attached as Exhibit 5, and the invoice and time entries for Stretto attached as Exhibit 5-1. Stretto is a highly experienced claims administrator, and has been instrumental in setting up a streamlined investor communications process, especially in light of the tens of thousands of users of the EminiFX system.

48. During the Application Period, at my direction, Stretto assisted me in updating the Receivership website with court filings; reviewing, tracking, and responding to EminiFX investor communications and responses to the Digital Asset Management Protocol; and preparing and circulating investor communications report.

49. In my view, the fees that Stretto seeks are reasonable, necessary, and commensurate with the skill and experience required for the activity performed; and Stretto's services and time expenditures are reasonable in light of the labor required for the matters for which Stretto was retained and performed at my direction. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in Exhibit 5-1 comply with the CFTC Billing Instructions.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 2nd day of February 2023 at New York, New York.

A handwritten signature in black ink, appearing to read "David Castleman". The signature is written in a cursive, flowing style.

---

David A. Castleman

# Exhibit 1-1

(filed under seal)

# Exhibit 1-2

(filed under seal)

# Exhibit 2

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**AFFIDAVIT OF STEPHEN O'MALLEY IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (NOVEMBER/DECEMBER 2022)**

1. I am a senior managing director at the firm of JS Held, LLC ("JS Held"), financial advisors to Receiver in the above-captioned case. I have personal knowledge of the matters set forth below and if called as a witness, I would and could testify competently to the matters stated herein.

2. This affidavit is made in support of the Application for Fees and Expenses from November 1, 2022 through December 31, 2022 ("Application").

3. The Receiver immediately retained JS Held as financial advisor following his appointment on May 12, 2022. On June 10, 2022, the Court entered an order authorizing the Receiver to employ JS Held (the "Employment Order"). I directly supervise the professionals and staff of JS Held that work on this matter.

4. In the interests of the estate and pursuant to the Employment Order, the JS Held rates have been discounted between 10% and 25%. Expenses are billed separately.

5. A true and correct copy of JS Held's invoice reflecting the detailed time entries for the services we provided from November 1, 2022 through December 31, 2022 (the "Application Period") has been submitted under seal as Exhibit 2-1, as required by the Employment Order. JS Held incurred fees in the amount of \$152,420.00 during the Application Period, which represents a decrease in the fees from the prior period.

6. During the Application Period, JS Held assisted the Receiver in managing work in progress as project manager, having weekly status teleconferences with the Receiver. JS Held also assisted the Receiver with analyzing third party bank statements, evaluating cash transactions, analyzing and researching potential tax issues, and developing tax filing strategy.

7. JS Held also assisted the Receiver in developing a ledger for EminiFX, including creating a Unified Data Model to assist with the ledger and the Receiver's financial condition report. JS Held analyzed transaction data across multiple sources, including transactions and withdrawals by account; performed Bitcoin tracing and attribution analysis; analyzed user relationships by grouping user accounts and aligning them to wallet IDs.

8. JS Held allocated the review and coding of images of thousands of deposit slips from EminiFX users, extracted from the EminiFX electronic files, to a team in India which took advantage of lower off-shore review hourly rates in order to accurately account for the deposits in the Unified Data Model.

9. JS Held analyzed publicly available Bitcoin trading data and assisted the Receiver with strategy to dispose of Bitcoin over time and the Digital Asset Management Protocol.

10. In addition, JS Held assisted the Receiver with analyzing and resolving the Long Island real estate portfolio.

11. JS Held also assisted the Receiver with remaining issues in disposing of vehicles and communicated with dealerships and the New York State Department of Motor Vehicles.

12. The fees that JS Held has charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. JS Held's services and time expenditures are reasonable in light of the labor required for the matters for which JS Held was retained. JS Held respectfully submits that it has not expended time unnecessarily and that it has rendered efficient and effective services.

13. JS Held incurred costs of \$35.56 during the Application Period for Iron Mountain storage fees.

14. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in the attached billing statements are true and correct and comply with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Commodity Futures Trading Commission.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 2d day of February 2023 at New York, New York.

  
Stephen O'Malley

# Exhibit 2-1

(filed under seal)

# Exhibit 3

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**AFFIDAVIT OF GERARD LUCKMAN IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (NOVEMBER/DECEMBER 2022)**

1. I am an attorney duly licensed to practice in the State of New York and a partner at the firm of Forchelli Deegan Terrana LLP (“FDT” or “Firm”), counsel to Receiver in the above-captioned case. I have personal knowledge of the matters set forth below and if called as a witness, I would and could testify competently to the matters stated herein.

2. This affidavit is made in support of the Application for Fees and Expenses from November 1, 2022 through December 31, 2022 (the “Application”).

3. The Receiver retained FDT as counsel, effective May 24, 2022. On June 10, 2022, the Court entered an order authorizing the Receiver to employ FDT retroactively to May 24, 2022 (the “Employment Order”). I directly supervise the professionals and staff of FDT with respect to this representation.

4. In the interests of the estate and pursuant to the Employment Order, the FDT rates have been discounted by 10% for work assisting the Receiver with the resolution the Long Island real estate portfolio and 15% for general counsel. Expenses are billed separately.

5. A true and correct copy of the Firm's invoices reflecting the detailed time entries for the services we provided from November 1, 2022 through December 31, 2022 (the "Application Period") has been submitted under seal as Exhibit 3-1, as required by the Employment Order. FDT incurred fees in the amount of \$24,920.95 during the Application Period for work assisting the Receiver resolve the Long Island real estate portfolio. FDT incurred fees in the amount of \$11,990.50 for services as general counsel to the Receiver. The total amount of incurred fees is \$36,911.45.

6. During the Application Period, the Firm assisted the Receiver with recovering deposits and unwinding EminiFX's Long Island real estate portfolio, which consisted of 46 separate contracts to purchase residential properties out of foreclosure and an additional two contracts to purchase non-foreclosure properties. Each of these 48 contracts must be terminated individually, and because each of the 46 foreclosure sales was the result of a separately filed foreclosure proceeding in the New York Supreme Court for either Suffolk or Nassau County, each termination of those sales requires the consent of the Suffolk County court-appointed referee, or an order of the Suffolk or Nassau County Supreme Court itself. In furtherance of this effort, FDT developed litigation strategy, drafted proposed orders, prepared for and attended court conferences and conferences with lenders and referees, drafted motion papers, coordinated payments, updated the Receiver, and conducted research on matters that need to be litigated in contested cases. During the Application Period, as a direct result of FDT's efforts, the estate recovered an additional \$831,200 in real estate deposits. FDT also discovered and obtained evidence that an additional \$50,000 deposit was returned to EminiFX pre-receivership.

7. During the Application Period, the Firm also provided the Receiver with general counsel regarding the Digital Asset Management Protocol, recovering deposits paid by EminiFX

to real estate counsel, recovering retainer paid by EminiFX to former general counsel, 34th Street office landlord issues, and developing litigation strategy.

8. The fees that FDT has charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. FDT's services and time expenditures are reasonable in light of the labor required for the matters for which FDT was retained. FDT respectfully submits that it has not expended time unnecessarily and that it has rendered efficient and effective services.

9. FDT incurred costs of \$447.34 during the Application Period for Federal Express charges and filing fees related to the Firm's work assisting the Receiver on the Long Island real estate portfolio. Although FDT incurred costs in the amount of \$179.60 for Westlaw research, FDT has written off those charges pursuant to this Court's prior order [Dkt. 185].

10. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in the attached billing statements are true and correct and comply with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Commodity Futures Trading Commission.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 30th day of January 2023 at Uniondale, New York.

  
Gerard R. Luckman

# Exhibit 3-1

(filed under seal)

# Exhibit 4

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**AFFIDAVIT OF SUSAN P. TOMLINSON IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (NOVEMBER/DECEMBER 2022)**

1. I am a partner at the firm of Crowe LLP (“Crowe” or “Firm”), tax professionals engaged by the Receiver in the above-captioned case. I have personal knowledge of the matters set forth below and if called as a witness, I would and could testify competently to the matters stated herein.

2. This affidavit is made in support of the Application for Fees and Expenses from November 1, 2022 through December 31, 2022 (the “Application”).

3. The Receiver retained Crowe as tax advisors. On June 10, 2022, the Court entered an order authorizing the Receiver to employ Crowe (the “Employment Order”). I directly supervise the professionals and staff of Crowe with respect to this representation.

4. In the interests of the estate and pursuant to the Employment Order, the Crowe rates have been discounted by 15%. Expenses are billed separately.

5. A true and correct copy of the Firm’s invoice reflecting the detailed time entries for the services we provided from November 1, 2022 through December 31, 2022 (the “Application

Period”) has been submitted under seal as Exhibit 4-1, as required by the Employment Order. Crowe incurred fees in the amount of \$36,286.30 during the Application Period.

6. During the Application Period, the Firm assisted the Receiver in analyzing and researching receivership tax issues including Form 1099 return filing requirements, tax return preparation and reporting issues; and preparing Forms 56.

7. At the Receiver’s request, the firm also spent substantial time analyzing complex taxation, valuation, and reporting issues related to the tens of millions of dollars in cryptocurrency recovered by the receivership estate during the Application Period.

8. The fees that Crowe has charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. Crowe’s services and time expenditures are reasonable in light of the labor required for the matters for which Crowe was retained. Crowe respectfully submits that it has not expended time unnecessarily and that it has rendered efficient and effective services.

9. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in the attached billing statements are true and correct and comply with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Commodity Futures Trading Commission.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 30th day of January 2023 at Woodland Hills, California.

  
\_\_\_\_\_  
Susan P. Tomlinson

# Exhibit 4-1

(filed under seal)

# Exhibit 5

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and  
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**AFFIDAVIT OF SHERYL BETANCE IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (NOVEMBER/DECEMBER 2022)**

1. I am a Senior Managing Director at the firm of Stretto, Inc. (“Stretto”), noticing agent for Receiver in the above-captioned case. I have personal knowledge of the matters set forth below and if called as a witness, I would and could testify competently to the matters stated herein.

2. This affidavit is made in support of the Application for Fees and Expenses from November 1, 2022 through December 31, 2022 (the “Application”).

3. On June 10, 2022, the Court entered an order authorizing the Receiver to employ Stretto (the “Employment Order”). I directly supervise the professionals and staff of Stretto that work on this matter.

4. In the interests of the estate and pursuant to the Employment Order, the Stretto rates have been discounted on a basis, which is tied to the amount on deposit at that time. Expenses are billed separately.

5. A true and correct copy of Stretto’s invoice reflecting the detailed time entries for the services we provided from November 1, 2022 through December 31, 2022 (the “Application

Period”) has been submitted under seal as Exhibit 5-1, as required by the Employment Order. Stretto incurred fees in the amount of \$22,142.90 during the Application Period.

6. During the Application Period, Stretto assisted the Receiver with case management; updating the Receivership website as requested by the Receiver, including adding a section for the Digital Asset Management Protocol (the “Protocol”); monitoring the case docket and updating the Receivership website with court filings; reviewing, tracking, and responding to EminiFX investor communications; responding to EminiFX creditor communications and updating creditor matrix; and preparing and circulating investor communications report.

7. Stretto also assisted the Receiver with serving the Protocol on over 65,000 recipients by email and First Class Mail. Stretto received, reviewed, and responded to hundreds of emails in response to the Protocol, and prepared the initial draft of the Protocol communications report. The bulk of the time spent responding to investor communications was handled by lower-billing personnel, as reflected in Exhibit 5-1.

8. The fees that Stretto has charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. Stretto’s services and time expenditures are reasonable in light of the labor required for the matters for which Stretto was retained. Stretto respectfully submits that it has not expended time unnecessarily and that it has rendered efficient and effective services.

9. Stretto incurred expenses in the amount of \$6,957.82 during the Application Period for website translation services, printing, postage, envelopes, and packaging expenses associated with serving the Protocol by email and First Class Mail. The vast majority of these

charges were for the service of the Protocol on over 65,000 recipients, where Stretto reduced its rates from the \$0.45 per email typically charged to \$0.10 per email.

10. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in the attached billing statements are true and correct and comply with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Commodity Futures Trading Commission.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 2nd day of February 2023 at Irvine, California.

/s/ Sheryl Betance

Sheryl Betance

# Exhibit 5-1

(filed under seal)