

# RAINESFELDMAN

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December 8, 2022

VIA ECF

Hon. Valerie E. Caproni  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re: CFTC v. Alexandre and EminiFX, Inc., No. 22 Civ. 3822 (VEC)  
Application for Payment of Fees and Expenses – September/October 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 September 1, 2022 through October 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”), Stretto, Inc. (“Stretto”), and Sorainen (collectively, the “Professional Firms”).

The Receiver and each of the American 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 just over \$400,000. During the Application Period, the Receiver has recovered \$784,000 in real estate deposits and \$176,905 in other pre-litigation recoveries, liquidated vehicles for a net \$88,622, and the general receivership estate earned \$93,720 in interest – for a total of \$1,143,247 in inflows into the general receivership estate.<sup>2</sup> The general receivership estate also incurred \$2,166 in general expenses, spent \$4,931 on vehicle recovery efforts, and paid the prior-approved professional fees and expenses of \$586,733 [Dkt. 167], for a net positive cash flow of \$549,417 into the estate during the Application Period.

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<sup>1</sup> As stated in the prior fee application, Sorainen’s fees during that period were held over to this Application. Moreover, because the estate recovered the approximately \$60 million in Bitcoin held in the Baltics in November, Sorainen’s work for the present is complete. As such, the Receiver therefore also requests authority to pay Sorainen’s November invoice of €1,061, as set forth herein.

<sup>2</sup> In addition, the Alexandre Assets account earned \$16,250 in interest during the Application Period. Those funds are not used for general expenses of the estate, per the Consent Order.

Specifically, for the Application Period, the Receiver has requested fees of \$76,873.50; Raines Feldman requests fees of \$58,961.76 and expenses of \$801.71; JS Held requests fees of \$168,753.00 and expenses of \$37.95; FDT requests fees of \$68,604.97 and expenses of \$349.69; Crowe requests fees of \$10,084.65; Stretto requests fees of \$4,328.05; and Sorainen requests fees of €17,256.00 and expenses of €6.92.<sup>3</sup> The total requested fees of \$383,827.44 and €17,256.00 and expenses of \$1,189.35 and €6.92 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 to date are less than 2% of the total receivership estate, and are less than the over \$3 million that the Receiver has recovered to date, in addition to the \$61 million in frozen account turnovers and \$62 million in cryptocurrency turnovers.

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 1-6 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 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

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<sup>3</sup> As Sorainen is paid in euros, the exact amount of the payment in dollars will not be fixed until the international wire transfer is completed. The euro has recently traded at around \$1.05.

[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 for prior application periods is set forth in the Receiver’s Initial Status Report filed on July 20, 2022 [Dkt. 71] and the Receiver’s Second Status Report filed during this Application Period on October 12, 2022 [Dkt. 163].

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 October 12, 2022, the Receiver filed a Second Status Report setting forth the procedural history of the case, the substantial asset recovery efforts of the Receiver since the filing of the Initial Status Report, the finances of the receivership estate, the continued forensic analysis of the Receiver in order to obtain a complete and accurate financial picture of EminiFX, the status of receivership operations, and the planned next steps for the receivership [Dkt. 163].

Also on October 12, the Receiver filed an application for fees and expenses for July and August 2022 [Dkt. 164], and the associated CFTC-approved time entries under seal [Dkt. 165], pursuant to the Court’s Order dated June 10, 2022 concerning applications for professional fees and expenses [Dkt. 47]. The request was granted on October 25 [Dkt. 167]. A prior fee application had been granted on August 5, 2022 [Dkt. 92].

After the close of the Application Period, 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 2, 2022, the USAO filed an update as to the status of the Criminal Case [Dkt. 177].

## III. Summary of Services During the Application Period

**Securing and Recovering Assets.** The Receiver, working primarily with his team at Raines Feldman as well as his banking service partners at Stretto, recovered \$176,905 from various third parties and liquidated vehicles for a net total of \$88,622. The Receiver, working with his team at JS Held, also completed the lengthy process of opening digital asset prime brokerage and custody accounts. During the Application Period, digital assets valued at over \$200,000 were turned over to the estate. The Receiver and his team at Sorainen also engaged in substantial

negotiations with an overseas cryptocurrency exchange to recover the \$60 million in Bitcoin held there, which resulted in the actual turnover of that asset in November.

**Long Island Real Estate Portfolio.** Soon after the start of the receivership, the Receiver discovered that EminiFX had entered into 46 separate contracts to purchase residential properties in Long Island out of foreclosure, each in a separate New York state court action with a separate court-appointed referee overseeing the sale. The Receiver and his team at FDT have been working to recover as much as possible, 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 \$784,000. The Receiver and FDT are working to recover the remaining deposits, which the Receiver expects to substantially complete by the end of the year.

**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.

**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 ([www.eminifxreceivership.com](http://www.eminifxreceivership.com)).

**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 participated in the management of this Action, including filing letters and pleadings where necessary, coordinating with the parties on joint filings, and filing the Second Status Report.

#### **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 (with the exception of foreign counsel Sorainen, whose rates were already highly competitive compared with American rates). 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 and Raines Feldman.** As set forth above, the Receiver and Raines Feldman spent substantial time administering all aspects of the receivership. The Receiver respectfully requests the Court approve payment of \$76,873.50 in fees to the Receiver. The Receiver further respectfully requests the Court approve payment of \$58,961.76 in fees and

\$801.71 in expenses to Raines Feldman. 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 over \$17,000 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 \$168,753.00 in fees and \$37.95 in expenses to JS Held. The Serrano 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 – over \$2 million recovered as of the date of this Application. The Receiver respectfully requests the Court approve payment of \$68,604.97 in fees and \$349.69 in expenses to FDT. The Luckman Affidavit attached 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 \$10,084.65 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 \$4,328.05 in fees in expenses to Stretto. The Klamser Affidavit attached as Exhibit 5 describes in more detail the work performed, including hours billed by each professional at the court-approved discounted rates.

**Sorainen.** The estate received substantial assistance from Sorainen with repatriating cryptocurrency held in foreign exchange, which was accomplished in November 2022. The Receiver respectfully requests the Court approve payment of €17,256.00 in fees and €6.92 in expenses to Sorainen, which includes all fees and expenses incurred by Sorainen from the beginning of the engagement through November 2022. Although Sorainen will remain engaged in case any unexpected issues arise, the Receiver does not anticipate needing additional assistance from Sorainen in the near future. Therefore, the retainer of €5,000.00 authorized by the Court [Dkt. 91] will be applied to the bill, requiring a total net payment of €12,262.92 (around \$13,000 at current exchange rates). The Aas Affidavit attached as Exhibit 6 describes in more detail the work performed, including hours billed by each professional at the court-approved rates.

**V. Conclusion**

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

Respectfully Submitted,



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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 (SEPTEMBER/OCTOBER 2022)**

1. I am an attorney duly licensed to practice in the State of New York, a partner at the firm of Raines Feldman LLP (“Raines Feldman” or “Firm”), and the Receiver appointed by the Court 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. 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”), Stretto, Inc. (“Stretto”), and Sorainen AS (“Sorainen”) (collectively, the “Professional Firms”) [Dkts. 47 (the “Employment Order”); 91 (authorizing the employment of Sorainen)].

3. This affidavit is made in support of the Application for Fees and Expenses for the Receiver and the Professional Firms (the “Application”) from September 1, 2022 through October 31, 2022 (the “Application Period”).<sup>1</sup>

4. I directly supervise the professionals and staff of Raines Feldman with respect to this representation, 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, Stretto, and Sorainen—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.

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<sup>1</sup> As stated in the prior fee application, Sorainen’s fees during that period were held over to this Application. Moreover, because the estate recovered the approximately \$60 million in Bitcoin held in the Baltics in November, Sorainen’s work for the present is complete. As such, the Receiver therefore also requests authority to pay Sorainen’s November invoice of €1,061, as set forth herein and in Exhibit 6.

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

B310 – Claims Administration

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 79.30 hours for total fees of \$39,253.50 in administering the estate. As set forth in Exhibit 1-2,

during the Application Period, Raines Feldman performed 96.10 hours for total fees of \$37,163.63 in assisting the Receiver with administering the estate.

11. I coordinated, with the assistance of Raines Feldman, the turnover of various frozen funds to the Receivership Estate. As a result of our efforts, \$60,546,115.29 in has been turned over into the Receivership Estate as of October 31, split between the general receivership estate (\$52,077,078.46) and the segregated Alexander Assets account (\$8,469,036.83) pursuant to the Consent Order. An additional \$2,624,027 has been recovered for the estate as of October 31, as detailed below.

12. 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.

13. Raines Feldman and I drafted the second status report to apprise the Court of receivership status and operations. [Dkt. 163].

14. 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 and developing a work plan to achieve that end. Raines Feldman conducted related targeted searches of document productions and reviewed documents.

15. I made efforts for the return of documents collected by the Department of Justice during the search of the EminiFX office on May 12, 2022. I reviewed and analyzed the documents when they were returned.

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

17. I coordinated with counsel for Alexandre on various issues and worked toward a possible discovery stipulation. Raines Feldman and I conducted research on the possible discovery stipulation. I also communicated with the CFTC on case status.

18. Raines Feldman and I reviewed and analyzed a website related to this case and investigated a list of Long Island real estate properties on the website.

19. Raines Feldman and I analyzed cryptocurrency issues and related account freeze and discovery issues, and obtained counsel from Sorainen. I also made arrangements and negotiated the contract with a cryptocurrency company to set up a secure institutional account in order to make cryptocurrency deposits on behalf of the estate from its various cryptocurrency accounts.

20. Raines Feldman and I obtained counsel regarding tax issues. Raines Feldman prepared and submitted Forms 56.

21. 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.

22. 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.

B120 – Asset Analysis and Recovery

23. As set forth in Exhibit 1-1, during the Application Period, the Receiver performed 72.60 hours for total fees of \$35,937.00 in analyzing and recovering the estate's assets. As set

forth in Exhibit 1-2, during the Application Period, Raines Feldman performed 13.70 hours for total fees of \$5,979.47 in assisting the Receiver in analyzing and recovering the estate's assets.

24. Raines Feldman and I reviewed various financial records to analyze and trace the cash flows of EminiFX, including funds that were transferred to Alexandre in connection with the Alexandre Assets tracing procedure. I also evaluated potential asset recovery options and potential unsecured creditors.

25. Raines Feldman and 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 \$784,000 during the Application Period, and the estate has recovered over \$2 million as of the date of this affidavit.

26. Raines Feldman and 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.

27. Raines Feldman and I negotiated with a staffing agency regarding resolution of a security deposit.

28. Raines Feldman, JS Held, Sorainen, and I strategized potential foreign cryptocurrency account turnover procedure and analyzed data and strategy. I communicated with Sorainen and Star Ventures regarding cryptocurrency recovery. I drafted a turnover agreement, letter, and proposed order for cryptocurrency recovery and obtained counsel from Sorainen.

29. I drafted and sent letters to cryptocurrency exchanges and made multiple telephone calls regarding recovery of assets.

30. 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.

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

32. I worked toward recovering certain deposits and retainers EminiFX made, in addition to the real estate recoveries discussed above. As a result of those efforts, the estate recovered an additional \$176,905.

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

B130 – Asset Disposition

34. As set forth in Exhibit 1-1, during the Application Period, the Receiver performed 2.80 hours for total fees of \$1,386.00 in disposing of the estate's assets. As set forth in Exhibit 1-2, during the Application Period, Raines Feldman performed 42.10 hours for total fees of \$15,818.66 in assisting the Receiver in disposing of the estate's assets.

35. Raines Feldman and I worked with our advisors at JS Held 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, and coordinating with counsel for Alexandre to turn over the vehicles in question. As a result of those efforts, the estate recovered \$88,622 during the Application Period, and over \$250,000 as of the date of this affidavit.

B310 – Claims Administration

36. As set forth in Exhibit 1-1, during the Application Period, the Receiver performed 0.60 hours for total fees of \$297.00 in claims administration.

37. In anticipation of an eventual claim, I obtained counsel from FDT.

Expenses

38. As set forth in Exhibit 1-2, Raines Feldman incurred \$801.71 in expenses by paying DISCO for data storage and FedEx for overnight delivery. True and correct copies of the applicable receipts are included in those exhibits.

**ATTESTATIONS**

39. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in the attached Receiver and Raines Feldman billing statements are true and correct and comply with the CFTC Billing Instructions.

40. The fees that the Receiver and Raines Feldman have charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. The Receiver and Raines Feldman's services and time expenditures are reasonable in light of the labor required for the matters for which the Receiver was appointed and Raines Feldman was retained and the balancing that must be performed to efficiently and effectively represent the Receiver. The Receiver and Raines Feldman respectfully submit that they have not expended time unnecessarily and that they have rendered efficient and effective services.

41. 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**

42. I have reviewed the affidavit submitted by Hernan Serrano 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.

43. 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.

44. 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.

45. 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, and is expected to result in substantially more.

46. 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.

47. 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.

48. 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.

49. 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.

50. 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.

51. I have reviewed the affidavit submitted by Robert Klamser 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.

52. 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 preparing and circulating investor communications report.

53. 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.

54. I have reviewed the affidavit submitted by Norman Aas of Sorainen attached as Exhibit 6, and the invoice and time entries for Sorainen attached as Exhibit 6-1. Sorainen has served as the estate's Estonian and Lithuanian counsel, advising the estate on issues relating to the

estate's efforts to recover cryptocurrency valued in the tens of millions of dollars and communicating with foreign local finance authorities.

55. During the period July 1 through November 30, 2022, at my direction, Sorainen assisted me in analyzing issues, including repatriation of cryptocurrency in foreign accounts. Sorainen also communicated with foreign local finance authorities on behalf of the estate.

56. In my view, the fees that Sorainen seeks are reasonable, necessary, and commensurate with the skill and experience required for the activity performed; and Sorainen's services and time expenditures are reasonable in light of the labor required for the matters for which Sorainen 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 6-1 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 1<sup>st</sup> day of December 2022 at New York, New York.



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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 HERNAN SERRANO IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (SEPTEMBER/OCTOBER 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 September 1, 2022 through October 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 September 1, 2022 through October 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 \$168,753.00 during the Application Period, with a substantial 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; and developing a project work plan with a goal toward creating a company ledger. JS Held also assisted the Receiver with analyzing third party bank statements, evaluating cash transactions, and analyzing potential tax issues.

7. JS Held also assisted the Receiver in analyzing transaction data, including transactions and withdrawals by account, across multiple data sources; performing Bitcoin tracing and attribution analysis; configuring and restoring the environment for native database review and connectivity to website; analyzing user relationships by grouping user accounts and aligning them to wallet IDs. In addition, JS Held assisted the Receiver with analyzing and resolving the Long Island real estate portfolio. JS Held also assisted the Receiver with setting up a secure custodial cryptocurrency account and conducted a test BTC transfer to the account.

8. JS Held also assisted the Receiver in disposing of vehicles during the Application Period. JS Held communicated with dealerships regarding refunds for outstanding warranties on vehicles; supported onsite transfer of vehicles; worked on car return issues, coordinated payments and communicated with dealership; and researched transport options and arranged car transport.

9. 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.

10. JS Held incurred costs of \$37.95 during the Application Period for Iron Mountain storage fees and the renewal of domains for preservation purposes.

11. 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 8th day of December, 2022 at New York, New York.

*/s/ Hernan Serrano*

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Hernan Serrano

# **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 (SEPTEMBER/OCTOBER 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 September 1, 2022 through October 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 September 1, 2022 through October 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 \$60,453.90 during the Application Period for work assisting the Receiver resolve the Long Island real estate portfolio. FDT incurred fees in the amount of \$8,151.07 for general counsel to the Receiver. The total amount of incurred fees is \$68,604.97.

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, 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 \$784,000 in real estate deposits.

7. During the Application Period, the Firm also provided the Receiver with general counsel regarding recovering retainer paid by EminiFX to real estate counsel, 34th Street office landlord issues, the status report filed with the Court, the return of the cryptocurrency held at CoinPayments, 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 \$349.69 during the Application Period for Federal Express charges, filing fees, Public Access to Court Electronic Records (PACER), and Westlaw research related to the Firm's work assisting the Receiver on the Long Island real estate portfolio.

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 7<sup>th</sup> day of December, 2022 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 (SEPTEMBER/OCTOBER 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 September 1, 2022 through October 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 September 1, 2022 through October 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 \$10,084.65 during the Application Period.

6. During the Application Period, the Firm assisted the Receiver in analyzing receivership tax issues including income and payroll tax filing and reporting requirements, for federal and state taxes; and preparing Forms 56. The Firm also assisted the Receiver in filing various required tax forms.

7. 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.

8. 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 7th day of December, 2022 at Woodland Hills, California.



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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 ROBERT KLAMSER IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (SEPTEMBER/OCTOBER 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 September 1, 2022 through October 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 September 1, 2022 through October 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 \$4,328.05 during the Application Period.<sup>1</sup>

6. During the Application Period, Stretto assisted the Receiver with case management; 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. 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.

8. 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 8th day of December, 2022 at Denver, Colorado.

*/s/ Robert Klamser*

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Robert Klamser

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<sup>1</sup> A late fee of \$184.72 was mistakenly added to Invoice 7263, which has since been credited to the estate. Stretto is therefore not requesting any reimbursement of any late fee.

# **EXHIBIT 5-1**

**Filed Under Seal**

# **EXHIBIT 6**

**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 NORMAN AAS IN SUPPORT OF  
APPLICATION FOR FEES AND EXPENSES (SEPTEMBER/OCTOBER 2022)**

1. I am a partner at the firm of Sorainen (“Sorainen” or “Firm”), 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 September 1, 2022 through October 31, 2022 (the “Application”). However, as set forth below, the fees and expenses in this request cover all fees and expenses incurred by Sorainen from the beginning of the engagement through November 30, 2022.

3. Sorainen acts as counsel to the Receiver in Estonia and Lithuania. On August 5, 2022, the Court entered an order authorizing the Receiver to employ Sorainen. [Dkt. 91]. I directly supervise the professionals and staff of Sorainen with respect to this representation.

4. Sorainen’s maximum billing rate is €390 per hour. In light of the receivership’s status as a newly formed foreign entity, Sorainen requested a prepayment of €5,000, which the Receiver explained in the Application for Supplemental Procedures [Dkt. 71] functioned similar

to a retainer. The Court authorized the Receiver to pay the requested retainer [Dkt. 91], and the Receiver did so. Expenses are billed separately.

5. The Receiver has explained the billing procedures established by this Court (the “Employment Order”) [Dkt. 47], and Sorainen has acknowledged and agreed to follow those billing procedures.

6. A true and correct copy of the Firm’s invoice reflecting the detailed time entries for the services we provided from July 1, 2022 through November 30, 2022 (the “Application Period”) has been submitted under seal as Exhibit 6-1, as required by the Employment Order.<sup>1</sup> Sorainen incurred fees in the amount of €17,256.00 during the Application Period. Sorainen incurred €6.92 in expenses during the Application Period for registry duties.

7. During the Application Period, the Firm assisted the Receiver in the repatriation of cryptocurrency held in a foreign account at UAB Star Ventures and CoinPayments. The Firm conducted research and analysis of the CoinPayments freeze, and communicated with the financial regulators in Estonia and Lithuania. The Firm also advised the Receiver on strategy related to the eventual repatriation of the CoinPayments asset, which was accomplished in November 2022.

8. Because the Firm has completed the primary task for which it was employed, and has not yet submitted a request for reimbursement of fees and expenses, the Firm is requesting in this Application the complete payment of its fees and expenses incurred, including €1,061.00 of fees incurred in November 2022. The Firm will apply the retainer of €5,000.00, and thus the amount requested to be paid by the Receiver is the balance of the fees incurred, or €12,256.00.

9. The fees that Sorainen has charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. Sorainen’s services and time

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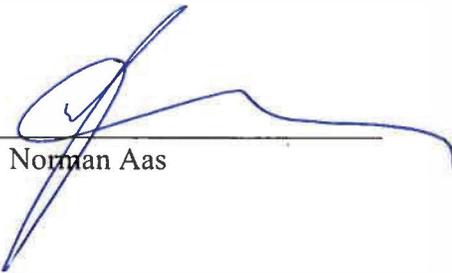
<sup>1</sup> In accordance with European style, the date format used in the invoice is DD-MM-YYYY, and the number format uses a comma instead of a period. This affidavit uses ordinary America style.

expenditures are reasonable in light of the labor required for the matters for which Sorainen was retained. Sorainen respectfully submits that it has not expended time unnecessarily and that it has rendered efficient and effective services.

10. Sorainen incurred costs €6.92 during the Application Period for registry fees.

11. 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. Commodities 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 5 day of December, 2022 at Tallinn, Estonia.

  
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Norman Aas

# **EXHIBIT 6-1**

**Filed Under Seal**