

**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)

FIRST QUARTER 2023 REPORT OF RECEIVER DAVID A. CASTLEMAN

(FOURTH STATUS REPORT)

DAVID A. CASTLEMAN
Otterbourg P.C.
230 Park Avenue
New York, NY 10169
Tel: (212) 661-9100
Receiver

Melanie L. Cyganowski
Erik B. Weinick
Michael A. Pantzer
OTTERBOURG P.C.
230 Park Avenue
New York, NY 10169
Tel: (212) 661-9100
Counsel for the Receiver

April 28, 2023

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	PROCEDURAL HISTORY	4
III.	ASSET RECOVERY/LIQUIDATION AND RECEIVERSHIP FINANCES	5
A.	Implementation of the Digital Asset Management Protocol.....	7
B.	Receivership Bank Accounts	9
C.	Recoveries and Interest	9
D.	Receivership Expenses during the First Quarter 2023	10
IV.	EMINIFX OPERATIONS AND FINANCIAL CONDITION	11
V.	RECEIVERSHIP OPERATIONS	13
VI.	RECOMMENDATIONS AND NEXT STEPS	14
A.	Financial Condition Report	15
B.	Motion for Approval of Claims Process	15
C.	Development of Distribution Plan	16
D.	Evaluation of Potential Litigation Claims	16
VII.	CONCLUSION	17

David A. Castleman (the “**Receiver**”), as Receiver pursuant to the Consent Preliminary Injunction (the “**Consent Order**”) entered by this Court in this action (the “**Civil Action**”) on June 15, 2022 [Dkt. 56], files this Fourth Status Report (the “**Report**”) to apprise the Court of the activities of the receivership (the “**Receivership**”) covering the period from January 1, 2023 through and including March 31, 2023 (the “**First Quarter 2023**”).¹ During the First Quarter 2023, the Receiver and his team have continued their efforts to preserve the assets of EminiFX, Inc. (“**EminiFX**”), as well as the assets of Defendant Eddy Alexandre (“**Alexandre**”) traceable to customers (otherwise referred to as “users” in this Report) of EminiFX, and have taken the following steps in administering the Receivership.

I. INTRODUCTION

In the First Quarter 2023, the Receiver sold the majority of the Receivership’s digital assets (also known as cryptocurrency) in accordance with the Court-approved Digital Asset Management Protocol (the “**DAM Protocol**”), which set forth a responsible and carefully managed manner for the steady sale of the Receivership’s substantial Bitcoin position over a period of time. The Receivership received nearly \$70 million from the sale of digital assets in the First Quarter 2023, with all such proceeds transferred to the Receivership’s high-yield bank account as set forth in the DAM Protocol. In addition to the liquidation of the digital assets, the Receiver recovered \$102,100 in cash, comprised of real estate deposits made to third parties and a law firm retainer, and the Receivership earned \$643,961.22 in interest on its high-yield accounts. In February 2023, the Receiver recovered 23.2 Bitcoin (BTC) from Crypto Exchange 5.²

¹ The Receiver already reported on certain First Quarter 2023 activities in the 2022 Annual Status Report (the “**2022 Annual Report**”) [Dkt. 192], which was filed on February 15, 2023. This Report may include descriptions by the Receiver of activities that occurred between April 1 and April 28, 2023.

² The Receiver previously reported on the recovery and intended disposition of the digital assets located at Crypto Exchange 5. See 2022 Annual Report at 12 n.5.

During the First Quarter 2023, the Receivership incurred general expenses of \$755,719.86, which include (i) Court approved professional fees and expenses of \$755,147.38 for work performed from September through December 2022 [Dkts. 185, 191], as reflected in the summary of Receivership Expenses in the 2022 Annual Report [Dkt. 192, at 18]; (ii) residual payroll expenses of \$16.88; and (iii) rent expenses of \$555.60. Since the Receivership began, the total cash inflows to the estate (excluding the funds turned over from frozen bank and brokerage accounts and liquidation proceeds of turned over assets) have exceeded the total cash outlays by \$1.8 million. As of the end of the First Quarter 2023, the Receivership consisted of \$132.8 million in cash, plus BTC 700.6 valued at approximately \$19.7 million as of March 31, 2023. A full ledger of the Receivership cash and digital asset transactions for the First Quarter 2023 is attached as Exhibit 1. The tables attached as Exhibit 2 show the balance sheet, income statement, and cash flows for the Receivership during the First Quarter 2023.³

In March 2023, after the financial regulators took control of Signature Bank and Silicon Valley Bank, the Receiver conducted a review of the Receivership bank accounts. While no Receivership assets were held at either of these financial institutions, in light of those events, the Receiver took immediate steps to establish additional safeguards for the Receivership cash. The Receiver intends to make an additional application in short order that will further address certain of these issues.

On February 10, 2023, Alexandre pled guilty to one count of commodities fraud in the parallel criminal action, arising from similar conduct as alleged in the Civil Action, *United States*

³ These financial statements are illustrative and are not intended to be in accordance with generally accepted accounting principles (GAAP), nor are they intended to be used in connection with determining the taxable income (if any) of the Receivership. Nevertheless, the Receiver includes these statements to give the Court and other interested parties a high-level overview of the financial condition of the Receivership during the First Quarter 2023.

v. *Alexandre*, No. 22 Cr. 326 (S.D.N.Y.) (the “**Criminal Action**”). Alexandre’s sentencing in the Criminal Action is scheduled for July 18, 2023. Alexandre also agreed to a Consent Preliminary Order of Forfeiture [Criminal Action Dkt. 74] (the “**Forfeiture Order**”), which allows for distributions by the Receiver to EminiFX users to be applied toward the forfeiture amount.

During the First Quarter 2023, the Receiver and his team focused the majority of their forensic effort on continuing to create accurate financial records for EminiFX and determining the amounts that tens of thousands of individual users had contributed to—and received from—EminiFX. The primary goals of the Receiver’s investigation are (i) determining the location and amount of assets that should be turned over to the Receivership, (ii) determining information necessary to administer the Receivership, especially the filing of EminiFX’s tax returns, (iii) the creation of a claims process for EminiFX users and other creditors, and (iv) assessing possible litigation claims against third parties. The Receiver expects to file a report on the financial condition of EminiFX on or before May 15, 2023.

Moreover, as the attribution analysis of financial transactions to EminiFX users neared completion over the First Quarter 2023, the Receiver worked with his professionals to begin developing a claims process for both the tens of thousands of potential claims by EminiFX users, as well as what the Receiver expects will be a limited number of non-user claims that the Receiver expects to handle on a case-by-case basis. The Receiver expects to file a motion for approval of a claims process in the Second Quarter 2023, with the goal of such process to ease as much burden as possible on the individual users of EminiFX while ensuring that all claimants are provided with the appropriate notice and opportunity to be heard.

II. PROCEDURAL HISTORY

On May 11, 2022, the CFTC filed the Complaint [Dkt. 5] and a motion for an *ex parte* Statutory Restraining Order [Dkt. 6], which the Court granted on the same day, appointing the Receiver initially as Temporary Receiver [Dkt. 9]. Also on May 11, United States Attorney's Office for the Southern District of New York ("USAO") filed the Criminal Action [Criminal Action Dkt. 1]. On June 10, the Court granted the Receiver's request to employ certain professional firms [Dkt. 47]. On June 15, the Court entered the Consent Order that appointed the Receiver [Dkt. 56]. Additional procedural history is set forth in detail in the three prior status reports [Dkts. 71, 163, 192], and is not repeated here. The following actions occurred wholly or partly in the First Quarter 2023:

On December 9, 2022, the Receiver filed an application to approve a proposed DAM Protocol, whereby the Receiver would liquidate the Receivership's Bitcoin over a four-month period, in order to minimize the market impact on selling these assets, reduce the impact of the price volatility of Bitcoin on the Receivership, and lessen the potential downside risk of holding Bitcoin for an extended period of time [Dkt. 180]. After receiving over 1,000 emails from 930 unique email addresses between December 9 and December 19, the Receiver filed a compendium of user feedback on December 21 [Dkt. 181]. The CFTC filed a reply to that feedback on December 22 [Dkt. 182], and the Receiver filed a reply on December 23 [Dkt. 183]. That application was approved on January 4, 2023 [Dkt. 184].

On December 8, 2022, the Receiver filed an application for fees and expenses incurred in September and October 2022, which was granted on January 27, 2023 [Dkt. 185]. On February 2, 2023, the Receiver filed an application for fees and expenses incurred in November and December

2022 [Dkt. 188], which was granted on February 13, 2023 [Dkt. 191]. Also on February 2, 2023, the Court granted the Receiver's application to employ Otterbourg P.C. as his counsel [Dkt. 187].

To date, neither the Receiver nor anyone acting on his behalf has appeared in the Criminal Action. On January 26, 2023, the Court in the Criminal Action ruled that the Receiver was not part of the prosecution team [Criminal Action Dkt. 72], on a motion discussed at length in prior status reports. On February 10, 2023, Alexandre pled guilty to one count of commodities fraud, and as part of a plea agreement executed the Forfeiture Order. The Forfeiture Order includes the following provision: "All assets distributed to the victims by the Receiver in the CFTC Action that were obtained from the Defendant and EminiFX shall be applied towards the satisfaction of the Money Judgment" (Forfeiture Order ¶ 11). Alexandre's sentencing in the Criminal Action is scheduled for July 18, 2023. On March 2, 2023, the USAO filed a letter with this Court requesting that the USAO provide an update to the Court within one week of Alexandre's sentencing [Dkt. 193], which the Court approved on March 3, 2023 [Dkt. 194]. The Receiver will continue to coordinate with the CFTC, counsel for Alexandre, and the USAO concerning any matters affecting the Receivership in the Criminal Action.

III. ASSET RECOVERY/LIQUIDATION AND RECEIVERSHIP FINANCES

As noted in the 2022 Annual Status Report, the Receiver believes that all material EminiFX assets have been turned over to the Receivership, subject to any right to pursue claims against third parties as appropriate. In 2022, cash receipts by the Receivership totaled nearly \$65 million, primarily from the turnover of frozen funds and the recovery of various deposits from third parties. In addition, all of the identified EminiFX digital assets have been turned over to the Receivership, which as discussed below have been sold in accordance with the DAM Protocol. If any additional

assets come to light as a result of the Receiver's investigation, the Receiver will evaluate any such situation and act or seek relief accordingly.

In the First Quarter 2023, the Receivership cash position increased by nearly \$70 million, primarily through the sale of digital assets, through recoveries of just over \$100,000 in real estate and other deposits, and through the earning of over \$600,000 in interest. The Receivership also spent just over \$750,000 in cash for professional fees and other expenses. The total recoveries and expenses of the Receivership since May 2022 are as follows (see Exhibit 1 for the full ledger of receivership transactions for the First Quarter 2023):

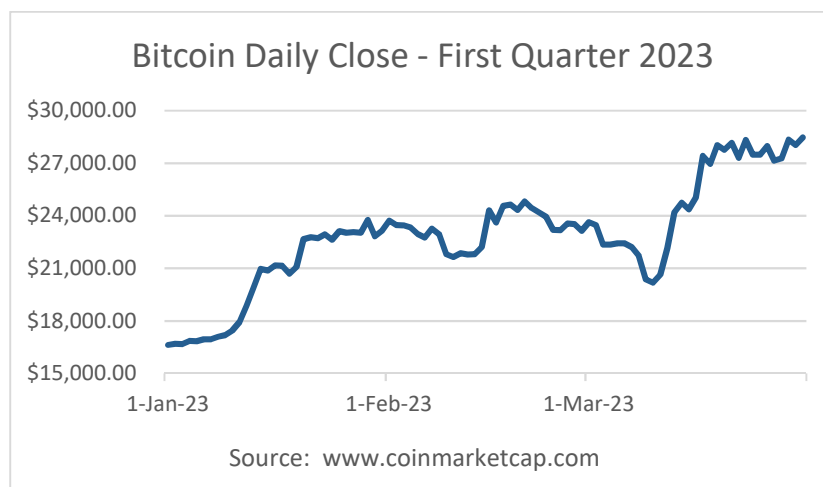
RECEIVERSHIP CASH POSITION			
Source	Cumulative Amount (2023 1st Quarter)	Cumulative Amount (2022 Annual)	Change From Prior Report
General Receivership Estate			
Frozen Account Turnovers	\$52,480,218.43	\$52,480,218.43	\$-
Real Estate Recoveries	\$2,412,400.00	\$2,330,400.00	\$82,000.00
Other Recoveries	\$506,305.07	\$486,205.07	\$20,100.00
Liquidation Proceeds	\$69,990,555.57	\$243,929.93	\$69,746,625.64
Interest	\$866,447.38	\$287,033.02	\$579,414.36
Expenses and Fees	-\$2,641,182.73	-\$1,885,462.87	-\$755,719.86
Retainers	-\$25,000.00	-\$30,269.68	\$5,269.68
Total	\$123,589,743.72	\$53,912,053.90	\$69,677,689.82
Reserved but Unpaid Expenses			
Alexandre Final Salary	\$54,556.92	\$54,556.92	\$-
Dieuveuil Final Salary	\$22,152.03	\$22,152.03	\$-
Total	\$76,708.95	\$76,708.95	\$-
Alexandre Assets			
Frozen Account Turnovers	\$8,469,036.83	\$8,469,036.83	\$-
Real Estate Recoveries	\$535,000.00	\$535,000.00	\$-
Liquidation Proceeds	\$29,000.00	\$29,000.00	\$-
Interest	\$111,856.45	\$47,309.59	\$64,546.86
Total	\$9,144,893.28	\$9,080,346.42	\$64,546.86
TOTAL CASH	\$132,811,345.95	\$63,069,109.27	\$69,742,236.68

In addition, the tables attached as Exhibit 2 show the post-appointment balance sheet, income statement, and cash flows for the Receivership during the First Quarter 2023. As noted above, these financial statements are illustrative and are not intended to be in accordance with generally

accepted accounting principles (GAAP), nor are they intended to be used in connection with determining the taxable income (if any) of the Receivership or EminiFX. The Receiver includes these statements to give the Court and other interested parties a high-level overview of the financial condition of the Receivership. The various activity underlying those statements is as follows:

A. Implementation of the Digital Asset Management Protocol

At the beginning of the First Quarter 2023, the Court approved the Receiver's Proposed DAM Protocol, which set forth detailed procedures for the Receiver to liquidate the Receivership's substantial position in digital assets, mostly Bitcoin [Dkt. 184]. The DAM Protocol was intended to minimize the market impact on selling digital assets, reduce the impact of the price volatility of Bitcoin on the Receivership, and lessen the potential downside risk of holding Bitcoin for an extended period of time [Dkt. 180]. The price of Bitcoin fluctuated wildly during the First Quarter 2023, ranging from a low of \$16,521 (January 1) to a high of \$29,160 (March 30), with the trend generally—but not exclusively—upward during the quarter:



The procedures approved by the Court in DAM Protocol allowed the Receivership to participate in this upward trend by selling 500 Bitcoin over a ten-day period, every two weeks. The average net price for the BTC 3002.276 sold during the First Quarter 2023—*i.e.*, the price net

of all custodial and trading fees, some of which were paid in BTC and some in USD—was \$23,217 per Bitcoin. That average net price generally corresponds to the average price over the First Quarter 2023, and was substantially higher than the closing price of \$16,863 when the DAM Protocol was approved. The Receiver and his team maintained a separate page on the Receivership website,⁴ on which the Receiver posted regular updates on the progress of the sale process. During the First Quarter 2023, the Receivership’s sale of Bitcoin resulted in the following amounts:

SALE OF BITCOIN (FIRST QUARTER 2023)			
Sale Period / Fees	BTC Sold	Net Proceeds (USD)	Average Net Price
01/10/2023-01/20/2023	-500.000	\$10,062,697.85	\$20,125/BTC
01/24/2023-02/03/2023	-500.000	\$11,550,563.53	\$23,101/BTC
02/07/2023-02/17/2023	-500.000	\$11,230,634.69	\$22,461/BTC
02/21/2023-03/03/2023	-500.000	\$11,757,011.04	\$23,514/BTC
03/07/2023-03/17/2023	-500.000	\$11,248,649.15	\$22,497/BTC
03/20/2023-03/30/2023	-500.000	\$13,874,501.65	\$27,749/BTC
Custodial Fees (BTC)	-2.727		
Custodial Fees (USD)		-\$19,069.21	
Total Sales and Fees⁵	-3,002.727	\$69,704,988.70	\$23,217/BTC

In addition to the sale of the Receivership’s Bitcoin, the Receiver also sold the Receivership’s other digital assets and realized total net proceeds in the amount of \$41,636.94, as follows:

SALE OF OTHER DIGITAL ASSETS			
Digital Asset	Symbol	Amount Sold	Net Proceeds
Litecoin	LTC	-44.9932	\$3,305.91
Orchid Token	OXT	-17,608	\$1,196.11
Decentraland	MANA	-6,234.10	\$1,983.50
Dogecoin	DOGE	-299,756.50	\$21,528.29
Shiba Inu	SHIB	-1,338,198,877	\$11,319.55
Gala	GALA	-470	\$8.39
Ethereum	ETH	-1.8455138	\$2,295.19
Total Sale Proceeds⁶			\$41,636.94

⁴ See <https://www.eminifxreceivership.com/digitalassetmanagement>.

⁵ The DAM Protocol was completed before the filing of this report, as set forth herein and on the Digital Asset Management page maintained by the Receiver at <https://www.eminifxreceivership.com/digitalassetmanagement>. After the close of the First Quarter 2023, the Receiver realized an additional \$20,344,202.02 (\$29,051/BTC), for total net proceeds of \$90,049,190.72 and an average net price of \$24,316/BTC.

⁶ A de minimis amount of digital assets, valued at around \$0.12, remains in the estate and cannot be sold. Given these de minimis amounts—often known as “dust” in the cryptocurrency industry—cannot effectively be converted to cash, the Receiver values the remaining digital assets in the Receivership at \$0.

B. *Receivership Bank Accounts*

During First Quarter 2023, the Receiver reviewed and managed the Receivership bank accounts to address recent events in the banking industry. In March 2023, financial regulators took control of Signature Bank and Silicon Valley Bank, and Silvergate Bank announced it was winding down operations. None of the Receivership funds were on deposit at those institutions (or at First Republic Bank), but the Receiver did take steps to transfer Receivership funds from another institution that had been grouped by certain industry analysts with the affected institutions, to a bank that has substantial experience in dealing with fiduciary accounts. The Receiver has also placed the maximum allowable amount of \$125 million into the IntraFi Network Deposits program, which provides additional FDIC insurance by spreading the deposit around to hundreds of FDIC-insured institutions, while the primary institution remains as the custodian of the funds. The Receivership funds continue to earn nearly 3% interest, providing substantial income to the Receivership and greatly assisting with the financing of Receivership operations.

C. *Recoveries and Interest*

As described at length in prior status reports, the Receiver and his team at Forchelli Deegan Terrana LLP spent much of 2022 unwinding various contracts to purchase foreclosure and other real estate property entered into by EminiFX in the weeks before the Receiver was appointed. During the First Quarter 2023, the Receiver unwound the last of those contracts, receiving the final \$82,000 in returned contract deposits.⁷ The Receiver also recovered \$20,100 from a lawyer retained by EminiFX prior to the receivership, representing the remainder of an unused portion of the retainer as of the date of the appointment of the Receiver. During the First Quarter 2023, the

⁷ One deposit was returned to a third party, which the Receiver is analyzing separately, as stated in prior reports.

Receivership also earned \$643,961.22 in interest from its high yield bank accounts. The total recoveries and interest earned by the Receivership in the First Quarter 2023 are as follows:

TOTAL RECOVERIES AND INTEREST (FIRST QUARTER 2023)			
Item	General Receivership	Alexandre Assets	Consolidated
Long Island Real Estate Portfolio	\$82,000.00	\$0.00	\$82,000.00
Law Firm Retainers	\$20,100.00	\$0.00	\$20,100.00
Subtotal – Recoveries	\$102,100.00	\$0.00	\$102,100.00
Interest Earned	\$579,414.36	\$64,546.86	\$643,961.22
GRAND TOTAL	\$681,514.36	\$64,546.86	\$746,061.22

D. Receivership Expenses during the First Quarter 2023

The Receiver paid a total of \$755,719.86 in expenses during the First Quarter 2023. Most of the expenses were payment of the professional fees that were incurred in 2022 and specifically authorized by Court order [Dkts. 185, 191] in the amount of \$755,147.38. Those fees were paid using \$749,877.70 in cash on deposit and \$5,269.68 of an unused retainer on deposit at Sorainen, the European law firm that assisted the Receiver with recovering the offshore Bitcoin and which does not currently have any active assignments from the Receiver. Other expenses included payroll expenses of \$16.88 and rent expenses of \$555.60.

The estimated fees and expenses for the Receiver and his professional firms that have been incurred during the First Quarter 2023 total \$618,055.23, pending review and approval by the CFTC pursuant to the Employment Order [Dkt. 47]. The Receiver expects to file a separate application to seek authority to pay such fees and expenses within the next several weeks.⁸

⁸ The Receiver has not yet received the necessary paperwork from one professional firm to request the payment of \$18,886.27 in fees and \$22.73 in expenses for the First Quarter 2023. As a result, such fees may be excluded from the upcoming fee application, although the Receiver intends to file for those fees and expenses in a future fee application if and when all the necessary paperwork is received and approved by the Receiver and the CFTC.

IV. FINANCIAL CONDITION OF EMINIFX

Since obtaining the various financial records of EminiFX accounts, as well as recovering the EminiFX database from the GoDaddy server, the Receiver and his team have continued to analyze the financial condition and operations of EminiFX, in order to ascertain an accurate and complete financial understanding of EminiFX and the Receivership. The Receiver and his team have continued their work toward the goal of creating a reliable ledger of EminiFX transactions, in support of several functions:

Claims and EminiFX User Recovery: To discover the date and amount of the deposits and redemptions of cash and cryptocurrency, largely in aid of determining the scope of potential claims against the receivership estate and to develop a claims procedure, with the additional goal of minimizing, to the extent possible, the burden on the tens of thousands of EminiFX users.

Administration: To administer the Receivership, including the Receiver's obligation to file tax returns for EminiFX.

Turnover: To determine the location and amount of any assets that should be turned over to the Receivership.

Third Party Litigation: To determine whether there is a basis for the Receiver to pursue any cost-effective claims against third parties.

The Receiver has re-ordered this list from prior reports, as the Receivership is shifting its focus from the turnover of assets—which the Receiver believes is largely complete and has generally been successful as seen in the over \$153 million in cash in the Receivership as of the date of this Report—to the claims process. The Receiver intends to file, on or before May 15, 2023 with the assistance of his forensics team at JS Held LLC, a financial condition report so that the Court, EminiFX users, and other interested parties can have a transparent understanding of how users' contributions were used by EminiFX.

Sometime in the Second Quarter 2023, the Receiver intends to file a motion to set a claims procedure for the Court to approve a set process by which EminiFX users will be able to validate

their net contributions to EminiFX. The Receiver expects that the financial analysis, as set forth above, will also be used to determine, *to the extent possible*, the actual cash and Bitcoin deposits and withdrawals associated with each user account—although significant gaps in the data remain such that EminiFX users will be given the opportunity to review the transactions attributed to their account and provide additional information within prescribed parameters. In aid of that process, the Receiver encourages *all EminiFX users to maintain as many of their records related to EminiFX as possible, especially concerning deposits and withdrawals*.

Furthermore, as noted in prior reports, the Internal Revenue Service does not have a tax return on file for EminiFX, nor does it appear that one was prepared based on the evidence provided to the Receiver to date. The Receiver has a specific obligation to file a tax return for EminiFX (*see* SRO ¶ 31(m) (incorporated at Consent Order ¶ 37)), and the Receiver is working with his tax and accounting teams to prepare such a return, which is especially difficult given the lack of accounting records for EminiFX or any sort of legal structure around the contributions from EminiFX users. The Receiver and his team will continue their efforts to analyze all applicable financial records so that the Receiver may fulfill his obligations under the Consent Order. Further, the Receiver does not intend to issue 1099s to EminiFX users that received funds from EminiFX, including those who received more funds than they contributed, as the Receiver does not believe that such excess amounts represented profits from actual investing activity, but instead were paid using the contributions from other EminiFX users. Nothing in the foregoing statement is intended to be tax advice for any EminiFX user, and *each EminiFX user is responsible for his or her own personal tax situation*.

V. RECEIVERSHIP OPERATIONS AND COMMUNICATIONS

The Receivership website (<http://www.eminifxreceivership.com>), updated frequently during the First Quarter 2023 and available in English, French, and Haitian Creole, will continue to be the primary source of information for interested parties. *Any interested party seeking information concerning the Receivership is encouraged to review the website in the first instance.* The homepage of the website contains the status reports (including this one), a final report on the sale of digital assets, key filings, and other information about this case. The website also contains a “Civil Docket” section, so that all ECF filings in this case are available to all interested parties without the need for any such party to pay for filings using PACER or ECF. The Receiver’s team will aim to have all docket items posted by the end of each week, and any interested party can subscribe for docket item email updates by clicking the “**Subscribe**” button in the “**Civil Docket**” section. Under the “Frequently Asked Questions” section, the Receiver and his team endeavor to provide answers to common user questions so that answers are available to all interested parties, and the Receiver and his team will update the information over time. Finally, the website contains a section for EminiFX users or interested parties to update their contact information, especially their email addresses.

As noted above, EminiFX users may email EminiFXInquiries@Stretto.com with questions or concerns. During the First Quarter 2023, the Receiver’s team received 172 phone calls and 326 emails, each of which received a response. The Receiver and other employees of his law firm will not, as a general rule, respond directly to inquiries from individual EminiFX users, given that the Stretto conduit remains open to EminiFX users and the need to ensure that communications with EminiFX users remain as uniform and as cost-effective as possible.

As set forth in the prior status reports, the Receiver has recovered and secured a substantial amount of electronic records, both as downloads of files from servers and as electronic storage media. The Receiver continues to store all electronic storage media in Iron Mountain (a firm specializing in storing and maintaining data and records), as well as the limited number of paper records recovered and secured. The Receiver, as the corporate representative of EminiFX, requested and received the return of copies of seized materials from the Department of Justice. The Receiver has also responded to subpoenas in the Criminal Action and did not produce documents to the USAO absent a subpoena.

VI. RECOMMENDATIONS AND NEXT STEPS

The Receiver has continued efforts (i) to obtain an accurate picture of the various transactions and financial condition of EminiFX, (ii) to ascertain additional sources of recovery, (iii) prepare the claims process, and (iv) to administer the receivership estate. The Receiver has identified a number of potential limited areas where he will need to seek relief from the Court concerning supplemental procedures. The Receiver does not anticipate that his proposal will be controversial and will seek consent of the Parties to this Action before filing.

Although the Receiver does not believe that the stay of discovery issued by this Court [Dkt. 160] impacted his ability to carry out his functions under the Consent Order during the First Quarter 2023, the Receiver expects that such stay will be revisited in light of Alexandre's plea entered on February 10, 2023. As the Receiver transitions the Receivership from asset recovery to a claims process, there may be additional discovery that will assist the Receiver in administering the claims process, and the Receiver may seek relief at the appropriate time if necessary.

A. *Financial Condition Report*

In the First Quarter 2023, the Receiver and his forensics team were able to substantially complete their creation of a reliable EminiFX general ledger to support the Receiver's accounting needs, although such ledger remains subject to further review and revision as additional information is received via the claims process or other discovery. The Receiver and his team at JS Held LLC are nearing completion of the EminiFX Financial Condition Report, with the goal of filing that report by May 15, 2023 or thereabouts.

B. *Motion for Approval of Claims Process*

The Receiver is currently formulating a claims procedure, both for the tens of thousands of potential claims by EminiFX users, as well as what the Receiver expects will be a limited number of claims from non-users. The Receiver's goal in creating such a process, subject to limitations arising from the state of the EminiFX accounting records, is to present EminiFX users with as complete a picture as possible of their net contribution amount to EminiFX. The Receiver expects to file a motion for approval of a claims process sometime in the Second Quarter 2023, and to start such process as soon as practicable after the Court delivers its ruling on such motion.

The Receiver hopes that such a method will reduce the burden on as many EminiFX users as possible, while still providing them with a robust system to submit additional transactions for consideration. Given the volume of claimants, the Receiver expects that this process will take some time. And, as stated above, ***the Receiver encourages all EminiFX users to maintain as many of their records related to EminiFX as possible, especially concerning deposits and withdrawals.***

The Receiver expects to make individual determinations with respect to each of the claims submitted by non-users. The Receiver further expects to include an objection procedure for

non-user claims that will provide them with a notice and opportunity to be heard. Any proposed claims process will be subject to approval by this Court, and the Receiver reserves all rights to object to any claim.

C. *Development of Distribution Plan*

As explained in prior reports, once the claims process is complete, the Receiver intends to develop a distribution plan for court approval, accounting for all relevant issues that arose during the claims procedures process. The Receiver intends to propose a prudent initial distribution as soon as practicable following the Court's approval of a distribution plan. The Receiver further cautions EminiFX users—especially those who have inquired about refunds—that no Receivership funds are intended to be distributed to EminiFX users outside the claims and distribution process approved by the Court.

D. *Evaluation of Potential Litigation Claims*

As part of the administration of the estate, the Receiver intends to evaluate the possibility of litigation claims against third parties for which the estate has standing to pursue under applicable law. The Receiver will seek further relief or instructions from the Court at the appropriate time concerning potential litigation against third parties.

VII. CONCLUSION

The Receiver will provide a further report within 30 days of the end of the Second Quarter 2023, or at such other time as the Court may direct. The Receiver remains available to provide any further information or advice that the Court may require.

Dated: New York, New York
April 28, 2023

Respectfully Submitted,

By: 

DAVID A. CASTLEMAN
Otterbourg P.C.
230 Park Avenue
New York, NY 10169
Tel: (212) 661-9100
Receiver

Melanie L. Cyganowski
Erik B. Weinick
Michael A. Pantzer
OTTERBOURG P.C.
230 Park Avenue
New York, NY 10169
Tel: (212) 661-9100
Counsel for the Receiver

Exhibit 1

Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): Cash General Ledger - 2023 1Q

Category	Type	Dkt	Asset Pool	Amount (USD)	Date	Balance (USD)
Liquidation	Other Crypto	184	General Receivership	\$1,196.11	01/05/2023	\$63,070,305.38
Liquidation	Other Crypto	184	General Receivership	\$3,305.91	01/05/2023	\$63,073,611.29
Liquidation	Other Crypto	184	General Receivership	\$1,983.50	01/05/2023	\$63,075,594.79
Liquidation	Other Crypto	184	General Receivership	\$21,528.29	01/05/2023	\$63,097,123.08
Liquidation	Other Crypto	184	General Receivership	\$11,319.55	01/05/2023	\$63,108,442.63
Liquidation	Other Crypto	184	General Receivership	\$8.39	01/05/2023	\$63,108,451.02
Liquidation	Other Crypto	184	General Receivership	\$2,295.19	01/05/2023	\$63,110,746.21
Recovery	Misc Deposit		General Receivership	\$20,100.00	01/12/2023	\$63,130,846.21
Expenses	Payroll	91	General Receivership	(\$16.88)	01/13/2023	\$63,130,829.33
Liquidation	Bitcoin	184	General Receivership	\$10,062,697.85	01/20/2023	\$73,193,527.18
Retainers	Retainer	91/185	General Receivership	\$5,269.68	01/27/2023	\$73,198,796.86
Expenses	Professional	91/185	General Receivership	(\$5,269.68)	01/27/2023	\$73,193,527.18
Expenses	Professional	185	General Receivership	(\$13,775.21)	01/27/2023	\$73,179,751.97
Expenses	Professional	185	General Receivership	(\$168,790.95)	01/27/2023	\$73,010,961.02
Expenses	Professional	185	General Receivership	(\$68,858.52)	01/27/2023	\$72,942,102.50
Expenses	Professional	185	General Receivership	(\$10,084.65)	01/27/2023	\$72,932,017.85
Expenses	Professional	185	General Receivership	(\$4,328.05)	01/27/2023	\$72,927,689.80
Expenses	Rent	91	General Receivership	(\$185.20)	01/27/2023	\$72,927,504.60
Interest	Interest		General Receivership	\$39,140.72	01/31/2023	\$72,966,645.32
Interest	Interest		Alexandre Assets	\$10,025.69	01/31/2023	\$72,976,671.01
Interest	Interest		General Receivership	\$60,555.56	02/01/2023	\$73,037,226.57
Interest	Interest		General Receivership	\$0.23	02/02/2023	\$73,037,226.80
Recovery	RE Deposit		General Receivership	\$50,000.00	02/02/2023	\$73,087,226.80
Liquidation	Bitcoin	184	General Receivership	\$11,550,563.53	02/03/2023	\$84,637,790.33
Interest	Interest		General Receivership	\$26,085.10	02/03/2023	\$84,663,875.43
Interest	Interest		Alexandre Assets	\$8,881.33	02/03/2023	\$84,672,756.76
Recovery	RE Deposit		General Receivership	\$32,000.00	02/09/2023	\$84,704,756.76
Expenses	Professional	191	General Receivership	(\$152,455.56)	02/15/2023	\$84,552,301.20
Expenses	Professional	191	General Receivership	(\$37,358.79)	02/15/2023	\$84,514,942.41
Expenses	Professional	191	General Receivership	(\$36,286.30)	02/15/2023	\$84,478,656.11
Expenses	Professional	191	General Receivership	(\$29,100.72)	02/15/2023	\$84,449,555.39

Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): Cash General Ledger - 2023 1Q

Category	Type	Dkt	Asset Pool	Amount (USD)	Date	Balance (USD)
Expenses	Professional	185	General Receivership	(\$76,873.50)	02/16/2023	\$84,372,681.89
Expenses	Professional	191	General Receivership	(\$55,143.00)	02/16/2023	\$84,317,538.89
Expenses	Professional	185	General Receivership	(\$59,763.47)	02/16/2023	\$84,257,775.42
Expenses	Professional	191	General Receivership	(\$37,058.98)	02/16/2023	\$84,220,716.44
Liquidation	Bitcoin	184	General Receivership	\$11,230,634.69	02/17/2023	\$95,451,351.13
Expenses	Rent	91	General Receivership	(\$185.20)	02/22/2023	\$95,451,165.93
Interest	Interest		General Receivership	\$52,600.08	02/28/2023	\$95,503,766.01
Interest	Interest		Alexandre Assets	\$22,286.20	02/28/2023	\$95,526,052.21
Interest	Interest		General Receivership	\$128,763.58	02/28/2023	\$95,654,815.79
Expenses	Rent	91	General Receivership	(\$185.20)	03/01/2023	\$95,654,630.59
Liquidation	Bitcoin	184	General Receivership	\$11,757,011.04	03/03/2023	\$107,411,641.63
Interest	Interest		General Receivership	\$33,331.63	03/16/2023	\$107,444,973.26
Interest	Interest		General Receivership	\$81.64	03/16/2023	\$107,445,054.90
Liquidation	Bitcoin	184	General Receivership	\$11,248,649.15	03/17/2023	\$118,693,704.05
Interest	Interest		General Receivership	\$284.06	03/20/2023	\$118,693,988.11
Liquidation	Bitcoin	184	General Receivership	(\$19,069.21)	03/27/2023	\$118,674,918.90
Interest	Interest		Alexandre Assets	\$49.98	03/27/2023	\$118,674,968.88
Liquidation	Bitcoin	184	General Receivership	\$13,874,501.65	03/30/2023	\$132,549,470.53
Interest	Interest		General Receivership	\$154,307.22	03/31/2023	\$132,703,777.75
Interest	Interest		Alexandre Assets	\$23,303.66	03/31/2023	\$132,727,081.41
Interest	Interest		General Receivership	\$84,264.54	03/31/2023	\$132,811,345.95

Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): Digital Asset General Ledger - 2023 1Q

Digital Asset	Symbol	Date	Category	Source	Amount of Digital Asset	USD at time of Transaction
Bitcoin	BTC	1/3/2023	Custodial Fee	Coinbase Custody	-0.45082001	-\$7,519.57
Orchid Token	OXT	1/5/2023	Sale	Coinbase Prime	-17608.00000000	\$1,196.11
Litecoin	LTC	1/5/2023	Sale	Coinbase Prime	-44.99320000	\$3,305.91
Decentraland	MANA	1/5/2023	Sale	Coinbase Prime	-6234.10000000	\$1,983.50
Dogecoin	DOGE	1/5/2023	Sale	Coinbase Prime	-299756.50000000	\$21,528.29
Shiba Inu	SHIB	1/5/2023	Sale	Coinbase Prime	-1338198877.00000000	\$11,319.55
Gala	GALA	1/5/2023	Sale	Coinbase Prime	-470.00000000	\$8.39
Ethereum	ETH	1/5/2023	Sale	Coinbase Prime	-1.84551382	\$2,295.19
Bitcoin	BTC	1/20/2023	Sale	Coinbase Prime	-500.00000000	\$10,062,697.85
Bitcoin	BTC	1/25/2023	Custodial Fee	Coinbase Custody	-1.17013337	-\$26,516.39
Bitcoin	BTC	2/3/2023	Sale	Coinbase Prime	-500.00000000	\$11,550,563.53
Bitcoin	BTC	2/14/2023	Turnover	Crypto Exchange 5	23.1909158	\$505,654.72
Bitcoin	BTC	2/17/2023	Sale	Coinbase Prime	-500.00000000	\$11,230,634.69
Bitcoin	BTC	2/20/2023	Custodial Fee	Coinbase Custody	-1.10603790	-\$26,091.43
Bitcoin	BTC	3/3/2023	Sale	Coinbase Prime	-500.00000000	\$11,757,011.04
Bitcoin	BTC	3/17/2023	Sale	Coinbase Prime	-500.00000000	\$11,248,649.15
Bitcoin	BTC	3/30/2023	Sale	Coinbase Prime	-500.00000000	\$13,874,501.65

Exhibit 2

Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): 2023-1Q Balance Sheet

Assets [1]	Consolidated	General Estate	Alexandre Assets
Cash and Cash Equivalents [2]	\$ 132,734,637	\$ 123,589,744	\$ 9,144,893
Unused Retainers	\$ 25,000	\$ 25,000	\$ -
Digital Assets [3]	\$ 19,695,197	\$ 19,695,197	\$ -
Litigation and Other Claims [4]		<i>To be determined</i>	
Total Assets	\$ 152,454,834	\$ 143,309,941	\$ 9,144,893
Liabilities			
Professional Fees and Expenses for Work Performed but not Paid in Period [5]	\$ 618,055	\$ 618,055	\$ -
Tax Liabilities [6]		<i>To be determined</i>	
Receivership Claims [7]		<i>To be determined</i>	
Total Liabilities	\$ 618,055	\$ 618,055	\$ -
Receivership Net Asset Value	\$ 151,836,779	\$ 142,691,886	\$ 9,144,893

Notes

[1] All assets and liabilities as of March 31, 2023. These statements are unaudited and not in accordance with generally accepted accounting principles in the United States (GAAP) and should not be considered in isolation from or as a replacement for the most directly comparable GAAP financial measures.

[2] Does not include \$76,709 currently held in reserve by the Receiver for payroll expenses for Alexandre and his wife, pending further determination of the Court.

[3] Digital Assets are marked to market based on an average of the high price and low price on coinmarketcap.com on March 31, 2023. Digital assets are highly volatile and their value may fluctuate substantially over time.

[4] The estate may have significant litigation and other claims based on the pre-receivership activities of EminiFX, Inc. and third-parties. The Receiver has not attempted to value those claims for the purpose of this balance sheet.

[5] Fees and expenses to be requested from the Court for work performed in the First Quarter 2023, pending approval by the CFTC. Includes \$599,146 in requested fees and expenses, as well as \$18,909 in fees and expenses for work done in January 2023 by a professional firm that has not yet provided the Receiver with sufficient documentation for submission of such fee and expense request under the terms of the Employment Order [Dkt 47], and therefore cannot yet be requested from the Court.

[6] The estate does not anticipate having a tax liability for 2022 for post-receivership activities. The potential tax liability for 2023 is uncertain at this time. The tax obligation of the estate for the pre-receivership activities of EminiFX, Inc. is uncertain and yet to be determined.

[7] The estate anticipates having significant claims allowed against it, largely owing to thousands of expected EminiFX user claims, as well as other potential claims. The value of these claims is not yet known and will not be fixed until a claims process is submitted to the Court for approval, is approved by the Court, and is completed by the Receiver.

Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): 2023-1Q Income Statement

Income [1]	Consolidated	General Estate	Alexandre Assets
Interest on Accounts	\$ 643,961	\$ 579,414	\$ 64,547
Real Estate Deposit Recoveries [2]	\$ 82,000	\$ 82,000	\$ -
Other Recoveries [2]	\$ 20,100	\$ 20,100	\$ -
Total Income	\$ 746,061	\$ 681,514	\$ 64,547
Expenses			
Administrative Expenses - Requested [3]	\$ 599,146	\$ 599,146	\$ -
Administrative Expenses - Performed [4]	\$ 18,909	\$ 18,909	\$ -
Rent and Related Expenses	\$ 556	\$ 556	\$ -
Payroll and Related Expenses	\$ 17	\$ 17	\$ -
Total Expenses	\$ 618,628	\$ 618,628	\$ -
Receivership Net Income	\$ 127,433	\$ 62,886	\$ 64,547

Notes

[1] Income from January 1, 2023 to March 31, 2023. These statements are unaudited and not in accordance with generally accepted accounting principles in the United States (GAAP) and should not be considered in isolation from or as a replacement for the most directly comparable GAAP financial measures. This income statement is for illustrative purposes only and is not intended to represent the taxable income to the receivership estate.

[2] Recoveries are generally based on claims of related to the pre-receivership activities of EminiFX, Inc. and third parties. Such recoveries do not necessarily taxable income to the receivership estate.

[3] Fees and expenses to be requested from the Court in the First Quarter 2023 Fee Application, pending approval by the CFTC.

[4] Fees and expenses for work done in January 2023 by a professional firm that has not yet provided the Receiver with sufficient documentation for submission of such fee and expense request under the terms of the Employment Order [Dkt 47], and therefore cannot yet be requested from the Court.

Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): 2023-1Q Statement of Cash Flows

	Consolidated	General Estate	Alexandre Assets
Cash on Hand at Beginning of Period [1]	\$ 62,992,400	\$ 53,912,054	\$ 9,080,346
Asset Turnovers and Liquidations [2]			
Liquidation of Digital Assets	\$ 69,746,626	\$ 69,746,626	\$ -
Total Cash Flow from Asset Turnovers and Liquidations	\$ 69,746,626	\$ 69,746,626	\$ -
Receivership Activities			
Interest	\$ 643,961	\$ 579,414	\$ 64,547
Real Estate Recoveries	\$ 82,000	\$ 82,000	\$ -
Other Recoveries	\$ 20,100	\$ 20,100	\$ -
Professional Fees and Retainers [3]	\$ (749,877)	\$ (749,877)	\$ -
Rent and Related Expenses	\$ (556)	\$ (556)	\$ -
Payroll and Related Expenses	\$ (17)	\$ (17)	\$ -
Total Cash Flow from Receivership Activities	\$ (4,389)	\$ (68,936)	\$ 64,547
Cash and Cash Equivalents at the End of the Period [4]	\$ 132,734,637	\$ 123,589,744	\$ 9,144,893

Notes

[1] Cash flows from January 1, 2023 to March 31, 2023. These statements are unaudited and not in accordance with generally accepted accounting principles in the United States (GAAP) and should not be considered in isolation from or as a replacement for the most directly comparable GAAP financial measures.

[2] Includes only the sale of digital assets, and does not include the turnover of digital assets or other assets that are not denominated in United States dollars and do not represent cash.

[3] Fees paid in the first quarter 2023 were for work performed from September to December 2022, and were approved by the Court in the first quarter 2023.

[4] Excluding \$76,709 in payroll expenses for Alexandre and his wife, currently held in reserve by the Receiver pending further determination of the Court.