

**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)

**THIRD QUARTER 2023 REPORT OF RECEIVER DAVID A. CASTLEMAN**

**(SIXTH STATUS REPORT)**

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## **TABLE OF CONTENTS**

I.	INTRODUCTION .....	1
II.	PROCEDURAL HISTORY .....	4
III.	RECEIVERSHIP FINANCES .....	5
IV.	EMINIFX USER TRANSACTIONS AND CLAIMS .....	6
	A. <i>Background and Forensic Analysis</i> .....	6
	B. <i>Transaction Verification and Claims Process</i> .....	8
	C. <i>EminiFX User Portal</i> .....	10
	D. <i>Non-User Claims</i> .....	12
V.	RECEIVERSHIP COMMUNICATIONS .....	12
VI.	TAXES .....	15
VII.	RECOMMENDATIONS AND NEXT STEPS .....	16
	A. <i>User Transaction Verification and Claims Process</i> .....	16
	B. <i>EminiFX User Communications and Town Hall</i> .....	17
	C. <i>Development of Distribution Plan</i> .....	17
	D. <i>Evaluation of Potential Litigation Claims</i> .....	18
VIII.	CONCLUSION .....	18

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 Sixth Status Report (the “**Report**”) to apprise the Court of the activities of the receivership (the “**Receivership**”) during the period from July 1, 2023 through and including September 30, 2023 (the “**Third Quarter 2023**”).<sup>1</sup>

## I. INTRODUCTION

The Third Quarter 2023 was a pivotal point in the Receivership as the Receiver commenced a formal process to determine the universe of persons who may be entitled to a distribution from the EminiFX, Inc. (“**EminiFX**”) receivership estate, including those individuals or entities who deposited funds with EminiFX for investment purposes (otherwise referred to as “**users**” in this Report). During the early stages of the Receivership, the Receiver and his team dedicated significant resources and time to reviewing the records available to him so that he could identify transactions (deposits and withdrawals) made by users to and from the EminiFX system. These efforts proved to be very successful, identifying 112,467 transactions. There were, however, still a significant number of deposits that the Receiver was unable to attribute to specific users. Accordingly, to obtain as complete a record as possible of all contributions and withdrawals, including the matching of any contributions with unknown users, the Receiver launched a transaction verification process.

Specifically, in the Third Quarter 2023, the Receiver sought and obtained approval to implement procedures to verify user transactions. As part of the approved procedures, the Receiver

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<sup>1</sup> The Receiver already reported on certain Third Quarter 2023 activities in the Second Quarter 2023 Report of Receiver David A. Castleman (the “**Fifth Status Report**”) [Dkt. 218], which was filed on July 28, 2023. For the sake of continuity and clarity, this Report may include descriptions by the Receiver of activities that occurred prior to the Third Quarter 2023.

launched an online portal (the “**Portal**”), available to each user free of charge, that allows EminiFX users to verify, update and/or add their EminiFX transactions, in accordance with the Court-approved “**Procedures**” [Dkt. 228]. The Receiver will review the submissions by users and then will use that information to determine the universe of contributions and withdrawals into and out of the EminiFX system, which will then provide the basis for determining the allowed claims of users. Users have through December 18, 2023 to submit their transactions via the Portal.

To engage users in the transaction submission process, the Receiver has undertaken an extensive educational campaign, including sending informational emails to users, updating the Receivership website, creating a FAQ section focused on the Portal and claims process, engaging with community groups, creating a YouTube page<sup>2</sup> that contains how-to videos, hosting two “live stream” town halls on YouTube that have been viewed over 14,000 times, and staffing a call center that has received nearly 2,400 calls and emails during the Third Quarter 2023. All of the content of these channels of communication are available in the languages of Haitian Creole and French.

The Portal went live on September 12, 2023. The Receiver is pleased to report that there has been significant user interaction with the Portal in the first few weeks of operation:<sup>3</sup>

Users Verifying All Transactions	12,030
Users Disputing/Adding Transactions	436
Transactions Verified	50,170
Amount of Deposits Verified	\$126,196,685
Amount of Withdrawals Verified	\$8,999,935

Section IV below provides additional data on the number of users that have interacted with the Portal, submitted transactions for review by the Receiver and of those, the number of transactions that have been verified.

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<sup>2</sup> See <https://www.youtube.com/@EminiFXReceiver>.

<sup>3</sup> As of October 6, 2023.

The Procedures also provide a process for non-user claimants to submit proofs of claim (each a “**Proof of Claim**”). The Receiver is reviewing the Proofs of Claim submitted and expects that additional Proofs of Claim will be submitted by the applicable bar dates.

In the Third Quarter 2023, the Receivership earned \$1,205,127 in interest on its high-yield accounts. During the Third Quarter 2023, the Receivership paid expenses of \$685,089, largely comprising Court-approved professional fees and expenses. As of the end of the Third Quarter 2023, the Receivership has \$154,219,093 in cash and no other material assets. A full ledger of the Receivership cash transactions for the Third 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 Third Quarter 2023.<sup>4</sup>

As previously reported, on February 10, 2023, Alexandre pleaded guilty to one count of commodities fraud in the parallel criminal action, arising from similar conduct as alleged in the Civil Action, *United States v. Alexandre*, No. 22 Cr. 326 (S.D.N.Y.) (the “**Criminal Action**”). Alexandre’s sentencing in the Criminal Action occurred on July 18, 2023. Alexandre surrendered to begin his term of incarceration on or about August 28, 2023. During the Third Quarter 2023, the Receiver communicated with counsel for the CFTC and Alexandre concerning resolution of the Civil Action, and these discussions are ongoing.

Following Alexandre’s sentencing, on July 20, 2023, the Court lifted the stay in this case [Dkt. 213]. Following the lifting of the stay, the Receiver began issuing subpoenas to certain parties, and undertaking other discovery requests, in an effort to gather information regarding

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<sup>4</sup> 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 provide the Court and other interested parties a high-level overview of the financial condition of the Receivership during the Third Quarter 2023.

EminiFX. These efforts are ongoing and the Receiver expects to continue conducting his investigations to determine whether any actions against third parties are warranted.

## 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, the United States Attorney's Office for the Southern District of New York ("USAO") filed the Criminal Action. 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 five prior status reports [Dkts. 71, 163, 192, 195, 218], and is not repeated here. The following actions occurred wholly or partly in the Third Quarter 2023:

Alexandre's sentencing in the Criminal Action occurred on July 18, 2023, at which Judge Cronan sentenced Alexandre to nine years of imprisonment with certain restitution matters reserved [Dkt. 212]. In light of Alexandre's sentencing, the USAO proposed that this Court lift the stay of discovery issued by this Court in this matter [Dkt. 160] and on July 20, 2023, the Court ordered the stay lifted [Dkt. 213].

On July 31, 2023, the Receiver filed an application for fees and expenses incurred in April through June 2023, which was granted on August 10, 2023 [Dkt. 227].

Following the lifting of the stay in this matter, on August 2, 2023, the Court ordered that the Defendants respond to the Complaint by September 18, 2023 [Dkt. 222], which was further extended by the Court to October 18, 2023 and then to December 4, 2023 [Dkts. 230, 233].

On August 10, 2023, the Receiver filed his motion for approval of the Procedures [Dkts. 223-226]. On August 29, 2023, the Court entered an Order approving the Procedures [Dkt. 228], as discussed in detail in Section IV, *infra*.

### **III. RECEIVERSHIP FINANCES**

As noted in the 2022 Annual Status Report [Dkt. 192], 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. As reported in the Fifth Status Report [Dkt. 218], all of the Receivership digital assets have been liquidated, resulting in total net proceeds of over \$90 million. 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 Third Quarter 2023, the Receivership earned \$1,205,127 in interest, and spent \$685,090 in cash for expenses, which included: (i) Court approved professional fees and expenses of \$680,976 for work performed from April through June 2023 [Dkt. 227]; (ii) rent expenses of \$754; and (iii) miscellaneous expenses of \$3,360. The total cash position of the Receivership as of September 30, 2023 was \$154,219,093, of which \$9,293,396 is maintained separately in the Alexandre Assets account, and \$76,709 is maintained separately as a payroll reserve [Dkt. 42].

The estimated fees and expenses for the Receiver and his professional firms that have been incurred during the Third Quarter 2023 total \$1,190,015, pending review and approval by the Court pursuant to the Employment Order [Dkt. 47]. These fees are higher than in prior quarters and reflect the considerable activity in this case during the Third Quarter 2023. The Receiver expects to file a separate application to seek authority to pay such fees and expenses soon after this Report. Nevertheless, the Receiver notes that interest income continues to cover expenses, and that the \$154.2 million in cash under management exceeds the \$151.3 million in turned over assets (cash plus liquidation value) by nearly \$3 million.

The tables attached as Exhibit 2 show the post-appointment balance sheet, income statement, and cash flows for the Receivership during the Third 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.

#### IV. EMINIFX USER TRANSACTIONS AND CLAIMS

##### A. *Background and Forensic Analysis*

EminiFX purported to be a multi-level “investment club” that received over \$260 million in contributions from at least 25,000 users.<sup>5</sup> EminiFX users accessed the platform via an online dashboard (the “**Dashboard**”) and created accounts (“**User Accounts**”) through which they could contribute funds. The Dashboard represented to users that they accrued a fixed weekly return on the pooled holdings between 5.00% and 9.99% per week (the “**ROI**”) and certain users accrued bonuses, including those related to the recruitment of other users. EminiFX also satisfied requests from certain users to withdraw funds from EminiFX, which could and did sometimes include accrued ROI and bonuses. The User Accounts were maintained in an EminiFX MySQL database (the “**Database**”), which was recovered by the Receiver. The Database contained records related to EminiFX users’ contributions, withdrawals, as well as detailed records of the weekly accrual of the ROI and bonuses shown on the Dashboard.

Although the Receiver was able to recover a substantial number of records from EminiFX (including the Database) and from certain third parties (largely financial institutions where EminiFX maintained accounts), there were significant deficiencies in the maintenance of records.

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<sup>5</sup> There are potentially tens of thousands of additional users, although many of these users have no contributions, withdrawals or other activity attributed to their EminiFX User Accounts.



Significantly, the Receiver and his team have found no evidence of any regularly issued user account statements outside of the Database or even a general ledger of any kind. The Receiver and his team undertook a detailed forensic investigation to be able to report on the financial condition of EminiFX, as set forth in the Financial Condition Report, filed on May 16, 2023 [Dkt. 199], and to also enable the Receiver to initiate a claims process by piecing together the record of contributions made to and withdrawals made from the EminiFX system and to identify User Accounts that may have been created, but no contribution or withdrawal identified.

The Database contained a substantial amount of information deemed reliable that assisted the Receiver in attributing most transactions to specific users or purposes. The Receiver and his team also obtained bank account statements, brokerage statements, and cryptocurrency data from the various financial institutions, which the Receiver considers to be the best and most reliable evidence that a specific transaction had actually occurred.

Combining the various bank and cryptocurrency financial data with records from the Database allowed the Receiver and his team to construct a ledger with sufficient reliability to assess the overall financial condition of EminiFX on a weekly basis to coincide with the ROI schedule and to ascertain contributions and withdrawals made to and from EminiFX User Accounts. The Receiver and his team were able to attribute 92% of the cryptocurrency contributions, 85% of the cash contributions, and 95% of the cryptocurrency withdrawals, by dollar amount.<sup>6</sup> However, certain transactions were often not attributable to specific users, especially with respect to the thousands of individual cash contributions.

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<sup>6</sup> The Receiver and his team were able to attribute 99.8% of cryptocurrency withdrawals by transaction count.

B. *Transaction Verification and Claims Process*

To determine the users that may be entitled to an eventual distribution, and to establish bar dates and procedures to determine the identity of non-users and the amount of their non-user claims, on August 10, 2023, the Receiver filed a motion seeking the approval of the Procedures for the verification of user transactions, the establishment of bar dates for non-users to assert claims, and a review process for each.<sup>7</sup> On August 29, 2023, the Court approved the Procedures [Dkt. 228] and the Receiver implemented the process by which users can validate their net contributions to EminiFX using the Portal. The Procedures also provide a process for claimants, who have a claim against EminiFX not based on their status as a user, to complete and serve a Proof of Claim.

The Procedures are intended to set forth a process that can be followed easily by users while affording the Receiver flexibility to review and work with users to verify transactions. Critically, the Procedures and the Portal have been designed to ease, as much as possible, the burden on the vast majority of individual users. At the same time, given the substantial number of users, the Procedures and the Portal are also designed to allow the transaction verification process to scale so that the entire process can be completed in less time and at far less cost than a traditional process whereby users are responsible for submitting their own documentation for each transaction, which must be then verified. The vast majority of users—over 12,000—who logged onto the Portal were able to verify the transactions shown on the Portal, and hit submit, without any further or additional burden to the user or the Receiver’s team.

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<sup>7</sup> The Procedures may be amended from time to time in the judgment of the Receiver, with updates posted on the Website, reports on any changes included in each Regular Quarterly report to the Court, and leave from the Court sought for changes the Receiver deems to be sufficiently material to require further approval.

The timeline of the Receiver's implementation of the Procedures is as follows:

Action	Date
Court approved Procedures.	August 29, 2023 [Dkt. 228]
Receiver held first "live" town hall on YouTube to discuss Receivership and Procedures. <sup>8</sup>	September 6, 2023
EminiFX user Portal launch.	September 12, 2023
Email notice of the user Portal launch sent to all EminiFX users identified by the Receiver.	September 12, 2023
Notice of bar date for filing Proofs of Claim sent to potential claimants via email notice and first-class mail.	September 12, 2023
Update to Receivership Website to address Procedures, among other things.	September 12, 2023
Launch of EminiFX YouTube page with Portal instruction videos. <sup>9</sup>	September 13, 2023
Publication of notice of bar date in the New York Times, New York and National editions.	September 13, 2023
Receiver's counsel sent additional personalized emails to certain potential non-user claimants regarding the notice of bar date. <sup>10</sup>	September 13-14, 2023
Receiver held second "live stream" town hall on YouTube to discuss Receivership and Procedures. <sup>11</sup>	September 28, 2023
General non-user claim bar date.	October 30, 2023 (5:00 p.m. ET)
Deadline to submit user transactions via user Portal.	December 18, 2023 (5:00 p.m. ET)
Governmental non-user claim bar date.	December 27, 2023 (5:00 p.m. ET)

<sup>8</sup> See <https://www.youtube.com/live/SZ7GAi0yjqw?si=roE4KkVS5nLwTcdj>.

<sup>9</sup> See <https://www.youtube.com/@EminiFXReceiver/videos>.

<sup>10</sup> The Receiver's lead counsel sent such personalized emails to counsel for the counterparties that were the subject of the turnovers ordered by this Court on June 17, 2022 [Dkt. 60] and August 3, 2022 [Dkt. 86]. Counsel for each counterparty promptly acknowledged receipt.

<sup>11</sup> See [https://www.youtube.com/watch?v=c8JnRj\\_Bgrk](https://www.youtube.com/watch?v=c8JnRj_Bgrk).

C. *EminiFX User Portal*

One of the key elements of the Procedures is the online EminiFX user Portal developed by the Receiver. The Portal is available to all EminiFX users, free of charge. EminiFX users, known to the Receiver, were sent an email to the email address associated with their EminiFX account, which prompted the user to create an account on the Portal. The Portal displays the actual cash and Bitcoin deposits and withdrawals associated with each user account. The Procedures provide an opportunity for EminiFX users to review the transactions attributed to their account and provide additional information within prescribed parameters.

There has been significant user interaction with the Portal during the Third Quarter 2023. The following is a summary of the user interactions that have been submitted through the Portal as of October 6, 2023:

**Total Users.** Approximately 12,466 EminiFX users have submitted their transactions (*i.e.*, the user has reviewed all of their transactions and have either verified, disputed or added transactions and then submitted such actions for review by the Receiver).

**Verified Transactions.** EminiFX users have verified 50,170 transactions, which is 44.6% of the 112,467 EminiFX user transactions identified by the Receiver. The Verified Transactions mean that these users agree with the transactions—both contributions and withdrawals—identified by the Receiver as displayed in the Portal.

**Disputed Transactions.** EminiFX users have disputed 574 transactions identified by the Receiver, which is only around 1% of the total EminiFX user transactions that have been reviewed and submitted by users. The Disputed Transactions are situations in which the user disagrees with the amount listed for the transaction or believe the transaction is attributable, in whole or in part, to another user. The vast majority of the Disputed Transactions seek to make relatively small

adjustments, which in many cases may be because the user did not take into account fees incurred by the user when initially making the transaction (*e.g.*, a transaction fee charged by CoinPayments to transfer money to the EminiFX account).

**Added Transactions.** EminiFX users have added 2,686 transactions, which involve situations in which a user believes their respective transaction was not identified in the Portal. As previously reported, the Receiver anticipated that there would be a significant amount of Added Transaction because out of the 62,198 users found in the EminiFX system, 16,439 had no transactions associated with their account.

The Receiver and his team are focusing their forensic efforts to address the Disputed Transactions and Added Transactions by reviewing information and documents submitted by users and information compiled by the Receiver and are also reviewing and addressing other submissions made by users in the Portal, including requests to add users to a transaction, merge accounts and unlock accounts. The deadline for users to submit transactions in the Portal is **December 18, 2023 (5:00 p.m. ET)**. The Receiver expects to continue focusing his forensic efforts into processing the Disputed Transactions and Added Transactions, and communicating with users as necessary to resolve such transactions in accordance with the Procedures.

The significant amount of Verified Transactions demonstrates that the Procedures have been cost effective and efficient for both the EminiFX users and the Receiver. The Portal has allowed large amounts of EminiFX users to easily confirm their transactions identified by the Receiver. The Portal has saved users a substantial amount of time and effort by not requiring them to submit documentation if they agree with their transactions identified in the Portal. The Receiver and his professionals have also saved a substantial amount of time and effort because they are not

required to manage and review the submission of documentation for the tens of thousands of transactions that have been verified and that the Receiver anticipates will be verified.

*D. Non-User Claims*

As described above, the Procedures also provide an opportunity for claimants, who have a claim against EminiFX not based on their status as a user, to complete and serve a Proof of Claim. As of September 30, 2023, 30 Proofs of Claim have been submitted, of which 29 appear to be claims submitted by users based upon their status as a user. The Procedures authorize the Receiver to reject, without further review by the Court, any Proof of Claim submitted by a user based solely on their status as user. (Procedures, Sec. 3.C.(I)). For the 29 Proofs of Claim submitted by users based upon their status as a user, the Receiver has emailed each of the respective users informing them that their submitted proof of claim does not verify their user transactions and all such proofs of claim will be denied by the Receiver. The email further directed those users to the Portal where they can review and add transactions. For the one Proof of Claim that was submitted by a non-user, the Receiver is reviewing the Proof of Claim. The general non-user claim bar date is October 30, 2023 (5:00 p.m. ET) and the governmental bar date is December 27, 2023 (5:00 p.m. ET). As described above, the Receiver's counsel has separately reached out to several of the known potential claimants, including those that were the subject of prior motion practice.

**V. RECEIVERSHIP COMMUNICATIONS**

During the Third Quarter 2023 the Receiver focused on increasing the communications with EminiFX users in an effort to engage and educate EminiFX users with respect to the Procedures and the Portal.

The Receiver communicated with investors through email to provide them with pertinent updates in the Receivership, including providing users with notice of virtual town hall sessions, the Court's approval of the Procedures, and steps on how to access the Portal.

The Receiver held two virtual "live stream" town hall sessions that are open to the public free of charge. Recordings of the town halls can be found on the YouTube page established by the Receiver at <https://www.youtube.com/@EminiFXReceiver/streams>. The first town hall was held on September 6, 2023, during which the Receiver gave an overview of the Receivership, discussed the Procedures, and provided viewers with resources about how to identify potential fraud including information on the website investor.gov. The second town hall was held on September 28, 2023, during which the Receiver discussed the Procedures, among other things. The Receiver set aside time during the town hall sessions to answer questions submitted by viewers. The Receiver has also created subtitles for the town halls in Haitian Creole and French. The town halls have been viewed, collectively, over 14,000 times.

The Receiver has created and published "how to" videos on YouTube concerning the Portal, including videos titled "General Instructions and Navigation," "How to Log On to the Portal," and "How to Add a Transaction." These videos can be found at the following website: <https://www.youtube.com/@EminiFXReceiver/videos>. The YouTube videos include subtitles in French and Haitian Creole. The EminiFX Receivership YouTube page has over 2,600 subscribers.

In accordance with the Procedures, the Receiver published notice of bar date in the New York Times, New York and National editions on September 13, 2023. The Proof of Claim and non-user claim notices were sent to all known potential non-user creditors. The Receiver's counsel also sent additional follow-up emails to certain potential claimants with whom the Receiver or his counsel have had prior interaction.

The Receivership website (<http://www.eminifxreceivership.com>), was updated frequently during the Third Quarter 2023 and available in English, French, and Haitian Creole, and 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 report on asset recovery, key filings, frequently asked questions, 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.

EminiFX users may email [EminiFX@Stretto.com](mailto:EminiFX@Stretto.com) with questions or concerns. During the Third Quarter 2023, the Receiver’s team received 1,487 phone calls and 889 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 cost-effective as possible.



## VI. TAXES

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* Dkt. 9, ¶ 31(m) (incorporated at Consent Order ¶ 37)), and during the Third Quarter 2023, the Receiver worked with his tax and accounting teams to prepare a tax return for EminiFX, which was especially difficult given the lack of accounting records for EminiFX or any sort of legal structure around the contributions from EminiFX users. The Receiver is aiming to file an initial corporate return for EminiFX as soon as possible, with the twin goals of—to the extent possible—minimizing the tax burden to the estate while expediting certainty on such return from the Internal Revenue Service.

In addition to preparing the EminiFX tax return, the Receiver must address other tax issues in the Receivership. Pursuant to applicable United States Treasury Regulations, the EminiFX Receivership estate is treated as a Qualified Settlement Fund (“**QSF**”) effective as of the date of the commencement of the Receivership, May 11, 2022. A QSF is a separate entity that is subject to federal income tax requirements that are independent of EminiFX and individual users’ tax requirements. By operation of law, EminiFX’s assets were transferred to the QSF on May 11, 2022. To the extent that assets transferred to the QSF produce includable income, less certain expenses, the QSF will be required to pay tax at the maximum tax rate in effect for that tax year under the Internal Revenue Code. During the Third Quarter 2023, the Receiver worked with his tax and accounting teams to prepare a QSF tax return for 2022, which was filed early in the Fourth Quarter 2023. The 2022 QSF tax return did not report any tax owed.

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 is intended to be tax advice for any EminiFX user, and *each EminiFX user is responsible for his or her own personal tax situation.*

## VII. RECOMMENDATIONS AND NEXT STEPS

### A. *User Transaction Verification and Claims Process*

While December 18, 2023 is the deadline for EminiFX users to submit transactions via the user Portal, in the interim, the Receiver is reviewing and analyzing the user transaction submissions to date, including the Verified Transactions, Disputed Transactions, and Added Transactions. Given the volume of users, and the potential for a number of transactions to have involved pooling by multiple users, the Receiver expects that this process will take some time.

Following the December 18, 2023 deadline for users to submit transactions, in accordance with the Procedures, the Receiver will determine whether the Disputed Transactions and/or Added Transactions are verified, otherwise the transactions will be considered Disputed Transactions. Where a Disputed Transaction arises, the Receiver will notify the user and may attempt to resolve the dispute voluntarily. Upon the Receiver's determination to initiate a formal process, the Procedures provide a process for judicial resolution of the Disputed Transactions (Procedures, Sec. 2.E).

As part of the Procedures, the Receiver is also implementing a process for non-users to submit claims and for review by the Receiver and a determination of whether such claims of non-users should be allowed, partially allowed, or disallowed. Following the expiration of the bar dates

and after the Receiver has had an opportunity to review the filed claims, in accordance with the Procedures, the Receiver will file a report, listing the Receiver's determination, after review of the filed claims, of the allowed amount of each non-user claim. The Receiver or his agents will use non-user identification numbers to identify the non-users in public filings with the Court. Given that the number, amounts, type, and complexity of the non-user claims are not fully known at this time, the Receiver cannot fix a date certain by which he will issue any non-user claims report. In accordance with the Procedures, there is a court approved process for non-users to dispute the Receiver's determination of their filed claims, alternative dispute resolution procedures, and a process for adjudication through summary proceedings (Procedures, Secs. 4.D, 5).

*B. EminiFX User Communications and Town Hall*

The Receiver expects to continue to update the Receivership website, and hold additional town hall presentations and/or post videos to update the EminiFX users on the Procedures, as well as any other relevant updates. The Receiver has been working with community groups representing the communities targeted to participate in EminiFX, to disseminate information about the Receivership and the Procedures.

*C. Development of Distribution Plan*

As explained in prior reports, the transaction verification and claims process is a necessary initial step towards developing a distribution plan for court approval. 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 is evaluating the availability of litigation claims against third parties for which the estate has standing to pursue under applicable law and for which there is a potential for return on investment should such litigation be commenced. The Receiver at this time cannot state whether any actions will be commenced and, if commenced, the value of any claims and the likelihood of collecting on any judgment that may ultimately be obtained. The Receiver will seek further relief or instructions from the Court at the appropriate time concerning potential litigation against third parties.

**VIII. CONCLUSION**

The Receiver will provide a further report within 30 days of the end of the Fourth 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  
October 27, 2023

Respectfully Submitted,

By: 

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*Receiver*

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# Exhibit 1

**Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): Cash General Ledger - 2023 3Q**

Category	Type	Dkt	Asset Pool	Amount (USD)	Date	Balance (USD)
Prior End of Quarter Balance:						\$153,699,055.43
Expenses	Rent	91	General Receivership	(\$358.22)	07/05/2023	\$153,698,697.21
Expenses	Misc	91	General Receivership	(\$2,481.94)	07/05/2023	\$153,696,215.27
Interest	Interest		General Receivership	\$380,276.78	07/31/2023	\$154,076,492.05
Interest	Interest		Alexandre Assets	\$25,443.30	07/31/2023	\$154,101,935.35
Interest	Interest		General Receivership	\$310.47	07/31/2023	\$154,102,245.82
Expenses	Rent	91	General Receivership	(\$198.02)	08/07/2023	\$154,102,047.80
Expenses	Professional	227	General Receivership	(\$417,859.10)	08/11/2023	\$153,684,188.70
Expenses	Professional	227	General Receivership	(\$439.44)	08/11/2023	\$153,683,749.26
Expenses	Professional	227	General Receivership	(\$18,908.88)	08/11/2023	\$153,664,840.38
Expenses	Professional	227	General Receivership	(\$58,296.00)	08/11/2023	\$153,606,544.38
Expenses	Professional	227	General Receivership	(\$48,807.00)	08/11/2023	\$153,557,737.38
Expenses	Professional	227	General Receivership	(\$136,665.12)	08/11/2023	\$153,421,072.26
Interest	Interest		General Receivership	\$380,002.86	08/31/2023	\$153,801,075.12
Interest	Interest		Alexandre Assets	\$25,513.53	08/31/2023	\$153,826,588.65
Interest	Interest		General Receivership	\$315.35	08/31/2023	\$153,826,904.00
Expenses	Rent	91	General Receivership	(\$198.02)	09/05/2023	\$153,826,705.98
Transfer	Transfer Out		General Receivership	(\$1,000.00)	09/11/2023	\$153,825,705.98
Transfer	Transfer In		General Receivership	\$1,000.00	09/11/2023	\$153,826,705.98
Expenses	Misc	91-187	General Receivership	(\$878.00)	09/12/2023	\$153,825,827.98
Interest	Interest		General Receivership	\$368,198.68	09/30/2023	\$154,194,026.66
Interest	Interest		Alexandre Assets	\$24,758.66	09/30/2023	\$154,218,785.32
Interest	Interest		General Receivership	\$305.99	09/30/2023	\$154,219,091.31
Interest	Interest		General Receivership	\$1.66	09/30/2023	\$154,219,092.97

# Exhibit 2

**Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): 2023-3Q Balance Sheet**

<b>Assets [1]</b>	<b>Consolidated</b>	<b>General Estate</b>	<b>Alexandre Assets</b>
Cash and Cash Equivalents [2]	\$ 154,142,384	\$ 144,848,988	\$ 9,293,396
Unused Retainers	\$ 25,000	\$ 25,000	\$ -
Digital Assets [3]	\$ -	\$ -	\$ -
Litigation and Other Claims [4]		<i>To be determined</i>	
<b>Total Assets</b>	<b>\$ 154,167,384</b>	<b>\$ 144,873,988</b>	<b>\$ 9,293,396</b>
<b>Liabilities</b>			
Professional Fees and Expenses for Work Performed but not Paid in Period [5]	\$ 1,190,015	\$ 1,190,015	\$ -
Tax Liabilities [6]		<i>To be determined</i>	
Receivership Claims [7]		<i>To be determined</i>	
<b>Total Liabilities</b>	<b>\$ 1,190,015</b>	<b>\$ 1,190,015</b>	<b>\$ -</b>
<b>Receivership Net Asset Value</b>	<b>\$ 152,977,369</b>	<b>\$ 143,683,973</b>	<b>\$ 9,293,396</b>

**Notes**

[1] All assets and liabilities as of September 30, 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] Liquidation of Digital Assets Completed in the Second Quarter 2023.

[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 Third Quarter 2023, pending approval or modification by 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): 2023-3Q Income Statement**

<b>Income [1]</b>	<b>Consolidated</b>	<b>General Estate</b>	<b>Alexandre Assets</b>
Interest on Accounts	\$ 1,205,127	\$ 1,129,412	\$ 75,715
<b>Total Income</b>	<b>\$ 1,205,127</b>	<b>\$ 1,129,412</b>	<b>\$ 75,715</b>
<b>Expenses</b>			
Administrative Expenses [2]	\$ 1,190,015	\$ 1,190,015	\$ -
Rent and Related Expenses	\$ 754	\$ 754	\$ -
Miscellaneous Expenses	\$ 3,360	\$ 3,360	\$ -
<b>Total Expenses</b>	<b>\$ 1,194,129</b>	<b>\$ 1,194,129</b>	<b>\$ -</b>
<b>Receivership Net Income</b>	<b>\$ 10,998</b>	<b>\$ (64,717)</b>	<b>\$ 75,715</b>

**Notes**

[1] Income from July 1, 2023 to September 30, 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] Fees and expenses to be requested from the Court in the Third Quarter 2023 Fee Application, pending approval or modification by the Court.

**Receivership Estate of EminiFX and Alexandre (22 Civ. 3822): 2023-3Q Statement of Cash Flows**

	<b>Consolidated</b>	<b>General Estate</b>	<b>Alexandre Assets</b>
<b>Cash on Hand at Beginning of Period [1]</b>	\$ 153,622,347	\$ 144,404,666	\$ 9,217,681
<b>Receivership Activities</b>			
Interest	\$ 1,205,127	\$ 1,129,412	\$ 75,715
Professional Fees and Retainers [2]	\$ (680,976)	\$ (680,976)	\$ -
Rent and Related Expenses	\$ (754)	\$ (754)	\$ -
Miscellaneous Expenses	\$ (3,360)	\$ (3,360)	\$ -
<b>Total Cash Flow from Receivership Activities</b>	<b>\$ 520,037</b>	<b>\$ 444,322</b>	<b>\$ 75,715</b>
<b>Cash and Cash Equivalents at the End of the Period [3]</b>	<b>\$ 154,142,384</b>	<b>\$ 144,848,988</b>	<b>\$ 9,293,396</b>

**Notes**

[1] Cash flows from July 1, 2023 to September 30, 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] Fees paid in the third quarter 2023 were for work performed from in the second quarter 2023 (and \$18,909 for work in the first quarter 2023), and were approved by the Court in the third quarter 2023.

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