

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

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

**EDDY ALEXANDRE and
EMINIFX, INC.**

Defendants.

Case No.: 22 C 3822-VEC

Judge Caproni

CFTC’S REPLY MEMORANDUM OF LAW IN SUPPORT OF DISTRIBUTION PLAN

The CFTC submits this memorandum in support of the Receiver’s proposed distribution plan. The plan appears to be reasonable and in the best interests of the victims of the Defendants’ fraud. The Receiver’s plan, if adopted, will fairly and efficiently return funds to the victims. Though reasonable minds could disagree about a few of the more difficult issues addressed by the Receiver—most notably whether a “rising tide” or a “net investment” distribution would be fairest—the Receiver has offered logical and compelling reasons for its proposal and the proposed distribution plan appears to be at least as fair as any other plan.

Alexandre’s objection to the plan appears to be based on misunderstandings and falsehoods. In particular, Alexandre falsely alleges that the plan would “give \$18 million to the CFTC.” ECF 394 at 1. In reality, the plan specifically states that any penalty¹ levied by the CFTC in connection with this case should be subordinated to valid claims submitted by the users, who are the victims of the fraud. ECF 382 at 14-17. As the Receiver explains, subordinated

¹ To be clear, any civil penalty imposed in this action will be payable not to the CFTC, but rather to the United States Treasury. The CFTC does not have a financial interest in the outcome of this case or in the approval of the Receiver’s proposed distribution plan.

claims like any civil penalty “are not expected to receive a distribution” because money would be paid only after *all valid user claims are paid in full*. *Id.* at 16-17. Such a complete recovery is unlikely because Alexandre squandered tens of millions of dollars of victim money through ill-considered trading and profligate spending.

Because the Receiver’s proposed distribution plan appears to be reasonable, fair, efficient, and in the best interests of the victims, the CFTC supports it and asks the Court to approve it.

Dated: September 26, 2024

Respectfully submitted,

COMMODITY FUTURES TRADING
COMMISSION

/s/ Douglas Snodgrass

Douglas Snodgrass

Elizabeth Streit

U.S. Commodity Futures Trading Commission

Division of Enforcement

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CERTIFICATE OF SERVICE

I hereby certify that on today's date I caused a copy of the foregoing document to be served via ECF on all parties of record.

The document was served upon Eddy Alexandre via U.S. Mail at the following address:

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By: /s/ Douglas Snodgrass
Douglas Snodgrass