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November 8, 2024

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 – Third Quarter 2024

Dear Judge Caproni:

Pursuant to this Court's Order dated June 10, 2022 concerning applications for professional fees and expenses [Dkt. 47], as amended on February 2, 2023 [Dkt. 187] and on June 30, 2023 [Dkt. 209] (the "**Employment Order**"), David Castleman, the court-appointed receiver (the "**Receiver**") over Defendant EminiFX, Inc. ("**EminiFX**") and certain assets of Defendant Eddy Alexandre ("**Alexandre**"), in the above-referenced action (the "**Civil Action**") pursuant to the Consent Order for Preliminary Injunction [Dkt. 56] ("**Consent Order**"), respectfully submits this application (the "**Application**") for the payment of professional fees and expenses for the period of July 1, 2024 through September 30, 2024 (the "**Application Period**"). The Receiver requests approval of payment of fees and expenses to the Receiver and the following firms: Otterbourg P.C. ("**Otterbourg**"), J.S. Held LLC ("**JS Held**"), Deloitte Tax LLP ("**Deloitte Tax**"), Crowe LLP ("**Crowe**"), and Stretto, Inc., ("**Stretto**") (collectively, the "**Professional Firms**").

During the Application Period, the Receiver continued to make substantial progress in implementing his goal of distribution to investors before the end of the calendar year, filing a proposed plan of distribution on August 9, 2024, with briefing completed on September 27. The Receiver and his professionals recorded over 5,100 hours of billable time during the Application Period, the vast majority of which was spent on the labor-intensive transaction verification process. That process was substantially completed during the Application Period, with quality control and the revised User Portal completed after the end of the Application Period. The results of this process were detailed in the Schedule of User Transactions [Dkt. 417] filed on October 30, showing thousands of disputed User Claims decided, nearly 5,000 user-added transactions for over \$26 million verified, and over 30,000 Users eligible for an initial distribution under the Proposed Plan if approved.

The Receiver and each of the Professional Firms have agreed to a public-service discount of their fees given the circumstances of the receivership. For the Application Period, (i) the Receiver requests fees of \$228,907.50; (ii) Otterbourg requests fees of \$1,140,665.15 and all expenses have been waived; (iii) JS Held requests fees of \$430,503.50 and expenses of \$16,149.49; (iv) Deloitte Tax requests fees of \$38,928.00 and expenses of \$1,946.00; (v) Crowe requests fees



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of \$11,194.50; and (vi) Stretto requests fees of \$203,718.00 and expenses of \$30,203.69. Otterbourg's requested fees reflect \$387,401.05 in total discounts that includes both the standard public service discount (\$201,293.85) and additional discounts at the request for the Receiver as detailed in the invoice (\$186,107.20). In addition to the Receiver's \$188,272.50 discount, the combined discounts of Otterbourg and the Receiver for the Application Period total \$575,673.55.

The total requested or incurred fees of \$2,053,916.65 and expenses of \$48,299.18 for the Application Period are reasonable given the significant complexity and substantial work completed, as set forth in detail in Part III. The size of the fee request is largely driven the transaction review process, and the Receiver expects that substantial completion of that process will result in lower fee requests for the remainder of the Receivership. The fees for September and some of the billed work in October already begin to show such decrease.

The Standardized Fund Accounting Report annexed to the Receiver's affidavit shows the cash flows in and out of the Receivership. The Receivership continued to earn substantial interest, over \$1.2 million during the Application Period. The \$152.9 million in cash under management exceeds the \$151.1 million in turned over assets (cash plus liquidation value less custodial fees) by over \$1.8 million.

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. 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. Any EminiFX members who have any questions regarding this Application may send an email to the Receiver's team at EminiFX@Stretto.com, as directed by this Court in its order dated August 12, 2022 [Dkt. 106]. Unless a party has made a motion to intervene, and that motion has been granted by the Court, parties 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.



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3d 221, 223 (W.D.N.Y. 2020) (quoting *SEC v. Platinum Mgmt. (NY) LLC*, No. 16-CV-6848, 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, 2015 WL 13678841, at *1 (S.D.N.Y. Sept. 14, 2015) (citations omitted). “In addition, in a securities receivership, opposition or acquiescence by the [regulatory agency] to the fee application will be given great weight.” *Byers*, 590 F. Supp. 2d at 644 (cleaned up).

II. Procedural History

The Receiver’s Third Quarter 2024 Report, filed on November 8, 2024, sets forth in detail the procedural history during the Application Period [Dkt. 418, at 4-7]. During the Application Period, Mr. Alexandre’s motion to dismiss was dismissed on July 10 [Dkt. 355], and Mr. Alexandre filed his answer to the CFTC Complaint on August 5 [Dkt. 377]. Mr. Alexandre included counterclaims in his answer, and the Receiver and the CFTC filed motions to dismiss on August 23 [Dkts. 386-89], and briefing remains ongoing.

On July 16, 2024, the Court approved a briefing schedule for the CFTC’s motion for summary judgment [Dkt. 358]; consistent with that schedule, the CFTC filed its motion on September 23 [Dkts. 395-96]. The Receiver filed a response to the CFTC’s motion on October 11, without waiver of any argument Mr. Alexandre chooses to make in opposition [Dkt. 411]. Mr. Alexandre’s deadline to respond to the motion was extended to November 29 [Dkt. 413].

On July 17, 2024, the Court approved a schedule for submission of the Receiver’s Proposed Plan and Plan Motion, as well as responses thereto [Dkt. 359]. On August 2, the Receiver filed his Non-User Claims Report, which identified all non-user claims that had been settled and the one claim that remain unresolved [Dkt. 369]. The Receiver disallowed that claim, the claimant objected through counsel, and resolution discussions remain ongoing.

On August 2, 2024, the Receiver filed a Second Quarter 2024 status report, and a fee application for that quarter. On August 16, the Court approved the Receiver’s application for fees and expenses for the Second Quarter 2024 [Dkt. 385].¹

On August 9, 2024, the Receiver filed a motion for approval of the Proposed Plan [Dkts. 381-84]. The Receiver complied and filed User responses to the Proposed Plan on September 10.

¹ Prior fee applications had been granted on August 5, 2022 [Dkt. 92], October 25, 2022 [Dkt. 167], January 27, 2023 [Dkt. 185], February 13, 2023 [Dkt. No. 191], May 11, 2023 [Dkt. 198], August 10, 2023 [Dkt. 227], and November 15, 2023 [Dkt. 237], February 9, 2024 [Dkt. 255], May 16, 2024 [Dkt. 307].



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[Dkt. 390]. Mr. Alexandre filed opposition to the Proposed Plan [as amended, Dkt. 394]; the CFTC filed a response reflecting the Commission's support [Dkt. 398]. The Receiver filed his reply in support of the Plan Motion and Proposed Plan on September 27 [Dkt. 399], completing the briefing contemplated by the approved scheduling order.

III. Summary of Services During the Application Period

Transaction Verification and User Claims Process. During the Application Period, the Receiver and his teams at Otterbourg, JS Held, and Stretto continued to implement the transaction verification and claims process, examining user submissions and transaction disputes submitted through the user Portal, communicating with users through the Portal regarding their transactions, and resolving other user requests. As previously reported, resolving disputed and added transactions is a labor-intensive process. Because of the poor state of the internal EminiFX records recovered (as detailed in prior filings), and due to how the EminiFX system was utilized while in operation, reviewing and comparing documents and users' additions requires an exercise of careful review and judgment. The Receiver and his team have taken care to review each user's submission in order to ensure that each transaction log is as accurate as possible, as that log will form the basis of the users' claims and their expected distributions.

During the Application Period, the Receiver and his team were able to complete the bulk of the disputed transaction review, which included a quality control review that continued into October in advance of filing the Schedule of User Transactions on October 30 [Dkt. 417]. As a result of his review, the Receiver was able to validate 4,892 added transactions, resulting in over \$26.4 million in additional claims that will form the basis for a distribution to the affected people. Approximately 3,000 users who disputed transactions have had their transactions fully resolved and will be eligible for a distribution under the Proposed Plan. Nearly 33,000 users now have fully resolved transactions, and the Receiver projects that over 30,000 users will be eligible for an initial distribution under the Proposed Plan if approved.

However, some disputed transactions remain. For 4,486 added transactions, the Receiver determined that the transaction was not an actual contribution to or withdrawal from EminiFX (e.g., the payment of ROI or bonuses, a payment from one user to another, a transaction that another user had made, and so forth), and therefore should not be used in calculating distributions. For 2,544 added transactions, despite the Receiver's best efforts, there was insufficient corroboration to validate that the transaction occurred, and such users will get a second opportunity in the objection process to provide such information. These 7,030 disputed transactions represent just under 6% of the 119,850 total transactions, and affect 3,627 (approximately 10%) of the users.

In an effort to resolve the remaining disputed transactions, during the Application Period, the Receiver and his team updated the user Portal to provide users with revised transaction logs, each updated to reflect the results of the Receiver's review and analysis of the user's submissions.



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Users with disputed transactions have the opportunity through the Portal to either accept or object to the Receiver's proposed resolution, and to provide additional documentation or information that corroborates the claimed Transaction or dispute. The updated portal will also allow users to submit payment information in anticipation of any distributions to which they may be entitled. The updated Portal went live on October 30, the same day the Schedule of User Transactions was filed with the Court. The deadline for users to object to their disputed transactions through the Portal is December 16, 2024.

Non-User Claims. As noted above, all but one of the non-user claims have been resolved. The Receiver is engaged in ongoing discussions to consensually resolve this claim.

Proposed Plan of Distribution. As noted above, on August 9, 2024, the Receiver filed his Plan Motion and Proposed Plan. As of September 27, 2024, the Plan Motion has been fully briefed. During the Application Period, the Receiver and his team spent substantial time before filing the Proposed Plan in the drafting of the Proposed Plan, the motion to approve it, and the Receiver's affidavit in support of the Proposed Plan. The Receiver and his team also solicited responses from users, reviewed each one received, and organized and filed a compendium of those responses. The Receiver and his team also reviewed Mr. Alexandre's opposition to the Proposed Plan and filed a reply brief. As a result of the transaction review efforts undertaken during the Application Period, the Receiver is prepared to commence distributions if and when a plan is approved.

Tax Liability. During the Application Period, the Receiver worked with his tax and accounting teams to minimize, if possible, the tax burden while expediting certainty from the IRS. During the Application Period, tax and accounting teams assisted the Receiver to analyze pre-receiver tax liability, in beginning to prepare the necessary forms for a filing. The team also assisted the Receiver in preparing the Qualified Settlement Fund (the "QSF") tax return for the Receivership for 2023. The QSF tax return was filed on October 11, 2024.

Investigation into Third Party Claims. The Receiver's legal team at Otterbourg, in consultation with and supervised by the Receiver, continued its investigation into potential claims that the receivership may have against third parties. Such claims could result in a direct financial recovery of the estate, or in the reduction or elimination of certain claims against the estate. During the Application Period, the Receiver and his legal team continued to communicate and review documents received by third parties. The Receiver also commenced an investigation into an issue concerning millions of dollars of EminiFX funds. That and other investigations remain ongoing. The Receiver will seek further relief or instruction from this Court as necessary, and may commence civil actions against certain third parties before the end of the year.

Administration of the Estate and Case. The Receiver, assisted by his counsel at Otterbourg, supervised the administration of the estate, including monitoring bank accounts, redirecting and opening mail, and other tasks incidental to the management of the estate. The



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Receiver, with the assistance of Otterbourg, filed a status report advising the Court of the activities from the prior quarter [Dkt. 370].

The Receiver continues to communicate with Alexandre regarding the Receivership as necessary via the CorrLinks system and the U.S. Mail. Alexandre has filed multiple motions and requests in the civil action. Unless required to do so, the Receiver has endeavored to conserve estate resources by filing responses only when necessary or when ordered by the Court.

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 aggregate fees being requested have been discounted for the public service each firm has been performing. The Receiver and the Professional Firms have reasonably and diligently exercised their duties during the Application Period, and the Receiver respectfully submits that they are entitled to be fairly compensated for services rendered.

The Receiver. As set forth above, the Receiver spent substantial time administering all aspects of the receivership. The Receiver respectfully requests the Court approve payment of \$228,907.50 in fees to the Receiver, which reflects a discount of over 45% from his normal rate—a savings of \$188,272.50 to the estate. The Castleman Affidavit attached as Exhibit 1 includes additional detail on his billing, as well as his supervision of the various Professional Firms.

Otterbourg. As set forth above, Otterbourg spent substantial time assisting the Receiver in administering and providing legal advice concerning all aspects of the receivership, including conducting the review of disputed user transactions in connection with the user verification and claims process, investigating potential third-party claims, and in the preparation of a proposed plan of distribution. Otterbourg played a key role in the review of user transactions, and the development of the review platform and the Portal, which accounted for the bulk of its time this quarter. At the Receiver's request, Otterbourg offered an additional discount of \$186,107.20 over and above the standard 15% public service discount in this case, resulting in a total discount of \$387,401.05. Expenses were waived. The Receiver respectfully requests the Court approve payment of \$1,140,665.15 in fees to Otterbourg. The Feeney Affidavit attached as Exhibit 2 describes in more detail the work performed.

JS Held. JS Held continued to provide substantial forensic services to the estate, including the development of the review platform and analysis of user transactions in connection with the implementation the transaction verification and claims process. The Receiver respectfully requests the Court approve payment of \$430,503.50 in fees and \$16,149.49 in expenses to JS Held. The O'Malley Affidavit attached as Exhibit 3 describes in more detail the work performed.



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Deloitte Tax. Deloitte Tax has provided the estate with tax analysis and strategic advice, in connection with determining EminiFX's pre-receivership tax liability. During the Application Period, Deloitte Tax assisted the Receiver the analysis of that pre-receivership tax liability and the initial calculation of the tax reserves to be held prior to an initial distribution on account of that return. Deloitte tax incurred fees of \$38,928.00 and expenses of \$1,946.00 during the Application Period. The Young Affidavit attached as Exhibit 4 describes the work performed.

Crowe. Crowe has provided the estate with critical tax support and analysis, including preparing the QSF Return for 2023, which was timely filed just after the Application Period, as well as the tax reserves to be held prior to an initial distribution on account of that return. The Receiver respectfully requests the Court approve payment of \$11,194.50 in fees to Crowe. The Davis Affidavit attached as Exhibit 5 describes the work performed.

Stretto. Stretto has managed all user communications and continued to play a key role in the implementation of the Portal and the transaction verification and claims process and the claims resolution and plan process. The Receiver respectfully requests the Court approve payment of \$203,718.00 in fees and expenses of \$30,203.69 to Stretto. The McElhinney Affidavit attached as Exhibit 6 describes in more detail the work performed.

V. Conclusion

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David A. Castleman", with a long horizontal flourish extending to the right.

David A. Castleman
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 Receiver

Attachments

cc: Counsel of Record (*via ECF*)
 Eddy Alexandre (*via U.S. Mail*)

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)

**DECLARATION OF DAVID CASTLEMAN IN SUPPORT OF APPLICATION
FOR FEES AND EXPENSES (JULY 1, 2024 – SEPTEMBER 30, 2024)**

1. I am an attorney duly licensed to practice in the State of New York, a member of the firm at Otterbourg, P.C. (“Otterbourg”), 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 me to employ Raines Feldman LLP (“Raines Feldman”), Forchelli Deegan Terrana LLP (“FDT”), JS Held, LLC (“JS Held”), Crowe LLP (“Crowe”), and Stretto, Inc. (“Stretto”) [Dkt. 47 (the “Employment Order”)]. On February 2, 2023, the Court entered an order authorizing me to substitute Raines Feldman for Otterbourg as my counsel effective as of January 30, 2023 [Dkt. 187]. On June 30, 2023, the Court entered an order authorizing me to employ Deloitte Tax LLP (“Deloitte Tax”) (the “Deloitte Retention Order”)

[Dkt. 209]. For purposes of this declaration, Otterbourg, JS Held, Stretto, Crowe, and Deloitte Tax shall be referred to as the “Professional Firms.”

3. This declaration is made in support of the Application for Fees and Expenses (the “Application”) for the Receiver and the Professional Firms from July 1, 2024 through September 30, 2024 (the “Application Period”). Annexed to this declaration is a true and correct copy of the Standardized Fund Accounting Report for the Third Quarter 2024 that I prepared for this matter.

4. I supervised generally the work of the Professional Firms 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 Professional 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.

MY WORK AS RECEIVER

6. During the Application Period, the Professional Firms and I performed a considerable amount of services for the benefit of the estate. The Professional Firms, acting under my direction, performed services administering the estate, implemented and developed the procedures for submitting transactions and claims, and assisted me with a broad range of matters that have arisen in the receivership. By far, the primary focus of me and my team was the completion of the transaction review in connection with the User Transaction Verification process [Dkt. 228], so that we can sure as many EminiFX users as possible receive allowed claims where eligible, while reducing the burden on individual users as much as possible.

7. In the interests of the estate and pursuant to the Employment Order, I have discounted my regular billing rate nearly in half, to \$575 per hour. I spent 409 hours on billable time during the Application Period, including 10.9 hours that has been written off pursuant to the CFTC Billing Instructions, for a total of \$228,907.50 in requested fees.¹ All of my time records reflect time recorded in the regular and ordinary course of administering the receivership estate contemporaneously with the services provided. True and correct copies of my time records are attached as Exhibit 1-1, and filed under seal pursuant to the Employment Order.

8. During the Application Period, I managed receivership operations with the assistance of Otterbourg as legal counsel, JS Held as financial advisor, Stretto as claims administrator, Crowe as tax professionals and Deloitte Tax as special tax professionals. I coordinated with Stretto regarding the claims process, website administration, and responding to investor communications. Otterbourg and I drafted a status report [Dkt. 370] filed on August 2, 2024 to apprise the Court and interested parties of the activities of the receivership for the first quarter of 2024.

9. In this civil action, as previously reported, Alexandre has been proceeding pro se. Otterbourg and I have been reviewing motions and requests filed by Alexandre and preparing and filing responses to those requests as necessary. Pursuant to this Court's April 2, 2024 Order [Dkt. 290], Alexandre has added me as an approved contact in the CorrLinks system. I have been communicating frequently with Alexandre through the CorrLinks system regarding various issues in the Receivership, including sending Alexandre emails with the docket entries of orders entered by the Court, as well as copies of those orders via U.S. Mail.

¹ At my normal billing rate, the total fees would have been \$417,180.00. The total requested fees of \$228,907.50 reflect a discount of \$188,272.50, which is an effective 45% reduction.

10. Otterbourg and I continued to monitor activity in the criminal case, *U.S. v. Alexandre*, No. 22 Cr. 326 (JPC) (S.D.N.Y.) (the “Criminal Action”) as well as *Joseph v. General Conference Corporation of 7th Day Adventist et al.*, No. 23 Civ. 21552 (S.D. Fla.) (the “Florida Action”). Motions to dismiss are currently pending in the Florida Action and discovery is continuing. I previously received a subpoena for documents in the Florida Action and expect to make a production during the fourth quarter.

11. Otterbourg and I continued to undertake discovery requests, in an effort to gather information regarding EminiFX and to analyze and pursue potential third-party claims. We reviewed responses to subpoenas and continued to review documents. Otterbourg and I communicated with third parties with additional follow-up questions and document requests. I also commenced a new investigation into an issue concerning millions of dollars of EminiFX funds, and solicited the assistance of Otterbourg and JS Held to do so.

12. As previously reported, Otterbourg, JS Held, Stretto and I continued our review and analysis of the user transaction submissions. Given the volume of submitted transactions, the amount of time it will take to review such transactions, and the poor state of the internal EminiFX records recovered (as noted in prior filings), the Professional Firms and I continued to implement transaction review systems during the Application Period.

13. The primary phase of the transaction review process was completed during the Application Period, with quality control and final review completed in October. Of the over 5,000 hours spent on the Receivership by all professionals during the Application Period, the vast majority of that time was spent on the review of disputed user transactions.

14. In connection with completing the disputed transaction review, Otterbourg assisted me in filing the Schedule of User Transactions on October 30, 2024 (the “Transaction Schedule”).

As reported in the Transaction Schedule, the review resulted in the validation of 4,892 added transactions resulting in over \$26.4 million in additional claims that will form the basis for a distribution to the affected users. Approximately 3,000 users who disputed transactions have had their transactions fully resolved and will be eligible for a distribution under the proposed plan.

15. The Transaction Schedule also sets forward disputed transactions that remain to be resolved. During the Application Period, I along with other professionals assisted prepared an updated Portal to give users with disputed transactions another chance to resolve their claims. Regular meetings were held to discuss the concept of how the updated Portal should look and work. The idea was to make the updated Portal as user friendly as possible. The updated Portal launched on October 30, 2024. To date, I have received thousands of responses and hope to be able to resolve as many claims as possible.

16. In general, I believe the User Transaction Verification process was necessary and in the best interest of the estate. In my judgment, it was essential to validate every User's transactions where possible, but because there is a fixed (even if substantial) pot of funds for distribution, fairness dictates that Users be credited only with actual contributions that were in fact completed. Also, in my judgment, the User Transaction Verification process reduced to the extent possible the burden on EminiFX Users of filing a claim, while still maintaining sufficient accuracy, providing affected Users with sufficient due process, and ensuring that as many as Users as possible are granted allowed Claims where eligible.

17. I, along with my legal team continued to resolve non-user claims. On August 2, 2024, I filed a Non-User Claims Report [Dkt. 369]. The Non-User Claims Report identifies all non-user claims that were filed and previously allowed pursuant to settlement agreements. There remains one non-user claim that has not been settled, which I proposed to disallow in full. The

affected claimant has—through newly retained counsel—objected to my determination. Discussions, now through counsel, are ongoing in an attempt to consensually resolve the objection, and I am considering mediation as set forth in the Claims Procedures [Dkt. 228, at 12].

18. During the Application Period, the Professional Firms and I continued to prepare a proposal of a plan of distribution (the “Proposed Plan”), which was filed on August 9, 2024 [Dkts. 381-84], along with a motion to approve the Proposed Plan. The Professional Firms and I have held meetings to discuss plan procedures and anticipate that the Portal will be the primary tool for users to provide feedback on a distribution plan.

19. During the Application Period, I continued to work with my tax and accounting advisors to review and analyze certain tax issues, including the treatment of the receivership estate as a Qualified Settlement Fund (“QSF”). The QSF tax return for 2023 was timely filed on October 11, 2024.

ATTESTATIONS

20. To the best of my knowledge, all the fees requested in my billing records attached hereto as Exhibit 1-1 are true and correct and comply with the CFTC Billing Instructions.

21. The fees that I have charged as Receiver are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. My services and time expenditures are reasonable in light of the labor required for the matters for which I was appointed. I respectfully submit that I have not expended time unnecessarily and that I have rendered efficient and effective services.

22. 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

23. I have reviewed the declaration submitted by Jennifer S. Feeney of Otterbourg attached as Exhibit 2, and the invoice and time entries for Otterbourg attached as Exhibit 2-1. During the Application Period, Otterbourg has assisted me with all aspects of the administration of this case, including drafting of status reports, communications with parties-in-interest, managing the transaction verification and claims process, analyzing potential third party claims, assisting with my analysis of the EminiFX tax liability, and assisting with the proposed plan of distribution. Otterbourg has also assisted me with a new investigation into an issue concerning millions of dollars of EminiFX funds.

24. Otterbourg has spent a considerable amount of time assisting and giving legal advice regarding the claims process, procedures and next steps. Since the launch of the Portal, Otterbourg has been assisting with the claims process by analyzing thousands of disputed transactions, communicating with users regarding those transactions, and in making recommendation to me for the initial resolution of disputed transactions. I have personally reviewed all of the thousands of users' transactions, and the work, time and effort Otterbourg performed in completing the process was both extremely complex, and necessary to effect my goal of making a distribution by the end of the year if possible. Otterbourg played an in important role in preparing the Proposed Plan, the Transaction Schedule and creating the updated Portal.

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

which Otterbourg was retained and performed at my direction. In an effort to keep fees low, Otterbourg has been utilizing lower billers for ongoing, time consuming tasks with senior attorney overview.

26. In addition to and compounded with its public service discount, and at my request, Otterbourg has offered additional discounts equivalent to capping rates at \$575 (my rate) for the Transaction Review, and at \$795 an hour for certain lawyers in connection with the drafting of the Proposed Plan. Otterbourg has also, at my request, written off additional otherwise billable items, which I believe is appropriate under the circumstances. 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.

27. I have reviewed the declaration submitted by Stephen O'Malley of JS Held attached as Exhibit 3, and the invoice and time entries for JS Held attached as Exhibit 3-1. During the Application Period, JS Held was an integral part of the transaction review process. JS Held spent considerable effort compiling user transaction data, analyzing that data and implementing my decisions with respect to thousands of initially disputed transactions, and in preparing the results for transmission to the updated Portal. JS Held also spent time updating the transaction review platform to assist both me and my legal team in the transaction review. JS Held also provided the estate with financial advice and various project management and organizational functions, including assisting me with a new investigation into an issue concerning millions of dollars of EminiFX funds.

28. 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 3-1 comply with the CFTC Billing Instructions.

29. I have reviewed the affidavit submitted by Daniel Young of Deloitte Tax attached as Exhibit 4, and the invoice and time entries for Deloitte Tax attached as Exhibit 4-1. During the Application Period, Deloitte Tax assisted in providing me with tax analysis and strategic advice related to the pre-receivership tax liability of EminiFX, in connection with my obligation to file a pre-receivership tax return.

30. In my view, the fees and expenditures that Deloitte Tax seeks are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. 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 and the Deloitte Retention Order concerning expenses [Dkt. 209, at 3 n.2].

31. I have reviewed the affidavit submitted by Conrad Davis of Crowe attached as Exhibit 5, and the invoice and time entries for Crowe attached as Exhibit 5-1. Crowe has served as the estate's tax advisor. During the Application Period, Crowe advised me on the Qualified Settlement Fund tax liability of the Receivership and continued to prepare the 2023 tax return. Crowe also assisted in pre-receivership tax advice, where applicable.

32. 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 5-1 comply with the CFTC Billing Instructions.

33. I have reviewed the declaration submitted by Daniel McElhinney of Stretto attached as Exhibit 6, and the invoice and time entries for Stretto attached as Exhibit 6-1. Stretto is a highly experienced claims administrator, and has been instrumental in advising of the claims administration process and in maintaining the EminiFX User Portal.

34. During the Application Period, at my direction, Stretto has made various updates to the Portal in order to make our review easier and more efficient. Stretto has been assisting me with the plan of distribution, including making suggestions about the portal and how it will appear once the claims review is complete, and has advised on the logistics for distribution payments. Stretto played a key role in updating the Portal once the transaction review was completed. Stretto assisted me in updating the Receivership website with court filings, sending notices regarding the claims process, and ensuring that the website, email communications and town hall videos are also available in Haitian Creole and French. Stretto has also reviewed, tracked, and responded to EminiFX investor communications; and circulated investor communications reports.

35. 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 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 8th day of November 2024 at New York, New York.

/s/ David A. Castleman

David A. Castleman

General Receivership
2024 3Q

STANDARDIZED ACCOUNTING REPORT FOR EminiFX, Inc. and Alexandre Receivership
Civil Court Docket No. 22 Civ. 3822 (VEC) (S.D.N.Y.)
Reporting period 07/01/2024 to 09/30/2024

		Detail	Subtotal	Grand Total	Notes
Line 1	Beginning Balance (07/01/2024)	\$153,223,985		\$153,223,985	Total Balance
	Increases in Fund Balance				
Line 2	Business Income				
Line 3	Cash and Securities				
Line 4	Interest/Dividend Income	\$1,203,410			
Line 5	Asset Liquidation				
Line 6	Third Party Litigation Income				
Line 7	Other Miscellaneous				
	Total Funds Available - Total Lines 1-7		\$1,203,410	\$154,427,395	
	Decreases in Fund Balance				
Line 9	Disbursements to Investors				
9a	Disbursements to Other Claimants				
Line 10	Disbursements for Receivership Operations				
	Disbursements to Receiver/Other				
10a	Professionals	(\$1,543,409)			
10b	Third Party Litigation Expenses				
10c	Asset expenses				
10d	Tax Payments				
	Total Disbursements for Receivership Operations		(\$1,543,409)		
Line 11	Disbursements Related to Distribution Expenses				
Line 12	Disbursements to Court/Other				
Line 13	Other				
	Total Funds Disbursed - Total Lines 9 - 13		(\$1,543,409)	\$152,883,986	
Line 14	Ending Balance (as of 09/30/2024)		(\$339,999)	\$152,883,986	Total Balance

2024 2Q Fees
[Dkt 385]

**General Receivership
2024 3Q**

Other Supplemental Information		
Line 15	Number of Claims	8 plus investor claims TBD
15a	No. of Claims Received This Reporting Period	8 plus investor claims TBD
15b	No. of Claims Received Since Inception of Estate	8 plus investor claims TBD
Line 16	Number of Claimants/Investors	Not Yet Determined
16a	No. of Claimants/Investors Paid This Reporting Period	0
16b	No. of Claimants/Investors Paid Since Inception of Estate	7

Receiver: David Castleman

By: 

David Castleman
Receiver

Date: October 9, 2024

Standardized Accounting Report Form

Exhibit 1-1

(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)

**DECLARATION OF JENNIFER FEENEY IN SUPPORT OF APPLICATION
FOR FEES AND EXPENSES (JULY 1, 2024 – SEPTEMBER 30, 2024)**

1. I am an attorney duly licensed to practice in the State of New York and a member of the firm at Otterbourg, P.C. (“Otterbourg” or “Firm”), counsel to the Receiver in the above-captioned case. Unless otherwise indicated, 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 declaration is made in support of the Application for Fees and Expenses from July 1, 2024 through September 30, 2024 (the “Application”).

3. On February 2, 2023, the Court entered an order authorizing the Receiver to engage Otterbourg as general counsel to the Receiver effective as of January 30, 2023 [Dkt. 187] under the terms of the Employment Order entered by this Court on June 10, 2022 [Dkt. 47] (the “Employment Order”). I directly supervise the professionals and staff of Otterbourg with respect to this representation.

4. In the interests of the estate and pursuant to the Employment Order, Otterbourg has provided a public service accommodation of a 15% reduction on the aggregate recorded professional fees. 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 July 1, 2024 through September 30, 2024 (the "Application Period") has been submitted under seal as Exhibit 2-1, as required by the Employment Order. Otterbourg spent a total of 2,362.9 hours on the matter, and incurred fees in the amount of \$1,528,066.20 (the "Gross Services Amount"), subject to over 25% in discounts as set forth below, for a net fee request of \$1,140,665.15. All expenses were waived during the Application Period.

6. The Gross Services Amount was discounted by \$186,107.20, which included no charges for 29.4 hours of fee application time and 41.3 hours of other time, substantial discounts for work on the distribution plan, and a major discount for the 1,461.8 hours spent on reviewing disputed transactions. The discounted amount of \$1,341,959.00 was further discounted by Otterbourg's 15% public service discount of \$201,293.85, for a total discount is \$387,401.05. The net fee request of \$1,140,665.15 is 74.6% of the total incurred amount.

7. The majority of Otterbourg's time (1,461.8 of the 2,362.9 total hours, or 62%) was related to Otterbourg's key role in assisting the Receiver with the User transaction verification and claims process, including the review and resolution of transaction submissions through the EminiFX User Portal (the "Portal")—in addition to the 187.7 hours spent on the claims process generally. During the Application Period, Otterbourg spent a significant amount of its time reviewing the disputed transactions, and was able to complete the bulk of the review, with quality control continuing into the fourth quarter 2024. The results of that substantial review—affecting nearly 120,000 transactions with over 6,500 Users initially disputing transactions, and resulting in

over 33,000 Users having undisputed User claims—are reflected in the Schedule of User Transactions [Dkt. 417], filed on October 30, 2024, after the close of the Application Period.

8. In addition, the transaction review resulted in the validation of 4,892 added transactions resulting in over \$26.4 million in additional claims that will form the basis for a distribution to the affected Users. Approximately 3,000 Users who had disputed transactions have now had their transactions fully resolved and will be eligible for a distribution under the Proposed Plan as defined and set forth below.

9. The Schedule of User Transactions also sets forward disputed transactions that remain to be resolved. During the Application Period, Otterbourg along with other professionals assisted the Receiver in determining which transactions had to be disputed because they did not represent an actual contribution or withdrawals, or because (notwithstanding the review team's best efforts) there was insufficient corroboration to validate that the transaction occurred.

10. Notwithstanding how central this work is to the Receiver's goal of making a distribution by the end of the calendar year, given how labor-intensive the transaction review is, Otterbourg decided to offer an additional discount of \$128,194.20 to the Receivership for this work, as detailed in the attached time entries submitted under seal.

11. Separate from the transaction review, but further in connection with the User claims process, Otterbourg participated in regular meetings to discuss the concept of how the updated Portal should work. The updated Portal launched on October 30, 2024. To date, the Receiver has received thousands of responses and hopes to be able to resolve as many claims as possible.

12. Also, in connection with the claims process, Otterbourg continued to assist the Receiver in reviewing non-User proofs of claims and assisted the Receiver in preparing the Non-User Claims Report [Dkt. 369] which was filed on August 2, 2024. The Non-User Claims Report

identifies all non-User claims that were filed and previously allowed pursuant to settlement agreements. There remains one non-User claim that has not been settled, which the Receiver proposed to disallow in full. The affected claimant has objected to the Receiver's determination, and, Otterbourg has been and continues to have discussions to consensually resolve the claim. If consensus cannot be reached, the Receiver will submit the dispute to the Court.

13. During the Application Period, Otterbourg continued to assist the Receiver in the development and drafting of a plan of distribution ("Proposed Plan"). On August 9, 2024, the Receiver filed the Proposed Plan along with a motion seeking the Proposed Plan's approval (the "Plan Motion") [Dkts. 381-384]. Otterbourg helped prepare the filings in support of the Plan Motion, including the memorandum of law and the Receiver's affidavit, which also set forth in detail the reasons that the Receiver concluded, and sought a finding from the Court, that EminiFX operated as a Ponzi scheme.

14. In an effort to allow Users to easily review and respond to the Proposed Plan, Otterbourg along with other professionals assisted the Receiver in creating an update to the Portal to allow Users to input their responses. Otterbourg reviewed the Users' responses and assisted the Receiver in preparing his reply in support of the Proposed Plan which was filed on September 27, 2024 [Dkt. 399].

15. During the Application Period, Otterbourg spent time assisting the Receiver with various matters, including aiding in the drafting of the Second Quarter 2024 Status Report filed on August 2, 2024 [Dkt. 370].

16. Throughout the Application Period, Otterbourg has been assisting the Receiver in reviewing and responding to various motions and requests filed by Alexandre.

17. Otterbourg continued to monitor the related actions, including the criminal proceeding against Alexandre, *United States v. Alexandre*, No. 22 Cr. 326 (S.D.N.Y.) and the Florida Action, *Joseph v. General Conference Corporation of 7th Day Adventist et al.*, No. 23 Civ. 21552 (S.D. Fla.).

18. Otterbourg continued its investigation into potential claims that the Receivership may have against third parties. Such claims could result in a direct financial recovery of the estate, or in the reduction or elimination of certain claims against the estate. During the Application Period, Otterbourg reviewed documents received in response to subpoenas and communicated with third parties with follow-up questions and requests. Otterbourg also assisted the Receiver in a new investigation into an issue concerning millions of dollars of EminiFX funds. In general, the Receiver's investigations remain ongoing.

19. Otterbourg also assisted the Receiver and the Receiver's retained professionals that are responsible for the preparation of a corporate tax return for EminiFX and the tax return for the Receivership as a Qualified Settlement Fund ("QSF"). Otterbourg periodically met with the retained tax professionals and assisted with the exchange of information to assist in the analysis of EminiFX's potential tax liability. The QSF tax return was filed on October 11, 2024.

20. The fees that Otterbourg has charged are reasonable, necessary, and commensurate with the skill and experience required for the activity performed. Otterbourg's services and time expenditures are reasonable in light of the labor required for the matters for which Otterbourg was retained. In an effort to keep fees low, Otterbourg has been using lower billers for time consuming tasks with one senior attorney overseeing their work. Otterbourg respectfully submits that it has not expended time unnecessarily and that it has rendered efficient and effective services.

21. 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 November 2024 at New York, New York.

/s/ Jennifer S. Feeney
Jennifer S. Feeney

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)

**DECLARATION OF STEPHEN O'MALLEY IN SUPPORT OF APPLICATION
FOR FEES AND EXPENSES (JULY 1, 2024 THROUGH SEPTEMBER 30, 2024)**

1. I am a senior managing director at the firm of JS Held, LLC ("JS Held"), financial advisors to 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 declaration is made in support of the Application for Fees and Expenses from July 1, 2024 through September 30, 2024 ("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, JS Held has provided public service accommodations for fees in the amounts of 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 July 1, 2024 through September 30, 2024 (the "Application Period") has been submitted under seal as Exhibit 3-1, as required by the Employment Order. JS Held worked 1,227.3 hours and incurred fees in the amount of \$430,503.50 and expenses in the amount of \$16,149.49 during the Application Period.

6. During the Application Period, JS Held continued to play an important role in assisting the Receiver in the user verification process, including participating in meetings and working sessions with the Receiver and his team to discuss the administration of the EminiFX User Portal (the "Portal") and transaction review process, focused on the thousands of disputed transactions submitted by the EminiFX Users for review. As previously reported, JS Held continued to maintain and improve, based on feedback from the Receiver and his team, a centralized electronic system to assist the Receiver and his team in reviewing and processing the thousands of user transactions submitted through the Portal.

7. Additionally, JS Held assisted the Receiver and his team in reviewing and processing thousands of user transactions by analyzing third-party bank statements, evaluating cash transactions, and providing research and data analysis to the Receiver's team. JS Held participated in regular meetings with the Receiver and his team to discuss the review process, the claims objections process and updates to the Portal, including the next phase to the portal once the transaction review process was complete.

8. During the Application Period, the Receiver and his team substantially completed the initial transaction review. The Receiver and his team began performing quality control check of the reviewed disputed transactions to check for any potential errors in the review process. JS Held assisted in preparing numerous reports to assist the Receiver with that additional review.

9. During the Application Period, JS Held played a key role in gathering, updating and transmitting the results of the disputed transaction review for the tens of thousands of disputed claimants to the updated Portal, which launched in the fourth quarter before the submission of this affidavit. JS Held participated in numerous meetings with the Receiver and his team to discuss logistics of launching the updated Portal.

10. In addition, JS Held also assisted the Receiver with the intake of documents produced by parties by loading them onto the document database and addressing any issues. JS Held also reviewed the document productions to aide with the Receiver's investigation, and assisted the Receiver in a new investigation into an issue concerning millions of dollars of EminiFX funds.

11. 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.

12. JS Held incurred costs of \$16,149.49 during the Application Period for Iron Mountain storage fees, hosting the document production on Disco and Azure SQL server resources.

13. 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 November 2024 at New York, New York.

/s/ Stephen O'Malley
Stephen O'Malley

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 DANIEL P. YOUNG OF DELOITTE TAX LLP IN SUPPORT OF
APPLICATION FOR FEES AND EXPENSES (JULY 1, 2024 – SEPTEMBER 30, 2024)**

1. I am a partner at the firm of Deloitte Tax LLP (“Deloitte Tax” or “Firm”), tax services provider 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 July 1, 2024 through September 30, 2024 (the “Application”).

3. The Receiver retained Deloitte Tax as tax services provider as of June 30, 2023 under the terms of an engagement letter between the Receiver and Deloitte Tax, dated June 29, 2023. On June 30, 2023, the Court entered an order authorizing the Receiver to employ Deloitte Tax (the “Employment Order”). I supervise the professionals of Deloitte Tax with respect to the services provided to the Receiver.

4. True and correct copies of the Firm's invoices reflecting the detailed time entries for the services we provided from July 1, 2024 through September 30, 2024 (the "Application Period") have been submitted under seal as Exhibit 4-1, as required by the Employment Order. Deloitte Tax spent 54.8 hours and incurred fees in the amount of \$38,928 and expenses of \$1,946 during the Application Period.

5. During the Application Period, Deloitte Tax continued to assist the Receiver in analyzing the pre-Receivership tax liability of EminiFX, Inc. ("EminiFX"). Specifically, Deloitte Tax communicated with the Internal Revenue Service (the "IRS") and participated in regular meetings with the Receiver and other professionals to discuss issues concerning the tax treatment of EminiFX's pre-Receivership financial activity.

6. During the Application Period, Deloitte Tax assisted the Receiver in modeling the potential pre-receivership tax liability, in beginning to prepare the necessary forms for a filing, and in analyzing the reserves necessary to hold for the pre-receivership tax liability of EminiFX.

7. During the Application Period, the Deloitte Tax assisted the Receiver in preparing the Qualified Settlement Fund (the "QSF") tax return for the Receivership for 2023 (the "QSF Return"). The QSF Return was filed in the beginning of the fourth quarter.

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

9. To the best of my knowledge, information and belief formed after reasonable inquiry, all the fees and expenses requested in the attached billing statements are true and correct

and substantially 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 November 2024 at Boston, Massachusetts.

/s/ Daniel P. Young

Daniel P. Young, Partner
Deloitte Tax LLP

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 CONRAD DAVIS IN SUPPORT OF APPLICATION
FOR FEES AND EXPENSES (JULY 1, 2024 – SEPTEMBER 30, 2024)**

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 July 1, 2024 through September 30, 2024 (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 supervise the professionals and staff of Crowe with respect to the services provided to the Receiver.

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. True and correct copies of the Firm’s invoices reflecting the detailed time entries for the services we provided, and the expenses we incurred, from July 1, 2024 through September

30, 2024 (the “Application Period”) has been submitted under seal as Exhibit 5-1, as required by the Employment Order. Crowe spent 27.8 hours and incurred fees in the amount of \$11,194.50 (which is inclusive of a 15% accommodation) during the Application Period.


6. During the Application Period, the Firm assisted the Receiver in preparing the Qualified Settlement Fund (the “QSF”) tax return for the Receivership for 2023 (the “QSF Return”). The QSF Return was filed at the very beginning of the fourth quarter 2024, before the submission of this affidavit.

7. Crowe participated in regular meetings with the Receiver and other professionals to discuss tax requirements and impacts on the Receivership.

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

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

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 8th day of November 2024 at Sacramento, California.



Conrad Davis

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)

**DECLARATION OF DANIEL C. MCELHINNEY IN SUPPORT OF APPLICATION
FOR FEES AND EXPENSES (JULY 1, 2024 THROUGH SEPTEMBER 30, 2024)**

1. I am a Senior Managing Director at the firm of Stretto, Inc. (“Stretto”), claims and noticing agent 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 declaration is made in support of the Application for Fees and Expenses from July 1, 2024 through September 30, 2024 (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, Stretto has provided an accommodation of a reduction to its fees on a basis, which is tied to the amount on deposit by the Receiver 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 July 1, 2024 through September 30, 2024 (the "Application Period") has been submitted under seal as Exhibit 6-1, as required by the Employment Order. Stretto spent 1,065.4 hours and incurred fees in the amount of \$203,718.00 and expenses in the amount of \$30,203.69 during the Application Period.

6. During the Application Period, Stretto continued to assist in developing, maintaining, and managing the EminiFX User Portal (the "Portal"), which is the primary tool for the Receiver and Stretto to manage the claims process for over 35,000 claimants. Since the launch of the Portal, Stretto regularly communicated with the Receiver and his team regarding the Portal, including preparing weekly reports. Stretto is the first line of contact for EminiFX Users in connection with the Portal, and in that role Stretto assisted users with various portal access requests and issues.

7. Additionally, Stretto assisted the Receiver with case management; updating the Receivership website as requested by the Receiver; 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 maintaining the creditor matrix; and preparing and circulating investor communications reports. The bulk of the time spent responding to investor communications was handled by lower-billing personnel, as reflected in Exhibit 6-1.

8. In addition, Stretto participated in meetings with the Receiver and his team to discuss the claims objection process, including discussions about updates to the Portal. During the Application Period, the Receiver and his team completed the disputed transaction review process. Stretto played a key role in updating the Portal to reflect the results of the disputed transaction

review. Stretto also added a feature to the Portal so that users could decide how to receive their distribution, whether by check, electronic payment, etc.

9. Additionally, Stretto participated in discussions regarding plan procedures and process, including distribution methods and options. On August 9, 2024, the Receiver filed his proposed plan of distribution (the “Proposed Plan”) [Dkts. 381-384]. Stretto assisted the Receiver in preparing the Proposed Plan, in distributing it to parties in interest, and in updating the Receivership website to explain the Proposed Plan and link to relevant documents.

10. 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.

11. Stretto incurred costs of \$30,203.69 during the Application Period, the majority of which was for translation services in order to ensure that the website and the Portal are available in English, Haitian Creole, and French. Other costs included printing, postage, and robotic process automation which includes monthly HTTPS usage, e-filing services for subscription-based docket notifications, USPS bulk mail operations, address validation, cloud computed charges and related activities.

12. 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 November, 2024 at New York, New York.

/s/ Daniel C. McElhinney
Daniel C. McElhinney

Exhibit 6-1

(filed under seal)