

UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 93551 / November 10, 2021

ADMINISTRATIVE PROCEEDING

File No. 3-20650

In the Matter of

American CryptoFed DAO LLC,

Respondent.

**RESPONDENT'S REPLY TO DIVISION OF ENFORCEMENT'S**

**OMNIBUS RESPONSE TO RESPONDENT'S**

**MOTIONS REGARDING A PREHEARING CONFERENCE #2 AND #3**

American CryptoFed DAO LLC (“American CryptoFed” or “Respondent”), respectfully submits this reply to The Division of Enforcement (“Division”)’s Omnibus Response (“Division’s Omnibus Response”) to Respondent’s Motions Regarding a Prehearing Conference #2 and #3.

“The two motions listed above (each dated December 9, 2021) are duplicative of Respondent’s Motion for a Procedure to Determine the Date and Time for the Prehearing Conference (dated December 8, 2021)”, Division’s Omnibus Response stated. The Division failed to see the distinctive purposes these three motions intend to achieve. While not duplicative, these three motions are related to ensuring due process is honored surrounding the prehearing conference.

Respondent’s Motion for a Procedure to Determine the Date and Time for the Prehearing Conference (“Respondent’s Motion #1”) simply asks the Commission to keep its promise, consistent with its November 10, 2021 press release declaring “American CryptoFed’s registration of the two tokens is stayed pending a determination by **an administrative law judge** whether to deny or suspend the registration of the tokens.” (Emphasis added, Exhibit 1 to Respondent’s Motion).

Respondent’s Motion for Scheduling the Prehearing Conference After the Securities and Exchange Commission’s Ruling on Motion for More Definite Statement No.2 (“Respondent’s Motion #2”) simply asks the Commission to confirm the due process that a prehearing conference should not be allowed before the Commission rules on Respondent’s motions for more definite statement. The Commission should grant this Respondent’s Motion #2, because the Division failed to provide any substantive opposition.

Respondent’s Motion for a Confirmation that the Prehearing Conference Must be Conducted Before a Motion for Summary Disposition is Allowed No. 3. (“Respondent’s Motion #3”) simply asks the Commission to confirm the due process that a motion for summary disposition should not be allowed before a prehearing conference is conducted. Respondent

appreciated the Division Omnibus Response's statement "the Division is attempting to hold a prehearing conference in this proceeding before making a final decision about whether to move for summary disposition," but requests the Commission to confirm this due process by granting Respondent's Motion #3.

All the three motions would not be necessary if the Division complied with the due process which is well defined by the Commission's Rules of Practice, cited in the three motions, regarding motion for more definite statement, prehearing conference and summary disposition. However, the Division has intentionally and deliberately circumvented due process thereby forcing Respondent to file the three motions to bring due process back to the proceedings for the sake of justice. Mr. Keith Paul Bishop, a partner at Allen Matkins Leck Gamble Mallory & Natsis LLP, independent of Respondent, defined the Division's tactics in handling this American CryptoFed's case as "legerdemain" in his article, published at The National Law Review, entitled "SEC Alleges Form 10 Was Misleading, But Is The SEC's Order Itself Misleading?"

The SEC's order substitutes "entities" for "persons" and adds the list of potential recipients to the registrant's statement. By this legerdemain, the SEC converts a statement that might be true in some cases into a statement that is false in all cases. (Emphasis added, Exhibit N to Respondent's Answer).

The Division has gone so far to completely deny the fact that Commission has previously exercised its discretion on November 10th, 2021 and promised to the entire world that an administrative law judge will preside over this case, by stating at a footnote (p.2) of the Division's response to Respondent's Motion #1, "The Division takes no position on whether the Commission should appoint a hearing officer at this time. Under Rule 110, the Commission has discretion to either appoint a hearing officer or preside over this proceeding itself." The Division

has taken no action to arrange an administrative law judge with the Commission since the Commission's press release published around one month ago, while blaming Respondent in the Division's Omnibus Response stating, "the Respondent has shown a clear predilection for filing duplicative and vexatious filings, which are causing unnecessary delay and needlessly attempting to divert the Division and Commission's resources."

The Division's ongoing legerdemain is the main source for injustice, delay and waste of taxpayers' money and as such, for the sake of due process defined by Commission's Rules of Practice and rule of law. Respondent has no choice, but to file motions to deter the Division's intentional legerdemain. The best way to reduce the number of motions and to facilitate this proceeding for justice is to disincentivize and discourage the Division's legerdemain.

For the reasons set forth above, Respondent respectfully requests the Commission grant Respondent's Motion #2 and Respondent's Motion #3.

Dated: December 12, 2021

Respectfully submitted,

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*Marian Orr*  
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By /s/ Marian Orr

Marian Orr

CEO, American CryptoFed DAO LLC

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of this Motion was filed by eFAP and was served on the following on this 12th day of December 2021, in the manner indicated below:

By Email:

Christopher Bruckmann, Trial Counsel

Division of Enforcement – Trial Unit

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By /s/ Marian Orr

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