

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20650

<p>In the Matter of</p> <p>American CryptoFed DAO LLC,</p> <p>Respondent.</p>
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**DIVISION OF ENFORCEMENT'S OPPOSITION TO
RESPONDENT'S MOTION TO CONFIRM THE TEXT OF SECTION 12(j) OF
[THE] SECURITIES ACT OF 1934 AND MANDATE PROCEDURE**

The Division of Enforcement (“Division”) of the U.S. Securities and Exchange Commission (“Commission”) respectfully submits this opposition to American CryptoFed DAO LLC’s (“Respondent” or “American CryptoFed”) December 16, 2021 Motion to Confirm the Text of Section 12(j) of [the] Securities Act of 1934 and Mandate Procedure (the “Motion”).

American CryptoFed has submitted the Motion (one of several recent motions ostensibly described as seeking judgment on the pleadings), seeking to have the Commission issue a ruling that summary disposition can never be used in administrative proceedings and that there must always be an in-person hearing with cross examination.

The Motion is not ripe. The Commission should not issue a broad ruling that there can never be summary disposition in administrative proceedings, especially

when there is significant case law approving the use of summary disposition (and similar procedures) by multiple agencies. *See, e.g., Kornman v. SEC*, 592 F.3d 173, 181 (D.C. Cir. 2010).¹ Rather, as the Commission has stated, “[w]hether this proceeding may be resolved by summary disposition without a public hearing depends on the content of the record and the parties’ briefs and the established standards for summary disposition.”²

Accordingly, the Commission should deny the Motion to Confirm the Text of Section 12(j) of [the] Securities Act of 1934 and Mandate Procedure, and defer a ruling on whether Summary Disposition is appropriate in this proceeding until after the Division has had an opportunity to fully brief its anticipated motion for Summary Disposition.

Dated: December 20, 2021

Respectfully submitted,

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¹ Respondent relies on a journal article criticizing *Kornman*. It is axiomatic that an article from a law professor cannot overturn a ruling from a court.

² December 16, 2021 Order Denying Motion to Appoint a Hearing Officer and Motions for a Continuance of the Prehearing Conference and Directing Further Procedures for the Filing of a Motion for Summary Disposition at 2. (Although dated December 16, 2021, the Commission’s Order was not served on the parties until December 17, 2021, after Respondent filed its Motion.)

CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Division of Enforcement's Opposition to Motion to Confirm the Text of Section 12(j) of [the] Securities Act of 1934 and Mandate Procedure to be served on the following on December 20, 2021, in the manner indicated below:

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