

**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 AMERICAN CRYPTO FED DAO
LLC'S OPPOSITION TO THE DIVISION OF
ENFORCEMENT'S MOTION FOR LEAVE TO
FILE A MOTION TO SET A BRIEFING
SCHEDULE**

American CryptoFed DAO LLC ("Respondent" or "American CryptoFed") respectfully submits this opposition to the Division of Enforcement's ("Division") Motion for Leave to File a Motion to Set a Briefing Schedule regarding summary disposition (the "Motion"), because the U.S. Securities and Exchange Commission ("Commission") has already ordered twice that the Commission will set the brief schedule for summary disposition by separate order.

"The only other kind of dispositive motion that the Rules of Practice authorize in a contested case is a motion for summary disposition pursuant to Rule 250(b). Both parties have indicated an intent to file such motions, and **a briefing schedule will be set by separate order.** (Page 3, Release No. 93922 / January 6, 2022, Emphasis added).

However, **in light of the other motions pending before the Commission, we find it appropriate to defer doing so and will issue a briefing schedule separately.** We express no view at this time as to the disposition of those motions or **whether summary disposition is appropriate.**" (Page 8, Release No. 93971 / January 12, 2022, Emphasis added).

Therefore, the Commission will consider the pending motions and make decisions as to "whether summary disposition is appropriate." According to the Commission's order above, Summary Disposition is not the sole path the Commission may decide. By filing a motion for a "briefing schedule regarding summary disposition", the Division not only usurps

the power of the Commission, but seeks to overturn the Commission's orders above and predetermine the path of the Commission's decisions, but also acts to violate the Commission's orders which outlined a specific process for "the filing of all other, non-dispositive motions" (Page 3, Release No. 93922 / January 6, 2022). American CryptoFed repeatedly pointed out the Division's violation, refused to participate in the Division's violation to "meet and confer", and gave warning to the Division of the possible sanction in accordance with the Commission's order below via email communications (Exhibit 1 through 5), in which the Division never answered Respondent's repeated question as to why a motion for the purpose of "briefing schedule regarding summary disposition" does not violate the Commission's order.

Pursuant to Rule of Practice 180(c), a party's failure to comply with this order may result in the Commission's determination of the matter at issue against that party, a finding of waiver, dismissal of the proceeding, or such other sanction as the Commission finds appropriate. (Page 3, Release No. 93922 / January 6, 2022).

For the reasons set forth above, the Commission should deny the Division's Motion for Leave to File a Motion to Set a Briefing Schedule regarding summary disposition and should sanction the Division for the willful violation of the Commission's order, pursuant to the Commission's January 6, 2022, order above.

Dated: March 24, 2022

Respectfully submitted,

A solid black rectangular box redacting the signature of Scott Moeller.

By /s/ Scott Moeller
Scott Moeller
President, American CryptoFed DAO LLC
1607 Capitol Ave Ste 327
Cheyenne, WY. 82001

CERTIFICATE OF SERVICE

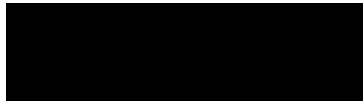
I hereby certify that a true copy of this Motion was filed by eFAP and was served on the following on this 24th day of March 2022, in the manner indicated below:

By Email:

Christopher Bruckmann, Trial Counsel

Division of Enforcement – Trial Unit
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-5949
202-551-5986
bruckmannc@sec.gov

By /s/ Scott Moeller



President, American CryptoFed DAO LLC
1607 Capitol Ave Ste 327
Cheyenne, WY. 82001

RESPONDENT

AMERICAN CRYPTO FED DAO LLC EXHIBIT

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RESPONDENT

AMERICAN CRYPTO FED DAO LLC

EXHIBIT 1

----- Forwarded message -----

From: **Bruckmann, Christopher** <bruckmannc@sec.gov>
Date: Mon, Mar 14, 2022 at 6:03 AM
Subject: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)
To: scott.moeller@americancryptofed.org <scott.moeller@americancryptofed.org>, zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>
Cc: Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Moeller and Mr. Zhou,

We are considering asking the Commission for a briefing schedule for summary disposition. In accordance with the Commission's January 6, 2022 Order, we wanted to ascertain your position on this and set up a time to meet and confer to see if we can come to agreement. Could you please let us know your preliminary thoughts on this issue and some dates and times you are available to meet and confer?

Thank you,

Chris Bruckmann

----- Forwarded message -----

From: **Scott Moeller** <scott.moeller@americancryptofed.org>
Date: Mon, Mar 14, 2022 at 8:14 PM
Subject: Re: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)
To: Bruckmann, Christopher <bruckmannc@sec.gov>
Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Bruckmann,

Thank you for your email.
Please see the attached letter as the American CryptoFed's response.

I'd appreciate your confirming receipt.

Thanks,

Scott Moeller

Scott Moeller

CEO / Organizer
American CryptoFed DAO
Scott.Moeller@AmericanCryptoFed.org

Website: www.AmericanCryptoFed.org
LinkedIn: <https://www.linkedin.com/in/daoscott/>

----- Forwarded message -----

From: **Bruckmann, Christopher** <bruckmannc@sec.gov>
Date: Tue, Mar 15, 2022 at 5:47 AM
Subject: Re: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)
To: Scott Moeller <scott.moeller@americancryptofed.org>
Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Moeller,

We confirm receipt of your letter. We believe it is appropriate to have a summary disposition briefing schedule at this time because the Division would like to continue to move this proceeding forward. Nothing in the rules requires the Commission to rule on all pending motions before a party files a motion for summary disposition. We understand that you oppose the Division being granted summary disposition in this proceeding, but we do not believe that is a basis to avoid briefing the issue.

Please let us know some dates and times you are available to meet and confer on this issue.

Regards,

Chris Bruckmann

Sent from my iPhone

----- Forwarded message -----

From: **Scott Moeller** <scott.moeller@americancryptofed.org>

Date: Tue, Mar 15, 2022 at 9:26 PM
Subject: Re: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)
To: Bruckmann, Christopher <bruckmannc@sec.gov>
Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Bruckmann,

Please see the letter attached as American CryptoFed's response and reply to your email dated Tuesday, March 15th, 2022.

As before, please acknowledge, and confirm receipt of this email and attachment.

Thank you.

-Scott Moeller

----- Forwarded message -----

From: **Bruckmann, Christopher** <bruckmannc@sec.gov>
Date: Wed, Mar 16, 2022 at 7:38 AM
Subject: RE: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)
To: Scott Moeller <scott.moeller@americancryptofed.org>
Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Moeller,

We confirm receipt of your letter. We understand you are opposed to our motion and refusing to meet and confer. We will proceed accordingly.

Regards,

Chris Bruckmann

----- Forwarded message -----

From: **Scott Moeller** <scott.moeller@americancryptofed.org>
Date: Wed, Mar 16, 2022 at 9:44 AM
Subject: Re: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)
To: Bruckmann, Christopher <bruckmannc@sec.gov>

Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Dear Mr. Bruckmann,

I received your email this morning, March 16th. Please see the CryptoFed's response, attached to this email as a PDF.

Please confirm the Division's receipt and your understanding.

Thanks,
-Scott Moeller

----- Forwarded message -----

From: **Bruckmann, Christopher** <bruckmannc@sec.gov>
Date: Wed, Mar 16, 2022 at 2:47 PM
Subject: RE: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)
To: Scott Moeller <scott.moeller@americancryptofed.org>
Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Moeller,

The fact that parties are required to meet and confer under some circumstances does not preclude them from also meeting and conferring under other circumstances. So even if, as you claim, our proposed motion is outside the scope of the prior orders, we do not understand how anything in the Commission's January 6 or January 12 orders prohibits you from meeting and conferring with us. If you think our proposed motion is improper, unfounded, or violates the Commission's prior orders, we can discuss that during the meet and confer. We do not believe we have to prove our case to you just to get you to agree to a meet and confer session. Please provide dates and times you are available to meet and confer.

Regards,

Chris Bruckmann

----- Forwarded message -----

From: **Scott Moeller** <scott.moeller@americancryptofed.org>

Date: Wed, Mar 16, 2022 at 11:22 PM

Subject: Re: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)

To: Bruckmann, Christopher <bruckmannc@sec.gov>

Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Bruckmann,

In response to your email received the afternoon of March 16th, 2022, please see the attached letter.

Please confirm your receipt and understanding.

Thank you.

-Scott Moeller

----- Forwarded message -----

From: **Bruckmann, Christopher** <bruckmannc@sec.gov>

Date: Thu, Mar 17, 2022 at 6:42 AM

Subject: RE: In the Matter of American CryptoFed DAO LLC (AP File No. 3-20650)

To: Scott Moeller <scott.moeller@americancryptofed.org>

Cc: zhouxm@americancryptofed.org <zhouxm@americancryptofed.org>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Carney, Christopher <CarneyC@sec.gov>

Mr. Moeller,

We received your letter.

Regards,

Chris Bruckmann

RESPONDENT

AMERICAN CRYPTO FED DAO LLC

EXHIBIT 2



March 14, 2022
Via Electronic Email

Christopher M. Bruckmann, Trial Counsel, Trial Unit
Division of Enforcement, U.S. Securities and Exchange Commission
100 F Street, N.E., Washington, D.C. 20549-5949
Phone 202-551-5986, Email: bruckmannc@sec.gov

Cc:
Martin Zerwitz, Division of Enforcement, ZerwitzM@sec.gov
Michael Baker, Division of Enforcement, BakerMic@sec.gov
Christopher Carney, Division of Enforcement, CarneyC@sec.gov

Re: In the Matter of American CryptoFed, AP File No. 3-20650:
Briefing Schedule for Summary Disposition

Dear Mr. Bruckmann,

Thank you for your March 14th, 2022, email in which you requested the following:

“We are considering asking the Commission for a briefing schedule for summary disposition. In accordance with the Commission's January 6, 2022 Order, we wanted to ascertain your position on this and set up a time to meet and confer to see if we can come to agreement. Could you please let us know your preliminary thoughts on this issue and some dates and times you are available to meet and confer?”

We do not see there is a need to ask the Commission for a briefing schedule for summary disposition. Before we discuss dates and times to meet and confer, can you explain why the Enforcement Division believes a briefing schedule for summary disposition is necessary and proper?

We oppose your suggestion for a briefing schedule for summary disposition. Below is our rationale for opposition.



**1. Three motions remain
which have not been ruled on by the Securities and Exchange Commission
("Commission" or "SEC").**

These three motions are:

- RESPONDENT AMERICAN CRYPTOFED DAO LLC'S MOTION TO LIFT THE ORDER THAT STAYS THE EFFECTIVENESS OF RESPONDENT'S FORM 10.
- RESPONDENT AMERICAN CRYPTOFED DAO LLC'S MOTION FOR EXEMPTION FROM SECTION 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934.
- RESPONDENT AMERICAN CRYPTOFED DAO LLC'S MOTION FOR LEAVE TO FILE A MOTION

The Commission's decisions on these three motions will provide decisive guidance for the next steps. We had better allow the Commission to have more time to think through the three motions until the end of March 2022.

**2. The US Supreme Court Ruling Prohibits
Summary Disposition on Cases of Section 12(j)**

The Supreme Court ruling in *Steadman v. SEC*, 450 U.S. 91, 96 n.13 (1981) at 97 and its note [14] states the following:

The securities laws provide for judicial review of Commission disciplinary proceedings in the federal courts of appeals and specify the scope of such review. Because they do not indicate which standard of proof governs Commission adjudications, however, we turn to § 5 of the Administrative Procedure Act (APA), 5 U. S. C. § 554, which "**applies . . . in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing,**" except in instances not relevant here. **Section 5 (b), 5 U. S. C. § 554 (c) (2),** makes the provisions of § 7, 5 U. S. C. § 566, applicable to adjudicatory proceedings. (Emphasis added).



Section 5 (b), 5 U. S. C. § 554 (c) (2), provides that "[t]he agency shall give all interested parties opportunity for . . . hearing and decision on notice and in accordance with **sections 556 and 557** of this title." (Emphasis added).

Thus, for a hearing “on the record” as explicitly required by statute, such as Section 12(j), the Supreme Court in *Steadman v. SEC*, provides a chain of statutes from **5 U. S. C. § 554** to **5 U. S. C. § 556** which inevitably leads to cross-examination at an oral hearing, prohibiting summary disposition:

A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such **cross-examination** as may be required for a full and true disclosure of the facts (5 U. S. C. § 556(d)) (Emphasis added).

3. There Are Many Disputed Facts Material to the Outcome of the Proceedings or Motions

The Division of Enforcement (“Division”) and CryptoFed have a serious dispute on the fact whether Locke tokens and Ducat tokens are securities. This is the focus of the “RESPONDENT AMERICAN CRYPTO FED DAO LLC’S MOTION FOR LEAVE TO FILE A MOTION” on which the Commission will have to rule.

The Division of Enforcement (“Division”) and CryptoFed have a serious dispute on the fact whether there are existing and potential investors to be protected.

The Division of Enforcement (“Division”) and CryptoFed have a serious dispute on the fact as to where the “500 entities” in the Division’s allegation of Paragraph 8 of OIP derives from, given that American CryptoFed’s Form 10 filing and Constitution uses the term “500 person” and the “Ducat Economic Zone Plan: Discussion with Municipalities, Merchants, Banks, and Crypto Exchanges” (filed with the SEC as Exhibit 2) which explicitly defines the eligibility



of these entities for Locke token distribution as “municipalities and/or businesses with \$5 million USD assets”.

The Division of Enforcement’s allegation is so mistaken that the National Law Review, (Volume XI, Number 319, Tuesday, November 15, 2021) published the following comments in an article 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.”, said Mr. Keith Paul Bishop, partner at Allen Matkins, in his article entitled “SEC Alleges Form 10 Was Misleading, But Is The SEC's Order Itself Misleading?”

<https://www.natlawreview.com/article/sec-alleges-form-10-was-misleading-sec-s-order-itself-misleading>

For the reasons above, our position is that a discussion for a briefing schedule of summary disposition is not proper.

Sincerely,

A solid black rectangular box used to redact the signature of Scott Moeller.

Scott Moeller
President - American CryptoFed DAO

RESPONDENT

AMERICAN CRYPTO FED DAO LLC

EXHIBIT 3



March 15, 2022
Via Electronic Email

Christopher M. Bruckmann, Trial Counsel, Trial Unit
Division of Enforcement, U.S. Securities and Exchange Commission
100 F Street, N.E., Washington, D.C. 20549-5949
Phone 202-551-5986, Email: bruckmannc@sec.gov

Cc:
Martin Zerwitz, Division of Enforcement, ZerwitzM@sec.gov
Michael Baker, Division of Enforcement, BakerMic@sec.gov
Christopher Carney, Division of Enforcement, CarneyC@sec.gov

Re: In the Matter of American CryptoFed, AP File No. 3-20650:
Briefing Schedule for Summary Disposition

Dear Mr. Bruckmann,

Thank you for your March 15th, 2022, email in which you stated the following:

“We confirm receipt of your letter. We believe it is appropriate to have a summary disposition briefing schedule at this time because the Division would like to continue to move this proceeding forward. Nothing in the rules requires the Commission to rule on all pending motions before a party files a motion for summary disposition. We understand that you oppose the Division being granted summary disposition in this proceeding, but we do not believe that is a basis to avoid briefing the issue.

Please let us know some dates and times you are available to meet and confer on this issue.”

Your statement “Nothing in the rules requires the Commission to rule on all pending motions before a party files a motion for summary disposition” is misleading and incorrect. In addition to Rules of Practice, both parties must comply with the Commission’s order. Your request violates the Commission’s orders. On January 12th, 2022, the Commission ordered the following:



“Both parties have indicated an intent to file motions for summary disposition, and an opportunity will be provided for them to do so. We previously indicated that the Commission would set a schedule for summary disposition briefing in its ruling on the motions for a more definite statement. **However, in light of the other motions pending before the Commission, we find it appropriate to defer doing so and will issue a briefing schedule separately.** We express no view at this time as to the disposition of those motions or **whether summary disposition is appropriate.**” (Page 8, Release No. 93971 / January 12, 2022, Emphasis added). <https://www.sec.gov/litigation/opinions/2022/34-93971.pdf>

The Commission already ordered both parties to wait for the Commission’s decisions on the brief schedule “in light of the other motions pending before the Commission”. Furthermore, prior to the Commission’s order of January 12, 2022 above, the Commission clearly ordered the following:

“The only other kind of dispositive motion that the Rules of Practice authorize in a contested case is a motion for summary disposition pursuant to Rule 250(b). Both parties have indicated an intent to file such motions, **and a briefing schedule will be set by separate order.**

In the interim, it would serve the interests of justice to prescribe procedures for regulating the filing of all other, non-dispositive motions. Accordingly, it is ORDERED that the Division’s motion is denied; and it is further ORDERED that the parties must meet and confer prior to filing any motion; and it is further ORDERED that the parties must seek and receive leave from the Commission prior to filing it.” (Page 3, Release No. 93922 / January 6, 2022). <https://www.sec.gov/litigation/opinions/2022/34-93922.pdf>

For the reasons above, it is not appropriate to have a discussion for a briefing schedule of summary disposition. The Commission has repeatedly informed both parties on the issue of the briefing schedule, and the order to meet and confer is specific for the filing of all other non-dispositive motions.

Sincerely,



President, American CryptoFed DAO

RESPONDENT
AMERICAN CRYPTO FED DAO LLC

EXHIBIT 4



March 16, 2022
Via Electronic Email

Christopher M. Bruckmann, Trial Counsel, Trial Unit
Division of Enforcement, U.S. Securities and Exchange Commission
100 F Street, N.E., Washington, D.C. 20549-5949
Phone 202-551-5986, Email: bruckmannc@sec.gov

Cc:
Martin Zerwitz, Division of Enforcement, ZerwitzM@sec.gov
Michael Baker, Division of Enforcement, BakerMic@sec.gov
Christopher Carney, Division of Enforcement, CarneyC@sec.gov

Re: In the Matter of American CryptoFed, AP File No. 3-20650:
Briefing Schedule for Summary Disposition

Dear Mr. Bruckmann,

Thank you for your March 16th, 2022, email in which you stated the following:

“We confirm receipt of your letter. We understand you are opposed to our motion and refusing to meet and confer. We will proceed accordingly.”

Your characterization of American CryptoFed’s position as “refusing to meet and confer” is misleading and incorrect. We would love “to meet and confer”, as long as you can provide the legal basis and makes it clear that the action “to meet and confer” does not violate the Commission’s orders of January 6th, 2022, and January 12th, 2022.

On March 14th, 2022, in our response to your initial request dated March 14, 2022, we asked the following question, but you did not respond directly.

“Before we discuss dates and times to meet and confer, can you explain why the Enforcement Division believes a briefing schedule for summary disposition is necessary and proper?”

On the evening of March 15th, 2022, in our response to your morning request also dated March 15, 2022, we pointed out why your “meet and confer” request violates the Commission’s orders, but in your March 16th email response this morning, you did not explain why your “meet



and confer” request does not. In addition, in the Commission’s January 6, 2022 order, the Commission clearly included the following sanctions in the order:

“Pursuant to Rule of Practice 180(c), a party’s failure to comply with this order may result in the Commission’s determination of the matter at issue against that party, a finding of waiver, dismissal of the proceeding, or such other sanction as the Commission finds appropriate.” (Page 3, Release No. 93922 / January 6, 2022).
<https://www.sec.gov/litigation/opinions/2022/34-93922.pdf>

American CryptoFed emphasizes here again that the Division of Enforcement (DOE) has an obligation to explain why the DOE’s “meet and confer” request does not violate the Commission’s order of January 6, 2022 above. American CryptoFed is agreeable “to meet and confer” once the DOE provides the explanation that the “meet and confer” complies with the two Commission’s orders. If the Division of Enforcement willfully violates the Commission’s orders and “will proceed accordingly”, American CryptoFed reserves the rights to petition the Commission to consider and then sanction the Division as outlined in the Commission’s order of January 6th, 2022 above.

Sincerely,



Scott Moeller

President, American CryptoFed DAO

RESPONDENT
AMERICAN CRYPTO FED DAO LLC

EXHIBIT 5



March 16, 2022
Via Electronic Email

Christopher M. Bruckmann, Trial Counsel, Trial Unit
Division of Enforcement, U.S. Securities and Exchange Commission
100 F Street, N.E., Washington, D.C. 20549-5949
Phone 202-551-5986, Email: bruckmannc@sec.gov

Cc:
Martin Zerwitz, Division of Enforcement, ZerwitzM@sec.gov
Michael Baker, Division of Enforcement, BakerMic@sec.gov
Christopher Carney, Division of Enforcement, CarneyC@sec.gov

Re: In the Matter of American CryptoFed, AP File No. 3-20650:
Briefing Schedule for Summary Disposition

Dear Mr. Bruckmann,

Thank you for your second email on March 16th, 2022, in which you stated the following:

“The fact that parties are required to meet and confer under some circumstances does not preclude them from also meeting and conferring under other circumstances. So even if, as you claim, our proposed motion is outside the scope of the prior orders, we do not understand how anything in the Commission’s January 6 or January 12 orders prohibits you from meeting and conferring with us. If you think our proposed motion is improper, unfounded, or violates the Commission’s prior orders, we can discuss that during the meet and confer. We do not believe we have to prove our case to you just to get you to agree to a meet and confer session. Please provide dates and times you are available to meet and confer.”

We disagree with the premise of your statement, “If you think our proposed motion is improper, unfounded, or violates the Commission’s prior orders, we can discuss that during the meet and confer.” The very topic of the meet and confer is about Summary Disposition. This topic directly violates the Commission’s January 6, 2022 order entitled: “ORDER DENYING MOTION FOR A BRIEFING SCHEDULE AND DIRECTING FURTHER PROCEDURES FOR THE FILING OF MOTIONS”, which expressly states the following:



“In the interim, it would serve the interests of justice to prescribe procedures for **regulating the filing of all other, non-dispositive motions**. Accordingly, it is ORDERED that the Division’s motion is denied; and it is further ORDERED that **the parties must meet and confer prior to filing any motion**; and it is further ORDERED that the parties must seek and receive leave from the Commission prior to filing it.” (Page 3, Release No. 93922 / January 6, 2022).

<https://www.sec.gov/litigation/opinions/2022/34-93922.pdf>

The clear intent of the Commission towards the meet and confer can only be used for “the filing of all other, non-dispositive motions”, not for the filing of dispositive motions. However, your request is to meet and confer for the filing of a dispositive motions, e.g. a motion for summary disposition. Therefore, the Division of Enforcement must explain why your request to meet and confer does not violate the Commission’s order as expressed above when the topic at hand is filing Summary Disposition. When your request “to meet and confer” is to discuss a filing for a dispositive motion of Summary Disposition, you clearly violate the Commission’s requirement to require a meet and confer for “non-dispositive motions”. The Commission already envisioned the possibility of violations by the parties. In order to make sure the parties to comply with its order, the Commission included the following sanctions in its January 6, 2022 order:

“Pursuant to Rule of Practice 180(c), a party’s failure to comply with this order may result in the Commission’s determination of the matter at issue against that party, a finding of waiver, dismissal of the proceeding, or such other sanction as the Commission finds appropriate.” (Page 3, Release No. 93922 / January 6, 2022).

<https://www.sec.gov/litigation/opinions/2022/34-93922.pdf>

Furthermore, as I pointed out to you in yesterday’s letter dated March 15, 2022, the Commission already ordered the process of the briefing schedule as below on January 12th, 2022. Any action to file a motion for a briefing schedule will be inconsistent with the order below.



“Both parties have indicated an intent to file motions for summary disposition, and an opportunity will be provided for them to do so. We previously indicated that the Commission would set a schedule for summary disposition briefing in its ruling on the motions for a more definite statement. **However, in light of the other motions pending before the Commission, we find it appropriate to defer doing so and will issue a briefing schedule separately.** We express no view at this time as to the disposition of those motions or whether summary disposition is appropriate.” (Page 8, Release No. 93971 / January 12, 2022, Emphasis added).

<https://www.sec.gov/litigation/opinions/2022/34-93971.pdf>

For the reasons above, American CryptoFed would love “to meet and confer”, as long as you can provide the legal basis and makes it clear that the action “to meet and confer” does not violate the Commission’s orders of January 6th, 2022, and January 12th, 2022. Furthermore, American CryptoFed finds that we must emphasize to the Division of Enforcement that it is improper to willfully and intentionally violate the Commission’s orders regarding the purpose of “meet and confer” and the Commission’s stated intent to issue its briefing schedule. American CryptoFed reserves the rights to petition the Commission to consider and then sanction the Division of Enforcement as outlined in the Commission’s order of January 6th, 2022 above.

Sincerely,



Scott Moeller

President, American CryptoFed DAO