

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11134 / November 18, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-21243

In the Matter of

The Registration Statement of American

CryptoFed DAO LLC,

Respondent.

**MOTION TO STAY ORDER OF RELEASE
NO. 6882 BY ADMINISTRATIVE LAW
JUDGE CAROL FOX FOELAK
REQUIRING “TO CONFER AND FILE A
JOINT REPORT BY NOVEMBER 29,
2022”**

The Securities and Exchange Commission (“SEC” or “Commission”) instituted this proceeding by an Order Instituting Proceedings (OIP) on November 18, 2022. The OIP ordered American CryptoFed DAO LLC (“American CryptoFed”) to file an Answer within ten days after service of the OIP and ordered that a hearing before Administrative Law Judge Carol Fox Foelak commence at 10:00 a.m. EST on December 1, 2022. On November 22, 2022, American CryptoFed was served an order with Release No. 6882 (“No. 6882 Order”) attached as Exhibit 1 which was signed by Judge Foelak with a file name of “AP-6882 **PREHEARING ORDER_2_signed**”. A screenshot of eFAP taken at 8.52.42 am, November 26, 2022, showing the file name is attached as Exhibit 2. The No. 6882 Order states the following:

The parties are ordered to **confer and file a joint report by November 29, 2022**, estimating the length of the hearing, including their proposed witness and exhibit lists, and proposing a post- hearing briefing schedule. (Emphasis added).

However, on November 25, 2022, Judge Foelak issued an order with Release No. 6884 (“No. 6884 Order”) attached as Exhibit 3 which stated the following to provide clarification on the No. 6882 Order issued three days earlier.

The OIP does not authorize the undersigned to postpone the commencement of the hearing. Further, **the undersigned did not order a prehearing conference**. Rather, the parties were ordered to file a report. (Emphasis added).

I

Non-emergency and Non-urgency Matter of This Proceeding

Since November 20, 2022, one business day after receiving service of the OIP on Friday, November 18, 2022, American CryptoFed has communicated to the Division of Enforcement (“Division”) that there is no urgency and no emergency in this matter, given that there should be no possible damage to anyone, because, i) “Respondent’s Registration Statement is pending and is not yet effective” (OIP at p.1), and ii) it is an undisputable fact that American CryptoFed’s Form S-1 Registration Statement filing includes a “delaying amendment” (*see* Exhibit 4, p.1-2).

The Division did not oppose this non-emergency and non-urgency statement of American CryptoFed. In the Division’s November 23, 2022 email attached as Exhibit 5 (“November 23, 2022 Email”), the Division was unable to even answer American CryptoFed’s first two key questions, which are cited below:

Question 1: With the delaying amendment in effect, can you in good faith provide us with any substantial reasons, to justify “the expedited nature of these proceedings” and “the expedited schedule”? (*see* Exhibit 4, p.2).

Question 2: Can you provide us with any substantial reasons, in good faith, to explain whether the Division of Enforcement will be substantially prejudiced, if the current schedule, including the time extension of the scheduled date of the public hearing (December 1, 2022), the prehearing date (November 29, 2022) and the due date to file an Answer to the OIP (November 28, 2022) is extended? (*see* Exhibit 4, p.4).

II

**The absolute rights of American CryptoFed
are specified by the Due Process of Rule 221 (d) Required prehearing conference,
Rule 250 (a) Motion for a ruling on the pleadings, and Rule 250 (b) Motion for summary
disposition in 30- and 75-day proceedings.**

American CryptoFed is entitled to a **Prehearing Conference Pursuant to Rule 221 (d)**,

which states the following:

(d) Required prehearing conference. Except where the emergency nature of a proceeding would make a prehearing conference clearly inappropriate, at least one prehearing conference should be held.

Given that no “emergency nature of a proceeding would make a prehearing conference clearly inappropriate, **at least one prehearing conference** should be held”, pursuant to **Rule 221 (d) Required prehearing conference** above. Therefore, on November 25, 2022, American CryptoFed filed a “MOTION TO HOLD PREHEARING CONFERENCE PURSUANT TO RULE 221 (d) REQUIRED PREHEARING CONFERENCE” (“Motion for Prehearing Conference”).

To the extent that the No. 6882 Order does not provide sufficient time to allow the “**Rule 221 (d) Required prehearing conference**”, the Order violates **Rule 221 (d) Required Prehearing Conference** above. American CryptoFed is **entitled to have at least one prehearing conference**. The prehearing conference schedule should reflect **the absolute rights of American CryptoFed** which are specified in the due process of Rule 221 (d) Required prehearing conference, Rule 250 (a) Motion for a ruling on the pleadings, and Rule 250 (b) Motion for summary disposition in 30- and 75-day proceedings. American CryptoFed has made clear in its MOTION TO EXTEND THE THREE SCHEDULES OF THE PUBLIC HEARING, THE PREHEARING CONFERENCE AND FILING AN ANSWER TO THE ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS PURSUANT TO SECTION 8(d) OF THE SECURITIES ACT OF 1933 (“Motion to Extend Schedule”), filed on November 23, 2022, that American CryptoFed will file a **Motion for a Ruling on the Pleadings**, and a **Motion for Summary Disposition**, pursuant to **Rule 250 (a) and (b)** which state the following:

- (a) **Motion for a ruling on the pleadings. No later than 14 days after a respondent’s answer has been filed, any party may move for a ruling on the pleadings** on one or more claims or defenses, asserting that, even accepting all of the non-movant’s factual allegations as true and drawing all reasonable inferences in the non-movant’s favor, the movant is entitled to a ruling as a matter of law. The hearing officer shall promptly grant or deny the motion. (Emphasis added).

(b) **Motion for summary disposition in 30- and 75-day proceedings.** In any proceeding under the 30- or 75-day timeframe designated pursuant to Rule 360(a)(2), after a respondent's answer has been filed and documents have been made available to that respondent for inspection and copying pursuant to Rule 230, **any party may make a motion for summary disposition on one or more claims or defenses, asserting that the undisputed pleaded facts, declarations, affidavits, documentary evidence or facts officially noted pursuant to Rule 323 show that there is no genuine issue with regard to any material fact and that the movant is entitled to summary disposition as a matter of law.** The hearing officer shall promptly grant or deny the motion for summary disposition or shall defer decision on the motion. If it appears that a party, for good cause shown, cannot present prior to the hearing facts essential to justify opposition to the motion, the hearing officer shall deny or defer the motion. (Emphasis added).

In order to have a fair public hearing for a **Motion for summary disposition in 30- and 75-day proceedings**, American CryptoFed is entitled to and will consider all the subjects to be discussed (15 items in total) in accordance with **Rule 221 Subjects to be discussed (c)** , including calling witnesses from the crypto industry.

III **Conclusion**

For all the reasons set forth above, American CryptoFed respectfully requests Judge Foelak to stay No. 6882 Order until decisions are made for American CryptoFed's Motion for Prehearing Conference and American CryptoFed's Motion to Extend Schedule.

Dated: November 26, 2022

Respectfully submitted

DocuSigned by:
Scott Moeller
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By /s/ Scott Moeller
Scott Moeller, President
Xiaomeng Zhou, Chief Operating Officer
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of this MOTION TO STAY ORDER OF RELEASE NO. 6882 BY ADMINISTRATIVE LAW JUDGE CAROL FOX FOELAK REQUIRING “TO CONFER AND FILE A JOINT REPORT BY NOVEMBER 29, 2022”, was filed by eFAP and was served on the following on this 26th day of November 2022, in the manner indicated below:

By Email:
Christopher Bruckmann,
Trial Counsel, Division of Enforcement – Trial Unit
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By /s/ Scott Moeller

DocuSigned by:

Scott Moeller

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