



October 23, 2022  
Via Electronic Email

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CC:

Christopher Carney, Division of Enforcement, CarneyC@sec.gov  
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Justin Dobbie, Division of Corporation Finance, dobbiej@sec.gov

**Re: American CryptoFed DAO LLC's Fair Notice Affirmative Defense  
Form S-1 File No.: 333-259603**

Dear Mr. Bruckmann

Thank you for your email dated October 19, 2022 ("October 19, 2022 Email"), which is attached at the bottom of this letter underneath my signature, for ease of reference. Let me address the issues you raised in this October 19, 2022 Email.

**I.**

**Examination on American CryptoFed's Assertion of No Assets and No Liabilities**

In your October 19, 2022 Email, regarding American CryptoFed's Assertion of No Assets and No Liabilities, you stated the following:

We are not required to accept American CryptoFed's assertions at face value. Rather, those assertions need to be tested through audit and/or examination for the protection of the investing public.

American CryptoFed has repeatedly offered the opportunity for examination with specific attention to American CryptoFed's Assertion of No Assets and No Liabilities. In my September



2, 2022 Letter and my October 13 Letter, I requested you start the examination process by repeatedly asking the same question below in a series of communications (first to Mr. Michael Baker on August 7, 2022 and August 18, 2022 and later to you). However, neither you nor Mr. Baker responded to my offer.

Mr. Bruckmann, as Mr. Baker is either unable or unwilling to respond, can you, on or before September 12th, 2022, provide me with the “question list and document list which are needed to prove that American CryptoFed has assets from the perspective of Generally Accepted Accounting Principles (GAAP)”?

To demonstrate that you are operating in good faith, please accept this offer by delivery of a question list and document list as described above **on or before October 26th, 2022**. As of today, both you and Mr. Baker at the Division of Enforcement have shown that you lack operating in demonstrable good faith, given that neither of you have accepted my offer for examination of American CryptoFed’s assertion of No Assets and No Liabilities, while still continuing to raise the issue of examination. The facts do not support your October 19, 2022 Email’s allegation of “failure to cooperate with our examination”. Documentation of our past communications demonstrate that you have no real interest in the examination of American CryptoFed’s Assertion of No Assets and No Liabilities. If you continue refusing to respond to the same clear and repeated offer above, it is reasonable for American CryptoFed to conclude that your true purpose of this so-called examination is really an excuse to unlawfully delay or stop or obstruct American CryptoFed’s legitimate disclosure.

## **II.**

### **Unlawful 8 (e) Order**

In your October 19, 2022 Email, you complained that I refused to provide information “in connection with the Commission’s Order Directing Examination and Designating Officers Pursuant to Section 8(e) of the Securities Act of 1933.” (“8 (e) Order”) and stated the following:

In addition, Section 8(e) of the Securities Act provides that “if the issuer . . . shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of a stop order.”



American CryptoFed's position is that 8(e) Order is unlawful. In my September 2, 2022 Letter and my October 13 Letter, I asked you the following question (first to Mr. Michael Baker on August 7, 2022 and later to you), repeatedly in our communications, which is critical to the legality of these proceedings. Yet to date, neither you nor Mr. Baker have responded to this specific question:

As Mr. Baker has not been able to respond, Mr. Bruckmann, can you respond to my August 7, 2022 Letter on or before September 12th, 2022 and clearly explain why the 8 (e) Order does not violate Supreme Court Opinions in *F.C.C. v. Fox Television Stations, Inc.*, given that you still use the 8 (e) Order to justify your argument above, including the unlawful subpoena pursuant to the 8 (e) Order?

To demonstrate your good faith, please respond to my above question **on or before October 26th, 2022**. As of today, both you and Mr. Baker at the Division of Enforcement have not demonstrated you are operating in good faith, given that neither of you have answered my question above, even upon repeated requests, while still continuing to use the unlawful 8 (e) Order to justify your arguments and actions. If you continue refusing to answer my question above, despite multiple requests by American CryptoFed to Mr. Baker and you, it is reasonable to conclude that you are unable to oppose American CryptoFed's position that the 8 (e) Order violates the Supreme Court Opinions in *F.C.C. v. Fox Television Stations, Inc.* 567 U.S. 239, 253 (2012): **"first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way"**.

American CryptoFed agrees with the SEC's Commissioner Hester M. Peirce that the SEC is "a disclosure regulator, rather than a more interventionist merit regulator."<sup>1</sup> The SEC's Office of Investor Education and Advocacy also echoes Commissioner Peirce's statement and clearly defines the role of the SEC's Division of Corporation Finance in its official website: "The SEC's Division of Corporation Finance may examine a company's registration statement to determine whether it complies with our disclosure requirements. But the SEC does not evaluate the merits

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<sup>1</sup> <https://www.sec.gov/news/speech/peirce-paper-plastic-peer-to-peer-031521>



of offerings, nor do we determine if the securities offered are "good" investments.”<sup>2</sup> Therefore, it’s clear that the SEC’s mission is to facilitate entities, such as American CryptoFed, to complete its Form S-1 registration statement **for disclosure purposes**. As a disclosure agency, it is unlawful for the SEC to act to delay or stop or obstruct American CryptoFed’s legitimate disclosure by abusing Section 8(e) of the Securities Act of 1933.

However, instead of complying with the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc* 567 U.S. 239, 253 (2012): **“first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way”**, so that American CryptoFed can complete its Form S-1 registration statement, the non-public 8(e) Order was issued solely “to determine whether a stop order should be issued under Section 8(d) of the Securities Act with respect to the Form S-1 and any supplements and amendments thereto”. Given that American CryptoFed’s Form S-1 has already included a delaying amendment to intentionally accommodate the comments and inputs from the Division of Corporation Finance, there is no risk that the Form S-1 registration statement could become effective without the permission of the Division of Corporation Finance. Therefore, the non-public 8(e) Order that was issued solely “to determine whether a stop order should be issued under Section 8(d) of the Securities Act” was not necessary and cannot be justified. To the extent that the sole purpose of the 8(e) Order is to issue a Stop Order, not to provide American CryptoFed with Fair Notice for compliance which American CryptoFed has repeatedly requested, specially under the condition that Form S-1 has already included a delaying amendment, the non-public 8(e) Order willfully violated Supreme Court opinions in *F.C.C. v. Fox Television Stations, Inc.* cited above and should be vacated.

### **III.**

#### **Whether the Ducat and Locke Tokens Are Securities Will Be Moot.**

In your October 19, 2022 Email, you stated the following:

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<sup>2</sup> <https://www.investor.gov/introduction-investing/investing-basics/glossary/registration-under-securities-act-1933#:~:text=The%20Securities%20Act%20of%201933%20has%20two%20basic%20objectives%3A,in%20the%20sale%20of%20securities>



Similarly, American CryptoFed seeks to register the distribution of the Ducat and Locke tokens with the Securities and Exchange Commission as a securities offering, but continues to assert that they are not securities.

The fact does not support your allegation above. In the Form S-1 registration statement at page 7, American CryptoFed makes it clear below that American CryptoFed will accept the SEC's categorization of Ducat and Locke as securities.

If the SEC does not agree with CryptoFed's position and characterizes the Locke and Ducat tokens as securities, CryptoFed should be able to grant these tokens to service providers, free of charge, as if there were an equity incentive plan for CryptoFed community, pursuant to the American CryptoFed DAO LLC Constitution ("Constitution") attached as Exhibit 1, as long as these tokens are restricted, untradeable and non-transferable.

Once American CryptoFed's Form S-1 becomes effective after the removal of the delaying amendment, the issue as to whether the Ducat and Locke tokens are securities will be moot. American CryptoFed will make this point clear in its Amendment to Form S-1 for removal of the delaying amendment. To demonstrate that you are operating in good faith, please confirm **on or before October 26th, 2022**, that you have already read the paragraph above disclosed in American CryptoFed's Form S-1 registration statement and you are aware that American CryptoFed will accept the SEC's categorization of Ducat and Locke as securities once the Form S-1 registration statement becomes effective.

#### **IV.**

#### **The Mandate of Section 8(d) of the Securities Act**

In your October 19, 2022 Email, you stated the following:

If American CryptoFed files an Amendment to its Form S-1 to remove the delaying amendment from that Form S-1, we intend to move promptly to request that the Commission institute a stop order proceeding under Section 8(d) of the Securities Act. Section 8(d) of the Securities Act authorizes the Commission to institute proceedings to determine if it should issue a stop order suspending the effectiveness of a registration statement if **"it appears . . . the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading[.]"** (emphasis added)



On October 8, 2021, Ms. Erin Purnell, Acting Legal Branch Chief, Division of Corporation Finance, sent American CryptoFed two letters regarding American CryptoFed's Form S-1 filing and Form 10 filing respectively and raised the issues of alleged untrue statements and/or omissions in these registration statements ("October 8, 2021 Letters"). On October 12, 2021, American CryptoFed responded to Ms. Erin Purnell's two October 8, 2021 letters point-by-point (American CryptoFed's letter was addressed to SEC Chairman Gensler, all Commissioners and Ms. Erin Purnell, "October 12, 2021 Letter"), deriving the following conclusion, to which Ms. Purnell never responded. Because the substance of the American CryptoFed Form S-1 filing and Form 10 filing were identical, American CryptoFed's response focused primarily on the Form 10 filing. However, the conclusion below should apply equally to the Form S-1 filing.

Ms. Purnell failed to identify and specify one single item of important information, which does exist, but we did not disclose. Ms. Purnell concluded our Form 10 filing has "deficiencies" by asking us to provide information which does not exist. We believe that Ms. Purnell emphasizes form rather than substance.

On October 29, October 30 and November 3, 2021, three consecutive letters, were addressed and sent to Ms. Deborah Tarasevich, Assistant Director of the Division of Enforcement's Cyber Unit. In each of these letters, American CryptoFed requested a written response to our October 12, 2021 Letter. Ms. Tarasevich never responded to our requests. Furthermore, in my August 4, 2022 letter to Mr. Justin Dobbie, as Acting Office Chief of the Division of Corporation Finance, I also requested him to respond to this October 12, 2021 Letter. Mr. Dobbie also failed to respond. Given that Ms. Erin Purnell's two October 8, 2021 Letters are the sole comments received from the Division of Corporation Finance for our Form S-1 registration statement, regarding the issues of alleged untrue statements and/or omissions under Section 8(d) of the Securities Act, given that American CryptoFed's October 12, 2021 Letter already addressed point-by-point all the issues explicitly raised by Ms. Erin Purnell's October 8, 2021 Letters, given that the Division of Corporation Finance and the Division of Enforcement have still chosen not to rebut or respond to American CryptoFed's October 12, 2021 Letter, despite tireless and repeated requests by American CryptoFed in the past 12 months, it is reasonable for American CryptoFed to conclude that the Division of Corporation Finance and the



Division of Enforcement no longer have additional comments for our Form S-1 registration statement regarding issues of alleged untrue statements and/or omissions under Section 8(d) of the Securities Act, and thereby both Divisions no longer need the Form S-1 delaying amendment in order to provide further comments related to issues under Section 8(d) of the Securities Act.

The purpose of the Form S-1's delaying amendment is for American CryptoFed to intentionally accommodate the comments and inputs from the Division of Corporation Finance so that the Commission does not need to issue a Stop Order. These comments and inputs should comply with the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc* below:

Even when speech is not at issue, **the void for vagueness doctrine** addresses at least two connected but discrete due process concerns: **first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way.** See *Grayned v. City of Rockford*, 408 U. S. 104, 108– 109 (1972). When speech is involved, rigorous adherence to those requirements is necessary to ensure that ambiguity does not chill protected speech. *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (emphasis added).

Given that the plain text of Section 8(d) of the Securities Act below also states “**When such statement has been amended in accordance with such stop order, the Commission shall so declare and thereupon the stop order shall cease to be effective**”, the Section 8(d) of the Securities Act actually mandates the Commission to include in the stop order the “precision and guidance” required by the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012). Such precision and guidance is necessary in order for American CryptoFed to be able to amend the Form S-1 registration statement so that the stop order can be timely lifted.

(d)Untrue statements or omissions in registration statement

If it appears to the Commission at any time that the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice, and after opportunity for hearing (at a time fixed by the Commission) within fifteen days after such notice by personal service or the sending of such telegraphic notice, issue a stop order suspending the effectiveness of the registration statement. **When such statement has been amended in accordance with such stop order, the Commission shall so declare and thereupon the stop order shall cease to be effective.** (emphasis added).



Given that both the Division of Corporation Finance and the Division of Enforcement have never provided American CryptoFed with the necessary “precision and guidance” for which American CryptoFed has repeatedly requested by letters sent to Mr. Justin Dobbie’s attention as Acting Office Chief of the Division of Corporation Finance on July 22, 2022 (two letters), July 31, 2022, August 4, 2022, August 17, 2022, August 28, 2022 and October 16, 2022, all cc’d to individuals within the Division of Enforcement; given that Ms. Erin Purnell’s two October 8, 2021 Letters are the sole comments for our Form S-1 registration statement, delivered from the Division of Corporation Finance regarding the issues of alleged untrue statements and/or omissions under Section 8(d) of the Securities Act; given that American CryptoFed’s October 12, 2021 Letter sent in response to Ms. Purnell, had already addressed point-by-point all the issues raised by Ms. Erin Purnell’s October 8, 2021 Letters; given that both the Division of Corporation Finance and the Division of Enforcement have consistently chosen not to rebut or respond to American CryptoFed’s October 12, 2021 Letter, despite tireless and repeated requests by American CryptoFed in the past 12 months; and given that both Divisions no longer have additional comments for our Form S-1 and thereby no longer need the Form S-1 delaying amendment to deliver further comments related to any issues under Section 8(d) of the Securities Act; Mr. Bruckmann, if you “intend to move promptly to request that the Commission institute a stop order proceeding under Section 8(d) of the Securities Act”, you will thereby knowingly and willfully not only violate the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) cited above, but also you will knowingly and willfully abuse Section 8(d) of the Securities Act also cited above by acting unlawfully in order to delay or stop or obstruct American CryptoFed’s legitimate disclosure.

The facts detailed above do not support your allegation in your October 19, 2022 Email of “material omissions and misstatements in your Form S-1”. To demonstrate that the Division of Corporation Finance and the Division of Enforcement are operating in good faith, **on or before October 26th, 2022**, i) please respond to American CryptoFed’s October 12, 2021 Letter, sent to Chairman Gensler, all Commissioners and Ms. Purnell of the Division of Corporation Finance, in which American CryptoFed already addressed, point-by-point, all the issues of alleged untrue statements or omissions in the American CryptoFed’s Form S-1 registration statement under Section 8(d) of the Securities Act, and ii) please provide American CryptoFed





with the necessary “precision and guidance” as mandated by **both** the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) cited above **and** the Section 8(d) of the Securities Act stating **“When such statement has been amended in accordance with such stop order, the Commission shall so declare and thereupon the stop order shall cease to be effective.”** If you continue to refuse to respond to these two requests American CryptoFed has repeatedly asked both the Division of Corporation Finance and the Division of Enforcement to respond for months, it is reasonable for American CryptoFed to conclude that your intent is to continue to use Section 8(d) of the Securities Act as an excuse to unlawfully delay or stop or obstruct American CryptoFed’s legitimate disclosure, and thereby that the Commission, the Division of Corporation Finance and the Division of Enforcement should not have any legal and factual basis to issue any order to stop the process of rendering American CryptoFed’s Form S-1 Registration Statement automatically effective in 20 days by operation of Section 8(a) of the Securities Act, when the delaying amendment is removed.

## V.

### Chairman Gary Gensler’s Policy Statement and Testimony in the US Congress

The Division of Corporation Finance’s intransigence in not responding to any of American CryptoFed’s multiple requests (also cc’d to the Division of Enforcement) for the necessary “precision and guidance”, for registration is in glaring opposition to SEC’s Chairman Gary Gensler’s sworn “Testimony Before the United States Senate Committee on Banking, Housing, and Urban Affairs” on September 15, 2022<sup>3</sup>, in which he stated the following under oath:

Of the nearly 10,000 tokens in the crypto market, I believe the vast majority are securities. Offers and sales of these thousands of crypto security tokens are covered by the securities laws, which require that these transactions be registered or made pursuant to an available exemption. **Thus, I’ve asked the SEC staff to work directly with entrepreneurs to get their tokens registered and regulated, where appropriate, as securities. Given the nature of crypto investments, I recognize that it may be appropriate to be flexible in applying existing disclosure requirements.** (Emphasis added).

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<sup>3</sup> <https://www.sec.gov/news/testimony/gensler-testimony-housing-urban-affairs-091522>



Months before Chairman Gensler's September 15, 2022 "Testimony Before the United States Senate Committee on Banking, Housing, and Urban Affairs", he had already emphasized the SEC's exemptive authority to tailor disclosure for crypto tokens, in his July 14, 2022 interview with Yahoo Finance below (emphasis added) entitled: "SEC Chair: Investors need to know 'someone is not lying to them'"<sup>4</sup>.

**JENNIFER SCHONBERGER:** Chair Gensler, given that you've said that nearly all tokens, with the exception of Bitcoin and perhaps Ethereum, would be classified as securities based on their use cases, **how do you feel about applying the disclosure regime under current securities laws for equities to crypto?**

**GARY GENSLER:** So it's really an age old concept. If you're raising money from the public and the public's anticipating profits based on the efforts of that common enterprise, that's a security. It's kind of a logical thing. And we at the SEC have a disclosure regime, as you said. **I've said to the industry, to the lending platforms, to the trading platforms, come in, talk to us.**

**We do have robust authorities from Congress also to use their exemptive authority so that we can tailor investor protection, and in your specific question about the tokens themselves, even tailoring what the disclosures might be, because maybe not all of the disclosures for somebody issuing equity are the same as a crypto token.** But I would note, we don't have the same disclosures for an asset-backed security that we do for a stock offering. So it's a thoughtful way to sort of tailor things.

Although American CryptoFed has clearly pointed out Chairman Gensler's public policy announcements in the Yahoo Finance interview and his instructions to the SEC's staff in the US Senate Testimony, in American CryptoFed's repeated written requests to Mr. Dobbie as Acting Office Chief of the Division of Corporation Finance (cc'd to the Division of Enforcement), to provide the necessary "precision and guidance" as required by the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) cited above, both Divisions did not respond to these repeated requests. Therefore, American CryptoFed will have no choice but to remove the delaying amendment, thereby rendering the Form S-1 registration statement automatically effective in 20 days by operation of Section 8(a) of the Securities Act.

Any order to stop the automatic effectiveness process of the Form S-1 registration statement, will prove that Chairman Gensler's sworn "Testimony Before the United States Senate Committee on Banking, Housing, and Urban Affairs" cited above is false and misleading,

<sup>4</sup> <https://finance.yahoo.com/video/sec-chair-investors-know-someone-153326153.html>



given that American CryptoFed has repeatedly requested the necessary “precision and guidance” required by **both** the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) **and** the Section 8(d) of the Securities Act cited above, and given that both the Division of Corporation Finance and the Division of Enforcement did not respond to the repeated requests.

Mr. Bruckmann, are you aware of a single case in which the staff of the Division of Corporation Finance and/or the Division of Enforcement, has been “flexible in applying existing disclosure requirements” and as such, has already worked directly with American CryptoFed to get Ducat and Locke tokens registered? Please provide American CryptoFed with a simple Yes or No answer, **on or before October 26th, 2022**. If you are unable to provide a Yes answer, that will prove that the staff of Division of Corporation Finance and/or the Division of Enforcement does not abide by Chairman Gensler’s instructions to staff which he testified before the US Senate under oath, and thereby you or other designated staff of Division of Corporation Finance and/or the Division of Enforcement are obligated to, **on or before October 26th, 2022**, provide American CryptoFed with a proposal as to how to abide by the Chairman Gensler’s instructions.

Mr. Bruckmann, in order to get Ducat and Locke tokens registered, are you aware of a single case in which the staff of the Division of Corporation Finance and/or the Division of Enforcement, has ever been “tailoring what the disclosures might be, because maybe not all of the disclosures for somebody issuing equity are the same as a crypto token”. Please provide American CryptoFed with a simple Yes or No answer, **on or before October 26th, 2022**. If you are unable to provide a Yes answer, that will prove that the staff of Division of Corporation Finance and/or the Division of Enforcement does not actually abide by Chairman Gensler’s public policy statement on the SEC’s actions which he announced through public media, and thereby you or other staff of Division of Corporation Finance and/or the Division of Enforcement are obligated to, **on or before October 26th, 2022**, provide American CryptoFed with a proposal as to how to abide by Chairman Gensler’s public policy statement.

## **VI. Conclusion**

American CryptoFed is the first historic case to test whether Chairman Gensler’s public statements in the Yahoo Finance interview and his testimony given under oath in the US Senate



are true, or false and misleading. Our personal experiences as a registrant and documented evidence in the process shows that the actions of the staff of Division of Corporation Finance and/or the Division of Enforcement are in direct opposition to Chairman Gensler's public statements and sworn testimony. If American CryptoFed, despite its tireless efforts and countless requests for the SEC's "precision and guidance", is unable to complete its Form S-1 registration statement, all the pending litigation actions that the SEC has brought against entities and individuals in crypto industry under the basis of "Unregistered Securities" could be proved unlawful, pursuant to "the **void for vagueness doctrine**" upheld by the Supreme Court in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) cited above. It will be evident to all that there is no practical path to complete these registrations with the SEC, whatsoever. Given that the SEC has no necessary "precision and guidance" to complete registration statements, the SEC has no legal basis to bring any legal actions against any entity and against any individual with allegations of "Unregistered Securities", when the actual pathway to registration with the SEC did not ever and does not currently exist.

American CryptoFed hopes that the SEC's Division of Corporation Finance and the Division of Enforcement will abide by **both** Chairman Gensler's instructions to the SEC's staff quoted in his sworn testimony in the US Senate and public statements in the Yahoo Finance interview above, **and** the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) cited above. A different paragraph of this same Supreme Court opinion was cited in the March 11, 2022 order in *SEC v. Ripple Labs*, issued by Judge Analisa Torres of the Southern District of New York, United States District Court, who allowed Ripple Labs' Fair Notice affirmative defense (emphasis added, p. 6-7)<sup>5</sup>

**"A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required."** *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012). This clarity requirement is "essential to the protections provided by the **Due Process Clause of the Fifth Amendment**," **and requires the invalidation of laws that are "impermissibly vague."** *Id.* Laws fail to comport with due process when they "fail[] to provide a **person of ordinary intelligence** fair notice of what is prohibited," or **when they are so standardless that they authorize or encourage "seriously discriminatory enforcement."** *Id.* (citation omitted).

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<sup>5</sup> <https://www.nysd.uscourts.gov/sites/default/files/2022-03/Ripple%20Strike%20Order.pdf>



As evidenced clearly in this letter, the facts do not support any of the allegations raised in your October 19, 2022 Email. In contrast, the facts vividly prove that both the Division of Corporation Finance and the Division of Enforcement have not responded in good faith to American CryptoFed's repeated requests for the necessary "precision and guidance", and both Divisions have shown zero interest in the examination of American CryptoFed's Assertion of No Assets and No Liabilities. American CryptoFed has a trove of documented evidence to prove and conclude that both Divisions' actions actively sabotage Chairman Gensler's public statements and sworn testimony cited above, willfully and knowingly violate the Supreme Court opinion in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) also cited above, and intend to abuse Section 8(d) of the Securities Act also cited above by unlawfully delaying or stopping or obstructing American CryptoFed's legitimate disclosure.



**On or before October 26th, 2022**, if American CryptoFed does not receive your point-by-point responses to these open requests and questions which are outlined in Section I, II, III, IV and V of this letter, American CryptoFed will file an Amendment to its Form S-1 to remove the delaying amendment from the Form S-1. If you need more time to organize your responses, please do not hesitate to let me know. We can discuss a new deadline in good faith. It is important for you, as the representative of the SEC's Division of Corporation Finance and the Division of Enforcement in this communication, to provide American CryptoFed with point-by-point responses to those open requests and questions which are outlined at Section I, II, III, IV and V of this letter, because your failure to do so will directly confirm our arguments in these sections individually or collectively that you twist facts, decline to abide by related laws, regulations, and Chairman Gensler's instructions and public policy statements, and thereby that your action "to move promptly to request that the Commission institute a stop order proceeding under Section 8(d) of the Securities Act" is unlawful.

Xiaomeng Zhou and I are responsible for all our communications with the SEC and will collectively sign the "Amendment No.1 to Form S-1" to remove the delaying amendment. Xiaomeng Zhou and I collectively sign this letter which may be attached as a supporting document to our "Amendment No.1 to Form S-1" as needed.

Mr. Bruckmann, I look forward to your response.



Sincerely,

/s/ Scott Moeller DocuSigned by:  <small>A82E975DD0C44FD...</small> Name: Scott Moeller Title: Organizer/President Date: October 20, 2022	/s/ Xiaomeng Zhou DocuSigned by:  <small>6E7F189BD770455</small> Name: Xiaomeng Zhou Title: Organizer/President Date: October 20, 2022
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----- Forwarded message -----

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

Date: Wed, Oct 19, 2022 at 12:28 PM

Subject: RE: American CryptoFed DAO LLC's Fair Notice Affirmative Defense Form 10 File No.: 000-56339 and Form S-1 File No.: 333-259603

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

Cc: Carney, Christopher <CarneyC@sec.gov>, Zerwitz, Martin <ZerwitzM@sec.gov>, Baker, Michael <BakerMic@sec.gov>, Lucas, John <LucasJ@sec.gov>, Zhou Xiaomeng <zhouxm@americancryptofed.org>, Dobbie, Justin <DobbieJ@sec.gov>

Mr. Moeller,

We have received your letter dated October 13, 2022 and a copy of the letter you sent to Justin Dobbie on October 16, 2022. Among other things, you claim to want precision and guidance about what information you need to provide in order to register the distribution of the Ducat and Locke tokens as a securities offering.

We made abundantly clear to you in our subpoena to American CryptoFed dated June 15, 2022, our questioning of you during your testimony on July 7, 2022, and our follow-up letter dated August 4, 2022 what information you needed to provide in connection with the Commission's Order Directing Examination and Designating Officers Pursuant to Section 8(e) of the Securities Act of 1933. Nonetheless, you have still refused to provide some of the requested information, as documented during your testimony and in the August 4, 2022 letter.





We are not required to accept American CryptoFed's assertions at face value. Rather, those assertions need to be tested through audit and/or examination for the protection of the investing public. As one example, while American CryptoFed claims that it has no assets and no liabilities, that claim has not been verified by an auditor registered with the Public Company Accounting Oversight Board. This failure deprives potential purchasers of the Ducat and Locke tokens of essential, material information. Similarly, American CryptoFed seeks to register the distribution of the Ducat and Locke tokens with the Securities and Exchange Commission as a securities offering, but continues to assert that they are not securities. When the Commission staff sought information during its examination to clarify whether the tokens are securities, you have consistently refused to provide this information, as we previously explained in our August 4, 2022 letter.

If American CryptoFed files an Amendment to its Form S-1 to remove the delaying amendment from that Form S-1, we intend to move promptly to request that the Commission institute a stop order proceeding under Section 8(d) of the Securities Act. Section 8(d) of the Securities Act authorizes the Commission to institute proceedings to determine if it should issue a stop order suspending the effectiveness of a registration statement if "it appears . . . the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading[.]" In addition, Section 8(e) of the Securities Act provides that "if the issuer . . . shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of a stop order." We intend to assert that the material omissions and misstatements in your Form S-1 and your failure to cooperate with our examination provide sufficient grounds for issuing a stop order.

Regards,

Chris Bruckmann