

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934, Release No. 93551 / November 10, 2021
ADMINISTRATIVE PROCEEDINGS, File No. 3-20650

In the Matter of

American CryptoFed DAO LLC,

Respondent.

RESPONDENT AMERICAN CRYPTO FED

DAO LLC'S MOTION FOR LEAVE TO FILE

A MOTION TO STRIKE

On June 7, 2023, the Securities and Exchange Commission ("Commission" or "SEC") issued an ORDER DENYING MOTION TO DISMISS ("June 7, 2023 Order", Release No. 97659) which denied the effectiveness of a request for Form 10 withdrawal ("Withdrawal Request") filed by American CryptoFed DAO LLC ("American CryptoFed" or "Respondent") 11 months earlier on July 6, 2022. The Commission's June 7, 2023 Order established the principle that rules only applying to registration statements under Securities Act of 1933 cannot apply to registration statements under Exchange Act of 1934, by stating the following:

In addition, the Division of Enforcement's reliance on Rule 477(b) of the Securities Act is misplaced. **Rule 477 applies "only to the withdrawal of registration statements . . . under the Securities Act of 1933, not registration statements regarding the registration of classes of securities with the Commission under the Exchange Act," as is the case here.** For the same reason, Respondent's citation to Securities Act Rule 477 in its withdrawal request has no impact on whether it obtained Commission approval to withdraw the Form 10 registration statement that is the subject of this Exchange Act Section 12(j) proceeding. (Emphasis added, p.5).

For the same reason, the Division of Enforcement's reliance on *Jones v. SEC*, 298 U.S. 1 (1936) which is a case law of the Securities Act of 1933 is misplaced. Therefore, in the DIVISION OF ENFORCEMENT'S MEMORANDUM IN OPPOSITION TO

RESPONDENT’S MOTION TO LIFT THE ORDER THAT STAYS THE EFFECTIVENESS OF RESPONDENT’S FORM 10 filed on December 22, 2021 (“December 22, 2021 Memorandum”), the entire Section I) A) entitled “The Supreme Court Has Held That a Proceeding to Determine Whether to Deny a Not-Yet-Effective Registration Statement Automatically Stays Its Effectiveness” should be stricken. Furthermore, the Commission’s June 7, 2023 Order has confirmed that there was no stay order issued against the sole legal precedent of a not-yet-effective Exchange Act registration statement, in which the Form 10 became automatically effective, by stating the following:

Further, we are aware of only one prior instance in which the Commission instituted a Section 12(j) proceeding as to a not-yet-effective Exchange Act registration statement, but that proceeding settled shortly after the Form 10 became automatically effective, and there was no attempt to withdraw it (page 3).

American CryptoFed sent a letter dated June 11, 2023 to the Division of Enforcement (attached as Exhibit A, *see* page 1-3), met and conferred on June 15, 2023 to discuss the issue, but failed to reach an agreement. Accordingly, American CryptoFed respectfully requests that the Commission grant American CryptoFed’s leave to file a motion to strike Section I) A) from the December 22, 2021 Memorandum of the Division of Enforcement mentioned above.

Dated: June 15, 2023

Respectfully submitted

/s/ Scott Moeller

/s/ Xiaomeng Zhou

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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 15th day of June 2023, in the manner indicated below:

By Email:

Christopher Bruckmann, Trial Counsel

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By /s/ Scott Moeller

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