UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INITIAL DECISION RELEASE NO. 1415 / May 17, 2023
ADMINISTRATIVE PROCEEDING, File No. 3-21243

In the Matter of **THE REGISTRATION STATEMENT OF AMERICAN CRYPTOFED DAO LLC** **RESPONDENT**	**RESPONDENT AMERICAN CRYPTOFED DAO LLC'S PETITION FOR REVIEW OF THE INITIAL DECISION**

Pursuant to Rules 410 and 411, Respondent petitions for review of the May 17, 2023 Initial Decision on the ground that the decision contains both **Findings of Fact** full of half-truths *("Half the Truth is often a great Lie"* -- Benjamin Franklin) and **Conclusions of Law** contrary to binding precedents and statues as below, and may raise more specific issues in its opening brief.

1. The half-truths in the Findings of Fact should be corrected to state the whole truths, which in accordance with Judge Carol Foelak's Order, are "arguments that are more properly made before the Commission in a petition for review." (Rel. No. 6908/June 6, 2023).
2. The Order Instituting Proceedings issued on Nov.18, 2022 ("OIP") had neither legal nor factual basis, given that Respondent informed the Division of Enforcement ("Division") on Oct. 27, 2022 *"When, and only when both Divisions have no more legal arguments to further justify the need of the delaying amendment, will we remove the delaying amendment."*
3. The Commission's incapacity for "even accepting all of the non-movant's factual allegations as true and drawing all reasonable inferences in the non-movant's favor", to make a decision on Respondent's Motion to Lift the Stay Order filed on Dec. 15, 2021 pursuant to Rule 250 (a), amounted to an intentional obstruction of Respondent's information disclosure initiative as a public reporting entity, and led to Respondent's May 30, 2022 letter to the Division,

triggering a chain of events and issues to be solved, such as, the Division's June 3, 2022 letter, the unlawful subpoena and testimony, Respondent's requests (for withdrawal of Form S-1 and Form 10, Howey test, fair notice, and correction of the Commission's Nov.10, 2021 Press Release), discussion on the Delaying Amendment, the Form S-1 OIP, etc.

4. *Red Bank Oil Co*., Securities Act Release No. 3095, 1945 SEC LEXIS 204 was cited as case law to deny Respondent's Motion for a Ruling on the Pleadings filed pursuant to Rule 250(a) prior to the hearing, but *Red Bank Oil Co.* actually ***supports*** Respondent's motion.
5. The application of Securities Act Section 8(d) as a general provision to Respondent's filing review process, is not permissive, because Securities Act Section 8(b) is the specific, sole and exclusive provision governing Respondent's filing review process. *"General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment",* the US Supreme Court stated in *Ginsberg & Sons v. Popkin*, 285 U. S. 204 (1932) at 208, and repeatedly upheld the same opinion in *MacEvoy Co. v. United States,* 322 U. S. 102 (1944) at 107, *Fourco Glass Co. v. Transmirra Products Corp.,* 353 U.S. 222 (1957) at 228-229, *Preiser v. Rodriguez*, 411 U. S. 475 (1973) at 489-490, and *Busic v. United States,* 446 U.S. 398 (1980) at 407. For the same reason, the Nov. 9, 2021 Non-public Order pursuant to Securities Act Section 8(e) to serve the purpose of issuing a Stop Order under Section 8(d), is not permissive. The evidence obtained through this unlawful Non-public Order should be excluded.
6. The only reason that Respondent filed the Form S-1 withdrawal request, was because the Division's June 3, 2022 letter stated, "you choose to register these tokens as securities by filing with the Commission a Form 10". By relying on form rather than substance, the Division violated the opinion upheld in *SEC v. W.J. Howey Co.,* 328 US (1946) at 298,

"Form was disregarded for substance and emphasis was placed upon economic reality." Furthermore, by issuing an order denying Respondent's Form S-1 withdrawal request, the Commission and its Divisions have the burden of proof obligation pursuant to Administrative Procedure Act, 5 U.S.C. § 556 (d) to substantively prove that Respondent's Locke and Ducat tokens are securities, and by repeatedly refusing to do so, have willfully violated Respondent's absolute rights of withdrawal upheld in *Jones v. SEC,* 298 US 1(1936) at 23.

7. In *FCC v. Fox TV Stations, Inc.,*567 US 239 at 2317, also cited in a March 11, 2022 Order in *SEC v. Ripple Labs Inc.,*1:20-cv-10832 at 6-7, the US Supreme Court emphasized "*laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.*" "*This requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment." "It requires the invalidation of laws that are impermissibly vague."* The Commission has the Fair Notice obligation to first prove whether Locke and Ducat tokens are securities, and then, after proof, to provide "precision and guidance", *Id,* for registration, given that an "*impermissibly vague*" Catch-22 situation is inevitable, as Respondent's audited financial statements cannot be provided, before such records to be audited, are generated by token transactions prohibited by the Initial Decision.
8. The Division refused, despite multiple requests, to prove its conclusion in the SEC's Nov.10, 2021 Press Release that Respondent is *"attempting to raise money from the public"*.

Dated: June 22, 2023

Respectfully submitted

/s/ Scott Moeller DocuSigned by: Scott Moeller A82E97EDD0C44FD...

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of this, **RESPONDENT AMERICAN CRYPTOFED DAO LLC'S PETITION FOR REVIEW OF THE INITIAL DECISION,** was filed by eFAP and was served on the following on this 22th day of June, 2023, in the manner indicated below:

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By /s/ Scott Moeller

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