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# MEMO ENDORSED

VIA ECF

Hon. Valerie E. Caproni  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

December 2, 2025

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**Re: CFTC v. Alexandre and EminiFX, Inc., No. 22 Civ. 3822 (VEC)**  
**Application for Payment of Fees and Expenses – Third Quarter 2025**

Dear Judge Caproni:

Pursuant to this Court’s Order dated June 10, 2022 concerning applications for professional fees and expenses [Dkt. 47], as amended on February 2, 2023 [Dkt. 187] and on June 30, 2023 [Dkt. 209] (the “**Employment Order**”), David Castleman, the court-appointed receiver (the “**Receiver**”) over Defendant EminiFX, Inc. (“**EminiFX**”) and certain assets of Defendant Eddy Alexandre (“**Alexandre**”), in the above-referenced action (the “**Civil Action**”) pursuant to the Consent Order for Preliminary Injunction [Dkt. 56] (“**Consent Order**”), respectfully submits this application (the “**Application**”) for the payment of professional fees and expenses for the period of April 1, 2025 through June 30, 2025 (the “**Application Period**”). The Receiver requests approval of payment of fees and expenses to the Receiver and the following firms: Otterbourg P.C. (“**Otterbourg**”), J.S. Held LLC (“**JS Held**”), Deloitte Tax LLP (“**Deloitte Tax**”), Crowe LLP (“**Crowe**”), and Stretto, Inc., (“**Stretto**”) (collectively, the “**Professional Firms**”).<sup>1</sup>

During the Application Period, the Receiver and the Professional Firms completed the labor-intensive task of resolving all users’ disputed transactions. The Court approved the Receiver’s final determinations and a final claims report was filed shortly after the Application Period ended. During the Application Period, the Receiver continued to make distributions as users updated and provided payment information as part of the initial distribution, bringing the number of completed distributions to over 23,000 users and the total completed distributions to \$91.8 million of the \$101.6 million budget. The Receiver also continued to litigate and pursue third party claims.

The Receiver and each of the Professional Firms have agreed to a public-service discount of their fees given the circumstances of the receivership. For the Application Period, (i) the Receiver requests fees of \$40,595.00; (ii) Otterbourg requests fees of \$268,710.50; (iii) JS Held

<sup>1</sup> Ordinarily, a quarterly fee application is filed shortly after the related status report, but was delayed due to the government shutdown as set forth in the Third Quarter 2025 Status Report [Dkt. 546, at 10 & n.5]. Approximately one week after the shutdown ended in November 2025, the Receiver sent the time entries to the CFTC. The CFTC indicated its consent on December 2, 2025, after which this application was filed.



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requests fees of \$72,382.50 and expenses of \$11,678.90; (iv) Deloitte Tax requests fees of \$1,742.00 and expenses of \$87.00; (v) Crowe requests fees of \$5,027.75; and (vi) Stretto requests fees of \$129,995.00 and expenses of \$3,967.66. The combined Receiver and Otterbourg discount totals \$95,074.50, as reflected in the respective invoices.

The total requested or incurred fees of \$518,452.75 and expenses of \$15,733.56 for the Application Period are reasonable given the significant complexity and substantial work completed, as set forth in detail in Part III. The total request is less than half the amount requested in the Second Quarter 2025, and is less than all prior quarters. The Standardized Fund Accounting Report annexed to the Receiver's affidavit shows the cash flows in and out of the Receivership.

The Receiver and his professionals have maintained and presented their time and expense charges as set forth in the Billing Instructions for Receivers in Civil Actions Commenced by the Commodity Futures Trading Commission ("CFTC") (the "**CFTC Billing Instructions**"), as required by the Employment Order. These detailed time entries have been approved by the CFTC, which consents to this request, and those time entries will be submitted to the Court separately under seal pursuant to the Employment Order. Attached as Exhibits 1-6 are affidavits setting forth narrative explanations of the services provided.

This Application will be posted on the homepage of the Receiver's website at [www.eminifxreceivership.com](http://www.eminifxreceivership.com). Any EminiFX members who have any questions regarding this Application may send an email to the Receiver's team at [EminiFX@Stretto.com](mailto:EminiFX@Stretto.com), as directed by this Court in its order dated August 12, 2022 [Dkt. 106]. Unless a party has made a motion to intervene, and that motion has been granted by the Court, parties should not send any inquiries directly to the Court [Dkts. 174, 176].

## **I. Authority for Requested Relief**

A receiver appointed by a court "who reasonably and diligently discharges his duties is entitled to be fairly compensated for services rendered and expenses incurred. The amount of the compensation is to be determined by the court in the exercise of its reasonable discretion." *SEC v. Byers*, 590 F. Supp. 2d 637, 644 (S.D.N.Y. 2008). "This presumption of reasonable compensation extends to a receiver's counsel and professionals." *SEC v. Morgan*, 504 F. Supp. 3d 221, 223 (W.D.N.Y. 2020) (quoting *SEC v. Platinum Mgmt. (NY) LLC*, No. 16-CV-6848, 2018 WL 4623012, at \*4 (E.D.N.Y. Sept. 26, 2018)). "The Court considers several factors in determining a reasonable fee, including '(1) the complexity of problems faced, (2) the benefits to the receivership estate, (3) the quality of the work performed, and (4) the time records presented.'" *Id.* (quotations omitted). The Court may also consider "the reasonableness of the hourly rate charged and the reasonableness of the number of hours billed." *SEC v. Amerindo Inv. Advisors Inc.*, No. 05 Civ. 5231, 2015 WL 13678841, at \*1 (S.D.N.Y. Sept. 14, 2015) (citations omitted).



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“In addition, in a securities receivership, opposition or acquiescence by the [regulatory agency] to the fee application will be given great weight.” *Byers*, 590 F. Supp. 2d at 644 (cleaned up).

## II. Procedural History

The Receiver’s Third Quarter 2025 Report, filed on October 31, 2025, sets forth in detail the procedural history during the Application Period [Dkt. 546, at 5-9].

On August 19, 2025, the Court entered an Opinion and Order granting the CFTC’s motion for summary judgment, ruling that Mr. Alexandre and EminiFX are jointly and severally liable to pay restitution in the amount of \$228,576,962. Mr. Alexandre is also liable to pay disgorgement fees [Dkt. 517]. On August 25, Mr. Alexandre filed a notice of appeal of the order [Dkt. 521]. On August 26, Mr. Alexandre filed an emergency motion to stay pending the appeal [Dkt. 522]. On August 27, a Judgment was entered [Dkt. 520]. On September 9, the CFTC filed an objection to the stay motion [Dkt. 523]. On September 22, the Court denied the stay motion [Dkt. 526]. The appeal remains pending in the Second Circuit [Case Nos. 25-2094, 25-2481].

On February 19, 2025, the Receiver filed a motion to compel Alexandre to turnover assets and information (the “Motion to Compel”) [Dkt. 448-451]. Mr. Alexandre filed a response on April 1 [Dkt. 466], and the Receiver replied on April 15 [Dkt. 470]. On August 19, 2025, the Court granted the Motion to Compel [Dkt. 516]. Mr. Alexandre filed an appeal in the Second Circuit and that appeal is pending [Case Nos. 25-2094, 25-2481].

On April 7, 2025, Mr. Alexandre filed a motion for leave to file counterclaim and cross-claim against the Receiver [Dkt. 468]. On April 8, the Court entered an order denying his motion [Dkt. 469]. On April 29, Mr. Alexandre filed a motion for reconsideration [Dkt. 475]. On May 1, the Court denied the motion for reconsideration stating it is an extraordinary remedy and Mr. Alexandre’s motion lacks legal authority [Dkt. 482]. Mr. Alexandre filed an appeal to the Second Circuit [Case No. 25-1278] and on August 28, the Second Circuit granted the CFTC’s motion to dismiss, with a mandate entered on October 28 [Dkt. 543].

On May 23 and July 17, 2025, the Receiver filed his notices of submission of user objections [Dkt. 496 and 503] requesting the Court enter an order overruling the user objections and verifying the disputed transactions at the Receiver’s determined amount. On July 23, the Receiver filed a letter application formally seeking that the Court overrule the remaining user objections [Dkt. 506]. On August 19, 2025, the Court approved the Receiver’s request [Dkt. 517]. On October 3, 2025, the Receiver filed his Notice of Final Claims Report [Dkt. 532].

On July 31, 2025, the Receiver filed his Second Quarter 2025 status report [Dkt. 511] and a fee application for the second quarter [Dkt. 512]. On August 19, 2025, the Court approved the Receiver’s fee application [Dkt. 517].



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### III. Summary of Services During the Application Period

**Transaction Verification and User Claims.** During the Application Period the Receiver and his teams completed their review of all disputed transactions. Users were given multiple opportunities to submit additional documentation or proof of their transactions. These efforts resulted in the successful resolution of many user objections. At the end of the review, less than .5% of the total transactions were under dispute (the “Disputed Transactions”). On May 23 and July 17, 2025, the Receiver filed his first and final submissions of user objections (“User Objection Submissions”) [Dkts. 496-497 and 503-504] containing schedules for the Disputed Transactions and the basis for the dispute. On July 23, the Receiver submitted a letter application to formally seek approval of the Receiver’s determinations contained in the User Objection Submissions, given that all objections had been submitted to the Court. On August 19, the Court entered an order stating that users may submit replies by September 8 [Dkt. 517]. On September 12, the Receiver submitted all of the replies received [Dkts. 524-525]. On September 22, the Court granted the Receiver’s application to overrule the remaining user objections [Dkt. 527]. On October 3, the Receiver filed his final claims report [Dkt. 532] completing the claims resolution process.

**Distributions.** On January 21, 2025, the Court approved the Receiver’s Proposed Plan (the “Plan”) [Dkt. 431]. The Receiver filed a Notice of Initial Distribution [Dkt. No. 434], announcing initial distribution and rising tide percentages at 45% for Class 3 and 55% for Class 3A. The total budget for the initial distribution is approximately \$100 million which is a majority of the over \$150 million held in the Receivership before distributions began.

As of the close of the Application Period, the Receiver and his team distributed approximately \$91.8 million to over 23,000 eligible users. The primary reason users have not received distributions is that they have not provided the Receiver with valid payment information. The Receiver set a final deadline of October 31, 2025 for users to enter payment or update their payment information. For the several thousand users who did not provide payment information, but for whom the Receiver has a last known address on file, the Receiver will mail a check that will be valid for 120 days, and anticipates that mailing will be complete by year end. Once all those checks have been negotiated, returned, or voided, the Receiver will file a final report on the Initial Distribution, but *at this stage* will not treat as abandoned any claims for which the Initial Distribution could not be made.

**Tax Liability.** During the Application Period, the Receiver worked with his tax advisors to monitor the status of the federal pre-receivership tax return for EminiFX and the qualified settlement fund tax return for post- Receivership activity. Both returns were filed with a request for prompt assessment.

**Third Party Claims.** The Receiver’s legal team at Otterbourg, in consultation with and supervised by the Receiver, continued its investigation into potential claims that the receivership



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may have against third parties. The Receiver continued an investigation into an issue concerning millions of dollars of EminiFX funds.

In addition, in light of information discerned during the non-user claims process, the Receiver discovered that over \$500,000 in EminiFX funds was used by Alexandre to purchase two luxury watches, and the Receiver initiated turnover request to Alexandre. Alexandre responded refusing to comply with the turnover request. As stated above, the Receiver filed the Motion to Compel which requests Alexandre to turnover the watches, any EminiFX assets and any information and passwords needed to access his EminiFX laptop as well as his Gmail password. On August 19, 2025, the Motion to Compel was granted [Dkt. 516]. The Receiver advised Alexandre that the order was entered and he was required to turnover the watches and information. The Receiver sent Alexandre multiple demands and has not received a response. Alexandre appealed the Motion to Compel and it is currently pending in the Second Circuit.

During the Application Period, the Receiver continued its litigation against Interactive Brokers LLC. As of June 20, 2025, the motion to dismiss has been fully briefed and a decision remains pending. A discovery stay is also in place until the motion to dismiss is decided. On September 13, 2025, the Receiver's counsel filed a letter regarding the status of the case after reassignment to a new justice.

During the Application Period, the Receiver continued prosecution of the action commenced against Clarelle Dieuveuil, the former Chief Financial Officer of EminiFX (the "CFO") and other senior executives, *David A. Castleman as Receiver for EminiFX, Inc. v. Clarelle Dieuveuil, et al.*, Index No. 651642/2025 in the Supreme Court for the County of New York. On July 9, 2025, the Receiver issued a discovery request to the CFO. A discovery schedule was entered on October 7, 2025. As of the date of this filing, there is a settlement with the other senior executives that has been submitted to the Court for approval [Dkt. 544].

**Administration of the Estate and Case.** The Receiver, assisted by his counsel at Otterbourg, supervised the administration of the estate, including monitoring bank accounts, redirecting and opening mail, and other tasks incidental to the management of the estate. The Receiver, with the assistance of Otterbourg, filed a status report advising the Court of the activities from the prior quarter [Dkt. 546]. The Receiver also continues to communicate with Alexandre regarding the Receivership as necessary via the CorrLinks system and the U.S. Mail.<sup>2</sup> In general, the Receiver expects to conserve estate resources by filing responses to motions by Alexandre only when necessary or when ordered by the Court.

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<sup>2</sup> The Receiver has not received a response from Alexandre for several months, but understands that Alexandre has had access to his CorrLinks email account through at least November 14, 2025 per an email filed at Dkt. No. 551-1.



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#### **IV. Summary of Fees and Expenses Requested**

The Receiver includes herewith affidavits from himself and the lead from each of the Professional Firms. Pursuant to the Employment Order, detailed time entries are filed separately under seal. The aggregate fees being requested have been discounted for the public service each firm has been performing. The Receiver and the Professional Firms have reasonably and diligently exercised their duties during the Application Period, and the Receiver respectfully submits that they are entitled to be fairly compensated for services rendered.

**The Receiver.** As set forth above, the Receiver spent substantial time administering all aspects of the receivership. The Receiver respectfully requests the Court approve payment of \$40,595.00 in fees to the Receiver, which reflects a discount of over 50% from his normal rate. The Castleman Affidavit attached as Exhibit 1 includes additional detail on his billing, as well as his supervision of the various Professional Firms.

**Otterbourg.** As set forth above, Otterbourg spent substantial time assisting the Receiver in administering and providing legal advice concerning all aspects of the receivership, including assisting with the initial distribution, completing the labor-intensive process to resolve remaining user claims and investigating and litigating potential third-party claims. The Receiver respectfully requests the Court approve payment of \$268,710.50 in fees (reflecting the 15% public service discount and additional discounts as requested by the Receiver) to Otterbourg, all expenses were waived. The Feeney Affidavit attached as Exhibit 2 describes in more detail the work performed.

**JS Held.** JS Held continued to provide substantial forensic services to the estate, including the development and maintenance of the review platform and analysis of remaining user transactions in connection claims process, preparing and gathering information needed for the final claims report and assisting in the claims and distribution process. The Receiver respectfully requests the Court approve payment of \$72,382.50 in fees and \$11,678.90 in expenses to JS Held. The O'Malley Affidavit attached as Exhibit 3 describes in more detail the work performed.

**Deloitte Tax.** Deloitte Tax has provided the estate with tax analysis and strategic advice, in connection with determining EminiFX's pre-receivership tax liability. Deloitte Tax assisted in monitoring the status of the New York state corporate tax return. The Receiver respectfully requests the Court approve payment of \$1,742.00 in fees and \$87.00 in expenses to Deloitte Tax. The Young Affidavit attached as Exhibit 4 describes the work performed.

**Crowe.** Crowe has provided the estate with critical tax support and analysis, including assisting in preparing the corporate tax return.<sup>3</sup> The Receiver respectfully requests the Court

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<sup>3</sup> A handful of time entries were from October but related to the work performed in September. Given the relatively modest amount, the Receiver has included those entries in this Application.



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approve payment of \$5,027.75 in fees to Crowe. The Davis Affidavit attached as Exhibit 5 describes the work performed.

**Stretto.** Stretto continued to play a key role in implementing the initial distribution by collecting payment information through the Portal and preparing checks and wires for distribution. Stretto has managed all user communications and continued to play a key role in the transaction verification and claims process and the claims resolution and plan process, including finalizing all user claim amounts on the Portal. The Receiver respectfully requests the Court approve payment of \$129,995.00 in fees and \$3,967.66 in expenses to Stretto. The McElhinney Affidavit attached as Exhibit 6 describes in more detail the work performed.

#### V. Conclusion

The Receiver respectfully requests that the Court approve the fee and expense requests as set forth in this Application.

Respectfully submitted,

A handwritten signature in blue ink that appears to read "Dan Castleman".

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*Receiver*

#### Attachments

cc: Counsel of Record (via ECF)  
Eddy Alexandre (via U.S. Mail)

Application GRANTED.

SO ORDERED.

A handwritten signature in blue ink that appears to read "Valerie Caproni".

1/30/2026

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE