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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Commodity Futures Trading Commission,

Plaintiff,

v.

Ooki DAO (formerly d/b/a bZx DAO), an
unincorporated association,

Defendant.

CIVIL ACTION NO: 3:22-cv-05416-
WHO

Hon. William H. Orrick

PLAINTIFF'S ADMINISTRATIVE
MOTION TO VACATE ORDERS
REQUIRING CASE MANAGEMENT
STATEMENT AND SETTING CASE
MANAGEMENT CONFERENCE

Plaintiff Commodity Futures Trading Commission ("CFTC") hereby submits its
Administrative Motion To Vacate Orders Requiring Case Management Statement and Setting
Case Management Conference ("Motion"). In support of the Motion, the CFTC states as
follows:

1. On September 22, 2022, the Commission filed a Complaint against the Ooki DAO
(formerly doing business as the bZx DAO), alleging violations of Sections 4(a) and 4d(a)(1) of

1 the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 6(a), 6d(a)(1), and Commission Regulation
2 (“Regulation”) 42.2, 17 C.F.R. § 42.2 (2021). ECF No. 1.

3 2. On September 27, 2022, the Court issued a Case Management Conference Order
4 setting a Case Management Conference for December 20, 2022 and ordered that the parties be
5 prepared to address at such conference “the date and estimated length of trial; setting the date for
6 discovery cutoff; setting the date to designate experts and other witnesses; and setting the date
7 for pretrial conferences.” ECF No. 14. The Court similarly required counsel for the parties to
8 confer in advance of the Case Management Conference and for counsel to file a joint case
9 management statement in compliance with the Civil Local Rules and the Standing Order for All
10 Judges of the Northern District of California. ECF No. 14.

11 3. The Standing Order for All Judges of the Northern District of California
12 (Contents of Joint Case Management Statement) requires a Case Management Statement
13 addressing, among other things, jurisdiction and service; relevant facts and legal issues including
14 those in dispute; pending motions and anticipated motions; amendment of pleadings; evidence
15 preservation; compliance with initial disclosure requirements; proposed discovery plans and
16 disputes; relief sought; and proposed dates for expert designation, discovery cutoff, dispositive
17 motions hearings, pretrial conference, and trial.

18 4. On December 13, 2022, the Court ordered submission of a Case Management
19 Statement by February 7, 2023 and reset the Case Management Conference for February 14,
20 2023. ECF No. 60.

21 5. On January 11, 2023, pursuant to Federal Rule of Civil Procedure (“FRCP”)
22 55(a), after the Ooki DAO failed to appear and file a responsive pleading, the CFTC requested a
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1 Clerk's Entry of Default against the Ooki DAO. ECF No. 64. On January 17, 2023, such
 2 Default was entered against the Ooki DAO. ECF No. 65.

3 6. The CFTC plans to file a motion for default judgment against the Ooki DAO
 4 pursuant to FRCP 55(b).

5 7. The CFTC has repeatedly—through submissions to the Ooki DAO's Help Chat
 6 Box and through postings on the Ooki DAO's Online Forum—requested that a representative of
 7 the Ooki DAO contact the CFTC to discuss this matter but has not received a response. Snyder
 8 Declaration ¶ 5 (attached hereto as Exhibit 1).

9
 10 Given that this case is now in a default posture, the CFTC believes that the issues to be
 11 addressed in a Case Management Statement and at a Case Management Conference will either be
 12 addressed in the CFTC's forthcoming default judgment motion (e.g., jurisdiction, service, and
 13 the relevant facts and law) or are no longer relevant given such posture (e.g., discovery
 14 deadlines, trial dates, and similar items). Thus, the CFTC requests that the Court vacate its
 15 orders requiring submission of a Case Management Statement and setting a Case Management
 16 Conference.
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18
 19 Dated: January 19, 2023

Respectfully submitted,

20
 21 **COMMODITY FUTURES TRADING
 COMMISSION**

22
 23 By: /s/ Anthony C. Biagioli
 24 Tom Simek (DC Bar # 57268), tsimek@cftc.gov
 25 TRIAL COUNSEL
 26 Anthony C. Biagioli (MO Bar # 72434),
 27 abiagioli@cftc.gov
 28 Attorneys for Plaintiff
 COMMODITY FUTURES TRADING
 COMMISSION
 2600 Grand Boulevard, Suite 210
 Kansas City, MO 64108
 (816) 960-7700

Certificate of Service

I hereby certify that on January 19, 2023, I caused a copy of the foregoing to be filed with the Clerk of the Court via the CM/ECF system as well as provided to the Defendant Ooki DAO through the Ooki DAO's Help Chat Box on the Ooki DAO website as well as by posting notice of the foregoing to the Ooki DAO's Online Forum.

/s/ Anthony C. Biagioli
Counsel for Plaintiff

Exhibit 1

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Commodity Futures Trading Commission,

Plaintiff,

v.

Ooki DAO (formerly d/b/a bZx DAO), an
unincorporated association,

Defendant.

)
)
) **CIVIL ACTION NO: 3:22-cv-05416-
WHO**

) **Hon. William H. Orrick**

)
) **DECLARATION OF BRITTNE
SNYDER IN SUPPORT OF
PLAINTIFF'S ADMINISTRATIVE
MOTION TO VACATE ORDERS
REQUIRING CASE MANAGEMENT
STATEMENT AND SETTING CASE
MANAGEMENT CONFERENCE**

I, Brittne Snyder, declare pursuant to 28 U.S.C. § 1746 based upon my personal
knowledge as follows:

1. I am over 21 years of age and am legally fit and qualified to testify in a court of
law.

2. I am employed as a Paralegal by the Division of Enforcement ("Division") of the
Commodity Futures Trading Commission ("Commission"), located at 2600 Grand Boulevard,
Suite 210, Kansas City, Missouri 64108.

3. As a Paralegal in the Division, my duties include, among other things, taking
steps to facilitate service of process on investigation subjects and litigation counterparties.

4. I have personal knowledge of the facts stated herein, and if called to testify, I
could and would competently testify to the same.

5. On September 22, 2022, September 23, 2022, September 27, 2022, September 28,
2022, October 14, 2022, November 1, 2022, November 14, 2022, December 15, 2022, December

1 21, 2022, January 11, 2023, and January 18, 2023, in connection with service of process of
2 various papers in this litigation on the Ooki DAO, I have requested, in submissions to the Ooki
3 DAO's Help Chat Box and through postings in the Ooki DAO's Online Forum, that a
4 representative of the Ooki DAO contact the CFTC to discuss this matter. However, I have not
5 received any such communications.
6

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Executed January 19, 2022, at Kansas City, Missouri.

10 /s/ Brittné Snyder
11 Brittné Snyder
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**UNITED STATES DISTRICT COURT
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Commodity Futures Trading Commission,

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)
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) **CIVIL ACTION NO: 3:22-cv-05416-
WHO**

) **Hon. William H. Orrick**

) **[PROPOSED] ORDER GRANTING
PLAINTIFF'S ADMINISTRATIVE
MOTION TO VACATE ORDERS
REQUIRING CASE MANAGEMENT
STATEMENT AND SETTING CASE
MANAGEMENT CONFERENCE**

13 This Court, having considered Plaintiff Commodity Futures Trading Commission's
14 ("CFTC") Administrative Motion To Vacate Orders Requiring Case Management Statement and
15 Setting Case Management Conference ("Motion"), and having read and considered the evidence
16 and papers with respect thereto, and good cause appearing therefore, **IT IS HEREBY**

17 **ORDERED:**

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19 The Motion is GRANTED and the Court hereby vacates its prior Orders requiring
20 submission of a Case Management Statement and Setting a Case Management Conference (ECF
21 Nos. 14, 60).

22 It is so ORDERED.

23 Dated:

BY THE COURT:

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25 _____
Hon. William H. Orrick
26 United States District Judge