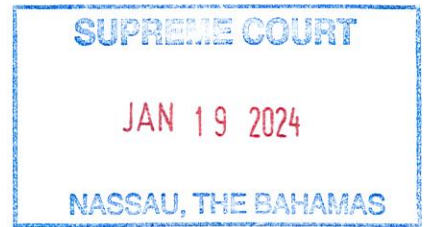


IN THE COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT  
COMMERCIAL DIVISION



Claim No: 2022/COM/com/00061

IN THE MATTER OF the Digital Assets and Registered Exchanges Act, 2020  
(as amended)

AND IN THE MATTER OF FTX DIGITAL MARKETS LTD.  
(A Registered Digital Asset Business)

BETWEEN

SECURITIES COMMISSION OF THE BAHAMAS

Claimant

AND

FTX DIGITAL MARKETS LTD.  
("In Official Liquidation")

Defendant

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**NOTICE OF APPLICATION**

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1. The Securities Commission of The Bahamas, the Claimant herein, ("the Commission") makes an application pursuant to this Honourable Court's inherent jurisdiction and/or paragraph 7 of the Order made by The Honourable Chief Justice Sir Ian Winder on 21 November 2022 ("the Supplemental Transfer Order") granting the parties liberty to apply **FOR DIRECTIONS** respecting the following issues:

(a) Whether the Commission may transfer to the Joint Official Liquidators of FTX Digital Markets Ltd ("FTXDMD"), or as directed by the Joint Official Liquidators, the digital assets held by the Commission for the benefit of the clients and/or creditors of FTXDMD by virtue of the Order made by The Honourable Justice Klein on 12 November, 2022 ("the Transfer Order") and subject to directions for the continued safe custody of the said assets issued by this Honourable Court to the Joint Official Liquidators in the proceedings for the winding-up of FTXDMD.

(b) Whether the Commission ought be discharged of its trusteeship over the said digital assets being held by virtue of the Transfer Order and Supplemental Transfer Order.

(c) Such further and other relief as the Court seems just; and

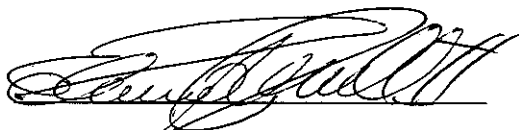
(d) Costs

2. The grounds of the application are:

- i. On 10 November 2022, the Commission filed a Winding Up Petition and Summons for Directions in Supreme Court Action No. COM/com/00060 (“the Winding Up Proceedings”) seeking orders, inter alia, winding up the affairs of the FTXDM and appointing Mr. Brian Simms KC as a Provisional Liquidator of FTXDM. On the same date, an Order appointing Mr. Brian Simms KC as Provisional Liquidator of FTXDM was made in the Winding Up Proceedings.
- ii. On 15 November 2022, Messrs. Peter Greaves and Kevin Cambridge were appointed as Joint Provisional Liquidators to serve together with Mr Brian Simms, KC.
- iii. On 12 November 2022, the Commission, by virtue of the Transfer Order took regulatory action in the interest of the clients and creditors of FTXDM to safeguard the digital assets within the possession, custody and/or under the control of FTXDM, its officers, directors, employees and/or agents. Accordingly, on that date, the Transfer Order was issued and the Commission took custody of the digital assets.
- iv. Thereafter, on 21 November 2022, by the Supplemental Transfer Order, it was further ordered that:-
  - a. the digital assets shall continue to be held in the custody of the Commission, as regulator, under the continuing direction of this Court; and
  - b. the Commission shall be regarded as having acted as trustee in the administration of trust assets within the meaning of the Trustee Act Ch. 176 for the benefit of the clients and/or creditors of FTXDM, pending directions for the continued safe custody of the said assets issued by this Honourable Court to the joint provisional liquidators and/or further order.

- v. On 10 November 2023, an Order was made on the Petition presented by the Commission in the Winding Up Proceedings that FTXDM be wound up and Messrs. Brian Simms KC, Peter Greaves and Kevin Cambridge were appointed as Joint Official Liquidators of FTXDM.
  - vi. On 19<sup>th</sup> December 2023 FTXDM acting by the Joint Official Liquidators (“JOLs”) as agents and without personal liability entered into a Global Settlement Agreement (“GSA”) with FTX Trading Ltd. and its affiliated debtors and debtors-in-possession the (“US Debtors”) subject to Court approval. The objective of the GSA, as far as possible, is to treat customers who prove in FTXDM’s official liquidation no less favorably, when taken as a whole, than customers who claim in the Chapter 11 cases of the Debtors in the US Bankruptcy Court.
  - vii. The GSA seeks to establish a harmonious and orderly framework for the further administration and distribution of the assets of FTXDM’s insolvent estate, including the digital assets within the possession and custody of the Commission by virtue of the Transfer Order and Supplemental Transfer Order.
  - viii. Accordingly, the Commission now proposes to transfer possession and custody of the digital assets to the Joint Official Liquidators and subject to directions for the continued safe custody of the said assets issued by this Honourable Court to the Joint Official Liquidators in the FTXDM Winding Up Proceedings.
3. The Fourth Affidavit of Christina Rolle filed herein on 19 January 2024 will be relied upon in support of this Notice of Application.
4. A draft of the Order the Claimant seeks is attached hereto at “Annex 1”.

Dated the 19 day of January, A.D. 2024

A handwritten signature in black ink, appearing to be 'Christina Rolle', written over a horizontal line.

**Signature of the Claimant’s Attorney**

**NOTICE**

This application will be heard by The Honourable Justice Loren Klein on the \_\_\_\_\_ day of January, A.D., 2024, at \_\_\_\_\_ am/pm.

**If you do not attend this hearing, an order may be made in your absence.**

Date: 19 January 2024

Registry: Supreme Court (Southern Region)

Address of Court Office: The Supreme Court Building, Bank Lane, Nassau, N.P., The Bahamas

Telephone No.: 1-242-397-1800

Unless the Chief Justice otherwise directs, the court office is open weekdays between 9:30 a.m. and 4:30 p.m. except on public holidays.

Claimant's Address for Service: Delaney Partners, Lyford Manor (West Bldg.), Western Road, Lyford Cay, Nassau, The Bahamas.

**DELANEY PARTNERS**

Lyford Manor (West Bldg.)

Nassau, New Providence

The Bahamas

Attorneys for the Claimant

**"ANNEX 1"**

**IN THE COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT  
COMMERCIAL DIVISION**

**Claim No. 2022/COM/com/00061**

**IN THE MATTER OF the Digital Assets and Registered Exchanges Act, 2020  
(as amended)**

**AND IN THE MATTER OF FTX DIGITAL MARKETS LTD.  
(A Registered Digital Asset Business)**

**BETWEEN**

**SECURITIES COMMISSION OF THE BAHAMAS**

**Claimant**

**AND**

**FTX DIGITAL MARKETS LTD.  
("In Official Liquidation")**

**Defendant**

**BEFORE: The Honourable Mr. Justice Loren Klein,**

**On the [ ] day of January, A. D. 2024**

**Robert K. Adams KC with Edward J. Marshall for the Claimant**

**Sophia Rolle-Kapousouzoglou and Valdere Murphy for the Defendant**

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**ORDER**

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**UPON AN APPLICATION** made on behalf of Securities Commission of The Bahamas ("Securities Commission") by a Notice of Application filed herein on [ ] January 2024 ("the Application").

**AND UPON READING** the Fourth Affidavit of Christina R. Rolle filed herein on [ ] January 2024.

**AND UPON HEARING** Robert K. Adams, KC with Edward J. Marshall II of Counsel for the Claimant and Sophia Rolle-Kapousouzoglou along with Valdere Murphy of Counsel for the Defendant.

**AND UPON THE UNDERTAKING** of Counsel for the Defendant to serve the Claimant with notice of application for approval of the Global Settlement Agreement dated 19<sup>th</sup> December 2023 between the Defendant and the US Debtors (“the GS Agreement”).

**AND THE COURT** being satisfied that the GS Agreement does not undermine the terms of this Order.

**IT IS HEREBY ORDERED THAT:**

1. Subject to paragraph 2 herein, the Securities Commission is hereby discharged as the trustee of the digital assets (“the Digital Assets”) of FTX Digital Markets Ltd (“FTXDM”) appointed by this Honourable Court under the authority of the Order of The Honourable Justice Loren Klein made on 12<sup>th</sup> November 2022, and the Supplemental Order of The Honourable Chief Justice Ian Winder dated 21<sup>st</sup> November 2022 and is hereby further authorized to transfer the Digital Assets to the Joint Official Liquidators, or as the Joint Official Liquidators shall direct, subject to directions for the continued safe custody of the said assets issued by this Honourable Court to the Joint Official Liquidators in the proceedings for the winding-up of FTXDM.
2. Full and unequivocal transfer shall only take effect when the matters at paragraphs 3 to 7 inclusive herein have been completed to the satisfaction of this Honourable Court.
3. Prior to the transfer to the Defendant of the Digital Assets the Claimant shall take, and continue to take, all reasonable and proportionate steps to secure custody of the Digital Assets, and not divest itself of possession, custody and/or control of the Digital Assets otherwise than strictly in accordance with its fiduciary duties, including, but not limited to, arranging adequate insurance cover.
4. The Defendant upon receipt of the Digital Assets shall be entitled to treat the same as the other assets in which it holds for the benefit of creditors and/or customers of FTX DM as well as the US Debtors. The Defendants shall be entitled to indemnify themselves from the assets in respect of any liabilities, costs, damages and losses (including but not limited to any direct, indirect or consequential loss) and for all other reasonable professional costs and expenses suffered and incurred in connection with all matters arising from the transfer of the Digital Assets whensoever occasioned, including for any third party claims arising out of or in connection with the Digital Assets, and including any indemnification to be given to the Securities Commission under paragraph 5 below.

5. For the avoidance of doubt, the Securities Commission is to continue to be indemnified as a trustee under the law, including without limitation, pursuant to The Trustee Act, Ch. 176.
6. The Defendant is to fully and effectively indemnify the Securities Commission against all liabilities, costs, damages and losses (including but not limited to any direct, indirect or consequential loss) and for all other reasonable professional costs and expenses suffered and incurred in connection with all matters arising from the transfer of the Digital Assets whensoever occasioned, including for any third party claims arising out of or in connection with the Digital Assets.
7. For the avoidance of doubt, the discharge of Securities Commission's court-imposed trusteeship is conditional upon all the Digital Assets having passed into the possession, custody and/or control of the Defendant upon the expiry of three months of the date of this Order. If this has not occurred, the Parties shall, prior to the expiry of this period, be obliged to return to this Honourable Court to seek further directions.
8. Once in possession, custody and/or control of all the Digital Assets transferred by Securities Commission pursuant to this Order, the Defendant shall hold such Digital Assets for the benefit of the clients and/or creditors of FTXDM and subject to and under the continuing supervision and direction of this Honourable Court and upon such appointment Securities Commission shall have no further or continuing obligation in respect of the Digital Assets.
9. Costs of and occasioned by this application are to be paid out of the assets of the Defendant.
10. The Parties be at liberty to apply.

**Dated this**                      day of January A.D., 2024

**BY ORDER OF THE COURT**

**REGISTRAR**

**This Order was drawn up by Delaney Partners, Lyford Manor (West Bldg.), Western Road, Lyford Cay, The Bahamas, Attorneys for the Claimant**

**IN THE COMMONWEALTH OF THE BAHAMAS  
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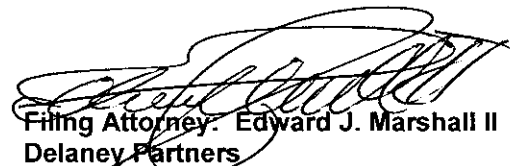
**FTX DIGITAL MARKETS LTD.  
("In Official Liquidation")**

**Defendant**

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**NOTICE OF APPLICATION**

---



**Filing Attorney: Edward J. Marshall II  
Delaney Partners  
Lyford Manor (West Bldg.)  
Western Road, Lyford Cay  
New Providence, The Bahamas  
Email: [emarshall@delaneypartners.com](mailto:emarshall@delaneypartners.com)  
Tel No: (242) 702-4500  
Filed on behalf of: The Claimant**