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BY ECF AND EMAIL

The Honorable Katherine Polk Failla
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: In re Tether and Bitfinex Crypto Asset Litigation, No. 19 Civ. 9236 (S.D.N.Y.) (KPF)

Dear Judge Failla:

We write on behalf of the B/T Defendants in response to Plaintiffs' Motion for Issuance of a Letter of Request, which asks the Court to issue a letter of request to the judicial authority of a foreign country to compel the deposition testimony of the Anonymous Trader. (Dkt. Nos. 408-410.)

We were recently informed by the Anonymous Trader that he has been engaged in discussions with Plaintiffs regarding a potential voluntary deposition. The B/T Defendants had independently reached out to the Anonymous Trader to see if he would agree to a deposition. We are discussing with the Anonymous Trader and with Plaintiffs the parameters of a voluntary deposition that would satisfy the Anonymous Trader's privacy and security concerns and would provide all parties an opportunity to pose questions and conduct cross-examination as necessary.

The Anonymous Trader has also communicated to us his request that the Court delay a decision on Plaintiffs' motion to give the parties time to resolve outstanding issues regarding a voluntary deposition. The B/T Defendants agree that a brief delay makes sense, and propose that the Court give the parties until Monday, July 31, 2023 to submit a joint letter setting forth the agreed terms of a deposition and raising with the Court any remaining areas of disagreement.

To the extent the Court is inclined to decide Plaintiffs' motion, we make two brief points.

First, Plaintiffs' motion would undermine the Court's orders protecting the Anonymous Trader's identity and therefore his security. Indeed, Plaintiffs' motion makes no reference to those orders, and Plaintiffs' proposed request includes the Anonymous Trader's name and contact information, as well as a copy of his declaration, which was filed under seal. The B/T Defendants see no reason to expose the Anonymous Trader's identity for the purpose of compelling his deposition, particularly when there is no evidence supporting Plaintiffs' claims.

Second, although the Court need not decide this issue today, we dispute Plaintiffs' assertion that the Anonymous Trader's sealed declaration would not be admissible at trial.

Respectfully submitted,

/s/ Elliot Greenfield