IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

AMERISTAR, LLC,

Defendant,

and

AMERISTAR MK Ltd. Liability Company, FRED W. FREITAG IV, and HIGHLINE GOLD INC. a/k/a HIGHLINE GOLD LLC a/k/a HIGHLINE GOLD CORPORATION LLC.

Relief Defendants.

Civil Action No. 2:24-CV-00169

ORDER GRANTING PLAINTIFF'S MOTION FOR REMEDIES AND ENTERING FINAL JUDGMENT

Before the Court is Plaintiff United States Securities and Exchange Commission's Motion for Remedies. [ECF No. 45]. The Court, having carefully reviewed the filings and relevant law, grants the Plaintiff's Motion.

BACKGROUND

Plaintiff, the United States Securities and Exchange Commission ("SEC"), brought the following allegations against AmeriStar, LLC ("AmeriStar"): beginning in August 2023, AmeriStar offered investments to the public through social media accounts, and, until August 2024, it also did so through at least two websites. AmeriStar attracted investors with advertisements on Facebook and Instagram accounts. AmeriStar previously used a website ("AmeriStar Website") that was available to the public as of about August 18, 2024, which contained marketing materials, including an investor brochure ("Investor Brochure") and at least two versions of a private placement memorandum ("PPM"). AmeriStar also solicited investors through another website with the address of bankingsecure.app/en/ ("Banking Secure Website"). While occasionally inaccessible, the Banking Secure Website appeared accessible on September 3, 2024. Collectively, these materials are referred to as the "Offering Materials."

Through these channels, AmeriStar claimed it offered high yield, FDIC-insured investments. The AmeriStar Website claimed that it was offering securities that combined the return from its purchase of Certificates of Deposit ("CDs") with fees from its purported "courtesy deposit" program. AmeriStar told investors they could essentially double the typical rate of return for a CD by investing with AmeriStar's "courtesy deposit" program because AmeriStar would both purchase the CD (which would generate interest payments), and would also use that CD to generate a fee from businesses looking to borrow money from a bank. These businesses would purportedly pay AmeriStar this fee if AmeriStar would purchase CDs from a bank because, AmeriStar claimed, its "courtesy deposit" would cause the bank to look favorably on the business's loan application. For example, the AmeriStar Website stated: "AmeriStar combines a Certificate of Deposit and a Courtesy Deposit, to generate two returns," and in response to a "Frequently Asked Question" that the investment seems too good to be true, the website explained, "Well you are right, no FDIC bank could ever have interest of 12% in this market. But AmeriStar is not providing a CD at 12%. The investment is into a Regulation D private offering that combines a CD and a Courtesy Deposit." AmeriStar bolstered the "courtesy deposit" program by claiming that it would purchase CDs in a way to ensure that insurance provided by the FDIC would protect all investor funds.

AmeriStar offered and sold these investments in the form of notes, which are securities under federal law. *See* [ECF No. 39]. These notes stated that repayment of the principal investment is due by a certain date and that AmeriStar will make monthly interest payments based on a specified annualized rate of return.

The SEC claims this scheme, which involves the ongoing solicitation of investors on social media, is a fraud. AmeriStar did not purchase the CDs for investors or make "courtesy deposits" for those investors like it said it would, and bank records do not reflect the purchase of CDs from the specific banks identified in its offering materials. Instead, investor money flowed into accounts of Relief Defendants and a large amount of investor money was sent to companies that sell precious metals.

This Court has since entered default judgment finding that AmeriStar violated Sections 5(a) and (c) and Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a) and (c); 77q(a)], and Section 10(b) of the Exchange Act of 1934

("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b 5]. [ECF No. 39].

The SEC has subsequently filed the present Motion for Remedies, seeking an order on remedies and final judgments, and requesting disgorgement, civil penalties, and injunctive relief as to Defendant AmeriStar, and disgorgement as to Relief Defendants AmeriStar MK Ltd. Liability Company ("AmeriStar MK"), HighLine Gold, Inc. a/k/a HighLine Gold LLC a/k/a HighLine Gold Corporation LLC ("HighLine Gold") ("HighLine Gold"), and Fred W. Freitag IV. The only party to oppose this motion is Relief Defendant Fred Freitag, who has filed numerous objections to the SEC's motion for remedies. [ECF Nos. 54, 55 & 56]. The SEC has also filed a motion to strike Mr. Freitag's "Reply Brief to SEC's Supplemental Reply Brief in Support of It's [sic] Motion for Remedies" [ECF No. 56], but such motion is moot as it finds for the SEC regardless based on a thorough analysis of the relevant law and facts. [ECF No. 57].

RELEVANT LAW

Through the court's power to award equitable relief under 15 U.S.C. § 78u(d)(5), it can order wrongdoers to disgorge net profits obtained from their unlawful activity. *Liu v. SEC*, 591 U.S. 71, 74, 91–92 (2020). Disgorgement only needs to be a "reasonable approximation of profits causally connected to the violation." *SEC v. Cell>Point, LLC*, No. 21-cv-01574-PAB-SBP, 2025 WL 726523, at *4 (D. Colo. Mar. 4, 2025) (quoting *SEC v. GenAudio Inc.*, 32 F.4th 902, 945 n.22 (10th Cir. 2022)). Once a reasonable approximation is established, the burden shifts to the defendants to demonstrate the disgorgement figure is not a reasonable approximation. *Id.* "Exactitude is not a requirement; [s]o long as the measure of disgorgement is reasonable, any risk of uncertainty should fall on the wrongdoer whose illegal conduct created that uncertainty." *SEC v. Orr,* No. 11–2251–SAC, 2012 WL 1327786, at *6 (D. Kan. Apr. 17, 2012) (quoting *SEC v. Calvo*, 378 F.3d 1211, 1217 (11th Cir. 2004)).

Additionally, the court has broad equitable powers to order disgorgement of ill-gotten funds that have been transferred to third parties, known as relief defendants, if the party in possession has no legitimate claim to it. *SEC v. Erwin*, 533 F. Supp. 3d 895, 902 (D. Colo. 2021). To establish a claim for disgorgement against a relief defendant, the SEC must show that the relief defendant: (1) received ill-gotten funds; and (2) does not have a legitimate claim to those funds. *E.g.*, *id.* (citing *SEC v. Cherif*, 933 F.2d 403, 414 (7th Cir. 1991)).

RULING OF THE COURT

The Court grants the SEC's Motion for Remedies. First, it finds AmeriStar must disgorge $496,943, pay a civil penalty of $1,182,251, and is permanently enjoined from committing future securities violations. Second, it finds that all Relief Defendants must disgorge ill-gotten gains: HighLine Gold must disgorge $2,047,171, AmeriStar MK must disgorge $130,000, and Mr. Fred Freitag must disgorge $244,619.

I. AmeriStar

The SEC has requested the Court disgorge AmeriStar's ill-gotten gains, impose a significant civil penalty upon AmeriStar for its security violations, and permanently enjoin AmeriStar from engaging in future violations of federal securities law. The Court will address each argument in turn.

a. Disgorgement

The SEC has requested the Court order $496,943 in disgorgement from AmeriStar, arguing this amount is a reasonable approximation of ill-gotten funds causally connected to AmeriStar's security violations which should be awarded to its victims. [ECF No. 46, at 6]. It asserts that this amount is equal to AmeriStar's gross pecuniary gain from its fraudulent scheme with appropriate deductions that are supported by evidence. *Id.* The Court agrees with the SEC, finding that this amount is a reasonable estimation.

The SEC asserts that AmeriStar gained at least $3,948,536.27 from defrauded investors. [ECF No. 5-1, at ¶ 62]; [ECF No. 19 at 4]. It also asserts that evidence supports appropriate deductions from this gross pecuniary gain: (1) AmeriStar refunded investors a total of $1,029,801.37. *Id.* at ¶ 62; (2) AmeriStar paid HighLine Gold $2,047,171.38 for the purchase of precious metals. *Id.* at ¶ 59; (3) AmeriStar paid AmeriStar MK $130,000. *Id.* at ¶ 57 (C)(i); (4) AmeriStar paid Relief Defendant Freitag $244,619. [ECF No. 26, at 2]. This makes the total amount of appropriate deductions $3,451,592.73, and the net profits to AmeriStar $496,943.[1]

The SEC also requested that the Court order AmeriStar to pay prejudgment interest of $10,038. Disgorgement normally includes prejudgment interest to ensure that wrongdoers do not profit from their illegal conduct. *SEC v. Erwin,* No. 13-cv-03363-CMA-KMT, 2021 WL 3206325, at *5 (D. Colo. July 29, 2021). This amount was computed with a start date of May 1, 2024, when AmeriStar had received investor funds and was soliciting

[1] The Court notes that its own calculation of AmeriStar's net profits results in $496,944.52. The Court is unsure where the (small) discrepancy between its number and the SEC's calculation originates but will nevertheless use the SEC's calculation; the smaller amount will have less of a burden on Defendant AmeriStar.

more on social media, and the end date was when the Court froze AmeriStar's assets. [ECF No. 46, at 7]. The interest rate is the rate used by the Internal Revenue Service for the underpayment of federal income tax under 26 U.S.C. § 6621(a)(2). Using this calculation, the SEC seeks disgorgement in the amount of $10,038.

After reviewing the relevant evidence that the SEC has provided for its calculations, the Court agrees that the disgorgement amount is a reasonable approximation of AmeriStar's net profits and agrees the prejudgment interest amount should be applied. Because the burden falls on the Defendant to demonstrate the disgorgement figure is not a reasonable approximation after one is established, and AmeriStar has not disputed the SEC's approximation, the Court orders that AmeriStar disgorge $496,943 and pay $10,038 in prejudgment interest.

b. Civil Penalty

In addition to disgorgement, the SEC requests a significant civil penalty of $1,182,251 against Defendant AmeriStar. [ECF No. 46, at 13]. The Court grants this request.

Section 20(d)(1) of the Securities Act and Section 21(d)(3)(A) of the Exchange Act authorize civil penalties against any person who violates federal securities laws. Indeed, "disgorgement alone is an insufficient remedy because there is little deterrent in a rule that allows a violator to keep the profits if [he] is not detected and requires only a return of ill-gotten gains if [he] is caught." *SEC v. Williams*, No. 2:14-CV-510-DAK, 2016 WL 3645158, at *4 (D. Utah June 30, 2016) (quotation omitted). Because AmeriStar's violations involved "fraud, deceit, manipulation, or reckless disregard of a regulatory requirement" and "resulted in substantial losses' to AmeriStar's victims, the Court may impose a "third tier" penalty under the Securities Act and the Exchange Act. *See* 15 U.S.C. §§ 77t(d)(2)(C), 78u(d)(3)(B)(iii). Courts look to several factors when determining whether and how much of a civil penalty should be imposed against a defendant, including:

> (1) the egregiousness of the violations at issue; (2) defendants' scienter; (3) the repeated nature of the violations; (4) defendants' failure to admit to their wrongdoing; (5) whether defendants' conduct created substantial losses or the risk of substantial losses to other persons; (6) defendants' lack of cooperation and honesty with authorities, if any; and (7) whether the penalty that would otherwise be appropriate should be reduced due to defendants current and future financial condition.

SEC v. GenAudio Inc., 32 F.4th 902, 954 (10th Cir. 2022) (quotation omitted).

In analyzing AmeriStar's conduct under these factors, the Court finds a significant civil penalty is warranted. Factors one and two are met. The evidence shows that the Unknown Actors who controlled AmeriStar engaged in a continuous pattern of egregious conduct, misusing investor funds, and stealing from investors. They acted with a high degree of scienter because they knowingly made false misrepresentations and omissions, including identifying individuals as executives who had no connection to AmeriStar and misrepresenting FDIC insurance protection. *See* [ECF No. 39]. The third, fourth, and sixth factors are also met; the violations were repetitive, and Defendant AmeriStar has neither admitted wrongdoing nor cooperated with authorities by appearing before this Court or identifying the unknown actors in charge of the company. *Id.* For the fifth factor, losses of the persons and risk of losses to others, AmeriStar's fraud resulted in substantial losses: nearly $3 million from at least 22 investors, and AmeriStar created a high risk of loss to others because they solicited investments from the general public using social media. [ECF

No. 5-1, at ¶ 62; ECF No. 19 at 4]. For factor seven, the Court finds no reason that the penalty should be reduced due to Defendant's current and future financial condition.

Defendant AmeriStar has not contested the SEC's motion, and the Court finds compelling reasons to impose a civil penalty. Thus, the Court imposes a civil penalty to AmeriStar in the amount of $1,182,251.

c. Injunctive Relief

The SEC seeks a permanent injunction against future violations of the federal securities laws under Section 20(b) of the Securities Act and Section 21(d) of the Exchange Act. 15 U.S.C. §§ 77t(b) and 78u(d)(1). Such an injunction is warranted if the SEC shows "(1) actual success on the merits; (2) irreparable harm unless the injunction is issued; (3) the threatened injury outweighs the harm that the injunction may cause the opposing party; (4) the injunction, if issued, will not adversely affect the public interest." *United States v. Uintah Valley Shoshone Tribe*, 946 F.3d 1216, 1222 (10th Cir. 2020) (quoting *Prairie Band Potawatomi Nation v. Wagnon*, 476 F.3d 818, 822 (10th Cir. 2007)). The SEC shows all four elements are met.

The Court's default judgment on liability towards AmeriStar established the first element and strongly weighs toward a finding on the second element. [ECF No. 39]. Indeed, these past violations permit "an inference that future violations will occur." *SEC v. McDuffie*, 12-cv-02939, 2014 WL 4548723, at *10 (D. Colo. Sept. 15, 2014) (citations omitted). Determining the likelihood of future violations, and the harm these violations will cause, requires analyzing factors such as "the seriousness of the violation, the degree of scienter, whether defendant has recognized his wrongful conduct and gives sincere assurances against future violations." *Cell>Point*, 2025 WL 726523, at *15 (quoting *SEC v. Pros Int'l, Inc.*, 994 F.2d 767, 769 (10th Cir. 1993)). Indeed, as discussed above, the seriousness of the AmeriStar's fraudulent activity and degree of scienter permit the Court to make a strong inference that future violations will occur, leading to irreparable harm unless the injunction is issued.

The third element balances the harms the injunction may cause the opposing party, and the fourth element ensures an injunction will not adversely affect the public interest. The only "harm" permanently enjoining AmeriStar from engaging in securities violations is limiting their ability to engage in fraudulent activity, and such an injunction would only benefit the public by protecting them from AmeriStar's fraud.

Thus, the Court finds that all four elements strongly weigh in favor of permanently enjoining AmeriStar from future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act and Section 10(b) and Rule 10b-5 of the Exchange Act.

The Court now turns to the Relief Defendants.

II. Relief Defendants

To establish a claim for disgorgement against a relief defendant, the SEC must show that the relief defendant: (1) received ill-gotten funds; and (2) does not have a legitimate claim to those funds. The Court finds that the SEC has established both elements for Relief Defendants AmeriStar MK, HighLine Gold, and Fred Freitag, and it finds that the SEC's disgorgement amounts are reasonable approximations.

a. AmeriStar MK and HighLine Gold

Defendants AmeriStar MK and HighLine Gold have not responded to the SEC's Motion for Remedies. The Court will nevertheless adjudicate the SEC's Motion on its merits.

For the first element, there is no dispute that AmeriStar MK received $130,000 from AmeriStar's fraudulent activity, and that Highline Gold received $2,047,171 for the purchase of precious metals. [ECF No. 5-1, at ¶¶ 57(c)(i), 59].

For the second element, the SEC asserts that AmeriStar MK and Highline Gold have no legitimate claim to these funds, and the Court agrees. AmeriStar MK simply held investor funds until Mr. Freitag moved them at AmeriStar's direction or helped himself to them. *Id.* at ¶ 57(c). Highline Gold appeared to use the money it received to purchase precious metals, and there is no evidence that it held the precious metals for the benefit of AmeriStar or its investors. *Id.* at ¶59.

The Court finds that the SEC has met both elements to establish a claim for disgorgement against Relief Defendants AmeriStar MK and HighLine Gold. The SEC requests disgorgement in the amounts of $2,047,171 for HighLine Gold and $130,000 for AmeriStar MK. These amounts are based on the payments AmeriStar made to AmeriStar MK and HighLine Gold, as discussed *supra*, and the Court finds that these are reasonable estimations based on the evidence. Because the burden falls on Defendants to disprove the approximation's reasonableness, and because neither AmeriStar MK nor HighLine Gold have disputed the SEC's approximation, the Court orders AmeriStar MK disgorge $130,000 and HighLine Gold disgorge $2,047,171.

The Court also finds prejudgment interest warranted on the disgorgement for the same reasons and by using the same calculation as for Defendant AmeriStar. The SEC asserts that prejudgment interest on disgorgement is warranted for Relief Defendant HighLine Gold, Inc. from a violation date of May 1, 2024, to July 1, 2024, which is the last month in which HighLine Gold used investor money. [ECF No. 46, at 12 n.3]. It similarly asserts prejudgment interest is warranted for Relief Defendant AmeriStar MK from a violation date of April 1, 2024, to the date the court froze its assets. *Id.* Because there is no dispute over the dates or the calculation used, the Court orders Relief Defendant HighLine Gold pay prejudgment interest in the amount of $27,386 and Relief Defendant AmeriStar MK pay prejudgment interest in the amount of $2,625.

b. Mr. Fred Freitag

Relief Defendant Fred Freitag is the only Relief Defendant to oppose the SEC's motion for remedies. There is no dispute that Mr. Freitag received and retained $244,619 from AmeriStar's fraud, but Mr. Freitag argues that he has a legitimate claim to at least some of the funds for the alleged "legal services" he provided AmeriStar.

The SEC asserts that Mr. Freitag should disgorge $244,619, which is the amount of investor funds Mr. Freitag received after (i) deducting funds he transferred to others at AmeriStar's direction, and (ii) $10,000 paid to Mr. Freitag as a retainer fee. [ECF No. 26 at 2]. Of the $244,619, Mr. Freitag concedes to $78,072 he received; rather, the only dispute is whether he has a legitimate claim to the other $166,547. [ECF 46, at 9].

The SEC contends that Mr. Freitag does not have a legitimate claim the funds because he was hired to act as a "paymaster," by simply transferring money at AmeriStar's direction, where he did not even know what he was doing with the funds as they were transferred. *Id.* The SEC agrees that the $10,000 retainer fee for Mr. Freitag's limited services was legitimate, but he does not have a legitimate claim to other funds for three reasons. First, the retainer agreement only permitted Mr. Freitag to withdraw sums from a trust account that the $10,000 was held in to "cover costs, expenses, and legal fees incurred." *Id.* at 10; [ECF No. 5-21 § 3]. Second, the only other way Mr. Freitag could be paid besides the retainer fee was by sending semi-monthly statements to AmeriStar, which he did not do. [ECF No. 46, at 10]. Instead of keeping contemporaneous records, Mr. Freitag created a 44-page invoice following the SEC's allegations that he had no legitimate claim to the victim's funds. This invoice, the SEC asserts, is riddled with false statements and exaggerations.[2] It furthers that Mr. Freitag wrote himself checks in round-number increments that have no bearing on the purported amount of work he claims to have done at the time—a significant disparity between the value of purported services and the money he took from investor funds that demonstrates the invoices unreliability. [ECF No. 46-1, at 20–21]. Third, the SEC asserts that Mr. Freitag did not perform legal services but simply acted as a "paymaster" who transferred funds, consciously avoiding learning about the actual uses of investor funds—knowledge which is necessary to provide any basic legal

[2] These "false statements and exaggerations" include billing for 32 hours in a single day, billing 23.9 hours of work in another single day (including 0.5 hours to examine a driver's license and 20 minutes to review a sticky note). [ECF No. 46, at 10]. Furthermore, the vast majority of billed hours are in 0.33 increments, stating simply "email," and "banking." *See* "Invoice to AmeriStar LLC." In response, Mr. Freitag asserts that it is "impossible" to keep track of time contemporaneously (although this is standard for attorneys in private practice), but such a limited argument without more simply does not make the SEC's approximation "unreasonable" nor establish a legitimate claim to these funds. [ECF No. 46-1, at 15].

services.[3] [ECF No. 46, at 11–12]. Thus, the SEC requests the Court to order Mr. Freitag disgorge $244,619.98, which is the amount of investor funds Mr. Freitag received and has no legitimate claim to after deducting the $10,000 retainer agreement.

Mr. Freitag vigorously contests the SEC's motion for remedies. Mr. Freitag argues that the SEC makes no mention of him initiating and pursuing litigation against Citizens Bank on behalf of AmeriStar. [ECF No 54, at 4]; [ECF No. 55, at 11]; [ECF No. 56, at 8]. Mr. Freitag asserts he is actually owed money by AmeriStar, $38,000 in legal fees, supposedly shown in his invoices. [ECF 54, at 4]. Mr. Freitag also states he paid filing fees and costs of $5,650 in this arbitration, legitimate business expenses that should be deducted. [ECF No. 56, at 8]. Moreover, Mr. Freitag heavily disputes the SEC's characterization of his invoice, arguing it reliably shows the legal services he received payment for. *Id.* at 11.

The Court accepts that the SEC's disgorgement amount of $244,619 is a reasonable approximation. Thus, the burden is on Relief Defendant Freitag to disprove the approximation. Mr. Freitag vaguely gestures to exhibits and invoices that demonstrates he had a business relationship with AmeriStar but does not demonstrate that he provided legal work that warrants a legitimate claim to the funds. The Court "cannot take on the responsibility of serving as the litigant's attorney in constructing arguments and searching the record." *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). Mr. Freitag misunderstands the law when he states that he has "filed the invoice along with

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[3] Mr. Freitag stated "I -- I don't know what I purchased . . . I -- I sent monies as I was told. So I -- if you say it was gold, I have no idea. It could be -- you know, could be tiddlywinks." [ECF No. 46-1, at 22].

the plethora of exhibits for Plaintiff to review – it's their duty exhibits [sic]." [ECF No. 56 at 11]. The SEC has, upon carefully reviewing Mr. Freitag's exhibits, established a reasonable approximation based on them, and Relief Defendant Freitag must prove with specific facts and evidence why this approximation is unreasonable. *See Cell>Point*, 2025 WL 726523, at *4.

Rather than attempt to disprove the contents of Danielle R. Voorhees's testimony and declaration, [ECF No. 5-1], which described the investor funds Mr. Freitag received and his use of them, Relief Defendant Freitag attempts to discredit Voorhees's validity as a witness. He argues that Voorhees's "testimony is a clear conflict of interest in violation of ABA Rules 1.7, 3.7, and 7.2, and that she testified as an expert as to the value of legal services he provided AmeriStar." [ECF No. 54, at 5]. The Court agrees with the SEC that this is inaccurate, and that she provided valid testimony "consistent with her Declaration and the SEC's investigation." [ECF No. 53, at 4 n.4].

As for the invoice and arbitration, Mr. Freitag argues that there is documentation and email communications between him and AmeriStar for the Citizens Bank arbitration litigation that supports the amount demonstrated in the invoice. [ECF No. 54, at 4]; [ECF No. 56, at 7]. Mr. Freitag provides email documentation that demonstrates an authority at AmeriStar authorized him to pursue litigation against Citizens Bank. [ECF No. 56-1, at 6–7]. The SEC responds that the arbitration was done for Mr. Freitag's own company, AmeriStar MK, not services provided to AmeriStar that warrant a legitimate claim to victim's funds received from AmeriStar. [ECF No. 53, at 5]. Indeed, Mr. Freitag testified that this arbitration was on behalf of his own company's account with Citizen's Bank. [ECF

No. 46-1, at 21]. Since Mr. Freitag does not provide a stronger link between this arbitration and AmeriStar, the Court finds that simply demonstrating this arbitration happened does not create a legitimate claim to a share of the victim's funds.

As the Court noted in Mr. Freitag's TRO hearing, "the attorney business arrangement with AmeriStar and [Mr. Freitag] was fast and loose . . . without any real documentation to support the basis for withdrawals and certainly the basis for the monies utilized and services billed." [ECF No. 46-1, at 24]. Mr. Freitag's burden is to show that the SEC's approximation is unreasonable, and he failed to meet this burden after being advised by the Court that the documentation he relied on was insufficient to establish a legitimate claim. The SEC has provided a reasonable approximation, cited with specific evidence, that Mr. Freitag has not provided legal services that warrant use of investor funds. Moreover, Mr. Freitag has not responded to the argument that he did not use investor funds in accordance with the retainer agreement beyond suggesting "reliable email communications . . . show acceptance of the modifications of the Retainer Agreement." [ECF No. 55, at 9]. He does provide a "supplemental order of accounting" that contains approximately 1,750 pages of emails and documents, including alleged "invoices" he sent to AmeriStar during the period he was working under retainer.[4] However, as the SEC notes these were filed extraordinarily late, as the deadline to provide an accounting was in

[4] A cursory glance at some of these invoices reveals Mr. Freitag was supposedly billing time for non-lawyerly activities, including "banking" and even "introduction to other personnel in office," supporting the SEC's argument that Mr. Freitag was only acting as a paymaster [ECF No. 51-7]. Citing to these invoices might help Mr. Freitag demonstrate the amount of legitimate earnings from the supposed arbitration, but because Mr. Freitag does not explain these hours and given the lateness of Mr. Freitag's filing of these invoices, the Court will not act as Mr. Freitag's "attorney in constructing arguments and searching the record." *Garrett*, 425 F.3d, 840.

September 2024. The Court is unaware of any reason for why Relief Defendant Freitag would file the 44-page "invoice" created subsequent to the SEC's lawsuit rather than supply those invoices to the initial order for accounting. [ECF No. 53, at 2].[5] Relief Defendant Freitag argues that surgery is a proper reason for an extension of time, but the Court is again unaware as to why Mr. Freitag would not request such an extension of time when the accounting was due.[6]

Nevertheless, Mr. Freitag fails to provide specific evidence as to why the SEC's approximation is unreasonable, nor can he reasonably explain why he billed hours and took funds in round number increments. As such, the Court finds that the Mr. Freitag has not met his burden to show that SEC's approximation is unreasonable.

Thus, the Court orders that Mr. Freitag disgorge $244,619. The Court agrees with the SEC that prejudgment interest is warranted and does not accept Mr. Freitag's argument that the Interest on Lawyers Trust Account (IOLTA) account is exempt, as he again provides no evidence to his assertion that he could not access the account, and the SEC provides strong evidence to the contrary. [ECF No. 54, at 5; ECF No. 53, at 4]. Relying on the SEC's calculation as used for the other defendants, and using a violation date of April 1, 2024, and an end date of the date the Court froze his assets, the Court finds that Relief Defendant Freitag must pay prejudgment interest of $4,941.

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[5] Mr. Freitag also agreed that there is not a separate version of the invoice that contained more information in the October TRO hearing and now attempts to provide the court with documentation that is just that. [ECF No. 46-1, at 19]. However, it appears Mr. Freitag divided the 44-page invoice, which he provided the Court with prior to his TRO hearing in October 2024, into two-month increments. *See* [ECF 51-7]. The Court will not speculate as to why Mr. Freitag did this and only notes that providing these supposed invoices does nothing to help him meet his burden.

[6] The Court has previously granted Mr. Freitag's Motion for Extension of Time to respond to the Motion for Remedies. [ECF No. 56, at 2–7; ECF No. 52].

CONCLUSION

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that AmeriStar is permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

(a) to employ any device, scheme, or artifice to defraud;

(b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, and doing any of these things about:

(a) any investment in or offering of securities

(b) the registration status of such offering or of such securities

(c) the use of investor funds; or

(d) the misappropriation of investor funds or investment proceeds.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that AmeriStar is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

(a) to employ any device, scheme, or artifice to defraud;

(b) to make any untrue statement of a material fact, or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person

by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, and doing any of these things about:

(a) any investment in or offering of securities

(b) the registration status of such offering or of such securities

(c) the use of investor funds; or

(d) the misappropriation of investor funds or investment proceeds.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that AmeriStar is permanently restrained and enjoined from violating Section 5(a) and (c) of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

(a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that AmeriStar is liable for disgorgement of $496,943, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $10,038, and a civil penalty in the amount of $1,182,251 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. AmeriStar shall satisfy this obligation by paying $1,689,232 to the Securities and Exchange Commission within 30 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; AmeriStar, LLC as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by using all collection procedures authorized by law, including, but not limited to, moving for civil contempt at any time after 30 days following entry of this Final Judgment.

The Commission may enforce the Court's judgment for penalties by the use of all collection procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil contempt for the violation of any Court orders issued in this action. Defendant shall pay post judgment interest on any amounts due after 30 days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the AmeriStar funds, together with any interest and income earned thereon (collectively, in the "Fund"), pending further order of the Court.

The Commission may propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that AmeriStar MK is liable for disgorgement in the amount of $130,000, representing the net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $2,625, for a total of $132,625. AmeriStar MK shall satisfy this obligation by paying $132,625 to the Commission within 30 days after entry of this Final Judgment.

AmeriStar MK may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. AmeriStar MK may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; AmeriStar MK as a relief defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

AmeriStar MK shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, AmeriStar MK relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to AmeriStar MK.

The Commission shall hold the AmeriStar MK funds (collectively, in the "Fund") until further order of this Court. The SEC may propose a plan to distribute the Fund subject to the Court's approval, and the Court shall retain jurisdiction over the administration of any distribution of the Fund.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by using all collection procedures authorized by law, including, but not limited to, moving for civil contempt at any time after 30 days following entry of this Final Judgment. AmeriStar MK shall pay post judgment interest on any amounts due after 30 days of entry of this Final Judgment pursuant to 28 U.S.C. § 1961.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that within three days after being served with a copy of this Final Judgment, Citizens Bank shall transfer the entire balance of the following bank accounts which were frozen pursuant to an Order of this Court to the Commission:

Bank	**Account Owner**	**Acct. Ending in:**
Citizens Bank	AmeriStar MK Ltd.	x9873
Citizens Bank	AmeriStar MK Ltd.	x0022

Citizens Bank may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. Citizens Bank may also transfer these funds by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; and specifying that payment is made pursuant to this Final Judgment.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Mr. Freitag is liable for disgorgement in the amount of $244,619, representing the net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $4,941, for a total of $249,560. Mr. Freitag shall satisfy this obligation by paying $249,560 to the Commission within 30 days after entry of this Final Judgment.

Mr. Freitag may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. Mr. Freitag may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Mr. Freitag as a relief defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Mr. Freitag shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Mr. Freitag relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Mr. Freitag.

The Commission shall hold the Fred Freitag funds (collectively, in the "Fund") until further order of this Court. The SEC may propose a plan to distribute the Fund subject to the Court's approval, and the Court shall retain jurisdiction over the administration of any distribution of the Fund.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by using all collection procedures authorized by law, including, but not limited to, moving for civil contempt at any time after 30 days following entry of this Final Judgment. Mr. Freitag shall pay post judgment interest on any amounts due after 30 days of entry of this Final Judgment pursuant to 28 U.S.C. § 1961.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that within three days after being served with a copy of this Final Judgment, First National Bank of Pennsylvania, Mars Bank (NexTier Bank), and PNC Bank shall transfer the entire balance of the following bank accounts which were frozen pursuant to an Order of this Court to the Commission:

Bank	**Account Owner**	**Acct. Ending in:**
First National Bank of Pennsylvania	Fred Freitag IV	x5664
First National Bank of Pennsylvania	Fred Freitag IV	x5672
Mars Bank (NexTier Bank)	Fred Freitag IV	x4192
Mars Bank (NexTier Bank)	Fred Freitag IV	x4005

PNC Bank	Fred Freitag IV	x1614

Each bank may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. Each bank may also transfer these funds by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; and specifying that payment is made pursuant to this Final Judgment.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that HighLine Gold is liable for disgorgement in the amount of $2,047,171, representing the net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $27,386, for a total of $2,074,557. HighLine Gold shall satisfy this obligation by paying $2,074,557 to the Commission within 30 days after entry of this Final Judgment.

HighLine Gold may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. HighLine Gold may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

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and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; HighLine Gold as a relief defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

HighLine Gold shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, HighLine Gold relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to HighLine Gold.

The Commission shall hold the HighLine Gold funds (collectively, in the "Fund") until further order of this Court. The SEC may propose a plan to distribute the Fund subject to the Court's approval, and the Court shall retain jurisdiction over the administration of any distribution of the Fund.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by using all collection procedures authorized by law, including, but not limited to, moving for civil contempt at any time after 30 days following entry of this Final Judgment. HighLine Gold shall pay post judgment interest on any amounts due after 30 days of entry of this Final Judgment pursuant to 28 U.S.C. § 1961.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Court's Orders freezing assets for Defendant AmeriStar, Relief Defendant AmeriStar MK, Relief Defendant Highline Gold, *see* [ECF No. 13, at 21]; [ECF No. 22, at 22], and Relief Defendant Freitag *see* [ECF No. 13, at 21]; [ECF No. 29, at 2-3] and all their modifications and clarifications, shall continue until the monetary obligations in this Final Judgement are satisfied or further order of this Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated this 25th day of July, 2025.

Kelly H. Rankin
United States District Judge