

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

ANDREW DEFRANCESCO, MARLIO
MAURICIO DIAZ CARDONA, CARLOS
FELIPE REZK, NIKOLA FAUKOVIC,
AND CATHERINE DEFRANCESCO,

Defendants.

No. 1:23-CV-00131-JSR

~~PROPOSED~~ 

**ORDER ESTABLISHING A FAIR FUND, INCLUDING POST JUDGMENT INTEREST
IN THE FAIR FUND, AND APPOINTING A TAX ADMINISTRATOR**

The Court, having reviewed the Motion of Plaintiff Securities and Exchange Commission (“SEC”) for an Order Establishing a Fair Fund, Including Post-Judgment Interest in the Fair Fund, and Appointing a Tax Administrator (the “Motion”) and for good cause shown,

IT IS HEREBY ORDERED:

1. The Motion is GRANTED.
2. A fair fund is established pursuant to Section 308(a) of Sarbanes-Oxley Act of 2002 [15 U.S.C. § 7246(a)], as amended by Dodd-Frank Act of 2010 [15 U.S.C. § 7246] (the “Fair Fund”) and shall be comprised of and include all funds paid by the Defendants and any future funds collected from the Defendants. Any accrued interest will be added to the Fair Fund.
3. Post-judgment interest, including any future post-judgment interest paid, will be included in the Fair Fund.
4. Heffler, Radetich & Saitta, LLP (“HRS”) is appointed Tax Administrator to execute all income tax reporting requirements, including the preparation and filing of tax returns,

for the Fair Fund.

5. HRS shall be designated the Tax Administrator of the Fair Fund, pursuant to Section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. § 468B(g), and related regulations, and shall satisfy the administrative requirements imposed by those regulations, including but not limited to (a) obtaining a taxpayer identification number, (b) filing applicable federal, state, and local tax returns and paying taxes reported thereon out of the Fair Fund, and (c) satisfying any information, reporting, or withholding requirements imposed on distributions from the Fair Fund. Upon request, the Tax Administrator shall provide copies of any filings to the SEC's counsel of record.

6. The Tax Administrator shall, at such times as the Tax Administrator deems necessary to fulfill the tax obligations of the Fair Fund, submit a request to the SEC's counsel of record to file with Court a motion, supported by the Tax Administrator's declaration of the amount of taxes due, for payment from the Fair Fund of any tax obligations of the Fair Fund.

7. The Tax Administrator shall be entitled to charge reasonable fees for tax compliance services and related expenses in accordance with its agreement with the SEC for the Tax Years 2022 through 2024. The Tax Administrator shall, at such times as the Tax Administrator deems appropriate, submit a declaration of fees and expenses to the SEC's counsel of record for submission to the Court for approval and for payment of fees and expenses from the Fair Fund.

IT IS SO ORDERED.

Dated: 7/21/24


United States District Court Judge