

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	Plaintiff,
	:	22 Civ. 6426 (LGS)
	:	
-against-	:	<u>ORDER</u>
	:	
MARK KLEIN, et al.,	:	
	:	Defendants.
-----X	:	

LORNA G. SCHOFIELD, District Judge:

WHEREAS, in this action, the Securities and Exchange Commission (the “SEC”) sues three individuals: Defendants Pablo Rubenstein, Eduardo Rubenstein and Mark Klein. The Complaint alleges that Pablo Rubenstein learned of material non-public information regarding a biopharmaceutical company and passed on that information to his brother, Eduardo Rubenstein. Eduardo used the insider information to determine to sell his shares, avoiding losses from a drop in the company’s stock price after the information became public, and further passed the insider information on to his son-in-law, Mark Klein. Klein also sold his shares in the company’s stock, avoiding losses. All three Defendants entered into settlement agreements with the SEC. On August 1, 2022, judgment was entered against Pablo, including a civil penalty of \$225,902.25. On April 18, 2023, judgment was entered against Eduardo and Klein, with provisions for civil penalties to be determined by the Court.

WHEREAS, the SEC moves for civil penalties against Eduardo and Klein, in the amounts of \$875,216.00 and \$517,435.00 respectively. These amounts represent, (1) for Eduardo, two-and-a-half times the losses he avoided by trading on the information plus one-and-

a-half times the losses Klein avoided by trading on the information and (2) for Klein, two-and-a-half times the losses Klein avoided by trading on the information.

WHEREAS, the SEC's motions were referred to Magistrate Judge Stewart D. Aaron. Judge Aaron issued a Report and Recommendation (the "Report") recommending civil penalties of \$545,827.00 for Eduardo and \$310,461.00 for Klein, amounts less than the SEC had proposed. Eduardo's recommended penalty represents one-and-a-half times the losses he avoided by trading on the information plus the losses Klein avoided by trading on the information. Klein's recommended penalty represents one-and-a-half times the losses he avoided. The Report reasons that the record as a whole, including Defendants' acceptance of responsibility, expressions of remorse and the lack of substantial loss or risk of substantial loss caused by Defendants' conduct, supports imposing a lesser penalty than the one sought by the SEC.

WHEREAS, the Report set a deadline for any objections fourteen days from service of the Report, allowing three additional days for a party who is served by mail. No objections were timely filed.

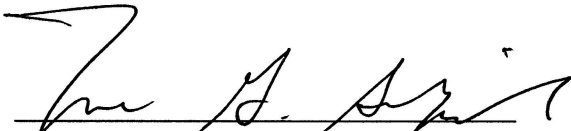
WHEREAS, in reviewing a magistrate judge's report and recommendation, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). A district judge is required to "determine de novo any part of the magistrate judge's disposition that has been properly objected to" by any party. Fed. R. Civ. P. 72(b)(3); *accord United States v. Romano*, 794 F.3d 317, 340 (2d Cir. 2015). "[W]here no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Hopson v. Comm'r of Soc. Sec.*, 579 F. Supp. 3d 501, 504 (S.D.N.Y. 2022).

WHEREAS, the Court finds no clear error on the face of the record as to the Report. It is hereby

ORDERED that the Report is **ADOPTED** in full. Defendant Eduardo Rubenstein shall pay a penalty of \$545,827.00 and Defendant Klein shall pay a penalty of \$310,461.00.

The Clerk of Court is respectfully directed to terminate the case.

Dated: August 2, 2023
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE