

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21292

<p>In the Matter of</p> <p>Ameritrust Corporation,</p> <p>Respondent.</p>
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THE DIVISION OF ENFORCEMENT’S MOTION FOR SUMMARY DISPOSITION

The Division of Enforcement (“Division”), by counsel, pursuant to Commission Rules of Practice 154 and 250, moves for an order of summary disposition revoking the registration of each class of securities of Ameritrust Corporation registered pursuant to Section 12 of the Securities and Exchange Act of 1934 (“Exchange Act”). There is no genuine issue concerning any material fact, making an evidentiary hearing unnecessary. Pursuant to Exchange Act Section 12(j) and the Commission’s precedent applying the *Gateway* factors, the Division is entitled to an order revoking the registration of each class of Respondent’s securities.

BRIEF IN SUPPORT

I. FACTS

A. Issuer Background.

Respondent (CIK No. 1372954) is a Wyoming corporation located in Cheyenne, Wyoming with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). *See* Declaration of Sandhya Harris at Ex. 1 and 4. As of August 26, 2024, unsolicited quotations for Respondent's common stock were quoted on OTC Link operated by OTC Markets Group, Inc. *See* Harris Dec. at Ex. 2.¹

B. The Instant Proceeding.

On September 2, 2022, the Division of Corporation Finance sent a delinquency notice to Respondent stating that it was delinquent in its periodic filings and warning that Respondent could be subject to a revocation proceeding if it did not file its delinquent reports within fifteen days. Harris Decl. at Ex. 3. When Respondent failed to correct the delinquencies, on February 1, 2023, the Commission issued its Order Instituting Proceedings ("OIP"). By that time, Respondent was delinquent in five periodic reports, leaving investors without current financial information since the fiscal period ending June 30, 2021. *See* Harris Dec. at Ex. 5.

II. APPLICABLE STANDARDS

Rule of Practice 250(b) provides for the grant of a motion for summary disposition if there

¹ Different individuals have claimed to act on behalf of Respondent in this proceeding and have claimed that filings made by others are unauthorized. Yun Young Lee, who has signed filings in this proceeding as CFO and Director, has filed an Answer on behalf of Ameritrust and has claimed that Kang Seok-Song and Kim Jon-sun have engaged in wrongdoing, that Kim Jong Sun resigned from the company, and that Kang Seok Song was appointed as a company officer in a manner contrary to the company's organizational documents. *See* Answer filed on April 24, 2024 and Current Situation Summary filed on July 1, 2024. In an unsigned filing, Kang Seok-Song claimed to be the CEO and claimed that Yun Young Lee had engaged in wrongdoing and was not authorized to act on the company's behalf. *See* Statement filed on April 26, 2024. In a subsequent unsigned filing, Kim Jong-sun claimed to be Respondent's CEO. *See* Statement filed on May 6, 2024. In making this Motion, the Division does not rely on any filings by those purporting to act on Respondent's behalf and has served all persons who have made a filing in this proceeding as well as Respondent's Registered Agent.

is no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law.

Section 12(j) empowers the Commission, where “necessary and appropriate for the protection of investors” to either suspend (for a period not exceeding twelve months) or permanently revoke a security’s registration “if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder.” *See* 15 U.S.C. §78l(j).

In making its determination, the Commission will consider, among other things: (1) the seriousness of the issuer’s violations; (2) the isolated or recurrent nature of the violations; (3) the degree of culpability involved; (4) the extent of the issuer’s efforts to remedy its past violations and ensure future compliance; and (5) the credibility of the issuer’s assurances, if any, against future violations. *Gateway International Holdings, Inc.*, Exchange Act Rel. No. 53907, 2006 SEC LEXIS 1288, *19-20 (May 31, 2006); *see also Steadman v. SEC*, 603 F.2d 1126 (5th Cir. 1979) (setting forth the public interest factors that informed the Commission’s *Gateway* decision).

Where the issuer’s violations are serious and recurrent, the Commission applies “a strong presumption in favor of revocation” that can only be rebutted by “a strongly compelling showing with respect to the other factors.” *Absolute Potential, Inc. (f/k/a Absolute Waste Services, Inc.)*, Exchange Act Rel. No. 71866, 2014 SEC LEXIS 1193, *24 (April 4, 2014).

III. ARGUMENT

There is no dispute as to whether a violation has occurred. The Commission’s own records show that Respondent had not filed five periodic reports when the OIP issued. The only remaining issue is the appropriate remedy for Respondent’s violations. Because the facts relevant to the *Gateway* factors are not disputed, no evidentiary hearing is necessary for a remedy determination.

Under Commission precedent, the appropriate remedy is revocation.

A. Respondent's violations are serious and recurrent.

All violations of Section 13(a)'s reporting requirements are serious because timely and accurate reporting is statutorily required and the reporting requirements are one of the primary statutory tools for protecting the integrity of the securities marketplace. As the Commission has stated:

Failure to file periodic reports violates a central provision of the Exchange Act. The purpose of the periodic filing requirements is to supply investors with current and accurate financial information about an issuer so that they may make sound decisions. Those requirements are "the primary tool[s] which Congress has fashioned for the protection of investors from negligent, careless, and deliberate misrepresentations in the sale of stock and securities." Proceedings initiated under Exchange Act Section 12(j) are an important remedy to address the problem of publicly traded companies that are delinquent in the filing of their Exchange Act reports, and thereby deprive investors of accurate, complete, and timely information upon which to make informed investment decisions.

Gateway, 2006 SEC LEXIS 1288, *26 (quoting *SEC v. Beisinger Indus. Corp.*, 552 F.2d 15, 18 (1st Cir. 1977)).

Respondent's filing failures – five consecutive missing reports including two annual reports and three missing quarterly reports – are recurrent and continuous violations under the second *Gateway* factor. *See, e.g., Ironclad Encryption Corp.*, Rel. No. 9426, 2022 WL 488507, *3 (Feb. 15, 2022) (failure to file for "more than year" was recurrent and continuous); *Triton Emission Sols. Inc.*, Rel. No. 94255, 2022 WL 488504, *3 (Feb. 15, 2022) (same).

B. Respondent has not rebutted the presumption of revocation with a compelling showing on the remaining *Gateway* factors. Indeed, those factors confirm that revocation is required to protect investors.

Respondent has failed to make any showing rebutting the presumption of revocation, and all of the factors weigh in favor of revocation.

i. Respondent's continuous disregard of its reporting obligations evidences a high degree of culpability.

Evidence that a violation was “inadvertent or accidental” establishes a low level of culpability. *China-Biotics, Inc.*, Exchange Act Rel. No. 70800, 2013 SEC LEXIS 3451, *37 (Nov. 4, 2013). Where an issuer knows of its reporting obligations but fails to comply with them, or persists in noncompliance after receiving multiple warnings, there is “a high degree of culpability.” *Id.* (issuer had a “high degree of culpability” where it “did not file a single periodic report for more than a year and a half” and continued in its delinquencies “despite multiple warnings and the institution of [revocation] proceedings”).

Respondent understood that it was required to periodic reports, having done so for many years. Harris Decl. at Ex. 4 and 5. Although the Division of Corporation Finance warned Respondent about the need to file the outstanding periodic reports, Respondent persisted in its failure to do so. After this revocation proceeding was instituted, Respondent committed additional violations by allowing seven additional reports to become delinquent. Respondent has acted with a high degree of culpability.

ii. Respondent has not remedied its past violations or adopted concrete measures to ensure future compliance.

Respondent has not remedied its past violations because it has not cured the filing failures that led to the issuance of the OIP. To make a compelling showing on future compliance, Respondent must demonstrate that it has implemented concrete and effective measures to ameliorate the cause of its filing failures. *Phlo Corp.*, Exchange Act Rel. No. 55562, 2007 WL 966943, *16 (Mar. 30, 2007). After the OIP issued, Respondent did not institute any effective measures to prevent future delinquencies, as evidenced by the fact that it failed to file seven more reports after the OIP issued.

iii. Respondent has made no assurances against future violations.

Respondent has made no credible assurances that it will refrain from future violations. To the extent Respondent's various purported representatives have asserted that they will ensure future compliance, those assurances are not credible given Respondent's commission of new violations during the pendency of this proceeding. *See KPMG Peat Marwick LLP*, Securities Exchange Act of 1934 Rel. No. 44050, 2001 SEC LEXIS 422, *21-22 (March 8, 2001) (the likelihood that a respondent will commit future violations can be inferred from its past violations) (a "finding of past violation raises a sufficient risk of future violation").

iv. Revocation is required for investor protection.

"Revocation is a prospective remedy and is imposed based on [the Commission's] concern about protecting future investors in the company." *Citizens Capital*, Exchange Act Rel. No.67313, 2012 WL 2499350, *8 (June 29, 2012). *See also Accredited Bus. Consolidators*, Exchange Act Rel. No. 75840, 2015 WL 5172970, *2 (September 4, 2015) (filing failures deprive "both existing and prospective holders of its registered stock of the ability to make informed investment decisions based on current and reliable information."). Respondent's filing failures have left prospective investors without current and accurate financial information about the company since June 30, 2021, depriving investors of information needed to make sound decisions.

Investor protection also takes into account "the broader systemic harm" that follows from registrants who fail to comply with reporting requirements. *Absolute Potential, Inc.*, 2014 SEC LEXIS 1193at *7. By imposing a sanction significant enough to deter other issuers from engaging in similar conduct, the Commission protects current and prospective investors of all public filers. And "[d]eterrence is effective only if a lengthy delinquency, in the absence of strongly compelling circumstances regarding the other *Gateway* factors, results in revocation." *Advanced Life Sciences*

Holdings, Inc., Exchange Act Rel. No. 81253, 2017 WL 3214455, *6 (July 28, 2017). Allowing Respondent to escape revocation would signal to other issuers that filing failures do not result in a significant sanction. That message would undercut Section 13(a)'s reporting requirements to the detriment of all investors. The protective purpose served by deterrence requires revocation here.

IV. CONCLUSION

In registering under Section 12(g), Respondent made a commitment to supply the Commission as well as current and prospective investors with current and accurate financial information so that they may make sound investment decisions. In continuously failing to make timely filings, Respondent has shown that it is incapable of honoring its commitments. The protection of investors through an actively enforced reporting program mandates revocation. For the reasons set forth above, the Division requests that this Motion for Summary Disposition be granted and that the Commission revoke the registrations of each class of Respondent's securities.

Dated: August 30, 2024

Respectfully submitted,



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**DECLARATION OF SANDHYA C. HARRIS IN SUPPORT OF
DIVISION OF ENFORCEMENT’S MOTION FOR SUMMARY DISPOSITION**

SANDHYA C. HARRIS, pursuant to 28 U.S.C. § 1746, declares:

1. I am a Senior Counsel with the Division of Enforcement (“Division”) of the Securities and Exchange Commission (“Commission”) and co-counsel for the Division in the above-captioned administrative proceeding. I submit this Declaration in support of the Division’s Motion for Summary Disposition (“Motion”).
2. Attached hereto as Exhibit 1 is a true copy of a printout from the Wyoming Secretary of State website showing Ameritrust’s corporate status as of August 27, 2024.
3. Attached hereto as Exhibit 2 is a true copy of a printout from www.otcmarkets.com showing the trading status of Ameritrust’s common stock (Symbol:ATCC) as of August 27, 2024.
4. Attached hereto as Exhibit 3 is a true copy of a delinquency letter from the Division of Corporation Finance to Ameritrust, dated September 2, 2022.