IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. REVOLUTIONS MEDICAL CORP., *et al.*, Defendants.	: : : : : : : : : : :	CIVIL ACTION NO. 1:12-CV-3298-LMM

FINAL JUDGMENT AND PERMANENT INJUNCTION

On December 11, 2017, the jury returned a verdict in this matter, finding: (1) Defendant Revolutions Medical Corporation ("RMC") violated Sections 17(a)(1), (2), and (3) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a), (b), and (c)], Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]; (2) Defendant Rondald Wheet ("Wheet") violated Sections 17(a)(1), (2), and (3) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder; and, (3) Wheet aided and abetted the above violations by RMC. The determination of the appropriate remedies is now for the Court to decide based upon the evidence presented at trial and the parties' submitted briefing. See Dkt. Nos. [269, 277, 278].

Specifically, the SEC requests that: (1) Defendants be enjoined from violating federal securities laws; (2) Defendants disgorge $1,862,192 and the prejudgment interest thereon of $421,722.11; (3) Defendant RMC be penalized between $2,900,000 and $3,050,000; (4) Defendant Wheet be penalized between $465,000 and $600,000; (5) Defendant Wheet receive a lifetime bar from serving as an officer or director for any company which is registered with the SEC or is required to file reports with the SEC; and, (6) Defendant Wheet be barred from participating in penny stock offerings. Dkt. No. [269-1].

Defendants, in turn, suggest that Defendant Wheet should receive a $50,000 penalty, a one-year director and officer bar, no injunctions, no disgorgement, and no interest. Additionally, Defendant RMC argues that it should not receive the imposition of any penalty, disgorgement, or interest because it is essentially insolvent. The Court will discuss each of the requested remedies in turn.

1. Injunctive Relief

A. Future Securities Fraud

The SEC first asks this Court to enjoin both Defendants[1] from engaging in future securities laws violations. Defendant Wheet argues that he should not be subject to an injunction because the SEC has not demonstrated the two factors necessary to support an injunction.

[1] Defendant RMC does not oppose an injunction against it. Thus, that request is **GRANTED**, as **UNOPPOSED**. See LR 7.1B, NDGa.

> The SEC is entitled to injunctive relief when it establishes (1) a prima facie case of previous violations of federal securities laws, and (2) a reasonable likelihood that the wrong will be repeated. Indicia that a wrong will be repeated include the egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of the conduct, and the likelihood that the defendant's occupation will present opportunities for future violations. While scienter is an important factor in this analysis, it is not a prerequisite to injunctive relief.

SEC v. Calvo, 378 F.3d 1211, 1216 (11th Cir. 2004) (internal citations and quotations omitted).

Defendant Wheet first argues that the SEC is not entitled to injunctive relief because it did not show Wheet committed any violations *prior to* the ones in question here. In other words, he argues—as the defendant unsuccessfully did in SEC v. Miller, 744 F. Supp. 2d 1325, 1336 (N.D. Ga. 2010)—that Calvo's requirement of "previous violations of federal securities laws" means that the violation had to occur before this matter. But that is not the law. As Miller recognizes, "numerous courts have found no requirement that a defendant must have committed violations before the ones at issue. Indeed, the 'previous' violations relied upon by federal courts as a basis for injunctive relief are frequently the same ones just proven in the liability portion of those cases." Miller, 744 F. Supp. 2d at 1336 (collecting cases). Thus, the fact that the jury found securities laws violations in this matter is sufficient to satisfy the SEC's prima facie case as to a previous federal securities law violation.

Defendant Wheet next argues that Calvo's second factor is not met because the SEC has not shown a "reasonable likelihood that the wrong will be repeated" or that Wheet's conduct was "egregious."[2] The Court disagrees with both propositions. At trial, Wheet continually refused to acknowledge his misrepresentations and has, to this day, never corrected all the false statements in the press releases. Thus, the Court finds there is a reasonable likelihood the wrong will be repeated. And Wheet also has never made any assurances that he will not violate future securities laws notwithstanding that he previously misled investors. See, e.g., Miller, 744 F. Supp. 2d at 1337 ("In other cases in the Northern District of Georgia, . . . courts have frequently found that defendants have acted egregiously when they have misled investors."). Because of Defendant Wheet's conduct, the Court imposes a permanent injunction against him.

B. Officer and Director Bar against Defendant Wheet

The SEC next asks this Court to enjoin Defendant Wheet from ever serving as an officer or director in any company that has a class of securities registered with the SEC pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act. 15 U.S.C. § 77t(e); 15 U.S.C. § 78u(d)(2). Defendant Wheet asserts that a one-year ban is appropriate in this case, but does not explicitly address this bar outside of the arguments

[2] Notably, Defendant Wheet does not oppose the SEC's arguments regarding the remaining factors under Calvo's second prong—that (1) he has not shown remorse; (2) he has not given an assurance he will not violate securities laws again; (3) he is still in a position to violate securities laws as CEO and controlling shareperson of RMC; and (4) the fraudulent conduct was not isolated.

presented above and the statement that one year is appropriate. See Defs. Br., Dkt. No. [277] at 2, 9-11. However, for the reasons stated above, the Court finds a lifetime injunction is appropriate.

C. Penny Stock Bar

The SEC next asks this Court to enjoin Defendant Wheet from participating in any future penny stock offerings. See 15 U.S.C. § 77t(g)(1); 15 U.S.C. § 78u(d)(6)(A). Defendant Wheet does not address this bar directly outside of the general arguments he had made against an injunction. For the reasons stated above, the Court finds a penny stock bar is appropriate in this matter.

2. Disgorgement

The SEC next requests that this Court disgorge $1,862,192.00 from Defendants, which the SEC contends represents the amount Defendants received from stock sales during the press release period. "The SEC is entitled to disgorgement upon producing a reasonable approximation of a defendant's ill-gotten gains." Calvo, 378 F.3d at 1217. Once the SEC produces a reasonable approximation, the burden shifts to the defendant to demonstrate that the SEC's estimate is unreasonable. Id. "Because disgorgement is remedial and not punitive, the court's power to order disgorgement 'extends only to the amount with interest by which the defendant profited from his wrongdoing.'" SEC v. Phoenix Telecomm., L.L.C., 231 F. Supp. 2d 1223, 1225 (N.D. Ga. 2001) (quoting SEC v. Blatt, 583 F.2d 1325, 1335 (5th Cir. 1978)).

Defendants first argue that the Supreme Court's recent opinion in Kokesh v. SEC, 137 S. Ct. 1635, 1643 (2017)—which classified disgorgement as a "penalty" for statute of limitations purposes—prevents this Court from ordering disgorgement because if disgorgement is a penalty, it is "decidedly a non-equity legal remedy" that is not authorized by statute. Defs. Br., Dkt. No. [277] at 13-15. However, in Kokesh, the Supreme Court expressly stated that, "[n]othing in this opinion should be interpreted as an opinion on whether courts possess authority to order disgorgement in SEC enforcement proceedings or on whether courts have properly applied disgorgement principles in this context. The sole question presented in this case is whether disgorgement, as applied in SEC enforcement actions, is subject to § 2462's limitations period." Kokesh, 137 S. Ct. at 1642 n.3.

And as Defendants recognize, every court to address this argument has found that nothing in Kokesh has affected the SEC's legal authority to seek disgorgement. See, e.g., SEC v. Jammin Java Corp., 2:15-CV-08921-SVW (MRWX), 2017 WL 4286180, at *3-4 (C.D. Cal. Sept. 14, 2017) (collecting cases which hold that Kokesh did not eliminate the SEC's disgorgement remedy and stating, "[a]s it presently stands, Kokesh is best seen as a decision clarifying the statutory scope of § 2462, rather than one redefining the essential attributes of disgorgement."); see also SEC v. Metter, 706 F. App'x 699, 702 (2d Cir. 2017) (stating in an opinion that expressly addresses Kokesh in the excessive fines context that "[t]he district court has broad discretion not only in determining whether or not to order disgorgement but also in calculating the amount to be

disgorged."). Because the Eleventh Circuit has expressly recognized disgorgement as a proper remedy in SEC enforcement actions, the Court declines to find that Kokesh has undermined that authority.

Defendants also argue that the total amount of civil monetary penalties and disgorgement combined cannot exceed the maximum available statutory penalty under 15 U.S.C. § 78u(3)(B). However, as the Eleventh Circuit has previously recognized, "disgorgement and civil penalties deal with different concerns." SEC v. Merch. Capital, LLC, 486 F. App'x 93, 96 (11th Cir. 2012) (citing SEC v. Brown, 658 F.3d 858, 861 (8th Cir. 2011), for the proposition that "Congress added civil penalties in 1990 because disgorgement—by only requiring the return of wrongfully obtained funds—did not result in any actual economic penalty or financial disincentive to engage in securities fraud"). Thus, the Court does not find that disgorgement and civil penalties combined cannot exceed 15 U.S.C. § 78u(3)(B)'s cap.

Defendants finally contend that even if disgorgement is a proper remedy, the SEC has not submitted sufficient proof as to their ill-gotten gains. Dkt. No. [277] at 16-17. In reviewing the SEC's evidence, this Court agrees. The Court does not find that $1,862,192.00 is a reasonable approximation of Defendants' ill-gotten gains. Many of the SEC's cited stock sales involve consultant agreements, which involve the exchange of stock for services rendered. Exs. B & C to Lochmandy Aff., Dkt. No. [269-2] at 9-16, 23-33. And the Court also does not find that the SEC has adduced, either now or at trial, sufficient evidence to show

that the Actus agreement was causally related to the misleading press releases. Miller, 744 F. Supp. 2d at 1343 ("The disgorged amount must be causally connected to the violation."). While the Court is aware that is does not have to trace funds for purposes of disgorgement, see SEC v. Quan, 817 F.3d 583, 594 (8th Cir. 2016) (collecting cases), the aforementioned issues with the SEC's evidence coupled with Defendants' trial evidence regarding the stock's volatility during the relevant period does not allow the Court to find that $1,862,192.00 is a reasonable approximation of Defendants' ill-gotten gains.

However, the Court does find that competent evidence was presented at trial regarding Messrs. Martin and Feuchtinger's investments in the company due to the press releases. Mr. Feuchtinger made a $50,000 investment, see Trial Tr., Dkt. No. [272] at 206:14-17, and Mr. Martin invested $65,000. Trial Tr., Dkt. No. [273] at 22:16, 34:21. Thus, the Court **ORDERS** that Defendants disgorge $115,000.

3. Prejudgment Interest

The SEC next asks this Court to order Defendants to pay prejudgment interest on the disgorged amount. The decision to award prejudgment interest is within this Court's discretion. See Merch. Capital, LLC, 486 F. App'x at 97 (affirming a district court's imposition of prejudgment interest). However, because this Court finds that this case has been delayed for years due to a mistrial and subsequent stay while the Government pursued criminal charges (that resulted in an acquittal), the Court does not find prejudgment interest

appropriate in this case. See Miller, 744 F. Supp. 2d at 1344 (declining to award prejudgment interest "because of the long delay in trying the case").

4. **Civil Monetary Penalties**

The SEC also asks this Court to award civil monetary penalties against Defendants. Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act—with nearly identical language—allow the SEC to seek civil penalties imposed by the Court. The Exchange Act provides,

> Whenever it shall appear to the Commission that any person has violated any provision of this chapter, [or] the rules or regulations thereunder, . . . the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

15 U.S.C. § 78u(d)(3)(A).[3] To determine the amount of the penalty, the Act outlines three tiers based on the nature of the violation. Under the first tier, "[f]or *each violation*, the amount of the penalty shall not exceed the greater of (I) $7,500 for a natural person or $75,000 for any other person." 15 U.S.C. § 78u(d)(3)(B)(i) (emphasis added).[3] The second tier goes further: "Notwithstanding clause (i), the amount of penalty for *each such violation* shall not exceed the greater of (I) $75,000 for a natural person or $375,000 for any other person . . . if the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory

[3] Due to the nearly identical language of the relevant statutes, only the Exchange Act will be quoted to avoid redundancy.

[3] Each of the penalty caps have been updated for inflation per 17 C.F.R. § 201.1001.

requirement." 15 U.S.C. § 78u(d)(3)(B)(ii) (emphasis added). For the third tier, the Act states:

> Notwithstanding clauses (i) and (ii), the amount of penalty for *each such violation* shall not exceed the greater of (I) $150,000 for a natural person or $725,000 for any other person . . . if—
>
> > (aa) the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and
> >
> > (bb) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

§ 78u(d)(3)(B)(iii) (emphasis added).

"Civil penalties are intended to punish the individual wrongdoer and to deter him and others from future securities violations." SEC v. Monterosso, 756 F.3d 1326, 1338 (11th Cir. 2010). The "Commission need only make 'a proper showing' that a violation has occurred and a penalty is warranted." SEC v. Warren, 534 F.3d 1368, 1370 (11th Cir. 2008). Although the statute leaves the amount to be imposed to the discretion of the district judge, "courts consider numerous factors, including the egregiousness of the violation, the isolated or repeated nature of the violations, the degree of scienter involved, whether the defendant concealed his trading, and the deterrent effect given the defendant's financial worth." Miller, 744 F. Supp. 2d at 1344 (citing SEC v. Sargent, 329 F.3d 34, 42 (1st Cir. 2003)). The Act also authorizes penalties for "each violation," so "courts are empowered to multiply the statutory penalty amount by the number of statutes the defendant violated, and many do." Miller, 744 F. Supp. 2d at 1345.

The SEC argues that Defendants should receive third tier civil monetary penalties. This Court agrees. As stated above, the Court finds that Defendants' conduct was egregious in this case. They made knowing misstatements of fact and omissions and caused substantial financial harm to investors, specifically Messrs. Martin and Feuchtinger. And the conduct was not isolated. Defendants made misrepresentations and omissions in multiple press releases and failed to correct those misstatements whether by press release or even in person. Third, the Court finds that Defendants acted with a high degree of scienter. As but one example, Defendants attempted to down play the loss of what they initially contended was a government *contract* by claiming the loss was due to 'confusion' as opposed to the actual reason—the inability to provide syringes.

Finally, the Court finds that the deterrent effect of the sanctions is appropriate in spite of Defendants' diminished financial worth. Both Defendants argue that their financial statuses should prevent the imposition of any penalties. See Defs. Br., Dkt. No. [277] at 17-25 (arguing that Defendant Wheet has less than $5,000 in total assets and any imposition of penalties against RMC would be "meaningless in real world terms" because RMC has no liquid assets). But as the purpose of civil monetary penalties is both punishment and deterrence, the Court finds that poverty alone cannot defeat the need for penalties in this case. See SEC v. StratoComm Corp., 89 F. Supp. 3d 357, 373 (N.D.N.Y. 2015) ("While the court may take the defendant's current financial difficulties into account, these circumstances alone cannot negate the need for a severe civil penalty.").

And a party's financial position is fluid. Should Defendants' financial circumstances improve, the SEC may be able to collect on these penalties in the future. SEC v. Kane, 97 CIV. 2931 (CBM), 2003 WL 1741293, at *4 (S.D.N.Y. Apr. 1, 2003) ("[T]he court agrees with the Commission that it should not ignore the possibility that a defendant's fortunes will improve, and that one day the SEC will be able to collect on even a severe judgment."). Thus, the Court will award civil monetary penalties.

In doing so, because the verdict form was a general verdict form which asked the jury to find which statutes were violated, the Court finds the most appropriate method of calculation is one penalty per statutory violation. The jury found that each Defendant violated three scienter-based and two negligence-based securities statutes. Thus, for RMC, the Court will impose a $2,325,000 penalty (($725,000 x 3) + (75,000 x 2)). And for Wheet, the Court will impose a $465,000 penalty (($150,000 x 3) + ($7,500 x 2)).

CONCLUSION

I.

It is hereby **ORDERED** that Defendant RMC is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, 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, about:

(1) any investment in or offering of securities,

(2) the prospects for success of any product or company,

(3) the use of investor funds; or

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

IT IS FURTHER ORDERED 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 RMC or with anyone described in (a).

II.

It is **ORDERED** that Defendant RMC is permanently restrained and enjoined from violating Sections 17(a)(1), (2), and (3) of the Securities Act 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, about:

(1) any investment in or offering of securities,

(2) the prospects for success of any product or company,

(3) the use of investor funds; or

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

IT IS FURTHER ORDERED 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).

III.

It is **ORDERED** that Defendant Wheet is permanently restrained and enjoined from violating Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, 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, directly or indirectly:

(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, about:

(1) any investment in or offering of securities,

(2) the prospects for success of any product or company,

(3) the use of investor funds; or

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

IT IS FURTHER ORDERED 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 Wheet's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant Wheet or with anyone described in (a).

IV.

It is **ORDERED** that Defendant Wheet is permanently restrained and enjoined from violating, and aiding and abetting violations of, Sections 17(a)(1), (2), and (3) of the Securities Act 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, about:

(1) any investment in or offering of securities,

(2) the prospects for success of any product or company,

(3) the use of investor funds; or

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

IT IS FURTHER ORDERED 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 Wheet's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant Wheet or with anyone described in (a).

V.

IT IS FURTHER ORDERED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant Wheet is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VI.

IT IS FURTHER ORDERED that Defendant Wheet is permanently barred from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock. A penny stock is any equity security that has a price of less than five dollars, except as provided in Rule 3a51-1 under the Exchange Act [17 C.F.R. 240.3a51-1].

VII.

IT IS FURTHER ORDERED that RMC is liable for disgorgement of $115,000 and a civil penalty in the amount of $2,325,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]. Defendant RMC shall satisfy this obligation by paying $2,440,000 to the Securities and Exchange Commission within 45 days after entry of this Final Judgment.

Defendant RMC 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 RMC 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

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

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

Defendant RMC 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 RMC relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant RMC. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other

collection procedures authorized by law) at any time after 45 days following entry of this Final Judgment. Defendant RMC shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

VIII.

IT IS FURTHER ORDERED that Defendant Wheet is liable for disgorgement of $115,000, jointly and severally with Defendant RMC, and a civil penalty in the amount of $465,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]. Defendant Wheet shall satisfy this obligation by paying $580,000, less any disgorgement actually paid by Defendant RMC, to the Securities and Exchange Commission within 45 days after entry of this Final Judgment.

Defendant Wheet 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 Wheet 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; Rondald Wheet as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant Wheet 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 Wheet relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant Wheet. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 45 days following entry of this Final Judgment. Defendant Wheet shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

IX.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment. The Clerk is **DIRECTED** to **CLOSE** this case.

IT IS SO ORDERED this 16th day of March, 2018.

Leigh Martin May

_____

Leigh Martin May
United States District Judge