

MEMO ENDORSED**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK****USDC SDNY
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DOC #:
DATE FILED: 7/29/22****U.S. SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

SERGEI POLEVIKOV,

Defendant, and

MARYNA ARYSTAVA,

Relief Defendant.

Civil Action No. 1:21-CV-7925**PLAINTIFF'S UNOPPOSED MOTION FOR ENTRY OF FINAL JUDGMENT AS TO
DEFENDANT SERGEI POLEVIKOV AND FOR DISMISSAL AS TO RELIEF
DEFENDANT MARYNA ARYSTAVA**

Plaintiff U.S. Securities and Exchange Commission respectfully moves the Court to enter the attached proposed Final Judgment as to Defendant Sergei Polevnikov (“proposed Final Judgment”) and the attached proposed Order of Dismissal as to Relief Defendant Maryna Arystava (“proposed Order of Dismissal”).

Attached hereto as Exhibit 1 is the proposed Final Judgment. The proposed Final Judgment would incorporate by reference the terms of the Judgment imposed by this Court on February 9, 2022 [Dkt. No. 29] and Polevnikov’s Consent to the entry of that Judgment [Dkt No. 28-1]. The proposed Final Judgment would also order Polevnikov to pay disgorgement in the amount of \$8,564,977 but deem this obligation satisfied by the entry of the forfeiture order in the related criminal case, *United States v. Sergei Polevnikov*, Cr. No. 21-CR-774 (LJL) (S.D.N.Y.).

The Commission submits that the proposed Final Judgment is fair, reasonable, adequate, and in the public interest. For purposes of determining monetary remedies, Polevnikov has agreed

that the allegations of the Commission’s Complaint shall be accepted as true [Dkt. No. 28-1 at 2], including the allegation that Polevnikov was unjustly enriched by approximately \$8.5 million as a result of his fraudulent conduct. Dkt. No. 1, ¶ 57. The Court should order Polevnikov to disgorge this entire amount. At the same time, the SEC asks that the Court deem Polevnikov’s obligation to pay this amount satisfied by the entry of the forfeiture order in the related criminal matter. The criminal case and the instant case arise out of the same facts and circumstances, and the criminal court’s order that Polevnikov forfeit \$8,564,977 [*U.S. v. Polevnikov*, Dkt. No. 17] deprives Polevnikov of his ill-gotten gains.

Although prejudgment interest and a civil monetary penalty would both be appropriate in this case, the Commission has chosen to forego these remedies. The likelihood of any recovery beyond the criminal forfeiture is vanishingly small, and Polevnikov has been significantly punished in the criminal matter, sentenced to a prison term of 33 months.

Attached hereto as Exhibit 2 is the proposed Order of Dismissal. The Commission’s claim against Relief Defendant Maryna Arystava arose from her “possession of funds derived from Polevnikov’s fraud,” to which she had no legitimate claim. Dkt. No. 1, ¶ 7. In light of Polevnikov’s forfeiture in the criminal matter, the Commission will no longer pursue disgorgement against Ms. Arystava.

Polevnikov’s counsel has indicated Polevnikov does not oppose this motion. Accordingly, the Commission respectfully requests that the Court enter the proposed Final Judgment and the proposed Order of Dismissal, which will resolve all claims in this matter.

Dated: July 29, 2022

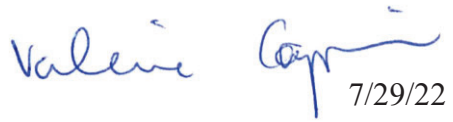
Respectfully submitted,

/s/ Melissa J. Armstrong
MELISSA J. ARMSTRONG
U.S. Securities and Exchange Commission
100 F Street, N.E.

Washington, D.C. 20549
Tel: (202) 551-4724
Email: armstrongme@sec.gov

Application GRANTED.

SO ORDERED.



7/29/22

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE