UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 24-cv-20753-JB/Torres

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANIEL SAINT HILAIRE,

Defendant.
_____/

ORDER ADOPTING IN PART REPORT AND RECOMMENDATIONS AND DENYING AS MOOT APPEAL OF ORDER ON PLAINTIFF'S MOTION TO STRIKE JURY DEMAND

THIS CAUSE was referred to the Honorable Edwin G. Torres, United States Magistrate Judge, for a Report and Recommendation on Plaintiff United States of America's Motion for Summary Judgment, ECF No. [68]. *See* ECF No. [100]. Magistrate Judge Torres filed a Report and Recommendation ("R&R"), recommending that the Motion be granted in part and denied in part. ECF No. [105]. In particular, Magistrate Judge Torres recommended that judgment be entered in favor of the Government as to Counts One, Two, Three, and Four of the Complaint, and that a permanent injunction be entered against Defendant. *Id*. Magistrate Judge Torres further recommended that Defendant be ordered to disgorge the amount of $8,937.60. *Id*. Magistrate Judge Torres also entered an Order on Plaintiff's Motion to Strike Jury Demand in which he denied the Motion with respect to disgorgement, in the event the Government seeks further disgorgement or

monetary penalties than the R&R recommends be awarded, with leave to renew (the "Order"). ECF No. [106].

Defendant filed objections to the R&R's findings regarding liability and the Government's entitlement to a permanent injunction ("Defendant's Objections"). ECF No. [108]. As to disgorgement, Defendant "agrees with the Magistrate Court's finding that the amount should be no mor than $8,937.60" and "maintains that . . . disgorgement awarded, if any, should be based upon the net amount that [Defendant] received during 2021, 2022 and 2023 and not the gross amount." *Id*. at 15. For its part, the Government filed objections to the R&R's conclusion that it has established only $8,937.60 in disgorgement (the "Government's Objections"). ECF No. [109]. Defendant did not file a response to the Government's Objections, but the Government filed a Response to Defendant's Objections. ECF No. [113]. The Government also filed an Objection to Order on Plaintiff's Motion to Strike Jury Demand, ECF No. [110], which the Court construes as an appeal because the Motion to Strike is a non-dispositive motion (the "Appeal"). Defendant filed a Response to the Appeal, along with a Notice of Supplemental Authority. ECF Nos. [114], [115]. The Court heard oral argument on the parties' Objections (the "Hearing"), and thereafter permitted Defendant to file supplemental briefing on the issue of disgorgement. ECF Nos. [121], [122]. Defendant filed an Amended Supplemental Brief in support of his arguments concerning disgorgement, to which the Government filed a Response. ECF Nos. [130], [131].

The R&R and Order have different standards of review. With respect to the R&R, this Court has a duty to "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b). It also may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id*. With respect to the Order, the Magistrate Judge Rules of the Southern District of Florida Local Rules permit the appeal of a magistrate judge's order on non-dispositive matters. L. Mag. Judge R. 4(a). Magistrate judges are afforded broad discretion in the resolution of non-dispositive matters, but the Court may reconsider any order that is clearly erroneous or contrary to law. *Runton by & through Adult Advocacy & Representation v. Brookdale Senior Living, Inc.*, No. 17-60664-CV, 2018 WL 1083493, at *4 (S.D. Fla. Feb. 27, 2018); Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1). An order is clearly erroneous if "the reviewing court, after assessing the evidence in its entirety, is left with a definite and firm conviction that a mistake has been committed." *Krys v. Lufthansa German Airlines*, 119 F.3d 1515, 1523 (11th Cir. 1997) (citation omitted).

The Court begins with the R&R. The Court has conducted a *de novo* review of the record and the issues presented in Defendant's Objections, and agrees with Magistrate Judge Torres that the Government is entitled to judgment as a matter of law in its favor with respect all claims raised in the Complaint, as well as the permanent injunction requested and the remedy of disgorgement. As to entitlement and the motion for a permanent injunction, the Court **ADOPTS** the R&R in full.

The Court now turns to the amount of disgorgement. A threshold question the Court must address is whether Defendant is entitled to a jury trial to determine the amount of disgorgement under 26 U.S.C. § 7402(a). "Disgorgement is an equitable remedy intended to prevent unjust enrichment." *United States v. Stinson*, 729 F. App'x 891, 899 (11th Cir. 2018) (citation omitted); *see also Tull v. United States*, 481 U.S. 412, 424 (1987) (noting that "disgorgement of improper profits [is] traditionally considered an equitable remedy."); *United States v. Meyer*, 376 F.Supp.3d 1290, 1294 (S.D. Fla. 2019) (collecting cases). The Government clearly states that it is seeking equitable disgorgement of Defendant's ill-gotten gains, ECF No. [110] at 2, and Magistrate Judge Torres expressly noted that "the Government does not appear to be also seeking the civil penalties assessed under each statutory provision of the Internal Revenue Code [at issue]." ECF No. [105] at 51. Nonetheless, Defendant argues that "[t]he Government is seeking to penalize the Defendant rather than repay alleged victims, i.e., the individual taxpayers who paid the Defendant for his tax return preparation services." ECF No. [114] at 2.

In *Securities & Exchange Commission v. Jarkesy*, the Supreme Court found that imposition of a civil penalty in a SEC enforcement action functioned as a punishment, thereby implicating the Seventh Amendment's right to trial by jury. *Jarkesy*, 603 U.S. 109 (2024). The Supreme Court explained that "[w]hat determines whether a monetary remedy is legal is if it is designed to punish or deter the wrongdoer, or, on the other hand, solely to 'restore the status quo.'" *Id*. at 123 (quoting *Tull*, 481 U.S. at 422). As relevant to Defendant's argument, the *Jarkesy*

court reasoned that "proof [the] remedy is punitive is that the SEC is not obligated to return any money to victims . . . [as] [s]uch a penalty by definition does not 'restore the status quo' and can make no pretense of being equitable." *Id*. at 125 (citing *Tull*, 481 U.S. at 422). The fundamental flaw in Defendant's argument is that the Government here *is* a victim of Defendant's wrongful conduct because Defendant deducted his return preparation fees from the refunds he claimed on his customers' false tax returns.

Indeed, another district court in this Circuit recently rejected Defendant's argument. *See United States v. Madison*, 812 F.Supp.3d 1233, 1245–46 (M.D. Fla. 2025) ("Unlike in *Jarkesy*, where the SEC was 'not obligated to return any money to [non-governmental] victims, the direct victim of the defendants' actions is the federal government."). The *Madison* court thoroughly analyzed whether disgorgement under § 7402(a) implicates the right to a jury trial in light of *Jarkesy* and found it did not. As the *Madison* court explained, "courts before *Jarkesy* had little trouble concluding 'that disgorgement, in the context of § 7402, is an equitable remedy not [ ] triable by a jury' . . . [and] *Jarkesy* does not alter that conclusion." *Id*. at 1245 (citations omitted). The Court agrees with the well-reasoned analysis in *Madison*, which it adopts in full and incorporates by reference herein.

As explained *infra*, the amount of disgorgement that will be awarded to the Government will be limited to Defendant's net profits from unjustly obtained funds, thereby restoring the status quo. Accordingly, the Government's claim for disgorgement under § 7402(a) does not implicate the Seventh Amendment. *See*

Madison, 812 F.Supp.3d at 1247; *United States v. Garcia*, No. 6:25-cv-482, 2026 WL 820522, at * 2 (M.D. Fla. Feb. 20, 2026); *Meyer*, 376 F.Supp.3d at 1294.

Having determined that Defendant is not entitled to a jury trial on disgorgement, the Court addresses the amount of disgorgement. "To be entitled to disgorgement, the Government need only produce a reasonable approximation of the defendant's ill-gotten gains." *Stinson*, 729 F. App'x at 899 (citing *S.E.C. v. Calvo*, 378 F.3d 1211, 1217 (11th Cir. 2004). "Exactitude is not a requirement; so long as the measure of disgorgement is reasonable, any risk of uncertainty should fall on the wrongdoer whose illegal conduct created that uncertainty." *Id*. at 899 (quoting *Calvo*, 378 F.3d at 1217). In calculating disgorgement, "a trial court may extrapolate from available evidence, and such extrapolation may occur without interviewing every customer and preparer for every allegedly false or fraudulent return." *Id*. (citing *United States v. Barber*, 591 F. App'x 809, 823-24 (11th Cir. 2014). "[O]nce the plaintiff presents a reasonable approximation, the burden shifts to the defendant . . . to disprove this amount." *Id*. (citing *Calvo*, 378 F.3d at 1217).

In the Government's Objection, it argues that the R&R failed to consider its alternative method of calculation, which is based upon Defendant's scheme of including fraudulent unreimbursed employee business expenses ("UEBE") on the tax returns he prepares. ECF No. [109] at 3–4. The Government asserts, and the record evidence reflects, that Defendant claims UEBE on 59% of all tax returns he prepares, *see* ECF No. [29-41], despite the fact that UEBE claims are rare, as they are made on less than 0.5% of taxpayers' returns nationwide. ECF No. [109] at 3. Defendant

does not dispute this in his Response. It is also undisputed that the gross amount of Defendant's return preparation fees for tax years 2020, 2021, and 2022 totals $1,821,290.95. ECF Nos. [67] ¶ 185–87; [77] (failing to dispute paragraphs 185–187 of Defendant's Statement of Material Facts). The Government contends that a reasonable approximation of Defendant's ill-gotten gains is 59% of Defendant's return preparation fees, which totals $1,074,561.66.[1] ECF No. [131]. The Court finds that the Government has met it is burden to present a reasonable approximation, which is supported by the record.

As mentioned, Defendant did not file a response to the Government's Objection. Defendant's only challenge to the amount of disgorgement, which he mentioned in passing in own Objections and further developed in his Amended Supplemental Brief, is that disgorgement "should be based on the net amount [Defendant] received during 2021, 2022 and 2023 and not the gross amount." ECF No. [108] at 15. In particular, Defendant argues that the Government's calculation "should be reduced by legitimate business expenses for rent and wages to employees and independent contractors." ECF No. [130] at 4. Defendant submits documents reflecting that rent expenses and wages for the three years in question totals $852,241.00. *Id*; ECF Nos. [130-1], [130-2].

In its Response to Defendant's Amended Supplemental Brief, the Government does not challenge the accuracy of that sum. *See generally*, ECF No. [131]. Nor does

[1] This figure is incorrectly stated in the Government's Objection, which contained a mathematical error as the Government explained at the Hearing.

the Government address Defendant's argument that disgorgement should be based on the net amount of Defendant's return preparation fees. *Id*. The Court notes that in its Objection, the Government relies upon the Eleventh Circuit's decision in *Stinson* where the court stated that "in cases involving the operation of a fraudulent business, courts accept gross receipts obtained by the defendant as a reasonable measure of disgorgement." *Stinson*, 729 F. App'x at 899 (citations omitted). This principle appears to be an exception, not the rule, where equitable remedies are concerned. In *Liu v. Securities & Exchange Commission*, the Supreme Court explained that "a remedy tethered to a wrongdoer's net unlawful profits, whatever the name, has been a mainstay of equity courts" although "[t]he Court has carved out an exception when the 'entire profit of a business or undertaking' results from the wrongful activity." *Liu*, 591 U.S. 71, 84 (2020) (citation omitted). "Setting aside that circumstance, . . . courts consistently restricted awards to net profits from wrongdoing after deducting legitimate expenses." *Id*. at 84.

Here, there has been no finding that the "entire profit" of Defendant's business results from preparation of fraudulent tax returns. Given this absence, and the lack of meaningful opposition from the Government on the issue, the Court concludes that it is appropriate to calculate disgorgement based upon Defendant's net return preparation fees. As for the calculation of that amount, the Court agrees with the Government that a reasonable approximation of Defendant's gross return preparation fees for the years at issue is $1,074,561.66, which is 59% of his total gross return preparation fees for that period. The Court also accepts Defendant's expense

figure of $852,241.00, 59% of which totals $502,822.19. Accordingly, the Court finds that the Government is entitled to a disgorgement award in the amount of $571,739.47.[2] Given this ruling, it is unnecessary to address the Appeal, as this case will not proceed to trial.

For the foregoing reasons, it is hereby **ORDERED AND ADJUDGED** as follows:

1. Defendant's Objections, ECF No. [108], are **OVERRULED**.

2. The Government's Objection, ECF No. [109], is **SUSTAINED IN PART**.

3. United States Magistrate Judge Torres' Report and Recommendation, ECF No. [105], is **AFFIRMED AND ADOPTED IN PART** as set forth herein.

4. The United States' Motion for Summary Judgment, ECF No. 68], is **GRANTED IN PART AND DENIED IN PART**.

5. The Government is entitled to judgment as a matter of law on Counts I, II, III, and IV of the Complaint.

6. The Government is entitled to an injunction permanently enjoining Defendant, pursuant to Internal Revenue Code §§ 7402, 7407, and 7408, from acting as a federal tax return preparer and preparing or filing federal tax returns, amended tax returns, or any other federal tax documents or forms for any person or entity other than himself; assisting in, advising, or directing the preparation or filing of federal tax returns, amended returns, or any other federal tax documents or forms for any person or entity other than himself; investing in, providing capital or loans to, or

[2] $1,074,561.66 - $502,822.19 = $571,739.47.

receiving fees or renumeration from a tax return preparation business; and operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business.

7. Defendant shall disgorge the amount of $571,739.47.

8. The United States' Appeal of the Order on Plaintiff's Motion to Strike Jury Demand, ECF No. [110], is **DENIED AS MOOT**.

9. The Court will separately enter final judgment in favor of the United States.

10. Any pending motions are **DENIED AS MOOT**.

DONE AND ORDERED in Miami, Florida, this 26th day of October, 2026.

JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE