

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 04-80272-CIV-HURLEY/HOPKINS**

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**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**UNCOMMON MEDIA GROUP, INC.,  
LAWRENCE GALLO,  
TIMOTHY RAFFERTY AND FREDERICK  
HORNICK, Jr.,**

**Defendants.**

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**FINAL JUDGMENT OF PERMANENT INJUNCTION AND  
OTHER RELIEF AS TO DEFENDANT TIMOTHY RAFFERTY**

Plaintiff Securities and Exchange Commission commenced this action by filing its Complaint against, among others, Defendant Timothy Rafferty. The Commission filed an Amended Complaint against Rafferty on November 17, 2008. In its Amended Complaint, the Commission sought, among other relief, a permanent injunction to prohibit violations by Rafferty of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c); Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a); Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, an order providing for disgorgement and prejudgment interest thereon, imposition of a civil money penalty against Rafferty pursuant to Section 20(d) of the Securities Act, and Section 21(d) of the Exchange Act, and a penny stock bar pursuant to Section 603 of the Sarbanes-Oxley Act of 2002 [Public Law No. 107 - 204, 116 Stat. 745 (July 30, 2002)], Section

21(d)(6) of the Exchange Act, 15 U.S.C. § 78u(d)(6), and Section 20(g) of the Securities Act, 15 U.S.C. § 77t(g), and pursuant to the Court's equitable powers.

Rafferty, by the Consent affixed hereto, without admitting or denying any of the allegations in the Commission's Complaint or any other paper filed herein, except as to the jurisdiction of this Court, has agreed to the entry of this Final Judgment of Permanent Injunction and Other Relief ("Final Judgment"). This Court having accepted such Consent and this Court having jurisdiction over Rafferty and the subject matter hereof, and the Court being fully advised in the premises:

**I.**

**SALE OF UNREGISTERED SECURITIES IN  
VIOLATION OF SECTION 5 OF THE SECURITIES ACT**

**IT IS ORDERED AND ADJUDGED** that Rafferty and Rafferty's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

## II.

### **FRAUD IN VIOLATION OF SECTION 17(a) OF THE SECURITIES ACT**

**IT IS FURTHER ORDERED AND ADJUDGED** that Rafferty, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, directly or indirectly, singly or in concert, as aiders and abettors or otherwise, 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:

- (a) knowingly employing any device, scheme or artifice to defraud;
- (b) obtaining money or property by means of any untrue statement of material fact or omission to state any material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading; or
- (c) engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon purchasers or prospective purchasers of any such security, in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1), 77q(a)(2) and 77q(a)(3).

**III.**

**FRAUD IN VIOLATION OF SECTION 10(b) OF THE  
EXCHANGE ACT AND RULE 10b-5 THEREUNDER**

**IT IS FURTHER ORDERED AND ADJUDGED** that Rafferty, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, knowingly, willfully, or recklessly, directly or indirectly, singly or in concert, as aiders and abettors or otherwise, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (a) employing any device, scheme or artifice to defraud;
- (b) making any untrue statements of material fact or omitting 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) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person, in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, thereunder.

IV.

**PENNY STOCK BAR**

**IT IS FURTHER ORDERED AND ADJUDGED** that Rafferty 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.

V.

**DISGORGEMENT AND CIVIL PENALTY**


**IT IS FURTHER ORDERED AND ADJUDGED** that the Commission's claims for disgorgement, prejudgment interest thereon, and civil penalty are dismissed.

VI.

**RETENTION OF JURISDICTION**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall retain jurisdiction over this matter and Rafferty for the purposes of enforcing the terms of this Final Judgment.

**DONE AND ORDERED** this 15<sup>th</sup> day of Sept, 2009 at Los Palm Beach, Florida.

  
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DANIEL T.K. HURLEY  
UNITED STATES DISTRICT JUDGE

Copies to:

Alfred V. Greco, Esq.  
Alfred V. Greco, PPLC  
199 Main Street, Suite 706  
White Plains, NY 10601  
(914) 682-3030  
and  
666 Fifth Avenue, 14<sup>th</sup> Floor  
New York, New York 10103  
*Counsel for Defendant Uncommon Media Group, Inc.*

Joel Hirschhorn, Esq.  
Hirschhorn & Bieber PA  
550 Biltmore Way, #PH-3A  
Coral Gables, FL 33134  
(305) 445-5320  
*Counsel for Lawrence Gallo*

Lawrence Gallo  
1310 Bayridge Parkway  
Brooklyn, NY 11228

Mr. Timothy Rafferty, *pro se*  
Register No. 29892-053  
FCI Otisville  
P.O. Box 1000  
Otisville, NY 10963

David R. Chase, Esq.  
David R. Chase, P.A.  
1700 E. Las Olas Blvd., Ph 2  
Fort Lauderdale, FL 33301-2407  
(954) 920-7779  
*Counsel for Frederick Hornick, Jr.*