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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

ALEXANDER JAMES TRABULSE,

Defendant,

and

FAHEY FUND, L.P., FAHEY FINANCIAL
GROUP, INC., INTERNATIONAL TRADE &
DATA, and ITD TRADING,

Relief Defendants.

Case No. C 07-4975 WHA

~~PROPOSED~~ FINAL JUDGMENT AS TO
DEFENDANT ALEXANDER JAMES
TRABULSE AND RELIEF DEFENDANTS
FAHEY FUND L.P. FAHEY FINANCIAL
GROUP, INC., INTERNATIONAL TRADE
& DATA AND ITD TRADING

~~PROPOSED~~ FINAL JUDGMENT AS TO DEFENDANT ALEXANDER JAMES
TRABULSE AND RELIEF DEFENDANTS FAHEY FUND, L.P, FAHEY FINANCIAL
GROUP, INC., INTERNATIONAL TRADE & DATA, AND ITD TRADING

The Securities and Exchange Commission having filed a Complaint and Defendant Alexander
James Trabulse (“Defendant”) and Relief Defendants Fahey Fund, L.P., Fahey Financial Group, Inc.,
International Trade & Data, and ITD Trading (collectively, “Relief Defendants”) having entered a

1 general appearance; consented to the Court's jurisdiction over Defendant and Relief Defendants and
2 the subject matter of this action; consented to entry of this Final Judgment without admitting or
3 denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and
4 conclusions of law; and waived any right to appeal from this Final Judgment:

5 I.

6 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's
7 agents, servants, employees, attorneys-in-fact, and all persons in active concert or participation with
8 them who receive actual notice of this Final Judgment by personal service or otherwise are
9 permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the
10 Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5
11 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate
12 commerce, or of the mails, or of any facility of any national securities exchange, in connection with
13 the purchase or sale of any security:

14 (a) to employ any device, scheme, or artifice to defraud;

15 (b) to make any untrue statement of a material fact or to omit to state a material fact
16 necessary in order to make the statements made, in the light of the circumstances
17 under which they were made, not misleading; or

18 (c) to engage in any act, practice, or course of business which operates or would
19 operate as a fraud or deceit upon any person.

20 II.

21 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and
22 Defendant's agents, servants, employees, attorneys-in-fact, and all persons in active concert or
23 participation with them who receive actual notice of this Final Judgment by personal service or
24 otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act
25 of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of
26 any means or instruments of transportation or communication in interstate commerce or by use of the
27 mails, directly or indirectly:

28 (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.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys-in-fact, 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 or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys-in-fact, 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 Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and (2)] 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) employing any device, scheme, or artifice to defraud any client or prospective client;
- (b) engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client.

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Relief Defendants will liquidate all assets held in the name of or for the benefit of Relief Defendants, and/or held in the name of or for the benefit of investors in the Relief Defendants (the “Liquidated Proceeds”). The liquidation shall be completed no later than 120 days after entry of the Court’s judgment or as soon thereafter as reasonably practicable. The Liquidated Proceeds will subsequently be distributed to the investors in the Relief Defendants on a *pro rata* basis, pursuant to the equitable powers of the Court, and under the supervision of and with the assistance of the Monitor. The exact amount of the Liquidated Proceeds and the *pro rata* distribution to investors will be determined by further order of the Court when all assets have been liquidated, and therefore have a fixed monetary value, and after the Monitor has received the compensation to which he is entitled for his work in this litigation, as referenced pursuant to the Court’s order of December 17, 2007 appointing the Monitor. Upon completion of the *pro rata* distribution to investors of the Liquidated Proceeds, the Monitor will report to the parties and the Court that the distribution has been completed.

In addition, the Defendant will use his best efforts to obtain the maximum value in connection with the sale of any assets pursuant the Court’s judgment. In advance of the sale of any asset, the Defendant will provide the Monitor appointed by the Court in this matter with all information that the Monitor deems necessary to confirm that the maximum value has been obtained for any assets sold pursuant to the Court’s judgment. The funds obtained pursuant to this paragraph shall be made to the Clerk of this Court, together with a cover letter identifying Alexander James Trabulse as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court;

1 and specifying that payment is made pursuant to this Final Judgment. Defendant shall
2 simultaneously transmit photocopies of each such payment and letter to the Commission's counsel in
3 this action. Defendant relinquishes all legal and equitable right, title, and interest in such payments,
4 and no part of the funds shall be returned to Defendant. The Clerk shall deposit the funds into an
5 interest bearing account with the Court Registry Investment System ("CRIS") or any other type of
6 interest bearing account that is utilized by the Court. These funds, together with any interest and
7 income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until
8 further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the
9 Director of the Administrative Office of the United States Courts, the Clerk is directed, without
10 further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to
11 ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the
12 Judicial Conference of the United States. The Commission may propose by motion a plan to
13 distribute the Fund subject to the Court's approval. Defendant shall pay post-judgment interest on
14 any delinquent amounts pursuant to 28 USC § 1961.

15 VI.

16 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant will
17 not accept from any source any compensation, salary, commission or wages that are in any way
18 connected to or related to the sale of any assets pursuant to the Court's judgment.

19 VII.

20 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for
21 disgorgement of \$1 as a result of the conduct alleged in the Complaint, and a civil penalty in the
22 amount of \$250,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21A
23 of the Exchange Act [15 U.S.C. § 78u-1], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-
24 9(e)]. Defendant shall satisfy this obligation by paying \$250,001 within twenty (20) business days to
25 the Clerk of this Court, together with a cover letter identifying Trabulse as a defendant in this action;
26 setting forth the title and civil action number of this action and the name of this Court; and specifying
27 that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit
28 photocopies of such payment and letter to the Commission's counsel in this action. By making this

1 payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no
2 part of the funds shall be returned to Defendant.

3 The Clerk shall deposit the funds into an interest bearing account with the Court Registry
4 Investment System (“CRIS”) or any other type of interest bearing account that is utilized by the
5 Court. These funds, (collectively, the “Fund”), shall be held in the interest bearing account until
6 further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the
7 Director of the Administrative Office of the United States Courts, the Clerk is directed, without
8 further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to
9 ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the
10 Judicial Conference of the United States.

11 The Commission may enforce the Court’s judgment for disgorgement and a civil penalty by
12 moving for civil contempt (and/or through other collection procedures authorized by law) at any time
13 after twenty days following entry of this Final Judgment. In response to any such civil contempt
14 motion by the Commission, the defendant may assert any legally permissible defense.

15 The Commission may by motion propose a plan to distribute the Fund subject to the Court’s
16 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund
17 provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such
18 Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this
19 Judgment shall be treated as penalties paid to the government for all purposes, including all tax
20 purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
21 reduction of any award of compensatory damages in any Related Investor Action based on
22 Defendant’s payment of disgorgement in this action, argue that he is entitled to, nor shall he further
23 benefit by, offset or reduction of such compensatory damages award by the amount of any part of
24 Defendant’s payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related
25 Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final
26 order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount
27 of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs.
28 Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the

1 amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a “Related
2 Investor Action” means a private damages action brought against Defendant by or on behalf of one or
3 more investors based on substantially the same facts as alleged in the Complaint in this action.

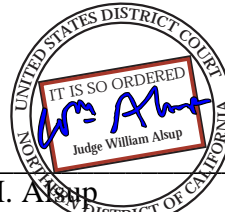
4 VIII.

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is
6 incorporated herein with the same force and effect as if fully set forth herein, and that Defendant and
7 Relief Defendants shall comply with all of the undertakings and agreements set forth therein.

8 IX.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain
10 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

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12 Dated: April 7, 2008



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14 William H. Alsup
15 UNITED STATES DISTRICT JUDGE
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