

ORIGINAL

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

10/23/03
CLERK OF COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

INVERWORLD, INC., *et al.*,

Defendants,

Civil Action No. SA-99-CV-0822 (FB)

**FINAL JUDGMENT AND ORDER OF PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST GEORGE F. FAHEY**

Plaintiff Securities and Exchange Commission ("Commission"), having filed its Complaint in this matter and Defendant George F. Fahey ("Fahey") through his Stipulation and Consent ("Consent"), incorporated herein by reference, has made a general appearance in this action, admitted service of the Summons and Complaint, admitted the jurisdiction of this Court over him and over the subject matter of this action, and has waived the filing of an answer, the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and his right to appeal this Judgment of Permanent Injunction. Fahey has, in his Consent, without admitting or denying any of the allegations in the Commission's Complaint, except as to jurisdiction, which he admits, and without a hearing, presentation of any evidence, trial, argument or adjudication of any issue of fact or law, consented to the entry of this Final Judgment and Order of Permanent Injunction and Other Equitable Relief ("Final Judgment"). It appearing that the Court has jurisdiction over Fahey and the subject matter of this action:

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Fahey and his agents, servants, employees, attorneys, and all other persons in active concert or participation with each of them who receive actual notice of this Final Judgment by personal service or otherwise, and

144

each of them, be and hereby are permanently restrained and enjoined, from, directly or indirectly, making use of any means or instrumentality of interstate commerce or of the mails, or of the facilities of a national securities exchange:

- (a) to employ any device, scheme or artifice to defraud, or
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission 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 transaction, practice or course of business which operates or would operate as a fraud or deceit upon any purchaser,

in the offer or sale of any securities in violation of Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)].

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fahey and his agents, servants, employees, attorneys, and all other persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, be and hereby are permanently restrained and enjoined, from directly or indirectly, through the use of any means or instrumentality of interstate commerce or of the mails, or of the facilities of a national securities exchange:

- (a) to employ any device, scheme or artifice to defraud, or
- (b) to make any untrue statement of a material fact or 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 transaction, act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

In connection with the purchase or sale of any security, in violation of Section 10(b) of the Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fahey and his agents, servants, employees, attorneys, and all other persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them be and hereby are permanently restrained and enjoined, from violating, or aiding, abetting, counseling, commanding, inducing or procuring violations of Section 206(1) and 206(2) of the Advisers Act [15 U.S.C. § 80b-6(1) and (2)] by, directly or indirectly, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails:

- (1) to employ and device, scheme, or artifice to defraud any client or prospective client; and,
- (2) to engage in any transactions, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Fahey shall pay disgorgement in the amount of \$535,000, representing his gains from the conduct alleged in the Complaint, plus prejudgment interest thereon. Based upon Fahey's criminal conviction for securities fraud in a related action and the restitution ordered therein, which exceeds the amount of disgorgement sought by the Commission in its Complaint, payment of the above referenced disgorgement and prejudgment interest thereon is waived.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based upon Fahey's criminal conviction for securities fraud and the restitution ordered by the Judgment and Commitment therein, the Court is not ordering him to pay a civil money penalty pursuant to the provisions of Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act, [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any order to pay disgorgement, prejudgment interest, or civil penalties is given preclusive effect in any bankruptcy case filed by or against Fahey. Solely for the purpose of such bankruptcy proceedings, such order establishes all the factual elements necessary to enable a court to make a finding that it is non-dischargeable pursuant to 11 U.S.C. §523(a)(4).

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Consent filed herein be, and the same is hereby, incorporated in this Final Judgment with the same force and effect as if fully set forth herein.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this action for all purposes, including for purposes of entertaining any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court, including but not limited to the relief requested by the Commission in its Complaint in this action.

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Final Judgment may be served upon Fahey in person or by mail either by the United States marshal, by the Clerk of the Court or by any member of the staff of the Commission.

X.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, there being no just reason for delay, the Clerk of this Court is ordered and directed to enter this Final Judgment pursuant to Rule 54 of the Federal Rules of Civil Procedure.

DATED and SIGNED this 23rd day of October, 2003.


UNITED STATES DISTRICT JUDGE
FRED BIERY