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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

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14 SECURITIES AND EXCHANGE COMMISSION,

Case No. C 07-4975 (WHA)

15 Plaintiff,

16 vs.

JOINT RESPONSE TO MONITOR'S
REPORT AND STIPULATION AND
17 ~~PROPOSED~~ ORDER IMPLEMENTING
RECOMMENDATIONS

18 ALEXANDER JAMES TRABULSE,

19 Defendant,

20 and

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

22 Relief Defendants.
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1 **I. JOINT RESPONSE TO MONITOR’S REPORT**

2 The parties have each received and reviewed the Monitor’s report. The parties have met and
3 conferred and, pursuant to the Court’s order of February 6, 2008 respond as follows:

4 First, the parties wish to inform the Court that they have met and conferred and resolved the
5 disagreements cited in the report about the scope of the Monitor’s duties.

6 Second, the parties wish to inform the Court that they have reduced their settlement to
7 writing. Defendants have agreed to the terms set forth therein, and the Staff responsible for litigating
8 this action anticipates recommending that the Securities and Exchange Commission (“Commission”)
9 approve the settlement. The parties anticipate that the Commission will either accept, seek to modify,
10 or reject the settlement within the next 90 days.

11 Third, the settlement contemplates the closure and liquidation of the Fahey Fund, and the
12 distribution of the Fahey Fund’s assets to investors on a *pro rata* basis. As a result, many of the
13 Monitor’s recommendations are consistent with what the parties believe is necessary to effectuate the
14 terms of the settlement. A small number of the Monitor’s recommendations have been mooted by the
15 settlement. For example, because the Fund’s assets will be sold and the proceeds distributed to the
16 investors, it is not necessary to spend further energies obtaining estimates of the market value of the
17 Fund’s assets. The parties agree, however, that the monitor should perform further work as set forth
18 in the stipulation that follows.

19 The parties therefore ask to the Court to enter their stipulation to aid in the final resolution of
20 this matter.

21 **II. STIPULATION AND PROPOSED ORDER**

22 Whereas Plaintiff Securities and Exchange Commission (“Commission”), defendant
23 Alexander James Trabulse (“Trabulse” or “Defendant”) and Relief Defendants Fahey Fund, L.P.,
24 Fahey Financial Group, Inc., International Trade & Data, and ITD Trading (collectively, the “Relief
25 Defendants;” together with the Commission, the “Parties”) previously stipulated that Michael A.
26 Grassmueck be appointed to serve as an independent monitor (“Monitor”) in this action ;

27 Whereas on January 31, 2008 the Monitor prepared a report with certain recommendations;
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1 III.

2 The Parties further agree that the Defendant and Relief Defendants will use their best efforts
3 to obtain the maximum value in connection with the sale of any assets. At least ten (10) days in
4 advance of the sale of any asset, the Defendant will provide the Monitor with all information that the
5 Monitor deems necessary to confirm that the maximum value has been obtained for any assets sold,
6 including but not limited to, sales procedures, the identity of the buyer or prospective buyers and
7 information that is reasonably designed to confirm that each sale is an arms length bona fide sale for
8 value. The Parties therefore stipulate that the Monitor should gather and analyze whatever
9 information is necessary to effectuate the provisions of this paragraph.

10 IV.

11 The parties further stipulate that it would be appropriate for the Monitor to determine which
12 of the Fahey Funds' assets should be insured and obtain insurance for such assets. In addition, to
13 preserve the value of certain assets, the Monitor will identify which assets should be moved to secure
14 locations and arrange to store such assets at a facility that meets with the Monitor's approval. The
15 cost associated with the work will be paid from the accounts of the Fahey Funds.

16 V.

17 The parties further stipulate that the Monitor should investigate the real estate transactions
18 listed on page 16, lines 25-27 of the Monitor's report.

19 VI.

20 The parties further stipulate that Trabulse and the Relief Defendants will not encumber any
21 real or personal property assets owned by the Relief Defendants. The Monitor may file and record
22 this Court's orders in counties where real and personal property assets of Trabulse and the Relief
23 Defendants may be located pursuant to 11 U.S.C. § 754 or take other steps to provide notice of the
24 terms of this stipulation and order. To the extent that properties are located overseas, the Monitor
25 may take any steps he deems appropriate to secure those properties from further encumbrance or loss
26 as well.

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VII.

The parties further stipulate that the Monitor should establish and conduct a claims review process whereby investors are notified and requested to provide verifiable information as to the amounts invested and distributions that they received.

VIII.

The parties stipulate and agree that any statements, documents or other information provided by Trabulse or the Relief Defendants in compliance with this stipulation and proposed order will constitute, and neither the Commission nor the Monitor will not argue to the contrary, a waiver, in whole or in part, of Trabulse’s rights and privileges under the Fifth Amendment of the U.S. Constitution. Notwithstanding the foregoing, this stipulation is without prejudice to the United States Attorney arguing a waiver of the privileges under the Fifth Amendment, as Commission cannot bind the United States Attorney or any other governmental agency.

IX.

The Stipulation and Order Appointing Monitor filed December 17, 2007, the Order Concerning Injunctive Relief dated October 29, 2007, and the Preliminary Injunction and Other Ancillary Relief Order dated December 12, 2007 are incorporated herein by this reference.

IT IS SO STIPULATED:

Dated: February 13, 2008

/s/ Mark P. Fickes
Mark P. Fickes
Erin E. Schneider
Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION

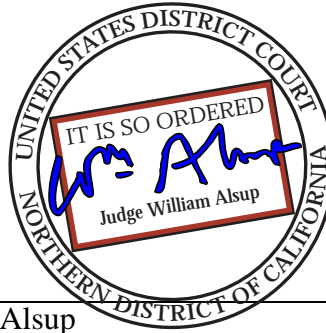
Dated: February 13, 2008

/s/ Michael D. Celio
Michael D. Celio
Clement S. Roberts
Attorneys for Defendant ALEXANDER JAMES
TRABULSE, and Relief Defendants FAHEY FUND,
L.P., FAHEY FINANCIAL GROUP, INC.,
INTERNATIONAL TRADE & DATA, AND ITD
TRADING

1 The Court, having considered this proposed stipulation and order, adopts as its order the
2 provisions of paragraphs I through IX, above.

3 IT IS SO ORDERED

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5 Dated: February 13, 2008



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7 William H. Alsup
8 UNITED STATES DISTRICT JUDGE
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