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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO

11 SECURITIES AND EXCHANGE  
COMMISSION,

12 Plaintiff,

13 vs.

14 ALEXANDER JAMES TRABULSE,

15 Defendant.

16 and

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

19 Relief Defendants.  
20  
21

Case No. C 07-4975 (WHA)

**DECLARATION OF MICHAEL A.  
GRASSMUECK IN SUPPORT OF MOTION  
FOR ORDER APPROVING  
DISTRIBUTION PLAN AND  
AUTHORIZING INTERIM DISTRIBUTION  
TO HOLDERS OF ALLOWED CLAIMS**

Date: October 15, 2009

Time: 8:00 a.m.

Place: Courtroom 9, 19<sup>th</sup> Floor  
United States District Court  
Northern District of California-  
San Francisco Division  
450 Golden Gate Avenue  
San Francisco, CA 94102

22  
23 I, Michael A. Grassmueck, declare:

24 1. I am the duly appointed monitor (the "Monitor") for Fahey Fund, L.P.; Fahey  
25 Financial Group, Inc.; International Trade & Data; and ITD Trading, and their subsidiaries and  
26 affiliates and any entities controlled by them (collectively referred to as the "Relief Defendants").  
27 I submit this declaration (the "Declaration") in support of the Motion For Order Approving  
28 Distribution Plan And Authorizing Interim Distribution To Holders Of Allowed Claims (the

1 "Motion"). I have personal knowledge of the facts stated in this Declaration as to which I could  
2 and would personally and competently testify if called upon to do so.

3 2. On December 17, 2007, I was appointed as Monitor of the Relief Defendants  
4 pursuant to the entered Order Appointing Monitor And Other Ancillary Relief ("Monitor Order").  
5 Pursuant to the Monitor Order, I was empowered and directed to, among other things, conduct  
6 such investigation as would be necessary to locate and account for the Relief Defendants' assets,  
7 and review the overall operation of the Relief Defendants in accordance with the Monitor Order.

8 3. On February 13, 2008, the Court entered an Order implementing certain of my  
9 recommendations, and which also incorporated the terms of the Monitor Order (the "Modified  
10 Order"). The Modified Order authorized me to, among other things, determine the disallowance  
11 and allowance of claims, through a claims review process, and assist in the sale and liquidation of  
12 assets. The Modified Order further provided for the monitor to distribute the recovered funds to  
13 investors. *See* Modified Order, Section 1, lines 13 to 14 ("The Parties anticipate that all assets of  
14 Relief Defendants will be liquidated as part of the settlement of this action and the funds  
15 distributed to the investors.").

16 4. After completing the claims review process, I caused to be filed an Omnibus  
17 Motion to seek approval of objections to certain claims filed in this case, and the approval of the  
18 allowance and disallowance, as applicable, of those claims. The Court heard the Omnibus Motion  
19 on July 9, 2009, and after the hearing, the Court took the Omnibus Motion under submission. On  
20 September 2, 2009, the Court entered an order granting the Omnibus Motion.

21 5. Based on the Court's entry of Order granting the Omnibus Motion, I, with  
22 assistance of my staff, (collectively, the "Monitor's Office") determined that there are allowed  
23 claims of \$14,102,065.60 against the Relief Defendants' estates (collectively, the "Estate"). With  
24 the total allowed claims against the Estate fixed, the Monitor's Office is now in a position to  
25 determine how much, from cash on hand, will be available for interim distribution to the investors  
26 and creditors of the Estate, and to seek Court approval of such distribution. The Estate is currently  
27 holding approximately \$5,069,537.52 in cash.

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1           6.       The Monitor's Office anticipates that the amount available for interim distribution,  
2 including the Fair Funds as defined in the Motion, is \$5,319,538.52. This amount is exclusive of a  
3 holdback for payment of remaining and estimated administrative fees and expenses of \$250,000  
4 ("Hold-Back Funds"). Based on the Monitor's Office's calculations, the Monitor's Office estimates  
5 a distribution return for investors and creditors of 37.72% on their allowed claims. The Monitor's  
6 Office further anticipates that additional proceeds from sale of Estate assets will be available,  
7 following the filing of the Motion. Following the interim distribution, the Monitor's Office  
8 anticipates a final distribution of Estate funds from the sale of remaining Estate assets and  
9 unapplied Hold-Back Funds.

10           7.       To implement the distribution, the Monitor's Office, with assistance of counsel,  
11 have prepared a Distribution Plan, which is concurrently filed herewith. In developing and  
12 selecting the Distribution Plan, the Monitor's Office carefully analyzed and considered all options  
13 for distribution, determining that the one contained in the Distribution Plan is the most equitable  
14 and practicable for all interested parties.

15           8.       The Distribution Plan contemplates distributions for three types of allowed claims  
16 against the Estate: (i) Administrative Claims<sup>1</sup>, comprised primarily of the expenses incurred by the  
17 Monitor and his professionals, (ii) Creditor Claims, comprised of claims of vendors or service  
18 providers for goods and services rendered to the Estate, and (iii) Investor Claims, comprised of  
19 claims held by persons or entities who invested funds in the Estate.

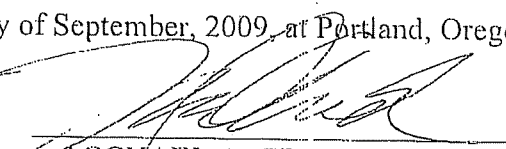
20           9.       The Monitor's Office proposes to pay Creditor Claims and Investor Claims that are  
21 determined to be Allowed Claims *pro rata* from the Estate Proceeds. At this time, the Monitor's  
22 Office estimates that each Allowed Claim will be paid based upon a *pro rata* distribution  
23 estimated to be 37.72% (I reserve the right to increase this estimated figure, to the extent  
24 additional Estate assets are sold and proceeds realized for distribution). The Monitor's Office  
25 proposes that Administrative Claims, after Court approval, will be paid in full, out of a reserve of  
26 the Hold-Back Funds. The Monitor's Office estimates that the remaining Monitor's fees and costs,  
27

28 <sup>1</sup> All capitalized terms not defined herein shall have the same meanings as set forth in the  
Distribution Plan.

1 and those of his professionals, owing through the close of the case, will be approximately the  
2 amount of the Hold-Back Funds.

3 10. The Monitor's Office will make the first interim distribution under the Distribution  
4 Plan as soon as is practicable, but no later than sixty (60) days after a Final Order is entered by the  
5 Court approving the Distribution Plan. Subsequent interim distributions will be made when  
6 material amounts are available to distribute subject to Court order. Further, when and if  
7 appropriate, the Monitor's Office will make a final distribution and close the case subject to Court  
8 order. Any distribution under the Distribution Plan which is unclaimed after ninety (90) days  
9 following the date of distribution shall be forfeited, and such distribution together with all interest  
10 earned thereon shall become part of, and increase the amount of, the Hold-Back Funds.

11 I declare under penalty of perjury under the laws of the United States of America that the  
12 foregoing is true and correct. Executed this 2<sup>nd</sup> day of September, 2009, at Portland, Oregon.

  
MICHAEL A. GRASSMUECK

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