

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.

04-80272

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

UNCOMMON MEDIA GROUP, INC.,
3RD DIMENSION, INC., LAWRENCE GALLO,
TIMOTHY RAFFERTY AND FREDERICK
HORNICK, Jr.,

Defendants.

04-80272-01
10-01-03 11:10:01
[Signature]

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission (the "SEC" or "Commission") alleges and states as follows:

1. Since at least August 2002 through the present, Lawrence Gallo ("Gallo"), Timothy Rafferty ("Rafferty") and Frederick B. Hornick, Jr. ("Hornick"), using two companies Uncommon Media Group, Inc. ("UMDA") and its subsidiary 3rd Dimension, Inc. ("3D") (collectively "Defendants"), swindled 200 investors out of at least \$1.4 million through material misrepresentations and omissions relating to the operations and profitability of the issuers, returns on the investments and use of investor proceeds.

2. Gallo, Rafferty and Hornick are recidivists whose histories are replete with violations of the federal securities laws. Gallo is currently a defendant in another pending SEC enforcement action for securities fraud and is under indictment in parallel criminal proceedings. Rafferty was criminally convicted of securities fraud in 1990 and enjoined by the SEC in

[Signature]

connection with a second fraudulent scheme in 1993. In 1998, Hornick was censured, fined and barred from the securities industry by the National Association of Securities Dealers (“NASD”). Unless immediately restrained and enjoined, these serial securities law violators will continue to defraud the investing public and place investor funds at serious risk of diversion and theft.

DEFENDANTS

3. UMDA is a Florida corporation incorporated in July 1993, with its principal place of business in New York, New York.

4. 3D is a Nevada corporation founded in November 2000, with its principal place of business in New York, New York.

5. Gallo resides in Brooklyn, New York. Gallo is the president and chief executive officer of UMDA. Gallo participates in UMDA’s day-to-day operations and controls, or has the power to control, all of its and 3D’s activities.

6. Rafferty resides in Port Washington, New York. Rafferty is a promoter and sales agent for UMDA and 3D.

7. Hornick resides in Englewood, Colorado. Hornick is a promoter and sales agent for UMDA and 3D.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77t(b), 77t(d) and 77v(a), and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d), 78u(e) and 78aa.

9. This Court has personal jurisdiction over Defendants and venue is proper in the Southern District of Florida because Defendants' acts and transactions constituting violations of the Securities Act and the Exchange Act occurred in the Southern District of Florida.

10. Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of business set forth in this Complaint.

THE FRAUDULENT SCHEME

11. Since at least August 2002, Gallo, Rafferty and Hornick raised funds, through UMDA and its subsidiary 3D, by offering promissory notes and common stock. Gallo, the mastermind behind the scheme, recruited investors by word of mouth and through independent sales agents and promoters such as Hornick and Rafferty. Hornick was paid commissions for the funds he raised from investors.

12. Investors were recruited at seminars, hosted by Gallo, Rafferty and Hornick, in person or on the telephone, at various locations throughout the country. For example, seminars were held in Denver, Colorado on October 7, 2003 and on December 3, 2003. Another seminar was held in Salt Lake City, Utah in January 2004. Attendance at the seminars ranged from 20 to over 100 participants. Another seminar is scheduled for late March 2004.

13. During the seminars, Gallo represented to investors that UMDA and 3D were successful companies. Among other things, Gallo stated that: 3D had the technology to meet current demands of the music, movie and cellular telephone industries; UMDA had completed deals with many companies; and UMDA had established contracts and was about to announce a "major acquisition."

14. During the seminars, Rafferty, acting at the direction or with the approval of Gallo, told investors that UMDA would be listed on the AMEX stock exchange in 2004. Rafferty also identified streams of revenue and represented that the company would be profitable over the next few years. Rafferty made exorbitant projections as to the future value of UMDA's stock and stated that several "multi-dollar per share" buy-out offers had already been made but turned down.

15. In late February 2003, during telephone solicitations and in emails, Hornick stated to investors that 3D made \$100 million a year in South America from its cellular telephone video streaming technology and that an additional \$500 million in revenue is expected this year from a contract with a "major U.S. carrier." Hornick further stated in the emails that 3D was a "successful company and signing many valuable contracts," "their technology is already in the market place" and that the expected revenue for the year is "in the 100s of millions of dollars."

16. Hornick, during telephone solicitations in February 2004, promised an investor exorbitant returns on an investment in 3D. Hornick stated that 3D stock purchased at \$3.50 per share would split five to one in ninety days, be "put into" a publicly traded company and be worth \$10 per share. Hornick reiterated in an email to that same investor that 3D's stock would open on NASDAQ at \$10.00 per share by this summer. Hornick further said that in the next five years 3D's stock would be worth \$100 per share.

17. All of the statements concerning the profitability, viability and prospects of UMDA and 3D are false and misleading. Neither UMDA nor 3D have any revenues. In fact, UMDA reported a net loss of over \$1.4 million for the financial period ending March 31, 2003 and the company has only reported de minimus revenues of \$29,312 since its inception. 3D has never generated any revenues whatsoever. Moreover, UMDA's auditors expressed a going

concerning opinion about UMDA in December 2001 indicating that the ability of the company to continue operating was questionable. In light of UMDA's and 3D's dismal financial condition, Gallo's, Rafferty's and Hornick's projections of tremendous returns on investments in the companies and listing on the AMEX stock exchange are completely baseless and false and were made knowingly or with severe recklessness.

18. In addition to the affirmative lies told to investors, material omissions were made during the offer and sale of UMDA's and 3D's securities. Gallo, Rafferty and Hornick described themselves as having successful backgrounds in the securities industry. At no time did Gallo, Rafferty nor Hornick disclose their checkered pasts which include: (a) a pending civil action and criminal indictment for securities fraud against Gallo; (b) a 1990 securities fraud conviction as to Rafferty and a 1993 SEC permanent antifraud injunction; and (c) a 1998 NASD censure, fine and industry bar against Hornick. Similarly, at no time did Gallo, Rafferty nor Hornick tell investors that UMDA itself is a defendant in a pending SEC action for securities fraud.

19. Lastly, Gallo and possibly others are using investor funds for personal uses instead of to fund the operations and product development of UMDA and 3D. From August 2002 to December 2003, approximately 30% of the \$1.4 million in investor deposits was disbursed in cash, ATM withdrawals, cashier check purchases and transfers to other bank accounts including Gallo's personal checking account.

COUNT I

Sale of Unregistered Securities in Violation of Sections 5(a) and 5(c) of the Securities Act

20. The Commission repeats and realleges Paragraphs 1 through 19 of this Complaint as if fully set forth herein.

21. No registration statement was filed or in effect with the Commission pursuant to the Securities Act and no exemption from registration exists with respect to the securities and transactions described in this Complaint.

22. Since a date unknown but at least since August 2002 through the present, Defendants, directly and indirectly, have been: (a) making use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise; (b) carrying securities or causing such securities to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; and/or (c) making use of the 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, without a registration statement having been filed or being in effect with the Commission as to such securities.

23. By reason of the foregoing, Defendants, directly and indirectly, have violated, and unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

COUNT II

Fraud in Violation of Section 17(a)(1) of the Securities Act

24. The Commission repeats and realleges Paragraphs 1 through 19 of this Complaint as if fully set forth herein.

25. Since a date unknown but at least since August 2002 through the present, Defendants, directly and indirectly, by use of the means or instruments of transportation or

communication in interstate commerce and by use of the mails, in the offer or sale of securities, have been knowingly, willfully or recklessly employing devices, schemes or artifices to defraud.

26. By reason of the foregoing, Defendants, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1).

COUNT III

Fraud in Violation of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder

27. The Commission repeats and realleges Paragraphs 1 through 19 of this Complaint as if fully set forth herein.

28. Since a date unknown but at least since August 2002 through the present, Defendants, directly and indirectly, by use of the means and instrumentality of interstate commerce, and of the mails in connection with the purchase or sale of securities, have been knowingly, willfully or recklessly (a) employing devices, schemes or artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (c) engaging in acts, practices and courses of business which have operated, are now operating and will operate as a fraud upon the purchasers of such securities.

29. By reason of the foregoing, Defendants, directly or indirectly, have violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

COUNT IV

**Operating as Unregistered Broker-Dealers in Violation of
Section 15(a)(1) of the Exchange Act**

(Solely as to Hornick)

30. The Commission repeats and realleges Paragraphs 1 through 19 of this Complaint as if fully set forth herein.

31. Since a date unknown but at least since August 2002 through the present, Defendant Hornick, directly and indirectly, by use of the means and instrumentality of interstate commerce, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, effected transactions in securities, or induced or attempted to induce the purchase and sale of securities, without registering as a broker-dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

32. By reason of the foregoing, Defendant Hornick directly and indirectly, has violated and, unless enjoined, will continue to violate Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1)

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

I. Declaratory Relief

Declare, determine and find that Defendants UMDA, 3D, Gallo, Rafferty, and Hornick committed the violations of the federal securities laws alleged in this Complaint.

II. Temporary Restraining Order, Preliminary and Permanent Injunctive Relief

Issue a Temporary Restraining Order, a Preliminary Injunction and a Permanent Injunction, restraining and enjoining Defendants UMDA, 3D, Gallo, Rafferty, Hornick, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation

with them, and each of them, from violating: Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c); Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a); 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; and, solely as to Hornick, Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

III. Disgorgement

Issue an Order requiring Defendants UMDA, 3D, Gallo, Rafferty, and Hornick to disgorge all ill-gotten profits or proceeds that they have received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest.

IV. Penalties

Issue an Order directing Defendants UMDA, 3D, Gallo, Rafferty, and Hornick to pay civil money penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78(d)(3).

V. Asset Freeze and Accounting

Issue an Order freezing the assets of Defendants UMDA, 3D, Gallo, Rafferty, and Hornick until further order of the Court, and requiring sworn accountings from each of them.

VI. Penny Stock Bar

Issue an Order, 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, permanently barring Gallo, Rafferty and Hornick from participating in an offering of penny stock.

VII. Officer & Director Bar

Issue an Order pursuant to Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and Section 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), barring Gallo, Rafferty and Hornick from serving as an officer or director of any issuer required to file reports with the Commission pursuant to Sections 12(b), 12(d) or 15(d) of the Exchange Act, 15 U.S.C. §§ 78l(b) and (g), and § 78o(d).

VIII. Records Preservation and Expedited Discovery

Issue an Order requiring Defendants UMDA, 3D, Gallo, Rafferty, and Hornick to preserve any records related to the subject matter of this lawsuit that are in their custody, possession or subject to their control, and to respond to discovery on an expedited basis.

IX. Further Relief

Grant such other and further relief as may be necessary and appropriate.

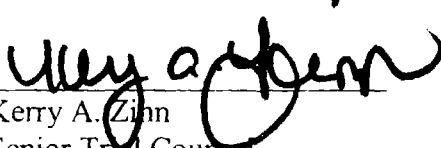
X. Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,

March ~~23rd~~ 2004

By:


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CIVIL COVER SHEET

4-8027

44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required to be filed with the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

LAINTIFFS

Securities And Exchange Commission

DEFENDANTS

Uncommon Media Group, Inc., 3rd Dimension, Lawrence Gallo, Timothy Rafferty And Frederick Hornick, Jr.

COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

C) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

**Kerry A. Zinn
(305)982-6300**
801 Brickell Ave., Ste. 1800
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ATTORNEYS IF KNOWN

MAR 23 2004

J) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, **PALM BEACH**, MARTIN, ST. LUCIE, INDIAN RIVER, BREVARD, FLORIDA

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans Excl. Veterans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> B 610 Agriculture <input type="checkbox"/> B 620 Other Food & Drug <input type="checkbox"/> B 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> B 630 Liquor Laws <input type="checkbox"/> B 640 H.H. & P.U.V. <input type="checkbox"/> B 650 Airline Pags <input type="checkbox"/> B 660 Occupational Safety/Health <input type="checkbox"/> B 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> A 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions A OR B

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

15 U.S.C. 77e, 15 U.S.C. 779 (a) (1), 15 U.S.C. 78j (b), 15 U.S.C. 78o (b)

LENGTH OF TRIAL via 4 days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE **Hurley**

DOCKET NUMBER **02-80770-CIV**

DATE SIGNATURE OF ATTORNEY OF RECORD