

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
2 DIVISION OF FINANCE AND CORPORATE SECURITIES
3 SECURITIES SECTION
4 BEFORE THE DIRECTOR OF THE DEPARTMENT OF
5 CONSUMER AND BUSINESS SERVICES
6 STATE OF OREGON

7 In the Matter of:)

8 TRACKER INTERNATIONAL,)
9 INC., MARK LABERTEW, DAVID)
10 CHENG, SOUTHPORT S.D.G.,)
11 INC., LES FLEISHMAN, KEN)
12 GROSS, ANTHONY HALL, CRAIG)
13 WILLIAMS,)

14 Respondents.)

O-99-0023
ORDER
TO CEASE AND DESIST
ASSESSING CIVIL PENALTY
DENYING EXEMPTIONS
and
CONSENT TO ENTRY OF ORDER
AS TO RESPONDENTS
SOUTHPORT S.D.G, INC., LES
FLEISHMAN, KEN GROSS, and
CRAIG WILLIAMS

15 WHEREAS the Director of the Department of Consumer and Business Services
16 for the State of Oregon ("the Director") has conducted an investigation of certain
17 business activities conducted by Southport S.D.G., Inc.; Les Fleishman; Ken Gross;
18 and Craig Williams, and has determined that in connection with offer and sale of
19 Tracker International, Inc. stock, they violated, either individually or collectively, various
20 provisions of the Oregon Securities Laws, including ORS 59.035, ORS 59.135, and
21 ORS 59.165.

22 WHEREAS Southport S.D.G., Inc.; Les Fleishman; Ken Gross; and Craig
23 Williams wish to resolve and settle this matter with the DIRECTOR;

24 NOW THEREFORE, as evidenced by the authorized signature(s) subscribed
25 on this Order, Southport S.D.G., Inc.; Les Fleishman; Ken Gross; and Craig Williams,
26 without admitting or denying the allegations in the original Cease and Desist Order or
the Findings of Facts herein, hereby **CONSENT** to entry of this Order to Cease and
Desist upon the Director's Findings of Fact and Conclusions of Law as stated
hereinafter:

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FINDINGS OF FACT

The DIRECTOR finds that:

1. Respondent Tracker International, Inc. ("Tracker") is a Delaware corporation with principal offices at 4000 N. Scottsdale Road, Suite 200, Scottsdale, Arizona, 85251 that purports to develop, market, distribute, lease, and sell global-positioning-system tracking, monitoring, and data-retrieval units ("GPS units").

2. Respondent Mark E. Labertew ("Labertew") was at all times material herein the President, Chief Executive Officer, and a Director of Tracker, and may be served at the corporation's business address at 4000 N. Scottsdale Road, Suite 200, Scottsdale, Arizona, 85251.

3. Respondent David D. Cheng ("Cheng") was at all times material herein the Senior Vice President, Chief Operating Officer, and a director of Tracker, and may be served at the corporation's business address at 4000 N. Scottsdale Road, Suite 200, Scottsdale, Arizona, 85251.

4. Respondent Southport S.D.G., Inc. ("Southport"), CRD # 46278, was at all times material herein, Tracker's agent for purposes of selling shares of Tracker stock. Southport is a California corporation with principal offices at 5199 East Pacific Coast Highway, Suite 330N, Long Beach, California, 90804.

5. Respondent Les Fleishman ("Fleishman"), CRD # 8975931, was at all times material herein, a director of Tracker and President of Southport. Fleishman may be served at Southport's business address at 5199 East Pacific Coast Highway, Suite 330N, Long Beach, California, 90804.

6. Respondent Ken Gross ("Gross") was at all times material herein a salesperson and agent for Southport. Gross's business address is the same as the address for the Southport.

7. Respondent Anthony Hall ("Hall") was at all times material herein a



1 salesperson and agent for Southport. Hall's business address is the same as the
2 address for Southport.

3 8. Respondent Craig S. Williams ("Williams") was at all times material
4 herein a salesperson and agent for Southport. Williams's business address is the
5 same as the address for Southport.

6 9. Tracker is not now nor has it ever been licensed to sell securities in
7 Oregon as a broker-dealer or as an issuer.

8 10. Southport is not now nor has it ever been licensed to sell securities in
9 Oregon as a broker-dealer.

10 11. Respondents Labertew, Cheng, Fleishman, Gross, Hall, and Williams are
11 not now licensed, nor have they ever been licensed, to sell securities in Oregon as
12 salespersons for any broker-dealer or for Tracker as an issuer.

13 12. On February 10, 1999, Tracker filed Form 440-2013 with the Division of
14 Finance and Corporate Securities for the State of Oregon ("DFCS") to register 10,000
15 shares (five units consisting of 2,000 shares each) of Tracker common stock for sale
16 in the State of Oregon. Tracker's registration was not, and to date has not been,
17 granted.

18 13. In October 1999, Respondent Hall, acting individually and as an agent
19 of Respondents Tracker and Southport cold-called Everett House ("House") of 40 NE
20 22nd Street; Gresham, OR 970303; (503) 665-2313, who had no pre-existing
21 relationship with Respondents Tracker or Southport and offered to sell him one unit of
22 Tracker stock consisting of 2,000 shares for \$5,000.00.

23 14. Following Hall's telephone call, House received written information in the
24 mail concerning Tracker. The information received by House failed to disclose the
25 following:

26 1. that the units being offered to House were not registered as



1 securities for sale in the State of Oregon;

2 2. that Fleishman, the President of Southport, was also a director for
3 Tracker; and

4 3. that neither Hall, Tracker, nor Southport were licensed to sell
5 shares of Tracker stock in the State of Oregon.

6 15. On or about October 21, 1998 House purchased one unit of Tracker
7 stock consisting of 2,000 shares for a total of \$5,000.00. House is not an accredited
8 investor.

9 16. In December 1998, Respondent Williams, acting individually and as an
10 agent of Respondents Tracker and Southport, cold-called Malcolm Elstad ("Elstad")
11 of 3515 Echo Drive NW; Salem, OR 97304; (503) 363-6487, who had no pre-existing
12 relationship with Respondents Tracker or Southport, and offered to sell him one unit
13 of Tracker stock consisting of 2,000 shares for \$5,000.00.

14 17. Following Williams's telephone call, Elstad received written information
15 in the mail concerning Tracker. The information received by Elstad stated the
16 following:

17 1. that J.D. Byrider, an automobile dealer, requested a proposal to
18 purchase 150-200 GPS units;

19 2. that Brinks Armored Transport, Inc. requested a proposal for
20 installation of 25 GPS units for their Phoenix, Arizona operation; and

21 3. that Poe & Brown Insurance received a demonstration of the GPS
22 unit and showed interest in purchasing units from Tracker.

23 18. After Elstad received the aforementioned written information, he was
24 contacted by Respondent Gross via the telephone. Gross stated that Tracker was
25 going to be purchased by Brinks in January of 1999.

26 19. At no time material herein was Elstad informed of the following:



Elstad

1 1. that the units being offered to House were not registered as
2 securities for sale in the State of Oregon;

3 2. that Fleishman, the President of Southport, was also a director for
4 Tracker; and

5 3. that neither Williams, Gross, Southport, nor Tracker were licensed
6 to sell shares of Tracker stock in the State of Oregon.

7 20. In December of 1998, Elstad purchased one unit of Tracker stock
8 consisting of 2,000 shares for \$5,000.00. Elstad is not an accredited investor.

9 21. In December 1998, Respondent Gross, acting individually and as an
10 agent of Respondents Tracker and Southport, cold-called Neal Hausam ("Hausam")
11 of 2054 Mousebird NW; Salem, OR 97304; (503) 363-6487, who had no pre-existing
12 relationship with Respondents Tracker or Southport, and offered to sell him one unit
13 of Tracker stock consisting of 2,000 shares for \$5,000.00.

14 22. Following Gross's telephone call, Hausam received written information
15 in the mail concerning Tracker. The information received by Hausam stated the
16 following:

17 1. that J.D. Byrider, an automobile dealer, requested a proposal to
18 purchase 150-200 GPS units;

19 2. that Brinks Armored Transport, Inc. requested a proposal for
20 installation of 25 GPS units for their operation in Phoenix, Arizona; and

21 3. that Poe & Brown Insurance received a demonstration of the GPS
22 unit and showed interest in purchasing units from Tracker.

23 23. After Hausam received the aforementioned written information, he was
24 contacted by Respondent Gross via the telephone. Gross stated that Tracker was
25 going to be purchased by another company, possibly Brinks, in January of 1999.

26 24. At no time material herein was Hausam informed of the following:

Division of Finance and Corporate Securities
Labor and Industries Building
550 Winter Street, NE, Suite 410
Salem, OR 97310
Telephone: (503) 378-4387



Hausam
Hausam

1 1. that the units being offered to House were not registered as
2 securities for sale in the State of Oregon;

3 2. that Fleishman, the President of Southport, was also a director for
4 Tracker; and

5 3. that neither Gross, Southport, nor Tracker were licensed to sell
6 shares of Tracker stock in the State of Oregon.

7 25. In December of 1998, Hausam purchased one unit of Tracker stock
8 consisting of 2,000 shares for \$5,000.00. Hausam is not an accredited investor.

9 26. In truth and fact:

10 1. neither Brinks nor any other company ever expressed an interest
11 in purchasing Tracker;

12 2. J.D. Byrider never requested a proposal to purchase 150-200 GPS
13 units;

14 3. Brinks Armored Transport, Inc. never requested a proposal for
15 installation of 25 GPS units for their Phoenix, Arizona operation; and

16 4. Poe & Brown Insurance never received a demonstration of the
17 GPS unit and never showed interest in purchasing GPS units from Tracker.

18 27. On February 16, 1999, in connection with an investigation into the offer
19 and sale of securities within the State of Oregon, Lisa Nuss ("Nuss"), at the time a
20 Securities Compliance Officer with DFCS, sent a letter to Labertew, President and
21 Chief Executive Officer of Tracker, via certified mail that was signed for by a
22 representative of Tracker on February, 18, 1999, requesting information pertaining to
23 the offer and sale of Tracker stock in the State of Oregon.

24 28. Neither Labertew nor Tracker responded to Nuss's request for
25 information.

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Division of Finance and Corporate Securities
Law and Insurance Building
340 W. Main Street, Suite 410
Salem, OR 97310
Telephone: (503) 378-4387



CONCLUSIONS OF LAW

Based upon the Findings of Fact, the DIRECTOR concludes that:

1. The common stock issued by Tracker is “stock” as that term is used under the definition of “security” in ORS 59.015 (19)(a).

2. The Tracker common stock, described herein, was never registered in Oregon.

3. Tracker, Southport, Gross, Hall, and Williams offered and/or sold unregistered securities in violation of ORS 59.055.

4. Pursuant to ORS 59.015(1), the offer and sale of Tracker common stock by Southport, as described herein, constitutes the transaction of securities business in Oregon by an unlicensed broker-dealer in violation of ORS 59.165(1).

5. Pursuant to ORS 59.015(18), the offer and sale of Tracker common stock by Gross, Hall, and Williams, as described herein, constitutes the transaction of securities business in Oregon by unlicensed salespersons in violation of ORS 59.165(1).

6. Tracker and Southport employed Gross, Hall, and Williams, unlicensed securities salespersons, to sell Tracker common stock in Oregon in violation of ORS 59.165 (3).

7. Tracker, Southport, Gross, Hall, and Williams, directly or indirectly in connection with the above described offers and sales of securities, made untrue statements of material fact and omitted to state material facts which were necessary in order to make the statements made in light of the circumstances under which they were made not misleading, in violation of ORS 59.135 (2).

8. Labertew, Cheng, and Fleishman, officers and/or directors of Tracker and/or Southport directly or indirectly controlled the activities of Gross, Hall, and Williams and, pursuant to ORS 59.115, they are liable as control persons for their

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500 Winter Street, NE, Suite 410
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1 actions as well as for the actions of Tracker and Southport.

2 9. In violation of ORS 59.235, Respondents Tracker and Labertew failed
3 to provide records for examination upon request by DFCS pursuant to a lawful
4 investigation of Tracker's securities activities.

5 **ORDER**

6 1. Respondents Southport, Fleishman, Gross, and, Williams shall, and
7 hereby agree to, CEASE AND DESIST from violating Chapter 59 of the Oregon
8 Revised Statutes and Chapter 441 of the Oregon Administrative Rules.

9 2. Pursuant to ORS 59.045 (2), Respondents Southport, Fleishman, Gross,
10 and, Williams are, and consent to be, DENIED the use of any statutory exemptions
11 provided for in ORS 59.025 and 59.035.

12 3. Pursuant to ORS 59.995, Respondents Southport, Fleishman, Gross,
13 and, Williams agree to and are ORDERED to PAY CIVIL PENALTIES as follows:

14 a. Southport and Fleishman shall pay, jointly and severally, a penalty
15 of \$5,000.00 for violation of ORS 59.165(3). Said fine shall be suspended upon
16 successful compliance with all of the terms of this Order, including the timely payment
17 of fines;

18 b. Southport, Fleishman, and Gross shall pay, jointly and severally,
19 a penalty of \$20,000.00 for violations of ORS 59.055, ORS 59.135(2), and ORS
20 59.165(1). \$17,500.00 of said penalty shall be suspended upon successful
21 compliance with all of the terms of this Order, including the timely payment of fines.
22 Respondent shall pay the remaining \$2,500.00 of the fine within 30 days of the
23 execution of this Order;

24 c. Southport, and Fleishman shall pay, jointly and severally, a
25 penalty of \$20,000.00 for violations of ORS 59.055, ORS 59.135, and ORS 59.165(1)
26 related to Respondent Hall's activities. \$17,500.00 of said penalty shall be suspended



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1 upon successful compliance with all of the terms of this Order, including the timely
2 payment of fines. Respondent shall pay the remaining \$2,500.00 of the fine within 60
3 days of the execution of this Order.; and

4 d. Southport, Fleishman, and Williams shall pay, jointly and severally,
5 a penalty of \$20,000.00 for violations of ORS 59.055(1), ORS 59.135(2), and ORS
6 59.165(1). \$17,500.00 of said penalty shall be suspended upon successful
7 compliance with all of the terms of this Order, including the timely payment of fines.
8 Respondent shall pay the remaining \$2,500.00 of the fine within 90 days of the
9 execution of this Order.

10 Pursuant to ORS 59.045 and ORS 59.245 and other applicable authority the
11 Director **FURTHER ORDERS**, and Respondents further agree, that:

12 1. Failure of Respondents to comply with any terms of this Order shall
13 constitute a violation of this Order and the violations which gave rise to this Order may
14 be used by the Director in any other enforcement action against Respondents.

15 2. The entry of this Order in no way limits further remedies, sanctions, or
16 actions which may be available to the Director under Oregon law to enforce this Order,
17 for violations of this Order, for conduct or actions of Respondents which are not
18 covered by this Order, or against any party not covered by this Order

19 Dated this 1st day of November, 1999, at Salem, Oregon.

David C. Tatman for

**MICHAEL GREENFIELD, DIRECTOR
DEPARTMENT OF CONSUMER & BUSINESS SERVICES
STATE OF OREGON
by David C. Tatman, Chief of Enforcement
Division of Finance & Corporate Securities
State of Oregon**

25 **CORPORATE CONSENT TO ENTRY OF ORDER**

26 I, Les Fleishman, without admitting or denying the allegations in the original

1 Cease and Desist Order or the Findings of Facts herein, state that I am the President
2 of Respondent Southport S.D.G., Inc., and I am authorized to act on its behalf; that
3 I have read the foregoing Order and that I know and fully understand the contents
4 thereof; that Respondent has been advised of its right to a hearing, and that
5 Respondent voluntarily consents to the entry of this Order without any force or duress;
6 that Respondent understands that the Director reserves the right to take further action
7 to enforce this Order or to take appropriate action upon discovery to enforce other
8 violations of the Oregon Securities Law; and that Respondent will fully comply with the
9 terms and conditions stated herein.

10 Southport S.D.G., Inc. and Les Fleishman further assure the Director that First
11 Southport S.D.G., Inc. will not transact any business in the State of Oregon unless
12 such transactions are in full compliance with Chapter 59 of the Oregon Revised
13 Statutes and this Order. I understand that this Consent Order is a public document.

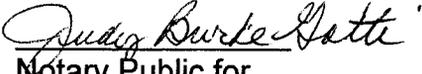
14 Dated this 27 day of October, 1999.

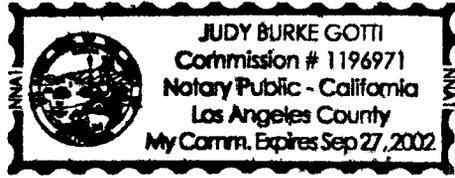
15 
16 Les Fleishman, President
17 Southport S.D.G., Inc.

18 **CORPORATE ACKNOWLEDGMENT**

19 There appeared before me this _____ day of _____, 1999 Les Fleishman,
20 whose signature appears on the Corporate Consent to Entry of Order, who was first
21 duly sworn on oath, and stated that he was and is the President of Southport S.D.G.,
22 Inc., and that he is authorized and empowered to sign this Consent to Entry of Order
23 and to bind Southport S.D.G., Inc. to the terms hereof.

24 SUBSCRIBED to before me this 27th day of October, 1999.

25 
26 Notary Public for _____
Printed Name of Notary Public _____
My commission expires: _____



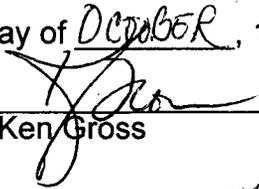
Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street, NE, Suite 410
Salem, OR 97310
Telephone: (503) 378-4387



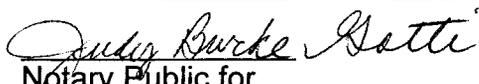
1 voluntarily, and without any force or duress; that I understand that the Director
2 reserves the right to take further actions to enforce this Order, or, upon discovery, to
3 enforce other violations of the Oregon Securities Law by me; that I will fully comply with
4 the terms and conditions stated herein.

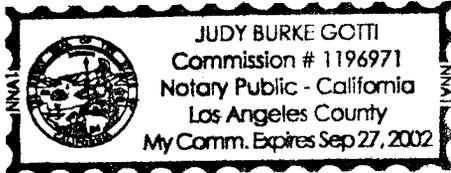
5 I further assure the Director that I will not transact business in the State of
6 Oregon unless such transactions are in full compliance with ORS Chapter 59 and this
7 Order. I understand that this Consent Order is a public document.

8 Dated this 27TH day of October, 1999.

9 
10 _____
Ken Gross

11 SUBSCRIBED TO BEFORE ME this 27th day of October 1999.

12 
13 _____
Notary Public for _____



16 _____
Printed Name of Notary Public
My commission expires: _____

17 **CONSENT TO ENTRY OF ORDER BY CRAIG WILLIAMS**

18 I, Craig Williams, without admitting or denying the allegations in the original
19 Cease and Desist Order or the Findings of Facts herein, state that I am a Respondent
20 herein; that I have read the foregoing order and that I know and fully understand
21 thereof; that I have been advised of my right to a hearing; that I consent to the entry
22 of this Order voluntarily, and without any force or duress; that I understand that the
23 Director reserves the right to take further actions to enforce this Order, or, upon
24 discovery, to enforce other violations of the Oregon Securities Law by me; that I will
25 fully comply with the terms and conditions stated herein.

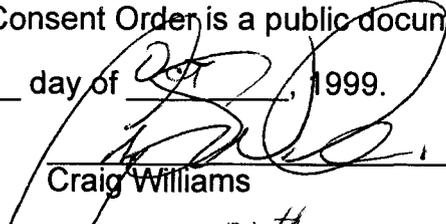
26 I further assure the Director that I will not transact business in the State of
Oregon unless such transactions are in full compliance with ORS Chapter 59 and this



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Order. I understand that this Consent Order is a public document.

Dated this 27 day of Oct, 1999.

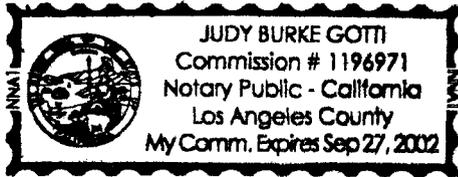


Craig Williams

SUBSCRIBED TO BEFORE ME this 27th day of October, 1999.



Notary Public for _____



Printed Name of Notary Public _____

My commission expires: _____

Division of Finance and Corporate Securities
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Salt Lake City, UT 84102
Telephone: (800) 778-4387

