

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.

15 O-99-0023
16 ORDER
17 TO CEASE AND DESIST
18 ASSESSING CIVIL PENALTY
19 DENYING EXEMPTIONS
20 and
21 CONSENT TO ENTRY OF ORDER
22 AS TO RESPONDENT
23 TRACKER INTERNATIONAL,
24 INC.

25 WHEREAS the Director of the Department of Consumer and Business Services
26 for the State of Oregon ("the Director") has conducted an investigation of certain
business activities conducted by Tracker International, Inc. and has determined that
in connection with offer and sale of Tracker International, Inc. stock, Tracker
International, Inc. violated certain provisions of the Oregon Securities Laws, including
ORS 59.035, ORS 59.135, ORS 59.165, and ORS 59.235.

WHEREAS Tracker International, Inc. wishes to resolve and settle this matter
with the DIRECTOR;

NOW THEREFORE, as evidenced by the authorized signature subscribed on
this Order, Tracker International, Inc. without admitting or denying the allegations in
the original Cease and Desist Order or the Findings of Facts herein, hereby
CONSENTS to entry of this Order to Cease and Desist upon the Director's Findings
of Fact and Conclusions of Law as stated hereinafter:

FINDINGS OF FACT

The DIRECTOR finds that:

1. Respondent Tracker International, Inc. ("Tracker") is a Delaware



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

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

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

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

15 5. Respondent Anthony Hall ("Hall") was at all times material herein a
16 salesperson and agent for Southport. Hall's business address is the same as the
17 address for Southport.

18 6. Respondent Craig S. Williams ("Williams") was at all times material
19 herein a salesperson and agent for Southport. Williams's business address is the
20 same as the address for Southport.

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

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

25 9. Respondents Fleishman, Gross, Hall, and Williams are not now licensed,
26 nor have they ever been licensed, to sell securities in Oregon as salespersons for any



1 broker-dealer or for Tracker as an issuer.

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

7 11. In October 1998, Respondent Hall, acting individually and as an agent
8 of Respondents Tracker and Southport cold-called Everett House ("House") of 40 NE
9 22nd Street; Gresham, OR 970303; (503) 665-2313, who had no pre-existing
10 relationship with Respondents Tracker or Southport and offered to sell him one unit of
11 Tracker stock consisting of 2,000 shares for \$5,000.00.

12 12. Following Hall's telephone call, House received written information in the
13 mail concerning Tracker. The information received by House did not state the
14 following:

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

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

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

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

24 14. In December 1998, Respondent Williams, acting individually and as an
25 agent of Respondents Tracker and Southport, cold-called Malcolm Elstad ("Elstad")
26 of 3515 Echo Drive NW; Salem, OR 97304; (503) 363-6487, who had no pre-existing



1 relationship with Respondents Tracker or Southport, and offered to sell him one unit
2 of Tracker stock consisting of 2,000 shares for \$5,000.00.

3 15. Following Williams's telephone call, Elstad received written information
4 in the mail concerning Tracker. The information received by Elstad stated the
5 following:

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

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

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

12 16. After Elstad received the aforementioned written information, he was
13 contacted by Respondent Gross via the telephone. Gross stated that Tracker was
14 going to be purchased by Brinks in January of 1999.

15 17. At no time material herein was Elstad informed of the following:

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

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

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

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

24 19. In December 1998, Respondent Gross, acting individually and as an
25 agent of Respondents Tracker and Southport, cold-called Neal Hausam ("Hausam")
26 of 2054 Mousebird NW; Salem, OR 97304; (503) 363-6487, who had no pre-existing

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



1 relationship with Respondents Tracker or Southport, and offered to sell him one unit
2 of Tracker stock consisting of 2,000 shares for \$5,000.00.

3 20. Following Gross's telephone call, Hausam received written information
4 in the mail concerning Tracker. The information received by Hausam stated the
5 following:

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

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

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

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

15 22. At no time material herein was Hausam informed of the following:

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

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

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

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

24 24. In truth and fact, the information received by the investors concerning
25 Brinks, J.D. Byrider, and Poe & Brown Insurance was not entirely accurate and,
26 specifically, Brinks did not intend to purchase Tracker.



1 statements of material fact and omitted to state material facts which were necessary
2 in order to make the statements made in light of the circumstances under which they
3 were made not misleading, in violation of ORS 59.135 (2).

4 8. Fleishman, a director of Tracker and president of Southport, directly or
5 indirectly controlled the activities of Gross, Hall, and Williams and, pursuant to ORS
6 59.115, they are liable as control persons for their actions as well as for the actions of
7 Tracker and Southport.

8 9. In violation of ORS 59.235, Respondent Tracker failed to provide records
9 for examination upon request by DFCS pursuant to a lawful investigation of Tracker's
10 securities activities.

11 **ORDER**

12 1. Respondent Tracker International, Inc. shall, and hereby agrees to,
13 CEASE AND DESIST from violating Chapter 59 of the Oregon Revised Statutes and
14 Chapter 441 of the Oregon Administrative Rules.

15 2. Pursuant to ORS 59.045 (2), Respondent Tracker International, Inc., is
16 and consents to be, DENIED the use of any statutory exemptions provided for in ORS
17 59.025 and 59.035.

18 3. Pursuant to ORS 59.995, Respondent Tracker International, Inc. agrees
19 to and is ORDERED to PAY CIVIL PENALTIES as follows:

20 a. \$5,000.00 for violation of and ORS 59.235, of which \$2,500.00
21 shall be suspended upon successful compliance with all of the terms of this Order,
22 including the timely payment of fines. Respondent shall pay the remaining \$2,500.00
23 of the fine within 30 days of the execution of this Order;

24 b. \$5,000.00 for violation of ORS 59.165(3), of which \$2,500.00 shall
25 be suspended upon successful compliance with all of the terms of this Order, including
26 the timely payment of fines. Respondent shall pay the remaining \$2,500.00 of the fine

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



1 within 60 days of the execution of this Order;

2 c. \$20,000.00 for violations of ORS 59.055, ORS 59.135(2), and
3 ORS 59.165(1) in connection with Respondent Gross's activities, of which \$17,500.00
4 shall be suspended upon successful compliance with all of the terms of this Order,
5 including the timely payment of fines. Respondent shall pay the remaining \$2,500.00
6 of the fine within 90 days of the execution of this Order;

7 d. \$20,000.00 for violations of ORS 59.055, ORS 59.135, and ORS
8 59.165(1) in connection with Respondent Hall's activities, of which all \$20,000.00 shall
9 be suspended upon successful compliance with all of the terms of this Order, including
10 the timely payment of fines; and

11 e. \$20,000.00 for violations of ORS 59.055(1), ORS 59.135(2), and
12 ORS 59.165(1) in connection with Respondent William's activities, of which all
13 \$20,000.00 shall be suspended upon successful compliance with all of the terms of
14 this Order, including the timely payment of fines.

15 Pursuant to ORS 59.045 and ORS 59.245 and other applicable authority
16 the Director **FURTHER ORDERS**, and Respondent further agrees, that:

17 1. Within fifteen (15) business days of the execution of this Order, Respondent
18 Tracker shall offer to purchase all of the Tracker International, Inc. stock of Everett
19 House of 40 NE 22nd Street; Gresham, Oregon 97030 for the original purchase price
20 paid along with interest at the rate of 9% per annum from the date of the investments
21 until such time as Everett House, has been paid in full. Respondent's offer shall
22 include the following terms and shall be made according to the following procedures:

23 a. The offer shall be in writing in a form acceptable to, and approved by, the
24 Director. The offer shall be sent via certified or registered mail or federal
25 express;

26 b. The offer shall include a detailed description of the risks involved in



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



1 keeping the investments along with a description of the possible consequences
2 of electing to rescind;
3 c. A certified true copy of each offer with proof of delivery and receipt shall
4 be provided to the Director within seven (7) business days of receipt of the
5 offer.
6 d. Everett House shall have thirty (30) days from receipt of the offer to
7 respond and either accept or reject the offer. Respondent shall deliver to the
8 Director certified true copies of the response, acceptance, or rejection received
9 from Everett House.
10 e. Within fifteen (15) business days of receipt of an acceptance of
11 Respondent's offer, Respondent shall pay all monies owed.
12 f. Within twelve (12) business days of payment, Respondent shall deliver
13 to the Director proof of payment, certified true copies of forwarding
14 correspondence, and an affidavit swearing to the truth accuracy, and
15 completeness thereof.

16 2. Failure of Respondent to comply with any terms of this Order shall
17 constitute a violation of this Order and the violations which gave rise to this Order may
18 be used by the Director in any other enforcement action against Respondent.

19 3. The entry of this Order in no way limits further remedies, sanctions, or
20 actions which may be available to the Director under Oregon law to enforce this Order,
21 for violations of this Order, for conduct or actions of Respondent which are not covered
22 by this Order, or against any party not covered by this Order

23 Dated this 18th day of November, 1999, at Salem, Oregon.

MICHAEL GREENFIELD, DIRECTOR
DEPARTMENT OF CONSUMER & BUSINESS SERVICES
STATE OF OREGON
by David C. Tatman, Chief of Enforcement
Div. of Finance & Corp. Sec. State of Oregon

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



CORPORATE CONSENT TO ENTRY OF ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I, Mark Labertew, without admitting or denying the allegations in the original Cease and Desist Order or the Findings of Facts herein, state that I am the President of Respondent Tracker International, Inc., and I am authorized to act on its behalf; that I have read the foregoing Order and that I know and fully understand the contents thereof; that Respondent has been advised of its right to a hearing, and that Respondent voluntarily consents to the entry of this Order without any force or duress; that Respondent understands that the Director reserves the right to take further action to enforce this Order or to take appropriate action upon discovery to enforce other violations of the Oregon Securities Law; and that Respondent will fully comply with the terms and conditions stated herein.

Tracker International, Inc. and Mark Labertew further assure the Director that Tracker International, Inc will not transact any business in the State of Oregon unless such transactions are in full compliance with Chapter 59 of the Oregon Revised Statutes and this Order. I understand that this Consent Order is a public document.

Dated this 11th day of Nov, 1999.



Mark Labertew, President
Tracker International, Inc

CORPORATE ACKNOWLEDGMENT

There appeared before me this _____ day of _____, 1999 Mark Labertew, whose signature appears on the Corporate Consent to Entry of Order, who was first duly sworn on oath, and stated that he was and is the President of Tracker International, Inc., and that he is authorized and empowered to sign this Consent to Entry of Order and to bind Tracker International, Inc. to the terms hereof.

ACKNOWLEDGED before me this 11th day of NOV., 1999.



Notary Public for maricopa Printed Name of Notary Public
My commission expires: 1/27/01

