



Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387



1           **WHEREAS**, on November 13, 2003 Respondent **ALPHA TELCOM, INC** was  
2           duly served with a true copy of the Order and Notice by United States Mail, first class  
3           postage prepaid, addressed to Respondent **ALPHA TELCOM, INC** at the following last  
4           known address: 2751 Highland Avenue, Grants Pass, Oregon 97526. This mailing was  
5           returned to sender, marked "not deliverable as addressed, unable to forward."

6           **WHEREAS**, on November 13, 2003 Respondent **ALPHA TELCOM, INC** was  
7           duly served with a true copy of the Order and Notice by certified United States Mail  
8           (Item #7000 1670 0010 4289 5202), postage prepaid, and addressed to Respondent  
9           **ALPHA TELCOM, INC** at the following last known address: 2751 Highland Avenue,  
10          Grants Pass, Oregon 97526. This mailing was returned to sender, marked "not deliverable  
11          as addressed, unable to forward."

12          **WHEREAS**, on November 13, 2003 Respondent **ATC, INC** was duly served  
13          with a true copy of the Order and Notice by United States Mail, first class postage  
14          prepaid, addressed to Respondent **ATC, INC** at the following last known address: 942  
15          SW 6<sup>th</sup> St., Suite #G, Grants Pass, Oregon 97526. This mailing was returned to sender,  
16          marked "not deliverable as addressed, unable to forward."

17          **WHEREAS**, on November 13, 2003 Respondent **ATC, INC** was duly served  
18          with a true copy of the Order and Notice by certified United States Mail (Item #7000  
19          1670 0010 4289 5189), postage prepaid, and addressed to Respondent **ATC, INC** at the  
20          following last known address: 942 SW 6<sup>th</sup> St., Suite #G, Grants Pass, Oregon 97526. This  
21          mailing was returned to sender, marked "not deliverable as addressed, unable to  
22          forward."

23          **WHEREAS**, on November 13, 2003 Respondent **STRATEGIC**  
24          **PARTNERSHIP ALLIANCE, LLC** was duly served with a true copy of the Order and  
25          Notice by United States Mail, first class postage prepaid, addressed to Respondent  
26          **STRATEGIC PARTNERSHIP ALLIANCE, LLC** at the following last known  
            address: 415 Williamson Way, Suite #7, Ashland, Oregon 97520. This mailing was not  
            returned to sender.

1                   **WHEREAS**, on November 13, 2003 Respondent **STRATEGIC**  
2 **PARTNERSHIP ALLIANCE, LLC** was duly served with a true copy of the Order and  
3 Notice by certified United States Mail (Item #7000 1670 0010 4289 4823), postage  
4 prepaid, and addressed to Respondent **STRATEGIC PARTNERSHIP ALLIANCE,**  
5 **LLC** at the following last known address: 415 Williamson Way, Suite #7, Ashland,  
6 Oregon 97520. This mailing was returned to sender, marked "forwarding time expired,  
7 returned to sender."

8                   **WHEREAS**, on November 13, 2003 Respondent **PAUL RUBERA** was duly  
9 served with a true copy of the Order and Notice by United States Mail, first class postage  
10 prepaid, addressed to Respondent **PAUL RUBERA** at the following two last known  
11 addresses: 2751 Highland Avenue, Grants Pass, Oregon 97526 and 1115 Northeast "D"  
12 Street, Grants Pass, Oregon 97526. Both of these mailings were returned to sender,  
13 marked "not deliverable as addressed, unable to forward."

14                   **WHEREAS**, on November 13, 2003 Respondent **PAUL RUBERA** was duly  
15 served with a true copy of the Order and Notice by certified United States Mail (Items  
16 #7000 1670 0010 4289 4816 and #7000 1670 0010 4289 4809), postage prepaid, and  
17 addressed to Respondent **PAUL RUBERA** at the following two last known addresses:  
18 2751 Highland Avenue, Grants Pass, Oregon 97526 and 1115 Northeast "D" Street,  
19 Grants Pass, Oregon 97526. Both of these mailings were returned to sender, marked "not  
20 deliverable as addressed, unable to forward."

21                   **WHEREAS**, on November 13, 2003 Respondent **ROSS RAMBACH** was duly  
22 served with a true copy of the Order and Notice by United States Mail, first class postage  
23 prepaid, addressed to Respondent **ROSS RAMBACH** at the following two last known  
24 addresses: 415 Williamson Way, Suite #7, Ashland, Oregon 97520 and 131 Gaerky Rd,  
25 Ashland, Oregon 97520. The "Williamson Way" mailing was returned to sender, marked  
26 "return to sender, vacant." The "Gaerky Rd" mailing was not returned to sender.

**WHEREAS**, on November 13, 2003 Respondent **ROSS RAMBACH** was duly  
served with a true copy of the Order and Notice by certified United States Mail (Items

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#7000 1670 0010 4289 4786 and #7000 1670 0010 4289 4779), postage prepaid, and addressed to Respondent **ROSS RAMBACH** at the following two last known addresses: 415 Williamson Way, Suite #7, Ashland, Oregon 97520 and 131 Gaerky Rd, Ashland, Oregon 97520. The "Williamson Way" mailing was returned to sender, marked "not deliverable as addressed, unable to forward." The "Gaerky Rd" mailing was returned to sender, marked "unclaimed."

**WHEREAS**, on November 13, 2003 Respondent **MARK KENNISON** was duly served with a true copy of the Order and Notice by United States Mail, first class postage prepaid, addressed to Respondent **MARK KENNISON** at the following two last known addresses: 1200 Washington Rd, Washington, Pennsylvania 15301 and 10 Holly Ridge Drive, Washington, Pennsylvania 15301. Neither of these mailings was returned to sender.

**WHEREAS**, on November 13, 2003 Respondent **MARK KENNISON** was duly served with a true copy of the Order and Notice by certified United States Mail (Items #7000 1670 0010 4289 4694 and #7000 1670 0010 4289 4700), postage prepaid, and addressed to Respondent **MARK KENNISON** at the following two last known addresses: 1200 Washington Rd, Washington, Pennsylvania 15301 and 10 Holly Ridge Drive, Washington, Pennsylvania 15301. The "Washington Rd" mailing was returned to sender, marked "forwarding order expired." A signed Return Receipt Card ("green card") for the "Holly Ridge" mailing was signed by "Mark Kennison."

**WHEREAS**, on November 13, 2003 Respondent **DAVID WINSTEAD** was duly served with a true copy of the Order and Notice by United States Mail, first class postage prepaid, addressed to Respondent **DAVID WINSTEAD** at the following two last known addresses: 2751 Highland Avenue, Grants Pass, Oregon 97526 and 375 Timberidge, Grants Pass, Oregon 97527. Both mailings were returned to sender, marked "not deliverable as addressed, unable to forward."

**WHEREAS**, on November 13, 2003 Respondent **DAVID WINSTEAD** was duly served with a true copy of the Order and Notice by certified United States Mail (Items

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#7000 1670 0010 4289 4717 and #7000 1670 0010 4289 4724), postage prepaid, and addressed to Respondent **DAVID WINSTEAD** at the following two last known addresses: 2751 Highland Avenue, Grants Pass, Oregon 97526 and 375 Timberidge, Grants Pass, Oregon 97527. Both mailings were returned to sender, marked “not deliverable as addressed, unable to forward.”

**WHEREAS**, on November 13, 2003 Respondent **JULIE BLAIR FINGERSON** was duly served with a true copy of the Order and Notice by United States Mail, first class postage prepaid, addressed to Respondent **JULIE BLAIR FINGERSON** at the following two last known addresses: 620 SW 4<sup>th</sup> Street, Grants Pass, Oregon 97526 and 641 Western Avenue, Grants Pass, Oregon 97526. Both mailings were returned to sender, marked “moved, left no address.”

**WHEREAS**, on November 13, 2003 Respondent **JULIE BLAIR FINGERSON** was duly served with a true copy of the Order and Notice by certified United States Mail (Items #7000 1670 0010 4289 4731 and #7000 1670 0010 4289 4748), postage prepaid, and addressed to Respondent **JULIE BLAIR FINGERSON** at the following two last known addresses: 620 SW 4<sup>th</sup> Street, Grants Pass, Oregon 97526 and 641 Western Avenue, Grants Pass, Oregon 97526. Both mailings were returned to sender, marked “moved, left no address.”

**NOW THEREFORE** the Director, having determined that the time for these Respondents to request a hearing has passed, hereby issues the following Findings of Fact, Conclusions of Law, and Final Order:

**FINDINGS OF FACT**

The Director **FINDS** that:

**Section One: Relevant Parties**

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1           1. Respondent **ALPHA TELCOM, INC** (hereafter “Alpha Telcom”) was, at all times  
2 material herein, a for profit corporation organized under the laws of the State of Oregon. Alpha  
3 Telcom offered investments in its pay telephone program to members of the public. Alpha  
4 Telcom’s last known business address is 2751 Highland Avenue, Grants Pass, Oregon 97526.

6           2. Respondent **ATC, INC** (hereafter “ATC”) was, at all times material herein, a for  
7 profit corporation organized under the laws of the State of Oregon. ATC, a subsidiary of Alpha  
8 Telcom, offered investments in the Alpha Telcom pay telephone program to members of the  
9 public. ATC’s last known business address is 942 SW 6<sup>th</sup> St., Suite #G, Grants Pass, Oregon  
10 97526.

12           3. Respondent **STRATEGIC PARTNERSHIP ALLIANCE, LLC** (hereafter “SPA”)  
13 was, at all times material herein, a for profit limited liability corporation organized under the  
14 laws of the State of Oregon. Strategic Partnership Alliance recruited and managed the sales  
15 agents that sold investments in the Alpha Telcom program nationwide, and also operated a  
16 subsidiary (“ATMN/EMI”) that provided “payphone site location services” to Alpha Telcom.  
17 Strategic Partnership Alliance’s last known business address is 415 Williamson Way, Suite #7,  
18 Ashland, Oregon 97520.

20           4. Respondent **PAUL RUBERA** (hereafter “Rubera”) was, at all times material herein,  
21 the President and sole shareholder of Alpha Telcom and, constructively, the President and sole  
22 shareholder of ATC. Rubera’s last known business address is 2751 Highland Avenue, Grant  
23 Pass, Oregon 97526. Rubera’s last known residential address is 1115 Northeast D Street, Grants  
24 Pass, Oregon 97526.



1           5. Respondent **CHARLES TUMMINO** (hereafter "Tummino") was, at all times  
2 material herein, a Director of Sales and sales agent for Alpha Telcom. Tummino's last known  
3 business address is Post Office Box 1440, Rogue River, Oregon 97537.

4  
5           6. Respondent **ROSS RAMBACH** (hereafter "Rambach") was, at all times material  
6 herein, the co-managing member of Strategic Partnership Alliance. Rambach's last known  
7 business address is 415 Williamson Way, Suite #7, Ashland, Oregon 97520. Rambach's last  
8 known residential address is 131 Gaerky Rd, Ashland, Oregon 97520.

9  
10          7. Respondent **MARK KENNISON** (hereafter "Kennison") was, at all times material  
11 herein, the co-managing member of Strategic Partnership Alliance. Kennison's last known  
12 business address is 1200 Washington Rd, Washington, Pennsylvania 15301. Kennison's last  
13 known residential address is 10 Holly Ridge Drive, Washington, Pennsylvania 15301.

14  
15          8. Respondent **DAVID WINSTEAD** (hereafter "Winstead") was, at all times material  
16 herein, the Vice President and General Manager of Alpha Telcom. Winstead's last known  
17 business address is 2751 Highland Avenue, Grant Pass, Oregon 97526. Winstead's last known  
18 residential address is 375 Timberidge, Grants Pass, Oregon 97527.

19  
20          9. Respondent **JULIE BLAIR FINGERSON** (hereafter "Blair Fingerson") was, at all  
21 times material herein, a sales agent for Alpha Telcom through her role as President of ATC.  
22 Fingerson's last known business address is 620 SW 4<sup>th</sup> Street, Grants Pass, Oregon 97526.  
23 Fingerson's last known residential address is 641 Western Avenue, Grants Pass, Oregon 97526.

1           10. Respondent **ALPHA TELCOM** has not, at all times material herein, been licensed as  
2 a broker-dealer in this State, nor has its pay telephone investment program ever been registered  
3 as a securities offering with the Oregon Division of Finance and Corporate Securities.

4  
5           11. Respondent **ATC** has not, at all times material herein, been licensed as a broker-  
6 dealer in this State.

7  
8           12. Respondent **STRATEGIC PARTNERSHIP ALLIANCE** has not, at all times  
9 material herein, been licensed as a broker-dealer in this State.

10  
11           13. Respondent **PAUL RUBERA** was not, at all times material herein, a licensed  
12 securities salesperson in this State. Rubera has never held a securities license in Oregon.

13  
14           14. Respondent **CHARLES TUMMINO** (CRD#1743315) was not, at all times material  
15 herein, a licensed securities salesperson in this State. From 1987 to 1992 Tummino possessed a  
16 limited license to sell securities ("Series 6"), permitting him to lawfully sell some types of  
17 securities, such as mutual funds, but not other types of securities, including investment contracts,  
18 notes, and instruments evidencing indebtedness. Tummino has been the subject of an Order to  
19 Cease and Desist instituted by the Oregon Division of Finance and Corporate Securities (Case  
20 No. 0-92-0020, *In the Matter of Charles F Tummino and Securities America, Inc.*)

21  
22           15. Respondent **ROSS RAMBACH** (CRD#1305913) was not, at all times material  
23 herein, a licensed securities salesperson in this State. From 1984 to 1996 Rambach possessed a  
24 limited license to sell securities ("Series 6"), permitting him to lawfully sell some types of  
25 securities, such as mutual funds, but not other types of securities, including investment contracts,  
26 notes, and instruments evidencing indebtedness. Rambach has been the subject of an Order to

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1 Cease and Desist instituted by the Oregon Division of Finance and Corporate Securities (Case  
2 No. 0-97-0022, *In the Matter of Personal Choice Opportunities and Ross Rambach, et al*)

3  
4 16. Respondent **MARK KENNISON** was not, at all times material herein, a licensed  
5 securities salesperson in this State. Kennison has never held a securities license in Oregon.

6  
7 17. Respondent **DAVID WINSTEAD** was not, at all times material herein, a licensed  
8 securities salesperson in this State. Winstead has never held a securities license in Oregon.

9  
10 18. Respondent **JULIE BLAIR FINGERSON** was not, at all times material herein, a  
11 licensed securities salesperson in this State. Blair Fingerson has never held a securities license in  
12 Oregon.

13  
14 **Section Two: Alpha Telcom**

15  
16 19. **ALPHA TELCOM** was formed in 1986 by Respondent **PAUL RUBERA** and  
17 several associates for the purpose of selling, installing, and maintaining phones and business  
18 systems in the Grants Pass, Oregon area. Over the next decade Alpha Telcom branched into pay  
19 phones, eventually owning and operating approximately one thousand eight hundred (1,800)  
20 phones for its own account in southern Oregon and northern California.

21  
22 20. By 1997 Respondent **PAUL RUBERA** had purchased the interests of all other  
23 equity holders of **ALPHA TELCOM**, and became the sole shareholder of the company. He was  
24 to remain the sole shareholder of Alpha Telcom until it filed for bankruptcy protection.

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1           21. In 1997 Respondent **CHARLES TUMMINO** suggested to Respondent **PAUL**  
2 **RUBERA** that **ALPHA TELCOM** sell payphones to individual members of the public and then  
3 “manage” (lease back) the same payphones on their behalf. As the concept developed, Alpha  
4 Telcom “sold” a (usually used, refurbished, or already placed in the field) payphone to its sales  
5 subsidiary, **ATC** (no money changed hands in this transaction), which then sold the same phone  
6 to a member of the public at a highly inflated price (\$4,000-\$5,000 per phone), at which point the  
7 investor would “lease” the same phone back to Alpha Telcom in return for a monthly lease  
8 payment of a minimum of \$58.34, a sum that amounts to a 14% annual return. As part of the  
9 lease (Alpha Telcom called it a “service agreement”) Alpha Telcom obligated itself to  
10 repurchase the payphone from the investor at the original purchase price at the conclusion of the  
11 (usually three year) contract, or a slightly lesser amount prior to that point (87.5% during months  
12 one through six of the service agreement, 92.5% during months seven to twelve of the service  
13 agreement, 95% during months thirteen through twenty four of the service agreement, and 97.5%  
14 during months twenty five through thirty six of the service agreement).

15  
16           22. From 1997 through 2001 **ALPHA TELCOM** raised more than one hundred thirty  
17 five million dollars (\$135,000,000.00) from over seven thousand (7,000) investors nationwide by  
18 peddling this investment program (this number includes at least seventy seven (77) payphones  
19 sold to forty eight (48) Oregonians). At one time, Alpha Telcom claimed to “manage” eighteen  
20 thousand two hundred (18,200) pay telephones “owned” by investors.

21  
22           23. Respondent **CHARLES TUMMINO** was under contract by **ALPHA TELCOM**  
23 from 1997 through 1998 as Director of Sales. Tummino drafted many of the original sales  
24 documents, recruited many of the original sales agents, and crafted many of the elements of what  
25 became known as the Alpha Telcom program. He retired in mid 1998, and as part of his  
26 severance package negotiated an arrangement whereby he would receive compensation in the

1 form of one percent (1%) of future gross sales in any month in which sales exceeded two million  
2 dollars (\$2,000,000.00), with a minimum payment of twenty thousand dollars (\$20,000.00) per  
3 month.

4  
5 **Section Three: ATC**  
6

7 24. Prior to departing **ALPHA TELCOM**, Respondent **CHARLES TUMMINO**  
8 participated in the creation of a sales subsidiary known as ATC, Inc. **ATC** was a wholly owned  
9 subsidiary of Alpha Telcom incorporated on October 25, 1998. ATC took over full responsibility  
10 for the process of selling Alpha Telcom payphone programs to members of the public, including  
11 the development and management of a nationwide sales force, the creation and distribution of  
12 sales materials, and customer service related chores such as administration of the voluminous  
13 paperwork that accompanied thousands of sales.

14  
15 25. While **ATC** purported to change ownership several times, as a matter of practical  
16 economic reality it was always controlled and operated by **PAUL RUBERA** and **ALPHA**  
17 **TELCOM**. **ATC** was a subsidiary of Alpha Telcom from its founding in October, 1998 until  
18 July, 2000, when it was “spun off” as an independent entity owned by Paul Rubera. In  
19 September 2000, Rubera “sold” **ATC** (it also operated using the moniker “American  
20 Telecommunications Company”) for \$100 to Respondent **BLAIR FINGERSON**, an **ALPHA**  
21 **TELCOM** employee, who zealously increased sales for nine months and then “sold” the  
22 company back to Rubera for \$100 in early April, 2001. In late April, 2001, Rubera sold **ATC** to  
23 another Alpha Telcom employee, Robert A McDonald, in exchange for a \$20,000 note to be paid  
24 at the rate of \$113.00 per month (in point of fact, no payments were ever made by McDonald or  
25 demanded by Rubera). In August, 2001 Rubera “repurchased” **ATC** from McDonald.  
26

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1 investor never performed a single task.

2  
3 29. Service option levels one, two, and three required the investor to forward varying fees  
4 to **ALPHA TELCOM** each month for specific services. Under "level one" an investor would  
5 pay Alpha Telcom forty dollars (\$40.00) each month in exchange for which Alpha Telcom  
6 collected all coin revenues from a phone and forwarded it to the investor. Under "level two" an  
7 investor would pay Alpha Telcom fifty dollars (\$50.00) each month in exchange for which  
8 Alpha Telcom collected all coin revenues from a phone, forwarded the funds to the investor, and  
9 maintained the payphone in a neat and clean condition. Under "level three" an investor would  
10 pay Alpha Telcom eighty dollars (\$80.00) each month in exchange for which Alpha Telcom  
11 collected all coin revenue from a phone, forwarded the funds to the investor, maintained the  
12 payphone in a neat and clean condition, provided for the repair of the equipment, obtained and  
13 renewed all public utility permits, and made all capital improvements as necessary. Under these  
14 three options, Alpha would forward 100% of actual pay revenues to the investor. Since investors  
15 in the Alpha Telcom payphone program wanted to garner monthly income from the company at  
16 a precise rate, and not forward additional funds to the company each month in return for an  
17 uncertain return, none of the Oregon investors (and only a handful of the nationwide investor  
18 base) chose any of these three options.

19  
20 30. Each month "Level Four" investors were to receive thirty percent of the net revenue  
21 (defined by the company as gross coin revenues minus the actual cost for local and long distance  
22 service incurred and minus so called "dial around" revenue emanating from toll free calls) from  
23 their phone, while **ALPHA TELCOM** was to receive seventy percent of a phone's revenues as  
24 its management fee. However, if revenues from a payphone did not generate a so called "base  
25 amount" of \$58.34 in any given month (the amount was calculated by dividing a fourteen percent  
26 annual return on a \$5,000 investment into twelve monthly increments), Alpha agreed to waive a

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1 portion of its seventy percent fee and pay that monthly base amount payment in full. If Alpha  
2 waived its entire fee and the base amount still was not met, Alpha made up the difference  
3 anyway. Indeed, Alpha created a computer program that automatically paid each investor the  
4 base amount each month, regardless of whether the investor's particular phone generated enough  
5 revenue to pay that amount.

6  
7 31. The "Level Four" service option allowed investors to sell the phones back to the  
8 **ALPHA TELCOM** sales subsidiary, **ATC**, at the original purchase price. This was commonly  
9 referred to as the "buyback" provision, and was proffered to give investors in the payphone  
10 program the illusion of liquidity similar to that of a certificate of deposit or other time  
11 instrument. (Beginning sometime after May 2000, investors were also given the option of  
12 purchasing buyback "insurance" from companies alternately referred to as belonging to "Lloyd's  
13 of London" or rated AA+ by an insurance rating service. The insurance would purportedly cover  
14 the investor's purchase price if for any reason the company became unable to repurchase the  
15 phones. In point of fact, the insurance policy, underwritten by an agency that was partially  
16 owned by Alpha Telcom's Paul Rubera and fraudulently procured, never resulted in the payment  
17 of any claims to investors.)

### 18 **Section Five: Strategic Partnership Alliance**

19  
20  
21 32. As noted above, Respondent **CHARLES TUMMINO** was initially in charge of  
22 **ALPHA TELCOM**'s marketing and sales efforts. This individual retained and managed a small  
23 sales force of insurance agents to solicit investors in the program. He created the marketing  
24 materials employed by sales agents, the sales agreement that Alpha Telcom investors would  
25 execute when "purchasing" their phone, and the Alpha Telcom service agreement that would  
26 concurrently authorize Alpha Telcom to "manage" the investor's phone on their behalf.



1 Tummino retired at the end of 1998.

2

3 33. Commencing in January, 1999 **ALPHA TELCOM** contracted out the management  
4 and continued development of its sales force to two independent insurance agents, Respondents  
5 **ROSS RAMBACH** and **MARK KENNISON**. Rambach and Kennison operated under the  
6 corporate rubric of "Strategic Partnership Alliance, LLC", which also encompassed two assumed  
7 business names "Strategic Partnership Marketing " and "ATMN/EMI" (the latter provided  
8 payphone site location services to Alpha Telcom). **STRATEGIC PARTNERSHIP**  
9 **ALLIANCE** significantly modified many of the sales materials that were initially prepared by  
10 Tummino. (This was to be the first of many rounds of changes to either sales materials or details  
11 of the program. As such, while there are many common elements, there is not one single uniform  
12 Alpha Telcom program. For example, "service agreements" varied in length from three to ten  
13 years.) Rambach and Kennison placed heavy emphasis on expanding the sales force. At its  
14 height, Strategic Partnership Alliance managed one thousand seven hundred (1,700) Alpha  
15 Telcom sales agents nationwide, of whom almost all were independent insurance agents.

16

17 34. Sales agents were compensated exclusively through commissions, receiving a  
18 percentage (between 10-14%) of each sale as their remuneration. Sales agents received a manual  
19 that purported to govern all aspects of their roles as sales agents, including sales scripts and  
20 charts they were to employ. The agents received no formal classroom training or continuing  
21 education.

22

23 35. The **ALPHA TELCOM** sales agent would typically begin the sales process by  
24 contacting their insurance clients that were in or near retirement (the type of client that would  
25 likely have a substantial percentage of their assets in certificates of deposit or other cash  
26 equivalents) and ask them if they would like to get a higher return than banks offered while

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1 maintaining the safety of their money. Once clients answered in the affirmative, the agent asked  
2 to meet with the prospective investor in their home to discuss the program, sometimes not even  
3 mentioning at this point that the program involved the sale and subsequent leaseback of  
4 payphones.

5  
6 36. Once at the face to face meeting, sales agents informed prospective investors that  
7 **ALPHA TELCOM** offered an attractive program involving pay telephones. Using a series of  
8 charts provided by Alpha Telcom, the agents described the essentials of the program: that the  
9 investor was to purchase a pay telephone for \$5,000 per unit; that the investor will receive a  
10 monthly payment of at least \$58.34, which works out to an annual return on their investment of  
11 14%; that the program is low risk, safe, and conservative; that at the conclusion of the contract  
12 term Alpha Telcom will repurchase the payphone at the original purchase price, and will even  
13 repurchase it before the conclusion of the contract at the original purchase price minus certain  
14 fees; that Alpha Telcom is a very safe and profitable company; that (post January 1, 2000) there  
15 is a special two million dollar (\$2,000,000) "sinking fund" to ensure that moneys will be  
16 available for "buy backs"; that phone purchases qualify the investor for special tax credits  
17 because the payphones are equipped for handicapped access, etc. A single Alpha Telcom sales  
18 chart (chart six) summarizes all essential program elements as follows: "\$5,000 per pay phone  
19 cost, typically 14% or higher annual return, strong monthly income, excellent buy back option,  
20 phones qualify for tax credits under The Americans With Disabilities Act of 1990, equipment  
21 depreciation, usually 5 or 7 years straight line, no stock market risk."

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22  
23 37. At the conclusion of the sales agent's presentation, written materials including, but  
24 not always limited to, a brochure describing the Alpha Telcom program, a Telephone Equipment  
25 Purchase Agreement, and a Telephone Service Agreement were provided to prospective  
26 investors. Several different versions of the materials were employed at various times, yet all are

1 filled with “happy talk.” The brochure represents among other things, that the payphone industry  
2 is “highly profitable”, that payphone investments are “virtually recession proof” and that  
3 payphone investments “offer steady, immediate cash flow.” The brochure also contains a  
4 purported quote from the Cincinnati Post noting that “[a]n average of 500 to 800 calls are made  
5 on a payphone per month, according to AT & T” and a purported quote from USA Today  
6 asserting that “there are millions to be made from owning payphones.” In a “Performance  
7 Comparison” with bank certificates of deposit, the brochure claims that with regard to the  
8 investment’s “safety”, it is “asset backed.” Finally, the brochure asserts that “opportunity  
9 doesn’t always knock... sometimes it rings!”  
10

11 38. At or about the time of the events in question, the entire pay telephone industry was  
12 facing monumental challenges that were rapidly reducing revenues. New technology was largely  
13 to blame for the industry’s demise: heavy usage of cellular telephone technology, facsimiles, e-  
14 mails, and “calling cards” were causing income to drop as much as fifty percent per annum.  
15 None of the Respondents ever disclosed any of this information to potential investors. Quite the  
16 contrary: while industry experts openly discussed the seemingly insurmountable problem the  
17 payphone industry was facing, Respondents presented a glowing picture of the industry in oral  
18 and written comments. As instructed by SPA, sales agents focused on the fourteen percent return  
19 and the purported “safety” of the program as its primary selling points. The sales pitch focused  
20 exclusively on the supposed benefits of the investment, and made no mention of lurking  
21 difficulties. In short, the agents would talk about all of the attractive attributes of the investment  
22 but failed to disclose the many risks of this program and the true state of the payphone industry.  
23

24 39. Never considering suitability or asset allocation issues, a significant number of  
25 **ALPHA TELCOM** sales agents attempted to sell prospective investors as many phones as  
26

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1 possible. Some investors placed their entire life savings into this program.

2  
3 **Section Seven: The Rapid Rise and Fall of Alpha Telcom**

4  
5 40. **ALPHA TELCOM** was operated on a day to day basis by Respondent **PAUL**  
6 **RUBERA**, President, and Respondent **DAVID WINSTEAD**, Vice President and General  
7 Manager.

8  
9 41. Once a new investor's two signed contracts (one contract was for the purchase of a  
10 payphone by the investor while the other was for the "leaseback" of the same phone by the  
11 investor to **ALPHA TELCOM**) and check were received by **ATC** it transmitted a Purchase  
12 Order to Alpha Telcom which then, within ninety days, assigned a specific payphone to the  
13 investor (the investor had no say in where their phone would be located). At that point, the  
14 investor would begin receiving monthly payments, usually via an electronic funds transfer (EFT)  
15 directly to their bank account.

16  
17 42. Alpha Telcom's payphone sales grew quickly (at one point in time it was averaging  
18 over one thousand two hundred (1,200) sales per month). In fact, the company's sales pace was  
19 so feverish that it ranked #189 on the 2000 *Inc 500* list, proof that it was one of the fastest  
20 growing private companies in the United States.

21  
22 43. To quench its demand for locations on which payphones could be placed into the  
23 stream of commerce (so called "sites"), **ALPHA TELCOM** purchased entire routes (a route is a  
24 series of already placed payphones) and in some instances entire regional phone companies yet  
25 still found itself in dire need of sites on which to place so many payphones.

26  
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1           44. **ALPHA TELCOM** contracted with an affiliate of **STRATEGIC PARTNERSHIP**  
2 **ALLIANCE**, ATMN/EMI, to acquire phone sites for Alpha Telcom's use. Eventually, Alpha  
3 Telcom discovered that many of the sites ATMN/EMI found were in locations not suitable for  
4 pay telephones, such as burned out buildings. In some instances, the purported location did not  
5 even exist. Alpha Telcom terminated its relationship with ATMN/EMI in December, 2000 with  
6 the problem of finding an ample supply of payphone sites unresolved.

7  
8           45. As time passed, **ALPHA TELCOM** sales agents were encouraging their existing  
9 Alpha Telcom clients to exercise the "buyback" option for one of two reasons: first, the agent  
10 would "repurchase" the Alpha Telcom program (allowing the agent to receive an additional  
11 commission) or, second and more likely, invest proceeds in another type of commission  
12 producing investment. While Alpha Telcom sales agents were sharing these types of strategies  
13 with each other, the media carried news of the demise of other similarly structured programs  
14 (ETS Payphones, Phoenix Telecom, etc). As such, what began as a trickle of buyback requests  
15 (several dozen a month) turned into an avalanche, with between 300-500 investors demanding  
16 their funds each month. The company wasn't selling enough phone programs (since income from  
17 operations [coin revenue] was insufficient to even meet fixed costs, new phone program sales  
18 were the only possible source of funds to satisfy "buybacks") to repurchase phones as promised.

19  
20           46. Investors in the Alpha Telcom payphone program were not paid in accordance with  
21 the revenue generated from each particular payphone. To meet the payment obligations **ALPHA**  
22 **TELCOM** had created for itself by assuring investors that full "base amount" payments would  
23 be made each month, it "borrowed" over nine million dollars (\$9,000,000+) from **ATC**. **ATC**'s  
24 only source of revenue was money from new investors. Contrary to representations of Alpha  
25 Telcom and its agents as to the profitability and safety of the payphone investment program,  
26 since at least January, 2000 Alpha Telcom's revenues from payphones were substantially

1 exceeded by the monthly payments it made to investors. In summary, Alpha Telcom was  
2 operating a Ponzi like scheme whereby existing investor's monthly "returns" were being paid  
3 from monies received from new investors, rather than from payphone revenues -- a fact that was  
4 not disclosed to potential investors.

5  
6 47. Alpha Telcom did not honor buy back requests from March, 2001 on because they  
7 were financially unable to do so. Earlier in the payphone program's history, when buybacks were  
8 rare, they were accomplished within thirty days. As buyback requests rose with the passage of  
9 time, new rules, such as a ninety day "notice" requirement, were imposed in an effort to forestall  
10 the flood of requests, all to no avail. As for monthly "base amount" payments, they stopped  
11 entirely in May, 2001.

12  
13 **Section Eight: Financial Realities and Ultimate Results**  
14

15 48. For the twelve months ending December 31, 2000 **ALPHA TELCOM** lost  
16 \$583,793.24 from its payphone operations. Alpha Telcom lost money in seven of the twelve  
17 months of 2000, and never showed a profit from its payphone operations large enough to enable  
18 it to make the \$11,056,197.48 in payments that it made to payphone owners from coin revenues.

19  
20 49. For the five months from January through May, 2001, **ALPHA TELCOM** lost  
21 \$1,185,197.59 from its operations of payphones. Alpha lost money in each of these five months  
22 of 2001, and thus was unable to make the \$5,722,868.37 in payments that it made to payphone  
23 owners from coin revenues. Alpha Telcom paid a total of \$16,779,065.85 to payphone owners  
24 for these months, notwithstanding the fact that the company experienced a loss of \$1,513,930.70  
25 from operating payphones during this same period.

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1 50. From July 1, 1998 through June 30, 2001, **ALPHA TELCOM** failed to generate  
2 revenue sufficient to cover the cost of phone operations. Notwithstanding this fact, Alpha  
3 Telcom paid investors approximately \$17, 900,000 in returns.  
4

5 51. In August, 2001 the United States Securities and Exchange Commission brought an  
6 action alleging violations of federal securities laws by, among others, Respondents **ALPHA**  
7 **TELCOM, PAUL RUBERA, ROSS RAMBACH, and MARK KENNISON** in the United  
8 States District Court for the District of Oregon (Case No CV01-1283PA). Judge Owen Panner  
9 issued a Temporary Restraining Order halting further sales shortly after the complaint was filed,  
10 and issued a final Judgment and Permanent Restraining Order against the company in February,  
11 2002. The Court found that Alpha Telcom had engaged in the unregistered sales of securities in  
12 violation of federal law.  
13

#### 14 **Section Nine: Misrepresentations and Omissions**

15  
16 52. The securities offered by Respondents were not registered with the Oregon Division  
17 of Finance and Corporate Securities. Furthermore, Respondents were not licensed to sell this  
18 particular type of security by the Oregon Division of Finance and Corporate Securities.  
19

20 53. Respondents, in connection with the offer and/or sale of investments in the Alpha  
21 Telcom payphone program made the following misrepresentations and/or omissions of material  
22 fact: (i) that the Alpha Telcom program was not registered as a security with the Oregon Division  
23 of Finance and Corporate Securities; (ii) that Respondents were not licensed to sell this type of  
24 security in the State of Oregon; (iii) that the Alpha Telcom program was a "safe" investment,  
25 comparable to that of a bank certificate of deposit; (iv) that Alpha Telcom was operating at a  
26 profit; (v) that investors would receive a guaranteed or contractually assured 14% annual return

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1 throughout the length of their contract; (vi) that an investment in the Alpha Telcom program was,  
2 given the state of the company and the industry, highly speculative and that such an investment  
3 would not be appropriate for investors that were in or nearing retirement; (vii) that coin revenues  
4 from payphones were never sufficient to cover the monthly "base amount" payment to investors,  
5 and that investors could only receive monthly payments so long as a sufficient number of new  
6 investors participated in the Alpha Telcom program; (viii) that coin revenues from payphones  
7 were never sufficient to cover the number of possible buyback requests, and that investors could  
8 only receive their original purchase price so long as a sufficient number of new investors  
9 participated in the Alpha Telcom program; (ix) a disclosure of the true backgrounds and  
10 management histories of the officers of Alpha Telcom; (x) a detailed, specific description of the  
11 financial condition of Alpha Telcom, such that a prospective investor would be able to determine  
12 the ability of Alpha Telcom to make monthly payments and/or buy back their investment at or  
13 before the conclusion of the service contract; and (xi) a disclosure of the true risks of this  
14 investment, including the fact that payphone industry revenues were rapidly falling due to the  
15 prevalence of competition from other technologies.

## 16 CONCLUSIONS OF LAW

17 The Director **CONCLUDES** that:

21 54. The investments in the Alpha Telcom pay telephone program which were offered and  
22 sold by Respondents are a "security" as defined in ORS 59.015(19)(a).

23  
24 55. Respondents, either directly or by materially participating and/or aiding or abetting  
25 offered and/or sold unregistered securities in the State of Oregon in violation of ORS 59.055.

1           56. Respondents offered and/or sold a security in the State of Oregon without being  
2 licensed as a broker-dealer or broker-dealer salesperson in violation of ORS 59.165(1).

3  
4           57. Respondents, in connection with the offer and/or sale of investments in the Alpha  
5 Telcom payphone program made the following misrepresentations and/or omissions of material  
6 fact: (i) that the Alpha Telcom program was not registered as a security with the Oregon Division  
7 of Finance and Corporate Securities; (ii) that Respondents were not licensed to sell this type of  
8 security in the State of Oregon; (iii) that the Alpha Telcom program was a "safe" investment,  
9 comparable to that of a bank certificate of deposit; (iv) that Alpha Telcom was operating at a  
10 profit; (v) that investors would receive a guaranteed or contractually assured 14% annual return  
11 throughout the length of their contract; (vi) that an investment in the Alpha Telcom program was,  
12 given the state of the company and the industry, highly speculative and that such an investment  
13 would not be appropriate for investors that were in or nearing retirement; (vii) that coin revenues  
14 from payphones were never sufficient to cover the monthly "base amount" payment to investors,  
15 and that investors could only receive monthly payments so long as a sufficient number of new  
16 investors participated in the Alpha Telcom program; (viii) that coin revenues from payphones  
17 were never sufficient to cover the number of possible buyback requests, and that investors could  
18 only receive their original purchase price so long as a sufficient number of new investors  
19 participated in the Alpha Telcom program; (ix) a disclosure of the true backgrounds and  
20 management histories of the officers of Alpha Telcom; (x) a detailed, specific description of the  
21 financial condition of Alpha Telcom, such that a prospective investor would be able to determine  
22 the ability of Alpha Telcom to make monthly payments and/or buy back their investment at or  
23 before the conclusion of the service contract; and (xi) a disclosure of the true risks of this  
24 investment, including the fact that payphone industry revenues were rapidly falling due to the  
25 prevalence of competition from other technologies, all of which are untrue statements of a  
26 material fact and/or omissions to state a material fact necessary in order to make the statements

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1 made, in the light of the circumstances under which they were made, not misleading in violation  
2 of ORS 59.135(2).

3

4

**ORDER**

5

6

Therefore, the Director **ORDERS**

7

8

58. That Respondents shall cease and desist from offering and/or selling securities to  
9 persons in the State of Oregon in violation of ORS Chapter 59, OAR Chapter 441, or the Oregon  
10 securities law.

11

12

59. That Respondents **PAUL RUBERA, ROSS RAMBACH, and MARK KENNISON**  
13 are each ordered to individually pay the sum of **ONE HUNDRED THOUSAND DOLLARS**  
14 (**\$100,000.00**) as a civil penalty for violations of ORS 59.055, ORS 59.135, and ORS 59.165  
15 described herein; furthermore, that Respondents **DAVID WINSTEAD and JULIE BLAIR**  
16 **FINGERSON** are each ordered to individually pay the sum of **TWENTY FIVE THOUSAND**  
17 **DOLLARS (\$25,000.00)** as a civil penalty for violations of ORS 59.055, ORS 59.135, and ORS  
18 59.165 described herein.

19

20

60. That Respondents are hereby denied use of any exemptions authorized by ORS and  
21 ORS 59.035, until further order of the Director, pursuant to ORS 59.045.

22

23

61. That Respondents are prohibited from applying for an Oregon securities license for a  
24 period of ten years from the date of the entry of this Order.

25

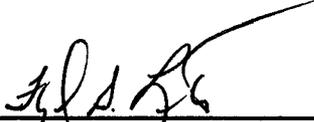
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IT IS SO ORDERED.

Dated this 15<sup>th</sup> day of December, 2003, NUNC PRO TUNC November 12, 2003 at Salem,  
Oregon.

  
\_\_\_\_\_  
CORY STREISINGER, DIRECTOR  
DEPARTMENT OF CONSUMER & BUSINESS  
SERVICES  
STATE OF OREGON

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