

United States Courts
Southern District of Texas
FILED

MAY 14 2003

Michael N. Milby, Clerk

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

CONCENTRAX, INC.
AND MARK GIFFORD

Defendants.

H-03-1639

Civil Action No.:

United States Courts
Southern District of Texas
ENTERED

MAY 22 2003

Michael N. Milby, Clerk of Court

FINAL JUDGMENT AND ORDER OF PERMANENT INJUNCTION
AND OTHER RELIEF AS TO DEFENDANTS
CONCENTRAX, INC. AND MARK GIFFORD

This matter came before this Court on the application of Plaintiff Securities and Exchange Commission (“Commission”) by consent of Defendants Concentrax, Inc., (“Concentrax”), and Mark Gifford (“Gifford”), for issuance of this Final Judgment and Order of Permanent Injunction and Other Relief as to Defendants Concentrax, Inc. and Mark Gifford (“Final Judgment”), providing the relief set out herein.

Concentrax and Gifford provided this Court with a Stipulation and Consent (“Consent”) in which, *inter alia*, they (1) acknowledge and admit the *in personam* jurisdiction of this Court over them, and the subject matter jurisdiction of this Court over the cause of action claimed by the Commission herein; (2) waive entry of findings of fact and conclusions of law under Fed. R. Civ. Proc. 52, with respect to the entry of this Final Judgment; (3) consent, for purposes of this action only, to the entry of this Final Judgment, without admitting or denying any of the allegations of the

FINAL JUDGMENT AS TO DEFENDANTS
CONCENTRAX, INC. AND MARK GIFFORD

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Commission's Complaint, except as to jurisdiction, and without admitting or denying any violation of the federal securities laws, as set forth herein.

The Court finds that it has *in personam* jurisdiction over Concentrax and Gifford, and subject matter jurisdiction over the cause of action claimed by the Commission; that no further notice or hearing is required prior to entry of this Final Judgment and there is no just reason for delay; and that the Court has been fully advised of the premises for entry of this Final Judgment.

IT IS THEREFORE ORDERED:

I.

Concentrax, Gifford, their agents, servants, employees, attorneys-in-fact, and all other persons in active concert or participation with them who receive actual notice of this Final Judgment, by personal service or otherwise, are hereby permanently restrained and enjoined from violating Section 17(a) of the Securities Act as amended [15 U.S.C. § 77q(a)], by, in the offer or sale of any security, making use of any means or instruments of transportation or communication in interstate commerce, or of the mails, directly or indirectly:

- (a) to employ any device, scheme or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon any purchaser.

II.

Concentrax, Gifford, their agents, servants, employees, attorneys-in-fact, assigns, and all other persons in active concert or participation with them who receive actual notice of this Final Judgment, by personal service or otherwise, are hereby permanently restrained and enjoined from violating Section 10(b) of the Exchange Act as amended [15 U.S.C. § 78j], and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder, by directly or indirectly, in connection with the purchase or sale of any security, making use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

III.

Gifford shall pay a civil money penalty in the amount of \$35,000. This amount shall be paid in accordance with Section IV, below, of this Final Judgment.

IV.

The monies ordered to be paid pursuant to Section II of this Final Judgment shall be paid according to the following schedule: \$30,000 within 10 days of Defendant Gifford's receipt of notice of the entry of the this Final Judgment and \$5,000 within 90 days of Gifford's receipt of such notice. All payments made pursuant to this paragraph shall be: (a) made by United States money order, certified check, bank cashier's check, or bank money order; (b) made payable to

the Securities and Exchange Commission; (c) mailed by certified mail (return receipt requested) to the Comptroller, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 0-3, Washington, D.C. 20549; and (d) submitted under cover letter identifying Gifford as the Defendant in this action, the case number of this action, the name of the Court, and the Commission's file number (FW-2486-A), a copy of which cover letter and proof of payment shall be sent to Harold F. Degenhardt, the District Administrator of the Fort Worth District Office, Securities and Exchange Commission, Burnett Plaza, Suite 1900, 801 Cherry Street, Mail Unit #18, Fort Worth, Texas 76102.

V.

The Stipulation and Consent filed herewith is hereby incorporated in this Final Judgment with the same force and effect as if fully set forth herein.

VI.

Concentrax shall comply with the undertakings set forth in the Stipulation and Consent filed herewith.

VII.

This Court ~~shall~~ retain jurisdiction over this action and over Concentrax and Gifford for all purposes, including for purposes of enforcing the terms of this Final Judgment.

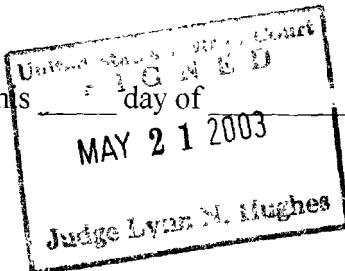
VIII.

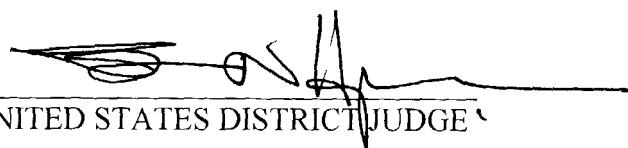
~~This Final Judgment may be served upon Concentrax and Gifford in person or by mail either by the United States Marshal, by the Clerk of the Court, or by any member of the staff of the Commission.~~

—IX.—

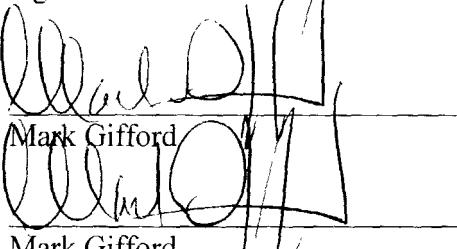
~~There being no just reason for delay, the Clerk of this Court is hereby directed to enter this Final Judgment pursuant to Rule 54 of the Federal Rules of Civil Procedure.~~

SIGNED this 21 day of MAY 21 2003, 2003.




UNITED STATES DISTRICT JUDGE

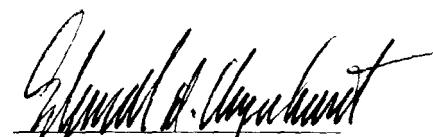
Agreed as to Form and Content


Mark Gifford

Mark Gifford
President of Concentrax, Inc. for
Concentrax, Inc.

Approved for Entry


Charley A. Davidson
Hinton, Sussman, Bailey, and Davidson
5300 Memorial Drive
Tenth Floor
Houston, Texas 77007
Attorney for Concentrax, Inc. and Mark Gifford


Edward D. Urquhart
5300 Memorial Drive
Suite 1000
Houston, Texas 77007
Attorney for Concentrax, Inc. and
Mark Gifford

**CONCENTRAX, INC.
MINUTES OF
BOARD OF DIRECTORS MEETING
March 24, 2003**

Concentrax, Inc. ("the Company")

Board Members Present at the meeting or on the teleconference:

Mark Gifford, Carlos Jose Gonzalez, Paul A. Smith, Robert Michael Looney, E. Terry Jaramillo and Jeremy Wessels:

Quorum Present: Yes

Scheduled meeting held in person or telephonically in accordance with the Nevada Revised Statutes, Section 78.315 (3). The Meeting was called to order at approximately 5:00pm Central.

Attorneys for Concentrax, Inc., the law firm of Hinton Susman Baily & Davidson L.L.P. and Mr. Ed Urquhart, wish to present an offer of settlement to the Securities Exchange Commission, including a FINAL JUDGMENT AND ORDER OF PERMANENT INJUNCTION AND OTHER RELEIF AS TO DEFENDANTS CONCENTRAX, INC. AND MARK GIFFORD, and a STIPULATION AND CONSENT OF CONCENTRAX, INC. AND MARK GIFFORD (both documents referred to hereinafter as "the Settlement Offer") in the matter of *The Securities and Exchange Commission vs. Concentrax, Inc. and Mark Gifford*, both of which will be filed, upon Board approval, with the United States District Court for the Southern District of Texas, Houston Division. This Settlement Offer is attached hereto as Exhibit "A" and will be filed with the corporate records of the Company.

The members of the Board were provided with a copy of the aforesaid Settlement Offer earlier today. The purpose of this meeting is to approve the Settlement Offer and to permit the Company to make this Settlement Offer to the Securities and Exchange Commission.

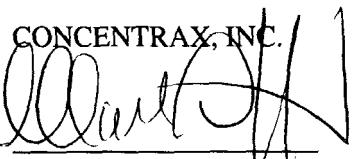
Upon motion, duly made, seconded and carried, it was

RESOLVED, that Board has approved and accepted the Settlement Offer; and

FURTHER RESOLVED that Company be, and hereby is, authorized to make the Settlement Offer to the Securities and Exchange Commission through its attorneys.

Total affirmative votes: 6.

A copy of this resolution shall be filed with the Secretary of the corporation.

CONCENTRAX, INC.

By: Mark Gifford, President