

BEFORE THE
DIVISION OF SECURITIES
DEPARTMENT OF FINANCIAL INSTITUTIONS
STATE OF WISCONSIN

In the Matter of
ON SYSTEMS TECHNOLOGY, LLC,
TELECOM ADVISORY SERVICES, INC.,
LEON D. SWICKKOW,
MARC DAVID SHINER,
TIMOTHY A. WETHERALD, and
FRANK SOUTHERLAND, JR.,

PETITION FOR ORDER

Respondents.

File No. S-02256(EX)

The staff of the State of Wisconsin, Department of Financial Institutions, Division of Securities, Bureau of Registration & Enforcement, has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof alleges as follows:

1. On Systems Technology, LLC, ("On Systems") is a Colorado limited liability company, with a last known business address of 3025 S. Parker Road, Suite 1000, Aurora, Colorado 80014;
2. Telecom Advisory Services, Inc. ("Telecom") is a foreign business entity with a last known business address at 4675 Ponce de Leon Boulevard, Suite 305, Coral Gables, Florida 33146 and a last known mailing address of 2901 Clint Moore Road, #155, Boca Raton, Florida 33496;
3. Leon D. Swichkow ("Swichkow") is an individual who has a date of birth of 7/9/44, an individual CRD number of 8978459, and who, upon information and belief, at all times material hereto has been President of Telecom and an owner, officer and/or controlling person of On Systems, with a last known business address at 2901 Clint Moore Road, #155, Boca Raton, Florida 33496;
4. Marc David Shiner ("Shiner") is an individual who has a date of birth of 8/1/43, an individual CRD number of 422215, and who, upon information and belief, at all times material hereto has been the Secretary of Telecom, and an owner, officer and/or controlling person of the On Systems, with a last known business address at 800 W. Oakland Park Boulevard, #201, Wilton Manors, Florida 33311-1733;
5. Timothy A. Wetherald ("Wetherald") is an individual who has a date of birth of 7/22/59, and who, upon information and belief, at all times material hereto has been the President and an owner, officer and/or controlling person of the On Systems, with a last known business address at 3025 S. Parker Road, Suite 1000, Aurora, Colorado 80014;
6. Frank Southerland, Jr. ("Southerland") is an individual who, upon information and belief, has a CRD number of 9989655, and who, at all times material hereto has been an agent of Telecom, Swichkow and Shiner, with a last known business address at that of Telecom;
7. During the period of March and July, 2001, Southerland, on behalf of On Systems, Telecom, Swichkow, Shiner, and Wetherald, offered and sold to at least one person in Wisconsin

partnership interests in The Mile High Telecom Partners, LLP ("the Mile High Phone Company");

8. During the period of December, 2001, Southerland, on behalf of On Systems, Telecom, Swichkow, Shiner, and Wetherald, offered and sold to at least one person in Wisconsin partnership interests in The Phone Company of Arizona, LLP ("the Arizona Phone Company");
9. During the period of February, 2002, Southerland, on behalf of On Systems, Telecom, Swichkow, Shiner, and Wetherald, offered and sold to at least one person in Wisconsin partnership interests in The Washington Phone Company, LLP ("the Washington Phone Company");
10. During the period of August 2002, Southerland, on behalf of On Systems, Telecom, Swichkow, Shiner, and Wetherald, offered and sold to at least one person in Wisconsin partnership interests in The Oregon Phone Company Financial Group, LLP ("the Oregon Phone Company");
11. Upon information and belief, the Washington Phone Company, the Mile High Phone Company, the Arizona Phone Company, and the Oregon Phone Company (collectively, "the phone companies") will engage in the business of operating as a telephone company in the State of Washington, Colorado, Arizona, and Oregon respectively;
12. Upon information and belief, investors can play a passive role in the phone companies, with no duties and responsibilities;
13. Upon information and belief, each investor will not be involved in the day-to-day management of the phone companies, since there are too many investors for them to each have any meaningful input, and they do not have the expertise or experience necessary to perform the duties of the phone companies;
14. Since the investors will be involved in a common enterprise with the expectation of profits to be derived from the essential managerial efforts of others, the "partnership interests" offered by the Respondents are investment contracts as defined by section DFI-Sec. 1.02(6)(a), Wis. Adm. Code, and are therefore securities as defined by sec. 551.02(13), Wis. Stats.;
15. None of the phone companies' investment contracts have ever been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.;
16. All Respondents have violated sec. 551.21(1), Wis. Stats., by offering and selling unregistered securities to a person in Wisconsin;
17. In connection with the offer and sale of the securities described above, Telecom transacted business in Wisconsin as a "broker-dealer," as that term is defined by sec. 551.02(3), Wis. Stats.;
18. At no time has Telecom been licensed as a securities broker-dealer pursuant to Ch. 551, Wis. Stats.;
19. Telecom has violated sec. 551.31(1), Wis. Stats., by transacting business in Wisconsin as a broker-dealer without a license;

20. In connection with the offer and sale of the securities described in Paragraphs 7 through 10 above, Southerland transacted business in Wisconsin as an "agent" for On Systems, Telecom, Swichkow, Shiner, and Wetherald, as that term is defined by sec. 551.02(2), Wis. Stats.;
21. At no time has Southerland been licensed as a securities agent pursuant to Ch. 551, Wis. Stats.;
22. Southerland has violated sec. 551.31(1), Wis. Stats., by transacting business in Wisconsin as a securities agent without a license;
23. On Systems, Telecom, Swichkow, Shiner, and Wetherald have violated sec. 551.31(2), Wis. Stats., by employing an unlicensed agent to represent them in Wisconsin;
24. On February 9, 1997, the State of Wisconsin, Department of Financial Institutions, Division of Securities, issued a Summary Order of Prohibition against Swichkow for selling unregistered securities and for employing unlicensed agents;
25. On November 19, 2001, the State of Oregon issued an Administrative Order against Swichkow for fraudulent sales of unregistered securities and for employing unlicensed agents;
26. On April 17, 1997, the State of Maryland issued an Administrative Order against Shiner for fraudulent sales of unregistered securities;
27. On October 14, 1998, Shiner was sentenced to 4 months in prison to be followed by three years of supervised release, a \$15,000 fine, and restitution of \$42,164, after pleading guilty to one count of federal tax evasion (U.S. Dist Ct, Southern District of Florida, Case Number 98-CR-8075);
28. On March 21, 2002, the United States Securities & Exchange Commission filed a Complaint against Shiner for securities fraud in the U.S. District Court, Southern District of Florida, Case Number 02-CV-20875;
29. In 1995, the State of Washington issued a permanent injunction and restraining order prohibiting Tim Wetherald, the President of On Systems Technology, LLC, which was to manage and operate customer services for the Oregon Phone Company, from engaging or participating in any way in the sale of long distance communications services to any Washington resident without first having an approved tariff on file with the Washington State Commission, a valid resale agreement, and other requirements;
30. In 1991, Wetherald was also the subject of a three-year injunction in the State of Oregon similar to the one issued by the State of Washington against Wetherald, as referred to in Paragraph 29 above;
31. In connection with the offer and sale of the securities described in Paragraphs 7 through 10 above, the Respondents omitted to disclose the actions referred to in Paragraphs 24 through 30 above; and

32. All Respondents have violated sec. 551.41(2), Wis. Stats., by omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in connection with the offer and sale of securities to a person in Wisconsin.

Therefore, the staff of the Bureau of Registration & Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Ch. 551, Wis. Stats.

Mark E Dorman 6-4-03

Mark E. Dorman Date
Examiner

David A. Cohen 6/4/03

David A. Cohen Date
Supervising Attorney