

1 MARC J. BLAU, Cal. Bar No. 198162
Email: blaum@sec.gov
2 SARA D. KALIN, Cal. Bar No. 212156
Email: kalins@sec.gov

3 Attorneys for Plaintiff
4 Securities and Exchange Commission
Michele Wein Layne, Regional Director
5 Lorraine B. Echavarria, Associate Regional Director
John W. Berry, Regional Trial Counsel
6 5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036
7 Telephone: (323) 965-3998
Facsimile: (323) 965-3908

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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **SECURITIES AND EXCHANGE**
COMMISSION,

12 Plaintiff,

13 vs.

14 **DAVID F. BAHR,**

15 Defendant.
16

Case No. '13CV1423 GPC KSC

**COMPLAINT FOR VIOLATIONS
OF THE FEDERAL SECURITIES
LAWS**

17
18 **COMPLAINT**

19 Plaintiff Securities and Exchange Commission (“SEC”) alleges as follows:

20 **SUMMARY**

21 1. From at least November through December 2012, Defendant David F.
22 Bahr engaged in a fraudulent market manipulation scheme involving the common
23 stock of iTrackr Systems, Inc. (“iTrackr”). Specifically, Bahr paid a kickback to a
24 purported businessman who claimed he could facilitate the purchase of \$2.5 million
25 of iTrackr shares in the open market through a network of corrupt registered
26 representatives (“RRs”) associated with securities brokerage firms. Unbeknownst
27 to Bahr, the businessman was an undercover FBI agent (“UCA”).

28 2. Bahr engaged in the scheme in an effort to generate the appearance of

1 market interest in iTrackr, induce public purchases of the stock, and artificially
2 increase its trading price and volume.

3 3. As a result, Bahr violated Section 17(a)(1) of the Securities Act of
4 1933 (“Securities Act”), 15 U.S.C. § 77q(a)(1); Section 10(b) of the Securities
5 Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b); and Exchange Act
6 Rules 10b-5(a) and (c), 17 C.F.R. § 240.10b-5(a) and (c). Unless restrained and
7 enjoined, Bahr is reasonably likely to continue to violate the federal securities laws.

8 **JURISDICTION AND VENUE**

9 4. This Court has jurisdiction over this action pursuant to Sections 20(b),
10 20(d) and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d) and 77v(a), and
11 Sections 21(d) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78aa.

12 5. Venue is proper in this district pursuant to Section 22(a) of the Securities
13 Act and Section 27 of the Exchange Act, because certain of the transactions, acts,
14 practices, and courses of conduct constituting violations of the federal securities laws
15 occurred within this district, and Bahr resides in this district.

16 6. Bahr, directly or indirectly, made use of the means or instrumentalities
17 of interstate commerce, of the mails, or of the facilities of a national securities
18 exchange, in connection with the transactions, acts, practices, and courses of
19 business alleged in this Complaint.

20 **THE DEFENDANT**

21 7. **David F. Bahr**, age 54, resides in Rancho Santa Fe, California. During
22 the relevant time period, Bahr was involved in the promotion of iTrackr’s stock.

23 **AFFILIATED ENTITY**

24 8. **iTrackr Systems, Inc.** is a Florida corporation with its principal place
25 of business in Boca Raton, Florida. The company purported to develop software
26 capable of tracking electronics inventory at local stores. iTrackr’s stock began
27 trading publicly on April 14, 2011, and at all relevant times, it was quoted on the
28 OTC Link under the symbol “IRYS.” Its common stock is registered with the SEC

1 pursuant to Section 12(g) of the Exchange Act. At all relevant times, iTrackr
2 qualified as a penny stock as defined by Rule 3a51-1 of the Exchange Act, and did
3 not meet any exceptions to that rule.

4 STATEMENT OF FACTS

5 A. The Fraudulent Scheme

6 9. Defendant Bahr engaged in a fraudulent scheme involving the
7 manipulation of iTrackr's common stock, from at least November through
8 December 2012.

9 10. On various dates prior to November 27, 2012, Bahr coordinated the
10 purchase of iTrackr shares by himself and others in order to keep its stock price
11 from falling. Bahr wanted the stock price to remain high enough so that he could
12 effectively promote the stock at a later date and artificially inflate its price even
13 higher. Bahr also arranged for the dissemination of promotional material that
14 overstated the likelihood of iTrackr's success and future profits.

15 11. On November 27, 2012, Bahr spoke on the telephone with the UCA.
16 The UCA told Bahr that he represented a group of RRs who had trading discretion
17 over certain client accounts. When asked by Bahr for details of how the scheme
18 would work, he explained that, in exchange for a 30% kickback, he could arrange
19 for the RRs to purchase shares of iTrackr common stock through their customers'
20 accounts and hold the shares for up to a year, thereby avoiding sales that might
21 decrease iTrackr's stock price.

22 12. Bahr agreed to pay the kickback and told the UCA he wanted the RRs
23 to purchase 10 million shares of iTrackr stock at an average of \$.25 per share, for a
24 total of \$2.5 million. Bahr also agreed not to disclose the kickback to any iTrackr
25 investors.

26 13. During the same call, Bahr and the UCA agreed to a test run in which
27 the UCA would purchase modest amounts of stock on the open market and Bahr
28 would pay him a small commission.

1 **B. The Test Run**

2 14. In accordance with the prearranged agreement, the UCA, using FBI
3 funds, purchased iTrackr shares on the following dates and in the following amounts:

- 4 • December 3, 2012: 15,000 shares at \$.0885 per share;
- 5 • December 4, 2012: 30,000 shares at \$.0933 per share;
- 6 • December 5, 2012: 30,000 shares at \$.11 per share;
- 7 • December 6, 2012: 30,000 shares at \$.105 per share; and
- 8 • December 7, 2012: 30,000 shares at \$.1028 per share.

9 15. The FBI purchased a total of 135,000 iTrackr shares during the week
10 of December 3, 2012, which represented approximately 32% of iTrackr's trading
11 volume during the same time.

12 16. In a telephone conversation on December 7, 2012, the UCA informed
13 Bahr that the test purchases totaled approximately \$14,000, and that Bahr owed
14 him a \$4,000 commission. Bahr agreed to pay the kickback.

15 17. During the same call, Bahr reiterated that his agreement with the UCA
16 was for the RRs, whom the UCA claimed to represent, to purchase a total of \$2.5
17 million in iTrackr stock at an average price of \$.25 per share, resulting in a
18 \$750,000 kickback to the UCA.

19 18. Following the December 7, 2012 call with the UCA, Bahr asked
20 another person to pay \$1,000 of the \$4,000 kickback.

21 19. On or about December 19, 2012, Bahr caused a wire transfer of
22 \$3,000 to be sent to the FBI controlled bank account to which the UCA had
23 instructed Bahr to send the kickback.

24 **FIRST CLAIM FOR RELIEF**

25 **Violations of Section 17(a)(1) of the Securities Act**

26 20. The SEC realleges and incorporates by reference paragraphs 1
27 through 19 above.

28 21. Bahr knowingly or recklessly, directly or indirectly, in the offer and

1 sale of securities, by the use of any means or instruments of transportation or
2 communication in interstate commerce, or by the use of the mails, employed
3 devices, schemes or artifices to defraud.

4 22. By engaging in the foregoing conduct, Bahr violated, and unless
5 restrained and enjoined will continue to violate, Section 17(a) of the Securities Act,
6 15 U.S.C. § 77q(a).

7 **SECOND CLAIM FOR RELIEF**

8 **Violations of Section 10(b) and Rule 10b-5 of the Exchange Act**

9 23. The SEC realleges and incorporates by reference paragraphs 1
10 through 19 above.

11 24. From at least November through December 2012, Bahr knowingly or
12 recklessly, in connection with the purchase or sale of securities, directly or
13 indirectly, by the use of any means or instrumentality of interstate commerce, or of
14 the mails, or of any facility of a national securities exchange:

- 15 a. employed devices, schemes, or artifices to defraud; and/or
16 b. engaged in acts, practices, or courses of business which
17 operated or would operate as a fraud or deceit upon any person.

18 25. By engaging in the foregoing conduct, Bahr violated, and unless
19 restrained and enjoined will continue to violate, Section 10(b) of the Exchange
20 Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, the SEC respectfully requests that the Court:

23 **I.**

24 Issue findings of fact and conclusions of law that Bahr committed the
25 alleged violations.

26 **II.**

27 Issue a permanent injunction restraining and enjoining Bahr and his officers,
28 agents, servants, employees, attorneys, and all persons in active concert of

1 participation with them, and each of them, from violating Sections 17(a)(1) of the
2 Securities Act, and Section 10(b) and Rule 10b-5(a) and (c) of the Exchange Act,
3 as indicated above.

4 **III.**

5 Issue an Order directing Bahr to pay civil money penalties pursuant to Section
6 20(d) of the Securities Act, 15 U.S.C. § 77t(d); and Section 21(d) of the Exchange
7 Act, 15 U.S.C. § 78(d)(3).

8 **IV.**

9 Issue an order barring Bahr from participating in any offering of penny
10 stock, pursuant to Section 20(g) of the Securities Act, 15 U.S.C. § 77t(g), and
11 Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), for the violations alleged
12 in this Complaint.

13 **V.**

14 Retain jurisdiction of this action in accordance with the principles of equity
15 and the Federal Rules of Civil Procedure in order to implement and carry out the
16 terms of all orders and decrees that may be entered, or to entertain any suitable
17 application or motion for additional relief within the jurisdiction of this Court.

18 **VI.**

19 Grant such other and further relief as this Court may determine to be just and
20 necessary.

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23 DATED: June 18, 2013

/s/ Sara D. Kalin
SARA D. KALIN
Attorney for Plaintiff
Securities and Exchange Commission
Email: kalins@sec.gov