

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 55512 / March 22, 2007**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-12597**

**In the Matter of**

**BARRY HERTZ,**

**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE PROCEEDINGS  
PURSUANT TO SECTION 15(b) OF THE  
THE SECURITIES EXCHANGE ACT  
OF 1934 , MAKING FINDINGS, AND  
IMPOSING REMEDIAL SANCTIONS**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Barry Hertz (“Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 , Making Findings, and Imposing Remedial Sanctions (“ Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds that:

1. Hertz was the chairman and chief executive officer of Track Data Corporation (“Track Data”), a financial services company that supplies electronically delivered financial

information to institutional and individual investors. The company also owns and operates an electronic communications network, provides a proprietary internet-based online trading system to institutional and individual traders, and distributes news and third-party database information to its customers from worldwide sources. Hertz, who was a registered options principal, a general securities representative, a general securities principal, and an equity trader limited representative, was also the president of Track Data Securities Corp., a registered broker-dealer and wholly-owned subsidiary of Track Data. Hertz, 57 years old, is a resident of Brooklyn, New York.

2. On March 16, 2007, a final judgment was entered by consent against Hertz, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. Barry Hertz, Civil Action Number 05-2848, filed on June 14, 2005, in the United States District Court for the Eastern District of New York.

3. The Commission's complaint alleged that Hertz illegally traded in Track Data stock while he possessed material, nonpublic information concerning (i) Track Data's negative financial results prior to the company's public announcement of its revenues and earnings for the second and third quarters of 2003 and (ii) the development of a plan during the summer of 2003 to issue a first-time dividend to the company's stockholders.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Hertz's Offer.

Accordingly, it is hereby ORDERED:

Pursuant to Section 15(b)(6) of the Exchange Act, that Respondent Hertz be, and hereby is barred from association with any broker or dealer, with the right to reapply for association after two years to the appropriate self-regulatory organization, or if there is none, to the Commission;

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Nancy M. Morris  
Secretary