

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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3 CARL J. KUNASEK  
Chairman  
4 JIM IRVIN  
Commissioner  
5 WILLIAM A. MUNDELL  
Commissioner  
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7 In the matter of )  
8 SUCCESSFUL FINANCE, INC. )  
2200 North Scottsdale Road, Suite R )  
9 Scottsdale, Arizona 85257 )  
10 MARY KERSEY )  
7979-32 East Princess Drive )  
11 Scottsdale, Arizona 85255, )  
12 Respondents. )  
13

) DOCKET NO. S-03264A-00-0000

) DECISION NO. \_\_\_\_\_

) **ORDER TO CEASE AND DESIST**  
) **AND CONSENT TO SAME**

14  
15 RESPONDENT SUCCESSFUL FINANCE, INC. (“SFI”) and RESPONDENT MARY  
16 KERSEY (“KERSEY”) (collectively “RESPONDENTS”), elect to permanently waive their right  
17 to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-  
18 1801, *et seq.* (“Securities Act”) with respect to this Order. RESPONDENTS admit the  
19 jurisdiction of the Arizona Corporation Commission (“Commission”); admit the Findings of Fact  
20 and Conclusions of Law contained in this Order; and consent to the entry of this Order by the  
21 Commission.

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I.

FINDINGS OF FACT

1. SFI is an Arizona corporation located at 2200 North Scottsdale Road, Suite R, Scottsdale, Arizona 85257.

2. KERSEY, aka Mary Kerseyhood, aka Mary L. Hood, aka Mary Kersey-Hood, is an Arizona resident whose last known address is 7979-32 East Princess Drive, Scottsdale, Arizona 85255.

3. SFI and KERSEY are not registered as securities dealers with the Commission. KERSEY was registered as a securities salesman with the Commission, beginning on November 8, 1988. From May 31, 1995, through January 11, 1996, KERSEY was affiliated with Finance 500, Inc. Her Arizona registration terminated on January 11, 1996, when she left that firm.

4. In 1995, KERSEY incorporated SFI. Her son, Barton Kersey, was listed as president.

5. Beginning in June 1995, SFI, through its agent, KERSEY, offered promissory notes or investment contracts for sale to the public. SFI, though KERSEY, obtained at least \$500,000 from eight investors. The majority of the offered promissory notes or investment contracts were held in Individual Retirement Accounts (“IRAs”) at the First National Bank of Onaga (“FNB”), located in Onaga, Kansas.

6. KERSEY initially solicited clients of her securities business. KERSEY told the investors that the investment was safe, fully secured and guaranteed. She told at least one investor that the investment was secured by real estate.

7. SFI and KERSEY did not provide any prospectus or written documents to investors prior to their investment. SFI and KERSEY did provide written promissory notes to five of the investors who invested through their IRAs, as FNB, the custodian of the IRAs, required promissory notes and corporate authorizations prior to authorizing the investment and releasing the funds to

1 SFI. The notes were signed with the name of Barton Kersey as president of SFI, although  
2 KERSEY was aware at the time she sent the notes to FNB that Barton Kersey had not signed them.

3 8. The SFI corporate authorization was signed with the names of KERSEY, Barton  
4 Kersey and Todd Allen. Todd Allen was also a son of KERSEY. KERSEY herself signed all  
5 three signatures. The promissory notes were typed by KERSEY. They stated that the offered  
6 promissory notes or investment contracts were secured by a first position on assets owned by  
7 Barton Kersey and SFI. A financial statement listing SFI's assets was attached to the notes. At the  
8 time the notes were sent to FNB for acceptance, the SFI financial statement listed \$896,700 in  
9 assets. That information was false, other than an automobile owned by Barton Kersey that was  
10 valued at \$15,000. The remaining assets did not exist. At the time the financial sheet was created,  
11 showing \$896,700 in assets, the SFI annual report filed with the Commission listed \$65 in assets.

12 9. For those investors who did not invest through their IRA accounts, SFI and  
13 KERSEY did not provide promissory notes. KERSEY informed those investors that the  
14 investment was safe and secured. She told them that they would receive eleven percent interest.  
15 She provided no written documentation, no prospectuses or financial statements to these  
16 investors.

17 10. All funds raised by SFI and KERSEY were deposited in SFI's bank account  
18 where they were controlled and utilized by KERSEY.

19 11. SFI and KERSEY used the money they raised to invest in to two companies, Austin  
20 Oil and Worldlink. \$84,577 was invested with Austin Oil, while the remainder went to Worldlink.  
21 All investments in both companies were lost. The investment decisions were made by KERSEY.

22 12. Part of the funds raised by SFI and KERSEY were used to purchase a house in  
23 Scottsdale. The house was titled in KERSEY's name, although the funds came from SFI. A  
24 person whom KERSEY knew, Krys Disney, the principal of Worldlink, then inhabited the  
25 house. The house was then sold by KERSEY, who used the proceeds to pay to the investors.  
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1 13. Despite their representations to the investors, SFI and KERSEY never obtained any  
2 security or collateral from Austin Oil or Worldlink prior to providing them with funds. SFI and  
3 KERSEY received no written documents from Austin Oil or Worldlink prior to providing them  
4 with funds.

5 14. The investors received \$108,760 in payments on their investment. One investor  
6 received back his investment of \$40,000. SFI and KERSEY used money raised from later  
7 investors to pay interest to the earlier investors. No disclosure of this was made to any of the  
8 investors.

9 15. Despite lacking securities registration since January 11, 1996, KERSEY has  
10 continued to solicit orders or offer to sell securities without being registered. Her clients purchased  
11 and sold securities based upon KERSEY's solicitations or offers, unaware that she was not  
12 registered to sell securities.

13 **II.**

14 **CONCLUSIONS OF LAW**

15 1. The Commission has jurisdiction over this matter pursuant to Article XV of the  
16 Arizona Constitution and the Securities Act

17 2. RESPONDENTS offered or sold securities within or from Arizona, within the  
18 meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

19 3. RESPONDENTS violated A.R.S. § 44-1841 by offering or selling securities that  
20 were unregistered, not the subject of a notice filing under A.R.S. § 44-3321, and not exempt from  
21 registration.

22 4. RESPONDENT SFI violated A.R.S. § 44-1842 by offering or selling securities  
23 while not registered as a dealer or salesman, and not exempt from registration. RESPONDENT  
24 KERSEY violated A.R.S. § 44-1842 by offering or selling securities after January 11, 1996,  
25 while not registered as a dealer or salesman, and not exempt from registration.  
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1           5.       RESPONDENTS violated A.R.S. § 44-1991 by offering or selling securities  
2 within or from Arizona by (a) employing a device, scheme or artifice to defraud, (b) making  
3 untrue statements or misleading omissions of material facts, and (c) engaging in transactions,  
4 practices, or courses of business which operate or would operate as a fraud or deceit:

- 5           a)       Failing to disclose to investors that SFI was controlled by KERSEY  
6                       and that her son, Barton Kersey, was its president;
- 7           b)       Informing investors that their investment with SFI was safe, secured,  
8                       collateralized and guaranteed;
- 9           c)       Utilizing the investors' funds to invest in speculative and unsecured  
10                      investments while failing to inform investors as to that use of their funds;
- 11           d)       Failing to inform investors that some of their funds were used to purchase a  
12                      house in KERSEY's name and that the house was inhabited by Krys  
13                      Disney;
- 14           e)       Failing to inform investors that SFI and KERSEY had no written  
15                      documentation from Worldlink, the company to which SFI and KERSEY  
16                      gave most of the investor's money;
- 17           f)       Informing at least one investor that the investment was secured by real  
18                      estate;
- 19           g)       Providing promissory notes, financial statements and corporate resolutions  
20                      that contained false and misleading information to FNB, the investors'  
21                      agent.    RESPONDENTS provided the promissory notes, financial  
22                      statements and corporate resolutions to FNB with the knowledge that FNB  
23                      would not release the investors' funds without the documentation;
- 24           h)       Utilizing the funds of later investors to pay off earlier investors without  
25                      informing any investors of that fact;
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1 i) Failing to inform investors that the securities KERSEY was selling were  
2 not recorded on the books of the dealer with whom she was registered;  
3 and

4 j) Soliciting orders or offering to sell securities without informing investors  
5 that KERSEY was not registered as a securities salesman.

6 6. RESPONDENTS' conduct is grounds for a cease & desist order pursuant to  
7 A.R.S. § 44-2032.

8 7. RESPONDENTS' conduct is grounds for an order of restitution to be provided  
9 pursuant to A.R.S. § 44-2032.

10 8. RESPONDENTS' conduct is grounds for penalties to be assessed under A.R.S. §  
11 44-2036.

12 **III.**

13 **ORDER**

14 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and the  
15 RESPONDENTS' consent to the entry of this Order, the Commission finds that the following  
16 relief is appropriate, in the public interest, and necessary for the protection of investors:

17 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, their agents,  
18 employees, successors and assigns, permanently cease and desist from violating the Securities  
19 Act.

20 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall,  
21 jointly and severally, pay restitution to investors as reflected on the records of the Commission in  
22 the amount of \$396,040, plus interest at the rate of 10% per annum from the date of this order  
23 until paid. Payment is to be made to the state of Arizona to be placed in an interest-bearing  
24 account maintained and controlled by the Arizona Attorney General. The Arizona Attorney  
25 General shall disburse the funds on a pro rata basis to investors. If any disbursement check is not  
26 deliverable or does not clear the account within 90 days from the date of issuance, the funds shall

1 be redistributed to the known investors. If all investors are paid in full, any excess funds shall  
2 revert to the state of Arizona.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall,  
4 jointly and severally, pay an administrative penalty in the amount of \$25,000, payable to the  
5 State of Arizona. Any amount of penalty outstanding will accrue interest at the rate of 10% per  
6 annum from the date of this Order until paid in full.

7 IT IS FURTHER ORDERED that this Order shall become effective immediately.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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11 CHAIRMAN

COMMISSIONER

COMMISSIONER

12 IN WITNESS WHEREOF, I, Brian C. McNeil, Executive  
13 Secretary of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of  
16 Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2000.

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BRIAN C. McNEIL  
Executive Secretary

DISSENT  
(MD)

This document is available in alternative formats by contacting Cynthia Mercurio-Sandoval,  
ADA Coordinator, voice phone number: 602/542-0838, email: csandoval@cc.state.az.us.

**CONSENT TO ENTRY OF COMMISSION ORDER AND WAIVER OF HEARING**

1  
2 1. RESPONDENTS SFI and KERSEY admit the jurisdiction of the Commission  
3 over the subject matter of this proceeding. RESPONDENTS acknowledge that they have been  
4 fully advised of their right to a hearing to present evidence and call witnesses and  
5 RESPONDENTS knowingly and voluntarily waive any and all rights to a hearing before the  
6 Commission and all other rights otherwise available under Article 11 of the Securities Act and  
7 Title 14 of the Arizona Administrative Code. RESPONDENTS acknowledge that this Order To  
8 Cease And Desist And Consent To Same (“Order”) constitutes a valid final order of the  
9 Commission.  
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11 2. RESPONDENTS knowingly and voluntarily waive any right they may have  
12 under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or  
13 extraordinary relief resulting from the entry of this Order.  
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15 3. RESPONDENTS acknowledge and agree that this Order is entered into freely  
16 and voluntarily and that no promise was made or coercion used to induce them to enter into it.

17 4. RESPONDENTS acknowledge that they have reviewed this Order and  
18 understand all terms it contains.

19 5. RESPONDENTS admit the Findings of Fact and Conclusions of Law contained  
20 in this Order.

21 6. RESPONDENTS consent to the entry of this Order and agree to be fully bound  
22 by its terms and conditions.  
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24 7. By consenting to the entry of this Order, RESPONDENTS agree not to take any  
25 action or to make, or permit to be made, any public statement denying, directly or indirectly, any  
26 Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is



1 without factual basis. RESPONDENTS will undertake steps necessary to assure that all of their  
2 agents and employees understand and comply with this agreement. If RESPONDENTS breach  
3 this agreement, the Commission may vacate this Order and restore this case to its active docket.

4           8.       While this Order settles this administrative matter between RESPONDENTS and  
5 the Commission, RESPONDENTS understand that this Order does not preclude the  
6 Commission from instituting other administrative proceedings based on facts not presently  
7 known by the Commission or matters that are not addressed by this Order.

8           9.       RESPONDENTS understand that this Order does not preclude the Commission  
9 from initiating pursuit of civil or criminal proceedings that may be related to the matters  
10 addressed by this Order.

11           10.       RESPONDENTS understand that this Order does not preclude any other agency  
12 or officer of this State or its subdivisions from instituting administrative, civil or criminal  
13 proceedings that may be related to matters addressed by this Order.

14           11.       RESPONDENTS agree that they will not act in any position of control of any  
15 entity created or recognized under Arizona law that offers or sells securities within or from  
16 Arizona.

17           12.       RESPONDENTS acknowledge that interest at the rate of 10% per annum will  
18 continue to accrue on the unpaid restitution and penalties until the amounts are paid in full.

19           13.       RESPONDENTS agree that until restitution and penalties are paid in full,  
20 RESPONDENTS will notify the Director of the Securities Division within 30 days of any change  
21 in their home or business address or of any change in their financial condition affecting their  
22 ability to pay restitution or penalties under this Order.  
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14. RESPONDENTS acknowledge that any payment they tender to the Commission or forbearance by the Commission of any right or remedy shall not preclude the Commission from exercise of any right or remedies it has under this Order.

15. RESPONDENTS understand that default will render them liable to the Commission for its costs of collection and interest at the maximum legal rate.

16. RESPONDENTS agree that they will continue to cooperate with the Securities Division including, but not limited to, providing complete and accurate testimony at any hearing in this matter and cooperating with the Division in any related investigation or any other matters arising from the activities described in this Order.

17. KERSEY represents that she is authorized by law to enter into this Order for and on behalf of SFI.

\_\_\_\_\_  
MARY KERSEY

SUBSCRIBED AND SWORN TO BEFORE me this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

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SUCCESSFUL FINANCE, INC.

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SUBSCRIBED AND SWORN TO BEFORE me this \_\_\_\_ day of \_\_\_\_\_,  
2000.

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NOTARY PUBLIC

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