

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 WILLIAM A. MUNDELL
4 Chairman
5 JIM IRVIN
6 Commissioner
7 MARC SPITZER
8 Commissioner

9 In the matter of)
10)
11 WILLIAM E. BERGH, individually and d/b/a)
12 NATIONAL FINANCIAL GROUP)
13 9501 W. Camino De Oro)
14 Peoria, AZ 85382)
15)
16 WORLD WIDE BUSINESS OPPORTUNITIES,)
17 LLC)
18 11024 N. 28th Drive, Suite 200)
19 Phoenix, AZ 85029,)
20)
21 Respondents.)

DOCKET NO. S-03441A-01-0000

**ORDER TO CEASE AND DESIST,
ORDER OF RESTITUTION, ORDER
FOR ADMINISTRATIVE PENALTIES
AND CONSENT TO SAME**

**BY: RESPONDENTS WILLIAM E.
BERGH, individually and d/b/a
NATIONAL FINANCIAL GROUP and
WORLD WIDE BUSINESS
OPPORTUNITIES, LLC**

22 RESPONDENTS WILLIAM E. BERGH, individually and d/b/a NATIONAL FINANCIAL GROUP
23 and WORLD WIDE BUSINESS OPPORTUNITIES, LLC (“RESPONDENTS”) elect to permanently waive
24 any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801
25 *et seq.* (“Securities Act”) with respect to this Order To Cease And Desist, Order of Restitution, and Order for
26 Administrative Penalties (“Order”). RESPONDENTS admit the jurisdiction of the Arizona Corporation
Commission (“Commission”); admit only for purposes of this proceeding and any other proceedings before the
Commission or any other agency of the State of Arizona, the Findings of Fact and Conclusions of Law
contained in this Order; and consent to the entry of this Order by the Commission.

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FINDINGS OF FACT

A. Respondents.

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3 1. WILLIAM E. BERGH (“BERGH”), doing business as NATIONAL FINANCIAL GROUP
4 (“NFG”), is an individual, whose last known address is 9501 W. Camino De Oro, Peoria, Arizona, 85382.
5 BERGH is, and was at all times pertinent hereto, owner and President of WORLD WIDE BUSINESS
6 OPPORTUNITIES, LLC.

7 2. WORLD WIDE BUSINESS OPPORTUNITIES, LLC (“WWB”) is, or was at all pertinent
8 times, located at 11024 N. 28th Drive, Suite 200, Phoenix, Arizona, 85029.

9 3. On April 14, 2000, the Commission entered a Final Order for Relief and Consent to Same in
10 Decision No. 62465 (“Order”), finding that BERGH, NFG, and WWB had sold unregistered securities,
11 including “business opportunities,” in violation of Arizona’s Securities Act, revoking BERGH’s securities
12 salesman registration, and ordering BERGH, NFG and WWB to pay penalties.

13 **B. BERGH Sold Unregistered Securities After the Commission Ordered**
14 **BERGH to Cease and Desist.**

15 4. From in or around January 1999, BERGH, acting as a sales representative for World Cash
16 Providers, LLC, operating out of California, offered or sold, within and from Arizona, World Cash “business
17 opportunities” involving cash ticket machines (“CTMs”) together with service contracts with World Cash
18 Providers, Inc.

19 5. In February 2000, the State of California Department of Corporations (“DOC”) found that
20 the business opportunities sold by World Cash Providers, LLC and World Cash Providers, Inc. (collectively
21 “World Cash”) were securities and ordered World Cash to stop selling them in California.

22 6. On March 24, 2000, after the Securities Division informed BERGH of the alleged violations,
23 BERGH signed a proposed Final Order for Relief and Consent to Same (“Order and Consent”), individually
24 and dba NFG, and as President of WWB, agreeing to cease and desist from the

25 ...

1 sale of unregistered securities including the World Cash CTM business opportunities, and to the permanent
2 revocation of BERGH's securities salesman registration.

3 7. On April 14, 2000, the Commission entered the proposed Order, finding, *inter alia*, that the
4 CTM business opportunities were unregistered securities and that BERGH had sold them in violation of the
5 Securities Act, and revoking BERGH's securities salesman registration.

6 8. Beginning in or around January 2000, unknown to the Division or the Commission, BERGH,
7 acting as a sales representative for Mobile Cash Systems, LLC ("Mobile Cash") based in Las Vegas,
8 Nevada, had started selling another business opportunity program. Like the World Cash CTM business
9 opportunity program, the Mobile Cash program involved the sale of equipment together with service
10 contracts, for the purpose of generating a profit for investors. The equipment sold by Mobile Cash was
11 wireless terminal machines ("WTMs"), marketed by the same promoters who had marketed the CTMs.

12 9. On April 17, 2000, three weeks after BERGH signed his proposed Order and Consent and
13 three days after the Commission entered its Order, BERGH sold an \$80,000 investment in WTM business
14 opportunities to an elderly, legally blind investor, who relied on BERGH for information concerning her
15 investment.

16 10. On April 19, 2000, the Commission served BERGH by certified mail a copy of the final
17 Order against him.

18 11. On April 27, 2000, BERGH testified in an examination under oath before the Securities
19 Division that he believed that the Mobile Cash WTM business opportunity investment program was a
20 continuation of the World Cash CTM business opportunity investment program, which the Commission, in its
21 Order against BERGH entered on April 14, 2000, had found to involve the sale of unregistered securities.

22 12. On or around April 5, 2000, an agent of NFG, Ray Nelson, sold a WTM business
23 opportunity to an Arizona investor. BERGH submitted the sale to Mobile Cash as new business transacted
24 by WWB. Mobile Cash paid the commission for the sale to BERGH on or around April 26, 2000, after the
25 Order was entered by the Commission on April 14, 2000. BERGH paid a share of his commission to
26 Nelson.

1 13. On or around May 3, 2000, Ray Nelson, acting as an agent for NFG, sold another WTM
2 business opportunity to another Arizona investor. BERGH submitted the sale to Mobile Cash as new
3 business transacted by WWB. Mobile Cash paid the commission for the sale to BERGH on or around June
4 28, 2000. BERGH paid a share of his commission to Nelson.

5 **C. Description of the Business Opportunity Investment Programs Sold by**
6 **BERGH: World Cash CTMs and Mobile Cash WTMs.**

7 14. The equipment sold by World Cash was cash ticket machines (“CTMs”). Pursuant to the
8 service contracts promoted with the CTMs, the service companies would manage the equipment for the
9 purpose of generating a profit for investors. The offering documents for the CTM investment program and
10 WTM investment program describe the equipment as serving a similar function of allowing customers of retail
11 food outlets to use credit or debit cards to transact purchases. The primary difference is that the WTMs are
12 wireless handheld machines, whereas the CTMs are stationary terminals similar to ATMs. CTMs are located
13 at the site of retail merchants and issue tickets to customers that can be used to purchase food. WTMs are
14 placed with retail merchants in order to enable electronic purchase transactions at the customers’ points of
15 delivery. The services offered include locating and installing the equipment with retail merchants, handling or
16 processing the transactions, monitoring and maintaining the equipment, insuring the equipment, and issuing
17 monthly profit distribution checks to the investors or “business owners.”

18 15. The investor agreements for the CTM and WTM business opportunity programs are almost
19 identical, and include a Sales Agreement and a Services (sic) Agreement, offered as a package to all
20 investors. Although the Sales Agreements present options for selecting services from several companies,
21 World Cash Providers, Inc. was the recommended service company for the CTMs, and World Wireless
22 Solutions, Inc. dba Wireless Express USA, Inc. (“Wireless”) and World Electronic Payments Solutions, Inc.
23 (“WEPS”) were the recommended service companies for the WTMs. Services Agreements for only World
24 Cash Providers, Inc. were included in the information packet BERGH provided to prospective CTM
25 investors. Services Agreements for only Wireless were included in the information packet BERGH provided
26 to prospective WTM investors. WEPS was the designated service company for transaction handling for all

1 Wireless clients. All Arizona investors selected World Cash Providers, Inc. to service the CTMs, and
2 Wireless and WEPS to service the WTM.

3 16. Although the offering documents for the CTM and WTM Programs describe options for
4 different levels of managing the equipment, in practice, all investors selected the full-service option, which
5 offers a revenue-sharing feature and a buy-back provision from the recommended service company. Under
6 the full-service option, investors have no responsibilities with respect to the operation of their equipment
7 beyond signing the service contracts, no financial obligations apart from the initial payment to purchase the
8 units, no continuing financial obligation in the operation of their equipment, and no liability for any expenses or
9 costs related to the operation of the equipment. At least one of the services offered to investors, i.e.,
10 transaction handling, requires special expertise. That function, purportedly handled by WEPS, involves
11 processing transactions, and is the key to generating a profit for investors.

12 17. BERGH sold the CTM and WTM business opportunities to unsophisticated investors,
13 including elderly and retired people, who had no experience in or knowledge of the cash terminal or wireless
14 terminal businesses, who never intended to take possession of, or to manage, the equipment, and who did not
15 even know where their equipment was located. Through written and oral statements, BERGH represented
16 that these were passive investments.

17 18. According to written materials and oral statements made to investors, investors in the CTM
18 and WTM Programs are supposed to receive a) minimum monthly revenue equivalent to 13% of their original
19 investment generated from the operation of their equipment; b) a share of the monthly net profit on each
20 machine in excess of the base monthly payment; c) a full return of their investment at the end of the five-year
21 term because they have a right to sell the equipment back to the service company for the original amount of
22 the investment, or renew the investment; and d) if the monthly revenue from the operation of the machine falls
23 below the base payment, the right to request that the service company repurchase the equipment for the
24 original sales price or relocate the equipment to another location with the potential for a higher profit from
25 sharing in increased revenue.

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1 19. Under the CTM Equipment Sales Agreement, World Cash Providers, LLC represented to
2 investors that the “Closing” of the transactions contemplated by the Equipment Sales Agreement, which
3 included delivery of the CTMs and “Leased Site” assignments to the Purchaser or the Purchaser’s Agent,
4 would occur within 30 or 60 days of the receipt of the completed contracts and collected funds. If for any
5 reason such Closing did not occur, then the Purchaser’s payment was to be promptly returned to the
6 Purchaser. World Cash Providers, Inc., who was agent for the investor pursuant to the Services Agreement,
7 represented to investors that their monthly distribution payments would be based upon the equipment
8 revenues collected by the service company. Many investors received monthly “revenue” distribution
9 payments, although their equipment was never delivered or placed in service and generated no revenue.
10 Those investors were never informed that their equipment was not delivered or placed in service, and their
11 funds were not returned to them.

12 20. World Cash Providers, Inc. paid CTM investors monthly “revenue” distribution checks until
13 around June 2000, when the payments stopped. Many CTM investors had received monthly revenue
14 payments even though they were never notified of the location of their machines, and never received any
15 accounting reflecting the actual revenue generated from the operation of their CTMs.

16 21. As of January 11, 2000, not a single WTM had been placed in service. Since April 2000,
17 Wireless has paid and is continuing to pay WTM investors the promised base monthly payments although no
18 revenue has been generated. The payments have been made from funds wire transferred to Wireless from
19 Mobile Cash Systems, LLC (“Mobile Cash”), the company that sold the equipment to the investors.
20 Investors were not informed that their monthly “profit” distributions were not generated from the operation of
21 their machines, or that their machines were not yet in operation.

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24 **C. Sales and Marketing Network for the “Business Opportunities.”**

25 22. BERGH recruited sales agents from Arizona to promote and to sell the CTM and WTM
26 business opportunity investment programs as agents of NFG (“NFG Agents”).

1 23. BERGH was paid commissions for the sales made by at least four NFG Agents, including
2 Nelson. BERGH negotiated commission splits individually with his NFG Agents and paid them from his own
3 account. BERGH's commissions for the sale of the CTM business opportunities was 13-15% of the
4 investors' funds, and his commissions for the sale of the WTM business opportunities was 17% of investors'
5 funds. BERGH decided what commissions to pay to each of his NFG Agents individually.

6 24. BERGH scheduled sales meetings and training seminars for NFG Agents, to coach them on
7 how to sell the investment programs, and provided NFG Agents offering materials and contracts.

8 25. BERGH recommended these investments as more profitable than other investments, and
9 encouraged investors to transfer funds from CDs, mutual funds, and/or annuities, for their financial betterment.
10 BERGH and his NFG Agents recommended these investments to some clients who had obtained their
11 investment funds from reverse mortgages on their homes. BERGH's wife, Robin Bergh, and her associate,
12 Stacy Beehler, "reverse-mortgage specialists for Norwest Bank," had referred these clients to BERGH and
13 NFG for financial advice concerning how to invest the funds they obtained from reverse mortgages on their
14 homes in order to get monthly income for living expenses.

15 26. From in or around January 1999 through March 2000, BERGH and his NFG Agents offered
16 and sold the World Cash CTM business opportunities within and from Arizona to approximately 20 investors
17 who invested approximately \$1,067,000. The minimum investment, which was \$7,000 for two CTMs at
18 \$3,500 each, increased in or around October 1999 to \$9,000 for two CTMs at \$4,500 each, for a five-year
19 term.

20 27. From in or around March 2000 through May 2000, BERGH and his NFG Agents offered
21 and sold the Mobile Cash WTM business opportunities within and from Arizona to approximately seven
22 investors who invested approximately \$195,000. The minimum investment was \$10,000 for two WTMs at
23 \$5,000 each, for a five-year term.

24 28. From around January 1999 through around May 2000, in connection with the offer or sale of
25 securities within or from Arizona, BERGH directly or indirectly made untrue statements of material fact or
26 omitted to state material facts which were necessary in order to make the statements made not misleading in

1 light of the circumstances under which they were made. BERGH's conduct includes, but is not limited to, the
2 following:

3 a) BERGH misrepresented the safety of the CTM and WTM investments and failed to
4 disclose risks, including the potential loss of investment funds.

5 b) BERGH misrepresented to CTM investors that their equipment would be delivered within
6 30 days of their completed contract. BERGH failed to disclose that many of the CTMs that were
7 purchased were never delivered or placed in service.

8 c) BERGH represented that CTM investors were to receive monthly distributions from the
9 revenue generated from the operation of their CTMs. In fact, however, monthly distributions were
10 being paid to many investors for CTMs that were never placed in service for them.

11 d) BERGH represented that investors were to receive monthly distributions from the revenue
12 generated from the operation of their WTMs. In fact, however, from April through December 2000,
13 WIRELESS distributed monthly payments to investors although no equipment was placed in service for
14 any investors.

15 e) BERGH failed to disclose to WTM investors that no WTMs had been placed in service,
16 and that no revenue had been generated from the operation of these units.

17 f) BERGH failed to disclose to WTM investors that Wireless and WEPS, the service
18 companies that were supposed to manage the equipment to generate revenue for the distributions, had
19 not even begun service operations.

20 g) BERGH failed to disclose to investors that he was receiving sales commissions in the
21 amount of 13-15% of investors' funds for the sale of the CTMs, and 17% for the sale of the WTMs.

22 h) BERGH failed to disclose any financial or background information about World Cash,
23 Mobile Cash, Wireless, or WEPS, or their principals.

24 i) In particular, BERGH failed to disclose to investors who invested subsequent to the
25 following events:

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- 1 (1) That on February 8, 2000, the California DOC issued orders against World Cash to
2 desist and refrain from the unlawful sale of securities involving the World Cash CTM
3 business opportunities.
- 4 (2) That on March 24, 2000, BERGH signed a proposed Order and Consent, negotiated
5 by BERGH with the Division, in which BERGH agreed to cease and desist from the
6 offer or sale of unregistered securities and to pay penalties for the sale of securities,
7 including investment contracts involving World Cash CTMs, membership interests in
8 Hotel Connect LLCs, and pay telephones.
- 9 (3) That on April 14, 2000, the Commission entered the Order finding the business
10 opportunities involving CMTs were unregistered securities, and ordering BERGH to
11 Cease and Desist from the sale of unregistered securities, to pay penalties, and
12 revoking BERGH's securities salesman's registration.

13 **II.**

14 **CONCLUSIONS OF LAW**

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

17 2. RESPONDENTS offered or sold securities within or from Arizona, within the meaning of
18 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 were neither
20 registered nor exempt from registration.

21 4. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities while neither
22 registered as dealers or salesmen nor exempt from registration.

23 5. RESPONDENTS violated A.R.S. § 44-1991(A)(2) by offering or selling securities within or
24 from Arizona by making untrue statements or misleading omissions of material facts which were necessary in
25 order to make the statements made not misleading in light of the circumstances under which they were made.
26

1 Attorney General. The Arizona Attorney General shall disburse the funds on a pro rata basis to investors. Any
2 funds that the Attorney General is unable to disburse shall revert to the state of Arizona.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS, jointly and
4 severally, shall pay an administrative penalty in the amount of \$25,000. Payment shall be made in full
5 by cashier’s check or money order on the date of this Order, payable to the “State of Arizona.” Any amount
6 outstanding shall accrue interest at the rate of 10% per 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 hereunto
14 set my hand and caused the official seal of the Commission to be
affixed at the Capitol, in the City of Phoenix, this _____ day of
June, 2001.

15
16 _____
BRIAN C. McNEIL
Executive Secretary

17
18 **DISSENT**

19 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator, voice phone
20 number 602-542-3931, E-mail shood@cc.state.az.us.

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CONSENT TO ENTRY OF ORDER

1
2 1. RESPONDENTS WILLIAM E. BERGH dba NATIONAL FINANCIAL GROUP and
3 WORLD WIDE BUSINESS OPPORTUNITIES, LLC. (RESPONDENTS) admit the jurisdiction of the
4 Commission over the subject matter of this proceeding. RESPONDENTS acknowledge that they have been
5 fully advised of their right to a hearing to present evidence and call witnesses and RESPONDENTS knowingly
6 and voluntarily waive any and all rights to a hearing before the Commission and all other rights otherwise
7 available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code.
8 RESPONDENTS acknowledge that this Order To Cease And Desist, Order for Administrative Penalties and
9 Consent to Same (“Order”) constitutes a valid final order of the Commission.

10 2. RESPONDENTS knowingly and voluntarily waive any right they may have under Article 12 of
11 the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief resulting from
12 the entry of this Order.

13 3. RESPONDENTS acknowledge and agree that this Order is entered into freely and voluntarily
14 and that no promise was made or coercion used to induce such entry.

15 4. RESPONDENTS acknowledge that they have been represented by counsel in this matter, they
16 have reviewed this Order with their attorney and understand all terms it contains.

17 5. RESPONDENTS admit only for purposes of this proceeding and any other proceedings before
18 the Commission or any other agency of the State of Arizona the Findings of Fact and Conclusions of Law
19 contained in this Order.

20 6. By consenting to the entry of this Order, RESPONDENTS agree not to take any action or to
21 make, or permit to be made, any public statement denying, directly or indirectly, any Finding of Fact or
22 Conclusion of Law in this Order or creating the impression that this Order is without factual basis.
23 RESPONDENTS will undertake steps necessary to assure that all of their agents and employees understand
24 and comply with this agreement. Nothing in this provision affects RESPONDENTS’ testimonial obligations or
25 right to take legal positions in litigation in which an administrative agency of the state of Arizona is not a party.
26

1 7. While this Order settles this administrative matter between RESPONDENTS and the
2 Commission, RESPONDENTS understand that this Order does not preclude the Commission from instituting
3 other administrative proceedings based on violations that are not addressed by this Order.

4 8. RESPONDENTS understands that this Order does not preclude the Commission from
5 referring this matter to any governmental agency for administrative, civil, or criminal proceedings that may be
6 related to the matters addressed by this Order.

7 9. RESPONDENTS understand that this Order does not preclude any other agency or officer of
8 the state of Arizona or its subdivisions from instituting administrative, civil or criminal proceedings that may be
9 related to matters addressed by this Order.

10 10. RESPONDENTS agree that they will not apply to the state of Arizona for registration as a
11 securities dealer or salesman or for licensure as an investment adviser or investment adviser representative.

12 11. RESPONDENTS agree that they will not offer or sell, directly or indirectly, securities or
13 provide investment advisory services, within or from Arizona.

14 12. RESPONDENTS agree that they will not exercise any control over any entity or person that
15 offers or sells, directly or indirectly, securities or provides investment advisory services, within or from
16 Arizona.

17 13. This agreement and Order shall be binding upon RESPONDENTS' agents, heirs, employees,
18 assigns, representatives, beneficiaries or other successors in interest of any kind.

19 14. RESPONDENTS agree that until restitution and penalties are paid in full, RESPONDENTS
20 will notify the Director of the Securities Division within 30 days of any change in home address or any change in
21 RESPONDENTS' ability to pay amounts due under this Order.

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

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

3 17. RESPONDENTS consent to the entry of this Order and agree to be fully bound by its terms
4 and conditions. If RESPONDENTS breach any provision of this Order, the Commission may vacate this
5 Order and restore this case to its active docket.

6 18. WILLIAM E. BERGH represents that he is Managing Member of WWB and has been
7 authorized by WWB to enter into this Order for and on behalf of it.

8
9 _____
10 WILLIAM E. BERGH, individually and dba NATIONAL
11 FINANCIAL GROUP

11 SUBSCRIBED AND SWORN TO BEFORE me this ____ day of _____, 2001.

12
13 _____
14 NOTARY PUBLIC

14 My Commission Expires:

15 _____

16
17 WORLD WIDE BUSINESS OPPORTUNITIES, LLC

18
19 _____
20 By: William E. Bergh, Managing Member

21 SUBSCRIBED AND SWORN TO BEFORE me this _____ day of _____, 2001.

22
23 _____
24 NOTARY PUBLIC

24 My Commission Expires:

25 _____
26