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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

OCT 04 2001

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

7 In the matter of:

8  
9 **PROSPERITY INVESTORS GROUP,**  
a/k/a **PROSPERITY INVESTORS TRUST,**  
10 a/k/a/ **PROSPERITY EXPRESS LTD.,**  
5126 West Olive, Suite #218  
11 Glendale, Arizona 85302

12 **FRED C. RUSCHER**  
2003 North 23<sup>rd</sup> Avenue, Apt. #163  
13 Phoenix, Arizona 85009

14 **NEIL R. McALLISTER**  
101 First Street  
15 PMB #152  
Los Altos, California 94022,  
16

17 Respondents.

DOCKET NO. S-03368A-00-0000

18 DECISION NO. 64098

19 **ORDER TO CEASE AND DESIST**  
**AND ORDER FOR OTHER RELIEF**  
**AS AGAINST RESPONDENTS**  
**PROSPERITY INVESTORS GROUP,**  
**FRED C. RUSCHER AND NEIL R.**  
**McALLISTER**

20 I.

21 INTRODUCTION

22 On June 6, 2000, the Securities Division ("Division") of the Arizona Corporation Commission  
23 ("Commission") filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing  
24 ("TC&D") against PROSPERITY INVESTORS GROUP, a/k/a PROSPERITY INVESTORS  
25 TRUST, a/k/a PROSPERITY EXPRESS LTD. (collectively "PROSPERITY"), NEIL R.  
26 McALLISTER ("McALLISTER"), and FRED C. RUSCHER ("RUSCHER"). Some time later, on  
September 19, 2000, this TC&D was personally served on both McALLISTER and PROSPERITY.

1 The Proof of Service relating to this personal service is attached and is incorporated herein as Exhibit  
2 "A." The following summer, on July 12, 2001, the Division effected service on the remaining  
3 Respondent in this matter, RUSCHER. Proof of Service on RUSCHER is also attached hereto, and is  
4 incorporated herein as Exhibit "B."

5 The served TC&Ds afforded the Respondents the opportunity to request a hearing with the  
6 Commission within 20 days from each of these Respondents' respective dates of service. Now ten  
7 months past the date of their service, neither McALLISTER nor PROSPERITY has yet to request a  
8 hearing or has otherwise made any form of appearance in this matter. RUSCHER, served over 45  
9 days ago, has likewise elected to forego a hearing or otherwise appear in this matter. Accordingly,  
10 Respondents McALLISTER, PROSPERITY and RUSCHER have chosen not to contest the  
11 Division's allegations and have effectively admitted the Findings of Fact and Conclusions of Law set  
12 forth in the TC&D.

## 13 II.

### 14 FINDINGS OF FACT

15 1. PROSPERITY, whose last known address was 5126 West Olive, Suite #218,  
16 Glendale, Arizona, 85302, is an unincorporated Arizona business purportedly involved in the  
17 investment services industry.

18 2. McALLISTER, whose last known address is 101 First Street, PMB #152, Los  
19 Altos, California, 94022, has been a representative and "trust manager" of PROSPERITY since  
20 at least 1996. During this time, McALLISTER has offered and sold a variety of security interests  
21 to both Arizona and out-of-state investors.

22 3. RUSCHER, whose last known address is 2116 East 6<sup>th</sup> Avenue, Flagstaff,  
23 Arizona, 86004, has been a representative and "trustee" of PROSPERITY since at least 1996.  
24 During this time, RUSCHER has offered and sold a variety of security interests to both Arizona  
25 and out-of-state investors.

26 ...



1 borrowing from her full retirement savings, enabling her to invest in RESPONDENTS'  
2 commodities investment program.

3 10. RESPONDENTS stated that they would invest the investor's money in the  
4 commodities market through the brokerage firm Iowa Grain, and that as a commission for their  
5 services, RESPONDENTS would only take 25% of any profits made from the investment.

6 11. RUSCHER informed the investor that the minimum amount of money needed to  
7 open an account with Iowa Grain was \$200,000, and that the investor would have to invest at least  
8 this sum in order to get the commodities investment contract program started. According to the  
9 compliance officer at Iowa Grain, there is no \$200,000 minimum to start an account at Iowa Grain.

10 12. On or about September 30, 1997, the investor received a \$220,000 check from the  
11 aforementioned trust as a loan against her retirement account. She subsequently signed over the  
12 check to RUSCHER, who deposited the funds in the PROSPERITY bank account in Phoenix on  
13 October 2, 1997.

14 13. Account records show that on or about October 8, 1997, RUSCHER opened a  
15 commodities account with Iowa Grain in the name of "PROSPERITY" in the amount of \$150,000.  
16 These same records also reveal that RUSCHER steadily lost money on this account from the date of  
17 its inception.

18 14. RUSCHER later opened two additional accounts with Iowa Grain. A second account  
19 was opened in the name of PROSPERITY on or about January 8, 1998, and a third was opened in  
20 the name of RUSCHER himself on or about March 12, 1998. RESPONDENTS transferred  
21 approximately \$8,800 from the original investor-financed account to cover losses on the second of  
22 the PROSPERITY accounts.

23 15. In addition to transferring investor funds to an unauthorized account,  
24 RESPONDENTS withdrew a total of approximately \$37,000 from the investor-financed  
25 commodities account on four separate occasions. A portion of these funds was used to pay interest  
26 due on the investor's loan from the Texas trust. The remainder of the funds were deposited directly

1 back into a PROSPERITY bank account in Phoenix. The investor was unaware of this latter  
2 activity.

3 16. The investor eventually inquired into the status of her funds, concerned with the lack  
4 of information being made available to her on her investment. The investor then requested the  
5 return of the remaining amount of her investment in the commodities investment program.  
6 RUSCHER asked the investor to have patience, and began providing the investor with purported  
7 account activity updates on her funds. These updates showed the investor making steady gains on  
8 her commodities account each quarter. Iowa Grain account records show that these account activity  
9 updates were fictitious and were not representative of the actual losses accruing against the  
10 investor's funds.

11 17. In the spring of 1999, RUSCHER finally informed the investor that her entire  
12 investment had been lost through commodities trading activity.

13 *ii.) Overseas Chinese Bond Trading Program*

14 18. During 1998, RESPONDENTS also began offering and selling investments in an  
15 overseas Chinese bond-trading program.

16 19. In connection with these offers and sales, RUSCHER represented to investors that  
17 the gold-backed bonds associated with this program were scheduled to generate funds through  
18 trades by foreign banking institutions, and that once a "trading position" had been established,  
19 returns would be remitted to the investors' "banking coordinates."

20 20. RUSCHER represented that this program was solely under the control of the foreign  
21 trading banks, the International Monetary Fund (I.M.F.), and the United States Treasury.

22 21. The investors were not provided with any written background information  
23 concerning this overseas Chinese bond-trading program, and none of the risks associated with such  
24 an investment were discussed.

25 ...

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1           28. To effectuate the sale of this overseas debenture-trading program, McALLISTER  
2 drafted a Private Party Loan Agreement for the investor. This agreement stated that for each  
3 \$15,000 invested in the program, the investor would receive a return of \$7,500 each month for  
4 twelve months.

5           29. This investor subsequently invested approximately \$15,000 in the program by  
6 delivering a series of money orders to McALLISTER, payable to the now-dissolved Arizona  
7 corporation "Abiquiu Beagh." McALLISTER was the "overseer" and head "cleric" of Abiquiu  
8 Beagh, and was in fact the company's alter ego.

9           30. The investor used cash advances from her credit card to purchase the money orders  
10 for her investment in this overseas debenture-trading program.

11           31. McALLISTER offered and sold investments in similar overseas debenture-trading  
12 programs to at least three other investors during the spring and fall of 1997. These investors  
13 invested at least \$8,000 in the programs, with documents from these programs promising annual  
14 returns ranging from 150% to 600%.

15           32. As of April 2000, only one of the known investors who invested funds into this  
16 program had received any form of repayment on his investment. This particular investor, who  
17 initially invested \$5,000 in August of 1997, received one payment from McALLISTER for \$500  
18 after making repeated demands for a refund.

19                                   iv.) "Page One" Multi-level Marketing Program

20           33. RESPONDENTS also offered prospective investors an investment in a program that  
21 they termed "Page One." Describing this investment as a down-line networking investment,  
22 McALLISTER explained to one prospective investor that she would have to pay \$55 to get into the  
23 program, and that the money would then roll into seven undisclosed companies down line that the  
24 investor did not need to know about. After entering the program, the investor would subsequently  
25 start earning a "very large check" each week based on the number of individuals the investor could  
26 bring into the program. McALLISTER stated that he would be willing to sponsor the investor to

1 get into the program if the investor agreed to share the program with her friends and to get others to  
2 enter into the program.

3 34. McALLISTER told the investor that he was planning on building a 500 to 1000  
4 person "down-line" himself. McALLISTER then mentioned that he was currently bringing in 15 to  
5 20 people into the down-line program each week. At least two other individuals have confirmed  
6 that McALLISTER offered and/or sold them interests in the "Page One" down-line program.

7 v.) Private Legacy Trust Program

8 35. RESPONDENTS also sought to promote a "Private Legacy Trust" multi-level  
9 marketing scheme to prospective investors. Under this program, investors were solicited to open an  
10 offshore trust with Fidelity International Bank, a bank McALLISTER represented as being chartered  
11 through the Republic of Nauru. The fee for this service was \$150 (plus a newsletter subscription  
12 fee), and investors in this program could subsequently earn money in a separate "cash available"  
13 account by getting additional participants to join through "word of mouth" advertising.

14 vi.) High Leverage Trading Program

15 36. Starting in late 1996 to early 1997, RESPONDENTS also offered and sold securities  
16 to investors in what McALLISTER termed a "High Leverage Program." Under this "asset  
17 management" project, McALLISTER represented that he would be involved in an offshore trading  
18 program backed by an undisclosed banking institution.

19 37. McALLISTER failed to provide any written information to investors about the  
20 "High Leverage" project, either before or at the time investors made investments in this program.

21 38. McALLISTER represented to investors that the investment funds in this program  
22 were 100% guaranteed, and that consequently, there was no risk to the investment funds.  
23 McALLISTER also represented that the return on these leveraged investments would be 12 times  
24 the original investment, payable to investors within one year and a day.

25 39. A minimum of three investors invested approximately \$11,000 in this program  
26 during late 1996 to early 1997.



1 made untrue statements of material fact or omitted to state material facts which were necessary in  
2 order to make the statements made not misleading in light of the circumstances under which they  
3 were made; and (iii) engaged in transactions, practices or courses of business which operated or  
4 would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes,  
5 but is not limited to, the following:

- 6 a) RESPONDENTS misrepresented to offerees and investors that their overseas  
7 bond trading programs involving European banking institutions were high yield  
8 investment opportunities, when in fact these programs do not exist and are not  
9 part of any legitimate international financial market.
- 10 b) RESPONDENTS misrepresented to offerees and investors that their overseas  
11 bond-trading programs were secured by the U.S. Treasury, the I.M.F. and/or the  
12 FDIC, when in fact these statements were false.
- 13 c) RESPONDENTS misrepresented to offerees and investors that their overseas  
14 bond-trading programs were risk-free investments.
- 15 d) RESPONDENTS misrepresented to offerees and investors that the funds  
16 invested in the overseas bond-trading programs would be placed through various  
17 international banking institutions, when in fact most if not all of these funds  
18 remained in RESPONDENTS' custody and control.
- 19 e) RUSCHER misrepresented to at least one investor that the commission for  
20 managing an investor's commodities investment contract was limited to 25% of  
21 any profits realized from the investment, when in fact they appropriated \$70,000  
22 of her investment before any commodities investment activities had even begun.
- 23 f) RUSCHER misrepresented to at least one investor that her investment in a  
24 commodities investment program was earning substantial profits for a stated  
25 period of time, when in fact the investor's commodities account was steadily  
26 losing money during precisely the same time frame.

- 1 g) RUSCHER failed to disclose to an investor that PROSPERITY had opened two  
2 additional brokerage accounts with Iowa Grain in the names of "PROSPERITY"  
3 and "RUSCHER," and that RUSCHER had used funds from the investor's  
4 commodities account to cover losses on the additional PROSPERITY account.
- 5 h) RUSCHER failed to disclose to an investor that it was periodically withdrawing  
6 funds from the investor's commodities account and depositing these monies back  
7 into the PROSPERITY bank account in Phoenix.
- 8 i) McALLISTER failed to disclose to offerees and/or investors any information or  
9 details concerning the companies that constituted the "Page One" down-line  
10 networking investment opportunity.
- 11 j) McALLISTER failed to disclose to offerees and/or investors the risks associated  
12 with both the "Page One" and "Private Legacy Trust" multi-level marketing  
13 schemes he was promoting.
- 14 k) McALLISTER misrepresented to investors that his international "High  
15 Leverage" asset-trading program was risk-free and 100% guaranteed, when in  
16 fact such representations were false.
- 17 l) McALLISTER misrepresented to investors that his "High Leverage" asset-  
18 trading program would produce a return to investors of 12 to 1 within a year and  
19 a day, when in fact such representations were false.
- 20 m) McALLISTER failed to disclose to investors that his international "High  
21 Leverage" asset-trading program does not exist in legitimate international  
22 financial markets.
- 23 n) RESPONDENTS failed to disclose to investors that the securities being  
24 offered and sold were not registered, filed or otherwise exempt from  
25 registration with the Securities Division, and that RESPONDENTS were not  
26 registered as dealers or registered salesmen in the state of Arizona.

III.

CONCLUSIONS OF LAW

1  
2  
3 1. The Arizona Corporation has jurisdiction over this matter pursuant to Article XV of  
4 the Arizona Constitution and pursuant to the Securities Act of Arizona, A.R.S. § 44-1801, *et seq.*  
5 (the "Securities Act").

6 2. PROSPERITY, McALLISTER and RUSCHER offered and sold securities within or  
7 from Arizona within the definitions of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

8 3. PROSPERITY, McALLISTER and RUSCHER violated A.R.S. § 44-1841 by  
9 offering or selling securities that were neither registered nor exempt from registration.

10 4. PROSPERITY, McALLISTER and RUSCHER violated A.R.S. § 44-1842 by  
11 offering or selling securities while neither registered as a dealer or salesman nor exempt from  
12 registration.

13 5. PROSPERITY, McALLISTER and RUSCHER violated A.R.S. § 44-1991 by (a)  
14 employing a device, scheme or artifice to defraud; (b) making untrue statements or misleading  
15 omissions of material facts; and (c) engaging in transactions, practices or courses of business which  
16 operate or would operate as a fraud or deceit.

17 IV.

18 ORDER

19 THEREFORE, on the basis of the Commission's Findings of Fact and Conclusions of Law,  
20 the following Order is appropriate, in the public interest, and necessary for the protection of  
21 investors:

22 IT IS ORDERED, pursuant to A.R.S. §§ 44-2032, 44-1972 and A.A.C. R14-4-307, that the  
23 RESPONDENTS and their agents, servants, employees, successors, assigns, and those persons in  
24 active concert or participation with them CEASE AND DESIST from the following activities:  
25  
26

1           1)     The offer and/or sale of any securities described herein within or from the state of  
2 Arizona;

3           2)     The offer and/or sale of any similar type of security within or from the state of  
4 Arizona, unless such securities are registered with the Commission pursuant to Articles 6 and 7 of  
5 the Securities Act of Arizona or are otherwise duly exempt from registration;

6           3)     The solicitation or acceptance of funds from investors for the securities described  
7 herein, or the solicitation or acceptance of funds from investors for any similar type of securities  
8 offering within or from the state of Arizona, unless such securities are duly registered, notice filed or  
9 exempt from registration;

10          4)     The offer or sale of any securities within or from the state of Arizona unless the  
11 requisite registration as dealers and/or salesmen is first obtained under Article 9 of the Securities Act  
12 of Arizona, or unless an exemption from registration is applicable;

13          5)     The offer and/or sale of any securities within or from the state of Arizona through a  
14 material misrepresentation or omission, and/or through a course of conduct that would operate as a  
15 fraud or deceit on investors; and

16          6)     Any other activity constituting a violation of the Securities Act of Arizona.

17           IT IS FURTHER ORDERED that, pursuant to A.R.S. § 44-2032, RESPONDENTS shall  
18 jointly and severally pay restitution to investors in the amount of \$253,000, payable to the state of  
19 Arizona. This restitution amount is due and payable within thirty (30) days from the effective date  
20 of this Order, and shall be distributed to known investors from RESPONDENTS' investment  
21 programs on a pro rata basis.

22           IT IS FURTHER ORDERED that, pursuant to A.R.S. § 44-2036, RESPONDENTS shall  
23 jointly and severally pay an administrative penalty in the amount of \$50,000, payable to the State  
24 Treasurer, within thirty (30) days from the effective date of this Order for deposit into the general  
25 fund of the state of Arizona. These administrative penalties shall be subordinated to the payment of

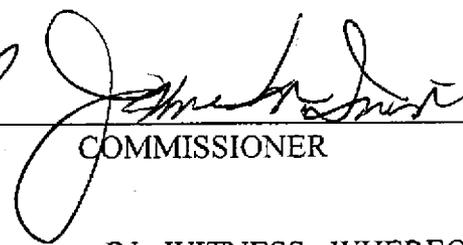
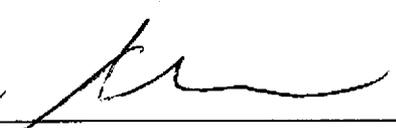
26 ...

1 the ordered restitution amount, and any payments RESPONDENTS make pursuant to this Order  
2 shall be credited accordingly.

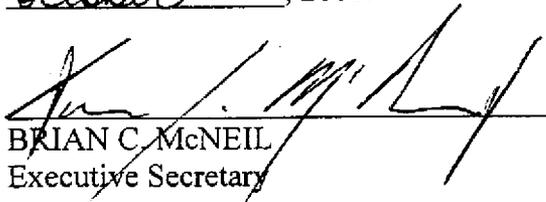
3 IT IS FURTHER ORDERED that the restitution and administrative penalties prescribed  
4 above shall accrue interest at the legal rate from the effective date of this Order until paid in full.

5 IT IS FURTHER ORDERED that this Order shall become effective immediately upon the  
6 date set forth below.

7  
8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

9  
10   
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12   
CHAIRMAN COMMISSIONER COMMISSIONER

13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,  
14 Executive Secretary of the Arizona Corporation  
15 Commission, have hereunto set my hand and caused the  
16 official seal of the Commission to be affixed at the  
Capitol, in the City of Phoenix, this 4th day of  
October, 2001.

17   
18 BRIAN C. McNEIL  
19 Executive Secretary

20 \_\_\_\_\_  
DISSENT

21  
22 (JP)

23 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,  
24 voice phone number 602-542-3931, E-mail [shood@cc.state.az.us](mailto:shood@cc.state.az.us)

RECEIVED STATE OF CALIFORNIA DEPARTMENT OF CORPORATIONS

RECEIVED

2000 SEP 27 P 3:29

2000 SEP 27 P 3:09

PROOF OF SERVICE

STATE CORP COMMISSION DOCUMENT CONTROL

STATE CORP COMMISSION DOCUMENT CONTROL

RE: Neil McAllister and Prosperity Investors Group

On SEPTEMBER 19, 2000, at 2:49 o'clock P.M., at 1147 43rd St, SACRAMENTO, California,

I personally served (name and, if applicable, title or capacity)

NEIL McALLISTER

the following documents:

- Docket No. S-03368A-00
1) Temporary Order to Cease and Desist and Notice of Opportunity for Hearing for Neil McAllister;
2) Temporary Order to Cease and Desist and Notice of Opportunity for Hearing for Prosperity Investors Group

I am exempt from registration as a California process server under Business and Professions Code Section 22350(b):

(b) Name, title, business address, and telephone number.

Diane Plaza, Investigator
Department of Corporations
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 324-6912

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on 9/19/00 at Sacramento, California.

Diane Plaza
(Signature)

Exhibit A

DECISION No. 644078

STATE OF ARIZONA )

)

AFFIDAVIT OF SERVICE

County of Maricopa )

I, Gary J. Kirst, for the Securities Division of the Arizona Corporation Commission, hereby certify that on the 12<sup>th</sup> day of July 2001 at 10:15 a.m. I served a copy of Notice of Opportunity for Hearing Regarding TEMPORARY ORDER TO CEASE AND DESIST, Docket No. S-03368-A-00-0000, upon Nancy Lynne BONNER, 2116 E. 6<sup>th</sup> Ave, Flagstaff, Arizona 86004 for Frederick Charles RUSCHER by: personal service.

Notation: BONNER, TENANT, noted RUSCHER was her Landlord who resides in Las Vegas, Nevada and Flagstaff, Arizona. BONNER noted she accepts mail/correspondence for RUSCHER and delivers by mailing or handing over in person. BONNER did not want to provide the Post Office Box number in Las Vegas, Nevada she sends mail to. BONNER also mentioned Charles Ruscher, son of Frederick at one time picked up the mail but has since stopped. I found BONNER, a person of suitable age and discretion residing in one of two small buildings addressed, 2116 E. 6<sup>th</sup> Ave.

*Gary J. Kirst*      07-16-2001

AFFLIANT

DATE

Gary J. Kirst

SUBSCRIBED AND SWORN TO BEFORE me this 16<sup>th</sup> day of

July, 2001

*[Signature]*, NOTARY PUBLIC

My Commission Expires:

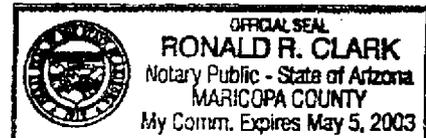


Exhibit "B"

DECISION NO. 64078