

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
2 DIVISION OF FINANCE AND CORPORATE SECURITIES  
3 SECURITIES SECTION  
4 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND  
5 BUSINESS SERVICES

4 In the Matter of: ) No. S-03-0047  
5 )  
6 NATIONAL EQUIPMENT PROVIDERS, ) FINAL ORDER TO CEASE AND  
7 LLC; SPA MARKETING, LLC; ) DESIST, DENYING EXEMPTIONS,  
8 WALTER THEIS; ROSS RAMBACH; ) AND ASSESSING CIVIL PENALTIES  
9 MARK KENNISON, and HARRY ) BY DEFAULT AS TO NATIONAL  
10 PROUDFOOT III, ) EQUIPMENT PROVIDERS, LLC; SPA  
11 ) MARKETING, LLC; ROSS RAMBACH;  
12 Respondents. ) MARK KENNISON, and HARRY  
13 ) PROUDFOOT III ONLY  
14 )

10 WHEREAS, the Director of the Department of Consumer  
11 and Business Services for the State of Oregon (hereafter the  
12 "Director"), acting by and pursuant to the authority of the  
13 Oregon Securities Law, Chapter 59 of the Oregon Revised Statutes  
14 (hereinafter cited as ORS Chapter 59), and other applicable  
15 authority, has a pending investigation into the activities of  
16 NATIONAL EQUIPMENT PROVIDERS, LLC; SPA MARKETING, LLC; WALTER  
17 THEIS; ROSS RAMBACH ; MARK KENNISON; and HARRY PROUDFOOT III;

18 WHEREAS, on November 18, 2003 the Director of the  
19 Department of Consumer and Business Services for the State of  
20 Oregon (hereafter the "Director"), acting by and pursuant to the  
21 authority of Oregon Securities Law, Chapter 59 of the Oregon  
22 Revised Statutes, and other applicable authority, issued  
23 Administrative Order No. S-03-0047 to CEASE AND DESIST, DENYING  
24 EXEMPTIONS, AND ASSESSING CIVIL PENALTIES AND NOTICE OF RIGHT  
25 TO CONTESTED CASE HEARING (hereafter "the Order") against  
26 Respondents NATIONAL EQUIPMENT PROVIDERS, LLC; SPA MARKETING,

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387



1 **LLC; WALTER THEIS; ROSS RAMBACH ; MARK KENNISON; and HARRY**  
2 **PROUDFOOT III;**

3 **WHEREAS**, on November 18, 2003 Respondent **NATIONAL EQUIPMENT**  
4 **PROVIDERS, LLC** was duly served with a true copy of the Order and  
5 Notice by United States Mail, first class postage prepaid,  
6 addressed to Respondent **NATIONAL EQUIPMENT PROVIDERS, LLC** at the  
7 following last known address: 415 Williamson Way, Ashland,  
8 Oregon 97520. This mailing was returned to sender, marked "not  
9 deliverable as addressed, unable to forward."

10 **WHEREAS**, on November 18, 2003 Respondent **NATIONAL EQUIPMENT**  
11 **PROVIDERS, LLC** was duly served with a true copy of the Order and  
12 Notice by certified United States Mail (Item #7000 1670 0010  
13 4289 4502), postage prepaid, and addressed to Respondent  
14 **NATIONAL EQUIPMENT PROVIDERS, LLC** at the following last known  
15 address: 415 Williamson Way, Ashland, Oregon 97520. This mailing  
16 was returned to sender, marked "not deliverable as addressed,  
17 unable to forward."

18 **WHEREAS**, on November 18, 2003 Respondent **SPA MARKETING, LLC**  
19 was duly served with a true copy of the Order and Notice by  
20 United States Mail, first class postage prepaid, addressed to  
21 Respondent **SPA MARKETING, LLC** at the following two last known  
22 addresses: 415 Williamson Way, Ashland, Oregon 97520 and 1200  
23 Washington Road, Suite 203, Washington, Pennsylvania 15301. The  
24 "Williamson Way" mailing was returned to sender, marked  
25 "forwarding time expired." The "Washington Road mailing was  
26 returned to sender, marked "not deliverable as addressed,

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1 unable to forward."

2           **WHEREAS**, on November 18, 2003 Respondent **SPA MARKETING, LLC**  
3 was duly served with a true copy of the Order and Notice by  
4 certified United States Mail (Items #7000 1670 0010 4289 4496  
5 and #7000 1670 0010 4289 4489), postage prepaid, and addressed  
6 to Respondent **SPA MARKETING, LLC** at the following two last known  
7 addresses: 415 Williamson Way, Ashland, Oregon 97520 and 1200  
8 Washington Road, Suite 203, Washington, Pennsylvania 15301. The  
9 "Williamson Way" mailing was returned to sender, marked  
10 "forwarding time expired." The "Washington Road mailing was  
11 returned to sender, marked "not deliverable as addressed,  
12 unable to forward."

13           **WHEREAS**, on November 18, 2003 Respondent **ROSS RAMBACH** was  
14 duly served with a true copy of the Order and Notice by United  
15 States Mail, first class postage prepaid, addressed to  
16 Respondent **ROSS RAMBACH** at the following two last known  
17 addresses: 415 Williamson Way, Suite #7, Ashland, Oregon 97520  
18 and 131 Gaerky Rd, Ashland, Oregon 97520. The "Williamson Way"  
19 mailing was returned to sender, marked "not deliverable as  
20 addressed, unable to forward." The Gaerky Rd mailing was not  
21 returned to sender.

22           **WHEREAS**, on November 18, 2003 Respondent **ROSS RAMBACH** was  
23 duly served with a true copy of the Order and Notice by  
24 certified United States Mail (Items #7000 1670 0010 4289 4465  
25 and #7000 1670 0010 4289 4458), postage prepaid, and addressed  
26 to Respondent **ROSS RAMBACH** at the following two last known

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1 addresses: 415 Williamson Way, Suite #7, Ashland, Oregon 97520  
2 and 131 Gaerky Rd, Ashland, Oregon 97520. The "Williamson Way"  
3 mailing was returned to sender, marked "not deliverable as  
4 addressed, unable to forward." Neither the Gaerky Road mailing  
5 nor its accompanying "return receipt" was returned to sender.

6       **WHEREAS**, on November 18, 2003 Respondent **MARK KENNISON** was  
7 duly served with a true copy of the Order and Notice by United  
8 States Mail, first class postage prepaid, addressed to  
9 Respondent **MARK KENNISON** at the following two last known  
10 addresses: 1200 Washington Road, Washington, Pennsylvania 15301  
11 and 10 Holly Ridge Drive, Washington, Pennsylvania 15301. The  
12 "Washington Road" mailing was returned marked "not deliverable  
13 as addressed, unable to forward." The "Holly Ridge Drive"  
14 mailing was not returned to sender.

15       **WHEREAS**, on November 18, 2003 Respondent **MARK KENNISON** was  
16 duly served with a true copy of the Order and Notice by  
17 certified United States Mail (Items #7000 1670 0010 4289 4441  
18 and #7000 1670 0010 4289 4434), postage prepaid, and addressed  
19 to Respondent **MARK KENNISON** at the following two last known  
20 addresses: 1200 Washington Road, Washington, Pennsylvania 15301  
21 and 10 Holly Ridge Drive, Washington, Pennsylvania 15301. The  
22 "Washington Road" mailing was returned marked "not deliverable  
23 as addressed, unable to forward." The "Holly Ridge Drive"  
24 mailing was returned to sender marked "unclaimed."

25       **WHEREAS**, on November 18, 2003 Respondent **HARRY PROUDFOOT**  
26 **III** was duly served with a true copy of the Order and Notice by

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1 United States Mail, first class postage prepaid, addressed to  
2 Respondent **HARRY PROUDFOOT III** at the following last known  
3 address: 14920 SW Peachtree Drive, Tigard, Oregon 97224. This  
4 mailing was returned to sender, marked "forwarding time expired,  
5 return to sender."

6 **WHEREAS**, on November 18, 2003 Respondent **HARRY PROUDFOOT**  
7 **III** was duly served with a true copy of the Order and Notice by  
8 certified United States Mail (Item #7000 1670 0010 4289 4427),  
9 postage prepaid, and addressed to Respondent **HARRY PROUDFOOT III**  
10 at the following last known address: 14920 SW Peachtree Drive,  
11 Tigard, Oregon 97224. This mailing was returned to sender,  
12 marked "forwarding time expired, return to sender."

13 **NOW THEREFORE**, after consideration of the Investigation  
14 Report and accompanying exhibits submitted in this matter by  
15 David T. Weiss, Securities Enforcement Officer, the Director,  
16 aware that the period of time for these Respondents to request a  
17 hearing has passed, hereby issues the following Findings of  
18 Fact, Conclusions of Law, and Final Order, to wit;

#### FINDINGS OF FACT

21 The Director **FINDS** that:

#### **Section One: Parties and Licensure**

22  
23 1. Respondent **NATIONAL EQUIPMENT PROVIDERS** (hereafter  
24 "National Equipment Providers" or "NEP") was, at all times  
25 material herein, a for profit limited liability company  
26 organized on October 25, 1999 (the same day of organization as



1 SPA Marketing) under the laws of the State of Nevada. National  
2 Equipment Providers offered investments in its ATM program to  
3 members of the public. National Equipment Providers' last known  
4 business address is 415 Williamson Way, Suite 7, Ashland, Oregon  
5 97520.

6 2. Respondent **SPA MARKETING** (hereafter "SPA MARKETING") was,  
7 at all times material herein, a for profit limited liability  
8 corporation organized on October 25, 1999 (the same day of  
9 organization a's National Equipment Providers) under the laws of  
10 the State of Nevada. SPA Marketing developed and managed the  
11 sales efforts for National Equipment Providers, recruiting and  
12 supervising the independent insurance agents that offered the  
13 NEP investment to members of the public. SPA Marketing's last  
14 known business addresses are 415 Williamson Way, Suite 7,  
15 Ashland, Oregon 97520 and 1200 Washington Road, Suite 203,  
16 Washington, Pennsylvania 15301.

17 3. Respondent **WALTER THEIS** (hereafter "Theis") was, at all  
18 times material herein, the owner of ninety percent (90%) of the  
19 outstanding shares of National Equipment Providers. Theis  
20 controlled the policy of NEP and directed the actions of the  
21 company's Managing Director. Theis's last known business address  
22 is 394 E. Brentford Circle, Highlands Ranch, Colorado 80126.

23 4. Respondent **ROSS RAMBACH** (hereafter "Rambach") was, at all  
24 times material herein, the co-founder and co-managing member of  
25 SPA Marketing and a minority shareholder of National Equipment  
26 Providers. Rambach's last known business address is 415

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1 Williamson Way, Suite #7, Ashland, Oregon 97520. Rambach's last  
2 known residential address is 131 Gaerky Rd, Ashland, Oregon  
3 97520.

4 5. Respondent **MARK KENNISON** (hereafter "Kennison") was, at  
5 all times material herein, the co-founder and co-managing  
6 member of SPA Marketing and a minority shareholder of National  
7 Equipment Providers. Kennison's last known business address is  
8 1200 Washington Rd, Washington, Pennsylvania 15301. Kennison's  
9 last known residential address is 10 Holly Ridge Drive,  
10 Washington, Pennsylvania 15301.

11 6. Respondent **HARRY PROUDFOOT III** (hereafter "Proudfoot")  
12 was, at all times material herein, a sales agent for National  
13 Equipment Providers. Proudfoot's last known business address is  
14 14920 SW Peachtree Drive, Tigard, Oregon 97224.

15 7. Respondent **NATIONAL EQUIPMENT PROVIDERS** has not, at all  
16 times material herein, been licensed as a broker-dealer in this  
17 state, nor has its ATM investment program ever been registered  
18 as a securities offering with the Oregon Division of Finance and  
19 Corporate Securities.

20 8. Respondent **SPA MARKETING** has not, at all times material  
21 herein, been licensed as a broker-dealer in this State.

22 9. Respondent **WALTER THEIS** was not, at all times material  
23 herein, a licensed securities salesperson in this State. Theis  
24 has never held a securities license in Oregon.

25 10. Respondent **ROSS RAMBACH** (CRD#1305913) was not, at all  
26 times material herein, a licensed securities salesperson in this

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1 State. From 1984 to 1996 Rambach possessed a limited license  
2 ("Series 6") to sell securities, permitting him to lawfully sell  
3 some types of securities, such as mutual funds, but not other  
4 types of securities, including investment contracts, notes, and  
5 instruments evidencing indebtedness. Rambach has been the  
6 subject of a final Order to Cease and Desist instituted by the  
7 Oregon Division of Finance and Corporate Securities (Case No.  
8 0-97-0022, *In the Matter of Personal Choice Opportunities and*  
9 *Ross Rambach, et al*).

10 11. Respondent **MARK KENNISON** was not, at all times  
11 material herein, a licensed securities salesperson in this  
12 State. Kennison has never held a securities license in Oregon.

13 12. Respondent **HARRY PROUDFOOT** was not, at all times  
14 material herein, a licensed securities salesperson in this  
15 State. Proudfoot has never held a securities license in Oregon.  
16 Proudfoot has been the subject of a final Order to Cease and  
17 Desist instituted by the Oregon Division of Finance and  
18 Corporate Securities (Case No. 0-91-0030, *In the Matter of Harry*  
19 *Dean Proudfoot III, et al*).

20 **Section Two: The National Equipment Providers ATM Program**

21 13. National Equipment Providers, LLC was formed on  
22 October 25, 1999 with Respondents **THEIS, RAMBACH,** and **KENNISON**  
23 as Members. Respondent **THEIS** owns ninety percent (90%) of the  
24 entity, while Respondents **RAMBACH** and **KENNISON** each hold five  
25 percent (5%) interests. The NEP "program" consisted of the  
26 purchase of an ATM and ATM related services (leasing a retail

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1 site for the ATM, installation of the ATM, placing signage on  
2 the ATM) and the concurrent entry into a five year "management"  
3 agreement for that ATM with the NEP approved service provider.

4 14. An Automatic Teller Machine ("ATM") allows individuals  
5 to perform specified financial transactions (cash withdrawals,  
6 checking deposits, transfers between accounts, etc) twenty four  
7 hours a day. Initially located exclusively at bank branches,  
8 ATMs are now frequently stand alone devices located in  
9 supermarkets, shopping malls, and other retail locations.

10 15. ATMs, which instantly access an accountholder's  
11 balance and transaction history, must be connected to an ATM  
12 "network", a collection of financial institutions which share  
13 data that allows access to the requisite information. A  
14 particular ATM may participate in one or more networks, which  
15 are usually identified prominently on the machine's signage.

16 16. The vast majority of ATMs are owned by financial  
17 institutions. While some financial institutions absorb network  
18 costs as part of their overhead, a significant number of  
19 institutions levy a fee of between \$1.00 and \$2.50 per ATM  
20 transaction. There are very few individual owners of functioning  
21 ATM machines because the cost of entry is prohibitive:

22 connecting an ATM to a major ATM network requires an investment  
23 of approximately \$90,000.00, an amount that cannot be justified  
24 by a single machine's returns.

25 17. The National Equipment Providers ATM program consisted  
26 of the concurrent entry by an investor into two contractual

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1 arrangements: one for the purchase of the National Equipment  
2 Providers ATM, another for the management of that same ATM.  
3 The two agreements were presented and promoted simultaneously as  
4 part and parcel of a single investment transaction by the NEP  
5 sales agent to the investor.

6 18. The first prong of the NEP program called for the  
7 payment by investor of the sum of \$12,250 for the ATM unit. This  
8 price included not only the ATM - a "Wincor Nixdorf ProCash  
9 Compact ATM" - but also a series of services provided by  
10 entities National Equipment Providers contracted with. The  
11 included services were an \$800 allowance for "service and third  
12 party administration" (technical installation and network  
13 connection), a \$750 allowance for "location services"  
14 ("location" refers to the act of finding a retail location for  
15 the machine), and a \$250 allowance for the "signage package."  
16 The allowances were paid directly by NEP to the provider of the  
17 services.

18 19. The National Equipment Providers investor never took  
19 possession of the ATM he purchased. The ATM was delivered  
20 directly from the manufacturer to the warehouse of International  
21 Technology Services, the entity that managed the National  
22 Equipment machines on investors' behalf.

23 20. The second prong of the National Equipment Providers  
24 ATM program involved the investor's entry into a five year  
25 management agreement with International Technology Services  
26 (hereafter "ITS") under which ITS managed the ATM on the

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1 investor's behalf in exchange for a percentage of transaction  
2 revenue. International Technology Services, which also does  
3 business under the name "ATM Financial Services", is a Florida  
4 corporation founded in 1996 by its President, Vance Moore. ITS  
5 provides a variety of services to the ATM industry. It had no  
6 common ownership or affiliation with National Equipment  
7 Providers beyond a contractual relationship.

8       21. The National Equipment Providers investor would, at  
9 the time he purchased the ATM unit, theoretically have to choose  
10 between operating the ATM himself or contracting with the  
11 National Equipment Providers recommended service provider (only  
12 one provider, ITS, was recommended, and no alternate choices  
13 were provided) to service the ATM. The tasks of managing an ATM  
14 are formidable: the ATM proprietor must join at least one ATM  
15 network at considerable expense just to place the machine in  
16 service, must select a location for the ATM and enter into a  
17 lease of said site, must install the machine, must ensure that  
18 sufficient cash is in the machine, and must keep the ATM clean  
19 and in good operational order. As a matter of economic reality  
20 only one choice was feasible, as the investors - many of them  
21 elderly - were so inexperienced and unknowledgeable about the  
22 operation of an ATM that they were incapable of intelligently  
23 exercising any control of their ATM, not to mention actually  
24 managing such a machine on an ongoing basis.

25       22. The NEP program was designed to be a passive  
26 investment in which the investor did not perform a single

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1 management task (it was for that reason that the purchase price  
2 included the cost of the "allowances" that a traditional  
3 equipment re-seller would not provide). Not surprisingly, all  
4 but one of the 307 investors chose the NEP contracted service  
5 provider to manage their NEP ATM for them.

6       23. The ITS management contract (formally known as the  
7 "service and third party administration agreement") was for a  
8 five year period. (The service contract with ITS automatically  
9 renewed beyond its initial five year term for another five year  
10 period unless an investor gave six month's notice prior to the  
11 conclusion of the first term.) Under this contract ITS would  
12 provide for installation of the ATM, ensure functioning data  
13 processing services existed for the ATM, monitor the cash  
14 inventory supply, maintain insurance on the equipment, contract  
15 with an ATM network processor, provide supplies and required  
16 maintenance, collect revenues and fees, and provide detailed  
17 monthly statements to the investor accounting for each ATM  
18 transaction. These services were provided in exchange for thirty  
19 five percent (35%) of monthly transaction revenue (the investor  
20 was to receive sixty five percent (65%) of post operating cost  
21 profit). However, an important clause in the ITS contract stated  
22 that if an ATM did not have enough transaction revenue to meet  
23 contractually defined "operating costs" (such basic expenses as  
24 armored car services, modem/phone line charges, etc) the NEP  
25 investor was responsible for sixty five percent (65%) of the  
26 losses (the difference between the operating cost expense and

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1 the gross revenue for the ATM) for that month, and would be  
2 invoiced for this deficit.

3 24. As an additional element of the National Equipment  
4 Providers program, investors were told that they could - but  
5 were not obligated to - contract with a National Equipment  
6 Providers affiliated entity (ATMN, jointly owned by Respondents  
7 **RAMBACH** and **KENNISON**) that would provide additional "services"  
8 for a National Equipment Providers ATM for a fee. NEP investors  
9 could join the "Advanced Technology and Media Network" (\$750 for  
10 advertising and promotion), the "Basic package to the Business  
11 Resource Center" (\$250 for unspecified services), and the "Plus  
12 package to the Business Resource Center" (\$250 for unspecified  
13 services). Each of these undefined subscriptions would  
14 purportedly increase the transaction revenue for the NEP  
15 machine. Despite being a key part of the NEP sales presentation  
16 (NEP differentiated its ATM from traditional bank ATMs by noting  
17 its capacity to garner, for example, advertising and ticket  
18 sales revenue), none of these options was ever active during  
19 NEP's operating tenure.

20 **Section Three: Selling The National Equipment Providers Program**

21 25. The National Equipment Providers ATM program was sold  
22 to members of the public by independent insurance agents  
23 recruited by **SPA MARKETING**. NEP and SPA Marketing, closely  
24 affiliated entities with overlapping ownership (Respondents  
25 **RAMBACH** and **KENNISON** each owned fifty percent of SPA Marketing  
26 and five percent of NEP), entered into a contractual arrangement

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1 whereby SPA Marketing received 25% of the \$12,250 purchase price  
2 of each NEP ATM as compensation for its marketing services. In  
3 turn, SPA Marketing usually tendered 10% of the purchase price  
4 of the ATM to the sales agent as compensation for his efforts.

5       26. **SPA MARKETING** generally interested potential sales  
6 representatives by placing ads in publications that reached  
7 independent insurance agents (one such advertisement advised  
8 agents that "For a total \$12,250 cost, your client will have a  
9 complete turnkey business package including equipment, location,  
10 management, and service"), although it did retain some portion  
11 of its sales force by use of word of mouth (agents would recruit  
12 insurance industry colleagues, who would become subagents).

13       27. **SPA MARKETING** compiled a detailed "Training Manual"  
14 for agents selling the NEP program. Sales agents were also  
15 provided with copies of NEP's eight page glossy sales brochure  
16 entitled "Earn Monthly Net Income PLUS Beneficial Business Tax  
17 Credits and Deductions With New Concepts in Equipment-Based  
18 Businesses" This document was, excluding the boilerplate  
19 language in the equipment and service contracts, the only  
20 written information about NEP given by a sales agent to a  
21 prospective investor. The brochure's language is so general and  
22 vague as to be uninformative and acts more as "sales puffery"  
23 than securities disclosure. Of import, however, the brochure  
24 does note: "[w]ith the NEP equipment solution, you can own  
25 Internet ready, PC based ATMs designed to exhibit full color,  
26 full motion multimedia advertising with the capability to

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1 dispense cash, stamps, vouchers/gift certificates, coupons,  
2 tickets and pre paid telephone calling cards. Opportunities for  
3 NEP's open technology equipment, especially those connected to  
4 advertising and promotion networks, are emerging every day!...By  
5 connecting to advanced technology and media networks, "Smart  
6 ATMs" can generate income from surcharge fees, bank fees,  
7 local/regional/national advertising, and numerous product and  
8 service innovations in e Commerce and new media that are  
9 emerging daily." While these assertions certainly constituted an  
10 effective sales "story line" for the agents, at the time all NEP  
11 sales were made neither NEP nor ITS had any non cash transaction  
12 platforms they could offer to NEP investors.

13       28. Potential National Equipment Providers investors were  
14 not given either audited or unaudited financial statements along  
15 with the above mentioned sales brochure, either of which would  
16 have indicated that National Equipment Providers was a  
17 completely new, untried entity. (Investors were never directly  
18 told this basic fact.) However, the sales brochure does  
19 prominently display a chart titled "Sample Equipment Budget  
20 (Income and Expenses)" The chart provides a series of three  
21 financial projections based on a differing number of  
22 surchargeable (fee) transactions each month: if there are 300  
23 transactions at \$2.00 each, the NEP investor could expect to  
24 receive a net of \$254.95; for 450 transactions, monthly net  
25 income could be \$335.80; should 750 transactions occur, the  
26 investor could expect to garner a net of \$492.25. This chart is

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1 in regular print prominently displayed in the middle of the  
2 page. The "Sample Equipment Budget" chart certainly does an  
3 effective job conveying the fact that investor revenue is  
4 dependent on the number of transactions each month. However, an  
5 unfamiliar prospect could not escape the conviction that the  
6 company's estimate was that transactions would fall somewhere in  
7 the vicinity of 300-750 per month, and could not reasonably  
8 suspect that NEP would pull these numbers out of thin air, as a  
9 persuasive tool, despite language in tiny print (8 point font)  
10 at the bottom of the same page which noted: This is a sample  
11 budget only and does not reflect actual experience for any  
12 specific piece of equipment. Currently information concerning  
13 actual results on the subject equipment does not exist and is  
14 not available... PROJECTED INCOME ONLY AND NOT A GUARANTEE OF  
15 ACTUAL EXPERIENCE OR RESULTS. Income and Expenses will vary by  
16 location or Network Site. Owner should rely only on personal  
17 analysis of all variables before purchasing equipment for  
18 his/her own business.

19 29. Using the NEP sales brochure as the primary selling  
20 tool, a sales agent would usually contact the agent's clients  
21 that were in or near retirement (the type of client that would  
22 likely have a significant amount of cash or certificates of  
23 deposit in their portfolio) and ask them if they would like to  
24 get a higher return on their money than banks offered. When the  
25 prospect answered in the affirmative, the agent asked to meet  
26 with them, sometimes not even mentioning that the program



1 involved an investment in automatic teller machines.

2 30. Once he was face to face with a prospect, the agent  
3 would give the NEP sales brochure to the potential investor.  
4 Sales agents inevitably harped on the "advanced technology" that  
5 would lead to many different revenue streams (from coupon  
6 distribution to movie tickets to internet transactions) as the  
7 main selling point (a secondary benefit was the possibilities of  
8 tax credits), and usually paid special heed in their comments to  
9 the "Sample Equipment Budget" and its estimated revenue streams.  
10 It must be noted that the disclaimers contained in small print  
11 in the brochure were not repeated orally to potential investors,  
12 who received only "good news" and were not warned of any of the  
13 serious pitfalls with this investment: poor site location,  
14 competitive pressure on transaction fees, etc. (Proof of this  
15 fact is the complete surprise and anger investors exhibited when  
16 they later received invoices for service costs because their  
17 ATMs had transaction revenue below ITS's operating costs: the  
18 investors never considered the possibility of losses because the  
19 sales agents' comments were so sunny.)

#### 20 **Section Five: Operational Difficulties**

21 31. National Equipment Providers operated for a short  
22 period of time. It sold 306 ATM investment programs nationwide  
23 between January and April, 2000, raising a total of  
24 \$3,748,500.00 (six Oregonians invested \$73,500.00).

25 32. The short duration of the National Equipment Providers  
26 program was largely a result of the breakdown in the

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1 relationship between National Equipment Providers and its  
2 management provider, ITS. An ATM is only as productive as the  
3 site it is located on because "foot traffic" significantly  
4 impacts revenues. ATM siting at this late stage of the  
5 technology's development is an extremely difficult process: the  
6 best sites with the most foot traffic were taken long ago by  
7 large financial institutions and real estate management  
8 companies. The sites on which National Equipment Providers ATMs  
9 were placed generated little foot traffic, which in turn  
10 generated few ATM transactions. (Of note, potential investors,  
11 completely reliant on NEP/ITS for placement of their unit, were  
12 never informed of the difficulty of obtaining productive sites.)  
13 As a result, investors began receiving not checks but invoices  
14 for their portion of operating losses. Because this was  
15 happening on nearly every ATM, it became obvious that there was  
16 a deep structural problem with the NEP program. NEP blamed ITS  
17 for mismanaging the ATMs, while ITS asserted that the problem  
18 was the poor sites that NEP chose for the units. In addition,  
19 ITS stated that NEP had sold a number of ATMs to investors that  
20 ITS was purportedly managing but in fact never received machines  
21 for. The parties ceased conducting business with each other, and  
22 SPA Marketing arranged for another service provider, US Cash  
23 Exchange, to take over the management of some machines, with no  
24 better success.

25 33. Investors are currently receiving either no revenues  
26 or are receiving amounts significantly below NEP's "estimates."

1                   **Section Five: Misrepresentations and Omissions**

2           34. The securities offered by Respondents were not  
3 registered with the Oregon Division of Finance and Corporate  
4 Securities. Furthermore, Respondents were not licensed to sell  
5 this particular type of security by the Oregon Division of  
6 Finance and Corporate Securities.

7           35. Respondents made the following *misrepresentation* in  
8 connection with the offer and/or sale of the NEP investment  
9 program: Respondents impliedly represented that the NEP ATM  
10 would have between 300-750 transactions a month; in point of  
11 fact, none of the NEP ATM's reached such volume (the NEP sales  
12 brochure that prominently displayed a "Sample Equipment Budget"  
13 had projections as to possible monthly net earnings that, as the  
14 footnote to the chart indicates, "does not indicate actual  
15 experience", but were nevertheless graphically portrayed with  
16 such prominence as to be impossible not to influence the  
17 prospective investor to believe that if the projections were not  
18 based on actual experience there was still strong reason to  
19 think such a revenue stream was feasible.

20           36. Respondents *omitted to state* the following in  
21 connection with the offer and/or sale of the NEP investment  
22 program: (i) the NEP program was required to be registered as a  
23 security offering with the Division of Finance and Corporate  
24 Securities and was not; (ii) their sales agent was not licensed  
25 by the Oregon Division of Finance and Corporate Securities to  
26 sell this type of security; (iii) the factors NEP and/or ITS

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1 would employ to make the revenue determinative decision of where  
2 to locate the ATM so as to maximize foot traffic; (iv) the true  
3 and accurate management background and industry experience of  
4 Ross Rambach, Walter Theis, Mark Kennison, Vance Moore/ITS, etc;  
5 (v) the securities disciplinary history of Ross Rambach and  
6 Harry Proudfoot; (vi) the fact that should the purchaser not  
7 contract with ITS or another service provider the cost of  
8 joining an institutional ATM network such as Cirrus or Novus was  
9 substantial; (vii) the lack of operating history of the National  
10 Equipment Providers program; (viii) the fact that non cash  
11 dispersal services touted by NEP, such as coupon and event  
12 ticket dispersal, were in their infancy and that no revenue  
13 stream could be currently expected and in fact might never be  
14 expected from these sources; (ix) the significant and substantial  
15 risks with this investment, along with a description of the  
16 nature of said risks, including the fact that competition in the  
17 marketplace might cause transaction fees to fall industrywide  
18 and that high transaction fees might be the subject of  
19 congressional or governmental scrutiny, etc; (x) and detailed  
20 financial information, whether audited or unaudited, about NEP  
21 and its related entities.

#### CONCLUSIONS OF LAW

22  
23  
24 The Director **CONCLUDES** that:

25 1. The investments in the National Equipment Providers  
26 ATM program which were offered and sold by Respondents are a

1 "security" as defined in ORS 59.015(19) (a).

2 2. Respondents, either directly or by materially  
3 participating and/or aiding or abetting offered and/or sold  
4 unregistered securities in the State of Oregon in violation of  
5 ORS 59.055.

6 3. Respondents offered and/or sold a security in the  
7 State of Oregon without being licensed as a broker-dealer or  
8 broker-dealer salesperson in violation of ORS 59.165(1).

9 4. Respondents made the following *misrepresentation* in  
10 connection with the offer and/or sale of the NEP investment  
11 program: Respondents impliedly represented that the NEP ATM  
12 would have between 300-750 transactions a month; in point of  
13 fact, none of the NEP ATM's reached such volume (the NEP sales  
14 brochure that prominently displayed a "Sample Equipment Budget"  
15 had projections as to possible monthly net earnings that, as the  
16 footnote to the chart indicates, "does not indicate actual  
17 experience", but were nevertheless graphically portrayed with  
18 such prominence as to be impossible not to influence the  
19 prospective investor to believe that if the projections were not  
20 based on actual experience there was still strong reason to  
21 think such a revenue stream was feasible, which was an untrue  
22 statement of a material fact and/or an omission to state a  
23 material fact necessary in order to make the statements made, in  
24 the light of the circumstances under which they were made, not  
25 misleading in violation of ORS 59.135(2).

26 5. Respondents *omitted to state* the following in



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1 connection with the offer and/or sale of the NEP investment  
2 program: (i) the NEP program was required to be registered as a  
3 security offering with the Division of Finance and Corporate  
4 Securities and was not; (ii) their sales agent was not licensed  
5 by the Oregon Division of Finance and Corporate Securities to  
6 sell this type of security; (iii) the factors NEP and/or ITS  
7 would employ to make the revenue determinative decision of where  
8 to locate the ATM so as to maximize foot traffic; (iv) the true  
9 and accurate management background and industry experience of  
10 Ross Rambach, Walter Theis, Mark Kennison, Vance Moore/ITS, etc;  
11 (v) the securities disciplinary history of Ross Rambach and  
12 Harry Proudfoot; (vi) the fact that should the purchaser not  
13 contract with ITS or another service provider the cost of  
14 joining an institutional ATM network such as Cirrus or Novus was  
15 substantial; (vii) the lack of operating history of the National  
16 Equipment Providers program; (viii) the fact that non cash  
17 dispersal services touted by NEP, such as coupon and event  
18 ticket dispersal, were in their infancy and that no revenue  
19 stream could be currently expected and in fact might never be  
20 expected from these sources; (ix) the significant and substantial  
21 risks with this investment, along with a description of the  
22 nature of said risks, including the fact that competition in the  
23 marketplace might cause transaction fees to fall industrywide  
24 and that high transaction fees might be the subject of  
25 congressional or governmental scrutiny, etc; (x) and detailed  
26 financial information, whether audited or unaudited, about NEP

1 and its related entities, all of which are untrue statements of  
2 a material fact and/or omissions to state a material fact  
3 necessary in order to make the statements made, in the light of  
4 the circumstances under which they were made, not  
5 misleading in violation of ORS 59.135(2).

6

7

ORDER

8 Therefore, the Director **ORDERS**

9 1. That Respondent's shall cease and desist from offering  
10 and/or selling securities to persons in the State of Oregon in  
11 violation of ORS Chapter 59, OAR Chapter 441, or the Oregon  
12 securities law.

13 2. That Respondent **NATIONAL EQUIPMENT PROVIDERS** is  
14 ordered to pay the sum of **FIFTY THOUSAND DOLLARS** (\$50,000.00) as  
15 a civil penalty for violations of ORS 59.055, ORS 59.135, and  
16 ORS 59.165 described herein.

17 3. That Respondent **SPA MARKETING** is ordered to pay the  
18 sum of **FIFTY THOUSAND DOLLARS** (\$50,000.00) as a civil penalty  
19 for violations of ORS 59.055, ORS 59.135, and ORS 59.165  
20 described herein.

21 4. That Respondent **ROSS RAMBACH** is ordered to pay the sum  
22 of **FIFTY THOUSAND DOLLARS** (\$50,000.00) as a civil penalty for  
23 violations of ORS 59.055, ORS 59.135, and ORS 59.165 described  
24 herein.

25 5. That Respondent **MARK KENNISON** is ordered to pay the  
26 sum of **FIFTY THOUSAND DOLLARS** (\$50,000.00) as a civil penalty

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1 for violations of ORS 59.055, ORS 59.135, and ORS 59.165  
2 described herein.

3 6. That Respondent **HARRY PROUDFOOT** is ordered to pay the  
4 sum of **TWENTY FIVE THOUSAND DOLLARS** (\$25,000.00) as a civil  
5 penalty for violations of ORS 59.055, ORS 59.135, and ORS 59.165  
6 described herein.

7 7. Respondents are hereby denied use of any exemptions  
8 authorized by ORS and ORS 59.035, until further order of the  
9 Director, pursuant to ORS 59.045.

10 8. Respondents are prohibited from applying for an Oregon  
11 securities license for a period of ten years from the date of  
12 the entry of this Order, pursuant to ORS 59.205.

13  
14

**IT IS SO ORDERED.**


15

16 Dated this 15th day of December, 2003, NUNC PRO TUNC November  
17 18, 2003 at Salem, Oregon.

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**CORY STREISINGER, DIRECTOR**  
**DEPARTMENT OF CONSUMER & BUSINESS**  
**SERVICES**  
**STATE OF OREGON**

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