

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

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In the Matter of  
TRI-FINANCIAL GROUP, INC., DAVID A.  
NICKERSON, ROBERT J. SCOTT, CLYDE A.  
SINCLAIR, and JOHN N. ALEXANDER,

PETITION FOR ORDER

Respondent.

File No. S-98274(EX)

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The staff of the Enforcement Unit, Registration & Enforcement Section, of the Division of Securities, Department of Financial Institutions, State of Wisconsin has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof alleges as follows:

1. Tri-Financial Group, Inc. ("Tri-Financial") is a foreign business entity with a last known business address of 900 E. Front St, Traverse City, MI 49684
2. David A. Nickerson (CRD #1148652; DOB 8/16/51) ("Nickerson") is an individual who at all times material hereto has been the President of Tri-Financial, with a last known business address at that of Tri-Financial.
3. Robert J. Scott ("Scott") is an individual who at all times material hereto has been the Vice President & CFO of Tri-Financial, with a last known business address at that of Tri-Financial.
4. Clyde A. Sinclair (CRD #1392652; DOB 12/3/49) ("Sinclair") is an individual who at all times material hereto has been the Vice President – Administration of Tri-Financial, with a last known business address at that of Tri-Financial.
5. John N. Alexander (CRD #1218108; DOB 11/9/56) ("Alexander ") is an individual who at all times material hereto has been the Vice President –New Agent Recruitment of Tri-Financial, with a last known business address at that of Tri-Financial.
6. During the period from at least September 1998 to March 1999, agents on behalf of Tri-Financial, Nickerson, Scott, Sinclair, and Alexander, offered and sold to at least twelve persons in Wisconsin investment interests in payphones.
7. The payphones and contracts to fully service them are sold as a package, with the investors receiving a share of the profits.
8. Upon information and belief, this is an investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor.
9. The payphone investments offered and sold by the Respondents are investment contracts as defined by section DFI-Sec. 1.02(6)(a), Wis. Adm. Code, and are therefore securities as defined by sec. 551.02(13), Wis. Stats..
10. The investment contracts described above have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.

11. All Respondents have violated sec. 551.21(1), Wis. Stats., by offering and selling unregistered securities in Wisconsin.
12. In connection with the offers of the securities described above, Tri-Financial transacted business in Wisconsin as a "broker-dealer," as that term is defined by sec. 551.02(3), Wis. Stats.
13. At no time has Tri-Financial been licensed as a securities broker-dealer pursuant to Ch. 551, Wis. Stats.
14. Tri-Financial has violated sec. 551.31(1), Wis. Stats., by transacting business in Wisconsin as a broker-dealer without a license.
15. Tri-Financial, Nickerson, Scott, Sinclair, and Alexander have violated sec. 551.31(2), Wis. Stats., by employing an unlicensed agent to represent them in Wisconsin.
16. On August 5, 1987, Nickerson was censured and barred from association with any member in any capacity by the National Association of Securities Dealers.
17. In connection with the offer of the securities described in Paragraph 6, the Respondents omitted to disclose the action referred to in Paragraph 16.
18. All Respondents have violated sec. 551.41(2), Wis. Stats., by omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in connection with the offer and sale of securities to persons in Wisconsin.
19. On or about February 17, 1999, staff of the Division of Securities mailed a letter dated February 17, 1999, to Tri-Financial and Nickerson stating: "We are advised that your firm is offering and selling pay-telephone investments involving leases. This is to warn you that such promotions when they involve the offer of certain "services" to the investor involve the offers and sales of investment-contract "securities," within the jurisdiction of the securities laws of all the States, including Wisconsin, as well as of the federal securities laws. Wilful violation of any of the requirements of any such securities laws, including Wisconsin's, are criminal offenses. In Wisconsin, such criminal offenses are punishable as felonies."
20. In August 1999, the Wisconsin Office of the Commissioner of Insurance informed the Division of Securities that a Wisconsin-licensed insurance agent was being solicited by Tri-Financial to obtain investors for the Phoenix Telecom pay-phone business.
21. On September 9, 1999 the State of Minnesota issued a Cease and Desist Order against Tri Financial, based on allegations of securities law violations.
22. On September 17, 1999, the State of Kansas issued an Emergency Cease and Desist Order against Tri-Financial, based on allegations of securities law violations.
23. On October 28, 1999, the State of Montana issued a Cease and Desist Order against Tri-Financial, based on allegations of securities law violations.

Therefore, the staff of the Enforcement Unit petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Ch. 551, Wis. Stats.

Mark E. Dorman 4-17-00  
 Mark E. Dorman Date  
 Examiner  
 Enforcement Unit

David A. Cohen 4/17/00  
 David A. Cohen Date  
 Supervising Attorney  
 Enforcement Unit

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

---

In the Matter of  
TRI-FINANCIAL GROUP, INC.,

ORDER OF PROHIBITION  
AND REVOCATION  
(CONSENT)

Respondent.

File No. S-98274(EX)

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Based upon the attached Petition for Order and Waiver and Consent to Order I find that this action is necessary and appropriate in the public interest and for the protection of investors;

Therefore, pursuant to sec. 551.63, Wis. Stats.,

IT IS ORDERED THAT:

- a. Tri-Financial Group, Inc., its successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity and person directly or indirectly controlled or organized by or on its behalf, are prohibited from making or causing to be made to any person or entity in Wisconsin any further offers or sales of securities unless and until such securities are registered under Ch. 551, Wis. Stats., or successor statute.
- b. All exemptions from registration set forth at Ch. 551, Wis. Stats., or successor statute, that might otherwise apply to any offer or sale of any security of or by Tri-Financial Group, Inc., its successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity or person directly or indirectly controlled or organized by or on its behalf, are hereby revoked.
- c. Tri-Financial Group, Inc., its successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on its behalf, are prohibited from violating sec. 551.41, Wis. Stats., or successor statute.
- d. Tri-Financial Group, Inc., its successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on its behalf, are prohibited from transacting business as a broker-dealer in Wisconsin unless licensed under Ch. 551, Wis. Stats., or successor statute, or excepted from the licensing requirement.
- e. Tri-Financial Group, Inc., its successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on its behalf, are prohibited from employing an agent to represent them in

Wisconsin unless the agent is licensed under Ch. 551, Wis. Stats., or successor statute, or excepted from the licensing requirement.

EXECUTED at Madison, Wisconsin, this 27<sup>th</sup> day of April, 2000.

(SEAL)

  
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Patricia D. Struck  
Administrator  
Division of Securities

NOTICE

You are advised that any wilful violation of an Order issued by the Administrator of the Division of Securities of the Department of Financial Institutions of the State of Wisconsin under Ch. 551, Wis. Stats., is a criminal offense punishable under the provisions of sec. 551.58, Wis. Stats.

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

In the Matter of  
TRI-FINANCIAL GROUP, INC.,

Respondent.

WAIVER AND CONSENT  
TO ORDER

File No. S-98274(EX)

The undersigned Respondent, having decided not to contest the issuance of the attached Order, hereby waives its right to a hearing with respect to this matter and hereby consents to the issuance of the Order;

The undersigned Respondent understands that the Order is effective when signed by the Administrator of the Division of Securities and that a wilful violation of an Order signed by the Administrator is a criminal offense.

EXECUTED this 20<sup>th</sup> day of March, 2000.

TRI-FINANCIAL GROUP, INC.

  
by President  
DAVID H. NICKERSON  
(Type name and title)

State of Michigan )  
County of Leelanau )

Subscribed before me this

20th day of March, 2000.

Diane M. Conklin  
Notary Public Diane M. Conklin  
Leelanau County, Michigan  
My commission expires 7-27-2003

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

In the Matter of  
DAVID A. NICKERSON,

ORDER OF PROHIBITION  
AND REVOCATION  
(CONSENT)

Respondent.

File No. S-98274(EX)

Based upon the attached Petition for Order and Waiver and Consent to Order I find that this action is necessary and appropriate in the public interest and for the protection of investors;

Therefore, pursuant to sec. 551.63, Wis. Stats.,

IT IS ORDERED THAT:

- a. David A. Nickerson, his agents, servants, employees, and every entity and person directly or indirectly controlled or organized by or on his behalf, are prohibited from making or causing to be made to any person or entity in Wisconsin any further offers or sales of securities unless and until such securities are registered under Ch. 551, Wis. Stats., or successor statute.
- b. All exemptions from registration set forth at Ch. 551, Wis. Stats., or successor statute, that might otherwise apply to any offer or sale of any security of or by David A. Nickerson, his agents, servants, employees, and every entity or person directly or indirectly controlled or organized by or on his behalf, are hereby revoked.
- c. David A. Nickerson, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from violating sec. 551.41, Wis. Stats., or successor statute.
- d. David A. Nickerson, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from employing an agent to represent them in Wisconsin unless the agent is licensed under Ch. 551, Wis. Stats., or successor statute, or excepted from the licensing requirement.

EXECUTED at Madison, Wisconsin, this 27<sup>th</sup> day of April, 2000.

(SEAL)

  
\_\_\_\_\_  
Patricia D. Struck  
Administrator  
Division of Securities

NOTICE

You are advised that any wilful violation of an Order issued by the Administrator of the Division of Securities of the Department of Financial Institutions of the State of Wisconsin under Ch. 551, Wis. Stats., is a criminal offense punishable under the provisions of sec. 551.58, Wis. Stats.

BEFORE THE  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES  
STATE OF WISCONSIN

In the Matter of  
DAVID A. NICKERSON,

WAIVER AND CONSENT  
TO ORDER

Respondent.

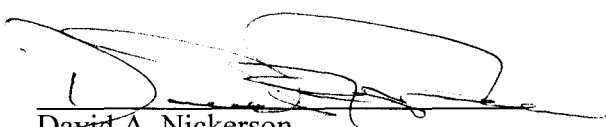
File No. S-98274(EX)

The undersigned Respondent, having decided not to contest the issuance of the attached Order, hereby waives his right to a hearing with respect to this matter and hereby consents to the issuance of the Order;

The undersigned Respondent understands that the Order is effective when signed by the Administrator of the Division of Securities and that a wilful violation of an Order signed by the Administrator is a criminal offense.

EXECUTED this 20<sup>th</sup> day of March, 2000.

DAVID A. NICKERSON

  
David A. Nickerson  
(DOB 8/16/51)

State of Michigan     )  
County of Leelanau    )

Subscribed before me this

20th day of March, 2000.

Diane M. Conklin  
Notary Public Diane M. Conklin  
Leelanau County, Michigan  
My commission expires 7-27-2003

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

In the Matter of  
ROBERT J. SCOTT,

ORDER OF PROHIBITION  
AND REVOCATION  
(CONSENT)

Respondent.

File No. S-98274(EX)

Based upon the attached Petition for Order and Waiver and Consent to Order I find that this action is necessary and appropriate in the public interest and for the protection of investors;

Therefore, pursuant to sec. 551.63, Wis. Stats.,

IT IS ORDERED THAT:

- a. Robert J. Scott, his agents, servants, employees, and every entity and person directly or indirectly controlled or organized by or on his behalf, are prohibited from making or causing to be made to any person or entity in Wisconsin any further offers or sales of securities unless and until such securities are registered under Ch. 551, Wis. Stats., or successor statute.
- b. All exemptions from registration set forth at Ch. 551, Wis. Stats., or successor statute, that might otherwise apply to any offer or sale of any security of or by Robert J. Scott, his agents, servants, employees, and every entity or person directly or indirectly controlled or organized by or on his behalf, are hereby revoked.
- c. Robert J. Scott, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from violating sec. 551.41, Wis. Stats., or successor statute.
- d. Robert J. Scott, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from employing an agent to represent them in Wisconsin unless the agent is licensed under Ch. 551, Wis. Stats., or successor statute, or excepted from the licensing requirement.

EXECUTED at Madison, Wisconsin, this 27th day of April, 2000.

(SEAL)



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Patricia D. Struck  
Administrator  
Division of Securities

NOTICE

You are advised that any wilful violation of an Order issued by the Administrator of the Division of Securities of the Department of Financial Institutions of the State of Wisconsin under Ch. 551, Wis. Stats., is a criminal offense punishable under the provisions of sec. 551.58, Wis. Stats.

BEFORE THE  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES  
STATE OF WISCONSIN

In the Matter of  
ROBERT J. SCOTT,

WAIVER AND CONSENT  
TO ORDER

Respondent.

File No. S-98274(EX)

The undersigned Respondent, having decided not to contest the issuance of the attached Order, hereby waives his right to a hearing with respect to this matter and hereby consents to the issuance of the Order;

The undersigned Respondent understands that the Order is effective when signed by the Administrator of the Division of Securities and that a wilful violation of an Order signed by the Administrator is a criminal offense.

EXECUTED this 20<sup>th</sup> day of MARCH, 2000.

ROBERT J. SCOTT



Robert J. Scott  
(DOB 4-9-49)

State of Michigan    )  
County of Leelanau   )

Subscribed before me this

20th day of March, 2000.

Diane M. Conklin  
Notary Public Diane M. Conklin  
Leelanau County, Michigan  
My commission expires 7-27-2003

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

In the Matter of  
CLYDE A. SINCLAIR,

ORDER OF PROHIBITION  
AND REVOCATION  
(CONSENT)

Respondent.

File No. S-98274(EX)

Based upon the attached Petition for Order and Waiver and Consent to Order I find that this action is necessary and appropriate in the public interest and for the protection of investors;

Therefore, pursuant to sec. 551.63, Wis. Stats.,

IT IS ORDERED THAT:

- a. Clyde A. Sinclair, his agents, servants, employees, and every entity and person directly or indirectly controlled or organized by or on his behalf, are prohibited from making or causing to be made to any person or entity in Wisconsin any further offers or sales of securities unless and until such securities are registered under Ch. 551, Wis. Stats., or successor statute.
- b. All exemptions from registration set forth at Ch. 551, Wis. Stats., or successor statute, that might otherwise apply to any offer or sale of any security of or by Clyde A. Sinclair, his agents, servants, employees, and every entity or person directly or indirectly controlled or organized by or on his behalf, are hereby revoked.
- c. Clyde A. Sinclair, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from violating sec. 551.41, Wis. Stats., or successor statute.
- d. Clyde A. Sinclair, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from employing an agent to represent them in Wisconsin unless the agent is licensed under Ch. 551, Wis. Stats., or successor statute, or excepted from the licensing requirement.

EXECUTED at Madison, Wisconsin, this 24<sup>th</sup> day of April, 2000.

(SEAL)

  
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Patricia D. Struck  
Administrator  
Division of Securities

NOTICE

You are advised that any wilful violation of an Order issued by the Administrator of the Division of Securities of the Department of Financial Institutions of the State of Wisconsin under Ch. 551, Wis. Stats., is a criminal offense punishable under the provisions of sec. 551.58, Wis. Stats.

BEFORE THE  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES  
STATE OF WISCONSIN

In the Matter of  
CLYDE A. SINCLAIR,

WAIVER AND CONSENT  
TO ORDER

Respondent.

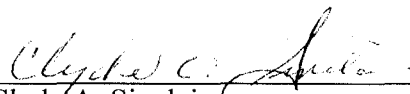
File No. S-98274(EX)

The undersigned Respondent, having decided not to contest the issuance of the attached Order, hereby waives his right to a hearing with respect to this matter and hereby consents to the issuance of the Order;

The undersigned Respondent understands that the Order is effective when signed by the Administrator of the Division of Securities and that a wilful violation of an Order signed by the Administrator is a criminal offense.

EXECUTED this 20 day of March, 2000.

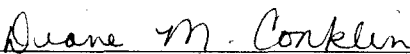
CLYDE A. SINCLAIR

  
Clyde A. Sinclair  
(DOB 12/3/49)

State of Michigan )  
County of Leelanau )

Subscribed before me this

20th day of March, 2000.

  
Notary Public Diane M. Conklin  
Leelanau County, Michigan  
My commission expires 7-27-2003

BEFORE THE  
DIVISION OF SECURITIES  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

In the Matter of  
JOHN N. ALEXANDER,

ORDER OF PROHIBITION  
AND REVOCATION  
(SUMMARY)

Respondent.

File No. S-98274(EX)

Based upon the attached Petition for Order I have reason to believe that unregistered securities have been offered or sold in Wisconsin by an unlicensed person in violation of Ch. 551, Wis. Stats., and that any further offer or sale of unregistered securities by or on behalf of the Respondent would be fraudulent to purchasers and I find that this action is necessary and appropriate in the public interest and for the protection of investors;

Therefore, pursuant to secs. 551.24(2), 551.60(2)(a) and (b) and 551.63, Wis. Stats.,

IT IS ORDERED THAT:

- a. John N. Alexander, his agents, servants, employees, and every entity and person directly or indirectly controlled or organized by or on his behalf, are prohibited from making or causing to be made to any person or entity in Wisconsin any further offers or sales of securities unless and until such securities are registered under Ch. 551, Wis. Stats., or successor statute.
- b. All exemptions from registration set forth at Ch. 551, Wis. Stats., or successor statute, that might otherwise apply to any offer or sale of any security of or by John N. Alexander, his agents, servants, employees, and every entity or person directly or indirectly controlled or organized by or on his behalf, are hereby revoked.
- c. John N. Alexander, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from violating sec. 551.41, Wis. Stats., or successor statute.
- d. John N. Alexander, his agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on his behalf, are prohibited from employing an agent to represent them in Wisconsin unless the agent is licensed under Ch. 551, Wis. Stats., or successor statute, or excepted from the licensing requirement.

EXECUTED at Madison, Wisconsin, this 27th day of April, 2000.

(SEAL)

  
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Patricia D. Struck  
Administrator  
Division of Securities

NOTICE

Under sec. 551.61(2), Wis. Stats., within thirty (30) days after any Order has become effective without a hearing, any interested party may file a written request with the Administrator of the Division of Securities for a hearing in respect to any matters determined by the Order. A request for hearing shall be in the form of a petition for hearing and shall, under section SEC 8.01, Wis. Adm. Code, plainly admit or deny each specific allegation, finding, or conclusion in the Order and incorporated papers (unless the petitioner lacks sufficient knowledge or information to permit an admission or denial, in which case the petition shall so state, and such statement shall have the effect of a denial), and shall state all affirmative defenses.

You are advised that any wilful violation of an Order issued by the Administrator of the Division of Securities of the State of Wisconsin Department of Financial Institutions under Ch. 551, Wis. Stats., is a criminal offense punishable under the provisions of sec. 551.58, Wis. Stats.