

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

WADE COOK FINANCIAL CORP., and  
WADE COOK SEMINARS, INC.,

Defendants.

Case No. C00-1698Z

**MOTION FOR CONTEMPT AND  
SANCTIONS AGAINST WADE COOK  
FINANCIAL CORPORATION, STOCK  
MARKET INSTITUTE OF LEARNING,  
INC., successor to WADE COOK  
SEMINARS, INC., and WADE BRUCE  
COOK; AND SUPPORTING  
MEMORANDUM**

Note on Motions Calendar  
March 15, 2002

**MOTION**

Plaintiff, the Federal Trade Commission ("FTC"), moves this Court for an order holding Wade Cook Financial Corporation ("WCFC"), the Stock Market Institute of Learning, Inc. ("SMIL"), the successor corporation to defendant Wade Cook Seminars Inc. (collectively referred to as "WCFC"), and Wade Bruce Cook in contempt and imposing sanctions against them for violating the Consent Decree ("Order") between the FTC and defendant WCFC, entered by this Court on October 13, 2000. This motion is supported by the attached Memorandum and exhibits, that include transcripts of video and audio taped Financial Clinics at which WCFC's speakers blatantly violate the Order.

1 **MEMORANDUM IN SUPPORT**

2 **I. SUMMARY**

3 Wade Cook Financial Corporation, the Stock Market Institute of Learning, and Wade Cook <sup>1</sup> have  
4 committed serious violations of the injunctive and redress provisions of the Consent Decree (“Order”) entered  
5 by this Court on October 13, 2000. The Order resolved allegations by the FTC that WCFC made false and  
6 unsubstantiated promotional claims to induce the purchase of WCFC’s stock market seminars, and requires  
7 WCFC and Cook to pay redress to eligible consumers injured by WCFC’s deceptive promotional practices.  
8 Since entry of the Order WCFC and Cook have violated both the injunctive and redress provisions of the  
9 Order.

10 In its Complaint the FTC alleged that claims like, “Our processes are. . .simple and easy-to-  
11 understand. . .even teenagers are using them to earn in excess of 20% per month,” and “I. . .help people learn  
12 how to make money consistently. . .\$2,000 or \$3,000 of monthly income,” were deceptive and  
13 unsubstantiated. To prevent future deception, the Order required WCFC to disclose its current rate of return  
14 from stock market investments in any promotion for a stock market investment seminar. WCFC’s rate of  
15 return has been negative since April 2001. WCFC, however, has only disclosed positive rates of return in  
16 most of its promotional materials, including at the Financial Clinics, where most of its seminar sales are  
17 solicited. Moreover, since entry of the Order WCFC has continued its deceptive and unsubstantiated  
18 promotional claims. Since entry of the Order, and as recently as January 9, 2002, speakers at WCFC’s  
19 Financial Clinics continue to claim that consumers will earn 20% returns per month, and that consumers will  
20 retire in three years with a million dollars using Wade Cook’s trading strategies, even if they have less than  
21 \$2,000 to invest. The FTC has repeatedly provided WCFC documented evidence of these violations.  
22 WCFC has promised it would correct the problems, but the violations have continued. The continuing  
23 unsubstantiated claims and the failure to disclose the correct rate of return go to the very heart of this Court’s  
24 Order.

25 \_\_\_\_\_  
26 <sup>1</sup>Majority shareholder and president of WCFC, Wade Cook, is liable for WCFC’s Order violations under  
27 Rule 65 of the Fed. R. of Civ. P. Moreover, he has expressly agreed to be bound by the Order, though he is not a  
28 named defendant. In the section defining “defendants” the Order states, “Provided however that Wade Bruce Cook,  
who is not a named defendant in this matter, enters into this Consent Decree and agrees to be bound by each of its  
provisions.”

1 WCFC and Cook have also failed to comply with the requirements of the redress program  
2 established by this Court's Order. They have improperly mailed the claim forms, and have failed to evaluate  
3 claims in accordance with the Order. Moreover, WCFC took more than a year to pay the refunds under  
4 Paragraph II.A of the Order that were due on December 22, 2000, and has been paying only four II.B claims  
5 a week since mid-January 2002 for an average total amount of \$14,000. Some II.B claims have been past  
6 due since May 2001. It will take defendants years to pay the claims at this rate. Cook is liable to pay redress  
7 under the Order if there is a default by WCFC. Both WCFC and Cook have been on notice since May  
8 2001 that WCFC was in default on the required redress payments. The FTC has made several requests that  
9 WCFC and Cook propose a means of curing the default within a reasonably short time or document their  
10 inability to do so. Neither WCFC nor Cook has complied with these requests.

11 Accordingly, WCFC and Cook should be found in civil contempt of the Order and coercive and  
12 compensatory sanctions should be imposed. To compensate consumers injured by WCFC's and Cook's  
13 contempt, the proposed civil contempt sanctions would require WCFC to expand the redress program to  
14 permit refunds to consumers who paid to attend a WCFC or SMIL stock market seminar between entry of  
15 the Order and the present. Both WCFC and Cook would be jointly liable to make the refunds under the  
16 expanded redress program. To coerce compliance with the injunctive provisions of the Order, WCFC would  
17 also be required to obtain a signed rate of return disclosure form from each consumer before accepting  
18 payment from the consumer for any stock market investment seminar.

19 To coerce compliance with the redress provisions of the Order and the Contempt Order, the  
20 proposed contempt sanctions would have the Court appoint a redress administrator to administer the redress  
21 program. WCFC and Cook would be required to deposit \$5 million into a redress fund controlled by the  
22 redress administrator for the payment of refunds. Because WCFC has not met its deadlines under the Order,  
23 the Court would relieve consumers from the deadlines imposed by the Order, so that those consumers whose  
24 claims were denied because of untimely return of documentation would be allowed to continue in the redress  
25 program.

26 To ensure proper administration of the redress program, the requested relief would authorize the  
27 redress administrator to re-mail redress program Notices to consumers eligible under the Order. WCFC's  
28 decision to mail the Notices under the cover of SMIL was not a reasonable interpretation of the Order, and

1 caused over half the eligible consumers to disregard their claim forms. Further, claims denied because of an  
2 incorrect application of the evaluation criteria of the Order would be reinstated.

3 **II. WCFC AND COOK'S VIOLATIONS OF THE ORDER**

4 A. WCFC's and Cook's Violations of the Order's Injunctive Provisions

5 WCFC has been operating in violation of Paragraphs I.A and I.E since entry of the Order last  
6 October. Two key provisions of the Order prohibit defendants from:

7 I.A. In connection with the advertising, promotion, offering for sale, or sale  
8 of the Wall Street Workshop seminar or any other stock market investment  
9 seminar or program, making any representation, expressly or by implication,  
10 that WCFC parties have attained success trading in stocks using the trading  
11 strategies taught at the promoted seminar or program, or that consumers who  
12 attend the promoted seminar or program shall attain success trading in stocks  
13 using the strategies taught there, without disclosing clearly and prominently the  
14 Rate of Return achieved during the disclosure period. . In addition to the  
15 Rate of Return for the disclosure period, WCFC parties shall also make  
16 available on their web site, or make available upon request if they do not have  
17 a web site, their historical rates of return, for each of the three calendar years  
18 immediately preceding the calendar year in which a representation is made  
19 that triggers the Rate of Return disclosure. The three calendar years shall  
20 commence on January 1, 1999. Therefore, until 150 days past the last day of  
21 2001, WCFC parties shall only be required to disclose the historical annual  
22 rate of return data accumulated up to that time.

16 I.E. Making any representation, expressly or by implication, in connection  
17 with the advertising, promotion, offering for sale, or sale of any investment  
18 seminar or program unless at the time the representation is made WCFC  
19 parties possess and rely upon a reasonable basis that substantiates the  
20 representation.<sup>2</sup>

18 WCFC has continued to permit its Financial Clinic speakers to make success and earnings claims for  
19 which they have no reasonable basis that substantiates the claims. The Financial Clinics are WCFC's primary  
20 means of promoting the sale of its stock market investment seminars. Further, WCFC has not complied with  
21 the Order requirement to disclose its current rate of return in promotional materials, at the Financial Clinics, or  
22 on its website.

23 1. Unsubstantiated Claims by Financial Clinic Speakers

24 Months after the Order was first signed by WCFC, and just a few weeks before entry of the Order,  
25 sales representatives for WCFC continued to make blatant misrepresentations at Financial Clinics. For  
26 example, consumer Arlene Vasquez's written notes from a September 30, 2000, Financial Clinic show  
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28 <sup>2</sup>Exh. 1 at pp. 25-30.

1 speaker Lance Strauss told the Clinic attendees that if they applied the strategies they would learn at the Wall  
2 Street Workshop, they would be millionaires within three years. Mr. Strauss also stated that they could  
3 accomplish this with as little as \$1700 in starting capital because they would make on average 20% per month  
4 returns on their investments. Based on Mr. Strauss' representations, Ms. Vasquez had paid \$5,790 to attend  
5 the Wall Street Workshop.<sup>3</sup>

6 While these misrepresentations were not Order violations, they did allow the FTC to warn WCFC  
7 that they would be in contempt of the Order if the claims continued unless WCFC could substantiate the  
8 claims. WCFC has never provided any substantiation for the claims made by Lance Strauss on September  
9 30, 2000, or for any success claim made by WCFC in any promotional venue.<sup>4</sup>

10 The FTC asked WCFC to review the videotape<sup>5</sup> of the September 30 Financial Clinic and asked  
11 that, if the tape confirmed that Mr. Strauss had made the reported claims, that WCFC take appropriate steps  
12 to ensure that the claims were immediately stopped. The tape confirmed that Mr. Strauss had made the  
13 representations.<sup>6</sup> The following is a representative excerpt from the tape transcript.

14 I want to address those of you who are in your late 40's early 50's, and all of  
15 a sudden you've gotten real concerned about planning for retirement, right? . .  
16 here's what you need to do. . .all you got to do is save an extra eight  
17 thousand a month for the next six years. . .It ain't going to happen. Well I've  
18 got hope for you. In fact I want to set a goal – **I don't care what age you**  
19 **are, I want all of you retired in three years. So write that down. We**  
20 **are going to be retired on September 30 of the year 2003.** And we are  
21 going to use the stock market to accomplish that goal, but guess what? . . I  
22 don't want you trading every day, every other day, once a week, once every  
23 other week. I want you to give me one hour per month over the next three  
24 years to do one stupid trade a month on the stock market. That's all I want. .  
25 .you retire in three years, we're going to do one trade a month. Now we  
26 teach 13 different cash flow strategies  
27 . . I want you to become proficient, not expert, at just one strategy. Okay.

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28 <sup>3</sup>Exh. 2 at pp. 53-56, 64-69, 77, 80, 101; Exh. 3 at pp. 275-282.

<sup>4</sup>WCFC has substantiated various rate of return claims and has provided letters to support some  
testimonials. On numerous occasions the FTC has asked for, but not received, substantiation for high rate of return  
claims, and claims that consumers will replace their income or retire early using the WCFC strategies. Exh. 2 at pp.  
45-53, 59-63, 72, 80, 81, 101, 104-105, 115, 117-148.

<sup>5</sup>WCFC requires its speakers to videotape their presentations.

<sup>6</sup>WCFC gave Ms. Vasquez a refund after the FTC reviewed the tape (without admitting that the claims were  
deceptive).

1 So we got one trade a month, one strategy, three years. Now we've got to  
2 start with some money. . . **I want your start with a lousy \$1,700. . . At the**  
3 **end of three years you will have in your brokerage account. . . one**  
4 **million dollars.** Now, I know you probably think I've been smoking  
5 something before the seminar, but I haven't been. Because I'll show you. .  
6 .how you will do this.<sup>7</sup> (Emphasis added.)

7 Two weeks after entry of the Order, Mr. Strauss continued his deceptive sales presentations.  
8 According to Dana Rose, at an October 28, 2000, Financial Clinic led by Lance Strauss, Strauss stated that  
9 by using just one of Wade Cook's strategies you could turn \$1,700 into a million dollars in three years. This  
10 million would in turn yield a monthly net income of \$120,000 per month. Ms. Rose paid \$5,390 to attend the  
11 Wall Street Workshop based on these claims.<sup>8</sup> The FTC notified WCFC of Ms. Rose's complaint on  
12 January 17, 2001, and asked them to review the tape of the Clinic.<sup>9</sup>

13 At a November 11, 2000, Financial Clinic led by Strauss, according to consumer Keith Bluestein,  
14 Strauss again stated that attendees would earn 20% per month using Wade Cook's trading strategies, and  
15 that they could retire by November 11, 2003, with a \$120,000 per month after tax income using Wade  
16 Cook's trading strategies. Mr. Bluestein paid \$5390 to attend the Wall Street Workshop based on these  
17 claims.<sup>10</sup> The FTC notified WCFC of Mr. Bluestein's complaint on January 25, 2001, and asked them to  
18 review the tape of the Clinic.<sup>11</sup> The FTC was told that WCFC held a speaker training in early January 2001,  
19 at which speakers were told they had to comply with the Order. WCFC, however, did not stop the blatantly  
20 deceptive claims its speakers were making.

21 On March 3, 2001, Strauss was taped making similar misrepresentations by Jan Gosha, an  
22 investigator from the Southwest Regional Office of the FTC. The following are representative excerpts from  
23 the tape transcript.

24 Now we teach you in class 13 different strategies. See if you can remember

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25 <sup>7</sup>Exh. 4 at pp. 298-300.

26 <sup>8</sup>Exh. 5 at p. 425-427.

27 <sup>9</sup>Exh. 2 at p. 82. WCFC has not, to the FTC's knowledge, reviewed the tape or given Ms. Rose a refund.

28 <sup>10</sup>Exh. 6 at pp. 428-434.

<sup>11</sup>Exh. 2 at p. 83. WCFC has not, to the FTC's knowledge, reviewed the tape or given Mr. Bluestein a  
refund.

1 this. How many of these strategies do you have to get good at to be retired in  
2 say three to five years? One. . . .**[B]eginners really love this training**  
3 **because it's kind of like auto-pilot cash** (inaudible). The strategy that  
4 we're going to cover in the last ten minutes. . . is covered calls. . . This is a very  
5 low maintenance trading. If you are like super-busy, this is your trade.  
6 We're talking about checking on your stock. . . like once every two or three  
7 days. Okay? Number two, this is a very conservative trade. . . Number three,  
8 this is a high rate of return. **We're talking about rate of returns of 10, 20**  
9 **percent monthly**. And number four, this is a quick return. . . Where will you  
10 go as a Wade Cook student, go with one click of a mouse to find all the  
11 covered call deals you ever want to find? Answer WIN [Wealth Information  
12 Network]. . . I'd be very surprised if you couldn't find at least one or two  
13 covered calls that would give you a rate of return greater than 20 percent. .  
14 .[W]hy do you have money sitting in mutual funds making you a lousy four  
15 percent annually . . . I said in three years you would be retired. . . Okay.  
16 Month one, we're going to start out with \$1700. We're going to go to WIN.  
17 Try to have a covered call that's at least 20 percent. Okay. We have  
18 \$1,700 and get a 20 percent return, that's \$340. So after that trade is  
19 complete, in our account we have \$2,040. . . Month two comes around.  
20 Our \$2,040 is available for us to do another trade. Go to WIN, find our  
21 covered call, 20 percent return, and after that trade is complete we have  
22 \$2,448 in our account. The same thing in month three. We have \$2,448, it  
23 turns into \$2,937. I won't bore you with 36 months of calculations, but if you  
24 did this for three years. . . **in three years in your account you would have**  
25 **one million dollars. . . I'll put that in writing**. . . Are the little hairs on the  
26 back of your head starting to stand up? They should be. . . Understand this  
27 kicks out, cha-ching, cha-ching, cha-ching. . . can you learn this on your own?  
28 Probably not. Has your stockbroker taught you this. Well if he had, you  
probably wouldn't be here, right?<sup>12</sup> (Emphasis added.)

16 The FTC notified WCFC of the March 3 misrepresentations by Strauss on March 14, 2001. WCFC  
17 was asked to outline its proposal for correcting the problems at the Financial Clinics and disciplining or firing  
18 sales staff who failed to comply with the Order.<sup>13</sup> Strauss, however, was still making the same claims on  
19 August 3, 2001. James Abney, an investigator for the Texas State Securities Board, attended the August  
20 Financial Clinic conducted by Strauss. Mr. Abney has testified that Strauss told the group at the Financial  
21 Clinic that he would show them all how to make a lot of money and that they would learn ways to make  
22 money whether the market was going up or down. Strauss indicated that Cook's trading strategies were an  
23 effective way to replace your income with stock profits. Strauss said that he was living off his income from  
24 trading stocks. He contended that they could retire in three years starting with just \$1,700. He claimed that  
25 doing one stock trade a month you could grow \$1,700 to \$1 million in three years, with no taxes, and that he

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27 <sup>12</sup>Exh 7. at pp. 520-535.

28 <sup>13</sup>Exh. 2 at pp. 106-107.

1 would teach them how to do this.<sup>14</sup>

2 As recently as January of this year Lance Strauss was still making the same misrepresentations. FTC  
3 investigator Jan Daniels taped the Financial Clinic conducted by Strauss in Chicago on January 9, 2002.<sup>15</sup> At  
4 the January 2002 Financial Clinic Strauss told consumers that they would begin making money while trading  
5 at the Wall Street Workshop. He told them that after taking the Wall Street Workshop they would not lose  
6 money in the stock market in the future, and he told them that they would all be retired in three years. “And  
7 I’m serious about this, three years. And let’s not start with like gobs of money, let’s just start with a little bit  
8 of money. Let’s start with \$1,700. And let’s not trade – do thousands of trade every day or be glued in front  
9 of computer screens. Let’s not even do one trade a week. Let’s do it with just one trade a month.”<sup>16</sup>

10 Financial Clinic speaker Pat James is another WCFC speaker who has continued to deceptively  
11 promote the WCFC seminars. Tape excerpts from a January 25, 2001, Financial Clinic attended by Brett  
12 Smart, an attorney at the Los Angeles office of the FTC, show James claiming:

13 But anyway, if someone really was going to trade you one million for  
14 \$10,000, could you come up with it, yes or no? AUDIENCE: Yes.  
15 PAT: Totally. I don't care how destitute you are, you can come up with it  
16 somehow, some way, okay? If you get a 20 percent rate of return on  
17 \$10,000, that's \$2,000, correct? This is per month. Remember, we're selling  
18 these options on a monthly basis, per month. How many months are there in  
19 a year? So, at the end of the year, that would be, what, \$24,000? Yes or  
20 no? AUDIENCE: No. PAT: Not even close. Because the next month you  
21 have \$12,000 to invest. And the next month it goes to \$14,400 to invest.  
22 And so on and so forth. **In 25 months, Donald, 25 months, 25 months**  
23 **later, if you do this, you will have over \$1 million.** Let me repeat that. If  
24 you start out with \$10,000, and all you do is covered calls, **I've never lost.**  
25 I don't know how you lose doing it. Half the time I'm stuck owning the stock,  
26 but then I just do it again, right? Big deal. If you start out with \$10,000 and  
27 you do this for 25 months, you do this 25 times, and you get a 20 percent rate  
28 of return, and I got a 35 percent on the one that I did today. That is over  
one million -- that is compounding interest. That's how you do it. That's how  
you do it. Pat, I don't -- you told me a minute ago, Donald, you told me you  
had about \$2,000. Is that accurate? You can come up with that, okay? This  
is -- okay, \$2,000. **You start out with \$2,000, you guys, guess what? It**  
**takes 32 months. In 32 months, it will be \$1.1 million.** . . . I'll tell you  
what, let me take you under my arm for an entire year, I'll give you a coach,  
I'll give you a 1-800 number, I'll give you all this stuff, I'll give you all the tools,  
and with this plan, within 25 months, you'll be a millionaire. (Emphasis

14Exh. 8 at pp. 542-586.

15Exh. 21 at pp. 1201-1349.

16Exh. 21 at pp. 1223-1224. The “retire in three years” claim is repeated at pp. 1345-1348.



1 added.)<sup>17</sup>

2 At a February 2, 2001, Financial Clinic James made similar claims to Robert and Claire Smith. James  
3 told the Smiths that he started with \$1500 and in 38 months had earned over \$1 million using Wade Cook's  
4 trading strategies. He claimed he was making \$124,000 per month, and that they could make 20% per month  
5 writing covered calls. James stated that if clinic participants had \$2000 to invest they would earn \$1.1 million  
6 in 32 months. James told them they could retire on the money they made using Wade Cook's trading  
7 strategies.<sup>18</sup> The Smiths attended another Financial Clinic conducted by James on July 14, 2001. At the July  
8 Clinic, James repeated the claim that with just \$2000 consumers would make \$1.1 million in just 34 months  
9 using the Wade Cook strategies, and that anything listed on WCFC's Wealth Information Network would get  
10 a 20% return.<sup>19</sup>

11 James made similar claims on August 10, 2001 to Everardo Cantu, an employee of the Texas State  
12 Attorney General. Mr. Cantu has testified that James said that he had started trading using Wade Cook's  
13 trading strategies in 1997 with \$1,500. In four years he had earned \$1.1 million (he showed the group a  
14 stock value statement dated May 31, 2000). James said he was currently making BIG money writing  
15 covered calls. James said consumers could make 20% per month writing covered calls, so that if you started  
16 with \$2,000, in 34 months you would have \$1.1 million.<sup>20</sup>

17 Yet another WCFC speaker who has repeatedly violated the Order is Sal Salcillo. Lydia DeVito  
18 attended a February 9, 2001, Financial Clinic led by Salcillo. According to Ms. De Vito, Salcillo discussed  
19 the Wade Cook strategies and told her that she could take \$1,300 and make \$1 million in just three years  
20 using the strategies. Ms. De Vito paid to attend the Wall Street Workshop but obtained a refund because she  
21 cancelled her contract within the 3-day cancellation period. The FTC notified WCFC and asked them to  
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25 <sup>17</sup>Exh. 9 at pp. 739-743.

26 <sup>18</sup>The Smiths spent over \$15,000 on Wade Cook seminars. The Smiths contacted WCFC to report the  
violations but WCFC has continued to deny their refund request.

27 <sup>19</sup>Exh. 10 at pp. 750-806.

28 <sup>20</sup>Exh. 11 at pp. 807-872.

1 produce the February 9 tape and to take steps to deal with the situation.<sup>21</sup> The tape was not produced.

2 On August 4, 2001, Salcillo was taped making these and other misrepresentations by William Wong,  
3 a law clerk for the Office of the Attorney General of Kansas.<sup>22</sup> The following are excerpts from the tape  
4 transcript.

5 What we're going to do is show you today where to get advice to be able to  
6 cash flow the stock market from \$5 to \$50,000 a month. . . the stock market  
7 is a cash flow generator if you know how to get your share of the money. . .if  
8 you need an extra \$1,000 a month we'll show you how to take that. . . .If you  
9 need an extra \$10,000 a month, we'll show you how to take that. . . .If you  
10 want an extra \$1,000, we'll show you, you know, you can get that very, very  
11 easily. If you want an extra \$5,000, \$10,000, it's there for you.<sup>23</sup>

12 Salcillo also explained to the group that each of them could retire in three years if they invested just  
13 \$1,300 and made one transaction a month that yielded 20% (he claimed there were five to six such trades a  
14 day posted on the WCFC website), then after three years they would have \$1 million. He told them that it  
15 was easy and after the first year was totally risk free.<sup>24</sup>

16 On July 27, 2001, Anthony Carter, a securities examiner for the Washington State Department of  
17 Financial Institutions, attended a Financial Clinic conducted by Kent Severson. Severson made claims similar  
18 to those made by Strauss, James, and Salcillo. Severson told the participants at the Financial Clinic that with  
19 the strategies WCFC taught you could make money in the stock market no matter how the market was doing.  
20 Severson said that 75% to 80% of the time you would make money buying and selling rolling stock, and that it  
21 was easy. The hard part was picking stocks and WCFC would provide lists of rolling stocks on its Wealth  
22 Information Network. He told them there were thousands of stocks that rolled regularly and all you had to do  
23 was make a trade a month and with \$2000 you would make \$10,200 over the next year. He claimed the  
24 "worst case scenario" would be investing in just one rolling stock and making \$5,600 over a year. According  
25 to Severson, clinic participants would certainly make enough money just from buying rolling stock to pay for  
26 the cost of the Wall Street Workshop (\$8,000), probably in less than six months. Severson also discussed

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25 <sup>21</sup>Exh. 2 at pp. 94, 101, 104, 115, 118.

26 <sup>22</sup>Exh. 12 at pp. 874-876.

27 <sup>23</sup>Exh. 12 at pp. 912, 915, 916.

28 <sup>24</sup>Exh 12 at pp. 1001-1004.

1 options trading and stated that no matter what the market was doing they could make cash trading options.  
2 Severson told them that if for nothing else they needed to come to the Wall Street Workshop to learn how to  
3 make covered calls. There was no downside to covered calls, and it was a win/win situation. He said they  
4 could earn 10% a month on covered calls and that if they learned how to write covered calls they would be  
5 successful.<sup>25</sup>

6 The FTC has repeatedly advised WCFC of the ongoing misrepresentations by its sales staff,<sup>26</sup> asking  
7 them to substantiate the challenged claims, or to take steps to correct the problems at the Financial Clinics.  
8 WCFC has never provided any substantiation. On April 4, WCFC sent the FTC a letter indicating that if  
9 WCFC asked a speaker to change his presentation and the speaker did not do so, there would be  
10 disciplinary action ranging from forfeiture of the 5% trading bonus to termination. The letter stated that the  
11 policy had been communicated to Lance Strauss, Pat James and Sal Salcillo by telephone and would be  
12 presented to the other speakers by letter. Further, WCFC indicated that Strauss, James and Salcillo were  
13 advised by WCFC to change their presentations (no details of the requested changes were provided).<sup>27</sup>  
14 WCFC has not followed through on the policy because the same speakers continued after April 4 to make  
15 the same extravagant success claims without substantiation, claims belied by WCFC's actual rates of return.<sup>28</sup>

16  
17 Between January 2000 and September 2001, WCFC had revenue of \$71 million from the sale of  
18 seminars.<sup>29</sup> Assuming a \$5,000 average purchase this represents approximately 14,000 additional consumers  
19 who have purchased WCFC's seminars since entry of the Order. According to WCFC, the bulk of its  
20 seminar sales are made at Financial Clinics. Therefore, as many as 14,000 more consumers have been misled

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22 <sup>25</sup>Exh. 13 at pp. 1010-1026.

23 <sup>26</sup>The FTC notified WCFC about the Financial Clinic speakers on November 1, 2000, January 17, 2001,  
24 January 25, 2001, March 14, 2001, and March 27, 2001. Additionally, the FTC has notified WCFC about similar claims  
in print materials. Exh. 2 at pp. 45-55, 59-63, 72, 80-83, 85, 101-104, 107, 115, 117-149.

25 <sup>27</sup>Exh. 2 at pp. 150-152.

26 <sup>28</sup>Exh. 14 at p. 1043 and Exh. 20 at pp. 1194-1197a.

27 <sup>29</sup>WCFC's year 2000 10-K filing with the Securities Exchange Commission reports net revenues of \$47.827  
28 million from the sale of seminars. Net revenues for the first nine months of 2001 were \$23.547 million. Exh. 14 at p.  
1033.

1 by WCFC's clinic speakers violating this Court's Order.

2 2. Failure to Disclose Required Rate of Return

3 Paragraph I.A of the Order requires that WCFC clearly and prominently disclose its current rate of  
4 return in all promotions, including Financial Clinics and on the WCFC web site. The purpose of this  
5 requirement is to give consumers a very material fact about WCFC's program that can counteract any  
6 exaggerated or unsubstantiated success claims for Cook's trading strategies, like those described above.  
7 Since May 2001, WCFC has wilfully violated this requirement.

8 Between entry of the Order on October 13, 2000, and May 2001, the FTC and WCFC worked  
9 through issues concerning the correct application of the Order's rate of return formula. By May 2001,  
10 however, these issues had been resolved, and WCFC should have begun disclosing its current rate of return.  
11 At that time, the rate of return that WCFC was required to disclose in promotional materials, at Financial  
12 Clinics, and on its web site, was the rate of return for the 12-month period ending December 31, 2000, which  
13 was negative 88.88%. According to SEC filings, WCFC has continued to lose a substantial amount of  
14 money in the stock market since this time.<sup>30</sup> Therefore, the disclosed rate of return, which the Order requires  
15 to be calculated every three months, should have continued to be a negative number.<sup>31</sup> Through January  
16 2002, however, in the disclosure forms mandated by the Order to be distributed at all Financial Clinics,  
17 WCFC has disclosed a rate of return of positive 73.5%.<sup>32</sup> In the workbook provided for use at the Financial  
18 Clinics, WCFC discloses a rate of return of positive 46.64%.<sup>33</sup>

19 Promotional mailings to consumers have also disclosed positive rates of return, when the correct rate  
20 of return was negative, or have not disclosed any rate of return.<sup>34</sup> On June 11, 2001, the Washington State

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22 <sup>30</sup>Exh. 14 at pp. 1045-46.

23 <sup>31</sup> The staff believes the rates of return for the periods ending March 31, 2001, and June 30, 2001, were  
24 -55.75% and -75.4% respectively.

25 <sup>32</sup>Exh. 7 at pp. 455, 464; Exh. 8 at pp. 547, 577; Exh. 10 at p. 753; Exh. 11 at p. 873; Exh. 12 at p. 879; Exh. 13 at  
26 pp. 101, 1018; Exh. 21 at pp. 1351-1352.

27 <sup>33</sup>Exh.8 at pp 558, 585; Exh. 10 at p. 761; Exh. 11 at pp. 838, 871; Exh. 12 at p. 889; Exh. 13. at pp. 1026; Exh. 21  
28 at pp. 1353-1360.

<sup>34</sup>Defendants have disclosed negative rates of returns in some materials. Some versions of "Special Report  
#622" disclose a -55.57% rate of return. Exh. 20 at pp. 1194-1197.4.

1 Department of Financial Institution received WCFC's Special Report #622 in the mail with a rate of return  
2 disclosure of 46.64%.<sup>35</sup> On this date the correct rate of return disclosure for WCFC was  
3 -88.88%. On January 7, 2002, Jan Daniels received a promotional package through the mail from SMIL.<sup>36</sup>  
4 The package contained numerous promotional items, a video, a CD, a booklet, a newspaper-style  
5 publication, and free tickets to a Financial Clinic. The package contained numerous glowing testimonials for  
6 Wade Cook's stock trading strategies, but contained no rate of return disclosure.<sup>37</sup>

7 The Order requires that WCFC disclose its current rate of return in all promotional materials including  
8 its website. The Order also requires WCFC to disclose its historical rate of return for the prior three calendar  
9 years on its website. The historical rate of return for year 2000 was  
10 -88.88%. This was also the current rate of return WCFC should have been disclosing in promotional  
11 materials and Financial Clinics between April 1 and June 30, 2001. WCFC did post the -88.88% rate of  
12 return for the year 2000 on its web site beginning in May 2001. Therefore through the end of June 2001,  
13 WCFC was in compliance with the disclosure requirement on its website. WCFC was not in compliance on  
14 its website again until January 18, 2002, when in response to a nationally disseminated article on  
15 Bloomberg.net, WCFC posted its historical rate of return for 2001, which was -60.61%.

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25 <sup>35</sup>Exh. 2 at p 228. This version of the report was also handed out at an August 10, 2001, Financial Clinic. On  
26 this date the correct rate of return was -55.57%.

27 <sup>36</sup>Exh. 21 at pp. 1363-1397.

28 <sup>37</sup>In "A Conversation With Wade, A Message to Shareholders of WCFC," published sometime after  
January 15, 2002, defendants urge consumers to call and order this package. Exh. 24 at pp. 1456.

1           B.       WCFC and Cook's Violations of the Order's Redress Provisions

2           WCFC has violated the redress provisions of the Order by 1) failing to comply with the deadlines set  
3 for processing claims; and 2) failing to make payments to qualifying consumers whose claims have been  
4 approved. Cook has violated the Order by failing to pay the defaulted redress payments. WCFC has also  
5 misinterpreted the Order requirements by mailing the Redress Program Notices to consumers using WCFC's  
6 return address on the envelope instead of the FTC Redress Program return address. This is not a reasonable  
7 interpretation of the Order, which was drafted to ensure that consumers received fair notice of the FTC  
8 Redress Program. As a result of the improper mailing, over half the eligible consumers likely did not learn of  
9 the Redress Program. Further, WCFC has incorrectly applied the evaluation criteria under the Order,  
10 disqualifying consumers for failing to provide additional documentation that is not required by the Order, and  
11 for having gains in stock transactions that are not included under the Order.

12           1.       Failure to Timely Process and Pay Refunds (Paragraphs II.C and II.D)

13           Paragraphs II.C and II.D of the Order establish time deadlines within which consumers and WCFC  
14 must complete each step in the redress program. Within thirty days of the postmark date of a timely returned  
15 Proof of Claim or fifteen days from the postmark date of subsequently requested documentation, WCFC  
16 must either grant or deny the claim, and if granted issue a refund check. WCFC began sending out claim  
17 forms in mid-December 2000. Consumers had ninety days to return the Proof of Claim. Allowing ninety  
18 days for the return and allowing the maximum amount of time for WCFC to dispose of the claim if additional  
19 information was requested, or in total about five months, the first payments under Paragraph II.C should have  
20 been made in May 2001. In fact, WCFC records indicate that the first II.C claims were approved beginning  
21 in mid-May.<sup>38</sup> WCFC began making payments to claimants under Paragraph II.C until January 2002. At  
22 this time it is paying about 4 claims a week, for a total of about \$14,000 a week. WCFC has approved  
23 about \$600,000 in refunds, between 800 and 900 claims are still pending evaluation, and it has denied, many  
24 of them improperly, about 900 claims. A conservative estimate of the amount it will owe to these consumers  
25 is about \$4 million. At the current rate of payment it will take over five years for WCFC to pay all of the  
26 claims it presently owes under the Order.

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          <sup>38</sup>Exh. 23 at pp. 1408.

1 The FTC has reviewed the financial statements prepared by WCFC for the Securities Exchange  
2 Commission, including the December 31, 2000 10-K, and the March, June and September 2001 10-Q  
3 filings.<sup>39</sup> WCFC has posted operational losses during the past year. Its assets, however, exceed its liabilities,  
4 and WCFC apparently has assets that could be sold to fund the redress program or pledged as collateral for  
5 loans to fund the redress program.<sup>40</sup> WCFC has not made any effort to do either and the redress program  
6 continues in default.

7 2. Cook's Failure to Cure WCFC's Default (Paragraph II.H)

8 The Order states at Paragraph II.H, "In the event of a default by WCFC parties in any payment  
9 pursuant to Paragraph II, which default has not been cured within thirty (30) days of the default, Wade Bruce  
10 Cook shall personally make such payment." The FTC advised WCFC and Cook that it considered WCFC  
11 to be in default for the first time on May 1, 2001.<sup>41</sup> At that time, WCFC had been in default since December  
12 22, 2000, on the payments due under Paragraph II.A of the Order.<sup>42</sup> WCFC, should also have begun  
13 making payments under Paragraph II.C of the Order by May. WCFC acknowledged that it was behind in  
14 the redress payments, and represented that it was currently unable to make the payments owed.<sup>43</sup> In late  
15 June, WCFC began paying, on an irregular basis, about \$25,000 a week in past due II.A refunds until it had  
16 paid the balance on December 31, 2001, fully a year behind schedule.<sup>44</sup> Although the II.A refunds have finally  
17 been paid, the II.C refunds are currently in default.<sup>45</sup> Since November, the only communication the FTC has  
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19 <sup>39</sup>Exh. 14 at pp. 1027-1063.

20 <sup>40</sup>Some of the assets may already be pledged as collateral for loans, but WCFC has not provided any  
21 information beyond what is contained in its public filing.

22 <sup>41</sup>Exh. 2 at p. 182.

23 <sup>42</sup>At this time no refunds had been made under the redress program since the initial payment of about  
24 \$72,000 paid on December 22, 2000, the date all of the II.A payments were due. Shortly thereafter, WCFC paid an  
additional \$18,000 of the approximately \$500,000 due under Paragraph II.A. Exh. 2 at pp. 174-176, 182, 185, 196.

25 <sup>43</sup>Exh. 2 at pp. 182, 196. WCFC also indicated that it wanted to pay \$25,000 per week towards its redress  
26 obligations and hoped that insurance proceeds for the earthquake damage suffered by WCFC would soon be  
available to pay past due redress program refunds.

27 <sup>44</sup>Exh. 2 at pp. 182-184, 238-240; Exh. 15 at pp. 1065-1086.

28 <sup>45</sup>Exh. 23 at pp. 1408-1411.

1 received from WCFC or Cook about the redress payments are the weekly notifications of the few refunds  
2 that are being paid.

3 The FTC did not agree to let WCFC pay the refunds on this piecemeal basis, and has asked WCFC  
4 and Cook on numerous occasions to put forth a proposal for bringing the redress program up to date within a  
5 reasonably short period of time.<sup>46</sup> WCFC and Cook have never complied with this request. The FTC has  
6 advised WCFC and Cook on several occasions that Cook was responsible for making the defaulted redress  
7 payments unless he could document his inability to make the payments.<sup>47</sup> Cook has refused to provide  
8 documentation of his financial condition,<sup>48</sup> or to make the past due redress payments.

9 3. Notice and Proof of Claim Mailing Issues (Paragraph II.B).

10 In addition to WCFC's violations of Paragraphs II.C, II.D, and Cook's violations of Paragraph II.  
11 H, WCFC has also violated Paragraph II.B of the Order by mailing the FTC Redress Program Notice and  
12 Proof of Claim to consumers in envelopes bearing only the Stock Market Institute of Learning, Inc., name,  
13 logo, and address. Paragraph II.B of the Order required WCFC to notify consumers of the redress program  
14 using a Notice with the words "United States of America, Federal Trade Commission" at the top of the page  
15 to indicate that the Notice was from the Federal Trade Commission. The notice required by Paragraph II. B  
16 also included the following mailing address to be used for return of the claim forms – FTC Redress Program,  
17 P.O. Box xxxx, Seattle, WA 98104.<sup>49</sup> The reason a return address was specified in the mandated Notice  
18 was to ensure that consumers would know that they were receiving something from the FTC, not receiving  
19 another of the numerous routine promotional mailings made by WCFC. Using an envelope with the Stock  
20 Market Institute of Learning logo and return address made the Notice and Proof of Claim mailing appear to  
21 be just that – another WCFC promotional mailing. Many consumers on receiving this mailing simply threw  
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23 <sup>46</sup>Exh. 2 at pp. 159, 182, 195, 237, 248, 254, 274.12.

24 <sup>47</sup>Exh. 2 at pp. 182, 200, 225, 256-259, 274.10, 274.12.

25 <sup>48</sup>Cook provided a "personal" financial statement, which stated his net worth to be \$267,000. Exh. 2 at pp.  
26 261-262. This statement grossly inadequate because it intentionally excluded the bulk of Cook's assets, which are  
27 held for him through corporations and trusts. Exh. 2 at pp. 274.9, 274.10. According to SEC filings, between 1997  
28 and 2000 Cook was paid between \$13 million and \$20 million in royalties by WCFC.

<sup>49</sup>See Attachments A and B to the Order. Exh. 1 at pp. 38-40.



1 the whole thing out unopened and were thereby deprived of the opportunity to participate in the redress  
2 program.<sup>50</sup>

3 The FTC did not learn of the problem with WCFC's return address until May 2001 when it first was  
4 given access to WCFC redress records.<sup>51</sup> By this time the mailing was two-thirds completed. In late June  
5 WCFC provided a mailing list of the consumers to whom it had mailed Notices and Proofs of Claim.<sup>52</sup> Using  
6 this list, staff from the offices of the attorney general offices in four states surveyed consumers concerning  
7 receipt of the WCFC redress mailing. They found that more than 50% of those contacted did not recall  
8 receiving the mailing. In Texas, 68.8% of those who responded to the survey did not receive or did not recall  
9 receiving the Proof of Claim from WCFC.<sup>53</sup> In North Carolina, 60% of the consumers contacted had not  
10 received or did not recall receiving the Proof of Claim.<sup>54</sup> In Kansas, 66.6% of those contacted stated they  
11 had not received or did not recall receiving the Proof of Claim.<sup>55</sup> In Alaska, 51% of those contacted claimed  
12 they did not receive the mailing.<sup>56</sup>

13 WCFC has copies of addressed and metered envelopes in its claim files. Either WCFC did not  
14 actually mail a large number of these envelopes or consumers disregarded them. Many of the consumers  
15 contacted indicated that they had been expecting something concerning the FTC Redress Program, but that  
16 they would likely have thrown away any mailing they received from SMIL without opening the envelope.  
17 Others had been anticipating receiving such a mailing and did not routinely throw out WCFC mailings but did  
18 not receive the Notice. The FTC staff has also been contacted directly by numerous consumers who claim  
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20 <sup>50</sup>Exh. 2 at pp. 64-65, 77, 149.

21 <sup>51</sup> Access to records was delayed six weeks as a result of the earthquake on February 28, which caused  
22 considerable damage to WCFC's offices.

23 <sup>52</sup> The Order required WCFC to prepare a listing of eligible consumers for the FTC prior to commencing  
24 mailing of the claim forms, however, WCFC was unable to comply with this requirement until after the mailing was  
25 completed.

26 <sup>53</sup>Exh. 16 at 1087-1151.

27 <sup>54</sup>Exh. 17 at pp. 1152-1168.

28 <sup>55</sup>Exh. 18 at 1169-1190.

<sup>56</sup>Exh. 19 at 1192-1193.

1 they did not receive the WCFC mailing, but to whom WCFC claims to have mailed it.<sup>57</sup> On July 27 and  
2 again on September 12, the FTC advised WCFC of this issue and asked for a re-mailing, or some other  
3 action, to address this problem. WCFC indicated it would not re-mail the proofs of claim and has denied all  
4 requests for relief from consumers who have indicated they did not receive the Redress Program Notice.<sup>58</sup>

5 While the Order does not explicitly state the wording to appear on the outside of the mailing, the only  
6 reasonable interpretation of the Order is that the envelopes used to mail the FTC Redress Program Notices to  
7 consumers would carry the return address to be established for the FTC Redress Program. In conjunction  
8 with seeking contempt sanctions from the court for WCFC's overall failure to abide by the Order, the FTC  
9 requests the court to rule on the correct interpretation of Paragraph II.B in this regard and order a re-mailing  
10 of the FTC Redress Program Notices. Such relief is within the equitable power of the court.

11 4. Improper Evaluation of Claims (Order Attachments A through D)<sup>59</sup>

12 The FTC and WCFC have had many disputes over the correct application of the Order to the claims  
13 evaluation process. Some of these disputes have been resolved. Others, however, have not and have  
14 resulted in many claims being improperly disqualified. WCFC has taken the position, without reasonable  
15 justification under the Order, that it is not enough for consumers to document their trading losses with either  
16 brokerage records or tax records as the Order requires.<sup>60</sup> WCFC has consistently required additional  
17 documentation on the ground that it is entitled to ask for whatever documentation it thinks it needs to assure  
18 itself that the consumer's claim to have lost money is true.<sup>61</sup> Most consumers who were asked for additional  
19 information by WCFC, and whose claims were ultimately denied, were denied because they failed to return  
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22 <sup>57</sup>Exh. 2 at pp. 274.4-274.5. For example 19 people listed in this correspondence contacted the FTC because  
23 they had not received a Proof of Claim from WCFC. WCFC records, however, show that Proofs were mailed to these  
24 consumers.

25 <sup>58</sup>Exh. 2 at 254, 257, 263. Only about 500 envelopes (2% of the total mailing) were returned by the Post  
26 Office as undeliverable.

27 <sup>59</sup>Attachments C, D, and E are filed under seal.

28 <sup>60</sup>The FTC agreed to allow WCFC to continue to ask for both brokerage and tax records, and in some  
instances other information, but without waiving its objection to WCFC's position that it is entitled to it.

<sup>61</sup>Exh. 2 at pp. 218-219, 234-237, 248-249.

1 the additional requested information, or they returned it untimely.<sup>62</sup> This has unfairly deprived many  
2 consumers of a refund to which they are entitled.<sup>63</sup> WCFC has also taken the position that if a claimant made  
3 any money in the stock market during the relevant period they are disqualified from the redress program even  
4 if the gains were made on stocks purchased before attending the Wall Street Workshop or were carry-over  
5 gains from a prior period.<sup>64</sup> For example, claimant Burnette King was denied a refund because stock that she  
6 was given as part of her salary plan sold for a gain during the twelve-months after she attended the Wall  
7 Street Workshop, although she submitted documentation of trades she did on her own, which lost money.  
8 Dr. Bill Friend was denied a refund because he had gains in a managed IRA, though he lost money on trades  
9 he transacted himself.<sup>65</sup> These denials are not justified under a reasonable interpretation of the Order, which  
10 requires WCFC to refund to consumers tuition paid for the Wall Street Workshop less any gains from trades  
11 made using strategies taught at the Wall Street Workshop.

12 **III. THE FTC HAS DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE THAT**  
13 **WCFC AND COOK ARE IN CONTEMPT AND THAT THE COURT SHOULD IMPOSE**  
14 **COERCIVE AND COMPENSATORY SANCTIONS**

15 This Court has the authority to hold WCFC and Cook in contempt. “[C]ourts have inherent power to  
16 enforce compliance with their lawful orders through civil contempt.” Spallone v. United States, 493 U.S. 265  
17 (1990) (quoting Shillitani v. United States, 384 U.S. 364, 368, (1966)). Obedience to judicial orders is an  
18 important public policy; accordingly, such orders must be obeyed until they are withdrawn or vacated. W.R.  
19 Grace and Co. v. Local Union 759, Int’l Union of Rubber Workers, 461 U.S. 757, 766 (1983).

20 The party moving for civil contempt must show by clear and convincing evidence that the defendants  
21 have violated a specific and definite order of the court. FTC v. Affordable Media, 179

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22 <sup>62</sup>Exh. 2 at pp. 274.4-274.5. For example, claimant Mike White writes that he sent his full 12-months  
23 brokerage statements twice, and then was asked to send his Schedule D from his tax returns, which he did, but his  
24 claim was denied because he returned the tax return late. Exh. 22 at p. 1398.

25 <sup>63</sup>Of the 962 claims WCFC reports it has denied through 1/17/02, 761 were denied because the claimant failed  
26 to provided the requested information or returned materials untimely. Exh. 23 at pp. 1412-1441.

27 <sup>64</sup>Exh. 2 at pp. 202, 220-223, 226, 249. The FTC will agree that any trade completely transacted during the  
28 relevant twelve month period can be included, but not gains from trades initiated prior to attending the Wall Street  
Workshop.

<sup>65</sup>Exh. 22 at pp. 1399-1407.

1 F. 3d 1228, 1239 (9<sup>th</sup> Cir. 1999). Clear and convincing evidence requires proof by more than a  
2 preponderance of the evidence but less than beyond a reasonable doubt. See, e.g., Bala v. Idaho State Bd.  
3 of Corrections, 869 F. 2d 461, 466 (9<sup>th</sup> Cir. 1989). The burden is on the complainant to demonstrate that  
4 the defendant is in contempt; then the burden shifts to the contemnor to demonstrate why he was unable to  
5 comply. Affordable Media, 179 F. 3d at 1239. The contemnor must demonstrate that he took every  
6 reasonable step to comply. In re Dual-Deck Video Cassette Recorder Antitrust Litigation, 10 F. 3d 693,  
7 695 (9<sup>th</sup> Cir. 1993); Stone v. City and County of San Francisco, 968 F. 2d 850, 856 n.9 (9<sup>th</sup> Cir. 1992).  
8 Wilfulness is not an element of contempt. In re Dual Deck Video, 10 F. 3d at 695. “Intent is irrelevant to a  
9 finding of civil contempt and, therefore, good faith is not a defense.” Stone, 968 F. 2d at 856.

10 The FTC has more than amply satisfied the applicable evidentiary standard for civil contempt. There  
11 is a valid and specific court order, the order prohibits certain conduct and requires certain conduct by WCFC  
12 and Cook, and WCFC and Cook have failed to comply with the Order. WCFC has failed to restrain its  
13 sales staff from continuing to make many of the very false and unsubstantiated promotional claims that  
14 instigated this litigation. Moreover, WCFC has failed to disclose its rate of return so that consumers would  
15 have some basis for evaluating the success claims made by WCFC sales staff. Those claims are flatly  
16 contradicted by WCFC’s actual success in the stock market. Moreover, WCFC and Cook have failed to  
17 provide refunds to injured consumers as required by the Order. Thus, a finding of contempt and sanctions are  
18 warranted.

19 “Sanctions in civil contempt are permitted for two purposes: (1) to coerce defendant into compliance  
20 with the Court’s Order; and (2) to compensate the complainant for losses sustained as a result of the  
21 contumacious behavior.” Dystar Corp. v. Canto, 1 F. Supp. 2d. 48, 58 (D. Mass. 1997), (citing United  
22 States v. United Mineworkers, 330 U.S. 258, 303-04 (1947)). So far as the first of these functions is  
23 concerned, the judge sitting in equity, is vested with wide discretion in fashioning a remedy. Vuitton et fils  
24 S.A. v. Carousel Handbags, 592 F.2d 126, 130 (2<sup>d</sup> Cir. 1979). As to the second, courts have “longstanding  
25 authority . . . to enter broad compensatory awards for all contempt through civil proceedings.” United Mine  
26 Workers of Am. v. Bagwell, 512 U.S. 821, 838 (1994). Compensatory sanctions are “limited to the actual  
27 damages suffered by the injured party as a result of the violation of the injunction.” G.& C. Merriam Co. v.  
28 Webster Dictionary Co., Inc., 639 F. 2d 29, 41 (1<sup>st</sup> Cir. 1980).

1 The FTC seeks both to coerce compliance with the Order and to be compensated for the injuries  
2 resulting from WCFC's contempt. The FTC asks that the Court impose the following sanctions:

- 3 1. To compensate consumers who were injured by WCFC's violations of Paragraphs I.A. and  
4 I.E, the redress provisions of Paragraph II of the Order should be extended to consumers  
5 who paid to attend any stock market investment seminar between entry of the Order and the  
6 present, and who otherwise meet the eligibility and qualifying criteria of the Order, except that,  
7 a subsequent purchase of the IQ Pager Package (the IQ Pager bundled with other products  
8 including seminars), a Wall Street Workshop Retake, or any seminar the fee for which is  
9 \$100 or less, shall not make the consumer ineligible to participate in the Redress Program  
10 under this Contempt Order.<sup>66</sup> Cook and WCFC shall be jointly and severally liable for the  
11 payment of refunds to post-October 13, 2000, claimants.
- 12 2. To coerce compliance with Paragraph I.A, WCFC should be ordered to obtain from, and  
13 provide a copy to, each consumer who pays to attend any stock market investment seminar, a  
14 signed and dated rate of return disclosure form. Failure of WCFC to do so would permit the  
15 consumer to rescind the contract and obtain a full refund.
- 16 3. To coerce WCFC's compliance with Section II, a redress administrator should be appointed  
17 to administer the redress program. Because WCFC has not complied with the deadlines  
18 required by the Order, consumers who have participated in the redress program and whose  
19 claims have been denied for no other reason than that they returned the required  
20 documentation untimely, should be permitted to continue in the redress program.
- 21 4. WCFC and Cook should be required to pay \$5 million into a redress fund to be established  
22 and controlled by the redress administrator. This amount is necessary to cover a conservative  
23 estimate of the currently past due refunds, the costs WCFC is required to pay for mediation  
24 of claims under the Order, and administrative expenses. If they have not paid the \$5 million  
25 within 30 days, the FTC may apply to the Court for appointment of a receiver over WCFC to

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27 <sup>66</sup>Under the Order consumers who paid to attend a subsequent seminar were ineligible to participate in the  
28 Redress Program. It was understood that few would be in this category. Later we learned that more than half the  
Workshop attendees paid to attend another seminar, often for less than \$100, and others were only able to purchase  
the IQ pager bundled with seminars. These consumers should not have been excluded.

1 determine if the company can continue to operate and comply with the Order, and if not to  
2 take whatever steps are necessary and prudent to achieve maximum compliance with the  
3 Order.

- 4 5. The Court should exercise its power in equity to authorize the redress administrator to re-mail  
5 the FTC Redress Program Notices under the Order to eligible consumers in envelopes  
6 bearing the FTC Redress Program return address established by the Redress Administrator  
7 or the return address for the FTC's Northwest Regional Office, and to reinstate the claims of  
8 those consumers whose claims were improperly denied.

9 **IV. CONCLUSION**

10 For the reasons stated above, the FTC requests that the Court order WCFC and Cook to appear  
11 and show cause why they should not be held in civil contempt of court and coercive and compensatory  
12 sanctions imposed.

13 Dated: February 21, 2002

Respectfully submitted,

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15 \_\_\_\_\_  
16 Eleanor Durham  
17 Randall H. Brook  
18 Attorneys for Plaintiff  
19 Federal Trade Commission  
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