

The Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JOHN STEFANCHIK, *et al.*,

Defendants.

Case No. C04-1852RSM

**FINAL JUDGMENT AND ORDER  
FOR PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF**

The Court, having granted summary judgment in favor of plaintiff, and having found that plaintiff is entitled to the relief sought against defendants for their deceptive acts and practices in connection with the marketing and sale of the “Stefanchik Program,” which consisted of course materials, in-person workshops, videotapes, audio tapes, and other educational products and services purporting to teach consumers how to purchase and/or sell privately held mortgages or promissory notes that are secured by real estate, hereby FINDS and ENTERS the following Order for Permanent Injunction and Other Equitable Relief (“Order”):

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. This Court has jurisdiction of the subject matter of this action and of the parties hereto. Venue in the Western District of Washington is proper.

2. Pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Commission has the authority to seek the relief contained herein.

1           3.       The acts and practices of defendants are in or affecting commerce, as defined in  
2 Section 4 of the FTC Act, 15 U.S.C. § 44.

3           4.       The Commission's Amended Complaint states a claim upon which relief may be  
4 granted against defendants under Sections 5(a), 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45(a),  
5 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act  
6 ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq.*

7           5.       There is no genuine issue as to any material fact concerning the liability of  
8 defendants for the illegal practices charged in the Amended Complaint.

9           6.       Section 5(a) of the FTC Act prohibits deceptive acts and practices in or affecting  
10 commerce. 15 U.S.C. § 45(a). To be deceptive, an act or practice must be one that is likely to  
11 mislead consumers acting reasonably under the circumstances, and is material. *FTC v. Pantron I*  
12 *Corp.*, 33 F.3d 1088, 1095 (9th Cir. 1994) (*citing Cliffdale Assocs., Inc.*, 103 F.T.C. 110, 164-65  
13 (1984)).

14           7.       An act or practice is material if it is likely to affect a consumer's choice of or  
15 conduct regarding a product. *FTC Policy Statement on Deception, appended to Cliffdale*  
16 *Assocs.*, 103 F.T.C. at 174. Where the challenged claims are express, reasonable consumers are  
17 not required to doubt their veracity, and the court may presume such claims to be material.  
18 *Pantron I*, 33 F.3d at 1095-96, 1096 n. 21.

19           8.       The TSR, 16 C.F.R. Part 310, which implements provisions of the Telemarketing  
20 Act, prohibits telemarketers and sellers from misrepresenting, directly or by implication, any  
21 material aspect of the performance, efficacy, nature, or central characteristics of goods or services  
22 that are the subject of a sales offer, 16 C.F.R. § 310.3(a)(2)(iii), and from making a false or  
23 misleading statement to induce any person to pay for goods and services, 16 C.F.R. § 310.3(a)(4).

24           9.       Defendant Beringer was a "seller" engaged in "telemarketing" as those terms are  
25 defined in the TSR. 16 C.F.R. §§ 310.2(z) and (cc).

26           10.      Former defendant Atlas Marketing, Inc. ("Atlas"), was a "telemarketer" engaged  
27 in "telemarketing" as those terms are defined in the TSR. 16 C.F.R. §§ 310.2(bb) and (cc).

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1 11. Defendant Beringer and former defendant Atlas had an agency relationship  
2 pursuant to which they entered into an agreement to market and sell the Stefanchik Program  
3 under the name the “Stefanchik Organization.”

4 12. Telemarketing and advertising were activities within the scope of the agency  
5 relationship between defendant Beringer and former defendant Atlas.

6 13. Undisputed facts show that in the marketing and selling of the Stefanchik Program,  
7 defendant Beringer and its agent falsely represented, directly or by implication, to consumers that:

8 A. consumers who purchased defendants’ materials, attended defendants’ seminars  
9 and workshops, or used defendants’ personal coaches, would quickly make large  
10 amounts of money in their spare time by learning and using the methods taught;

11 B. defendants’ personal coaching service was staffed by persons substantially  
12 experienced in the paper business who were readily available by telephone to assist  
13 consumers in finding and completing paper transactions; and

14 C. defendants possessed and relied upon a reasonable basis that substantiated the  
15 representation set forth in Paragraph 13.A, at the time the representation was  
16 made.

17 14. Defendant Beringer and its agent made the misrepresentations set forth in  
18 Paragraph 13 through direct mail materials sent to consumers and in telemarketing sales calls  
19 made to consumers.

20 15. The deceptive claims made by defendant Beringer and its agent were likely to have  
21 affected a consumer’s decision to purchase the Stefanchik Program and, accordingly, were  
22 “material” both as to Section 5 of the FTC Act, 15 U.S.C. § 5, and as that term is defined in the  
23 TSR, 16 C.F.R. § 310.2(q).

24 16. The deceptive claims made by defendant Beringer and its agent were likely to  
25 mislead consumers acting reasonably under the circumstances.

26 17. Therefore, the uncontroverted evidence establishes that the claims made by  
27 defendant Beringer and its agent violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and  
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1 Sections 310.3(a)(2)(iii) and 310.3(a)(4) of the TSR, 16 C.F.R. §§ 310.3(a)(2)(iii) and  
2 310.3(a)(4).

3 18. Under the FTC Act, a principal is liable for misrepresentations made by its agents  
4 regardless of any efforts of the principal to prevent such misrepresentations. *FTC v. Southwest*  
5 *Sunsites*, 785 F.2d 1431, 1438-39 (9th Cir. 1986); *Goodman v. FTC*, 244 F.2d 584, 592 (9<sup>th</sup> Cir.  
6 1957).

7 19. Defendant Beringer is liable for the misrepresentations that its agent made to  
8 consumers in direct mail materials sent to consumers and in telemarketing sales calls made to  
9 consumers, and defendant Beringer is therefore liable for injunctive relief under Section 5 of the  
10 FTC Act and the TSR.

11 20. An individual may be held liable for a corporation's deceptive representations  
12 where the individual participated in or had authority to control the deceptive corporate conduct.  
13 *FTC v. Cyberspace.com, LLC*, 453 F.3d 1196, 1202 (9th Cir. 2006); *FTC v. Publishing Clearing*  
14 *House, Inc.*, 104 F.3d 1168, 1170 (9th Cir. 1997).

15 21. Defendant John Stefanchik is liable for defendant Beringer's deceptive  
16 representations because he participated in or had authority to control Beringer Corporation's  
17 conduct, and he is therefore liable for injunctive relief.

18 22. Consumers paid to defendants and their agents a net total of \$17,775,369.00 for  
19 the Stefanchik Program.

20 23. To obtain monetary equitable relief from a corporate defendant under Section  
21 13(b) of the FTC Act, the Commission must establish that the corporation made deceptive  
22 representations in violation of Section 5, that those misrepresentations or omissions were of a  
23 kind usually relied on by prudent persons and that consumer injury resulted. *Pantron I*, 33 F.3d at  
24 1102. The Commission is not required to show that each individual consumer subjectively relied  
25 on the defendant's false claims to prove consumer injury, *FTC v. Security Rare Coin & Bullion*  
26 *Corp.*, 931 F.2d 1312, 1316 (8th Cir. 1991), but must establish that the deceptive representations  
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1 were widespread and of the type on which a reasonably prudent person would rely, and that injury  
2 resulted. *FTC v. Kitco of Nevada, Inc.*, 612 F. Supp. 1282, 1293 (D. Minn. 1985).

3 24. Consumers reasonably relied upon and were injured by widespread false and  
4 unsubstantiated earnings and coaching claims that defendant Beringer and former defendant Atlas  
5 made.

6 25. Defendant Beringer is liable for monetary equitable relief to redress consumer  
7 injury resulting from its illegal conduct.

8 26. A corporate officer may be held individually liable for restitution to consumers if  
9 he or she “had knowledge that the corporation or one of its agents engaged in dishonest or  
10 fraudulent conduct, that the misrepresentations were the type upon which a reasonable and  
11 prudent person would rely, and that consumer injury resulted.” *Cyberspace.com*, 453 F.3d at  
12 1202; *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1234 (9th Cir. 1999) (citing *Publishing*  
13 *Clearing House*, 104 F.3d at 1171). The requisite knowledge may be demonstrated by evidence  
14 that the corporate officer “had actual knowledge of material misrepresentations, [was] recklessly  
15 indifferent to the truth or falsity of a misrepresentation, or had awareness of a high probability of  
16 fraud along with an intentional avoidance of the truth.” *Id.*

17 27. Defendant John Stefanchik had actual knowledge of the misrepresentations to  
18 consumers made by defendant Beringer and former defendant Atlas Marketing, was recklessly  
19 indifferent to the truth or falsity of these misrepresentations, or was aware of the high probability  
20 of fraud associated with and intentionally avoided the truth with respect to these  
21 misrepresentations.

22 28. Defendant John Stefanchik is individually liable for monetary equitable relief to  
23 redress consumer injury resulting from defendant Beringer’s illegal conduct.

24 29. Defendants are jointly and severally liable for the activities alleged in the  
25 Commission’s Amended Complaint. *See FTC v. Sharp*, 782 F. Supp. 1145, 1449 (D. Nev. 1991).

26 30. There is a reasonable likelihood that defendants would engage in the same or  
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1 similar activities alleged in the Commission’s Amended Complaint unless permanently enjoined  
2 from such acts and practices.

3 31. As no material facts are in dispute, the FTC is entitled to judgment as a matter of  
4 law pursuant to Rule 56(c) of the Federal Rules of Civil Procedure.

5 32. Plaintiff is entitled to judgment against defendants in the amount of  
6 \$17,775,369.00, for which defendants are jointly and severally liable.

7 33. Entry of this Order is in the public interest.  
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9 **Definitions**

10 1. “**Defendants**” means John Stefanchik, individually and as an officer and director of  
11 Beringer Corporation, and Beringer Corporation, formerly d.b.a. The Stefanchik Organization, as  
12 well as their successors and assigns, whether acting directly or through any corporation,  
13 subsidiary, division, or other device.

14 2. “**Assisting others**” means providing substantial assistance or support to any  
15 person while knowing or consciously avoiding knowing that the person or entity is engaged in any  
16 act or practice that violates this Order, Section 5 of the FTC Act, 15 U.S.C. § 45, or the TSR, 16  
17 C.F.R. Part 310. For purposes of this Order, providing substantial assistance or support includes,  
18 but is not limited to: (1) performing customer service functions, including, but not limited to,  
19 receiving or responding to consumer complaints; (2) formulating or providing, or arranging for  
20 the formulation or provision of, any telephone sales script or any other marketing material; (3)  
21 providing names of, or assisting in the generation of, potential customers; or (4) performing  
22 marketing services of any kind.

23 3. “**Document**” is synonymous in meaning and equal in scope to the usage of the  
24 term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,  
25 photographs, audio and video recordings, computer records, and other data compilations from  
26 which information can be obtained and translated, if necessary, through detection devices into  
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1 reasonably usable form. A draft or non-identical copy is a separate document within the meaning  
2 of the term.

3 4. **“Material”** means likely to affect a person’s choice of, or conduct regarding,  
4 goods or services.

5 5. **“Paper Business”** means the business of brokering the sale of, purchasing and/or  
6 selling privately held mortgages or promissory notes that are secured by real estate.

7 6. **“Person”** means any individual, group, unincorporated association, limited or  
8 general partnership, corporation, or other business entity.  
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## 10 **ORDER**

### 11 **I. PROHIBITED PRACTICES**

12 **IT IS THEREFORE ORDERED** that defendants, and their officers, agents, servants,  
13 employees, and those persons in active concert or participation with them who receive actual  
14 notice of this Order by personal service or otherwise, in connection with the advertising,  
15 promotion, marketing, offering for sale, or sale of any business venture, money-making venture or  
16 other investment opportunity (including, but not limited to, an opportunity to invest in real estate  
17 or in mortgages or other intangible items), or seminar or other tool purported to teach consumers  
18 how to succeed in any business venture, money-making venture or other investment opportunity,  
19 are hereby permanently restrained and enjoined from:

20 A. Misrepresenting, expressly or by implication, that consumers who purchase any  
21 product or service will make a substantial amount of money;

22 B. Misrepresenting, expressly or by implication, the income, profit, or sales volume  
23 that consumers who purchase any product or service may or are likely to achieve;

24 C. Misrepresenting, expressly or by implication, the income, profit, or sales volume  
25 achieved by consumers who previously purchased any product or service that defendants market  
26 or sell;  
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1 D. Misrepresenting, expressly or by implication, that any services offered by  
2 defendants are provided by persons substantially experienced in a particular business venture,  
3 money-making venture or other investment opportunity, or that such persons are readily available  
4 to assist consumers with finding or completing transactions in the business venture, money-  
5 making venture or other investment opportunity being marketed or sold;

6 E. Representing, expressly or by implication, that consumers who purchase any  
7 product or service will make a substantial amount of money, unless defendants possess and rely  
8 upon a reasonable basis to substantiate the representation at the time the representation is made;

9 F. Misrepresenting, expressly or by implication, any fact material to a consumer's  
10 decision to purchase any product or service;

11 G. Violating or assisting others to violate any provision of the TSR, 16 C.F.R. Part  
12 310, as currently promulgated or as it may hereafter be amended, including, but not limited to:

- 14 1. Misrepresenting, directly or by implication, any material aspect of the  
15 performance, efficacy, nature, or central characteristics of goods or  
16 services that are the subject of the sales offer, in violation of Section  
17 310.3(a)(2)(iii) of the Rule, 16 C.F.R. § 310.3(a)(2)(iii); and
- 18 2. Making a false or misleading statement to induce any person to pay for any  
19 good or service in violation of Section 310.3(a)(4) of the Rule, 16 C.F.R.  
20 § 310.3(a)(4).

## 21 **II. MONITORING COMPLIANCE OF SALES PERSONNEL**

22 **IT IS FURTHER ORDERED** that defendants, and their officers, agents, servants,  
23 employees, and those persons in active concert or participation with them who receive actual  
24 notice of this Order by personal service or otherwise, in connection with any business where (1)  
25 any defendant is the majority owner of the business or directly or indirectly manages or controls  
26 the business, and (2) the business is engaged in telemarketing or marketing or assisting others  
27 engaged in telemarketing or marketing any business venture, money-making venture or other  
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1 investment opportunity (including an opportunity to invest in real estate or in mortgages or other  
2 intangible item), or seminar or other tool purported to teach consumers how to succeed in any  
3 business venture, money-making venture or other investment opportunity, are hereby permanently  
4 restrained and enjoined from:

5           A.     Failing to take reasonable steps sufficient to monitor and ensure that all employees,  
6 agents, and independent contractors engaged in sales or other customer service functions comply  
7 with Section I of this Order. Such steps shall include adequate monitoring of sales presentations  
8 or other calls with customers, and shall also include, at a minimum, the following: (1) listening to  
9 the oral representations made by persons engaged in sales or other customer service functions; (2)  
10 establishing a procedure for receiving and responding to consumer complaints; and  
11 (3) ascertaining the number and nature of consumer complaints regarding transactions in which  
12 each employee or independent contractor is involved; *provided* that this Paragraph does not  
13 authorize or require the defendants to take any steps that violate any federal, state, or local laws;

14           B.     Failing promptly to investigate fully any consumer complaint received by any  
15 business to which this Section applies; and

16           C.     Failing to take corrective action with respect to any sales person defendants  
17 determine is not complying with this Order, which may include training, disciplining, and/or  
18 terminating such sales person.  
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### 20                                   **III. DISCLOSURE OF CUSTOMER INFORMATION**

21           **IT IS FURTHER ORDERED** that defendants, and their officers, agents, servants, and  
22 employees, and all other persons or entities in active concert or participation with them who  
23 receive actual notice of this Order by personal service or otherwise, are permanently restrained  
24 and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address,  
25 telephone number, credit card number, bank account number, e-mail address, or other identifying  
26 information of any person who paid any money to any defendant, at any time prior to entry of this  
27 Order, for any product or service about or related to the paper business. *Provided, however,* that  
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1 defendants may disclose such identifying information to a law enforcement agency or as required  
2 by any law, regulation, or court order.

3 **IV. MONETARY JUDGMENT**

4 **IT IS FURTHER ORDERED** that:

5 A. Judgment is entered against defendants jointly and severally in the amount of  
6 \$17,775,369.00 (hereafter the “restitution amount”). Judgment shall be paid to the Commission  
7 within ten (10) days of entry of this Order.  
8

9 B. All funds paid to the Commission pursuant to this Section shall be deposited into a  
10 fund administered by the Commission or its agent to be used for equitable relief, including but not  
11 limited to consumer restitution and any attendant expenses for the administration of any  
12 restitution fund. If the Commission determines in its sole discretion that restitution to consumers  
13 is wholly or partially impracticable or funds remain after restitution is completed, the Commission  
14 may apply any remaining funds for such other equitable relief, including consumer information  
15 remedies, as it determines to be reasonably related to the defendants’ practices alleged in the  
16 Complaint. Any funds not used for such equitable relief shall be deposited in the United States  
17 Treasury as disgorgement. Defendants shall have no right to challenge the Commission’s choice  
18 of remedies under this Section.

19 C. If defendants fail to pay the Commission the restitution amount as set forth above,  
20 interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately  
21 begin to accrue on the unpaid balance.

22 D. In accordance with 31 U.S.C. § 7701, each defendant is hereby required, unless  
23 that defendant has done so already, to furnish to the Commission the defendant’s taxpayer  
24 identifying number (social security numbers or employer identification number), which shall be  
25 used for purposes of collecting and reporting on any delinquent amount arising out of that  
26 defendant’s relationship with the government.  
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1 **V. COMPLIANCE REPORTING BY DEFENDANTS**

2 **IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this  
3 Order may be monitored:

4 A. For a period of five (5) years from the date of entry of this Order, defendants shall  
5 notify the Commission of the following:

- 6
- 7 1. Defendant John Stefanchik shall notify the Commission of the following:
    - 8 a. Any changes in his residence, mailing address and telephone number,  
9 within ten (10) days of the date of such change;
    - 10 b. Any changes in his employment status (including self-employment)  
11 within ten (10) days of such change. Such notice shall include the  
12 name and address of each business that he is affiliated with or  
13 employed by, a statement of the nature of the business, and a  
14 statement of his duties and responsibilities in connection with the  
15 business or employment; and
    - 16 c. Any changes in name or use of any aliases or fictitious names; and
  - 17 2. Defendants shall notify the Commission of any changes in the corporate  
18 structure of defendant Beringer Corporation or any proposed change in the  
19 structure of any business entity owned or controlled by any defendant, such  
20 as creation, incorporation, dissolution, assignment, sale, merger, creation or  
21 dissolution of subsidiaries, or any other change that may affect compliance  
22 obligations arising out of this Order, thirty (30) days prior to the effective  
23 date of any proposed change; *provided* that, with respect to any proposed  
24 change in the corporation about which a defendant learns less than thirty  
25 (30) days prior to the date such action is to take place, that defendant shall  
26 notify the Commission as soon as practicable after obtaining such  
27 knowledge;  
28

1 B. One hundred eighty (180) days after the date of entry of this Order, each defendant  
2 shall provide a written report to the Commission, sworn to under penalty of perjury, setting forth  
3 in detail the manner and form in which the defendant has complied and is complying with this  
4 Order. This report shall include, but not be limited to:

- 5 1. For defendant John Stefanchik:
- 6 a. His then-current residence addresses and telephone numbers;
- 7
- 8 b. His then-current employment, business addresses and telephone  
9 numbers, a description of the business activities of each such  
10 employer, and his title and responsibilities for each employer; and
- 11 c. Any other changes required to be reported under Paragraph A of  
12 this Section.
- 13 2. For all defendants:
- 14 a. A copy of each acknowledgment of receipt of this Order, obtained  
15 pursuant to Section VIII of this Order; and
- 16
- 17 b. Any other changes required to be reported Paragraph A of this  
18 Section.

19 C. For the purposes of this Section, “employment” includes the performance of  
20 services as an employee, consultant, or independent contractor; and “employers” include any  
21 individual or entity for whom any defendant performs services as an employee, consultant, or  
22 independent contractor.

23 D. For the purposes of this Order, defendants shall, unless otherwise directed by the  
24 Commission’s authorized representatives, mail all written notifications to the Commission to:

25 Associate Director for Enforcement  
26 Federal Trade Commission  
27 601 New Jersey Avenue, N.W.  
28 Washington, DC 20001  
Re: *FTC v. John Stefanchik, et al.*

1 E. For purposes of the compliance reporting required by this Order, the Commission is  
2 authorized to communicate directly with defendants.

3 **VI. COMPLIANCE MONITORING**

4 **IT IS FURTHER ORDERED** that for the purpose of monitoring and investigating  
5 compliance with any provision of this Order,

6  
7 A. Within ten (10) days of receipt of written notice from a representative of the  
8 Commission, each defendant shall submit additional written reports, sworn to under penalty of  
9 perjury; produce documents for inspection and copying; appear for deposition; and/or provide  
10 entry during normal business hours to any business location in such defendant's possession or  
11 direct or indirect control to inspect the business operation;

12 B. In addition, the Commission is authorized to monitor compliance with this Order by  
13 all lawful means including, but not limited to, the following:

- 14 1. Obtaining discovery from any person, without further leave of court, using  
15 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;  
16 2. Posing as consumers and suppliers to defendants, defendants' employees, or  
17 any other entity managed or controlled in whole or in part by defendants,  
18 without the necessity of identification or prior notice; and

19 C. Defendants shall permit representatives of the Commission to interview any  
20 employer, consultant, independent contractor, representative, agent, or employee who has agreed  
21 to such an interview, relating in any way to any conduct subject to this Order. The person  
22 interviewed may have counsel present.

23  
24 *Provided, however,* that nothing in this Order shall limit the Commission's lawful use of  
25 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to  
26 obtain any documentary material, tangible things, testimony, or information relevant to unfair or  
27 deceptive acts or practices in or affecting commerce (withing the meaning of 15 U.S.C.  
28 § 45(a)(1)).

**VII. RECORD KEEPING**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, defendants, and their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with any business where: (1) any defendant is the majority owner of the business, or directly or indirectly manages or controls the business, and (2) the business is engaged in telemarketing or marketing or assisting others engaged in telemarketing or marketing any business venture, money-making venture or other investment opportunity (including an opportunity to invest in real estate or in mortgages or other intangible item), or seminar or other tool purported to teach consumers how to succeed in any business venture, money-making venture or other investment opportunity, are hereby permanently restrained and enjoined from failing to create and retain:

A. Accounting records that reflect the cost of goods or services sold, revenues generated and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and

1 F. All records and documents necessary to demonstrate full compliance with each  
2 provision of this Order including, but not limited to, copies of acknowledgments of receipt of this  
3 Order required by Section VIII of this Order, and all reports submitted to the Commission  
4 pursuant to Section V of this Order.

5 **VIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

6 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of  
7 this Order, defendants shall deliver copies of the Order as directed below:

8 A. Corporate Defendant: Defendant Beringer Corporation must deliver a copy of this  
9 Order to all of its principals, officers, directors, and managers. Defendant Beringer Corporation  
10 also must deliver copies of this Order to all of its employees, agents, and representatives who  
11 engage in conduct related to the subject matter of the Order. For current personnel, delivery shall  
12 be within five (5) days of service of this Order upon defendant Beringer Corporation. For new  
13 personnel, delivery shall occur prior to them assuming their responsibilities.  
14

15 B. Individual Defendant John Stefanchik as Control Person: For any business that  
16 defendant John Stefanchik controls, directly or indirectly, or in which he has a majority ownership  
17 interest, defendant John Stefanchik must deliver a copy of this Order to all principals, officers,  
18 directors, and managers of that business. Defendant John Stefanchik must also deliver copies of  
19 this Order to all employees, agents, and representatives of that business who engage in conduct  
20 related to the subject matter of the Order. For current personnel, delivery shall be within five (5)  
21 days of service of this Order upon defendant John Stefanchik. For new personnel, delivery shall  
22 occur prior to them assuming their responsibilities.

23 C. John Stefanchik as Employee or Non-Control Person: For any business where  
24 defendant John Stefanchik is not a controlling person of a business but otherwise engages in  
25 conduct related to the subject matter of this Order, he must deliver a copy of this Order to all  
26 principals and managers of such business before engaging in such conduct.  
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1 D. Defendants shall secure a signed and dated statement acknowledging receipt of the  
2 Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant  
3 to this Section.

4 **IX. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

5 **IT IS FURTHER ORDERED** that each defendant, within five (5) business days of receipt  
6 of this Order as entered by the Court, must submit to the Commission a truthful sworn statement  
7 acknowledging receipt of this Order.

8 **X. RETENTION OF JURISDICTION**

9 **IT IS FURTHER ORDERED** that this Court will retain jurisdiction of this matter for  
10 purposes of construction, modification, and enforcement of this Order.

11 **SO ORDERED**, this  3  day of April, 2007.

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15 RICARDO S. MARTINEZ  
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

18  
19 s/Nadine S. Samter  
20 NADINE S. SAMTER, WSBA # 23881  
21 KIAL S. YOUNG, Mass. Bar #633515  
22 JULIE K. MAYER, WSBA #34638  
23 Attorneys for Plaintiff  
24 Federal Trade Commission  
25 915 Second Avenue, Suite 2896  
26 Seattle, Washington 98174  
27 (206) 220-6350  
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