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The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JOHN STEFANCHIK, individually and as an  
officer and director of Beringer Corporation,

SCOTT B. CHRISTENSEN, individually and  
as an officer and director of Atlas Marketing,  
Inc.,

BERINGER CORPORATION, dba The  
Stefanchik Organization, a Washington  
corporation, and

ATLAS MARKETING, INC., also dba The  
Stefanchik Organization, a Nevada  
Corporation,

Defendants.

CIVIL ACTION NO. 04-1852RSM

**STIPULATED PRELIMINARY  
INJUNCTION AND ORDER FOR  
OTHER EQUITABLE RELIEF AS TO  
DEFENDANTS SCOTT B.  
CHRISTENSEN AND ATLAS  
MARKETING, INC.**

23 WHEREAS, Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), has  
24 filed a Complaint against defendants John Stefanchik, Scott B. Christensen, Beringer  
25 Corporation, and Atlas Marketing, Inc. (collectively, "Defendants"), doing business collectively  
26 as "The Stefanchik Organization," pursuant to Section 13(b) of the Federal Trade Commission  
27 Act ("FTC Act"), 15 U.S.C. § 53(b), to secure permanent injunctive relief, restitution,  
28 disgorgement, and other equitable relief against defendants for their alleged deceptive acts or

1 practices in connection with the direct mail and Internet marketing and telemarketing of course  
 2 materials, in-person workshops, videotapes, audio tapes and other products and services that  
 3 purport to teach consumers how to make money brokering, purchasing, and/or reselling privately  
 4 held mortgages or promissory notes that are secured by real property in violation of Section 5(a)  
 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule  
 6 entitled "Telemarketing Sales Rule" ("TSR" or "Rule"), 16 C.F.R. Part 310, as amended;

7 WHEREAS, Plaintiff also has filed a Motion for a Preliminary Injunction and Other  
 8 Equitable Relief ("Motion") against Defendants, seeking preliminary relief in connection with  
 9 the acts and practices alleged in the Complaint;

10 WHEREAS Plaintiff and Defendants Scott B. Christensen and Atlas Marketing, Inc.,  
 11 (collectively, the "Stipulating Defendants"), without any admission of any wrongdoing or  
 12 violation of law, voluntarily have agreed to the entry of the following stipulated order for  
 13 preliminary injunction ("Order"):

14 The Court, being advised in the premises, finds as follows:

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**FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and over the Stipulating Defendants. Venue in the Western District of Washington is proper.
2. The complaint states a claim upon which relief may be granted against the Stipulating Defendants under 15 U.S.C. §§ 45(a) and 52.
3. The acts and practices of the Stipulating Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Stipulating Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this stipulation.
5. Entry of this Order is in the public interest.

**DEFINITIONS**

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1. "Atlas" means Atlas Marketing, Inc., a corporation, its divisions and subsidiaries, its successors and assigns, and its officers, agents, representatives, and employees.

2. "Christensen" means Scott B. Christensen, individually and as an officer and director of Atlas.

3. "Defendants" means John Stefanchik, Scott B. Christensen, Beringer Corporation, and Atlas Marketing, Inc.

4. "Stipulating Defendants" means Scott B. Christensen and Atlas Marketing, Inc., and each of them, by whatever names each might be known, as well as their successors and assigns, whether acting directly or through any corporation, subsidiary, division or other device.

5. "Assisting others" means providing any of the following goods or services to another entity: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other marketing material; (3) providing names of, or assisting in the generation of, potential customers; (4) providing the fulfillment services for the marketing or sale of any product or service; or (5) performing marketing services of any kind, while knowing or consciously avoiding knowing that the entity is violating § 310.3(a) or (c), or § 310.4 of the Telcmarketing Sales Rule.

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

7. "Paper Business" means the business of making money brokering, purchasing, and/or selling privately held mortgages or promissory notes that are secured by real property.

8. "Person" means any individual, group, unincorporated association, limited or general partnership, corporation or other business entity.

1 9. "Target product or service" means course materials, in-person workshops,  
2 seminars, videotapes, audio tapes, personal coaching services, and other products and services  
3 that purport to teach consumers how to make money brokering, purchasing, and/or selling  
4 privately held mortgages or promissory notes that are secured by real property.  
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#### 6 I. PROHIBITED PRACTICES

7 IT IS THEREFORE ORDERED that the Stipulating Defendants and their officers,  
8 agents, directors, employees, salespersons, independent contractors, subsidiaries, affiliates,  
9 successors, assigns, and all other persons or entities in active concert or participation with any of  
10 them who receive actual notice of this Order by personal service or otherwise, including by  
11 facsimile, in connection with the advertising, promotion, marketing, offering for sale, or sale of  
12 any target product or service, are hereby restrained and enjoined from:

13 A. Misrepresenting, expressly or by implication, that consumers who purchase the  
14 target product or service will make a substantial amount of money;

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

17 C. Misrepresenting, expressly or by implication, the income, profit, or sales volume  
18 achieved by consumers who previously purchased the target product or service;

19 D. Misrepresenting, expressly or by implication, that any target services offered are  
20 provided by persons substantially experienced in the paper business, or that such persons are  
21 readily available to assist consumers in finding or completing transactions in the paper business;

22 E. Representing, expressly or by implication, that consumers who purchase the target  
23 product or service will make a substantial amount of money, unless the Stipulating Defendants  
24 possess and rely upon a reasonable basis to substantiate the representation at the time the  
25 representation is made;

26 F. Misrepresenting, expressly or by implication, any fact material to a consumer's  
27 decision to purchase any target product or service;  
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1 G. In connection with telemarketing, as defined in the Telemarketing Sales Rule,  
2 violating or assisting others to violate any provision of the Rule, including, but not limited to:

- 3 1. Misrepresenting, directly or by implication, any material aspect of the  
4 performancce, efficacy, nature, or central characteristics of goods or  
5 services that are the subject of the sales offer, in violation of Section  
6 310.3(a)(2)(iii) of the Rule, 16 C.F.R. § 310.3(a)(2)(iii); and  
7 2. Making a false or misleading statement to induce any person to pay for any  
8 good or service in violation of Section 310.3(a)(4) of the Rule, 16 C.F.R.  
9 § 310.3(a)(4).

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11 **II. NOTICE OF CORPORATE OR PERSONAL ASSET TRANSACTIONS**

12 **IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents,  
13 directors, employees, salespersons, independent contractors, subsidiaries, affiliates, successors,  
14 assigns, and all other persons or entities in active concert or participation with any of them who  
15 receive actual notice of this Order by personal service or otherwise, including by facsimile:

16 A. Are hereby restrained and enjoined from making any transfer of any money or  
17 tangible or intangible assets or any expenditure that is not made within the ordinary course of  
18 business and that has a value of over ten thousand dollars (\$10,000.00) from the date of entry of  
19 this Order, without disclosing to the Commission, at least five (5) business days prior to the  
20 transfer or expenditure, the purpose and recipient of such transfer or expenditure.

21 *Provided, however,* that with respect to any such proposed transfer or expenditure which  
22 either of the Stipulating Defendants learns of less than five (5) business days prior to the date  
23 such transfer or expenditure is to take place, the Stipulating Defendant(s) shall notify the  
24 Commission within two (2) business days after learning of such proposed transfer or expenditure.  
25 This notice may be made via facsimile to (206) 220-6366 or by electronic mail ("email") to the  
26 email address [nsamter@ftc.gov](mailto:nsamter@ftc.gov); and

27 B. Shall provide to the Commission, no later than twenty (20) days after entry of this  
28 Order and every sixty (60) days thereafter, all profit and loss statements and balance sheets for

1 the Stipulating Defendants and any affiliated entity and any entities of which either of the  
2 Stipulating Defendants have direct or indirect control.

3 C. The funds, property, and assets affected by this Part shall include both existing  
4 assets and assets acquired after the date of entry of this Order, including, without limitation,  
5 those acquired by loan or gift.

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7 **III. PROHIBITED DISCLOSURE OF CONSUMER LISTS**

8 **IT IS FURTHER ORDERED** that the Stipulating Defendants and their officers, agents,  
9 directors, employees, salespersons, independent contractors, subsidiaries, affiliates, successors,  
10 assigns, and all other persons or entities in active concert or participation with any of them who  
11 receive actual notice of this Order by personal service or otherwise, including by facsimile, are  
12 hereby restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing  
13 the name, address, telephone number, credit card number, bank account number, e-mail address,  
14 or other identifying information of any person who has paid any money to any Defendant in  
15 connection with promoting, offering for sale, selling, or participating in the sale of, directly or  
16 indirectly, any target product or service. *Provided*, however, that the Stipulating Defendants may  
17 disclose such identifying information to a law enforcement agency or as required by any law,  
18 regulation, or court order, and to any affiliated entities over which Stipulating Defendants have  
19 direct control.

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21 **IV. RECORD KEEPING/BUSINESS OPERATIONS**

22 **IT IS FURTHER ORDERED** that the Stipulating Defendants, and their officers, agents,  
23 directors, employees, salespersons, independent contractors, subsidiaries, affiliates, successors,  
24 assigns, and all other persons or entities in active concert or participation with any of them who  
25 receive actual notice of this Order by personal service or otherwise, including by facsimile, in  
26 connection with the advertising, promotion, marketing, offering for sale, or sale of any target  
27 product or service, are hereby restrained and enjoined from:  
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1 A. Failing to create and maintain documents that, in reasonable detail, accurately,  
2 fairly, and completely reflect the Stipulating Defendants' incomes, disbursements, transactions,  
3 and use of money, beginning as of the date of entry of this Order;

4 B. Failing to make and keep books, records, accounts, bank statements, current  
5 accountants' reports, general ledgers, general journals, cash receipt ledgers, cash disbursement  
6 ledgers and source documents, documents indicating title to real or personal property, and any  
7 other documents or electronic data which, in reasonable detail, accurately and fairly reflect the  
8 transactions and dispositions of the assets of the Stipulating Defendants;

9 C. Destroying, mutilating, concealing, altering, transferring, or otherwise disposing  
10 of, in any manner, any books, records, tapes, discs, accounting data, checks (fronts and backs),  
11 correspondence, forms, advertisements, brochures, manuals, electronically stored data, banking  
12 records, customer lists, customer files, invoices, telephone records, ledgers, payroll records or  
13 other documents of any kind, including information stored in computer-maintained form, in their  
14 possession, custody or control, and other documents or records of any kind that relate to the  
15 business practices or finances of the Stipulating Defendants;

16 D. Failing to maintain complete records of any consumer complaints and disputes,  
17 whether coming from the consumer or any intermediary, such as a government agency or Better  
18 Business Bureau, and any responses made to those complaints or disputes; and

19 E. Creating, operating or exercising any control over any business entity, including  
20 any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without  
21 first providing the Commission with a written statement disclosing: (1) the name of the business  
22 entity; (2) the address and telephone number of the business entity; (3) the names of the business  
23 entity's officers, directors, principals, managers, and employees; and (4) a detailed description of  
24 the business entity's intended activities.

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26 **V. MONITORING COMPLIANCE OF SALES PERSONNEL**

27 **IT IS FURTHER ORDERED** that the Stipulating Defendants, in connection with any  
28 business where (1) a Stipulating Defendant is the majority owner of the business or directly or

1 indirectly manages or controls the business, and (2) the business is engaged in telemarketing or  
2 marketing or assisting others engaged in telemarketing or marketing of a target product or  
3 service, are hereby restrained and enjoined from:

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

16       C.     Failing to take corrective action with respect to any sales person whom the  
17 Stipulating Defendants determine is not complying with this Order, which may include training,  
18 disciplining, and/or terminating such sales person.

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20       **VI. DISTRIBUTION OF ORDER BY THE STIPULATING DEFENDANTS**

21       **IT IS FURTHER ORDERED** that the Stipulating Defendants shall immediately provide  
22 a copy of this Order to each affiliate, partner, subsidiary, division, sales entity, successor, assign,  
23 officer, director, employee, independent contractor, agent, attorney, fulfillment house, call center,  
24 and representative of the Stipulating Defendants, and within ten (10) business days following  
25 service of this Order by the Commission, shall serve upon Nadine Samter, Esq., 915 Second  
26 Avenue, Suite 2896, Seattle, WA 98174, an affidavit identifying the names, titles, addresses, and  
27 telephone numbers of the persons and entities that the Stipulating Defendants have served with a  
28 copy of this Order in compliance with this provision.



**VII. SERVICE OF THIS ORDER BY PLAINTIFF**

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**IT IS FURTHER ORDERED** that copies of this Order may be served by facsimile transmission, personal or overnight delivery, or U.S. Mail, by agents and employees of the Commission or any state or federal law enforcement agency, on (1) the Stipulating Defendants, or (2) any other person or entity that may be subject to any provision of this Order. Service upon any branch or office of any entity shall effect service upon the entire entity.

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**VIII. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for all purposes.

**SO ORDERED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2004, at \_\_\_\_\_.

The Honorable Ricardo S. Martinez  
United States District Judge

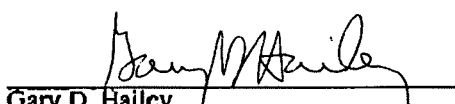
**SO STIPULATED:**

  
NADINE S. SAMTER, WSBA # 23881  
KIAL S. YOUNG, D.C. Bar # 461348  
ELEANOR DURHAM, Member MD Bar  
Federal Trade Commission  
915 Second Ave., Suite 2896  
Seattle, WA 98174  
(206) 220-6350  
FAX (206) 220-6366

  
SCOTT B. CHRISTENSEN, individually  
and as an officer of Atlas Marketing, Inc.

ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION

  
ATLAS MARKETING, INC.  
By: Scott B. Christensen, President

  
Gary D. Hailcy  
Venable LLP  
575 7<sup>TH</sup> Street, NW  
Washington, D.C. 20004  
(202) 344-4000  
FAX (202) 344-8300

ATTORNEY FOR DEFENDANTS  
SCOTT B. CHRISTENSEN AND  
ATLAS MARKETING, INC.