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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 5

STATE OF KANSAS, *ex rel.*)
CARLA J. STOVALL, Attorney General,)
)
Plaintiff,)
)
v.)
)
WADE COOK FINANCIAL CORPORATION,)
a Nevada corporation; and WADE COOK)
SEMINARS, INC., A Nevada corporation,)
)
Defendants.)

Case No. 00-C- 1653

(Pursuant to K.S.A. Chapter 60)

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 29th day of December, 2000, comes before the Court the Journal Entry of Consent Judgment entered into between the parties, pursuant to K.S.A. 50-632(b). Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through counsel, Frances R. Brunner, Assistant Attorney General. Defendants, Wade Cook Financial Corporation and Wade Cook Seminars, Inc., appear by and through counsel, Robert Stephan. There are no other appearances.

WHEREUPON, the parties advise the Court they have stipulated and agreed to the following matters:

1. Carla J. Stovall is the Attorney General of the State of Kansas.
2. Authority to bring this action is derived from statutory and common law of Kansas, specifically, the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*
3. Defendant Wade Cook Financial Corporation (WCFC), formerly known as Profit Financial Corporation, is a foreign corporation organized under the laws of the State of Nevada with a principal place of business at 14675 Interurban Avenue South, Seattle, Washington 98168. Defendant Wade Cook Seminars, Inc., formerly known as United Support Association, Inc., is a wholly owned subsidiary corporation of WCFC with a principal place of business at 14675 Interurban Avenue South, Seattle, Washington 98168.
4. Defendants are suppliers within the definition of K.S.A. 50-624(i) and have engaged in consumer transactions in Kansas within the definitions of K.S.A. 50-624(c).
5. Defendants stipulate to the personal and subject matter jurisdiction of the Shawnee County District Court over the parties.
6. Defendants, by entering into this Consent Decree, deny the occurrence of any fact alleged in the Consent Judgment or that they have engaged in any act or practice in violation of any law of the State of Kansas. Plaintiff and Defendants agree that this Consent Judgment does not constitute evidence or an admission regarding the existence or non-existence of any issue, fact, or violation of any law alleged by Plaintiff.
7. Defendants recognize and state that this Consent Judgment is entered into voluntarily and that no promises or threats have been made by the Attorney General's Office or any member,

officer, agent or representative thereof to induce them to enter into this Consent Judgment, except as provided herein.

8. Defendants waive any right they may have to appeal from this Consent Judgment, and Plaintiff acknowledges that this Consent Judgment resolves all allegations alleged herein.

9. The Plaintiff alleges Defendants engaged in the following acts and practices which are deceptive and violate the Kansas Consumer Protection Act:

(a) Defendants have made material misrepresentations or failed to disclose material information to consumers, directly and through implication, in order to induce consumers to purchase their seminars, products and services, in that they misrepresent to consumers the success that the Defendants, themselves, have achieved through their various investment strategies, including, but not limited to:

- (i) Failing to disclose that Defendants have become wealthy not as a result of using their own investment strategies, but rather from selling seminars and other products to consumers;
- (ii) Misrepresenting on audio tape, videotape, in person, and in print that by using his trading system, Wade Cook has doubled his own money every 2.5 to 4.5 months and personally achieves a minimum of 20% to 40% monthly returns;
- (iii) Misrepresenting the actual amount of money made by Defendants using their investment strategies through misleading and inaccurate use of the "Proofs of Return;" and

(iv) Misrepresenting the trading record of the Defendants on an Internet subscription service, called the Wealth Information Network (WIN); all in violation of K.S.A. 50-626(b), K.S.A. 50-626(b)(2) and (3).

(b) Defendants have made material misrepresentation of or failed to disclose material information to consumers in order to induce them to purchase their seminars, products and services in that they misrepresent the ability of consumers to make money using the trading techniques taught at the Wall Street Workshop, at other seminars and described in Defendants' products, including, but not limited to:

- (i) Failing to adequately disclose and/or minimizing the risks inherent in using Defendants' trading strategies;
- (ii) Misrepresenting the ability of consumers to make money "mimicking" trades accomplished by Defendants through use of WIN; and
- (iii) Misrepresenting the success of prior customers by selective use of testimonials;

all in violation of K.S.A. 50-626(b).

(c) Defendants have made material misrepresentations or failed to disclose material information to consumers, directly and through implication, in order to induce consumers to purchase their seminars, products and services in that they misrepresent the guarantees relating to their products and services including but not limited to the following:

- (i) Misrepresenting to consumers that the “3-3-3 guarantee” operates as an absolute guarantee that they will be making significant rates of return by using Defendants’ strategies and duplicating transactions listed on WIN or they will receive their money back when, in fact, this guarantee is illusory;
- (ii) Misrepresenting to consumers that for every dollar paid to Defendants consumers will get 10 times that amount back, that consumers will make substantially more money trading using Defendants’ method than they pay Defendants and that consumers have “nothing to lose” when purchasing Defendants’ products and services, when in fact some consumers have suffered substantial losses as a result of their use of Defendants’ trading methods; and
- (iii) Failing to disclose at the seminars that notwithstanding the guarantees stated in the seminars, the actual practice of the Defendants as stated in some promotional literature is “All sales are Final” and that “after completing the course our ‘products’ cannot be returned, so we do not offer a refund;”

all in violation of K.S.A. 50-626(b) and K.S.A. 50-626(b)(2) and (b)(3).

(d) Defendants, in connection with the offer, sale or purchase of securities, and in return for a fee, have presented false and misleading information and omitted material information relating to Defendants’ securities trading or profitability including:

- (i) inducing customers to purchase and sell securities at seminars through the use of the "Blue Account" account in which, unknown to the seminar participants, trades are not actually consummated;
- (ii) leading customers to believe that if they subscribe to WIN and duplicate the posted transactions, they will achieve the high level of success in securities transactions that Defendants claim to have achieved themselves. However, the transactions posted by Defendants on WIN do not accurately reflect complete and actual transactions;
- (iii) providing consumers with misleading advice as to the value and advisability of purchasing and selling securities; and
- (iv) providing consumers inaccurate trading information on the "proofs of returns;"

all in violation of K.S.A. 50-626(b).

10. Plaintiff and Defendants have agreed on a basis for the settlement of the matters alleged in this Consent Judgment and agree to the entry of this Consent Judgment between the parties without trial or the adjudication of the validity of any alleged issue of law or fact.

11. Defendants and all subsidiaries, affiliates, successors, assigns and transferees and all other such persons specified in the FTC Consent Decree, incorporated herein as Exhibit A, agree to refrain from and to be permanently enjoined from engaging in acts and practices described in paragraph nine (9) in violation of the Kansas Consumer Protection Act.

12. The injunctive provisions of this Consent Judgment shall apply to the Defendants, the Defendants' subsidiaries, affiliates, successors, assigns and transferees and all the Defendants and all other such persons specified in the FTC Consent Decree, attached hereto as Exhibit A.

13. Defendants shall immediately inform all affiliates, successors, assigns and transferees and such other persons specified in the FTC Consent Decree as requiring such notice, of the terms and conditions of this Consent Judgment.

14. Defendants and all subsidiaries, affiliates, successors, assigns and transferees and all other such persons specified in the Federal Trade Commission (FTC) Consent Decree are hereby permanently enjoined and restrained from:

- (a) directly or indirectly violating or failing to comply with the provisions of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*;
- (b) violating or failing to comply with any of the terms and conditions as set forth in the Consent Decree entered into between the FTC and Defendants attached as Exhibit A;
- (c) failing to clearly and prominently state:
 - (i) on the cover page of WIN, or any other similar service on which WCFC lists its trades, "Trades listed on this service may not reflect all trades made by WCFC or represented on such service as having been made by Wade Cook, but only illustrate a trading strategy. Profits or losses that result from the trades used as illustrations may not reflect the overall rate of return earned by WCFC in the stock

market. A consumer who subscribes to this service may not do as well when executing a similar trade;" and

- (ii) before the presentation of any seminar where a specific stock trade is discussed, "The displayed trades are for the purpose of illustration only and do not imply that you will be able to achieve the same or similar results."

15. Pursuant to K.S.A. 50-623, *et seq.*, Defendants agree to provide payment for consumer restitution in an amount and manner as set forth in the FTC Consent Decree (Exhibit A). Further, Defendants agree to consider complaints received from Kansas consumers received by the Kansas Attorney General from January 1, 1997 to August 1, 2000 and sent to Defendants by the entry date of this Order, as consumers eligible for refund under Section II B set forth in Exhibit A, notwithstanding that the criteria in Paragraph II B (2) of the FTC Consent Decree which otherwise might preclude them from being eligible to receive redress under that provision. Those consumers shall receive refunds, if they otherwise qualify pursuant to all other criteria set forth in the FTC Consent Decree, regardless of whether they subsequently paid to attend any other seminar offered by WCFC parties.

16. Plaintiff shall recover and Defendants shall pay the amount of \$400,000 to the State of Washington, which in turn will divide that amount among the States listed in Exhibit B attached hereto which are entering into concurrent Consent Decrees with the Defendants, according to a formula to be determined by the States pursuant to an agreement to which Defendants are not a party. The payment of the \$400,000 shall be made by paying \$100,000 upon execution of the Consent Decree with the State of Washington, then in installments of \$75,000 each, payable every 90 days

until paid in full. The payment of this amount is conditioned upon the entry of Consent Decrees, in appropriate forms, by the Attorneys General of the agreeing states identified in Exhibit B. The payments shall be made by cashier's check, made payable to the Attorney General - State of Washington and shall be delivered to the Office of the Attorney General, Attention: Kathleen Baker. The State of Washington will distribute to Kansas the amount of \$11,636.00.

17. In the event that the Defendants fail to make the first payment within five business days of the execution of this Consent Judgment, or subsequent payments within five business days of the due date, without agreement by the Plaintiff, the Defendants will be considered to be in default.

18. This payment shall be used by the State of Kansas for consumer education or for such other purposes as allowed by K.S.A. 50-632. No portion of this amount shall be considered or treated by the Plaintiff as a civil penalty.

19. Jurisdiction is retained for the purpose of enabling any party to this Consent Judgment to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the carrying out of this Consent Judgment, for the modification of any of the injunctive terms herein, for the enforcement of compliance therewith or punishment of violation thereof. However, aside from the eligibility factors included in paragraph 15, the determination of the eligibility and conditions of redress to consumers under this Consent Judgment are to be made pursuant to the Federal Trade Commission Consent Decree.

20. Representatives of the Office of the Kansas Attorney General shall be permitted, on five business days notice, to access, inspect and/or copy all business records or documents under control of Defendants in order to monitor compliance with this Consent Judgment.

21. Defendants shall provide to the State of Washington a complete list of consumers in the State of Kansas, which will include the names and addresses of those consumers who are determined by the Defendants to be "eligible consumers" for purposes of the redress program described in Exhibit A, at the same time or prior to the time such a list is given to the FTC and according to the schedule set forth in the FTC Consent Decree.

22. Defendants shall provide to the State of Washington all reports and affidavits required to be provided to the FTC pursuant to Section II F of the FTC Consent Decree at the same time that information is given to the FTC.

23. If any portion, provision or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions or parts.

24. This Consent Judgment shall, as of the date of its entry, constitute a complete resolution and satisfaction with respect to all acts or practices alleged in this Consent Judgment under the Kansas Consumer Protection Act, K.S.A. 50-623, *et. seq.* by Defendants, their subsidiaries, affiliates, officers, directors, employees and representatives which arise out of or pertain to the matters, or the investigation of the matters, described in the Consent Judgment filed in this case and Plaintiff, including its subdivisions, agencies, officers, employees and representatives, agrees to waive any right to bring suit, other than in the instant case, which by entry of this Consent Judgment is settled and resolved in its entirety, against such parties under K.S.A. 50-632 for acts and practices occurring before the date of entry of this Judgment.

27. Under no circumstances shall this Consent Judgment or the name of the State of Kansas, the Office of the Attorney General, Consumer Protection Division or any of their employees

or representatives be used by any Defendant named in the Consent Judgment or its officers, directors, affiliates or successors, in connection with any selling, advertising, or promotion of products or services, or as an endorsement or approval of Defendants' acts, practices or conduct of business.

28. Nothing in this Consent Judgment shall be construed as to limit or bar any consumer from pursuing other available remedies against Defendants except as may otherwise be provided in this Consent Judgment or attachments, nor shall this Consent Judgment be construed to limit or bar any defense Defendants may assert against a claim brought by such consumer.

29. Plaintiff may continue to maintain or use any records and documents pertaining to customers of WCFC and WCSI that have been or will be produced by the Defendants only in a manner consistent with K.S.A. 50-631. Otherwise, Plaintiff shall return such records to the Defendants or destroy them. Such customer-related records shall, except as provided above, be treated as proprietary, confidential and trade secrets of the Defendants and may not be disclosed to third persons other than other law enforcement authorities that agree to abide by this confidentiality provision. In the event these records are subpoenaed or ordered disclosed by a court, Plaintiff commits to provide Defendant with fifteen (15) business' days advance notice before complying with said subpoena or court order. If the subpoena or court order to produce confidential documents or information does not permit fifteen (15) business days' advance notice prior to the disclosure of confidential information, Plaintiff will provide the statutory notice or reasonable notice under the circumstances. Plaintiff does not agree to defend the confidentiality of these materials if a third party subpoenas them or if a third party brings an action in court to gain access. This court shall retain jurisdiction over issues that may arise under this paragraph relating to disclosure of confidential information to resolve any disputes.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the stipulation and agreement of the parties contained herein are adopted and approved as the findings of fact and conclusions of law of the Court and any monies owed hereunder by Defendants immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendants in favor of Plaintiff in accordance with paragraphs 15 through 18 of this Consent Judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

IT IS SO ORDERED.

15/ Hon. MARLA J. LUCKERT
Judge of the District Court

PREPARED AND APPROVED BY:

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