

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

The Honorable Thomas T. Glover  
Chapter: 11  
Hearing Date: August 19, 2005  
Hearing Time: 9:30 a.m.  
Hearing Location: Seattle, WA  
Response Date: August 15, 2005

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In re ) No. 02-25434-TTG  
)  
WADE COOK FINANCIAL CORPORATION; ) MOTION TO ESTABLISH CLAIMS  
THE STOCK MARKET INSTITUTE OF ) PROCEDURE AND CLAIMS BAR DATE  
LEARNING, INC.; INFORMATION QUEST, )  
INC.; and LIGHTHOUSE BOOKS, INC. fka )  
LIGHTHOUSE PUBLISHING GROUP, INC., )  
)  
Debtors. )

Chapter 11 trustee Diana K. Carey (“Trustee”), by and through her attorneys Foster Pepper & Shefelman PLLC, hereby moves this Court for an order (1) establishing a procedure for intake, processing, and payment of all claims receiving priority treatment under 11 U.S.C. § 507(a)(6) (“Claimants”); and (2) establishing a claims bar date for all claims receiving priority treatment under 11 U.S.C. § 507(a)(6). In support thereof, the Trustee states as follows:

**I. FACTS**

**A. Background of the Case.**

Separate involuntary petitions were filed against Wade Cook Financial Corporation (“WCFC”) and the Stock Market Institute of Learning (“SMILE”) on December 19, 2002 (“Petition Date”). An order administratively consolidating the two cases was entered on December 20, 2002. On January 17, 2003, an Order for relief was entered against both entities. On the same day, this Court entered an order converting the case from a chapter 7 to a chapter 11,

1 and directing the appointment of a chapter 11 trustee. On January 23, 2003, this Court entered an  
2 order appointing Diana Carey the chapter 11 trustee. By order of this Court, on April 28, 2003,  
3 WCFC and SMILe were substantively consolidated with Information Quest, Inc. (“IQ”), and  
4 Lighthouse Books, Inc. fka Lighthouse Publishing Group, Inc. (“Lighthouse”).

5 Since her appointment, the Trustee has collected and sold various assets of the estate,  
6 including the Debtors’ customer database, investigated and pursued claims against third parties,  
7 and paid the claims of certain priority creditors.

8 **B. Status of Assets and Claims**

9 As of July 13, 2005, the Trustee had \$927,897.17 in her trust account. The Trustee  
10 expects to recover additional monies in the range between \$400,000 and \$800,000. All known  
11 priority claims allowable under 11 U.S.C. § 507(a)(2)-(5) have been or will be paid.

12 The Debtors’ primary business was to provide seminars, books, and materials related to  
13 the stock market. Many of the Debtors’ former customers may have paid for seminars and  
14 services prepetition, but did not receive the items or services for which they paid<sup>1</sup> (“Customer  
15 Deposit Claims”). These former customers could assert priority claims up to \$2,225 each under  
16 11 U.S.C. § 507(a)(6). At this time, it is difficult to approximate how many former customers  
17 may have Customer Deposit Claims, but it could be as many as 69,750<sup>2</sup>.

18 Furthermore, it is not anticipated that any other category of creditors, beyond those priority  
19 creditors holding claims pursuant to 11 U.S.C. § 507(a)(2)-(6), will receive any distribution. The  
20 Customer Deposit Claims are the next category of claims to pay, and it is doubtful that the funds  
21 that have been and will be collected by the Trustee will exceed the total sum of payments required

22 \_\_\_\_\_  
23 <sup>1</sup> The Trustee has fulfilled all known orders for books.

24 <sup>2</sup> The Trustee determined that the most appropriate universe of potential claimants to notice are  
25 those who purchased goods or services totaling \$500 or greater. The Trustee has identified  
26 approximately 69,750 Claimants through a search of the Debtors’ customer database, each of  
whom will be sent a Notice and Proof of Claim form. Other potential claimants may be reached  
through the estate’s website or by the legal notices, which will appear in newspapers in several  
major cities.

1 to pay the Customer Deposit Claims. For this reason, the Trustee seeks to impose a Claims Bar  
2 Date for only those claims receiving priority treatment under 11 U.S.C. § 507(a)(6).

3 **C. Grassmueck Agreement**

4 On or about February 16, 2005, the Trustee entered into a Claims Agent Agreement with  
5 The Grassmueck Group (“The Grassmueck Group” or “Claims Agent”) whereby The Grassmueck  
6 Group agreed to (1) conduct the notice, intake, processing, review and auditing of those claims  
7 having § 507(a)(6) priority status; (2) coordinate the receipt and distribution of funds from the  
8 Estate to creditors holding § 507(a)(6) claims; and (3) coordinate communications with Claimants  
9 and potential claimants regarding issues relating to their § 507(a)(6) claims. The Trustee selected  
10 The Grassmueck Group for its specific expertise and knowledge with respect to claims work. By  
11 order of this Court, entered on March 1, 2005, the employment of The Grassmueck Group as  
12 Claims Agent was approved.

13 **II. RELIEF REQUESTED**

14 The Trustee requests an order from this Court (1) approving the claims procedure, as  
15 described below; (2) establishing November 15, 2005 as the Claims Bar Date, by which any Proof  
16 of Claims and interests claiming priority under 11 U.S.C. §506(a)(6) against WCFC, SMILe, IQ,  
17 or Lighthouse must be filed; (3) approving the form of the Notice of Bar Date for Filing Proofs of  
18 Claim, attached hereto as Exhibit A; (4) approving the form of Notice for Publication attached  
19 hereto as Exhibit B and authorizing the Claims Agent to publish the same; (5) approving the form  
20 of the Proof of Claim Form, with instructions, attached hereto as Exhibit C; and (6) authorizing  
21 the Claims Agent to prepare and submit (a) a Claims Registry as described herein of those claims  
22 having 11 U.S.C. § 507(a)(6) priority, and (b) a Claims List as described herein.

23 Furthermore, the Trustee requests an order that any party who is required to file a Proof of  
24 Claim and otherwise fails to do so 1) should not be treated as having a Customer Deposit Claim;  
25 2) should forever be barred, estopped, and enjoined from a) filing a Proof of Claim at a later date  
26 with respect to such Customer Deposit Claim, b) asserting a Customer Deposit Claim against the

1 Debtors or the estate property, and c) participating in any distribution of the assets of the estate on  
2 account of such Customer Deposit Claim; and 3) shall not hold the Trustee and/or Claims Agent  
3 liable for any indebtedness or liability in respect of such Customer Deposit Claim.

### 4 **III. THE CLAIMS PROCEDURE**

#### 5 **A. Notice.**

6 As noted above, it is difficult for the Claims Agent to estimate the number of persons who  
7 may have Customer Deposit Claims. However, the Claims Agent will work to provide notice to  
8 the broadest range of possible holders of Customer Deposit Claims by:

9 1) searching the Debtors' company records for those former customers who 1) meet the  
10 requirements of 11 U.S.C. § 507(a)(6), and 2) have spent more than \$500.00<sup>3</sup>, for inclusion in a  
11 direct mailing regarding the Claims Bar Date, and

12 2) publishing notice of the Claims Bar Date on (a) the WCFC website, (b) The  
13 Grassmueck Group website, (c) once in the Wall Street Journal, and (d) once in each of the  
14 following newspapers (i) *The Seattle Times*, (ii) *The New York Times*, (iii) *The Los Angeles Times*,  
15 (iv) *The Chicago Tribune*, (v) *The Atlanta Journal Constitution*, (vi) *The Houston Chronicle*, (vii)  
16 *The Philadelphia Inquirer and Daily News*, and (viii) *The Washington Post*. These newspapers  
17 were selected due to the high concentrations of potential claimants in these geographic regions,  
18 and publication in these places will ensure the broadest possible notice to all creditors.

19 Once all readily identifiable holders of Customer Deposit Claims are identified, within  
20 thirty (30) days of entry of a court order hereon, the Claims Agent will forward to the office of the  
21 Clerk of the United States Bankruptcy Court ("Clerk's Office"): (1) pdf versions of the proposed  
22 (a) Notice of Bar Date for Filing Proofs of Claim and (b) Proof of Claim form and instructions  
23 therefor, for mailing to all readily identifiable holders of Customer Deposit Claims who have  
24 spent \$500.00 or greater; and (2) a text file containing the names and mailing addresses, set forth

25 \_\_\_\_\_  
26 <sup>3</sup> Based upon the records of the Debtors, the Trustee has concluded that an individual who  
purchased one of the Debtors' seminars would have paid more than \$500.00.

1 in pipe-delimited format, of all readily identifiable holders of Customer Deposit Claims for use as  
2 the creditor mailing list for the proposed Notice of Bar Date for Filing Proofs of Claim and the  
3 Proof of Claim and instructions therefor. During this period, the Claims Agent will also (1)  
4 implement systems to facilitate the electronic filing of Proofs of Claim by holders of Customer  
5 Deposit Claims, and (2) publish notice of the Claims Bar Date in major newspapers as discussed  
6 herein. The Claims Agent will provide at least sixty (60) days notice from the date of the mailing  
7 of the Notice of Bar Date for Filing Proofs of Claim for those who are believed to hold a  
8 Customer Deposit Claim to file a Proof of Claim.

9 On behalf of the Clerk's Office, and within thirty (30) days of entry of a court order  
10 hereon, BNC will: (1) mail the proposed Notice of Bar Date for Filing Proofs of Claim and the  
11 Proof of Claim form and instructions therefor, with the Claims Agent as the return addressee on  
12 the mailing envelope; and (2) prepare and return to the Clerk's Office a certificate of mailing  
13 thereof, with the names and addresses of the creditors on the creditor listing, for filing with the  
14 Clerk's Office. The Trustee requests that the Clerk's Office file the creditor listing bearing the  
15 names and addresses of the readily identifiable holders of Customer Deposit Claims **under seal** or  
16 in any other fashion as may be required to conceal and protect the identities and contact  
17 information of the Claimants.

18 A copy of the proposed Notice of Bar Date for Filing Proofs of Claim, the Form of Notice  
19 for publication, and the Proof of Claim Form and instructions therefor are attached hereto as  
20 Exhibits A, B, and C, respectively. The Notices and Proof of Claim form provide clear notice and  
21 instructions to creditors concerning the claims process. As part of its duties, the Claims Agent  
22 will maintain and update the database of Claimants and potential claimants who have filed proofs  
23 of claim.

24 **B. Claims Auditing and Payment.**

25 As claims are received, the Claims Agent will audit the Customer Deposit Claims received  
26 by (i) reviewing such claims for sufficient documentation, and (ii) comparing and verifying the

1 claim information against portions of the Debtors' existing records imported into a database for  
2 such purpose. Any claims that appear potentially objectionable will be reported to the Trustee.  
3 The Trustee will then decide whether or not to object to the filed claims, and seek an order  
4 disallowing or modifying the same.

5 The Claims Agent will prepare a registry of the claims ("Claims Registry") submitted to  
6 the Claims Agent for the Customer Deposit Claims, and file the Claims Registry with the Clerk's  
7 Office. The Claims Registry shall set forth the following information for each of the Customer  
8 Deposit Claims: (1) the claim number assigned to the claim; (2) the claimant's initials; and (3) the  
9 claim amount.

10 In addition to the Claims Registry, the Claims Agent will prepare a list of the claims  
11 ("Claims List") submitted to the Claims Agent for the Customer Deposit Claims, and file the  
12 Claims List with the Clerk's Office. The Claims List shall set forth the following information for  
13 each of the Customer Deposit Claims: (1) the claim number assigned to the claim; (2) the  
14 claimant's full name; (3) the claimant's address; and (4) the claim amount. A copy of the first  
15 page of each Customer Deposit Claim shall be filed as an Exhibit to the Claims List. Due to the  
16 nature of this case, the Trustee requests that the Claims List and the Exhibit thereto be filed **under**  
17 **seal** or in any other fashion as may be required to conceal and protect the identities and contact  
18 information of the claimants.

19 Prior to its receipt of any funds for distribution to the holders of valid and allowable  
20 Customer Deposit Claims, The Grassmueck Group will post a bond in an amount determined in  
21 consultation with the Office of the U.S. Trustee, such bond to be paid for by the estate.

22 After the Claims Bar Date has passed, the Trustee will file a proposed schedule of  
23 distributions and move this Court for an order approving the claims and authorizing her to pay *pro*  
24 *rata* the allowable Customer Deposit Claims in accordance with the proposed schedule. The  
25 Trustee will send notice of the schedule to those on the limited notice list and those individuals  
26 receiving distribution. Upon entry and receipt of this signed order (1) the Trustee will transfer to

1 The Grassmueck Group the funds available for distribution to holders of valid and allowable  
2 Customer Deposit Claims, and (2) The Grassmueck Group will disburse payment *pro rata* to all  
3 holders of valid and allowable Customer Deposit Claims, as authorized by the Court. All checks  
4 issued to satisfy Customer Deposit Claims will be void after ninety (90) days. If the Trustee is  
5 still holding unencumbered funds, after payment of all allowed Customer Deposit Claims and  
6 other allowed priority claims, then the Trustee will seek further orders from this Court regarding  
7 distribution of those funds.

8 **IV. CONCLUSION**

9 For the foregoing reasons, the Trustee requests the relief as specified in section II above.

10 DATED this 29th day of July, 2005.

11 FOSTER PEPPER & SHEFELMAN PLLC

12  
13 /s/ Courtney M. Anderson

14 Christopher M. Alston, WSBA #18823

15 Courtney M. Anderson, WSBA #34376

16 Attorneys for Chapter 11 Trustee Diana K. Carey