

Complaint

IN THE MATTER OF
ELLERY COLEMAN

**CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT**

*Docket C-3948; File No. 0023053
Complaint, June 5, 2000--Decision, June 5, 2000*

This consent order requires Respondent Ellery Coleman to have a reasonable basis substantiating any representation that the users of his S&P futures trading programs can reasonably expect to achieve substantial profits on a consistent basis, that specific trades or investments were actually made and resulted in substantial profits, about the amount of earnings, income, profit, or rate of return that a prospective user of the trading program could reasonably expect to attain, about the percentage, ratio, or number of trades that a prospective user of Respondent's programs could reasonably expect to be profitable, or about any financial or other benefit from any trading programs offered by the Respondent. The order also prohibits Respondent from misrepresenting that users of his trading programs can expect to profit with very little financial risk, that Respondent uses his program on his own behalf, whether trade suggested were actually made or only hypothetical, whether any testimonial or endorsement of the Respondent's program represents the testimonialist's or endorser's actual experience and current opinions, findings, beliefs, or experiences, or from misrepresenting the risk to which users of the trading program are exposed. In addition, the order requires Respondent to disclose, clearly and conspicuously, "FUTURES [or STOCK, CURRENCY, OPTIONS, ETC., as applicable] TRADING involves high risks and YOU can LOSE a lot of money," in close proximity to any representation he makes about the financial benefits of any trading program. Respondent is also prohibited from representing without a reasonable basis that the experience represented by any user, testimonial or endorsement of any trading program represents the typical or ordinary experience of members of the public who use the program; or respondent must disclose either what the generally expected results would be for users of the trading program, or the limited applicability of the endorser's experience to what users may generally expect to achieve, that is, that users should not expect to experience similar results.

Complaint

Participants

For the Commission: *Michael Dershowitz, Jean Sullivan, C. Lee Peeler, and BE.*

For the Respondents: *Charles Cox, Cole & Cox.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Ellery Coleman ("respondent"), individually and doing business as Granite Investments, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Ellery Coleman is the sole proprietor of Granite Investments, a Georgia company with its principal office or place of business at 133 Bunkers Trail, Warner Robins, GA 31088. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the company, including the acts or practices alleged in this complaint.
2. Respondent has advertised, offered for sale, sold, and distributed S&P futures trading computer programs and training to the public. Respondent advises his clients to buy and sell specific S&P futures contracts on a daily basis. Respondent sells "RPM" or "Reliable Pattern Match," "S&P Savvy," and "Choice Daytrades" computer programs. Respondent sells his programs and training through his Internet Website, www.choicedaytrades.com.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent has disseminated or has caused to be disseminated Internet advertisements for his S&P futures computer trading programs and training, including but not necessarily limited to the

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attached Exhibits A through G. These advertisements contain the following statements:

A.

“Highly effective daytrading based on a very powerful methodology which has worked for decades . . .
Daytrading systems that consistently identify winning day trades in the stock market.”

....

“RPM delivers a solid \$10,350 profit for June.”

“S&P Savvy up \$40,750 for June99 contract.”

“S&P Savvy up \$44,050 for March99 contract.”

“S&P Savvy up \$62,425 for December98 contract.”

“S&P Savvy has made at least \$25,000 for each contract period for the last three years.”

“Learn to Daytrade the S&P 500 like a pro!”

....

“Are you . . .

Still searching for the holy grail of trading?

Unhappy with the money you made trading last year?

Sick of that empty knot in your stomach because you missed
another big trade?

Complaint

Tired of not being among the 10% of traders who win consistently?

Then take a look at our products and training!”

....

“While many of the trades shown were taken in real time with real money, since not all of them were taken:

The CFTC requires that we state: NOTICE:

HYPOTHETICAL OR SIMULATED PERFORMANCE RESULTS HAVE CERTAIN INHERENT LIMITATIONS. UNLIKE AN ACTUAL PERFORMANCE RECORD, SIMULATED RESULTS DO NOT REPRESENT ACTUAL TRADING. ALSO SINCE THE TRADES HAVE NOT ACTUALLY BEEN EXECUTED THE RESULTS MAY HAVE UNDER OR OVER COMPENSATED FOR THE IMPACT, IF ANY, OF CERTAIN MARKET FACTORS, SUCH AS LACK OF LIQUIDITY. SIMULATED TRADING PROGRAMS IN GENERAL ARE ALSO SUBJECT TO THE FACT THAT THEY ARE DESIGNED WITH THE BENEFIT OF HINDSIGHT. NO REPRESENTATION IS BEING MADE THAT ANY ACCOUNT WILL OR IS LIKELY TO ACHIEVE PROFITS OR LOSSES SIMILAR TO THOSE SHOWN. SIMULATED RESULTS DO NOT NECESSARILY IMPLY FUTURE PROFITS. YOU SHOULD THEREFORE CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR FINANCIAL CONDITION.”

[This notice appears in fine print near the bottom of the Web page attached as Exhibit A.]

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B.

"I have been a professional trader for many years After reading most of the books on trading and personally studying with some of the biggest names in the business, I subjected these methods to rigorous computer testing and discovered that most of these methods do not generate the kinds of profits one might expect, and many do not work at all. However, the research did uncover the real gems. It will open your eyes and you will understand what is really going on.' Ellery Coleman."

....

"Comments from students:

'I can't say enough great things about my visit with you. The time I spent watching you trade the S&P was extremely valuable. Your method of trading has provided me some excellent profits.' L.S. Wisconsin - A former broker who now trades for a living.

....

'You told me that there would be no reason why I should not be profitable right from day one. In the first two and a half weeks of trading your methodology, my expectations have been completely surpassed.'

'I never thought I could make \$8,500.00 in 13 trading days just by trading one contract. But I did it.'
(Exhibit B)

C.

"S&P Savvy Up \$154,725 for 1998"

....

Complaint

“S&P Savvy DSP8Z- 09/10/98 - 12/02/98

Performance Summary: All Trades

Total net profit \$ 62425.00 . . .

Gross profit \$ 108425.00 Gross loss \$ -46000.00

Total # of trades 430 Percent profitable 61%

. . . .

Return on account 2041 %”

. . . .

“Take advantage of the markets [sic] volatility. S&P Savvy thrives on it while using tight stops. I thought this was a great system when I developed it for my own use three years ago, and it just keeps getting better. Since I still trade this program, a very limited number of copies will be made available.”

. . . .

[Consumer endorser:] “I made enough my first day trading S&P Savvy to pay for it.”

. . . .

“If you want something that works, this is it!”

. . . .

“While many of the trades shown are taken in real time with real money, since not all of them were taken:

The CFTC requires that we state: NOTICE:

HYPOTHETICAL OR SIMULATED PERFORMANCE
RESULTS HAVE CERTAIN INHERENT LIMITATIONS.
UNLIKE AN ACTUAL PERFORMANCE RECORD,
SIMULATED RESULTS DO NOT REPRESENT ACTUAL

Complaint

TRADING. ALSO SINCE THE TRADES HAVE NOT ACTUALLY BEEN EXECUTED THE RESULTS MAY HAVE UNDER OR OVER COMPENSATED FOR THE IMPACT, IF ANY, OF CERTAIN MARKET FACTORS, SUCH AS LACK OF LIQUIDITY. SIMULATED TRADING PROGRAMS IN GENERAL ARE ALSO SUBJECT TO THE FACT THAT THEY ARE DESIGNED WITH THE BENEFIT OF HINDSIGHT. NO REPRESENTATION IS BEING MADE THAT ANY ACCOUNT WILL OR IS LIKELY TO ACHIEVE PROFITS OR LOSSES SIMILAR TO THOSE SHOWN. SIMULATED RESULTS DO NOT NECESSARILY IMPLY FUTURE PROFITS. YOU SHOULD THEREFORE CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR FINANCIAL CONDITION."

[This notice appears in fine print at the bottom of the Web page attached as Exhibit C.]

D.

"Choice Daytrades

....

\$331,850.00

per 2 contracts in 1998
Day trading S&P 500."

(Exhibit D)

E.

"Testimonials

....

'I have meant to tell you for a long time, you're the greatest. No question about it. Your figures are amazingly close; mind boggling to me.' W.S. Ohio

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. . . .

'Thank you so much for the training you gave me. For the first time I am making money consistently and not giving it back . . .' M.S. Canada.

We get fan mail like this every day."
(Exhibit E)

F.

"Want Proof?

People are always asking for my account statements to prove that I am really a trader. Would you show your tax returns to strangers? I don't think so. But to demonstrate that I know how to trade, here are two account statements from one of my three accounts."
(Exhibit F)

G.

"RPM makes the S&P as readable as a road map each day. It keeps your risk low because it never holds overnight."

. . . .

[Respondent's RPM program] "was an immediate success because nothing stacks the odds in your favor like RPM."

. . . .

"What RPM can do for you:

Give you precise buy and sell signals with low risk stops
Take the stress out of your trading decisions
Give you the discipline needed for success
Provide you with a complete trading manual showing past recommendations and results
Provide a proven system that takes the doubt and frustration out of your trading"

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....

“Join our fan club!

‘Your RPM is uncanny in its accuracy. Anyone using this system has to make money.’

‘Wow! You nailed it. I made more money in one trade than I have in a long time.’

‘RPM is very consistent, precise and easy to use. I strongly recommend it.’

‘RPM gives me the extra edge I need to win consistently.’”
(Exhibit G)

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:
 - a. Users of respondent's S&P futures trading programs can reasonably expect to achieve substantial profits on a consistent basis (*e.g.*, \$25,000 per futures contract).
 - b. The specific trades or investments enumerated in the advertisements were actually made and resulted in the substantial profits stated in the advertisements.
 - c. Testimonials appearing in the advertisements for respondent's S&P futures trading programs reflect the typical or ordinary experience of members of the public who use the programs.
6. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the

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representations set forth in Paragraph 5, at the time the representations were made.

7. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5, at the time the representations were made. Therefore, the representation set forth in Paragraph 6 was, and is, false or misleading.

8. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- a. Users of respondent's S&P futures trading programs can reasonably expect to trade profitably with little financial risk.
- b. Testimonials appearing in the advertisements for respondent's S&P futures trading programs reflect the actual experiences of consumers who have used the programs.
- c. Respondent personally uses his S&P futures trading programs to trade profitably on his own behalf.
- d. The trades recommended by respondent's S&P futures trading programs, as enumerated in the advertisements, were actually made in many cases.

9. In truth and in fact,

- a. Users of respondent's S&P futures trading programs cannot reasonably expect to trade with little financial risk.
- b. Testimonials appearing in the advertisements for respondent's S&P futures trading programs do not reflect the actual experiences of consumers who have used the programs.

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- c. Respondent does not personally use his S&P futures trading programs to trade on his own behalf.
- d. None of the trades recommended by respondent's S&P futures trading programs was actually made.

Therefore, the representations set forth in Paragraph 8 were, and are, false or misleading.

10. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this fifth day of June, 2000, has issued this complaint against respondent.

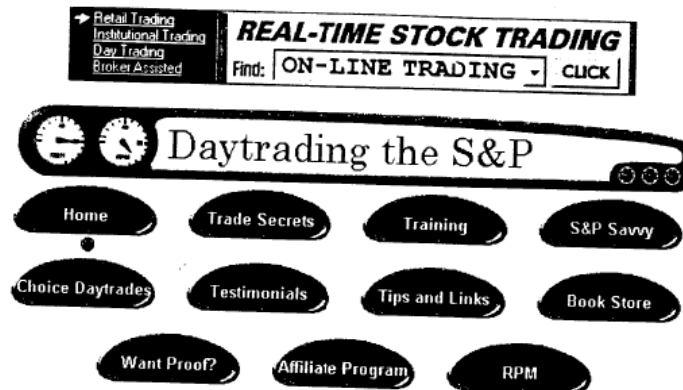
By the Commission.

Complaint Exhibits

Complaint Exhibits

Home - Stock Market Stock and Options Day Trading

EXHIBIT A
Page



Daytrading and technical analysis tools for daytrading the S&P 500. Highly effective daytrading based on a very powerful methodology which has worked for decades. Stocks and options daytrading. Daytrading systems that consistently identify winning day trades in the stock market. Daytrading courses and daytrading software for computerized daytrading. Tradestation and Supercharts daytrading tools.

Last Updated July 31, 1999

Trade Secrets! Free. [Click here.](#)

RPM delivers a solid \$10,350 profit for June.

S&P Savvy up \$40,750 for June99 contract.

S&P Savvy up \$44,050 for March99 contract.

S&P Savvy up \$62,425 for December98 contract.

S&P Savvy has made at least \$25,000 for each contract period for the last three years. [Check it out!](#)



Learn to [Daytrade](#) the S&P 500 like a pro!



<http://www.choicedaytrades.com/>

8/17/99

Complaint Exhibits

daytrading - 3000 futures market- stock Market Day Trading

EXHIBIT A
Page 2

Free daytrading system. Click here to register.



Check out our new Book Store.

Check out our Daytrading Tips page.

Systems and Guidance for Stock Market and Futures Traders.

We are professional S&P 500 Daytraders.

Are you...

Still searching for the holy grail of trading?

Unhappy with the money you made trading last year?

Sick of that empty knot in your stomach because you missed
another big trade?

Tired of not being among the 10% of traders who win consistently?

Then take a look at our products and training!

Choice Daytrades

133 Bunkers Trail

Warner Robins, GA 31088

912-922-9019

For questions or comments, mailto: Ellery@ChoiceDaytrades.com

Do you like this site? Tell a friend!

Name

Email

You:

Your Friend:



<http://www.choicedaytrades.com/>

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Day Trading - 30000 Futures Market- Stock Market Day Trading

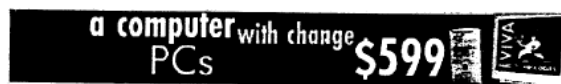
EXHIBIT A
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© 1998 Ellery Coleman. All Rights Reserved.

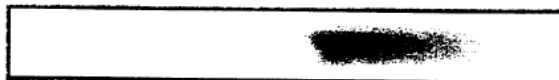
While many of the trades shown were taken in real time with real money, since not all of them were taken:

The CFTC requires that we state: NOTICE:

HYPOTHETICAL OR SIMULATED PERFORMANCE RESULTS HAVE CERTAIN INHERENT LIMITATIONS. UNLIKE AN ACTUAL PERFORMANCE RECORD, SIMULATED RESULTS DO NOT REPRESENT ACTUAL TRADING. ALSO SINCE THE TRADES HAVE NOT ACTUALLY BEEN EXECUTED THE RESULTS MAY HAVE UNDER OR OVER COMPENSATED FOR THE IMPACT, IF ANY, OF CERTAIN MARKET FACTORS, SUCH AS LACK OF LIQUIDITY. SIMULATED TRADING PROGRAMS IN GENERAL ARE ALSO SUBJECT TO THE FACT THAT THEY ARE DESIGNED WITH THE BENEFIT OF HINDSIGHT. NO REPRESENTATION IS BEING MADE THAT ANY ACCOUNT WILL OR IS LIKELY TO ACHIEVE PROFITS OR LOSSES SIMILAR TO THOSE SHOWN. SIMULATED RESULTS DO NOT NECESSARILY IMPLY FUTURE PROFITS. YOU SHOULD THEREFORE CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR FINANCIAL CONDITION.

**Computer Software USA**

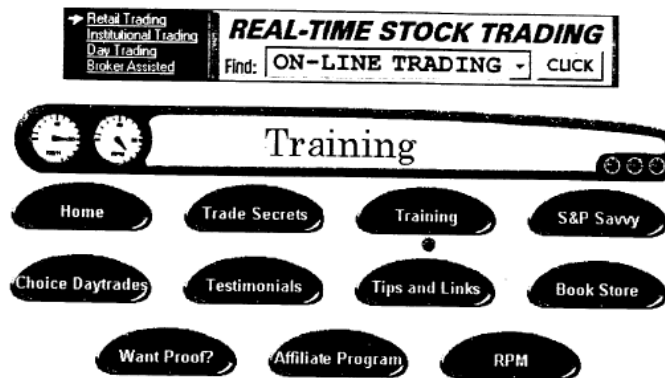
Computers, software, peripherals, and training at low prices.
Exceptional customer service. Free shipping.

[FFA Links](#)[Top](#)

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www.choydaytrading.com/REAL-TIME STOCK MARKET tips - Day Trading

EXHIBIT B
Page 1



Learn from a Pro!

1. Learn to daytrade for a living
2. Increase your winning percentage
3. Reduce your losses
4. Take the fear and stress out of your trading
5. Learn what really works and what doesn't
6. Bring your trading to new levels of profitability
7. Proprietary software
8. Learn which trend you can afford to trade and how
9. Continued mentoring after you leave if needed
10. Manual on the psychology of trading my system
11. Learn to avoid the mistakes 90% of all traders make.
12. Learn to identify when the tops and bottoms are forming, when to enter and when to exit.
13. Learn when it is just too risky to trade.
14. Tax deductible.
15. Guarantee - If you are not happy with what you have learned at the end of the first day, all your money will be refunded.

Special - if you order online on this visit:

\$1795 in advance & \$1795 thirty days after your training,
only if you feel it was well worth it.



<http://www.choicedaytrades.com/training.htm>

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Complaint Exhibits

Day Trading Training - DAY TRADING - STOCK MARKET TIPS - Day Trading

EXHIBIT 1
Page 2



Charge your purchase on our secure server

[Click Here to reserve the next class](#)

We will call you to arrange mutually acceptable training dates.

"I have been a professional trader for many years. Moreover, I have been a computer programmer since the dark ages of 1970. After reading most of the books on trading and personally studying with some of the biggest names in the business, I subjected these methods to rigorous computer testing and discovered that most of these methods do not generate the kinds of profits one might expect, and many do not work at all. However, the research did uncover the real gems. It will open your eyes and you will understand what is really going on."
Ellery Coleman

Three day tutoring session with a maximum of two students taught during live, real time trading.

Whether you are a new trader or experienced, you will be impressed.

Comments from students:

"I can't say enough great things about my visit with you. The time I spent watching you trade the S&P was extremely valuable. Your method of trading has provided me some excellent profits." L.S. Wisconsin - A former broker who now trades for a living.

"I have been trying to earn a living trading the S&P 500 for the past 2 years. I have spent a lot of time and money on courses and people that promised the world. The only thing that this has gotten me is frustration, disappointment and a sense of desperation to the point of almost giving up many times."

"What has been amazing to me, is that you also promised me wonderful things by trading your methodology, and the reality of it is, that you were absolutely, 100% correct."

"You told me that there would be no reason why I should not be profitable right from day one. In the first two and a half weeks of trading your methodology, my expectations have been completely surpassed."

"I never thought that I could make \$8,500.00 in 13 trading days just by trading one contract. But I did it."

"Thanks Ellery, you have finally made it possible for me to earn a

living doing what I love."

EXHIBIT E
Page 3

"Now I can finally call myself a trader." M.S. Canada

"I have meant to tell you for a long time, you're the greatest. No question about it. Your figures are amazingly close; mind boggling to me." W.S. Ohio

These unsolicited testimonials are on file in our office for your inspection. See our testimonials page for many more.

133 Bunkers Trail

912-922-9019

For questions or comments, mailto: Ellery@ChoiceDaytrades.com



Computer Software USA

Computers, software, peripherals, and training at low prices. Exceptional customer service. Free shipping.

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http://www.choicedaytrades.com/daytrading

EXHIBIT C
Page 1**\$62,425.00**

per contract for December98 contract

Up \$154,725 for 1998**\$44,050 for March99 contract****\$40,750 for June99 contract**

Day trades the S&P 500 using 2 minute charts and \$550 maximum stops. Enters on limit orders to prevent slippage.

Must own Omega Research's TradeStation

**Largest drawdown was
\$3775**

Only a few more will be

Complaint Exhibits

http://www.choicedaytrades.com/daytrading.htm

EXHIBIT C
Page 1**sold!****Free training included if you buy
today!**

TradeStation performance summary:

S&P Savvy DSP8Z- 09/10/98 - 12/02/98

Performance Summary: All Trades

Total net profit \$ 62425.00 Open position P/L \$ 0.00

Gross profit \$ 108425.00 Gross loss \$ -46000.00

Total # of trades 430 Percent profitable 61%

Largest winning trade \$ 3100.00 Largest losing trade \$ -625.00

Average winning trade \$ 651.11 Average losing trade \$ -
450.75

Ratio avg win/avg loss 1.44 Avg trade(win & loss) \$ 222.37

Max consec. winners 13 Max consec. losers 5

Avg # bars in winners 6 Avg # bars in losers 3

Max intraday drawdown \$ -3775.00

Profit factor 2.27 Max # contracts held 1

Account size required \$ 3775.00 Return on account 2041%

Take advantage of the markets volatility. S&P Savvy thrives on it while using tight stops. I thought this was a great system when I developed it for my own use three years ago, and it just keeps getting better. Since I still trade this program, a very limited number of copies will be made available.

Only \$4995**Today only \$3495**<http://www.choicedaytrades.com/daytrading.htm>

8/17/99

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EXHIBIT C
Page 3

"I am writing to let you know how pleased and satisfied I am with your 'S&P Savvy' software. It is refreshing to deal with someone who is honest, helpful and knowledgeable. I appreciate the promptness of the way you returned my phone inquires and the solutions you provided. I am impressed with the depth and breadth of the knowledge you have demonstrated to me in our dealings."

"I made enough my first day trading S&P Savvy to pay for it."

"Your software package is very easy to use and proved to be very effective for me. I have been trading the S&P for some time now and the S&P Savvy system is a potent tool."

"I am a pleased customer and would recommend your services without reservation. Keep up the good work Ellery." A.V. New York

This offer may be withdrawn at any time.

I am a trader, not a system vendor, so don't ask me for numbers or studies that I don't have time to prepare. If you are interested in fancy brochures, look elsewhere. If you want something that works, this is it!

To order, mail a check for \$4995, or if you can make a decision without a lot of discussion, charge it today for only \$3495.



Sale Price ends July 31, 1999

You may charge your purchase on our secure server:

[Click Here for Secure Payment Form](#)

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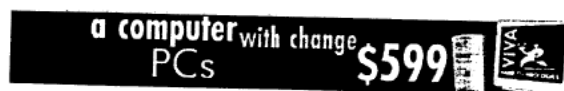
EXHIBIT C
Page 4

Ellery Coleman

133 Bunkers Trail

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Computers, software, peripherals, and training at low prices.
Exceptional customer service. Free shipping.

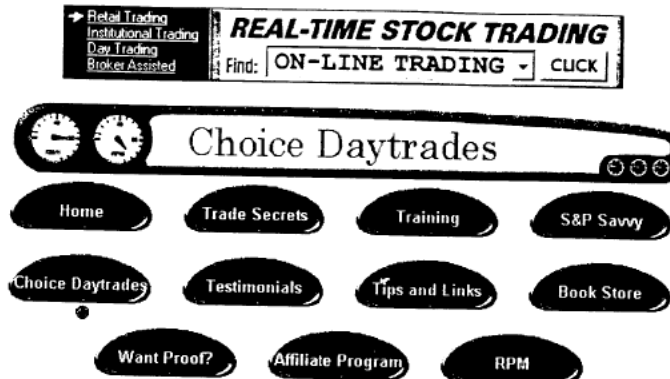
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Complaint Exhibits

EXHIBIT D
Page 1

Day trading and technical analysis tools for day trading the S&P 500. Highly effective day trading based on a very powerful methodology which has worked for decades. Stocks and options day trading. Day trading systems that consistently identify winning day trades in the stock market. Day trading courses and day trading software for computerized day trading. Tradestation and Supercharts day trading tools.

\$ 331,850.00

per 2 contracts in 1998

Day trading the S&P 500

Only a limited number of subscribers will be accepted.

Choice day trades are my discretionary trades. I do use my S&P Savvy system as the basis for my decisions but I prefer to use some discretion with it.

Trade signals by AbbottChat for instantaneous signals, if you are online all day, or we have brokers who can trade it for you. Download AbbottChat free from this link.

Special web price: \$995 a quarter, or \$2450 per year.



Special: \$795 for your first quarter, if you charge it on this visit only.

You may charge your purchase on our secure server:

<http://www.choicedaytrades.com/choice.htm>

8/17/99

Complaint Exhibits

EXHIBIT D
Page 2

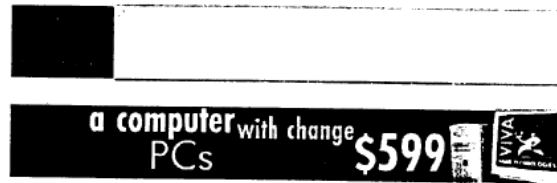
For your convenience, your credit card will be charged \$995 per quarter after the first unless you ask us to stop.

[Click Here for Secure Payment Form](#)

Ellery Coleman

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Computer Software USA

Computers, software, peripherals, and training at low prices. Exceptional customer service. Free shipping.

Past performance does not guarantee future profits.

Complaint Exhibits

DAY TRADING Testimonials Day Trades

EXHIBIT B
Page 1

Join our daytrading fan club!

☺ "Thank you for all the great trades this month." M.M. Texas

☺ "I am very impressed by your work." M.M. CTA Oregon

☺ "Excellent job! Excellent results!" E.H. New York

"Are you a wizard of what? I like this.
This is fun." B.P. California



☺

☺ "I would like to thank you for yet another excellent trade." A.P. London

☺ "Thanks for the golden opportunity." R.W. FL

Complaint Exhibits

EXHIBIT E
Page 2

☺ "Keep up the good work," A.R. Missouri

☺ "I really appreciate your help. Your newsletter is the best one on the market." G.S. New York

☺ "I have meant to tell you for a long time, you're the greatest. No question about it. Your figures are amazingly close; mind boggling to me." W.S. Ohio

☺ "I can't say enough great things about my visit with you. The time I spent watching you trade the S&P was extremely valuable. Your method of trading has provided me some excellent profits. My greatest obstacle to overcome is not to second guess the numbers." L.S. Wisconsin (former broker who now trades for a living)

☺ "You are a great advisor and trader. Your system works!" M.S. Chicago

☺ "Thank you so much for the training you gave me. For the first time I am making money consistently and not giving it back. What you taught me is light-years ahead of the other seminars I have attended." M.S. Canada

☺ We get fan mail like this every day. Join our fan club and see the difference our programs make in your trading.

☺ All of these unsolicited remarks are on file in our office for your inspection.

Choice Daytrades

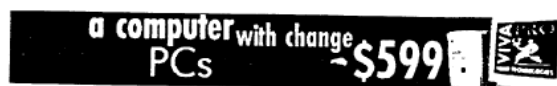
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912-922-9019

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http://www.choicedaytrades.com

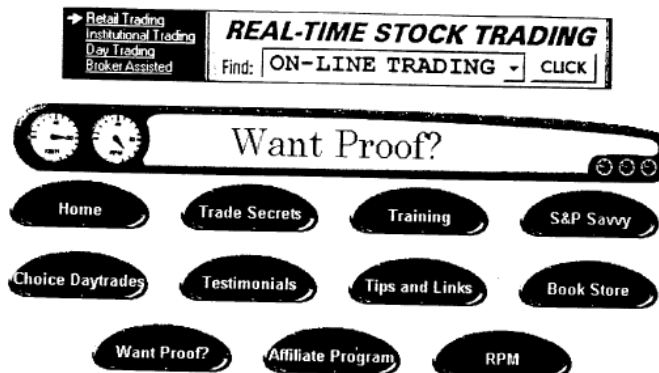
EXHIBIT E
Page 3**Computer Software USA**

Computers, software, peripherals, and training at low prices. Exceptional customer service. Free shipping.



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Complaint Exhibits

EXHIBIT F
Page 7

People are always asking to see my account statements to prove that I am re you show your tax returns to strangers? I don't think so. But to silence the here are two account statements from one of my three accounts. The first o 1997 and the second one is for November 5, 1997. I set this particular accou purpose.

This covers a period of seven trading days. Please note that at the beginnin 28 my beginning balance was \$4,071.59 and on November 5 my ending balan That is a profit after commissions and fees of \$13,361.57 in seven days tradi certify that no money was deposited to the account except trading profits fro 500.

These scanned account statements are very large image files, so it will take them. Also, some browsers are unable to handle these large images. If that I will be happy to fax copies to you. Just call me at 912-922-9019.

ED & FMAN INTERNATIONAL INC
TWO WORLD FINANCIAL CENTER
225 LIBERTY STREET, 27TH FLOOR, NEW YORK, NY 10080-6127

OCT 28, 1997

<http://www.choicedaytrades.com/proof.htm>

8/17/99

FEDERAL TRADE COMMISSION DECISIONS
VOLUME 129

Complaint Exhibits

EXHIBIT F
Page 2ELLERY G COLEMAN
133 BUNKERS TRAIL
WARNER ROBINS GA 30088

* * * * * C O N F I R M A T I O N * * * * *

THE FOLLOWING TRADES HAVE BEEN MADE THIS DAY FOR YOUR ACCOUNT AND RISK.

TRADE	SETTL	AT	BUY	SELL	CONTRACT DESCRIPTION	EX TRADE PRICE	CC
10/28/7	F1		1		DEC 97 IMM S&P 500	16	896.50 US
10/28/7	F1		1*	1*	DEC 97 IMM S&P 500	16	897.00 US
	F1						COMMISSION US
	F1						CLEARING FEES US
	F1						NFA/SEC FEES US
	F1						BROKERAGE US

TRADE	SETTL	AT	BUY	SELL	CONTRACT DESCRIPTION	EX TRADE PRICE	CC
10/28/7	F1		1		DEC 97 IMM S&P 500	16	896.50 US
10/28/7	F1		1*	1*	DEC 97 IMM S&P 500	16	897.00 US
	F1						GROSS PROFIT OR LOSS US
	F1						NET PROFIT OR LOSS FROM TRADES US

	*** U.S. DOLLARS ***
BEGINNING BALANCE	4,071.59
COMMISSION	12.000R
CLEARING FEES	1.400R
BROKERAGE FEES	3.000R
NFA/SEC FEES	140R
TOTAL FEES	4.540R
GROSS PROFIT OR LOSS	750.00
NET PROFIT/LOSS FROM TRADES	733.46
ENDING BALANCE	4,805.05
TOTAL EQUITY	4,805.05
ACCOUNT VALUE AT MARKET	4,805.05
MARGIN DEFICIT/EXCESS	4,805.05

E & O E
RETAIN FOR TAX RECORDSSUBJECT TO TERMS AND CONDITIONS
ON REVERSE SIDE
*CODED SYMBOLS ARE EXPLAINED
ON REVERSE SIDEPLEASE REPORT ANY DIFFERENCES IMMEDIATELY. THE FAILURE
YOUR RIGHT TO HAVE SEENAS CANCELED

Complaint Exhibits

EXHIBIT F
Page 3

FD & F MAN INTERNATIONAL INC
TWO WORLD FINANCIAL CENTER
225 LIBERTY STREET, 27TH FLOOR, NEW YORK, NY 10080-6127

NOV 5 1997

ELLERY G COLEMAN
133 BUNKERS TRAIL
WARNER ROBINS GA 31088

TOTAL FEES	*** U.S. DOLLARS ***	24.97DR
GROSS PROFIT OR LOSS		2,225.00
NET PROFIT/LOSS FROM TRADES		2,134.03
ENDING BALANCE		17,433.18
OPEN TRADE EQUITY		325.00DR
TOTAL EQUITY		16,808.18
ACCOUNT VALUE AT MARKET		16,808.18
INITIAL MARGIN REQUIREMENT		20,480.00
MAINTENANCE MARGIN REQUIREMENT		17,400.00
MARGIN DEFICIT/EXCESS		4,271.82DR

FEDERAL TRADE COMMISSION DECISIONS
VOLUME 129

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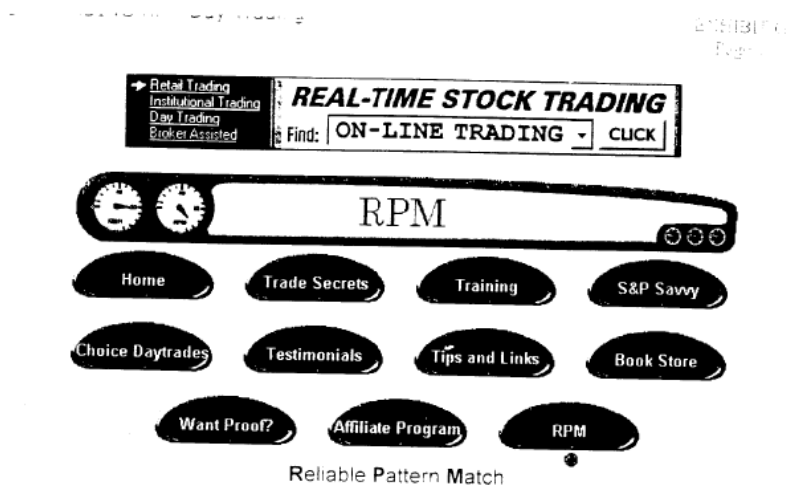
EXHIBIT F
Page 4

SOE
RETAIN FOR TAX RECORDS

SUBJECT TO TERMS AND CONDITIONS
ON REVERSE SOE
CODED SYMBOLS ARE EXPLAINED

PLEASE REPORT ANY DIFFERENCES IMMEDIATELY THE FAILURE
YOUR RIGHT TO HAVE ERRORS CORRECTED WILL BE DEPRIVED

Complaint Exhibits



A great system for daytrading the S&P 500

Would you like a system for day trading the S&P 500 that does not require you to watch the market during the day? Then RPM is the system for you.

RPM is the result of extensive computer research done by E.G. Coleman, who has been a professional S&P daytrader for many years. As a math major at the University of Georgia in 1970, he wondered, "Wouldn't it be great to predict the direction of the stock market using the computer?" Thus the idea for RPM was born. Mr. Coleman ran his computer day and night testing millions of different parameters with just one thing in mind---

"What combination of factors has the most predictive power for tomorrow?"

The discovery he made is what is now known as the

RPM paradigm.

RPM looks at these same factors every day. It searches through the entire history of the market looking for matches of the RPM paradigm to determine the probable direction of the market the next day. Also, it gives the historic likelihood as a percent that selected support and resistance levels will be touched during the day. RPM makes the S&P as readable as a road map each day. It keeps your risk low because it never holds overnight.

In December of 1994, we began making the RPM trades available to the public by means of a daily fax subscription. The cost of the subscription was initially \$595 per quarter and was later raised to \$995. It was an immediate success because nothing stacks the odds in your favor like RPM.

Complaint Exhibits

EXHIBIT G

Now you can purchase the RPM software and use it forever for the price of an annual subscription of only \$2,950. Included is complete data on the history of the S&P 500 futures and a trading manual. This software is completely self-contained. No other software is needed. It can use CSI or Metastock data or you can enter daily data yourself. Or try it by fax for 3 months for only \$795.

What RPM can do for you

- ⊗ Give you precise buy and sell signals with low risk stops
- ⊗ Take the stress out of your trading decisions
- ⊗ Give you the discipline needed for success
- ⊗ Provide you with a complete trading manual showing past recommendations and results
- ⊗ Provide a proven system that takes the doubt and frustration out of your trading

Just before making RPM available to the public, it was used in a six month national trading contest. The account started with \$50,000 and finished with over \$300,000. This was announced in the March 1995 issue of Stocks and Commodities magazine, where Eillery Coleman, developer of RPM, appears under the caption "Top Guns."

Join our fan club!

- ⊗ "Your RPM is uncanny in its accuracy. Anyone using this system has to make money. I review your manual weekly." W.S. Ohio
- ⊗ "Wow! You nailed it. I made more money in one trade than I have in a long time." R.P. CA
- ⊗ "RPM is very consistent, precise and easy to use. I strongly recommend it." T.C. Professional daytrader California
- ⊗ "RPM gives me the extra edge I need to win consistently. I cannot picture taking a position without the statistical outlook RPM gives." M.E. Broker Missouri
- ⊗ "RPM is quite impressive!" D.R. Colorado

Complaint Exhibits

EXHIBIT G
Page 3

☺ We get fan mail like this every day. Join our fan club and see the difference RPM makes in your trading.

Actual Sample of RPM printout

***** R P M *****

*** Reliable Pattern Match of December S&P 500 for 10-15-1998 ***

IF THE OPEN IS GREATER THAN 1023.00 THEN: (12)
 There is a 67 % Probability of a Higher Close
 Projected Low = Open - 1.86 Projected High = Open +14.02
 33 % Chance 1052.87 will be hit - Resistance 4
 58 % Chance 1045.40 will be hit - Resistance 3
 58 % Chance 1037.93 will be hit - Resistance 2
 83 % Chance 1031.15 will be hit - Resistance 1
 58 % Chance 1024.37 will be hit - Resistance 1
 58 % Chance 1023.00 will be hit - Previous High
 42 % Chance 1016.90 will be hit - Opening Resistance
 25 % Chance 1010.80 will be hit - ***** Close *****
 25 % Chance 1009.43 will be hit - *** Pivot Point ***
 25 % Chance 1002.65 will be hit - Opening Support
 17 % Chance 995.87 will be hit - Support 1
 17 % Chance 994.50 will be hit - Previous Low
 17 % Chance 988.40 will be hit - Support
 17 % Chance 980.93 will be hit - Support 2
 8 % Chance 974.15 will be hit - Support 3
 Buy the Open; stop 4.30 points. Cover MOC

IF THE OPEN IS BETWEEN 1010.80 AND 1023.00 THEN: (48)
 There is a 56 % Probability of a Higher Close
 Projected Low = Open - 1.03 Projected High = Open +11.03
 13 % Chance 1045.40 will be hit - Resistance 3
 21 % Chance 1037.93 will be hit - Resistance 2
 27 % Chance 1031.15 will be hit - Resistance 1
 58 % Chance 1024.37 will be hit - Resistance 1
 56 % Chance 1023.00 will be hit - Previous High
 83 % Chance 1016.90 will be hit - Opening Resistance
 92 % Chance 1010.80 will be hit - ***** Close *****
 92 % Chance 1009.43 will be hit - *** Pivot Point ***
 65 % Chance 1002.65 will be hit - Opening Support
 42 % Chance 995.87 will be hit - Support 1
 42 % Chance 994.50 will be hit - Previous Low
 27 % Chance 988.40 will be hit - Support
 17 % Chance 980.93 will be hit - Support 2
 6 % Chance 974.15 will be hit - Support 3
 Buy the Open; stop 4.30 points. Cover MOC

IF THE OPEN IS BETWEEN 994.50 AND 1010.80 THEN: (45)
 There is a 67 % Probability of a Higher Close
 Projected Low = Open - 1.88 Projected High = Open +13.21
 9 % Chance 1045.40 will be hit - Resistance 3
 11 % Chance 1037.93 will be hit - Resistance 2
 27 % Chance 1031.15 will be hit - Resistance

Complaint Exhibits

EXHIBIT C
Page 4

14 % Chance 1024.37 will be hit - Resistance 1
 14 % Chance 1023.00 will be hit - Previous High
 14 % Chance 1016.80 will be hit - Opening Resistance
 14 % Chance 1016.80 will be hit - Previous Close
 13 % Chance 1009.43 will be hit - Pivot Point
 13 % Chance 1002.65 will be hit - Opening Support
 53 % Chance 995.87 will be hit - Support 1
 53 % Chance 994.50 will be hit - Previous Low
 31 % Chance 988.40 will be hit - Support
 13 % Chance 980.93 will be hit - Support 2
 4 % Chance 974.15 will be hit - Support 3
Buy the Open; stop 4.30 points; Cover MOC

IF THE OPEN IS LESS THAN 994.50 THEN (0)

What happened October 15, 1998? The S&P opened at 1007.00 triggering our long position, and shot up over 20 full points before noon. It is my custom to take profits of 20 points when up that much by noon, so we made \$10,000.00 per 2 contracts very quickly. **This was not a hypothetical trade but was actually taken. And we had no slippage on this trade.** If you had followed the RPM rules however, you would have held until the close at 1064.00 for a profit of a whopping **\$28,250**. We specify profits per 2 contracts since the split of the S&P contract in November and as per 1 contract before that time to be consistent with previous results. Since slippage and commissions vary from person to person, they are not included.

Understanding the RPM printout:

Monitor the opening price of the day session. Take note of the 3 or 4 "If the open is ..." statements. Place a check mark by the scenario that occurs. Use the buy and sell recommendations that are at the bottom of each scenario. The additional information provided is not needed if you simply want to follow the RPM system. The numbers in parenthesis are the number of matches to the RPM paradigm found. If you are an active daytrader, you may wish to use the percentages as an aid in making additional trading decisions. Further information on this is included in the RPM trading manual.

Please note that if you are checking a past trade that the Wall Street Journal quotes the globex open. We do not trade globex. You must use the open of the day session for accurate records.

Results Up \$151,500 per 2 contracts in 1997

Month	Results per 2 contracts
January 1998	\$ 2,550.00
February 1998	\$ 5,550.00
March 1998	\$ -500.00 Loss
April 1998	\$ 3,000.00
May 1998	\$21,600.00
June 1998	\$ 7,350.00

<http://www.choicedaytrades.com/rpm.htm>

8/17/99

Complaint Exhibits

CHOICEDAYTRADING RPM Day Trading

CHOICEDAY
Page 8

July 1998	\$25,000.00	
August 1998	\$18,000.00	
September 1998	\$17,000.00	
October 1998	\$13,500.00	
November 1998	\$800.00	
December 1998	\$25,600.00	
January 1999	\$30,800.00	
February 1999	\$20,150.00	
March 1999	\$-3,200.00	Loss
April 1999	\$10,950.00	
May 1999	\$-24,400.00	Loss
June 1999	\$10,750.00	

Up \$140,750 per 2 contracts in 1998



You may charge your purchase on our secure server:

You will receive a \$250 discount by ordering direct, total \$2700. Your order will be shipped tomorrow. Offer expires July 31, 1999.

[Click Here for Secure Payment Form](#)

Or mail a check for \$2,950 to

Ellery Coleman

133 Bunkers Trail

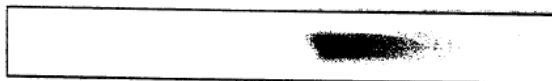
Warner Robins, GA 31088

or call 912-922-9019

Or, try it by fax for 3 months for only \$795 for a limited time.

Register for a free trial of RPM.

To see a trade by trade [click here](#).



Complaint Exhibits

DAY TRADING RPM Day Trading

Page 11

Computer Software USA

Computers, software, peripherals, and training at low prices. Exceptional customer service. Free shipping.

Top of Page

Decision and Order

DECISION AND ORDER

The Federal Trade Commission ("Commission"), having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

Respondent, his attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Ellery Coleman is the sole proprietor of Granite Investments, a Georgia company with its principal office or place of business at 133 Bunkers Trail, Warner Robins, GA

Decision and Order

31088. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the company.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "Clearly and conspicuously" shall mean as follows:
 - A. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and visual portions of the advertisement. *Provided, however,* that in any advertisement presented solely through visual or audio means, the disclosure may be made through the same means in which the ad is presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend it.
 - B. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.
 - C. On a product label, the disclosure shall be in a type size and location on the principal display panel sufficiently

Decision and Order

noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

2. In the case of advertisements disseminated by means of an interactive electronic medium such as the Internet or other online services, "in close proximity" shall mean on the same Web page and proximate to the triggering representation, and not on other portions of the Web site, accessed or displayed through hyperlinks or other means.

3. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

4. "Trading program" shall mean any program, service, course, instruction, system, training, manual, computer software, or other materials involving the purchase or sale of stocks, currencies, commodity futures, options, or other financial instruments or investments.

5. Unless otherwise specified, "respondent" shall mean Ellery Coleman, individually and doing business as Granite Investments, his successors and assigns and each of his officers, agents, representatives, and employees.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale,

Decision and Order

or distribution of any trading program, in or affecting commerce, shall not represent, in any manner, expressly or by implication:

- A. That users of respondent's S&P futures trading programs can reasonably expect to achieve substantial profits on a consistent basis;
- B. That specific trades or investments were actually made and resulted in substantial profits;
- C. The amount of earnings, income, profit or the rate of return that a prospective user could reasonably expect to attain;
- D. The percentage, ratio, or number of trades that a prospective user of respondent's S&P futures trading programs could reasonably expect to be profitable; or
- E. Any financial benefit or other benefit of any kind from the purchase or use of such trading program;

unless respondent possesses and relies upon a reasonable basis substantiating the representation at the time it is made.

II.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any trading program, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication:

- A. That users of respondent's trading programs can reasonably expect to trade profitably with little or no financial risk;

Decision and Order

- B. That respondent personally uses his trading programs to trade on his own behalf;
- C. Whether trades recommended by respondent's trading programs were actually made or were hypothetical;
- D. That any testimonial or endorsement of respondent's trading programs or training reflects the actual experience and current opinions, findings, beliefs, or experiences of the testimonialist or endorser; or
- E. The extent of risk to which users of respondent's trading programs are exposed.

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any trading program, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the financial benefits of such program, unless he discloses, clearly and conspicuously, and in close proximity to the representation,

"FUTURES TRADING [or STOCK, CURRENCY, OPTIONS, ETC., as applicable] involves high risks and YOU can LOSE a lot of money."

Provided, the disclosure required by this Part is in addition to, and not in lieu of, any other disclosure that respondent may be required to make, including but not limited to any disclosure required by state or federal law or by a self-regulatory organization. The requirements of this Part are not intended to,

Decision and Order

and shall not be interpreted to, exempt respondent from making any other disclosure.

IV.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any trading program, in or affecting commerce, shall not represent, in any manner, expressly or by implication, that the experience represented by any user, testimonial or endorsement of the trading program represents the typical or ordinary experience of members of the public who use the trading program unless:

- A. Respondent possesses and relies upon a reasonable basis substantiating the representation at the time it is made; or
- B. Respondent discloses, clearly and conspicuously, and in close proximity to the endorsement or testimonial, either:
 - 1. what the generally expected results would be for users of the trading program, or
 - 2. the limited applicability of the endorser's experience to what users may generally expect to achieve, that is, that users should not expect to experience similar results.

For purposes of this Part, "endorsement" shall mean as defined in 16 C.F.R. § 255.0(b).

V.

IT IS FURTHER ORDERED that respondent Ellery Coleman, individually and doing business as Granite Investments, and his successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order,

Decision and Order

maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VI.

IT IS FURTHER ORDERED that respondent Ellery Coleman, individually and doing business as Granite Investments, and his successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers of Granite Investments, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondent shall maintain and upon request make available to the Commission for inspection and copying each such signed and dated statement for a period of five (5) years after creation.

Decision and Order

VII.

IT IS FURTHER ORDERED that respondent Ellery Coleman, individually and doing business as Granite Investments, and his successors and assigns shall notify the Commission at least thirty (30) days prior to any change in Granite Investments that may affect compliance obligations arising under this order, including but not limited to the formation of a corporation, the proposed filing of a bankruptcy petition, or a change in the company name or address.

VIII.

IT IS FURTHER ORDERED that respondent Ellery Coleman, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities.

IX.

IT IS FURTHER ORDERED that respondent Ellery Coleman, individually and doing business as Granite Investments, and his successors and assigns shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

X.

This order will terminate on June 5, 2020, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any

Decision and Order

violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

XI.

All notices required to be sent to the Commission pursuant to this Order shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Attn.: In the Matter of Ellery Coleman.

By the Commission.

Analysis to Aid Public Comment

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Ellery Coleman, individually and doing business as Granite Investments (“respondent”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Respondent sells and distributes various computer software programs and training for buying and selling S&P futures contracts on a daily basis. Respondent advertises on his Internet Web site, www.choicedaytrades.com. This matter concerns allegedly deceptive representations of the earnings and profit potential, as well as the extent of risk involved in using respondent's trading methods.

The Commission's proposed complaint alleges that respondent made unsubstantiated claims that users of his S&P futures trading programs can reasonably expect to achieve substantial profits on a consistent basis (*e.g.*, \$25,000 per futures contract); that specific trades or investments enumerated in respondent's advertisements were actually made and resulted in the substantial profits stated in the advertisements; and that testimonials appearing in the advertisements for respondent's S&P futures trading programs reflect the typical or ordinary experience of members of the public who use the programs.

In addition, the complaint alleges that respondent misrepresented that users of his S&P futures trading programs can reasonably expect to trade profitably with little financial risk; that testimonials appearing in the advertisements for his S&P futures

Analysis to Aid Public Comment

trading programs reflect the actual experiences of consumers who have used the programs; that he personally uses his S&P futures trading programs to trade profitably on his own behalf; and that the trades recommended by his S&P futures trading programs, as enumerated in the advertisements, were actually made in many cases.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future.

Part I of the proposed order requires respondent to have a reasonable basis substantiating any representation that users of his S&P futures trading programs can reasonably expect to achieve substantial profits on a consistent basis; that specific trades or investments were actually made and resulted in substantial profits; about the amount of earnings, income, profit or the rate of return that a prospective user of any trading program could reasonably expect to attain; about the percentage, ratio, or number of trades that a prospective user of respondent's S&P futures trading programs could reasonably expect to be profitable; or about any financial benefit or other benefit from any trading programs offered by respondent.

Part II of the proposed order prohibits respondent from misrepresenting that users of any trading program can reasonably expect to trade profitably with little or no financial risk; that respondent personally uses his trading programs to trade on his own behalf; whether trades recommended by respondent's trading programs were actually made or were hypothetical; that any testimonial or endorsement of respondent's trading programs or training reflects the testimonialist's or endorser's actual experience and current opinions, findings, beliefs, or experiences; or from misrepresenting the extent of risk to which users of any trading program are exposed.

Analysis to Aid Public Comment

Part III of the proposed order requires respondent to disclose, clearly and conspicuously, "FUTURES TRADING [or STOCK, CURRENCY, OPTIONS, ETC., as applicable] TRADING involves high risks and YOU can LOSE a lot of money," in close proximity to any representation he makes about the financial benefits of any trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondent may be required to make.

Part IV of the proposed order prohibits respondent from representing without a reasonable basis that the experience represented by any user, testimonial or endorsement of any trading program represents the typical or ordinary experience of members of the public who use the program; or respondent must disclose either what the generally expected results would be for users of the trading program, or the limited applicability of the endorser's experience to what users may generally expect to achieve, that is, that users should not expect to experience similar results.

Parts V-XI of the proposed order require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain personnel; to notify the Commission of changes in Granite Investments that may affect the order; to notify the Commission of changes in respondent's employment status for a period of ten years; and to file compliance reports with the Commission. Part X provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF
COMPUTRADE LLC, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3949; File No. 0023085
Complaint, June 5, 2000--Decision, June 5, 2000

This consent order requires Respondent CompuTrade LLC to have a reasonable basis substantiating any representation that users of respondents' currency trading program can reasonably expect to earn large profits: (1) of \$500 to \$750 or more per day; (2) of as much as six or even seven figures annually (i.e., more than \$1,000,000); or (3) even if they have no previous experience in currency trading, or claims about the amount of earnings, income, or profit that a prospective user of any trading program could reasonably expect to attain, or about any financial benefit or other benefit from any trading program offered by respondents. The order also prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed. In addition, the order requires Respondent to disclose, clearly and conspicuously, "CURRENCY [or STOCK, FUTURES, OPTIONS, ETC., as applicable] TRADING involves high risks and YOU can LOSE a lot of money," in close proximity to any representation he makes about the financial benefits of any trading program. Respondent is also prohibited from representing without a reasonable basis that the experience represented by any user, testimonial or endorsement of any trading program represents the typical or ordinary experience of members of the public who use the program; or respondent must disclose either what the generally expected results would be for users of the trading program, or the limited applicability of the endorser's experience to what users may generally expect to achieve, that is, that users should not expect to experience similar results.

Participants

For the Commission: *Michael Dershowitz, Jean Sullivan, C. Lee Peeler, and BE.*

For the Respondents: *Bernard Lewis, CompuTrade LLC.*