

1 Perry (a.k.a. Bernadette Carr and Bernadette Carr-Perry) and Marion Anthony (a.k.a.
2 “Tony”) Perry on August 19, 2009 [Docket Itm. #43], and a Preliminary Injunction
3 Order as to Dean Shafer on August 19, 2009 [Docket Itm. #44] (“Shafer PI Order”).

4 The TRO in this case enjoined Defendant Dean Shafer from, among other
5 things, collecting advance fees from consumers, and making certain representations
6 about Defendants’ services. The TRO also contained an asset freeze. The Shafer PI
7 Order enjoined Defendant Dean Shafer from, among other things, collecting advance
8 fees from consumers, and collecting payments from consumers for services prior to
9 the date of the Shafer PI Order. The Shafer PI Order continued the asset freeze from
10 the TRO, and provided certain allowances, such as reasonable and necessary living
11 expenses.

12 Plaintiff FTC and Defendant *Pro Se*
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1 acceleration clause contained in any promissory note or contract secured by a deed of
2 trust or mortgage on a residence in foreclosure or contained in that deed of trust; (G)
3 obtain a loan or advance of funds that is connected to the consumer's home
4 ownership; (H) avoid or ameliorate the impairment of the consumer's credit record,
5 credit history, or credit rating that is connected to the consumer's home ownership;
6 (I) save the consumer's residence from foreclosure; (J) assist the consumer in
7 obtaining proceeds from the foreclosure sale of the consumer's residence; (K) obtain
8 or arrange a pre-foreclosure sale, short sale, or deed-in-lieu of foreclosure; (L) obtain
9 or arrange a refinancing, recapitalization, or reinstatement of a home loan, deed of
10 trust, or mortgage; (M) audit or examine a consumer's mortgage or home loan
11 application; or (N) obtain, arrange, or attempt to obtain or arrange any extension of
12 the period within which the renter of property sold at foreclosure may continue to
13 occupy the property. The foregoing shall include any manner of claimed assistance,
14 including, but not limited to, debt, credit, budget, or financial counseling; receiving
15 money for the purpose of distributing it to creditors; contacting creditors or servicers
16 on behalf of the consumer; and giving advice of any kind with respect to filing for
17 bankruptcy.

18 9. "**Person**" means a natural person, organization, or other legal entity,
19 including a corporation, partnership, proprietorship, association, cooperative, or any
20 other group or combination acting as an entity.

21 10. "**Servicer**" means any beneficiary, mortgagee, trustee, loan servicer,
22 loan holder, or any entity performing loan or credit account administration or
23 processing services and/or its authorized agents.

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1 **ORDER**

2 **BAN ON MORTGAGE LOAN MODIFICATION AND FORECLOSURE**
3 **RELIEF SERVICES**

4 **I. IT IS THEREFORE ORDERED** that Defendant Dean Shafer, whether
5 acting directly or through any other person, is permanently restrained and enjoined
6 from

7 A. Advertising, marketing, promoting, offering for sale, or selling any
8 mortgage loan modification or foreclosure relief service; and

9 B. Assisting others engaged in advertising, marketing, promoting, offering
10 for sale, or selling any mortgage loan modification or foreclosure relief service.

11 **PROHIBITED REPRESENTATIONS RELATING TO FINANCIAL**
12 **RELATED GOODS AND SERVICES**

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1 percentage rate(s), or finance charge; the loan amount, the amount of credit, the draw
2 amount, or outstanding balance; the loan term, the draw period, or maturity; or any
3 other term of credit;

4 (c) the savings associated with the credit;

5 (d) the amount of cash to be disbursed to the borrower out of
6 the proceeds, or the amount of cash to be disbursed on behalf of the borrower to any
7 third parties;

8 (e) whether the payment of the minimum amount specified
9 each month covers both interest and principal, and whether the credit has or can
10 result in negative amortization;

11 (f) that the credit does not have a prepayment penalty or that
12 no prepayment penalty and/or other fees or costs will be incurred if the consumer
13 subsequently refinances; and

14 (g) that the interest rate(s) or annual percentage rate(s) are
15 fixed rather than adjustable or adjustable rather than fixed;

16 2. That any person can improve any consumer's credit record, credit
17 history, or credit rating by permanently removing negative information from the
18 consumer's credit record, credit history, or credit rating, even where such
19 information is accurate and not obsolete;

20 3. Any person's ability to improve or otherwise affect a consumer's
21 credit record, credit history, or credit rating or ability to obtain credit;

22 4. Any aspect of any debt relief service, including but not limited to,
23 the amount of savings a consumer will receive from purchasing, using, or enrolling
24 in such debt relief service; the amount of time before which a consumer will receive
25 settlement of the consumer's debts; or the reduction or cessation of collection calls;
26 and

27 5. That a consumer will receive legal representation;

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1 B. Advertising or assisting others in advertising credit terms other than
2 those terms that actually are or will be arranged or offered by a creditor or lender.
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1 **PROHIBITIONS ON USE OF CUSTOMER INFORMATION**

2 **IV. IT IS FURTHER ORDERED** that Defendant Dean Shafer and his
3 successors, assigns, officers, agents, servants, employees, and attorneys, and those
4 persons or entities in active concert or participation with any of them who receive
5 actual notice of this Order by personal service, facsimile transmission, email, or
6 otherwise, whether acting directly or through any corporation, subsidiary, division,
7 or other device, are permanently restrained and enjoined from:

8 A. disclosing, using, or benefitting from customer information, including
9 the name, address, telephone number, email address, social security number, other
10 identifying information, or any data that enables access to a customer's account
11 (including a credit card, bank account, or other financial account), of any person
12 which any Defendant obtained prior to entry of this Order in connection with the
13 advertising, marketing, promotion, offering for sale or sale of any mortgage loan
14 modification or foreclosure relief service, and

15 B. failing to dispose of such customer information in all forms in their
16 possession, custody, or control within thirty (30) days after entry of this Order.
17 Disposal shall be by means that protect against unauthorized access to the customer
18 information, such as by burning, pulverizing, or shredding any papers, and by
19 erasing or destroying any electronic media, to ensure that the customer information
20 cannot practicably be read or reconstructed.

21 C. **Provided, however,** that customer information need not be disposed of,
22 and may be disclosed, to the extent requested by a government agency or required by
23 a law, regulation, or court order.

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MONETARY RELIEF

V. IT IS FURTHER ORDERED that:

A. Judgment is hereby entered against Defendant Dean Shafer, in the amount of six million two hundred sixty two thousand five hundred nine dollars and sixty two cents (\$6,262,509.62); *provided, however*, that this judgment shall be suspended:

1. Upon completion of each of the following:

a. Bank of America shall transfer to the FTC or its designated agent all cash and other assets currently held in account number xxxx2387;

b. Wells Fargo shall transfer to the FTC or its designated agent all cash and other assets currently held in account numbers xxxx3374;

c. Wachovia shall transfer to the FTC or its designated agent all cash and other assets currently held in account number xxxx0406;

d. JP Morgan Chase shall transfer to the FTC or its designated agent all cash and other assets currently held in account number xxxx7409;

e. Merrill Lynch shall transfer to the FTC or its designated agent all cash and assets (including but not limited to liquidating all holdings and transferring the proceeds of such liquidation) currently held in account numbers xxxx9S70 and xxxx9D27;

f. Defendant Dean Shafer shall transfer to the FTC or its designated agent all cash and other assets currently held in any account to which Defendant Dean Shafer has access that is not identified in subparagraphs a-e above; and

g. Defendant Dean Shafer shall transfer to the FTC or its designated agent all cash and other assets currently held in any safe deposit box to which Defendant Dean Shafer has access;

1 2. Provided that, immediately upon receipt, Defendant Dean Shafer
2 transfers to the FTC or its designated agent the amount of any proceeds Defendant
3 Dean Shafer receives from the sale of property located at 56760 Muirfield Village,
4 La Quinta, CA, 92253;

5 3. As long as the Court makes no finding, as provided in Section VI
6 of this Order, that Defendant Dean Shafer materially misrepresented or omitted the
7 nature, existence, or value of any asset, and as long as the Court does not otherwise
8 reopen the Order and modify the judgment pursuant to Section VI of this Order.

9 B. Defendant Dean Shafer relinquishes all dominion, control, and title to
10 the funds paid to the fullest extent permitted by law. Defendant Dean Shafer shall
11 make no claim to or demand for return of the funds, directly or indirectly, through
12 counsel or otherwise.

13 C. Defendant Dean Shafer agrees that the facts as alleged in the Complaint
14 filed in this action shall be taken as true without further proof in any bankruptcy case
15 or subsequent civil litigation pursued by the FTC to enforce its rights to any payment
16 or money judgment pursuant to this Order, including but not limited to a
17 nondischargeability complaint in any bankruptcy case. Defendant Dean Shafer
18 further stipulates and agrees that the facts alleged in the Complaint establish all
19 elements necessary to sustain an action by the FTC pursuant to, and that this Order
20 shall have collateral estoppel effect for purposes of Section 523(a)(2)(A) of the
21 Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A). This subsection is not intended to be,
22 nor shall it be, construed as an admission of liability by Defendant Dean Shafer with
23 respect to the allegations set forth in the Complaint with respect to any claims or
24 demands by any third parties.

25 D. Defendant Dean Shafer stipulates and agrees that the judgment ordered
26 by this Section is not dischargeable in bankruptcy, pursuant to Section 523 of the
27 Bankruptcy Code, 11 U.S.C. § 523;

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1 E. The judgment entered pursuant to this Section is equitable monetary
2 relief, solely remedial in nature, and not a fine, penalty, punitive assessment or
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1 participation with them, including pursuant to any chose of action to recover money
2 or assets from such persons, the suspended judgment entered in Section V of this
3 Order shall become immediately due and payable, less any amounts turned over to
4 the FTC pursuant to Section V of this Order. If the form entitled "Financial
5 Statement of Individual Defendant," completed by non-defendant Rebecca Raff, the
6 spouse or ex-spouse of Defendant Dean Shafer, and dated April 6, 2010, contains
7 any material misrepresentation or omission of the nature, existence, or value of any
8 asset, the Commission may request that this Order be reopened for the sole purpose
9 of modifying the amount of equitable monetary relief against Defendant Dean
10 Shafer. *Provided, however*, in all other respects this Order shall remain in full force
11 and effect unless otherwise ordered by the Court; and, *provided further*, that
12 proceedings instituted under this provision would be in addition to, and not in lieu of,
13 any other civil or criminal remedies as may be provided by law, including any other
14 proceedings that the FTC may initiate to enforce this Order. For purposes of this
15 Section, Defendant Dean Shafer waives any right to contest any of the allegations in
16 the Complaint.

17 **COOPERATION WITH FTC**

18 **VII. IT IS FURTHER ORDERED** that Defendant Dean Shafer shall, in
19 connection with this action or any subsequent investigation or litigation related to or
20 associated with the transactions or the occurrences that are the subject of the
21 Complaint, cooperate in good faith with the FTC and appear at such places and times
22 as the FTC shall reasonably request, after written notice, for interviews, conferences,
23 pretrial discovery, review of documents, and for such other matters as may be
24 reasonably requested by the FTC. If requested in writing by the FTC, Defendant
25 Dean Shafer shall appear and provide truthful testimony in any trial, deposition, or
26 other proceeding related to or associated with the transactions or the occurrences that
27 are the subject of the Complaint, without the service of a subpoena, *provided*,

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1 services purchased, to the extent such information is obtained in the ordinary course
2 of business;

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

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

7 F. All records and documents necessary to demonstrate full compliance
8 with each provision of this Order, including but not limited to, copies of
9 acknowledgments of receipt of this Order required by the Sections titled
10 “Distribution of Order” and “Acknowledgment of Receipt of Order” and all reports
11 submitted to the FTC pursuant to the Section titled “Compliance Reporting.”

12 **DISTRIBUTION OF ORDER**

13 **XI. IT IS FURTHER ORDERED** that, for a period of seven (7) years from the
14 date of entry of this Order, Defendant Dean Shafer shall deliver copies of this Order
15 as directed below:

16 A. Defendant Dean Shafer as Control Person: For any business that
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1 B. Defendant Dean Shafer as Employee or Non-Control Person: For any
2 business where Defendant Dean Shafer is not a controlling person of a business but
3 otherwise engages in conduct related to the subject matter of this Order, Defendant
4 Dean Shafer must deliver a copy of this Order to all principals and managers of such
5 business before engaging in such conduct.

6 C. Defendant Dean Shafer must secure a signed and dated statement
7 acknowledging receipt of this Order, within thirty (30) days of delivery, from all
8 persons receiving a copy of this Order pursuant to this Section.

9 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

10 **XII. IT IS FURTHER ORDERED** that Defendant Dean Shafer, within five (5)
11 business days of receipt of this Order as entered by the Court, must submit to the
12 FTC a truthful sworn statement acknowledging receipt of this Order.

13 **RETENTION OF JURISDICTION**

14 **XIII. IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this
15 matter for purposes of construction, modification, and enforcement of this Order.

16 **IT IS SO ORDERED**, this 14th day of July, 2010.

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20 UNITED STATES DISTRICT JUDGE
David O. Carter