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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Federal Trade Commission,

Plaintiff,

v.

Loss Mitigation Services, Inc., et al.

Defendants.

Case No. SACV09-800 DOC (ANx)

**FINAL ORDER FOR
PERMANENT INJUNCTION AND
SETTLEMENT OF CLAIMS
AS TO DEFENDANT
MARION ANTHONY
(A.K.A. "TONY") PERRY**

Judge: Hon. David O. Carter

Plaintiff Federal Trade Commission ("FTC") commenced this civil action on July 13, 2009, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive and other equitable relief for Defendants' violations of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with the marketing and sale of mortgage loan modification and foreclosure relief services. The Court entered a Temporary Restraining Order as to all parties on July 20, 2009 ("TRO") [Docket Itm. #14], a Preliminary Injunction Order as to Defendants Loss

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2 Mitigation Services, Inc. (“LMS”) and Synergy Financial Management Corporation,
3 also d/b/a Direct Lender and DirectLender.com (“Synergy” or “Direct Lender”) on
4 August 18, 2009 [Docket Itm. #41], a Preliminary Injunction Order as to Bernadette
5 Perry and Tony Perry on August 19, 2009 [Docket Itm. #43] (“Perry PI Order”), and
6 a Preliminary Injunction Order as to Dean Shafer on August 19, 2009 [Docket Itm.
7 #44].

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

16 Plaintiff FTC and Defendant *Pro Se* Tony Perry have now stipulated to entry
17 of a Final Order for Permanent Injunction and Settlement of Claims as to Defendant
18 Marion Anthony (A.K.A. “Tony”) Perry. This Court, having considered the
19 Complaint, exhibits, memoranda, declarations, and other submissions of the parties,
20 and now being advised in the premises, hereby enters this Order:

21 **FINDINGS**

22 1. This is an action by the FTC brought pursuant to Sections 5 and 13(b)
23 of the FTC Act, 15 U.S.C. §§ 45 and 53(b). The Complaint seeks both permanent
24 injunctive relief and consumer redress for the Defendants’ alleged deceptive acts or
25 practices in connection with the marketing and sale of mortgage loan modification
26 and foreclosure relief services.

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2. The FTC has authority under Section 13(b) of the FTC Act to seek the relief it has requested, and the Complaint states a claim upon which relief can be granted against the Defendants.

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. §§ 45(a) and 53(b) and has jurisdiction over the Defendants. Venue in the Central District of California is proper.

4. The activities of the Defendants, as alleged in the Complaint, are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. The parties stipulate and agree to entry of this Order, without trial or final adjudication of any issue of fact or law, to settle and resolve all matters in dispute arising from the conduct alleged in the Complaint to the date of entry of this Order.

6. Defendant Tony Perry waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant Tony Perry also waives any claim that he may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Each party shall bear its own costs and attorneys fees.

7. This action and the relief awarded herein, are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

8. Entry of this Order is in the public interest.

DEFINITIONS

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

1. “*Assisting others*” includes, but is not limited to, providing any of the following goods or services to another person: (A) performing customer service functions, including, but not limited to, receiving or responding to consumer

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2 complaints; (B) formulating or providing, or arranging for the formulation or
3 provision of, any telephone sales script or any other marketing material, including
4 but not limited to direct mail, the text of any Internet website, email, or other
5 electronic communication; (C) providing names of, or assisting in the generation of,
6 potential customers; (D) performing marketing services of any kind; or (E) acting or
7 serving as an owner, officer, director, manager, or principal of such entity.

8 2. “*Credit*” means the right granted by a creditor to a debtor to defer
9 payment of debt or to incur debt and defer its payment.

10 3. “*Debt relief service*” means any service, including debt management
11 plans, debt settlement, debt negotiation, and for-profit credit counseling,
12 represented, expressly or by implication, to renegotiate, settle, or in any way alter the
13 terms of payment or other terms of the debt between a consumer and one or more
14 unsecured creditors, servicers, or debt collectors, including but not limited to, a
15 reduction in the balance, interest rate, or fees owed by a consumer to an unsecured
16 creditor, servicer, or debt collector.

17 4. “*Defendants*” means, individually, collectively, or in any combination:
18 (a) Loss Mitigation Services, Inc. (“LMS”); (b) Synergy Financial Management
19 Corporation, also d/b/a Direct Lender and Direct Lender.com (“Direct Lender”); (c)
20 Dean Shafer; (D) Bernadette Perry (a.k.a Bernadette Carr and Bernadette Carr-Perry)
21 and (E) Marion Anthony (a.k.a. “Tony”) Perry. “*Corporate Defendants*” means,
22 individually or collectively: (a) LMS; and (b) Direct Lender.

23 5. “*Financial related good or service*” means any good, service, plan, or
24 program that is represented, expressly or by implication, to (A) provide any
25 consumer, arrange for any consumer to receive, or assist any consumer in receiving,
26 credit, debit, or stored value cards; (B) improve, or arrange to improve, any
27 consumer’s credit record, credit history, or credit rating; (C) provide advice or
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2 assistance to any consumer with regard to any activity or service the purpose of
3 which is to improve a consumer's credit record, credit history, or credit rating; (D)
4 provide any consumer, arrange for any consumer to receive, or assist any consumer
5 in receiving, a loan or other extension of credit; (E) provide any consumer, arrange
6 for any consumer to receive, or assist any consumer in receiving, debt relief services;
7 (F) provide any consumer, arrange for any consumer to receive, or assist any
8 consumer in receiving any service represented, expressly or by implication, to
9 renegotiate, settle, or in any way alter the terms of payment or other terms of the debt
10 between a consumer and one or more secured creditors, servicers, or debt collectors.

11 6. ***"Federal homeowner relief or financial stability program"*** means any
12 program (including its sponsoring agencies, telephone numbers, and Internet
13 websites) operated or endorsed by the United States government to provide relief to
14 homeowners or stabilize the economy, including but not limited to (A) the Making
15 Home Affordable Program; (B) the Financial Stability Plan; (C) the Troubled Asset
16 Relief Program and any other program sponsored or operated by the United States
17 Department of the Treasury; (D) the HOPE for Homeowners program, any program
18 operated or created pursuant to the Helping Families Save Their Homes Act, and any
19 other program sponsored or operated by the Federal Housing Administration; or (E)
20 any program sponsored or operated by the United States Department of Housing and
21 Urban Development ("HUD"), the HOPE NOW Alliance, the Homeownership
22 Preservation Foundation, or any other HUD-approved housing counseling agency.

23 7. ***"Material fact"*** means any fact that is likely to affect a person's choice
24 of, or conduct regarding, goods or services.

25 8. ***"Mortgage loan modification or foreclosure relief service"*** means any
26 good, service, plan, or program that is represented, expressly or by implication, to
27 assist a consumer in any manner to (A) stop, prevent, or postpone any home
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2 mortgage or deed of trust foreclosure sale; (B) obtain or arrange a modification of
3 any term of a home loan, deed of trust, or mortgage; (C) obtain any forbearance from
4 any mortgage loan holder or servicer; (D) exercise any right of reinstatement of any
5 residential mortgage loan; (E) obtain, arrange, or attempt to obtain or arrange any
6 extension of the period within which the owner of property sold at foreclosure may
7 cure his or her default or reinstate his or her obligation; (F) obtain any waiver of an
8 acceleration clause contained in any promissory note or contract secured by a deed of
9 trust or mortgage on a residence in foreclosure or contained in that deed of trust; (G)
10 obtain a loan or advance of funds that is connected to the consumer's home
11 ownership; (H) avoid or ameliorate the impairment of the consumer's credit record,
12 credit history, or credit rating that is connected to the consumer's home ownership;
13 (I) save the consumer's residence from foreclosure; (J) assist the consumer in
14 obtaining proceeds from the foreclosure sale of the consumer's residence; (K) obtain
15 or arrange a pre-foreclosure sale, short sale, or deed-in-lieu of foreclosure; (L) obtain
16 or arrange a refinancing, recapitalization, or reinstatement of a home loan, deed of
17 trust, or mortgage; (M) audit or examine a consumer's mortgage or home loan
18 application; or (N) obtain, arrange, or attempt to obtain or arrange any extension of
19 the period within which the renter of property sold at foreclosure may continue to
20 occupy the property. The foregoing shall include any manner of claimed assistance,
21 including, but not limited to, debt, credit, budget, or financial counseling; receiving
22 money for the purpose of distributing it to creditors; contacting creditors or servicers
23 on behalf of the consumer; and giving advice of any kind with respect to filing for
24 bankruptcy.

25 9. “*Person*” means a natural person, organization, or other legal entity,
26 including a corporation, partnership, proprietorship, association, cooperative, or any
27 other group or combination acting as an entity.
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2 10. “*Servicer*” means any beneficiary, mortgagee, trustee, loan servicer,
3 loan holder, or any entity performing loan or credit account administration or
4 processing services and/or its authorized agents.

5 **ORDER**

6 **BAN ON MORTGAGE LOAN MODIFICATION AND FORECLOSURE**
7 **RELIEF SERVICES**

8 **I. IT IS THEREFORE ORDERED** that Defendant Tony Perry, whether acting
9 directly or through any other person, is permanently restrained and enjoined from

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

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

14 *Provided*, that if Defendant Tony Perry holds a real estate sales license in good
15 standing from the appropriate state real estate licensing agency, and is employed by a
16 broker that holds a license in good standing from the appropriate state real estate
17 agency, Parts I.A. and B. shall not prohibit Defendant Tony Perry from doing or
18 negotiating to do one or more of the following acts for another or others: selling or
19 offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers
20 of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of
21 real property in a purchase money real estate transaction.

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23 **PROHIBITED REPRESENTATIONS RELATING TO FINANCIAL**
24 **RELATED GOODS AND SERVICES**

25 **II. IT IS FURTHER ORDERED** that Defendant Tony Perry and his successors,
26 assigns, officers, agents, servants, employees, and attorneys, and those persons or
27 entities in active concert or participation with any of them who receive actual notice
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2 of this Order by personal service, facsimile transmission, email, or otherwise,
3 whether acting directly or through any corporation, subsidiary, division, or other
4 device, in connection with the advertising, marketing, promotion, offering for sale or
5 sale of any financial related good or service, are hereby permanently restrained and
6 enjoined from:

7 A. Misrepresenting or assisting others in misrepresenting, expressly or by
8 implication, any material fact, including but not limited to:

9 1. The terms or rates that are available for any loan or other
10 extension of credit, including but not limited to:

11 (a) closing costs or other fees;
12 (b) the payment schedule, the monthly payment amount(s), or
13 other payment terms, or whether there is a balloon payment; interest rate(s), annual
14 percentage rate(s), or finance charge; the loan amount, the amount of credit, the draw
15 amount, or outstanding balance; the loan term, the draw period, or maturity; or any
16 other term of credit;

17 (c) the savings associated with the credit;

18 (d) the amount of cash to be disbursed to the borrower out of
19 the proceeds, or the amount of cash to be disbursed on behalf of the borrower to any
20 third parties;

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

24 (f) that the credit does not have a prepayment penalty or that
25 no prepayment penalty and/or other fees or costs will be incurred if the consumer
26 subsequently refinances; and
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(g) that the interest rate(s) or annual percentage rate(s) are fixed rather than adjustable or adjustable rather than fixed;

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

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

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

5. That a consumer will receive legal representation;

B. Advertising or assisting others in advertising credit terms other than those terms that actually are or will be arranged or offered by a creditor or lender.

PROHIBITED REPRESENTATIONS RELATING TO ANY GOODS OR SERVICES

III. IT IS FURTHER ORDERED that Defendant Tony Perry and his successors, assigns, officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale or sale of any good, service, plan, or program are hereby permanently restrained and

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2 enjoined from misrepresenting or assisting others in misrepresenting, expressly or by
3 implication, any material fact, including but not limited to:

4 A. Any material aspect of the nature or terms of any refund, cancellation,
5 exchange, or repurchase policy, including, but not limited to, the likelihood of a
6 consumer obtaining a full or partial refund, or the circumstances in which a full or
7 partial refund will be granted to the consumer;

8 B. That any person is affiliated with, endorsed or approved by, or
9 otherwise connected to any other person, government entity, any federal homeowner
10 relief or financial stability program, or any other program;

11 C. The total costs to purchase, receive, or use, and the quantity of, the good
12 or service;

13 D. Any material restriction, limitation, or condition to purchase, receive, or
14 use the good or service; and

15 E. Any material aspect of the performance, efficacy, nature, or
16 characteristics of the good or service.

17 **PROHIBITIONS ON USE OF CUSTOMER INFORMATION**

18 **IV. IT IS FURTHER ORDERED** that Defendant Tony Perry and his successors,
19 assigns, officers, agents, servants, employees, and attorneys, and those persons or
20 entities in active concert or participation with any of them who receive actual notice
21 of this Order by personal service, facsimile transmission, email, or otherwise,
22 whether acting directly or through any corporation, subsidiary, division, or other
23 device, are permanently restrained and enjoined from:

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

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

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

14 **MONETARY RELIEF**

15 **V. IT IS FURTHER ORDERED** that:

16 A. Judgment is hereby entered against Defendant Tony Perry, in the
17 amount of six million two hundred sixty two thousand five hundred nine dollars and
18 sixty two cents (\$6,262,509.62); *provided, however,* that this judgment shall be
19 suspended only as long as the Court makes no finding, as provided in Section VI of
20 this Order, that Defendant Tony Perry materially misrepresented or omitted the
21 nature, existence, or value of any asset;

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

8 C. Defendant Tony Perry stipulates and agrees that the judgment ordered
9 by this Section is not dischargeable in bankruptcy, pursuant to Section 523 of the
10 Bankruptcy Code, 11 U.S.C. § 523;

11 D. The judgment entered pursuant to this Section is equitable monetary
12 relief, solely remedial in nature, and not a fine, penalty, punitive assessment or
13 forfeiture;

14 E. Upon request, Defendant Tony Perry is hereby required, in accordance
15 with 31 U.S.C. § 7701, to furnish to the FTC any tax identification numbers, which
16 shall be used for purposes of collecting and reporting on any delinquent amount
17 arising out of this Order; and

18 F. Upon request, Defendant Tony Perry is hereby required to furnish to the
19 FTC with copies of any tax returns submitted for the years 2004 through the present;
20 and

21 G. Pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
22 § 1681b(1), any consumer reporting agency may furnish a consumer report
23 concerning Defendant Tony Perry to the FTC, which shall be used for purposes of
24 collecting and reporting on any delinquent amount arising out of this Order.

25 **RIGHT TO REOPEN**

26 **VI. IT IS FURTHER ORDERED** that, the FTC's agreement to, and the Court's
27 approval of, this Order is expressly premised on the truthfulness, accuracy and
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2 completeness of the revised financial statement submitted to FTC counsel by
3 Defendant Tony Perry on March 17, 2010 and the sworn testimony given by
4 Defendant Tony Perry on or about October 30, 2009. If, upon motion by the FTC,
5 the Court finds that: (1) the financial statement or sworn testimony of Defendant
6 Tony Perry contain any material misrepresentation or omission, or (2) Defendant
7 Tony Perry receives any money or assets owed to him as of the date of entry of this
8 Order by any Defendant named in this civil action, or their officers, agents, servants,
9 employees, and all persons and entities in active concert or participation with them,
10 including pursuant to any chose of action to recover money or assets from such
11 persons, the suspended judgment entered in Section V of this Order shall become
12 immediately due and payable. *Provided, however,* in all other respects this Order
13 shall remain in full force and effect unless otherwise ordered by the Court; and,
14 *provided further,* that proceedings instituted under this provision would be in
15 addition to, and not in lieu of, any other civil or criminal remedies as may be
16 provided by law, including any other proceedings that the FTC may initiate to
17 enforce this Order. For purposes of this Section, Defendant Tony Perry waives any
18 right to contest any of the allegations in the Complaint.

19 **COOPERATION WITH FTC**

20 **VII. IT IS FURTHER ORDERED** that Defendant Tony Perry shall, in connection
21 with this action or any subsequent investigation or litigation related to or associated
22 with the transactions or the occurrences that are the subject of the Complaint,
23 cooperate in good faith with the FTC and appear at such places and times as the FTC
24 shall reasonably request, after written notice, for interviews, conferences, pretrial
25 discovery, review of documents, and for such other matters as may be reasonably
26 requested by the FTC. If requested in writing by the FTC, Defendant Tony Perry
27 shall appear and provide truthful testimony in any trial, deposition, or other
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2 proceeding related to or associated with the transactions or the occurrences that are
3 the subject of the Complaint, without the service of a subpoena, *provided, however,*
4 that Defendant Tony Perry shall be entitled to receive any witness fees and expenses
5 allowable pursuant to Federal Rule of Civil Procedure 45.
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7 **COMPLIANCE MONITORING**

8 **VIII. IT IS FURTHER ORDERED** that, for the purpose of (i) monitoring and
9 investigating compliance with any provision of this Order, and (ii) investigating the
10 accuracy of Defendant Tony Perry's financial statement or sworn testimony upon
11 which the FTC's agreement to this Order is expressly premised:

12 A. Within ten (10) days of receipt of written notice from a representative of
13 the FTC, Defendant Tony Perry shall submit additional written reports, which are
14 true and accurate and sworn to under penalty of perjury; produce documents for
15 inspection and copying; appear for deposition; and provide entry during normal
16 business hours to any business location in Defendant Tony Perry's possession or
17 direct or indirect control to inspect the business operation;

18 B. In addition, the FTC is authorized to use all other lawful means,
19 including but not limited to:

20 1. obtaining discovery from any person, without further leave of
21 court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and
22 69;

23 2. posing as consumers and suppliers to Defendant Tony Perry, his
24 employees, or any other entity managed or controlled in whole or in part by
25 Defendant Tony Perry, without the necessity of identification or prior notice; and

26 C. Defendant Tony Perry shall permit representatives of the FTC to
27 interview any employer, consultant, independent contractor, representative, agent, or
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2 employee who has agreed to such an interview, relating in any way to any conduct
3 subject to this Order. The person interviewed may have counsel present.

4 D. *Provided however*, that nothing in this Order shall limit the FTC's
5 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15
6 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony,
7 or information relevant to unfair or deceptive acts or practices in or affecting
8 commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

9 **COMPLIANCE REPORTING**

10 **IX. IT IS FURTHER ORDERED** that, in order that compliance with the
11 provisions of this Order may be monitored:

12 A. For a period of seven (7) years from the date of entry of this Order,

13 1. Defendant Tony Perry shall notify the FTC of the following:

14 a. Any changes in his residence, mailing addresses, and
15 telephone numbers, within ten (10) days of the date of such change;

16 b. Any changes in his employment status (including self-
17 employment), and any change in his ownership in any business entity, within ten
18 (10) days of the date of such change. Such notice shall include the name and address
19 of each business that he is affiliated with, employed by, creates or forms, or performs
20 services for; a detailed description of the nature of the business; and a detailed
21 description of his duties and responsibilities in connection with the business or
22 employment; and

23 c. Any changes in his name or use of any aliases or fictitious
24 names;

25 2. Defendant Tony Perry shall notify the FTC of any changes in
26 structure of any Corporate Defendant or any business entity that he directly or
27 indirectly controls, or has an ownership interest in, that may affect compliance
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2 obligations arising under this Order, including but not limited to: incorporation or
3 other organization; a dissolution, assignment, sale, merger, or other action; the
4 creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or
5 practices subject to this Order; or a change in the business name or address, at least
6 thirty (30) days prior to such change, *provided* that, with respect to any proposed
7 change in the business entity about which Defendant Tony Perry learns less than
8 thirty (30) days prior to the date such action is to take place, he shall notify the FTC
9 as soon as is practicable after obtaining such knowledge.

10 B. One hundred eighty (180) days after the date of entry of this Order and
11 annually thereafter for a period of seven (7) years, Defendant Tony Perry shall
12 provide a written report to the FTC, which is true and accurate and sworn to under
13 penalty of perjury, setting forth in detail the manner and form in which he has
14 complied and is complying with this Order. This report shall include, but not be
15 limited to:

16 1. Defendant Tony Perry's then-current residence address, mailing
17 addresses, and telephone numbers;

18 2. Defendant Tony Perry's then-current employment status
19 (including self-employment), including the name, addresses, and telephone numbers
20 of each business that he is affiliated with, employed by, or performs services for; a
21 detailed description of the nature of the business; and a detailed description of his
22 duties and responsibilities in connection with the business or employment; and

23 3. A copy of each acknowledgment of receipt of this Order,
24 obtained pursuant to the Section titled "Distribution of Order;" and

25 4. Any other changes required to be reported under Subsection A of
26 this Section.
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2 C. Defendant Tony Perry shall notify the FTC of the filing of a bankruptcy
3 petition by him within fifteen (15) days of filing.

4 D. For the purposes of this Order, Defendant Tony Perry shall, unless
5 otherwise directed by the FTC's authorized representatives, send by overnight
6 courier all reports and notifications required by this Order to the FTC, to the
7 following address:

8 Associate Director for Enforcement
9 Bureau of Consumer Protection
10 Federal Trade Commission
11 600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
RE: *FTC v. Loss Mitigation Services, Inc.*, Case No. SACV09-
800 DOC (ANx) (C.D. Ca.)

12 *Provided that*, in lieu of overnight courier, Defendant Tony Perry may send such
13 reports or notifications by first-class mail, but only if he contemporaneously sends an
14 electronic version of such report or notification to the FTC at: DEBrief@ftc.gov.

15 E. For purposes of the compliance reporting and monitoring required by
16 this Order, the FTC is authorized to communicate directly with Defendant Tony
17 Perry.

18 RECORD KEEPING PROVISIONS

19 **X. IT IS FURTHER ORDERED** that, for a period of ten (10) years from the
20 date of entry of this Order, in connection with any business where Defendant Tony
21 Perry is the majority owner of the business or directly or indirectly manages or
22 controls the business, Defendant Tony Perry and his agents, employees, officers,
23 corporations, and those persons in active concert or participation with him who
24 receive actual notice of this Order by personal service or otherwise, are hereby
25 restrained and enjoined from failing to create and retain the following records:

26 A. Accounting records that reflect the cost of goods or services sold,
27 revenues generated, and the disbursement of such revenues;

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2 B. Personnel records accurately reflecting: the name, address, and
3 telephone number of each person employed in any capacity by such business,
4 including as an independent contractor; that person's job title or position; the date
5 upon which the person commenced work; and the date and reason for the person's
6 termination, if applicable;

7 C. Customer files containing the names, addresses, phone numbers, dollar
8 amounts paid, quantity of items or services purchased, and description of items or
9 services purchased, to the extent such information is obtained in the ordinary course
10 of business;

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

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

15 F. All records and documents necessary to demonstrate full compliance
16 with each provision of this Order, including but not limited to, copies of
17 acknowledgments of receipt of this Order required by the Sections titled
18 "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports
19 submitted to the FTC pursuant to the Section titled "Compliance Reporting."

20 **DISTRIBUTION OF ORDER**

21 **XI. IT IS FURTHER ORDERED** that, for a period of four (4) years from the
22 date of entry of this Order, Defendant Tony Perry shall deliver copies of this Order
23 as directed below:

24 A. Defendant Tony Perry as Control Person: For any business that
25 Defendant Tony Perry controls, directly or indirectly, or in which Defendant Tony
26 Perry has a majority ownership interest, Defendant Tony Perry must deliver a copy
27 of this Order to (1) all principals, officers, directors, and managers of that business;
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2 (2) all employees, agents, and representatives of that business who engage in conduct
3 related to the subject matter of Section I of this Order (entitled Ban on Mortgage
4 Loan Modification and Foreclosure Relief Services) or Section II of this Order
5 (entitled Prohibited Representations Relating to Financial Related Goods and
6 Services); and (3) any business entity resulting from any change in structure set forth
7 in Subsection A.2 of the Section titled "Compliance Reporting." For current
8 personnel, delivery shall be within five (5) days of service of this Order upon
9 Defendant Tony Perry. For new personnel, delivery shall occur prior to them
10 assuming their responsibilities. For any business entity resulting from any change in
11 structure set forth in Subsection A.2 of the Section titled "Compliance Reporting,"
12 delivery shall be at least ten (10) days prior to the change in structure.

13 B. Defendant Tony Perry as Employee or Non-Control Person: For any
14 business where Defendant Tony Perry is not a controlling person of a business but
15 otherwise engages in conduct related to the subject matter of Section I of this Order
16 (entitled Ban on Mortgage Loan Modification and Foreclosure Relief Services) or
17 Section II of this Order (entitled Prohibited Representations Relating to Financial
18 Related Goods and Services), Defendant Tony Perry must deliver a copy of this
19 Order to all principals and managers of such business before engaging in such
20 conduct.

21 C. Defendant Tony Perry must secure a signed and dated statement
22 acknowledging receipt of this Order, within thirty (30) days of delivery, from all
23 persons receiving a copy of this Order pursuant to this Section.

24 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

25 **XII. IT IS FURTHER ORDERED** that Defendant Tony Perry, within five (5)
26 business days of receipt of this Order as entered by the Court, must submit to the
27 FTC a truthful sworn statement acknowledging receipt of this Order.
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RETENTION OF JURISDICTION

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

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


UNITED STATES DISTRICT JUDGE
David O. Carter