

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In Re:

Warwick Properties LLC,
Debtor-in-possession.

Case No. 08-16620

Federal Trade Commission,
Plaintiff,

Adversary Proceeding No. 09-_____

v.

COMPLAINT

Warwick Properties LLC
7683 SE 27th Street, Suite 241
Mercer Island, Washington 98040,

Heidi Fogg
9022 North Mercer Way
Mercer Island, Washington 98040,

and John Stefanchik
9022 North Mercer Way
Mercer Island, Washington 98040,

Defendants.

The Federal Trade Commission (“FTC” or “the Commission”), a creditor and party-in-interest, files this Complaint against the debtor, Warwick Properties LLC (the “Debtor” or “Warwick”), its manager, Heidi Fogg (“Fogg”), and her husband, John Stefanchik (“Stefanchik”), and seeks to pierce the corporate veil of the Debtor, in reverse, to enforce the Commission’s lien against certain property held in the name of the Debtor. The Debtor is nothing but a shell, which Stefanchik and Fogg used to hold their residence in an improper

1 attempt to shelter their house from the claims of creditors such as the FTC. Stefanchik and Fogg
2 abused Warwick's corporate form. Accordingly, Warwick also should be liable to the FTC on
3 the judgment entered against Stefanchik, which arose from his deceptive practices.
4 Alternatively, the Commission seeks to recover as fraudulent transfers various payments and
5 transfers made by Stefanchik and/or Fogg to or on behalf of the Debtor. Finally, the
6 Commission seeks a ruling from this Court that any purported assignment of Stefanchik's rights
7 and interests in the Debtor to Fogg does not alter or impair the Commission's judgment lien or
8 claims in this Adversary Proceeding.

9 JURISDICTION AND VENUE

10 1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334.
11 This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

12 2. Venue in the Western District of Washington is proper under 28 U.S.C.
13 § 1409(a).

14 3. This Adversary Proceeding relates to *In re Warwick Properties LLC*, Chapter 11
15 Case No. 08-16620 (Bankr. W.D. Wash.), now pending in this Court (the "Bankruptcy Case").
16 The FTC is a creditor with a secured claim against the Debtor as a result of a judgment the
17 Commission obtained against Stefanchik, and others, in the United States District Court for the
18 Western District of Washington in the case *Federal Trade Commission v. Stefanchik., et al.*,
19 Case No. 2:04-cv-01852-RSM (W.D. Wash.) (the "Stefanchik Case").

20 THE PARTIES

21 4. The FTC is an independent agency of the United States government created by
22 statute. 15 U.S.C. §§ 41-58. The FTC is charged, *inter alia*, with enforcement of Section 5(a) of
23 the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or
24 affecting commerce.

25 5. The Commission also enforces the Telemarketing Sales Rule, 16 C.F.R. Part 310,
26 which prohibits deceptive or abusive telemarketing acts or practices.

27 6. The Commission is authorized to initiate federal district court proceedings to
28 enjoin violations of the FTC Act and the Telemarketing Sales Rule, and to secure such equitable

1 relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C.
2 §§ 53(b), 57b, 6102(c), and 6105(b).

3 7. Warwick Properties LLC is a chapter 11 Debtor in the Bankruptcy Case.

4 8. Heidi Fogg is the manager of the Debtor and the spouse of Stefanchik. Fogg
5 currently resides at 9022 North Mercer Way, Mercer Island, Washington 98040.

6 9. John Stefanchik is the spouse of Fogg and a defendant in the Stefanchik Case.
7 Stefanchik currently resides at 9022 North Mercer Way, Mercer Island, Washington 98040.

8 COURSE OF PROCEEDINGS AND DEFENDANTS' CONDUCT

9 A. The FTC's False, Misleading, and Deceptive Advertising Case

10 10. On August 24, 2004, the Commission filed a complaint in the United States
11 District Court for the Western District of Washington (the "District Court") against Stefanchik, a
12 corporation he organized, Beringer Corporation ("Beringer"), and several other defendants.
13 *Federal Trade Comm'n v. Stefanchik, et al.*, Case No. 2:04-cv-01852-RSM (W.D. Wash.). All
14 defendants except Stefanchik and Beringer entered into stipulated judgments to resolve the
15 FTC's claims against them.

16 11. In the complaint, the Commission alleged that the defendants violated the FTC
17 Act and the Telemarketing Sales Rule by making false, misleading and deceptive claims that
18 consumers could quickly make large amounts of money in a short amount of time by purchasing
19 the Stefanchik Program, which Stefanchik had marketed since the early 1990s.

20 12. The Stefanchik Program included a book written by Stefanchik, video and audio
21 tapes, course materials, and workshops, all of which purported to teach consumers how to buy
22 and sell privately held mortgages. Stefanchik claimed it was the easiest way to make \$10,000
23 each month while working only a few hours in one's spare time.

24 13. Although the Commission did not file the Stefanchik Case until 2004, Stefanchik
25 became aware of his potential liability for the Stefanchik Program in November 2000.

26 14. On April 3, 2007, the FTC obtained a judgment against Stefanchik and Beringer
27 in the amount of \$17,775,369. Stefanchik and Beringer subsequently appealed the District
28 Court's ruling.

1 15. In March 2009, the U.S. Court of Appeals for the Ninth Circuit affirmed the
2 Commission's judgment against Stefanchik and Beringer as to both liability and monetary relief.
3 *See Federal Trade Comm'n v. Stefanchik*, 559 F.3d 924 (9th Cir. 2009).

4 16. On May 7, 2007, while the appeal was pending, and shortly after the District
5 Court's ruling, the Commission filed a judgment lien on the home where Stefanchik resided at
6 the time of the judgment: 9022 North Mercer Way, Mercer Island, Washington (the "Mercer
7 Island Property"). A copy of the FTC's judgment lien is attached hereto as Exhibit A.

8 17. The full amount of the judgment awarded to the Commission, \$17,775,379 plus
9 interest, remains outstanding.

10 18. The Debtor has listed the Mercer Island Property as an asset of its estate. *See*
11 Amended Schedules A and D (Docket No. 40). The Debtor also has listed the Stefanchik Case
12 as a suit to which the Debtor was a party. *See* Statement of Financial Affairs ("SOFA") Item
13 No. 4 (Docket No. 1).

14 19. On October 2, 2009, the Commission filed an amended claim in this case
15 asserting that it holds a secured claim against the Debtor as a result of the judgment lien.

16 **B. The Creation of the Debtor**

17 20. Warwick was formed on or about March 22, 2001. *See* Certified Certificate of
18 Formation for Warwick Properties LLC (Ex. B).

19 21. On or about June 2001, Heidi Stefanchik filed an annual report noting: a) that she
20 is the manager of Warwick; and b) that the nature of Warwick's business is "[t]o invest in real
21 property." *See* Certified Annual Report 2001 (Ex. C).

22 22. Heidi Stefanchik and Fogg are one and the same person (Heidi Stefanchik is
23 hereinafter referred to as "Fogg").

24 23. In a document dated March 15, 2002, Stefanchik purported to effect an
25 assignment of all rights, title and interest in Warwick to his spouse, Fogg (the "Warwick
26 Assignment").

27 24. On July 3, 2006, the Secretary of State for the State of Washington filed a
28 certificate of administrative dissolution against Warwick due to its failure to file an annual list of

1 officers/license renewal in a timely manner. *See* Certified Certificate of Administrative
2 Dissolution (Ex. D).

3 25. Warwick purportedly cured those defaults by filing an application for
4 reinstatement on July 5, 2007. *See* Certified Application for Reinstatement (Ex. E).

5 26. The Secretary of State filed another certificate of administrative dissolution
6 against Warwick in 2008 when Warwick's registered agent resigned, and Warwick failed to
7 appoint another agent. *See* Certified Resignation of Registered Agent (Ex. F); and Certified
8 Certificate of Administrative Dissolution (Ex. G).

9 27. On or about June 10, 2008, Warwick appointed a new registered agent. *See*
10 Certified Statement of Change for Registered Agent or Office (Ex. H).

11 28. After the certificate of formation, either Fogg or Heidi Stefanchik is listed as the
12 manager of Warwick in each of its filings with the Washington Secretary of State. *See* Exhibits.
13 C, E, and H.

14 29. Warwick has not, however, filed an annual report with the Secretary of State for
15 the State of Washington since July 2007. Warwick's next annual report was due, upon
16 information and belief, on or about July 13, 2008.

17 **C. Activities Stefanchik and Fogg Conducted Through Warwick**

18 30. Warwick's stated purpose was to invest in real property. Exhibits C and E.

19 **1. Warwick Receives A Gift From Stefanchik**

20 31. Stefanchik, through one of his corporate entities, PSD Properties LLC ("PSD"),
21 transferred property to Warwick on or about May 15, 2001. This parcel was transferred from
22 PSD to Warwick for no consideration. *See* Certified Quit Claim Deed (Ex. I). PSD purchased
23 this property in March of 2000 for approximately \$620,000.

24 32. As indicated on Exhibit I, the parcel's lot description is: Lot 30, Mercer Island
25 Country Club Estates, Division 1 (the "Country Club Property").

26 33. Warwick then obtained a loan in the amount of \$465,000 from HomeStreet Bank
27 ("HomeStreet") using the Country Club Property as security. *See* Certified Deed of Trust dated
28 May 24, 2001 (Ex. J).

1 34. Warwick obtained another loan in the amount of \$100,000 from Washington
2 Mutual Bank (“Washington Mutual”), which was also secured by the Country Club Property.
3 *See* Certified Deed of Trust dated July 9, 2001 (Ex. K).

4 35. On or about June 11, 2004, Warwick sold the property to third parties for
5 approximately \$904,000.

6 **2. Purchase of the Stefanchik Home Through Warwick**

7 36. Warwick later purchased another property on Mercer Island. The address for the
8 Mercer Island Property is: 9022 North Mercer Way, Mercer Island. The legal description for
9 this property is: Lot 21, Sunnybank, according to the plat thereof, recorded in volume 29 of
10 plats, page 31, in King County, Washington.

11 37. Warwick purchased the Mercer Island Property from third parties on or about
12 March 28, 2002 for the price of approximately \$1,750,000. *See* Statutory Warranty Deed (Ex.
13 L).

14 38. Warwick purchased the Mercer Island Property, in part, with cash in the
15 approximate amount of \$500,000. Upon information and belief, Fogg and Stefanchik personally
16 provided the funds, or provided funds through other corporate entities they controlled, for this
17 \$500,000 payment. The balance of the purchase price, \$1,225,000, came from a loan from
18 Washington Mutual to Warwick. *See* Deed of Trust dated April 3, 2002 (Ex. M).

19 39. Stefanchik and Fogg have resided at the Mercer Island Property since its purchase
20 by Warwick.

21 40. In October 2002, one of Stefanchik’s corporations and his co-defendant in the
22 Stefanchik Case, Beringer, provided a loan in the amount of \$870,000 to Warwick (the
23 “Beringer Loan”). The Beringer Loan was secured by the Mercer Island Property. *See* Deed of
24 Trust dated October 12, 2002 (Ex. N).

25 41. Washington Mutual loaned additional funds (in the amount of \$2,500,000) to
26 Warwick on or about June 10, 2004. This loan was secured by the Mercer Island Property. *See*
27 Deed of Trust dated June 10, 2004 (Ex. O).

1 42. Upon information and belief, the second loan by Washington Mutual to Warwick
2 was used, in part, to replace its initial loan of \$1,225,000. *See* Substitution of Trustee/Deed of
3 Reconveyance dated July 9, 2004 (Ex. P).

4 43. On or about July 14, 2005, Warwick obtained a line of credit (up to \$500,000)
5 from HomeStreet, which was secured by the Mercer Island Property. *See* Deed of Trust dated
6 July 14, 2005 (Ex. Q).

7 44. The funds from the line of credit extended by HomeStreet were used, in part, to
8 make certain improvements and/or repairs to the Mercer Island Property.

9 45. Upon information and belief, the payments due on each of the loans encumbering
10 the Mercer Island Property were made using the personal income of Stefanchik. Upon
11 information and belief, payments due to Washington Mutual and HomeStreet for the Mercer
12 Island Property were also paid from proceeds of real property sales and/or operations of another
13 corporate entity controlled by Fogg and/or Stefanchik – PSD.

14 **3. Warwick Receives Another Gift from PSD**

15 46. PSD purchased a home in Seattle through a foreclosure sale on or about April 30,
16 2002. PSD paid approximately \$34,001 for this parcel.

17 47. PSD transferred this parcel to Warwick on or about December 1, 2004 for no
18 consideration. *See* Certified Quit Claim Deed (Ex. R). The parcel is described in the land
19 records as: Lot 9, Block 3, Interlaken (the “Seattle Property”).

20 48. On or about November 29, 2004, Warwick obtained a loan in the amount of
21 \$479,050 from HomeStreet, which was secured by the Seattle Property. *See* Deed of Trust dated
22 November 29, 2004 (Ex. S).

23 49. Warwick no longer holds title to the Seattle Property. Warwick transferred the
24 property to Fogg, on or about October 10, 2005. *See* Certified Quit Claim Deed (Ex. T).

25 50. Warwick received no consideration from Fogg for the Seattle Property.

26 **D. Warwick Is Merely A Shell Limited Liability Company**

27 51. As noted above, Warwick, at times, faced administrative dissolution for failing to
28 comply with state filing requirements for limited liability companies. *See* ¶¶ 24 to 29 *supra*.

1 52. Since its formation, Warwick has not had employees.

2 53. Warwick's manager, Fogg, has not, for at least one year prior to the filing of
3 Warwick's bankruptcy petition, received a salary or compensation from Warwick. *See* SOFA
4 Item No. 3.c.

5 54. Although Fogg is named as the manager of Warwick, upon information and
6 belief, Stefanchik directed and controlled the activities carried out in Warwick's name. In fact,
7 Stefanchik was so involved with Warwick that he was sworn in to testify as one of the Debtor's
8 representatives at the meeting of creditors. *See* Transcript of 341 Meeting (Ex. U).

9 55. The funds for Warwick's operations were predominantly derived from three
10 sources: 1) loans on the real properties it owned; 2) sale of the Country Club Property; and 3)
11 income from Stefanchik directly or by and through entities owned or controlled by Stefanchik
12 and/or Fogg.

13 56. To the extent that Warwick held capital, it was, at best, minimally capitalized.
14 According to the Debtor's Statement of Financial Affairs, it has not made any income since at
15 least 2006. *See* SOFA Item No. 1.

16 57. Warwick has not filed any tax returns. All income, expenses, and losses from
17 Warwick were incorporated into the personal joint tax returns of Stefanchik and Fogg.

18 58. Funds held by Warwick were often commingled with at least one other entity –
19 PSD. *See* Ex. U at 30:14-31:14.

20 59. Upon information and belief, Warwick's funds also were commingled with those
21 of Stefanchik, Fogg, and/or other entities controlled by Stefanchik and/or Fogg.

22 60. Warwick's "business" is so intertwined with Stefanchik and Fogg that it has
23 attempted to sell property that is not titled in Warwick's name as part of this Bankruptcy Case.
24 Yet, Warwick claims it owns both the Warwick Island Property and the Seattle Property. *See*
25 Amended Schedules A & D (Docket No. 40). As noted in Paragraph 49 above, Warwick, in fact,
26 does not hold title to the Seattle Property.

27 61. Stefanchik and Fogg often moved money and assets among the various shell
28 entities they owned, managed and/or directed. For example, Warwick received two parcels of

1 real property from PSD, the Country Club Property and the Seattle Property, and paid no
2 consideration for those parcels. The Quit Claim Deeds filed to record those transfers indicate
3 that each deed reflects a “mere change in form” *See* Exhibits I & R.

4 62. When Warwick sold the Country Club Property in 2004, the proceeds of the sale
5 were used, in part, to pay the outstanding balance for the liens held by HomeStreet and
6 Washington Mutual on the Country Club Property. Any funds remaining after those liens were
7 paid in full, upon information and belief, were transferred, in whole or in part, to Stefanchik,
8 Fogg, and/or other entities owned or controlled by Stefanchik and/or Fogg.

9 63. Upon information and belief, on more than one occasion, entities or individuals
10 other than Warwick paid for the costs, expenses, and/or taxes associated with the Country Club
11 Property, the Mercer Island Property and the Seattle Property.

12 64. Other than the sale of the Country Club Property, Warwick has not generated
13 income. Warwick has not charged rent to Stefanchik or Fogg for their use and occupation of the
14 Mercer Island Property. *See* Ex. U at 15:21-23. Yet, at times, Stefanchik and/or Fogg
15 personally tendered the monthly payments due under the HomeStreet and Washington Mutual
16 loans secured by the Mercer Island Property.

17 65. Upon information and belief, not only did Stefanchik and/or Fogg tender the
18 monthly payments due for the loans on the Mercer Island Property, but they also, at times, paid
19 for various improvements and expenses associated with the maintenance, repair, and upkeep of
20 the Mercer Island Property (collectively, with the mortgage payments on the Mercer Island
21 Property and the Warwick Assignment, the “Unauthorized Transfers”).

22 **COUNT I**

23 **CORPORATE DISREGARD AND PIERCING**
24 **THE CORPORATE VEIL, IN REVERSE (RCW § 25.15.060)**

25 66. The Commission incorporates and restates Paragraphs 1 through 65 of this
26 Complaint, as though fully set forth in this Paragraph 66.

27 67. At all times relevant, no persons other than Fogg and/or Stefanchik held any
28 interests in Warwick.

1 68. Fogg and Stefanchik operated their personal affairs, Warwick and PSD in such a
2 manner that the separate identities of the entities and individuals have become so confused or
3 merged that they cannot be separated.

4 69. Fogg and Stefanchik operated Warwick with the intent to violate or evade a duty
5 to their creditors.

6 70. Stefanchik's and Fogg's use of Warwick in this manner constitutes fraud or an
7 abuse of the corporate form.

8 71. In abusing the corporate form, Stefanchik, Fogg and/or Warwick caused damages
9 to Stefanchik's and Fogg's creditors, such as the FTC.

10 72. Under these circumstances, adherence to the existence of Warwick as a separate
11 corporate entity would be inequitable and promote fraud or result in manifest injustice to the
12 Commission.

13 73. Accordingly, Warwick's corporate form should be disregarded, its veil pierced, in
14 reverse, and it should be subject to, jointly and severally, with Stefanchik, the judgment entered
15 in the Stefanchik Case. RCW § 25.15.060.

16 **COUNT II**

17 **AVOIDANCE OF A FRAUDULENT TRANSFER AS TO**
18 **A DEBT TO THE UNITED STATES (28 U.S.C. §§ 3304 & 3306)**

19 74. The Commission incorporates and restates Paragraphs 1 through 65 of this
20 Complaint, as though fully set forth in this Paragraph 74.

21 75. The FTC brings this count to avoid fraudulent transfers pursuant to 28 U.S.C.
22 §§ 3304 & 3306 and the Federal Debt Collection Procedure Act of 1990, 28 U.S.C. § 3001, *et*
23 *seq.* (the "FDCPA").

24 76. Upon information and belief, at various times Stefanchik and/or Fogg tendered
25 the monthly payments due for the loans on the Mercer Island Property and also paid for various
26 expenses associated with the maintenance, repair, upkeep, and improvement of the Mercer Island
27 Property (collectively, with the mortgage payments on the Mercer Island Property and the
28 Warwick Assignment, the "Unauthorized Transfers").

1 77. Since 2001, Stefanchik and/or Fogg, personally and/or through the Debtor, made
2 the Unauthorized Transfers.

3 78. Stefanchik, Fogg and/or the Debtor made the Unauthorized Transfers with the
4 actual intent to hinder, delay or defraud present and future creditors of Stefanchik, Fogg and/or
5 the Debtor.

6 79. Stefanchik, Fogg and/or the Debtor made the Unauthorized Transfers without
7 receiving reasonably equivalent value in exchange.

8 80. At the time the Unauthorized Transfers were made, Stefanchik, Fogg and/or the
9 Debtor were insolvent or were rendered insolvent by the Unauthorized Transfers.

10 81. The Unauthorized Transfers left Stefanchik, Fogg and/or the Debtor with
11 unreasonably small capital.

12 82. At the time Stefanchik, Fogg and/or the Debtor made the Unauthorized Transfers,
13 they intended to incur, or believed or reasonably should have believed that they would incur,
14 debts beyond its/their ability to pay as they came due.

15 83. Accordingly, the Unauthorized Transfers should be avoided pursuant to the
16 FDCPA and 28 U.S.C. §§ 3304 & 3306.

17 **COUNT III**

18 **AVOIDANCE AND RECOVERY OF FRAUDULENT TRANSFERS**
19 **(RCW § 19.40.011, et seq.)**

20 84. The Commission incorporates and restates Paragraphs 1 through 65 of this
21 Complaint, as though fully set forth in this Paragraph 84.

22 85. Under Washington's Uniform Fraudulent Transfer Act, a creditor may avoid a
23 fraudulent transfer of the Debtor or may obtain an attachment against the improperly transferred
24 property. RCW § 19.40.071.

25 86. Upon information and belief, at various times Stefanchik and/or Fogg tendered
26 the monthly payments due for the loans on the Mercer Island Property and also paid for various
27 expenses associated with the maintenance, repair, upkeep, and improvement of the Mercer Island
28

1 Property (collectively, with the mortgage payments on the Mercer Island Property and the
2 Warwick Assignment, the “Unauthorized Transfers”).

3 87. The Unauthorized Transfers constituted a transfer of an interest in Stefanchik,
4 Fogg and/or the Debtor’s property.

5 88. The Unauthorized Transfers were made to or for the benefit of Stefanchik, Fogg
6 and/or entities owned or controlled by Stefanchik and/or Fogg.

7 89. Stefanchik, Fogg and/or the Debtor made the Unauthorized Transfers with actual
8 intent to hinder, delay or defraud a creditor of Stefanchik, Fogg and/or the Debtor, within the
9 meaning of the Washington Uniform Fraudulent Transfer Act, RCW § 19.40.011, *et seq.* (the
10 “WUFTA”).

11 90. Stefanchik, Fogg and/or the Debtor made the Unauthorized Transfers, or
12 transferred the Debtor’s property, without receiving reasonably equivalent value in exchange.

13 91. At the time Stefanchik, Fogg and/or the Debtor made the Unauthorized Transfers,
14 or transferred the Debtor’s property, Stefanchik, Fogg and/or the Debtor were insolvent or were
15 rendered insolvent by the Unauthorized Transfers.

16 92. At the time Stefanchik, Fogg and/or the Debtor made the Unauthorized Transfers,
17 Stefanchik, Fogg and/or the Debtor intended to incur, or believed or reasonably should have
18 believed that they would incur, debts beyond their ability to pay as they came due.

19 93. Accordingly, the Unauthorized Transfers should be avoided pursuant to the
20 WUFTA, § 19.40.011, *et seq.*

21 **COUNT IV**

22 **DECLARATORY JUDGMENT**
23 **(28 U.S.C. § 2201; RCW § 26.16.050)**

24 94. The Commission incorporates and restates Paragraphs 1 through 65 of this
25 Complaint, as though fully set forth in this Paragraph 94.

26 95. An actual controversy exists surrounding the rights of the Commission to
27 Warwick and the Mercer Island Property.

1 96. The Commission contends that the entire ownership interest in Warwick and the
2 Mercer Island Property are assets of Stefanchik which are subject to the FTC's judgment lien
3 and claim.

4 97. Upon information and belief, Stefanchik, Fogg and Warwick contend that these
5 assets are wholly-owned by Fogg as her separate property, and are not subject to the FTC's
6 judgment lien and claim.

7 98. Upon information and belief, Stefanchik, Fogg and Warwick contend that any
8 increase in value in the Mercer Island Property since it was first acquired through Warwick is
9 wholly-owned by Fogg as her separate property, and is not subject to the FTC's judgment lien
10 and claim.

11 99. Upon information and belief, in a document dated October 22, 2003, Stefanchik
12 purported to effect an assignment of all rights, title and interest in PSD to his spouse, Fogg (the
13 "PSD Assignment"; collectively, with the Warwick Assignment, the "Assignments").

14 100. After the purported Assignments, Stefanchik, in fact, directed, managed and/or
15 controlled the operations and business of Warwick such that he is a *de facto* member or owner of
16 Warwick.

17 101. At the time of the purported Assignments, the Commission was a creditor of
18 Stefanchik, and the alleged Assignments do not impair the FTC's interest in Warwick and the
19 Mercer Island Property.

20 102. The purported Assignments were not made in good faith and were made with the
21 intent to hinder, delay or defraud creditors of Stefanchik.

22 103. Accordingly, Warwick, the entirety of the membership or ownership interests in
23 Warwick, and Warwick's property are subject to the Commission's judgment lien, and the
24 purported Assignments do not impair the Commission's judgment lien and claim.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, the Commission respectfully requests that the Court enter an Order:

- 27 (a) piercing the corporate veil of Warwick, in reverse, and find that it is jointly and
28 severally liable on the judgment awarded to the Commission in the Stefanchik Case;

- 1 (b) declaring the Commission's lien against the Mercer Island Property valid and
2 enforceable;
- 3 (c) avoiding the Unauthorized Transfers pursuant to 28 U.S.C. §§ 3304 & 3306 and
4 the FDCPA;
- 5 (d) avoiding the Unauthorized Transfers pursuant to WUFTA § 19.40.011 *et seq.*;
- 6 (e) ordering the return and recovery of the Unauthorized Transfers, or entering
7 judgment against the Debtor for the value of the Unauthorized Transfers;
- 8 (f) declaring that notwithstanding the purported Warwick Assignment:
- 9 (1) Stefanchik is a *de facto* member or owner of Warwick;
- 10 (2) the entirety of the membership or ownership interest in Warwick and
11 Warwick's interest in the Mercer Island Property, including any increase in value
12 since it was first acquired through Warwick, is property of Stefanchik and/or
13 community property of Stefanchik and Fogg, subject to the FTC's judgment lien
14 and claim; and
- 15 (3) the FTC's judgment lien and claim are enforceable against the entirety of
16 the membership or ownership interest in Warwick, against Warwick itself, and
17 against the Mercer Island Property; and
- 18 (g) granting such other equitable relief as may be just and proper.

19 Dated: December 11, 2009

Respectfully submitted by:

20 FEDERAL TRADE COMMISSION
21 WILLARD K. TOM
22 GENERAL COUNSEL

23 /s/ Kimberly L. Nelson
24 Michael P. Mora, III. Bar No. 6199875
(admitted *pro hac vice*)
25 Kimberly L. Nelson, VA Bar No. 47224
(admitted *pro hac vice*)
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