

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION, et al. : CIVIL ACTION  
v. :  
CLICK4SUPPORT, LLC, et al. : NO. 15-5777

**FILED**

FEB 08 2017

KATE BARKMAN, Clerk  
By Dep. Clerk

STIPULATED ORDER FOR PERMANENT INJUNCTION  
AND MONETARY JUDGMENT AS TO DEFENDANT NIRAJ PATEL

Plaintiffs the Federal Trade Commission (“FTC”), the State of Connecticut, Office of Attorney General, and the Commonwealth of Pennsylvania, Office of Attorney General (collectively, “Plaintiffs”), filed their Complaint, subsequently amended as Amended Complaint for Permanent Injunction and Other Equitable Relief (“Amended Complaint”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, Section 42-110a, *et seq.* of the Connecticut Unfair Trade Practices Act (“CUTPA”), and Section 201-4 of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“Pa UTPCPL”). Plaintiffs and Defendant Niraj Patel stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them, in full and final settlement of all allegations in the Amended Complaint.

**THEREFORE, IT IS ORDERED** as follows:

**FINDINGS**

1. This Court has jurisdiction over this matter.
2. The Amended Complaint charges that Defendant Niraj Patel participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, the FTC’s Telemarketing

Sales Rule (“TSR”), 16 C.F.R. Part 310, CUTPA, Conn. Gen. Stat. § 42-110b(a), and Pa UTPCPL, 73 Pa. Cons. Stat. § 201-2(4)(i)-(xxi), in connection with the advertising, marketing, offering for sale, and sale of computer security or technical support products and services.

3. Defendant Niraj Patel neither admits nor denies any of the allegations in the Amended Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant Niraj Patel admits the facts necessary to establish jurisdiction.

4. Defendant Niraj Patel waives any claim that he may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear his own costs and attorney fees.

5. Defendant Niraj Patel waives all rights to appeal or otherwise challenge or contest the validity of this Order.

#### DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. “**Merchant**” means a Person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

B. “**Person**” means a natural person, organization, or other legal entity, including a corporation, limited liability company, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

C. “**Receiver**” means the receiver appointed in Section XIV of the Court’s Order entered on November 24, 2015 (Document 57) and any deputy receivers that shall be named by the receiver.

D. **“Tech Support Product or Service”** means any plan, program, or software, marketed to repair, maintain, or improve a computer’s performance or security, including, but not limited to, registry cleaners, anti-virus programs, virus and malware removal, and computer or software diagnostic services.

E. **“Telemarketing”** means any plan, program, or campaign that is conducted to induce the purchase of goods or services by use of one or more telephones and which involves a telephone call, whether or not covered by the TSR.

## **ORDER**

### **I. BAN ON TECH SUPPORT PRODUCTS OR SERVICES**

**IT IS HEREBY ORDERED** that Defendant Niraj Patel is permanently restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, selling, providing, or assisting or providing consulting services to assist others to engage in advertising, marketing, promoting, offering for sale, selling, or providing, any Tech Support Product or Service; and

B. Owning, serving as an officer, director, or manager, or exercising any other form of direct or indirect control of any business entity advertising, marketing, promoting, offering for sale, selling, providing, or assisting or providing consulting services to assist others to engage in advertising, marketing, promoting, offering for sale, selling, or providing, any Tech Support Product or Service.

### **II. PROHIBITION AGAINST DECEPTIVE TELEMARKETING**

**IT IS FURTHER ORDERED** that Defendant Niraj Patel, his officers, agents, and employees, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the

Telemarketing of any product or service, are permanently restrained and enjoined from, or assisting others in, directly or indirectly, expressly or by implication:

- A. Making a false or misleading statement to induce any Person to pay for goods or services;
- B. Violating the TSR, 16 C.F.R. Part 310, attached as **Attachment A**;
- C. Violating Section 42-110b(a) of CUTPA, attached as **Attachment B**; or
- D. Violating Section 201-2(4)(i) through (xxi) of Pa UTPCPL, attached as **Attachment C**.

### **III. PROHIBITION AGAINST MISREPRESENTATIONS**

**IT IS FURTHER ORDERED** that Defendant Niraj Patel, his officers, agents, and employees, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, offering for sale, sale, or providing of any goods or services, are hereby permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication:

- A. That they are part of, affiliated with, contacting, or responding to consumers on behalf of any company other than the company that they are part of, affiliated with, contacting, or responding to consumers on behalf of;
- B. That they have detected security or performance issues on consumers' computers, including, but not limited to, viruses, spyware, malware, or the presence of hackers;
- C. Any material aspect of the performance, efficacy, nature, or central characteristics of any goods and services;
- D. Any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policies; or

E. Any other material fact.

#### **IV. PROHIBITION AGAINST ASSISTING AND FACILITATING**

**IT IS FURTHER ORDERED** that Defendant Niraj Patel, his officers, agents, and employees, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, offering for sale, sale, or providing of any products or services, are permanently restrained and enjoined from providing substantial assistance or support to any Person that they know, or should know, is engaged in tactics to avoid fraud and risk monitoring programs established by any financial institution, acquiring bank, or the operators of any payment systems in connection with any Merchant account activity, including, but not limited to, balancing or distributing sales transaction volume or sales transaction activity among multiple Merchant accounts or Merchant billing descriptors; splitting a single sales transaction into multiple smaller transactions; or using shell companies to apply for additional Merchant accounts.

#### **V. MONETARY JUDGMENT**

**IT IS FURTHER ORDERED** that:

- A. Judgment in the amount of Three Hundred Twenty-One Thousand Eighteen Dollars and Sixty-One Cents (\$321,018.61) is entered in favor of Plaintiffs against Defendant Niraj Patel as equitable monetary relief.
- B. Defendant Niraj Patel is ordered to pay to Plaintiffs One Hundred Forty-Nine Thousand

Nine Hundred Twenty-Six Dollars and Eighty-Five Cents (\$149,926.85), which, as he stipulates, his undersigned counsel holds in escrow for no purpose other than payment to Plaintiffs. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiffs.

C. Defendant Niraj Patel relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and in all assets of the receivership estate, the estate established by the Receiver pursuant to the Court's Order entered on November 24, 2015 (Document 57), and may not seek the return of any assets.

D. The facts alleged in the Amended Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of Plaintiffs, including in a proceeding to enforce their rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

E. The facts alleged in the Amended Complaint establish all elements necessary to sustain an action by Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

F. Defendant Niraj Patel acknowledges that his Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which he previously submitted to Plaintiffs, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

G. All money paid to Plaintiffs pursuant to this Order may be deposited into a fund administered by the FTC or its designee on behalf of Plaintiffs to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund.

If a representative of the Plaintiffs decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, Plaintiffs may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the practices alleged in the Amended Complaint. Any money not used for such equitable relief is to be deposited to an account or accounts pursuant to instructions provided by Plaintiffs State of Connecticut, Office of Attorney General, and Commonwealth of Pennsylvania, Office of Attorney General. This money may be used for purposes that may include, but are not limited to, reimbursement of attorneys' fees and costs of investigation and litigation, placement in or application to any consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation, local consumer aid or revolving funds, defraying the costs of the inquiry leading to this Order, or for other uses permitted by state law, and all at the sole discretion of Plaintiffs State of Connecticut, Office of Attorney General, and Commonwealth of Pennsylvania, Office of Attorney General. Defendant Niraj Patel has no right to challenge any actions Plaintiffs or their representatives may take pursuant to this Subsection.

## **VI. CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendant Niraj Patel, his officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable Plaintiffs to efficiently administer consumer redress. If a representative of Plaintiffs requests in writing any information



related to redress, Defendant Niraj Patel must provide it, in the form prescribed by Plaintiffs, within 14 days.

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that Spanning Source LLC or iSourceUSA LLC obtained prior to entry of this Order in connection with Tech Support Products or Services; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after either entry of a stipulated final order against the last remaining defendant or receipt of written direction to do so from a representative of Plaintiffs.

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

## VII. COOPERATION

**IT IS FURTHER ORDERED** that Defendant Niraj Patel must fully cooperate with representatives of Plaintiffs and the Receiver in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Amended Complaint. Defendant Niraj Patel must provide truthful and complete information, evidence, and testimony. Defendant Niraj Patel must appear for interviews, discovery, hearings, trials, and any other proceedings that Plaintiffs' representatives or the Receiver's representatives may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as a representative of Plaintiffs or the Receiver may designate, without the service of a subpoena.



### **VIII. ORDER ACKNOWLEDGMENTS**

**IT IS FURTHER ORDERED** that Defendant Niraj Patel obtain acknowledgments of receipt of this Order:

- A. Defendant Niraj Patel, within 7 days of entry of this Order, must submit to Plaintiffs an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 10 years after entry of this Order, Defendant Niraj Patel for any business that he, individually or collectively with any other defendants, is the majority owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which Defendant Niraj Patel delivered a copy of this Order, Defendant Niraj Patel must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

### **IX. COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that Defendant Niraj Patel make timely submissions to Plaintiffs:

- A. One year after entry of this Order, Defendant Niraj Patel must submit a compliance report, sworn under penalty of perjury:

1. Defendant Niraj Patel must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of Plaintiffs may use to communicate with him; (b) identify all of his businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other defendant (which he must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how he is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to Plaintiffs.

2. Additionally, Defendant Niraj Patel must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which he performs services whether as an employee or otherwise and any entity in which he has any ownership interest; and (c) describe in detail his involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 10 years after entry of this Order, Defendant Niraj Patel must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Defendant Niraj Patel must report any change in: (a) any designated point of contact; or (b) the structure of any entity that he has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Defendant Niraj Patel must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which he performs services whether as an employee or otherwise and any entity in which he has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Defendant Niraj Patel must submit to Plaintiffs notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against him within 14 days of its filing.

D. Any submission to Plaintiffs required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a representative of Plaintiffs in writing, all submissions to Plaintiffs pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580; Sandra G. Arenas, Office of the Attorney General, 110 Sherman Street, Hartford, CT 06105; and Nicole R. DiTomo, Pennsylvania Office of Attorney General, Bureau of Consumer Protection, 15th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120. The subject line must begin: *FTC v. Click4Support, LLC, et al.*, Matter Number X160004.

## **X. RECORDKEEPING**

**IT IS FURTHER ORDERED** that the Defendant Niraj Patel must create certain records

for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant Niraj Patel for any business that he, individually or collectively with any other defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to Plaintiffs; and
- E. A copy of each unique advertisement or other marketing material.

## **XI. COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendant Niraj Patel's compliance with this Order, including any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of Plaintiffs, Defendant Niraj Patel must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection

and copying. Plaintiffs are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, Plaintiffs are authorized to communicate directly with Defendant Niraj Patel. Defendant Niraj Patel must permit representatives of Plaintiffs to interview any employee or other person affiliated with Defendant Niraj Patel who has agreed to such an interview. The person interviewed may have counsel present.

C. Plaintiffs may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendant Niraj Patel or any individual or entity affiliated with Defendant Niraj Patel, without the necessity of identification or prior notice. Nothing in this Order limits Plaintiffs' lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

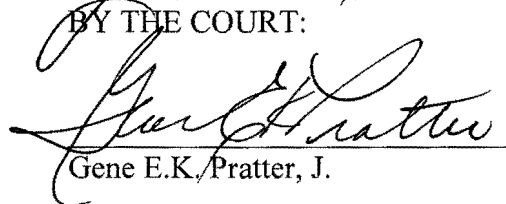
D. Upon written request from a representative of Plaintiffs, any consumer reporting agency must furnish consumer reports concerning Defendant Niraj Patel, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

**XII. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this 3rd day of February, 2017.

BY THE COURT:

  
Gene E.K. Pratter, J.

2/6/17 mail  
McGowan

**SO STIPULATED AND AGREED:**

**FOR PLAINTIFF:**

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Fil M. de Banate, OH Bar # 86039  
Christopher D. Panek, OH Bar # 80016  
Harris A. Senturia, OH Bar # 62480  
Nicole J. Guinto, OH Bar # 89319  
Federal Trade Commission  
1111 Superior Avenue East, Suite 200  
Cleveland, Ohio 44114  
Tel: (216) 263-3413 (de Banate)  
Tel: (216) 263-3406 (Panek)  
Tel: (216) 263-3435 (Guinto)  
Tel: (216) 263-3420 (Senturia)  
Fax: (216) 263-3426  
fdebanate@ftc.gov  
cpanek@ftc.gov  
hsenturia@ftc.gov  
nguinto@ftc.gov

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

GEORGE JEPSEN  
Attorney General

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Sandra G. Arenas, Bar # CT413640  
Assistant Attorney General  
110 Sherman Street  
Hartford, Connecticut 06105  
Tel: (860) 808-5400  
Fax: (860) 808-5593  
Sandra.Arenas@ct.gov

Attorney for Plaintiff  
STATE OF CONNECTICUT  
COMMONWEALTH OF PENNSYLVANIA

OFFICE OF ATTORNEY GENERAL

BRUCE R. BEEMER  
ATTORNEY GENERAL

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Nicole R. DiTomo  
Deputy Attorney General  
PA Attorney I.D. No. 315325  
Bureau of Consumer Protection  
15th Floor, Strawberry Square  
Harrisburg, Pennsylvania 17120  
Telephone: (717) 705-6559  
Facsimile: (717) 705-3795  
Email: [nditomo@attorneygeneral.gov](mailto:nditomo@attorneygeneral.gov)

Attorney for Plaintiff  
COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL



**FOR DEFENDANT:**

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Joshua D. Wolson, Esq., PA ID No. 84998  
Jesse N. Silverman, Esq., PA ID No. 85409  
Dilworth Paxson LLP  
1500 Market Street, Suite 3500E  
Philadelphia, PA 19102  
Tel: (215) 575-7295  
Fax: (215) 575-7200  
jwolson@dilworthlaw.com  
jsilverman@dilworthlaw.com

Attorneys for Defendant Niraj Patel

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Defendant Niraj Patel