

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

Case No.: 1:14-CV-1192

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

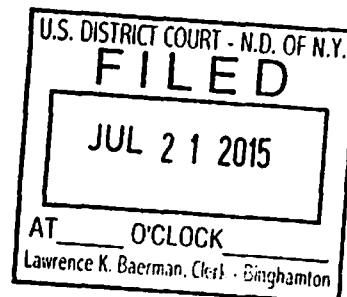
**PAIRSYS, INC.,**  
a New York Corporation,

**TIYA BHATTACHARYA,**  
individually and as an officer of Pairsys, Inc.,

and

**UTTAM SAHA,**  
individually and as an officer of Pairsys, Inc.,

Defendants.



**STIPULATED ORDER FOR PERMANENT INJUNCTION  
AND MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission ("FTC" or the "Commission"), filed its Complaint for Permanent Injunction and Other Equitable Relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57h, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108 (Dkt. 2) against Defendants Pairsys, Inc., Tiya Bhattacharya, and Uttam Saha (collectively "Defendants"). The Commission and the Defendants stipulate to the entry of this Order for Permanent Injunction and Monetary Judgment ("Order") to resolve all matters in dispute in this action between them.

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

**FINDINGS OF FACT**

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, in connection with the marketing, promotion, offering for sale, or sale of computer security or technical support services.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they 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 agree to bear their own costs and attorney fees.
5. Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.

**DEFINITIONS**

For purposes of this Order, the following definitions apply:

1. **"Computer"** means any cell phone, handheld device, smartphone, tablet, laptop computer, desktop computer, or any other electronic device on which a software program, code, script, or other content can be downloaded, installed, or run.
2. **"Defendants"** means the Individual Defendants and the Corporate Defendant, individually, collectively, or in any combination.

A. **“Corporate Defendant”** means Pairsys, Inc., its affiliates, successors and assigns.

B. **“Individual Defendants”** means Tiya Bhattacharya and Uttam Saha, by whatever names known.

3. **“Receiver”** means **Justin A. Heller**. The term “Receiver” also includes any deputy receivers or agents as may be named by the Receiver.

4. **“Receivership Defendant”** means the Corporate Defendant.

5. **“Tech Support Service”** means any plan, program, or service marketed to repair, maintain or improve a computer’s performance or security, including software diagnostic services.

5. **“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 Telemarketing Sales Rule.

## **ORDER**

### **I.**

#### **BAN ON SALE OF TECH SUPPORT SERVICES**

**IT IS THEREFORE ORDERED** that Defendants, whether acting directly or through any other person, are hereby permanently restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, or selling any Tech Support Service; and

B. Assisting in the advertising, marketing, promoting, or offering for sale of any Tech Support Service.

II.

**BAN ON TELEMARKETING**

**IT IS FURTHER ORDERED** that Defendants are permanently restrained and enjoined from participating in Telemarketing, whether directly or through an intermediary, including by consulting, brokering, investing, advising, or training.

III.

**PROHIBITION AGAINST MISREPRESENTATIONS**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees, and attorneys, 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 advertising, marketing, promotion, offering for sale or sale of any good or service are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication: A) that Defendants are from, affiliated with, or contacting consumers on behalf of an entity; or B) any other material aspect of the performance, efficacy, nature, or central characteristics of the good or service.

IV.

**PROHIBITION AGAINST COLLECTING ACCOUNTS**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees, and attorneys, 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, are permanently restrained and enjoined from:

- A. Attempting to collect or collecting payment for any Tech Support Service; and

B. Selling, assigning, or otherwise transferring any right to collect payment for any Tech Support Service.

V.

**MONETARY JUDGMENT**

**IT IS FURTHER ORDERED** that:

A. Judgment in the amount of three million, ninety five thousand, thirty-seven dollars and two cents (\$3,095,037.02) is entered in favor of the Commission against the Defendants, jointly and severally, as equitable monetary relief; *provided, however*, that upon the completion of all asset transfers specified in Subsections B through G of this Section and in Section VIII.D., and subject to the conditions set forth in Subsections H through R of this Section, the Judgment will be suspended.

B. Within 7 days of entry of this Order, by electronic fund transfer in accordance with written instructions previously provided by a representative of the Commission:

1. Bank of America, its parent corporation, subsidiaries, principals, and agents must transfer to the Commission all funds held in the frozen accounts ending in xxxx3018, xxxx6460, xxxx6774, xxxx0679, xxxx0527, xxxx1406, xxxx0666; and xxxx0606;

2. First Niagara Bank, its parent corporation, subsidiaries, principals, and agents must transfer to the Commission all funds held in the frozen accounts ending in xxxx0443, xxxx4507, xxxx4680, xxxx0443, xxxx0500, xxxx0518, xxxx0849, and xxxx4966; and

3. 1<sup>st</sup> National Bank of Scotia, its parent corporation, subsidiaries, principals, and agents must transfer to the Commission all funds held in the frozen account ending in xxxx5005; and

4. SEFCU, A Federal Credit Union, its parent corporation, subsidiaries, principals, and agents must transfer to the Commission all funds held in the frozen accounts ending in xxxx3709-S1, xxxx3709-S66, xxxx4366-S1, xxxx4366-S66, xxxx4369-S1, xxxx4369-S66, xxxx4388-S1, xxxx4388-S66, xxxx3712-S1, and xxxx3712-S66.

C. Within 10 business days of the date of entry of this Order, Defendant Bhattacharya is ordered to deliver to the Receiver, or his designated agent, to the extent that she has not already done so, possession of the contents of safe deposit box number 4062 located at 1<sup>st</sup> National Bank of Scotia.

D. The Individual Defendants must surrender to the Receiver, or his designated agent, possession of the real property located at 1621 Central Avenue, Albany, New York, 12205, as identified in Defendant Uttam Saha's financial statement, dated October 6, 2014 and amended March 23, 2015, and as identified in Defendant Tiya Bhattacharya's financial statement dated October 7, 2014. Upon the Receiver's request, the Individual Defendants must promptly transfer all right, title, and interest to the property, including all leases related thereto, to the Receiver or his designated agent. For six months from the date of entry of this Order, Individual Defendants must keep current all mortgage payments, insurance premiums, and tax obligations related to the property as they come due, and pay all expenses to maintain the property. Thereafter, the Receiver must pay such expenses from the receivership estate. The Receiver or

his designated agent must sell the property and pay any transfer fees, taxes, or other payments mandated by law from the proceeds of the sales at the time the property is sold.

E. The Individual Defendants must surrender and transfer to the Receiver, or his designated agent, all rights to payment for, and all mortgages on, and any and all legal and equitable rights pertaining to the real property located at 1241 Central Avenue, Albany, New York 12205, as identified in Defendant Tiya Bhattacharya's and Defendant Uttam Saha's deposition testimony given on April 15, 2015, including, but not limited to, those legal and equitable rights, titles, and interests contained in: (1) Mortgage Modification and Assumption Agreement, Document Number 11670147, Book 6847, Pages 744-753, filed with the Albany County Clerk on August 7, 2014; (2) Assignment of Rents and Interest in All Leases as Collateral Security 11670149, Book 3107, Pages 1024-1030, filed with the Albany County Clerk on August 7, 2014; and (3) Mortgage, Document Number 10665092, Book 6051, Pages 845-849, filed with the Albany County Clerk on June 7, 2010. The Receiver or his designated agent must liquidate the Individual Defendants' legal and equitable rights in the real property located at 1241 Central Avenue, Albany, New York 12205 and any transfer fees, taxes, or other payments mandated by law will be paid from the proceeds of the liquidation at the time of liquidation.

F. Effective upon entry of this Order, Tiya Bhattacharya must terminate her lease agreement for a 2013 Range Rover (vehicle identification number ending in 9629) and her lease agreement for a 2014 Maserati Quattroporte (vehicle identification number ending in 0679) and surrender the vehicles to the lessors within thirty days of entry of this Order.

G. The Individual Defendants must assign or cause to be assigned to the Receiver, or his designated agent, all net receivables of Expinfo, Inc., Infocweb, Inc., and Nanosoftus, Inc., calculated on a consolidated basis.

H. The Defendants must cooperate with the Receiver and with the Plaintiff to effect the transfer of assets pursuant to this Section and will execute documents the Receiver or the Plaintiff indicate are necessary to effect the transfer of assets pursuant to this Section.

I. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn deposition testimony and sworn financial statements (collectively, "Financial Representations") submitted to the Commission, namely:

1. The Financial Statement of Defendant Uttam Saha signed on October 6, 2014;
2. The Financial Statement of Defendant Tiya Bhattacharya signed on October 7, 2014;
3. The Financial Statement of Defendant Pairsys, Inc., signed by Uttam Saha, President, on October 6, 2014;
4. The sworn deposition testimony of Tiya Bhattacharya given on April 15, 2015; and
5. The sworn deposition testimony of Uttam Saha given on April 15, 2015.

J. In the event that it is necessary to execute additional documents to transfer or liquidate assets of the Defendants under this Order, or to dissolve and wind down the Receivership Defendant, Defendant Saha must execute such documents within 3 days of a written request from the Receiver or the Commission.

K. The suspension of the judgment will be lifted as to any Defendant if, upon motion by the Commission, the Court finds that Defendant failed to disclose any material asset,



materially misstated the value of any asset, or made any other material misstatement or omission in the Financial Representations identified above.

L. If the suspension of the judgment is lifted, the full judgment becomes immediately due as to Defendants in the amount specified in Subsection V. A., above, which the parties stipulate only for purposes of this Section represents the unjust enrichment alleged in the Complaint, less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

M. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

N. Defendants relinquish dominion and all legal and equitable right, title, and interest in all funds and assets previously turned over to the Receiver Justin A. Heller, pursuant to the Temporary Restraining Order entered by this Court on September 30, 2014, and the Preliminary Injunction and the Stipulated Preliminary Injunction entered by this Court on October 9, 2014.

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

P. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission 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.

Q. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants previously submitted

to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

R. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee 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 Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

## VI.

### CUSTOMER INFORMATION

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees, and attorneys, 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, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, 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 consumer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promotion, offering for sale of Tech Support Services; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

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.

### **LIFTING OF ASSET FREEZE**

**IT IS FURTHER ORDERED** that the freeze of Individual Defendants' assets remains in effect, but will be lifted for the sole purpose of transferring funds and assets pursuant to Section V above and will be dissolved only upon completion of all those transfers. A third party may rely upon a letter from Plaintiff stating that the freeze on the assets of a Defendant has been lifted.

**VIII.**

**RECEIVERSHIP**

**IT IS FURTHER ORDERED** that:

- A. Except as modified by this Section, the receivership imposed by this Court will continue as set forth in the Order of Preliminary Injunction entered on October 9, 2014.
- B. The Receiver must take all steps necessary to immediately wind down the affairs and liquidate the assets of the Receivership Defendant, as well as the assets of the Individual Defendants surrendered to the Receiver pursuant to Section V of this Final Order, from wherever and in whatever form they may be located.
- C. The Receiver will continue to be entitled to compensation for the performance of his duties pursuant to this Final Order from the assets of the Receivership Defendant, at the billing rate previously agreed to by the Receiver. Within thirty (30) days after entry of this Final Order, and every thirty (30) days thereafter until completed, the Receiver must file with the Court an accounting and request for the payment of such reasonable compensation.
- D. Upon the liquidation of any asset held by or surrendered to the Receiver, the Receiver must, at the FTC's request, immediately transfer all funds to the FTC or its designated representative. The Receiver is authorized to withhold a reasonable sum, not to exceed ten (10)% of the then-current liquid assets for costs, fees and expenses.
- E. Upon approval of the Receiver's final report and request for payment, but no later than nine months after entry of this Final Order, the receivership will be terminated, and all funds remaining after payment of the Receiver's final approved payment must be remitted immediately to the FTC or its designated representative.
- F. Within five days of termination of the receivership, the Receiver must return

all records of the Receivership Defendant in his possession relating to its financial affairs to the Individual Defendants so that they may prepare and file all necessary corporate and individual tax returns. The Receiver is also directed to promptly turn over to Plaintiff all records containing the customer information described in Section VI of this Final Order.

G. Any party or the Receiver may request that the Court extend the Receiver's term for good cause.

## IX.

### ORDER ACKNOWLEDGMENTS

**IT IS FURTHER ORDERED** that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 20 years after entry of this Order, the Individual Defendants for any business that they, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, and the Corporate Defendant, 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 the advertising, marketing, promoting, offering for sale or sale of any Tech Support Service; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven 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 a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

X.

**COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that the Defendants make timely submissions to the Commission:

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

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's 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 Individual Defendants must describe if they know or should know due to their own involvement); (d) describe in detail whether and how that Defendant 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 the Commission.

2. Additionally, each Individual Defendant 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 such Defendant

performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of the Corporate Defendant or any entity that Defendant 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, the Individual Defendants 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 such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission 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 Commission representative in writing, all submissions to the Commission 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  
**Re: FTC v. Pairsys, Inc., *et al.* (X140066)**

**XI.**

**RECORDKEEPING**

**IT IS FURTHER ORDERED** that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for five years. Specifically, each Defendant, for any business that such Defendant, individually or collectively with any other Defendant, 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 the Commission; and
- E. A copy of each unique advertisement or other marketing material.

**XII.**

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended and 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 the Commission, each Defendant 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. The Commission is 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, the Commission is authorized to communicate directly with each Defendant. Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior

notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

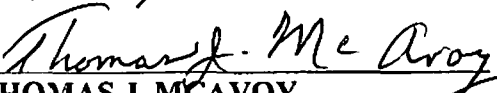
D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning the Individual Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XIII.

**RETENTION OF JURISDICTION**

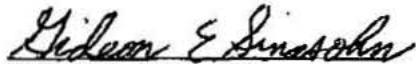
**IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**IT IS SO ORDERED** this 21<sup>st</sup> day of July, 2015.

  
**THOMAS J. MCAVOY**  
**UNITED STATES DISTRICT JUDGE**

**SO STIPULATED AND AGREED TO:**

**FOR THE PLAINTIFF:**



**GIDEON E. SINASOHN**  
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Attorney for Plaintiff  
**FEDERAL TRADE COMMISSION**


Dated: 7/20/15

**FOR DEFENDANTS:**



**PAIRSYS, INC.**  
by Uttam Saha, President

Dated: 06/01/2015



**UTTAM SAHA**, individually and as  
an officer of Pairsys, Inc.

Dated: 06/01/2015



**TIYA BHATTACHARYA**, individually  
and as an officer of Pairsys, Inc.

Dated: 06/01/2015