

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

ORDER

AND NOW, this 10th of November, 2015, upon consideration of the evidence presented by the parties' filings and after a hearing to show cause why a preliminary injunction should not issue, and for the reasons set forth in our accompanying memorandum, it is hereby ORDERED that:

DEFINITIONS

For the purpose of this Preliminary Injunction ("Order"), the following definitions shall apply:

1. **"Asset"** means any legal or equitable interest in any real or personal property, whether tangible or intangible, including but not limited to:

13. **“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.

14. **“Telemarketing Sales Rule”** or **“TSR”** means the Telemarketing Sales Rule set forth in 16 C.F.R. Part 310.

15. The terms **“and”** and **“or”** shall be construed conjunctively or disjunctively as necessary and to make the applicable phrase inclusive rather than exclusive.

I.

PROHIBITED MISREPRESENTATIONS

IT IS HEREBY ORDERED that Defendants and their Representatives, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, distribution, offering for sale, or sale of any goods or services, are hereby temporarily restrained and enjoined from misrepresenting, either orally or in writing, expressly or by implication, that: (1) they are part of, affiliated with, or calling on behalf of any company other than Defendants’ companies; and (2) they have detected security or performance issues on consumers’ computers, including, but not limited to, viruses, spyware, malware, or the presence of hackers.

II.

CONDUCT PROHIBITIONS REGARDING MARKETING

IT IS FURTHER ORDERED that, Defendants and their Representatives, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, distribution, or offering for sale of any goods or services, are hereby temporarily restrained and enjoined from:

A. Using any false or misleading statement to induce any Person to pay for any goods or services; or

B. Violating the Telemarketing Sales Rule, 16 C.F.R. Part 310, attached as Attachment A.

III.

PROHIBITION ON CHARGING, BILLING, OR ATTEMPTING TO COLLECT PAYMENT FROM CONSUMERS

IT IS FURTHER ORDERED that Defendants and their Representatives, whether acting directly or indirectly, are temporarily restrained and enjoined from charging, billing, or attempting to collect payment from any consumer for the purchase of Defendants' Tech Support Products or Services.

IV.

PROHIBITION ON RELEASE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants and their Representatives

Social Insurance number, or other financial or identifying personal information of any Person from whom or about whom any Defendant obtained such information in connection with any

services on any Corporate Defendant's behalf is hereby temporarily restrained and enjoined from failing to immediately take whatever steps may be necessary to ensure that any telephone or fax number operated, in whole or in part, in connection with the Corporate Defendants' provision of Tech Support Products and Services, is disconnected from service.

VII.

ASSET FREEZE

IT IS FURTHER ORDERED that the Corporate Defendants, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, shares of stock, lists of customer names, or other Assets of any Corporate Defendant, or any interest therein, wherever located, including outside the United States, that are:

1. owned, controlled, or held, in whole or in part, by any Corporate Defendant;
2. held, in whole or in part, for the direct or indirect benefit of, any Corporate Defendant;
3. in the actual or constructive possession of any Corporate Defendant;
4. owned or controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed, or

- controlled by any Corporate Defendant. This includes, but is not limited to, any Assets held by, for, or subject to access by, any Corporate Defendant at any bank or savings and loan institution, or at/with any broker-dealer, escrow agent, title company, insurance company, commodity trading company, precious metal dealer, payment processor, credit card processor, acquiring bank, merchant bank, independent sales organization, third-party processor, payment gateway, or other financial institution or depository of any kind;
5. held by an agent of any Corporate Defendant as a retainer for the agent's provision of services to Corporate Defendants;
 6. held in any account for which any Corporate Defendant is, or was on the date that this Order was signed, an authorized signor;
 7. is in the possession, custody, or control of any Individual Defendant that is owned by any Corporate Defendant or in which any Corporate Defendant has any legal or equitable interest or claim; or
 8. property of any kind, including cash, that is in the possession, custody, or control of any Individual Defendant which was transferred or received from any Corporate Defendant within thirty (30) days prior to the entry of this Order.

B. Physically opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Corporate Defendant, either individually or jointly,

C.

statements a full accounting of all funds and assets, whether located inside or outside of the United States, that are: (a) titled in the name of any Defendant, jointly, severally, or individually; (b) held by any Person or entity for the benefit of any Defendant; or (c) under the direct or indirect control of any Defendant.

IX.

**RETENTION OF ASSETS AND RECORDS BY
FINANCIAL INSTITUTIONS AND OTHER THIRD PARTIES**

B. Deny

D. Allow representatives of the FTC or the Receiver immediate access to inspect and copy, or upon request of the FTC or the Receiver, within five (5) days of said request, provide the FTC or the Receiver's representatives with copies of all records or other documentation pertaining to each such account or Asset, including, but not limited to, originals or copies of account applications, account statements, corporate resolutions, signature cards, checks, drafts, deposit tickets, loan documentation, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs pertaining to safe deposit boxes, commercial mail boxes, and storage facilities.

X.

FOREIGN ASSET REPATRIATION

IT IS FURTHER ORDERED that, within five (5) business days of receiving notice of this Order, each Corporate Defendant and each Individual Defendant shall:

A. Transfer to the territory of the United States all funds, Documents, and Assets located in foreign countries which are: (1) titled in the name, individually or jointly, of any Corporate Defendant or Individual Defendant; (2) held by any Person or entity for the benefit of any Corporate Defendant or Individual Defendant; or (3) under any Corporate Defendant's or Individual Defendant's direct or indirect control, whether jointly or singly;

Provided, however, any Defendant who currently does not hold an account at a financial institution located in the United States shall repatriate all assets and funds to this Court's Registry.

B. Provide the FTC access to all records of accounts or Assets of each Corporate Defendant and Individual Defendant held by financial institutions located outside the territorial

United States by signing the Consent to Release of Financial Records attached to this Order as Attachment D.

XI.

INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign Assets, including, but not limited to:

A. Sending any statement, letter, fax, e-mail or wire transmission, telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement, until such time that all assets have been fully repatriated pursuant to Section X of this Order;

B. Notifying any trustee, protector, or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time that all assets have been fully repatriated pursuant to Section X of this Order.

XII.

CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U .S.C. § 1681 b(1), any consumer reporting agency served with this Order

C. Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing counsel for the FTC with a written statement disclosing: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

XIV.

APPOINTMENT OF RECEIVER

IT IS FURTHER ORDERED that PATRICIA HAMILL, ESQUIRE is APPOINTED Receiver for the business activities of the Corporate Defendants and any of their affiliates, subsidiaries, divisions, or telephone sales, technical support, or customer service operations, wherever located, with the full power of an equity receiver. The Receiver shall be the agent of this Court, and solely the agent of this Court, in acting as Receiver under this Order. The Receiver shall be accountable directly to this Court. The Receiver shall comply with any laws and Local Rules of this Court governing receivers.

XV.

DUTIES AND AUTHORITY OF RECEIVER

IT IS FURTHER ORDERED that the Receiver is directed and authorized to accomplish the following:

A. Assume full control of the Receivership Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, or agent

of any of the Receivership Defendants, including any Defendant, from control of, management of, or participation in the affairs of the Receivership Defendants;

B. Take exclusive custody, control, and possession of all Assets, Documents, and electronically stored information of, or in the possession, custody, or under the control of, the Receivership Defendants, wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, and manage all Assets and Documents of the Receivership Defendants and other persons or entities whose interests are now held by or under the direction, possession, custody, or control of the Receivership Defendants.

Provided, however, that the Receiver shall not attempt to collect or receive any amount from a consumer if the Receiver believes the consumer was a victim of the deceptive acts or practices or other violations of law alleged in the Complaint in this matter, without prior Court approval;

C. Take all steps necessary to secure and take exclusive custody of each location from which the Receivership Defendants operate their businesses. Such steps may include, but are not limited to any of the following, as the Receiver deems necessary or a

5. securing the location by changing the locks and disconnecting any internet access or other means of access to the computers, internet, or other records maintained at that location;
6. requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises Documents or Assets of the Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security; and
7. If requested by the Receiver, law enforcement personnel, including, but not limited to, police or sheriffs, will provide appropriate and necessary assistance to the Receiver to implement this Order and are authorized to use any necessary and reasonable force to do so;

G. Prevent the inequitable distribution of Assets and determine, adjust, and protect the interests of consumers who have transacted business with the Receivership Defendants;

H. Manage and administer the business of the Receivership Defendants until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes retaining, hiring, or dismissing any employees, independent contractors, or agents;

I. Suspend business operations of the Receivership Defendants if, in the judgment of

N. Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal, or foreign courts, or arbitration proceedings as the Receiver deems necessary and advisable to preserve or recover the Assets of the Receivership Defendants, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including, but not limited to, actions challenging fraudulent or voidable transfers;

O. Defend, compromise, adjust, or otherwise dispose of any or all actions or proceedings instituted in the past or in the future against the Receiver in his role as Receiver, or against the Receivership Defendants, or as the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

P. Issue subpoenas to obtain Documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;

Q. Open one or more bank accounts as designated depositories for funds of the Receivership Defendants. The Receiver shall deposit all funds of the Receivership Defendants in such a designated account and shall make all payments and disbursements from the receivership estate from such account(s);

R. Maintain accurate records of all receipts and expenditures incurred as Receiver;

S. Cooperate with reasonable requests for information or assistance from any state or federal law enforcement agency;

T. File timely reports with the Court at reasonable intervals, or as otherwise described by the Court.

XVI.

IMMEDIATE ACCESS TO BUSINESS PREMISES AND RECORDS

or partially owned, rented, leased, or under the temporary or permanent control of any Receivership Defendant;

b. Any other non-residence premises wher

premises and facilities described in this Section to inspect, inventory, image, and copy Documents or electronically stored information relevant to any matter contained in this Order. Counsel for Plaintiffs and the Receiver may exclude Defendants and their agents and employees from the business premises and facilities during the immediate access. No one shall interfere with Plaintiffs' or the Receiver's inspection of Defendants' premises or Documents.

C. The FTC and the Receiver shall have the right to remove any Documents related to Defendants' business practices from the premises in order that they may be inspected, inventoried, and copied. The materials so removed shall be returned within seven (7) business days of completing said inventory and copying.

D. If any property, records, Documents, or computer files relating to the Receivership Defendants' finances or business practices are located in the residence of any Individual Defendant or are otherwise in the custody or control of an Individual Defendant, then such Defendant shall produce them to the Receiver within twenty-four (24) hours of service of this Order. In order to prevent the destruction of computer data, upon service of this Order upon Defendants, any such computers shall be powered down (turned off) in the normal course for the operating systems used on such computers and shall not be powered up or used again until produced for copying and inspection, along with any codes needed for access.

E. The FTC's and the Receiver's representatives may also photograph or videotape the inside and outside of all premises to which they are permitted access by this Order, and all Documents and other items found on such premises.

F. Allow the FTC's employees and agents access to Receivership Defendants' business records to inspect and copy Documents in preparation for the preliminary injunction hearing and to identify and locate assets. The Receivership Defendants shall, within five (5)

days of receiving notice of this Order, produce to the FTC for inspection, inventory, and/or copying, at a location designated by the FTC, the following materials, including those materials located outside of the United States:

1. all customer information, including, but not limited to, names, phone numbers, addresses, email addresses, customer complaints, and payment information for all consumers who have purchased Defendants' Tech Support Products and Services;
2. contracts;
3. correspondence, including, but not limited to, electronic correspondence and Instant Messenger communications, that refer or relate to the Defendants' Tech Support Products and Services;
4. all advertisements, sales, or marketing materials related to Defendants' Tech Support Products and Services;
5. all complaints, including all refund requests, from customers, whether sent directly to Defendants or received through law enforcement agency or third-party organizations such as the Better Business Bureau, and any responses from Defendants;
- 6.

8. all computers and electronic data, in whatever form, used by the Corporate Defendants, as well as all access codes, passwords, log-in information, and equipment needed to access such material; and
9. accounting information, including, but not limited to, profit and loss statements, annual reports, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state, or local business, personal income, or property tax returns, and 1099 forms.

The FTC shall return produced materials pursuant to this Paragraph within seven (7) business days of completing said inventory and copying.

G. Within one (1) business day of the entry of this Order, the Corporate Defendants shall (i) notify counsel for the FTC of the name and location of any Person or entity that is hosting, storing, or otherwise maintaining electronic data (Electronic Data Host) related to the Corporate Defendants' operations, and (ii) serve this Order on any such Person or entity. The Corporate Defendants shall provide such Electronic Data Host with their consent for the FTC and its agents to receive access to Corporate Defendants' data for forensic imaging and Corporate Defendants shall execute any documents and otherwise cooperate as necessary to facilitate such access.

The FTC shall return any material produced pursuant to this Section within seven (7) business days of Corporate Defendants' production.

IT IS FURTHER ORDERED that the FTC's access to the Defendants' documents pursuant to this provision shall not provide grounds for any Defendant to object to any subsequent request for documents served by the FTC.

IT IS FURTHER ORDERED that the Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access.

XVII.

DEFENDANTS' ACCESS TO PREMISES AND RECORDS

IT IS FURTHER ORDERED that the Receiver shall allow Defendants and their Representatives reasonable access to the premises of the Receivership Defendants. The purpose of this access shall be to inspect, inventory, and copy any and all Documents and other property owned by or in the possession of the Receivership Defendant

IT IS FURTHER ORDERED that Defendants, their Representatives, and any other Person, with possession, custody, or control of property of, or records relating to, the Receivership Defendants shall, upon notice of this Order by personal service or otherwise, immediately notify the Receiver of, and, upon receiving a request from the Receiver,

In the event that any Person or entity fails to deliver or transfer immediately any Asset or Document, or otherwise fails to comply with any provision of this Section, the Receiver may file an Affidavit of Non-Compliance regarding the failure and a motion seeking compliance. Upon filing of the affidavit, the Court may authorize, without additional process or demand, writs of possession or sequestration or other equitable writs requested by the Receiver. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, or any other federal or state law enforcement officer, to seize the Asset, Document, or other thing and to deliver it to the Receiver.

C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Defendants or the Receiver; and

D. Refusing to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any order of this Court.

XXII.

name of, the Receivership Defendants, any of their subsidiaries, affiliates, partnerships, or Assets, Documents, or the Receiver or the Receiver's duly authorized agents acting in their capacities as such, including, but not limited to, the following actions:

1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
2. Accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody, or control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in any Asset, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;
3. Executing, issuing, serving, or causing the execution, issuance or service of, any legal process, including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether specified in this Order or not; or
4. Doing any act or thing whatsoever to interfere with the Receiarhak-1(t)-6(h)-4(i)-6(n-4(er)-1(

2. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
3. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or
4. The issuance to a Receivership Defendant of a notice of tax deficiency; and

C. Except as otherwise provided in this Order, all Persons and entities in need of documentation from the Receiver shall in all instances first attempt to secure such information by submitting a written request to the Receiver, and, if such request has not been responded to within thirty (30) days of receipt by the Receiver, any such Person or entity may thereafter seek an Order of this Court with regard to the relief requested.

XXIV.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each affiliate, subsidiary, Hosting Company, division, sales entity, successor, assign,

XXVI.

**SERVICE OF ORDER UPON FINANCIAL
INSTITUTIONS AND OTHER THIRD PARTIES**

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or Person that may have possession, custody, or control of any Documents of any Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution.

XXVII.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall RETAIN jurisdiction of this matter for all purposes.

BY THE COURT:

/s/ Stewart Dalzell, J.