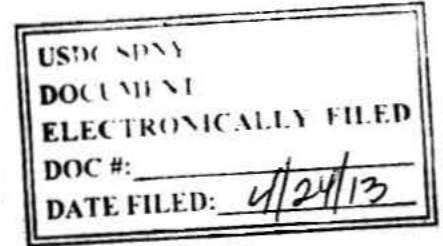


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Engelmayer, P.
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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



_____)	Civil Action No. 12-CIV-7189 (PAE)
FEDERAL TRADE COMMISSION,)	
Plaintiff,)	
v.)	
PCCare247 Inc. et al.)	
Defendants.)	
_____)	

STIPULATED FINAL JUDGMENT AND ORDER AGAINST SANJAY AGARWALLA

Plaintiff, the Federal Trade Commission ("FTC" or "Commission") filed a Complaint for Permanent Injunction and Other Equitable Relief ("Complaint") pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the marketing of computer services.

Plaintiff Federal Trade Commission and Defendant Sanjay Agarwalla having agreed to entry of this Stipulated Final Judgment and Order for Permanent Injunction and Monetary Relief ("Order"), hereby request that the Court enter this Order to resolve all matters in dispute in this action between them.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

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1. This Court has jurisdiction of the subject matter of this case and the parties pursuant to 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345.
2. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b), (c) and (d).
3. The activities of Defendant Sanjay Agarwalla, as alleged in the Complaint, are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Complaint states a claim upon which relief may be granted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).
5. Defendant Agarwalla has entered into this Order freely and without coercion. Defendant Agarwalla further acknowledges that he has read the provisions of this Order and is prepared to abide by them.
6. Defendant Agarwalla waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant Agarwalla further waives and releases any claim he may have against the Commission and its employees, representatives, and agents.
7. Defendant Agarwalla waives any claims 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 the entry of this Order.
8. Defendant Agarwalla, in consenting to the entry of this Order, neither admits nor denies the allegations of the Complaint, except as stated in this Order. Defendant Agarwalla admits the facts necessary to establish jurisdiction.
9. Entry of this Order is in the public interest.

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DEFINITIONS

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

1. **“Assets”** means any legal or equitable interest in, right to, or claim to, any real, personal, or intellectual property wherever located, including, but not limited to, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises, contracts, mail or other deliveries, shares of stock, list of customer names, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), funds, cash, and trusts.
2. **“Assisting Others”** includes providing any of the following goods or services to another entity: (i) performing customer service functions, including, but not limited to, charging consumers for products or services, or receiving or responding to consumer complaints; (ii) performing or providing marketing or billing services of any kind; (iii) processing credit and debit card payments; or (iv) acting as an officer or director of a business, corporation or other entity.
3. **“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.
4. **“Corporate Defendants”** means PC Care247 Inc., Connexions Infotech Inc., PC Care247 Solutions Pvt. Ltd., Connexions IT Services Pvt. Ltd. d/b/a Connexions Infotech Services Pvt. Ltd, individually, collectively, or in any combination.
5. **“Defendant” or “Defendants”** means the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

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6. **“Document” or “Documents”** is synonymous in meaning and equal in scope to the usage of the term in the Federal Rules of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, Internet sites, Web pages, Web sites, electronic correspondence, including e-mail and instant messages, photographs, audio and video recordings, computer records, contracts, accounting data, advertisements (including, but not limited to, advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, World Wide Web pages, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.
7. **“Individual Defendants”** means Sanjay Agarwalla, Vikas Agrawal, Navin Pasari, Anuj Agrawal, and Parmeshwar Agrawal, individually, collectively, or in any combination.
8. **“Person”** means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.
9. **“Plaintiff”** means the Federal Trade Commission.
10. **“Representative”** means any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee, or attorney of Defendant Agarwalla, and any person or

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entity in active concert or participation with any of the foregoing who receives actual notice of this Order by personal service or otherwise.

11. The terms "**and**" and "**or**" shall be construed conjunctively or disjunctively as necessary, and to make the applicable phrase or sentence inclusive rather than exclusive.

**I. BAN ON MARKETING AND SALE OF COMPUTER SECURITY AND
COMPUTER RELATED TECHNICAL SUPPORT SERVICES**

IT IS THEREFORE ORDERED that Defendant Agarwalla, whether acting directly or through any other Person, is hereby permanently restrained and enjoined from:

- A. Advertising, marketing, promoting, offering for sale, or selling any computer security or computer related technical support service; and
- B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any computer security or computer related technical support service.

II. PROHIBITED REPRESENTATIONS

IT IS FURTHER ORDERED that Defendant Agarwalla and his Representatives, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale, or sale of any good or service, other than computer security or computer related technical support services, are hereby permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to, any affiliation with, endorsement or approval by, ownership interest in, or officer status of, any business, government entity, or program.

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III. MONETARY RELIEF

IT IS FURTHER ORDERED that

- A. Judgment is hereby entered in favor of the Commission and against Defendant Agarwalla in the amount of three thousand dollars (\$3,000), as equitable monetary relief for consumer injury.
- B. The \$3,000 deposited by Defendant Agarwalla in Procopio, Cory, Hargreaves & Savitch LLP's client trust account on or about October 22, 2012, pursuant to the Court's order filed on October 17, 2012, will continue to be held in escrow by Procopio, Cory, Hargreaves & Savitch LLP for the sole purpose of satisfying the monetary judgment in this Section. Within ten (10) days after entry of this Order, Procopio, Cory, Hargreaves & Savitch LLP shall transfer the escrowed funds to the Commission in accordance with directions provided by counsel for the Commission.
- C. Defendant Agarwalla relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendant Agarwalla shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

IV. COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that Defendant Agarwalla shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's Complaint, cooperate in good faith with the FTC and appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Defendant Agarwalla shall appear and provide truthful testimony in any trial, deposition, or other

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proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena. Should Defendant Agarwalla incur expenses in cooperating with FTC counsel, the FTC agrees to pay those expenses as set forth in 28 U.S.C. § 1821.

V. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant Agarwalla shall obtain acknowledgments of receipt of this Order:

- A. Within 7 days of entry of this Order, Defendant Agarwalla must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 3 years after entry of this Order, Defendant Agarwalla, for any business that Defendant Agarwalla, individually or collectively with any other Defendant, is the majority owner or directly or indirectly controls must deliver a copy of this Order to: (1) all principals, officers, directors, and managers who participate in telemarketing; (2) all employees, agents, and representatives who participate in telemarketing; 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. To all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which Defendant Agarwalla delivered a copy of this Order, he must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

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VI. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant Agarwalla shall make timely submissions to the Commission:

- A. One year after entry of this Order, Defendant Agarwalla must submit a compliance report, sworn under penalty of perjury.
 1. Defendant Agarwalla must: (a) identify all telephone numbers and all email, Internet, physical, and postal addresses, including all residences; (b) identify all titles and roles in all business activities, including any business for which Defendant Agarwalla performs services whether as an employee or otherwise and any entity in which Defendant Agarwalla has any ownership interest; (c) describe in detail Defendant Agarwalla's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership; (d) designate at least one telephone number and an email, physical, and postal address as points of contact, which representatives of the Commission may use to communicate with Defendant Agarwalla; (e) identify all of Defendant Agarwalla's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (f) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant; (g) describe in detail whether and how Defendant Agarwalla is in compliance with each Section of this Order; and (h) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

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- B. For 5 years following entry of this Order, Defendant Agarwalla must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:
1. Defendant Agarwalla must report any change in: (a) any designated point of contact; or (b) the structure of any entity that Defendant Agarwalla has any ownership interest in or directly or indirectly controls 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 Agarwalla 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 its name, physical address, and Internet address, if any.
- C. Defendant Agarwalla must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any 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.

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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. The subject line must begin: FTC v. PCCare247 Inc. et al., X No. 120057.

VII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant Agarwalla must create certain records for 5 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant Agarwalla for any business in which he, individually or collectively with any other Defendant, is a majority owner or directly or indirectly controls, must maintain the following records:

- A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;
- C. 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
- F. A copy of each advertisement or other marketing material.

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VIII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant Agarwalla'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 the Commission, Defendant Agarwalla 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 Defendant Agarwalla. Defendant Agarwalla must permit representatives of the Commission to interview any employee or other person affiliated with Defendant Agarwalla 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 Defendant Agarwalla or any individual or entity affiliated with Defendant Agarwalla, 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.

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IX. 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 24th _____ day of April 2013.

Paul A. Engelmayer

Judge Paul A. Engelmayer
United States District Judge
Southern District of New York

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SO STIPULATED AND AGREED:

FOR DEFENDANT SANJAY AGARWALIA:

Sanjay Agarwalia
SANJAY AGARWALIA

Date: March 7th, 2013

FOR THE PLAINTIFF
FEDERAL TRADE COMMISSION:

Christine M. Todaro

Date: April 24, 2013

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