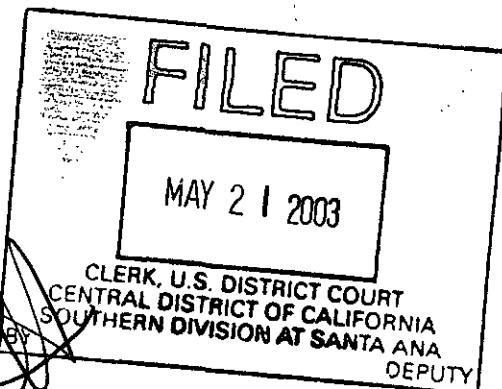


1 TRACY S. THORLEIFSON
2 Federal Trade Commission
3 915 Second Avenue, Suite 2896
4 Seattle, Washington 98174
5 (206) 220-4481 (Thorleifson)
6 (206) 220-6366 (fax)

7 Tom Syta, CA Bar No. 116286
8 Federal Trade Commission
9 10877 Wilshire Boulevard
10 Los Angeles, CA 90024
11 (310) 824-4318
12 (310) 824 4380 (fax)
13 ATTORNEYS FOR PLAINTIFF

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 SOUTHERN DIVISION



17 Priority
18 Send
19 Cisd
20 Enter
21 JS-3/JS-6
22 203-3

23 FEDERAL TRADE COMMISSION,
24 Plaintiff,
25 v.
26 TAMARA BELL, et al.
27 Defendants.

28 SACV 03-790DOC(ANx)

Civil No. SA CV

STIPULATED
PERMANENT INJUNCTION

18 Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), has
19 filed a complaint for a permanent injunction and other relief, pursuant to Section
20 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b),
21 charging individual defendant Tamara Bell and corporate defendants American
22 Veterans' Council, Inc., Children's AIDS Council, Inc., Children's Relief
23 Services, Inc., Disabled Children's Charity, Inc., Firefighters' Assistance
24 Foundation, Inc., and Police and Sheriffs' Support Fund, Inc. (collectively
25 "corporate defendants"), with violations of Section 5 of the FTC Act, 15 U.S.C.
26 § 45, in connection with solicitations of charitable donations by telephone and by
27 mail. The Commission and defendants, having been represented by counsel and
28 acting by and through such counsel for the purpose of full and final settlement of

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DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
CLERK U.S. DISTRICT COURT
SANTA ANA

BY

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1 the matters alleged in the complaint filed in this case, have consented to entry of
2 this Stipulated Permanent Injunction without a trial or adjudication of any issue of
3 law or fact therein.

4 NOW, THEREFORE, the Commission and defendants having requested the
5 Court to enter this Order, **IT IS HEREBY ORDERED, ADJUDGED AND**
6 **DECREED** as follows:

7
8 **FINDINGS**

9 1. This is an action by the Commission under Section 13(b) of the FTC
10 Act, 15 U.S.C. § 53(b). Pursuant to this Section, the Commission has the authority
11 to seek the relief contained herein.

12 2. The Commission's complaint states a claim upon which relief may be
13 granted against defendants under Sections 5(a) and 13(b) of the FTC Act, 15
14 U.S.C. §§ 45(a) and 53(b).

15 3. This Court has jurisdiction of the subject matter of this case and all
16 the parties hereto. Venue in the Central District of California is proper.

17 4. The alleged activities of defendants are in or affecting commerce, as
18 defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

19 5. The parties shall each bear their own costs and attorney's fees
20 incurred in this action and have waived all claims under the Equal Access to
21 Justice Act, 28 U.S.C. § 2412.

22 6. Defendants have waived all rights to seek appellate review or
23 otherwise challenge or contest the validity of this Order.

24 7. This Order does not constitute, and shall not be interpreted to
25 constitute, either an admission by defendants or a finding by the Court that
26 defendants have violated Section 5 of the FTC Act, 15 U.S.C. § 45(a).

27 8. Entry of this Order is in the public interest.
28

DEFINITIONS

1. For purposes of this Order the following definitions shall apply:
2. "Donation" or "contribution" means money or any item of value provided in response to a solicitation made on behalf, or in the name, of any nonprofit organization, including any payment for advertising or any listing in any magazine, journal or other publication produced by, or on behalf of, or in the name of, any nonprofit organization.
3. "Donor" or "consumer" means any person or business solicited for a donation or contribution.
4. "Fundraiser" means any person that contracts with a nonprofit to solicit on behalf of that nonprofit. For purposes of this order, a fundraiser is the entity that employs "solicitors;" solicitors are individuals who make solicitation calls.
5. "Material fact" means a fact likely to affect a person's decision as to the amount of, or whether to make, a donation, contribution, or purchase.
6. "Nonprofit organization" means any person that is, or is represented to be, a nonprofit entity or that has, or is represented to have, a charitable purpose, specifically including any entity that purports to benefit, either in whole or in part, law enforcement, firefighting, or veterans' organizations, personnel, or programs, or individuals who suffer from an illness or injury or handicap.
7. "Person" means a natural person, organization or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government agency, or any other group or combination acting as an entity.
8. "Solicitor" means any person who solicits donations or contributions.
9. "Telemarketing" means any plan, program, or campaign that involves attempts to induce donations by means of telephone sales presentations, provided that the term "telemarketing" does not include transactions that are not completed until after a face-to-face contact between the seller or solicitor and the consumers solicited.

ORDER

**I. PROHIBITION ON FUNDRAISING VIA TELEMARKETING
FOR CORPORATE DEFENDANTS**

IT IS THEREFORE ORDERED that corporate defendants American Veterans' Council, Inc., Children's AIDS Council, Inc., Children's Relief Services, Inc., Disabled Children's Charity, Inc., Firefighters' Assistance Foundation, Inc., and Police and Sheriffs' Support Fund, Inc., are hereby restrained and enjoined from engaging, participating, benefitting from, or assisting in any manner or in any capacity whatsoever in the solicitation of contributions from any donor via telemarketing, whether directly, indirectly, in concert with others, or through any intermediary, business entity, person or device.

II. PROHIBITED BUSINESS PRACTICES

IT IS FURTHER ORDERED that defendant Bell and her successors, assigns, officers, agents, servants, employees, attorneys, salespersons, solicitors, independent contractors, subagents, corporations, subsidiaries, affiliates, and those persons directly or indirectly under her control or in active concert or participation with her who receive actual notice of this Order by personal service, facsimile or otherwise, whether acting directly or through any corporation, subsidiary, division or other device, are hereby permanently restrained and enjoined, in connection with soliciting contributions via telemarketing, whether directly, indirectly, in concert with others, or through any intermediary, business entity, or device, from:

A. Making, or assisting in making, material misrepresentations, express or implied, including:

1. Misrepresenting that any person's donation will go to a legitimate charitable organization whose primary purpose is to benefit society and further the public interest;
2. Misrepresenting that any person's donation will directly benefit

1 persons or programs in the donor's state or local area, or will be earmarked for use
2 in the donor's community;

3 3. Misrepresenting that any person's donation will be used to fund
4 or support a particular charitable program;

5 4. Misrepresenting that any person's donation is tax deductible.

6 B. Failing to disclose in each script, brochure or other solicitation
7 material, and failing to ensure that solicitors disclose during the initial telephone
8 contact with any donor, and in any follow-up contact:

9 1. how the contributions raised through the solicitation will be
10 utilized for charitable purposes;

11 2. that the solicitor is, or is employed by, a professional
12 fundraiser;

13 3. the city and state of the nonprofit organization's principal place
14 of business.

15 C. Failing to possess documents substantiating claims that any nonprofit
16 organization will provide or has provided the programs and services described in
17 the solicitation scripts and in other solicitation materials during the most recent
18 fiscal or calendar year (unless a different time period is otherwise noted),
19 specifically including substantiation documenting that each claim of local benefit,
20 including any claim referring generally to benefits to the community, is true in the
21 community, county, state or region for which the claim is made; provided that, if
22 such programs or services will be or have been provided for the first time during
23 the current calendar or fiscal year, the substantiation shall be sufficient if it
24 identifies or describes the program's intended beneficiaries and intended local
25 communities and includes the organization's written plan and itemized budget for
26 delivering these benefits during the current calendar or fiscal year; for purposes of
27 this provision, "substantiation" means copies of reports to the IRS and/or state
28 agencies, thank you letters, canceled checks, or other evidence showing that the

1 nonprofit undertakes the programs described in the solicitation materials used by
2 defendant, directly or through fundraisers.

3
4 **III. PROHIBITED BUSINESS ACTIVITIES - FUNDRAISERS**

5 IT IS FURTHER ORDERED that defendant Bell and her successors,
6 assigns, officers, agents, servants, employees, attorneys, salespersons, solicitors,
7 independent contractors, subagents, corporations, subsidiaries, affiliates, and those
8 persons directly or indirectly under her control or in active concert or participation
9 with her who receive actual notice of this Order by personal service, facsimile or
10 otherwise, whether acting directly or through any corporation, subsidiary, division
11 or other device, are hereby permanently restrained and enjoined, in connection
12 with employing fundraisers to solicit contributions via telemarketing, whether
13 directly, indirectly, in concert with others, or through any intermediary, business
14 entity, or device, from:

15 A. Failing to obtain a written agreement from each such fundraiser
16 acknowledging that the fundraiser has received a copy of this Order and agrees to
17 abide by its terms;

18 B. Failing to create and provide initial scripts and answers to frequently
19 asked questions to each such fundraiser for use in telephone solicitations, and to
20 require that the fundraiser provide such scripts and materials to each solicitor who
21 will solicit donations;

22 C. Failing to require each fundraiser to train and monitor solicitors so
23 that they use only authorized scripts and answers to frequently asked questions
24 and that they comply with the requirements of Paragraph II above;

25 D. Failing to evaluate within 30 days of entry of this Order, and at least
26 every 60 days thereafter, the solicitation practices of each such fundraiser,
27 including by reviewing solicitation training materials and monitoring practices of
28 each fundraiser, and to create and maintain a written record of each evaluation;

1 E. Failing to establish a toll-free number, and requiring said number to
2 be printed on all receipts, brochures and other solicitation materials provided to
3 donors;

4 F. Failing to record all calls, complaints or inquiries relating to the
5 solicitation of donations made to any toll-free number operated by defendant,
6 except where the caller objects, and to maintain a written record disclosing the
7 name and telephone number of the caller and the date of the call;

8 G. Failing to investigate promptly and fully any complaint or inquiry
9 received about a solicitation made by any fundraiser, and to create and maintain a
10 written record of the investigation and any results; and

11 H. Failing to take corrective action with respect to any fundraiser who
12 has not complied with the requirements of this Order, including, but not limited to,
13 termination of any fundraiser who does not properly train its solicitors, or who
14 fails to take corrective action against solicitors who make misrepresentations.

15 16 **IV. RIGHT TO REOPEN**

17 A. IT IS FURTHER ORDERED that, by agreeing to this Order,
18 defendant Bell reaffirms and attests to the truthfulness, accuracy, and
19 completeness of the Financial Disclosure Form and related materials transmitted to
20 the FTC on April 16, 2003. Plaintiff's agreement to this Order is expressly
21 premised upon the truthfulness, accuracy, and completeness of defendant Bell's
22 representations regarding her financial condition in the Financial Disclosure Form
23 referenced above, which contains material information upon which plaintiff relied
24 in negotiating and agreeing to the terms of this Order. If, upon motion by the
25 Commission, this Court finds that defendant Bell failed to disclose any material
26 asset or source of income, or materially misrepresented the value of any asset or
27 source of income, or made any other material misrepresentation in or omission
28 from the Financial Disclosure Form and related materials, the Court shall enter

1 judgment against defendant Bell, in favor of the Commission, in the amount of
2 \$100,000, and the entire amount of the judgment shall become immediately due
3 and payable.

4 B. All funds paid to the Commission pursuant to this Paragraph shall be
5 deposited into a fund administered by the Commission or its agent to be used for
6 equitable relief, including but not limited to consumer redress and any attendant
7 expenses for the administration of any redress fund. If the Commission
8 determines in its sole discretion that redress to consumers is wholly or partially
9 impracticable or funds remain after redress is completed, the Commission may
10 apply any remaining funds for such other equitable relief, including consumer
11 information remedies, as it determines to be reasonably related to defendant Bell's
12 practices alleged in the Complaint. Any funds not used for such equitable relief
13 shall be deposited in the United States Treasury as disgorgement. Defendant Bell
14 shall have no right to challenge the Commission's choice of remedies under this
15 Paragraph.

16 C. In all other respects this Order shall remain in full force and effect
17 unless otherwise ordered by the Court.

18 D. Proceedings instituted under this Paragraph are in addition to, and not
19 in lieu of, any other civil or criminal remedies as may be provided by law,
20 including any other proceedings the Commission may initiate to enforce this
21 Order.

22 E. Solely for purposes of this Paragraph, defendant Bell waives any right
23 to contest any of the allegations in the Commission's Complaint.

24
25
26
27
28

1 **V. COMPLIANCE REPORTING BY DEFENDANTS**

2 **IT IS FURTHER ORDERED** that, in order that compliance with the
3 provisions of this Order may be monitored:

4 A. For a period of five (5) years from the date of entry of this Order,

5 1. Defendant Tamara Bell shall notify the Commission of the
6 following:

7 a. Any changes in defendant's residence, mailing
8 addresses, and telephone numbers, within ten (10) days of the date of such change;

9 b. Any changes in defendant's employment status
10 (including self-employment) within ten (10) days of the date of such change. Such
11 notice shall include the name and address of each business that defendant is
12 affiliated with, employed by, or performs services for; a statement of the nature of
13 the business; and a statement of defendant's duties and responsibilities in
14 connection with the business; and

15 c. Any changes in defendant's name or use of any aliases or
16 fictitious names.

17 2. Corporate defendants shall notify the Commission of any
18 changes in corporate structure that may affect compliance obligations arising
19 under this Order, including but not limited to a dissolution, assignment, sale,
20 merger, or other action that would result in the emergence of a successor
21 corporation; the creation or dissolution of a subsidiary, parent, or affiliate that
22 engages in any acts or practices subject to this Order; the filing of a bankruptcy
23 petition; or a change in the corporate name or address, at least thirty (30) days
24 prior to such change, *provided* that, with respect to any proposed change in the
25 corporation about which the defendant learns less than thirty (30) days prior to the
26 date such action is to take place, defendant shall notify the Commission as soon as
27 is practicable after obtaining such knowledge.

1 B. One hundred eighty (180) days after the date of entry of this Order,
2 defendants each shall provide a written report to the FTC, sworn to under penalty
3 of perjury, setting forth in detail the manner and form in which they have complied
4 and are complying with this Order. This report shall include, but not be limited to
5 any changes required to be reported pursuant to subparagraph (A) above;

6 C. For the purposes of this Order, defendant shall, unless otherwise
7 directed by the Commission's authorized representatives, mail all written
8 notifications to the Commission to:

9
10 Regional Director
11 Federal Trade Commission
12 915 Second Avenue, Suite 2896
13 Seattle, Washington 98174

14 D. For purposes of the compliance reporting required by this Paragraph,
15 the Commission is authorized to communicate directly with defendant Bell.

16 VI. COMPLIANCE MONITORING

17 IT IS FURTHER ORDERED that, for the purpose of monitoring and
18 investigating defendants' compliance with any provision of this Order:

19 A. Within ten (10) days of receipt of written notice from a representative
20 of the Commission, defendants each shall submit additional written reports, sworn
21 to under penalty of perjury; produce documents for inspection and copying; appear
22 for deposition; and/or provide entry during normal business hours to any business
23 location in such defendant's possession or direct or indirect control to inspect the
24 business operation;

25 B. In addition, the Commission is authorized to monitor compliance with
26 this Order by all other lawful means, including but not limited to the following:

27 1. obtaining discovery from any person, without further leave of
28 court, using the procedures prescribed by Rules 30, 31, 33, 34, 36, and 45 of the
Federal Rules of Civil Procedure;

1 2. posing as donors or suppliers to defendants, defendants'
2 employees, or any entity managed or controlled in whole or in part by any
3 defendant, without the necessity of identification or prior notice;
4 Provided that nothing in this Order shall limit the Commission's lawful use of
5 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.
6 §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or
7 information relevant to unfair or deceptive acts or practices in or affecting
8 commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

9 C. Defendants shall permit representatives of the Commission to
10 interview any employer, consultant, independent contractor, representative, agent,
11 or employee who has agreed to such an interview, relating in any way to any
12 conduct subject to this Order. The person interviewed may have counsel present.
13

14 **VII. MAINTENANCE OF RECORDS**

15 IT IS FURTHER ORDERED that defendants, for a period of eight (8) years
16 from the date of entry of this Order, in connection with any business entity that
17 defendants directly or indirectly own or control that is engaged in soliciting
18 donations from any person are hereby permanently restrained and enjoined from
19 failing to create, and from failing to retain for a period of three (3) years following
20 the date of such creation unless otherwise specified:

21 A. Accounting records that reflect the cost of goods or services sold,
22 revenues generated, and the disbursement of such revenues;

23 B. Personnel records accurately reflecting the name, address, and
24 telephone number of each person employed in any capacity by such business,
25 including acting as an independent contractor, that person's job title or position,
26 the date upon which the employee commenced work, and the date and reason for
27 the employee's termination, if applicable;
28

1 C. Complaints and refund requests (whether received directly or
2 indirectly or through any third party) and any responses to those complaints or
3 requests; and

4 D. Copies of all solicitation scripts, training materials, advertisements, or
5 other marketing materials.

6
7 **VIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

8 IT IS FURTHER ORDERED that, for a period of five (5) years from the
9 date of entry of this Order:

10 A. Corporate defendants shall deliver a copy of this Order to all
11 principals, officers, directors, managers, employees, agents, and representatives
12 having responsibilities with respect to the subject matter of this Order, and shall
13 secure from each such person a signed and dated statement acknowledging receipt
14 of the Order. Corporate Defendants shall deliver this Order to current personnel
15 within thirty (30) days after the date of service of this Order, and to new personnel
16 within thirty (30) days after the person assumes such position or responsibilities.

17 B. Defendant Tamara Bell shall deliver a copy of this Order to the
18 principals, officers, directors, managers and employees under defendant Bell's
19 control for any business that (a) employs or contracts for personal services from
20 Defendant Bell and (b) has responsibilities with respect to the subject matter of
21 this Order. Defendant Bell shall secure from each such person a signed and dated
22 statement acknowledging receipt of the Order within thirty (30) days after the date
23 of service of the Order or the commencement of the employment relationship.

24
25 **IX. RETENTION OF JURISDICTION**


26 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this
27 matter for purposes of construction, modification and enforcement of this Order.
28


1 The parties hereby consent to the terms and conditions set forth above and
2 consent to entry of this Order without further notice to the parties. Defendants
3 stipulate and acknowledge that they have consented to entry of this Order freely
4 and without coercion, that they understand the provisions of the Order, and are
5 prepared to abide by its terms.


6 **FEDERAL TRADE**
7 **COMMISSION**

DEFENDANTS

8
9 
Tracy S. Thorleifson

10
11 
12 Charles A. Harwood
13 Regional Director
14 915 Second Avenue
15 Seattle, WA 98174
16 Attorneys for Plaintiff
17 Federal Trade Commission


Tamara Bell, individually and on
behalf of corporate defendants
American Veterans' Council, Inc.,
Children's AIDS Council, Inc.,
Children's Relief Services, Inc.,
Disabled Children's Charity, Inc.,
Firefighters' Assistance Foundation,
Inc., and Police and Sheriffs' Support
Fund, Inc.

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Robert Moest
Attorney for defendants

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing document to be served on all defendants by providing a true and correct copy thereof on the date set forth below by first-class mail, deposited with the United States Postal Service at Seattle, Washington to Robert C. Moest, counsel for defendants, 310-915-9897, 2530 Wilshire Blvd., 2d Floor, Santa Monica, CA 90403.

Date: 5-18-03

Tracy Thorleifs