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**CLOSED  
CIVIL  
CASE**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-60852 -CIV (Marra/Seltzer)

CLERK

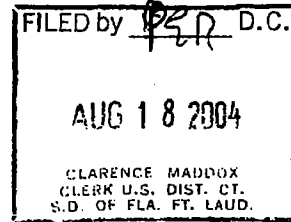
FEDERAL TRADE COMMISSION,

Plaintiff

v.

COMMUNITY AFFAIRS, INC.,  
a/k/a POWERTEL and MOUNTAINEER  
TELESERVICES,  
CHRISTOPHER HEINS, and  
LUIS FERREIRA,

Defendants



**STIPULATED FINAL JUDGMENT AND ORDER AS TO DEFENDANTS  
COMMUNITY AFFAIRS INC., CHRISTOPHER HEINS, and LUIS FERREIRA**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), has filed a Complaint for a permanent injunction and other relief, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), charging Defendants Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira with violations of Section 5 of the FTC Act, 15 U.S.C. § 45.

Defendants Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira, ("Defendants") and the Commission, by and through its counsel, have agreed to entry of this Order by this Court to resolve all matters in dispute in this action. Defendants and the Commission have consented to the entry of this Order without trial or adjudication of any issue of law or fact herein.

Handwritten initials and date: 25/11

NOW, THEREFORE, Defendants Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira and the Commission having requested the Court to enter this Order, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

**FINDINGS**

1. This is an action by the Commission instituted under Sections 5 and 13(b) of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 53(b). The Complaint seeks permanent injunctive relief and consumer redress or disgorgement for deceptive acts or practices by Defendants in connection with the solicitation of contributions to nonprofit organizations via telemarketing.
2. The Commission has the authority under Section 13(b) of the FTC Act to seek the relief it has requested.
3. This Court has jurisdiction over the subject matter of this case and has jurisdiction over Defendants. Venue in the Southern District of Florida is proper, and the Complaint states a claim upon which relief may be granted against Defendants under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45 and 53(b).
4. The activities of Defendants are in or affecting commerce, as defined in 15 U.S.C. § 44.
5. Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendants also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.

6. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

7. This settlement shall not be considered an admission by Defendants of any wrongdoing or violation of any law on their part.

8. Defendants, by signing and stipulating to this Order, acknowledge and agree that this civil action has not placed them in jeopardy and that this Order does not preclude subsequent criminal action against them.

9. Entry of this Order is in the public interest.

#### **DEFINITIONS**

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

A. "Donation" or "contribution" means money or any item of value provided, promised or pledged in response to a solicitation made on behalf of, or in the name of, any nonprofit or charitable organization, including any payment made in exchange 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 or charitable organization;

B. "Donor" or "consumer" means any person or business solicited for a donation or contribution;

C. "Fundraising" means any activity that involves attempts to induce consumers to make a donation or contribution, including, but not limited to, telephonic, written, or in-person solicitations;

D. "Nonprofit or charitable organization" means any entity that is, has, or is represented to have, a charitable purpose, including, but not limited to, any entity that purports to

benefit, either in whole or in part, purported law enforcement, fraternal order, police, firefighters', or veterans' organizations, or individuals who suffer from an illness or injury.

**ORDER**

**I. PROHIBITED PRACTICES - FUNDRAISING**

**IT IS FURTHER ORDERED** that Defendants Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira, and each of them, are hereby permanently restrained and enjoined from engaging, participating, or assisting in any manner or in any capacity whatsoever in the solicitation of contributions from any donor, whether directly, indirectly, in concert with others, or through any intermediary, business entity, person or device. Under this prohibition, Defendants shall not be employed by, hold any ownership interest in, direct, control, manage, advise or provide consulting services to any sole proprietorship, corporation, partnership, person or other entity, including, but not limited to, a nonprofit or charitable organization, which solicits contributions or is involved in fundraising; nor shall Defendants receive benefits or payments from any nonprofit or charitable organization, the amount of which is based on the amount of contributions solicited by another entity for the nonprofit or charitable organization.

**PROVIDED THAT** for purposes of this Order, "assisting" includes, but is not limited to:

(A) Formulating or providing, or arranging to formulate or provide, any solicitation, rebuttal, or verification scripts or presentations, questions and answers, letters, receipts, or any other materials used in connection with any solicitation of donations;

(B) Formulating or mailing, or arranging to formulate or mail, any solicitation, letter, receipt, invoice or any other materials sent to donors;

(C) Providing or arranging to provide the names of past or likely prospective donors (“leads”);

(D) Arranging for any affiliation between any sole proprietorship, corporation, partnership, person or other entity, including, but not limited to, a nonprofit or charitable organization, and any purported nonprofit or charitable organization for the purpose of soliciting donations;

(E) Providing or arranging customer service functions, including, but not limited to, receiving or responding to donor questions or complaints, or accepting or responding to any refund requests;

(F) Procuring or providing office space, equipment or financial support;

(G) Processing any credit card, debit card, or bank debit payments for any entity engaged in fundraising; or

(H) Providing consulting services to any person soliciting contributions.

## **II. PROHIBITED PRACTICES - MISREPRESENTATIONS**

**IT IS FURTHER ORDERED** that in connection with the advertising, promoting, offering for sale, or sale of any good or service by any means whatsoever, each of Defendants Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira, and their successors, assigns, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Final Order by personal service, facsimile, or otherwise, whether acting directly or through any corporation, limited liability company, subsidiary, division, or other entity, are hereby permanently restrained and enjoined from making, or assisting and facilitating others in making, either expressly or by

implication, any false or misleading representation.

### III. MONETARY JUDGMENT

IT IS FURTHER ORDERED that judgment in the amount of twelve million dollars (\$12,000,000) is hereby entered against Defendants Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira, jointly and severally, in favor of the Federal Trade Commission; *provided, however*, that this judgment shall be suspended until further order of the Court pursuant to Paragraph IV of this Order; and *provided further*, that this judgment shall be subject to the conditions set forth in Paragraph IV of this Order.

### IV. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

(A) By agreeing to this Order, Defendants reaffirm and attest to the truthfulness, accuracy, and completeness of the Financial Disclosure Statements submitted to the Federal Trade Commission dated 2/27/04, 3/15/04 and 4/13/04. Plaintiff's agreement to this Order is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' representations regarding their financial condition in the Financial Disclosure Statements referenced above, which contain material information upon which Plaintiff relied in negotiating and agreeing to the terms of this Order. If, upon motion by the Commission, this Court finds that any Defendant(s) failed to disclose any material asset or source of income, or materially misrepresented the value of any asset or source of income, or made any other material misrepresentation in or omission from the Financial Disclosure Statement(s) and related materials, the Court shall order the suspension of judgment in Paragraph III be lifted and the entire twelve million dollar (\$12,000,000) judgment previously entered pursuant to Paragraph III

shall become immediately due and payable to the Commission by such Defendant(s).

(B) All funds paid pursuant to this Paragraph shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may pay any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices as alleged in the Complaint. Any funds not used for such equitable relief shall be deposited into the Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Paragraph.

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

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

(E) Solely for purposes of this Paragraph, Defendants waive any right to contest any of the allegations in the Commission's Complaint.

#### **V. PROHIBITIONS INVOLVING CUSTOMER LISTS**

**IT IS FURTHER ORDERED** that Defendants Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira, and each of them, and their officers, directors, managers, agents, servants, employees, salespersons, corporations, trusts, subsidiaries, affiliates, successors, assigns, and other entities or persons directly or indirectly

under their control, and all persons or entities in active concert or participation with them 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 from using, selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who made a donation to any organization upon whose behalf Defendants solicited donations;

**PROVIDED, HOWEVER, that:**

(A) Defendants shall transfer a true, correct, and complete copy of all such information in their or their agents' possession to the Commission within five (5) business days after receipt of this Permanent Order as entered by the Court and may also transfer a true, correct, and complete copy of such information to other law enforcement agencies as permitted or required by any law, regulation, judicial process, or court order; and

(B) Defendants shall destroy all originals and all copies in their or their agents' possession of such information, no later than five (5) business days after receipt of this Permanent Order as entered by the Court.

**VI. RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that for a period of seven (7) years from the date of entry of this Order, Defendants Christopher Heins and Luis Ferreira, and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with any business where (1) any Defendant is the majority owner of the business,



or (2) directly or indirectly manages or controls the business are hereby restrained and enjoined from failing to create and retain the following records:

(A) Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

(B) Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

(C) Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

(D) Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

(E) Copies of all sales scripts, training materials, advertisements, or other marketing materials, including but not limited to such materials distributed on the Internet or otherwise through Web sites or Web pages; and

(F) All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order, required by Paragraph XI, and all reports submitted to the FTC pursuant to Paragraph VII.

## **VII. COMPLIANCE REPORTING BY DEFENDANT**

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

- (A) For a period of four (4) years from the date of entry of this Order:
- (1) Defendants Christopher Heins and Luis Ferreira shall notify the Commission of the following:
    - (a) Any changes in Defendants' residences, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
    - (b) Any changes in Defendants Christopher Heins' or Luis Ferreira's employment status (including self-employment), and any change in the ownership of Defendants Christopher Heins or Luis Ferreira in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that the Defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of the Defendant's duties and responsibilities in connection with the business or employment; and
    - (c) Any changes in the Defendant's name or use of any aliases or fictitious names; and
  - (2) Defendants Christopher Heins, Luis Ferreira, and Community Affairs, Inc. shall notify the Commission of any changes in the corporate structure of Community Affairs, Inc. or any business entity that Defendants Christopher Heins or Luis Ferreira directly or indirectly control(s), or has an ownership interest in, that may affect compliance obligations arising under this Order,

including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided that*, with respect to any proposed change in the corporation about which any Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant(s) shall notify the Commission as soon as is practicable after obtaining such knowledge.

(B) One hundred eighty (180) days after the date of entry of this Order, Defendants Christopher Heins, Luis Ferreira, and Community Affairs, Inc. shall each provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

- (1) For Defendants Christopher Heins and Luis Ferreira:
  - (a) The then-current residence address, mailing addresses, and telephone numbers of the Defendant;
  - (b) The then-current employment and business addresses and telephone numbers of the Defendant, a description of the business activities of each such employer or business, and the title and responsibilities of the Defendant, for each such employer or

business; and

(c) Any other changes required to be reported under subparagraph (A) of this Section.

(2) For Defendants Christopher Heins, Luis Ferriera, and Community Affairs, Inc.:

(a) A copy of each acknowledgment of receipt of this Order, obtained pursuant to Paragraph X "Distribution of Order by Defendant"; and

(b) Any other changes required to be reported under subparagraph (A) of this Section.

(C) For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director  
Division of Marketing Practices  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., H-238  
Washington, D.C. 20580  
Re: *FTC v. Community Affairs, Inc., Christopher Heins and Luis Ferreira*

(D) For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate directly with any Defendant.

### VIII. COMPLIANCE MONITORING

**IT IS FURTHER ORDERED** that for the purpose of monitoring and investigating compliance with any provision of this Order:

(A) Within ten (10) days of receipt of written notice from a representative of the Commission, Defendants Christopher Hines, Luis Ferreira and Community Affairs, Inc. shall each submit additional written reports, sworn to under penalty of perjury; produce documents for

inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation;

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

- (1) obtaining discovery from any person, without further leave of court, using the procedures proscribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
- (2) posing as consumers and suppliers to Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by Christopher Heins, Luis Ferreira and/or Community Affairs, Inc., without the necessity of identification or prior notice; and

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

**PROVIDED, HOWEVER,** that nothing in this Order shall limit 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, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

#### **IX. ACCESS TO BUSINESS PREMISES**

**IT IS FURTHER ORDERED** that for a period of four (4) years from the date of entry

of this Order, for the purpose of further determining compliance with this Order, each Defendant shall permit representatives of the Commission, within three (3) business days of receipt of written notice from the Commission:

(A) Access during normal business hours to any office, or facility storing documents, of any business where the Defendant is the majority owner of the business or directly or indirectly manages or controls the business;

(B) In providing such access, the Defendant shall permit representatives of the Commission :

(1) To inspect and copy all documents relevant to any matter contained in this Order; and shall permit Commission representatives to remove documents relevant to any matter contained in this Order, for a period not to exceed three (3) business days, so that the documents may be inspected, inventoried, and copied; and

(2) To interview the officers, directors, managers, and employees, and all other personnel, whether designated as employees, consultants, independent contractors, or otherwise, of any business where the Defendant is the majority owner of the business or directly or indirectly manages or controls the business, concerning matters relating to compliance with the terms of this Order. The person interviewed may have counsel present.

**PROVIDED THAT** upon application of the Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to any Defendant's business

premises for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

#### **X. DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that for a period of four (4) years from the date of entry of this Order, Defendants shall deliver copies of the Order as directed below:

(A) **Corporate Defendant:** Community Affairs, Inc. must deliver a copy of this Order to all of its principals, officers, directors, and managers. For current personnel, delivery shall be within (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

(B) **Individual Defendants as Control Person:** For any business that Christopher Heins and/or Luis Ferreira controls, directly or indirectly, or in which Christopher Heins and/or Luis Ferreira has a majority ownership interest, such Defendant(s) must deliver a copy of this Order to all principals, officers, directors, and managers of that business. For current personnel, delivery shall be within (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

(C) Christopher Heins, Luis Ferreira and Community Affairs, Inc. must secure a signed and dated statement acknowledging receipt of the Order, within thirty days of delivery, from all persons receiving a copy of the Order pursuant to this Part.

#### **XI. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that each Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

**XII. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Order. However, the Clerk may close this case and deny any pending motions as moot,



The parties hereby stipulate and agree to the conditions set forth above and consent to entry of this Order which shall constitute a final judgment in this action as to Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira. Defendants waive any rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412.

Dated: 5/7/04

Christopher Heins President  
Christopher Heins, President  
Community Affairs, Inc., a/k/a Powertel  
and Mountaineer Teleservices  
4613 N. University Drive, No. 386  
Coral Springs, FL 33076

Dated: 5/7/04

Christopher Heins  
Christopher Heins  
4613 N. University Drive, No. 386  
Coral Springs, FL 33076

Dated: \_\_\_\_\_

\_\_\_\_\_  
Luis Ferreira  
2436 N. Federal Hwy., No. 223  
Lighthouse Point, FL 33064

Dated: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff  
Federal Trade Commission  
600 Pennsylvania Ave. NW  
Washington, D.C: 20580

The parties hereby stipulate and agree to the conditions set forth above and consent to entry of this Order which shall constitute a final judgment in this action as to Community Affairs, Inc., a/k/a Powertel and Mountaineer Teleservices, Christopher Heins, and Luis Ferreira. Defendants waive any rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412.

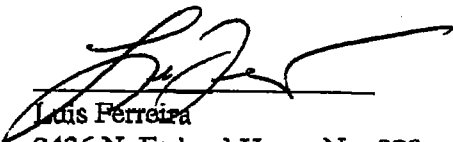
Dated: \_\_\_\_\_

\_\_\_\_\_  
Christopher Heins, President  
Community Affairs, Inc., a/k/a Powertel  
and Mountaineer Teleservices  
4613 N. University Drive, No. 386  
Coral Springs, FL 33076

Dated: \_\_\_\_\_

\_\_\_\_\_  
Christopher Heins  
4613 N. University Drive, No. 386  
Coral Springs, FL 33076

Dated: 5/7/04

  
\_\_\_\_\_  
Luis Ferreira  
2436 N. Federal Hwy., No. 223  
Lighthouse Point, FL 33064

Dated: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff  
Federal Trade Commission  
600 Pennsylvania Ave. NW  
Washington, D.C. 20580

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Dated: \_\_\_\_\_

\_\_\_\_\_  
Christopher Heins, President  
Community Affairs, Inc., a/k/a Powertel  
and Mountaineer Teleservices  
4613 N. University Drive, No. 386  
Coral Springs, FL 33076

Dated: \_\_\_\_\_

\_\_\_\_\_  
Christopher Heins  
4613 N. University Drive, No. 386  
Coral Springs, FL 33076

Dated: \_\_\_\_\_

\_\_\_\_\_  
Luis Ferreira  
2436 N. Federal Hwy., No. 223  
Lighthouse Point, FL 33064

Dated: 8/17/04

Peter Lambertson  
Attorney for Plaintiff  
Federal Trade Commission  
600 Pennsylvania Ave. NW  
Washington, D.C. 20580

DONE and ORDERED this 18<sup>th</sup> day of Aug, 2004, at Fort Lauderdale, Florida.

\_\_\_\_\_  
Kenneth A. Marra  
U.S. District Judge

Copies to: Stephen Ludwig, Esq.  
Christopher Heins  
Luis Ferreira