



**FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

February 27, 2004

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
AND FACSIMILE**

Powerplus Mortgage, Inc.  
a.k.a. Powerplus Mortgage  
13921 Park Center Road, Suite 160/120  
Herndon, Virginia 20171-3236  
Attention: Andrew H. Guerin, President/CEO  
Charles A. Brady, VP Operations  
Jason C. Eiss, VP Sales/CFO

Powerplus Mortgage, Inc.  
a.k.a. Powerplus Mortgage  
47382 Westwood Place, Suite 101  
Sterling, Virginia 20165-2411  
Attention: Andrew H. Guerin, President/CEO  
Charles A. Brady, VP Operations  
Jason C. Eiss, VP Sales/CFO

Business Filings Incorporated  
3949 Fighting Creek Drive.  
Powhatan, Virginia 23139

National Registered Agents, Inc.  
3761 Venture Drive  
Duluth, Georgia 30096

National Registered Agents, Inc.  
3533 Fairview Industrial Drive, SE  
Salem, Oregon 97302-1155

National Registered Agents, Inc.  
604 Locust Street, Suite 222  
Des Moines, Iowa 50309

National Registered Agents, Inc. of MD  
#9E-11E Chase Street  
Baltimore, Maryland 21202

National Registered Agents, Inc.  
1900 Church Street, Suite 400  
Nashville, Tennessee 37203

National Registered Agents, Inc.  
320 N. Meridian Street  
Indianapolis, Indiana 46204

Business Filings Incorporated  
4701 Cox Road, Suite 301  
Glen Allen, Virginia 23060-6802

NRAI Services, Inc.  
526 East Park Avenue  
Tallahassee, Florida 32301

RE: EB-04-TC-027

Dear Correspondents: <sup>1</sup>

---

<sup>1</sup> The Telecommunications Consumers Division has obtained information that the additional addressees listed above are registered agents of Powerplus Mortgage, Inc.

This is an official **CITATION**, issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 503(b)(5), for violations of the Act and the Federal Communications Commission's rules that govern telephone solicitations and unsolicited advertisements.<sup>2</sup> As explained below, future violations of the Act or Commission's rules in this regard may subject your company to monetary forfeitures.

It has come to our attention that your company has delivered one or more prerecorded messages to a residential telephone line or lines in violation of the section 227(b)(1)(B) of the Act and section 64.1200(a)(2) of the Commission's rules. Under the rules, it is unlawful to

Initiate any telephone call to any residential line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call,

- (i) Is made for emergency purposes,<sup>3</sup>
- (ii) Is not made for a commercial purpose,
- (iii) Is made for a commercial purpose but does not include or introduce an unsolicited advertisement<sup>4</sup> or constitute a telephone solicitation,<sup>5</sup>
- (iv) Is made to any person with whom the caller has an established business relationship<sup>6</sup>

---

<sup>2</sup> 47 U.S.C. § 227; 47 C.F.R. § 64.1200. A copy of these provisions is enclosed for your convenience. Section 227 was added to the Communications Act by the Telephone Consumer Protection Act of 1991 and is most commonly known as the TCPA. The TCPA and the Commission's parallel rules restrict a variety of practices that are associated with telephone solicitation and use of the telephone network to deliver unsolicited advertisements, including prerecorded messages to residential telephone lines.

<sup>3</sup> The term "emergency purposes" means calls made necessary in any situation affecting the health and safety of consumers." 47 C.F.R. § 64.1200(f)(2).

<sup>4</sup> The term "unsolicited advertisement" means "any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission." 47 U.S.C. § 227(a)(4); 47 C.F.R. § 64.1200(f)(10).

<sup>5</sup> The term "telephone solicitation" means

the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message:

- (i) To any person with that person's prior express invitation or permission;
- (ii) To any person with whom the caller has an established business relationship; or
- (iii) By or on behalf of a tax-exempt nonprofit organization.

47 U.S.C. § 227(a)(3); 47 C.F.R. § 64.1200(f)(9).

<sup>6</sup> The term "established business relationship" means

a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of the subscriber's purchase or transaction with the entity within the eighteen (18) months immediately preceding the date of the telephone call or on the basis of the subscriber's inquiry or application regarding products or services offered by the entity within the three months immediately preceding the date of the call, which relationship has not been previously terminated by either party.

- (i) The subscriber's seller-specific do-not-call request, as set forth in paragraph (d)(3) of this section, terminates an established business relationship for purposes of telemarketing and telephone solicitation even

at the time the call is made, or  
(v) Is made by or on behalf of a tax-exempt nonprofit organization.

Accordingly, the rules generally prohibit delivery of prerecorded advertisements and solicitations to residential telephone lines unless the call is made (1) by or on behalf of a tax-exempt nonprofit organization, (2) with the prior express consent of the called party, (3) to a person who has an established business relationship with the caller.

The attached information indicates that your company delivered an unsolicited advertisement or telephone solicitation, through a prerecorded message, to one or more residential telephone subscribers who either (1) had not expressly invited or authorized the call(s) or (2) did not have an established business relationship with your company (a transaction within 18 months prior to the call(s), or an inquiry or application within 3 months prior to the call(s)). As explained above, this action violates section 64.1200(a)(2) of the Commission's rules.

Separately, it appears that your company also has violated other Commission rules that govern all prerecorded messages. Under section 64.1200(b), prerecorded messages must, at the beginning of the message, state clearly the identity of the business (the name under which the business is registered to conduct business with the State Corporation Commission or comparable regulatory authority), individual, or other entity that is responsible for initiating the call. In addition, the telephone number<sup>7</sup> or address of such business, or individual, or other entity must be provided either during or after the prerecorded message. According to the attached information received by the Commission, it appears that your telephone solicitation(s) did not contain all the required information.

**If, after receipt of this citation, you violate the Communications Act or the Commission's rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.**<sup>8</sup>

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or

---

if the subscriber continues to do business with the seller.

(ii) The subscriber's established business relationship with a particular business entity does not extend to affiliated entities unless the subscriber would reasonably expect them to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate.

47 C.F.R. § 64.1200(f)(3)

<sup>7</sup> Any telephone number so provided may not be for (1) an autodialer or prerecorded message player that placed the call, (2) a 900 number, or (3) any other number for which charges exceed local or long distance transmission charges. In addition, any such telephone number provided in connection with a prerecorded sales messages to a residential telephone subscriber must permit any individual to make a do-not-call request during regular business hours for the duration of the telemarketing campaign.

<sup>8</sup> See 47 C.F.R. § 1.80(b)(3).

(2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission's rules governing telephone solicitation and unsolicited advertisements, as described above.

**The nearest Commission office appears to be either the FCC headquarters location at 445-12<sup>th</sup> Street, S.W., Washington, D.C. 20554 or the Columbia Office at 9200 Farm House Lane, Columbia, Maryland 21046. Please contact Senetta Lancaster at (202) 418-7320 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:**

Kurt A. Schroeder  
Deputy Chief  
Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission  
445-12<sup>th</sup> Street, S.W.  
Rm. 3-C366  
Washington, D.C. 20554

**Reference EB-04-TC-027 when corresponding with the Commission.**

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least 5 days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:  
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format): 202-418-0531 (voice), 202-418-7365 (tty).

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kurt A. Schroeder  
Deputy Chief, Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission

Enclosures