



**Federal Communications Commission
Washington, D.C. 20554**

March 8, 2005

DA 05-607

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Henry Weaver
146 Weldon Drive
York, PA 17404

**Re: Notice of Suspension and of Proposed Debarment
File No. EB-03-IH-0684**

Dear Mr. Weaver:

The Federal Communications Commission (“FCC” or “Commission”) has received notice of your March 1, 2005 conviction pursuant to 18 U.S.C. §§ 371 and 666 for conspiracy to engage in bribery in a federally funded program.¹ Consequently, pursuant to 47 C.F.R. § 54.521, this letter constitutes official notice of your suspension from the schools and libraries universal service support mechanism. In addition, the Enforcement Bureau (“Bureau”) hereby notifies you that we are commencing debarment proceedings against you.²

I. Notice of Suspension

Pursuant to section 54.521(a)(4) of the Commission’s rules,³ your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising

¹ Any further reference in this letter to “your conviction” refers to your March 1, 2005 conviction based on your December 8, 2003 guilty plea to this count because you “did knowingly combine, conspire, confederate and agree with persons ... to corruptly give, offer and agree to give things of value to another person with the intent to influence an agent of the Harrisburg School District.” See *United States v. Weaver*, Criminal Docket No. 03-337, Information at 4 (M.D.Pa. filed December 8, 2003) (“*Weaver Information*”); *United States v. Weaver*, Criminal Docket No. 03-337, Plea Agreement at 1-2 (M.D.Pa. filed December 8, 2003) (“*Weaver Plea Agreement*”); *United States v. Weaver*, Judgment (M.D.Pa. filed on March 1, 2005 and entered on March 4, 2005) (“*Weaver Judgment*”).

² 47 C.F.R. § 54.521; 47 C.F.R. § 0.111(a)(14) (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings pursuant to 47 C.F.R. § 54.521).

³ 47 C.F.R. § 54.521(a)(4). See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225-9227, ¶¶ 67-74 (2003) (“*Second Report and Order*”).

applicants or service providers regarding the schools and libraries support mechanism.⁴ Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register.⁵

Suspension is immediate pending the Bureau's final debarment determination. You may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the Federal Register, whichever comes first.⁶ Such requests, however, will not ordinarily be granted.⁷ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.⁸ Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.⁹

II. Notice of Proposed Debarment

A. Reasons for and Cause of Debarment

Commission rules establish procedures to prevent persons who have "defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism" from receiving the benefits associated with that program.¹⁰ On March 1, 2005, you were convicted based on a December 8, 2003 plea of guilty to participating in a conspiracy with Ronald R. Morrett, Jr. ("Morrett") of EMO Communications, Inc. ("EMO").¹¹ You admitted to the following acts: (1) receiving \$1.9 million in kickback payments from Morrett while you were responsible for certifying Morrett and EMO had performed work specified in a contract that is 80% funded by the federal E-rate program; and (2) concealing those payments by causing some of the payments to be funneled through various bank accounts belonging to third parties.¹² These actions constitute the conduct or transactions upon which this debarment proceeding is based.¹³ Moreover, your conviction on the basis of these acts falls within the categories of causes for debarment defined in section 54.521(c) of the Commission's

⁴ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 U.S.C. § 254; 47 C.F.R. §§ 54.502-54.503; 47 C.F.R. § 54.521(a)(4).

⁵ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.521(e)(1).

⁶ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(4).

⁷ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

⁸ 47 C.F.R. § 54.521(f).

⁹ *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(5), 54.521(f).

¹⁰ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66.

¹¹ *Weaver Judgment* at 1; *Weaver Plea Agreement* at 1-2.

¹² *Weaver Information* 2-3, 6-7; *Weaver Plea Agreement* at 1-2.

¹³ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(2)(i).

rules.¹⁴ Therefore, pursuant to section 54.521(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

B. Debarment Procedures

You may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the Federal Register.¹⁵ Absent extraordinary circumstances, the Bureau will debar you.¹⁶ Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.¹⁷ If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of its decision in the Federal Register.¹⁸

C. Effect of Debarment

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for at least three years from the date of debarment.¹⁹ The Bureau may, if necessary to protect the public interest, extend the debarment period.²⁰

Please direct any responses to the following address:

Diana Lee
Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
Room 4-C443

¹⁴ "Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism." 47 C.F.R. § 54.521(c). Such activities "include the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding schools and libraries support mechanism described in this section ([47 C.F. R.] § 54.500 *et seq.*)." 47 C.F.R. § 54.521(a)(1).

¹⁵ *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(2)(i), 54.521(e)(3).

¹⁶ *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

¹⁷ *See id.*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(5).

¹⁸ *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 C.F.R. § 54.521(f).

¹⁹ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. §§ 54.521(d), 54.521(g).

²⁰ *Id.*

John Henry Weaver
March 8, 2005
Page 4 of 4

445 12th Street, S.W.
Washington, D.C. 20554

If you submit your response via hand-delivery or non-United States Postal Service delivery (e.g., Federal Express, DHL, etc.), please send your response to Ms. Lee at the following address:

Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418-1420 or by e-mail at diana.lee@fcc.gov. If Ms. Lee is unavailable, you may contact Hillary DeNigro by telephone at (202) 418-1420 and by e-mail at hillary.denigro@fcc.gov.

Sincerely yours,

William H. Davenport
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Gerald Lord, Miller, Poole & Lord, LLP
Kristy Carroll, USAC (E-mail)
Marty Carlson, United States Attorney, Middle District of Pennsylvania (E-mail)