



**Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, SW, Suite 4-C330
Washington, D.C. 20554**

October 18, 2007

DA 07-4336

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED AND FACSIMILE (404-872-1622)

Mr. Arthur R. Scott
c/o Seth D. Kirschenbaum, Esq.
Davis Zipperman Kirschenbaum & Lotito
918 Ponce de Leon Avenue, N.E.
Atlanta, GA 30306-4212
E-Mail: skirschenbaum@dzkl.com

**Re: Notice of Suspension and Initiation of Debarment Proceedings,
File No. EB-07-IH-7304**

Dear Mr. Scott:

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

I. Notice of Suspension

The Commission has established 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

¹ Any further reference in this letter to “your conviction” refers to your May 2, 2007 guilty plea and subsequent conviction of one count of conspiracy to defraud the United States and one count of bribery. *United States v. Arthur R. Scott*, Criminal Docket No. 1:07-CR-139-CC-01, Plea Agreement (N.D.Ga. filed May 2, 2007 and entered May 7, 2007) (“*Scott Plea Agreement*”); *United States v. Arthur R. Scott*, 1:07-CR-139-CC-01, Judgment (N.D.Ga. filed and entered Oct. 2, 2007) (“*Scott 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).

associated with that program.³ You pled guilty to conspiracy to defraud the United States and bribery for activities in connection with your participation in the E-Rate program.⁴ You admitted that while employed as Director of Operational Technology of the Atlanta Public Schools (“APS”), you conspired with others, including your wife Evelyn Myers Scott (“Myers Scott”), to enter into an E-Rate contract on behalf of APS in return for payments to the consulting firm owned by you and Myers Scott from the vendor.⁵ In addition, you admitted that you, as agent of APS, corruptly solicited, demanded, accepted and agreed to accept \$37,917 in order to be influenced and rewarded in connection with APS’s participation in the E-Rate program. The loss and the restitution that you owed to the E-Rate program resulting from the criminal offenses was \$300,176.⁶

Pursuant to section 54.521(a)(4) of the Commission’s rules,⁷ 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 applicants or service providers regarding the schools and libraries support mechanism.⁸ Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register.⁹

Suspension is immediate pending the Bureau’s final debarment determination. In accordance with the Commission’s debarment rules, 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.¹⁰ Such requests, however, will not ordinarily be granted.¹¹ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.¹² Absent

³ See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225, ¶ 66 (2003) (“*Second Report and Order*”). The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.” 47 C.F.R. § 54.521(a)(6).

⁴ See generally *United States v. Arthur R. Scott and Evelyn Myers Scott a/k/a Evelyn M. Myers*, Criminal Docket No. 1:07-CR-139, Information (N.D.Ga. filed Apr. 30, 2007 and entered May 3, 2007) (“*Scott and Myers Scott Information*”); *Scott Plea Agreement* at 1.

⁵ *Scott and Myers Scott Information* at 1-9. See also Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, to Evelyn M. Scott, DA 07-4335, dated October 18, 2007.

⁶ See *Scott Judgment* at 5; see also *Scott Plea Agreement* at 4.

⁷ 47 C.F.R. § 54.521(a)(4). See *Second Report and Order*, 18 FCC Rcd at 9225-9227, ¶¶ 67-74 (2003).

⁸ *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).

⁹ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.521(e)(1).

¹⁰ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(4).

¹¹ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

¹² 47 C.F.R. § 54.521(e)(5).

extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.¹³

II. Initiation of Debarment Proceedings

Your guilty plea to criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.521(c) of the Commission's 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.

As with your suspension, 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 the decision in the Federal Register.¹⁸

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 three years from the date of debarment.¹⁹ The Bureau may, if necessary to protect the public interest, extend the debarment period.²⁰

¹³ See *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(5), 54.521(f).

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.*

Mr. Arthur R. Scott

October 18, 2007

Page 4 of 4

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, DC, 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, DC, 20554. You shall also transmit a copy of the response via email to diana.lee@fcc.gov and to vickie.robinson@fcc.gov.

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 Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at vickie.robinson@fcc.gov.

Sincerely yours,

Hillary S. DeNigro
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)
Aaron M. Danzig, Esq., Assistant United States Attorney