



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

July 14, 2009

DA 09-1528

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND E-MAIL (robertbonsib@marcusbonsib.com) AND FACSIMILE (301) 441-3003

Andre J. Hornsby
c/o Robert C. Bonsib
Marcus and Bonsib
6411 Ivy Lane, Suite 116
Greenbelt, MD 20770

**Re: Notice of Suspension and Initiation of Debarment Proceedings,
File No. EB-09-IH-0408**

Dear Mr. Hornsby:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction of federal crimes, including honest services wire fraud, witness and evidence tampering, and obstruction of justice, 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. § 54.8, 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

¹ See 18 U.S.C. §§ 1343, 1346 (honest services wire fraud), 1512(b) (attempted evidence tampering), and 1503 (obstruction of Justice). Any further reference in this letter to "your conviction" refers to your six count conviction. *United States v. Andre Jose Hornsby*, Criminal Docket No. 8:06CR00376-PJM-1, Judgment (D. Md. filed and entered Dec. 5, 2008) ("*Hornsby Judgment*"). See also *United States v. Andre Jose Hornsby*, Criminal Docket No. 8:06CR00376-PJM-1, Superseding Indictment (D. Md. filed and entered Apr. 23, 2008) ("*Hornsby Indictment*").

² 47 C.F.R. § 54.8 (2008). See also 47 C.F.R. § 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) ("*Second Report and Order*") (adopting section 54.521 of the Commission's rules to suspend and debar parties from the E-Rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, Report and Order, 22 FCC Rcd 16372, 16410-12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

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 associated with that program.³ On November 25, 2008, the United States District Court for the District of Maryland sentenced you to six years in prison, to be followed by three years of supervised release, following your conviction on federal crimes, including honest services wire fraud, witness and evidence tampering, and obstruction of justice, in connection with your activities related to the E-Rate program.⁴ In addition, you were ordered to pay a \$20,000 fine and \$70,000 in restitution to the Prince George’s County Public School System (“PGCPS”).⁵

You were employed as Chief Executive Officer, Secretary and Treasurer for the Board of Education for Prince Georges County (“Board”).⁶ As Chief Executive Officer of the Board, you were responsible for overall administration of PGCPS from June 2003 until June 2005.⁷ Beginning in November 2003, you devised schemes to defraud PGCPS for your personal financial gain.⁸ You directed PGCPS employees to seek proposals from outside E-Rate consulting companies for assistance with PGCPS’ E-Rate applications.⁹ Despite late filings and other disqualifications, you ultimately steered the bidding process and directed contracts be awarded for E-Rate consulting services to Erate Managers, LLC (“Erate Managers”), a non-existent company purportedly operated by an individual who had worked for you in other school districts (“Former Employee”).¹⁰ You, in turn, were to receive more than \$100,000 from the Former Employee for your role in securing the E-Rate consulting contracts with PGCPS, and accepted \$1,000 in cash as a down payment.¹¹ Further, you made materially false representations, destroyed records and otherwise hid your associations with the Former Employee to conceal your role in the fraudulent conduct at issue.¹²

³ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66. 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. § 54.8(a)(6).

⁴ *Hornsby Judgment* at 1-5. See also *Hornsby Indictment* at 1-21, 24-27, 29-30. (Discussion of your convictions in this notice is limited to those activities related to the E-Rate program).

⁵ *Hornsby Judgment* at 6-7. PGCPS was one of the 20 largest school districts in the nation in 2004, with a budget of more than \$1 billion. See Department of Justice Press Release (Nov. 25, 2008), available at <http://baltimore.fbi.gov/dojpressrel/pressrel08/ba112508.htm> (*DOJ November 2008 Press Release*).

⁶ *Hornsby Indictment* at 2. See also *DOJ November 2008 Press Release* at 1. The Board was responsible for oversight of PGCPS. See *Hornsby Indictment* at 1. Responsibility for the overall administration of PGCPS was entrusted to the Chief Executive Officer, who reported to the Board. See *Hornsby Indictment* at 2.

⁷ *Hornsby Indictment* at 2.

⁸ *Id.* at 14-19. See also *DOJ November 2008 Press Release* at 1.

⁹ *Hornsby Indictment* at 6, 15.

¹⁰ *Id.* at 4-8. You directed PGCPS personnel not to award contracts to the company with the highest overall score, and stalled the bidding process past the deadline in favor of waiting for a proposal from Erate Managers. *Hornsby Indictment* at 6-7. See also *DOJ November 2008 Press Release* at 1-2.

¹¹ *Hornsby Indictment* at 8, 14-15. See also *DOJ November 2008 Press Release* at 1-2.

¹² *Hornsby Indictment* at 14-18, 24-27, 29-30. See also *DOJ November 2008 Press Release* at 3.

Pursuant to section 54.8 of the Commission's rules, your conviction on criminal offenses arising out of consulting activities associated with or related to the schools and libraries support mechanism requires the Bureau to suspend you from continuing to participate in any activities associated with or related to the schools and libraries support mechanism.¹³ Activities arising out of or related to the schools and libraries support mechanism 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 the schools and libraries support mechanism.¹⁴

Your suspension becomes immediately effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register, pending the Bureau's final debarment determination.¹⁵ 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.¹⁶ 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.¹⁷ Such requests, however, will not ordinarily be granted.¹⁸ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.¹⁹ The Bureau will decide any request for the reversal or modification of suspension within 90 days of its receipt of such request.²⁰

II. Initiation of Debarment Proceedings

Your conviction for 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 suspension and debarment defined in section 54.8(c) of the Commission's rules.²¹ Therefore, pursuant to section 54.8 of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²²

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

¹³ 47 C.F.R. § 54.8(b)-(e); *see also* § 54.8(a)(4).

¹⁴ 47 C.F.R. § 54.8(a)(1); *see also* § 54.8(a)(3).

¹⁵ 47 C.F.R. § 54.8(a)(7), (e)(1); *see also Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69.

¹⁶ 47 C.F.R. § 54.8(e)(4).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 47 C.F.R. § 54.8(f); *see also Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

²⁰ 47 C.F.R. § 54.8(e)(5), (f); *see also Second Report and Order*, 18 Fcc Rcd at 9226, ¶ 70.

²¹ "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. § 54.8(c). You were convicted for obstruction of justice, attempted evidence tampering for falsification or destruction of records, and wire fraud. *See supra* note 4.

²² *See* 47 C.F.R. § 54.8(b), (c).

earlier of the receipt of this letter or of publication in the Federal Register.²³ Absent extraordinary circumstances, the Bureau will debar you.²⁴ The Bureau will decide any request for reversal or limitation of debarment within 90 days of receipt of such request.²⁵ 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.²⁶

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.²⁷ The Bureau may, if necessary to protect the public interest, extend the debarment period.²⁸

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 Rebekah Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Michele Levy Berlove, Acting 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 Rebekah Bina, 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 Michele Levy Berlove, Acting 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 Rebekah.Bina@fcc.gov and to Michele.Berlove@fcc.gov.

²³ 47 C.F.R. § 54.8(e)(3), (5); *see also Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

²⁴ 47 C.F.R. § 54.8(e)(5); *see also Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

²⁵ 47 C.F.R. § 54.8(e)(5), (f); *see also Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

²⁶ 47 C.F.R. § 54.8(e)(5). 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. § 54.8(f).

²⁷ 47 C.F.R. § 54.8(a)(1), (d), (g); *see also Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67.

²⁸ 47 C.F.R. § 54.8(g).

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If you have any questions, please contact Ms. Bina via mail, by telephone at (202) 418-7931 or by e-mail at Rebekah.Bina@fcc.gov. If Ms. Bina is unavailable, you may contact Ms. Michele Levy Berlove, Acting Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418-1477 and by e-mail at Michele.Berlove@fcc.gov.

Sincerely yours,

Hillary S. DeNigro
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Michael R. Paupé, Assistant United States Attorney, Department of Justice (via e-mail)
Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)