



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

July 14, 2009

DA 09-1529

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED AND FACSIMILE (415-522-1506)
AND EMAIL (gsl@defendergroup.com)

Mr. Steven Newton
c/o Law Office of Garrick S. Lew
Attn: Garrick Sherman Lew
600 Townsend Street, Suite 329E
San Francisco, California 94102

**Re: Notice of Suspension and Initiation of Debarment Proceedings,
File No. EB-08-IH-1928**

Dear Mr. Newton:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction of Wire Fraud, Aiding and Abetting, and Collusion, in violation of 18 U.S.C. §§ 2 and 1343, and 15 U.S.C. § 1, 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 Any further reference in this letter to "your conviction" refers to your guilty plea and subsequent two count conviction on wire fraud, collusion, and aiding and abetting. See *United States v. Steven Newton*, Criminal Docket No. 3:05-CR-00208-CRB-10, *Plea Agreement* (N.D. Cal. filed and entered Apr. 20, 2007) ("*Newton Plea*"). See also *United States v. Steven Newton*, Criminal Docket No. 3:05-CR-00208-CRB-10, Judgment (N.D. Cal. filed and entered Mar. 31, 2009) (Convicted on Counts 11 and 22) ("*Newton Judgment*"). See also generally *United States v. Video Network Communications, Inc. et al.*, Criminal Docket No. 3:05-CR-00208-CRB, Superseding Indictment (N.D. Cal. filed Dec. 8, 2005 and entered Dec. 12, 2005), <http://www.usdoj.gov/atr/cases/f213600/213626.htm> (accessed May 1, 2008) ("*VNCI Superseding 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.*,

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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 You pleaded guilty and were sentenced to six months in prison in connection with your participation in two schemes to defraud the E-Rate program.⁴ Specifically, you admitted that as former Vice President at Premio Computers, Inc.⁵ and principal manager of SEMA4, Inc.⁶ and Digital Connect Communications, Inc.⁷ you participated in schemes to defraud the E-Rate program of money and property through materially false and fraudulent pretenses for your own enrichment.⁸ You did this, with the help of other co-conspirators or defendants, by controlling the bidding, application, and implementation and invoicing process of the E-Rate program.⁹ You submitted materially false information to USAC regarding the cost and eligibility of equipment services and intentionally misrepresented the school district’s ability and willingness to pay their portion of the E-Rate projects.¹⁰

Pursuant to section 54.8 of the Commission’s rules, your conviction on criminal offenses arising out of 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

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)).

³ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66; *Program Management Order*, 22 FCC Rcd at 16387, ¶ 32. 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 *Newton Judgment* at 1-2. See also *VNCI Superseding Indictment* at ¶¶ 4-6, 8-11, 15, 19, 22-24, 72-78, 133-137, 145-151.

⁵ Premio Computers, Inc. manufactures computers, software and peripheral equipment, and sells them to wholesale, commercial, and government entities. See *In the Matter of Premio, Inc.*, Notice of Debarment, 22 FCC Rcd 1019, 1021 (Jan. 22, 2007). Premio Computers, Inc. was debarred from the E-Rate program for its involvement in E-Rate related fraud. See generally *id.*

⁶ SEMA4 is a California company that provided equipment and services for a project funded by the E-Rate program. See *VNCI Superseding Indictment* at ¶¶ 74-75. The charges against SEMA4 were dismissed. See *United States v. SEMA4, Inc.*, Criminal Docket No. 3:05-CR-00208-CRB-3 (N.D. Cal. terminated June 12, 2007).

⁷ Digital Connect Communications, Inc. was a California company that provided telecommunication and Internet access equipment and services to schools participating in the E-Rate program. See *VNCI Superseding Indictment* at ¶¶ 134-135. The charges against this company were dismissed. See *United States v. Digital Connect Communications, Inc.*, Criminal Docket No. 3:05-CR-00208-CRB-4 (N.D. Cal. terminated June 12, 2007).

⁸ See *VNCI Superseding Indictment* at ¶¶ 4-6, 8-11, 15-16, 19, 22-24, 72-78, 133-137, 145-151.

⁹ *Id.*

¹⁰ These misrepresentations included inflating the costs of eligible telecommunications equipment and services in applications to cover the cost of ineligible equipment and services. See *VNCI Superseding Indictment* at ¶¶ 8-11, 22-24, 78, 145-151.

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or related to the schools and libraries support mechanism.¹¹ 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.¹²

Your suspension becomes 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.¹³ 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.¹⁴ 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.¹⁵ Such requests, however, will not ordinarily be granted.¹⁶ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.¹⁷ The Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.¹⁸

II. Initiation of Debarment Proceedings

Your guilty plea and conviction of 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.¹⁹ Therefore, pursuant to section 54.8 of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²⁰

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.²¹ Absent extraordinary circumstances, the Bureau will debar you.²² The Bureau will decide any request for reversal or

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

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

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

¹⁴ 47 C.F.R. § 54.8(e)(4).

¹⁵ *Id.*

¹⁶ *Id.*

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

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

¹⁹ "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, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 C.F.R. § 54.8(c). You were convicted on various fraud charges. *See supra* note 4.

²⁰ *See* 47 C.F.R. § 54.8(b), (c).

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

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

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limitation of debarment within 90 days of receipt of such request.²³ 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.²⁴

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.²⁵ The Bureau may, if necessary to protect the public interest, extend the debarment period.²⁶

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 L. 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 L. Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C327, Washington, DC, 20554, with a copy to Michele 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)(5), (f); *see also Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

²⁴ 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).

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

²⁶ 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: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)
Michael Wood, Antitrust Division, United States Department of Justice (via e-mail)