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

April 7, 2010

DA 10-585

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND E-MAIL (mdm@monico-law.com) AND FACSIMILE (312) 853-2187

Mr. Jay H. Soled
c/o Monico, Pavich & Spevack
Attn: Michael D. Monico
20 South Clark Street, Suite 700
Chicago, IL 60603

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB-10-IH-2080

Dear Mr. Soled:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your guilty plea for conspiracy to defraud the United States in violation of 18 U.S.C. § 371 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 sentencing for conspiracy to defraud the United States. *United States v. Jay H. Soled*, Criminal Docket No. 1:08-cr-00464-2, Plea Agreement (N.D. Ill. filed Feb. 4, 2010 and entered Mar. 15, 2010) ("*Soled Judgment*"); *United States v. Jay H. Soled*, Criminal Docket No. 1:08-cr-00464-2, Plea Agreement (N.D. Ill. filed July 10, 2008 and entered July 14, 2008) ("*Soled Plea*"); *United States v. Benjamin Rowner and Jay H. Soled*, Criminal Docket No. 1:08-cr-20047-01-02 CM/JPO, Information (D. Kan. filed and entered Apr. 23, 2008) ("*Rowner and Soled Information*").

[2] 47 C.F.R. § 54.8; *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 July 10, 2008, you, Jay H. Soled, entered a plea agreement and pleaded guilty to knowingly and intentionally conspiring with others to defraud and obtain money from the E-Rate Program through submission of materially false representations, concealment of material facts, mail fraud, wire fraud, and intentional manipulation of the competitive bidding process.[4] Specifically, from Fall 1999 to at least November 2003, you held yourself out as an E-Rate salesperson and installer for the purpose of defrauding the E-Rate Program.[5] You admitted that you and others devised schemes to defraud school districts and the E-Rate program by having your co-conspirators steer E-rate related contracts to various companies that directly benefited you, your conspirators, and your company, primarily DeltaNet, Inc.[6] In furtherance of the schemes, you submitted misleading, fraudulent and false documents to the Universal Service Administrative Company ("USAC") claiming schools were paid or would pay their co-pay, submitted other materially false and fraudulent documents to USAC, and concealed from the school districts relationships with co-conspirators in order to induce schools to select your companies as service providers in violation of E-Rate Program rules.[7] Ultimately, your conspiracy was comprised of two closely related schemes that affected at least thirteen different schools in eight different states across the United States.[8]

On February 4, 2010, you were sentenced to serve twenty-seven months in prison, to be followed by twenty-four months of supervised release for your role in the scheme to defraud the E-Rate program.[9] You were also ordered to pay $271,716 in restitution to USAC for your role in the schemes.[10]

Pursuant to section 54.8 of the Commission's rules, your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and

---

[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] *Soled Plea* at 2-3; *see also Rowner and Soled Information* at 5-12; Department of Justice Press Release (Apr. 23, 2008), *available at* http://www.justice.gov/atr/public/press_releases/2008/232526.htm ("*DOJ April 2008 Press Release*").

[5] *Soled Plea* at 3-8; *see also Rowner and Soled Information* at 5-12.

[6] *Soled Plea* at 3-8; *see also Rowner and Soled Information* at 5-12; Department of Justice Press Release (Feb. 4, 2010), *available at* http://chicago.fbi.gov/dojpressrel/pressrel10/cg020410a.htm ("*DOJ February 2010 Press Release*").

[7] *Soled Plea* at 3-8; *see also Rowner and Soled Information* at 5-12.

[8] *Soled Plea* at 4-6; *see also Rowner and Soled Information* at 8-11 (Listing the schools and states including Wisconsin, Illinois, Kansas, California, Oregon, New York, New Jersey, and Arkansas); *DOJ February 2010 Press Release* at 1.

[9] *Soled Judgment* at 2-3; *see also DOJ February 2010 Press Release* at 1.

[10] *Soled Judgment* at 4-5 (You were also ordered to pay a $100 assessment); *see also DOJ February 2010 Press Release* at 1.

libraries support mechanism.[11] 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 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 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

---

[11] 47 C.F.R. § 54.8(b)-(e); *see also* 47 C.F.R. § 54.8(a)(4); *Second Report and Order*, 18 FCC Rcd at 9225-27, ¶¶ 67-74.

[12] 47 C.F.R. § 54.8(a)(1); *see also* 47 C.F.R. § 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(e)(5).

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

[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." 47 C.F.R. § 54.8(c). Such activities "include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanism." 47 C.F.R. § 54.8(a)(1).

[20] *See* 47 C.F.R. § 54.8(b), (c).

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

circumstances, the Bureau will debar you.[22] The Bureau will decide any request for reversal or 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, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554, 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.

---

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

[23] *See* 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] *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. § 54.8(d),(g).

[26] 47 C.F.R. § 54.8(g).

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,

Hillary S. DeNigro
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: United States Attorney's Office, Department of Justice (via e-mail)
Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)