



Enforcement Bureau
Investigations and Hearings
Division

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

October 10, 2012

DA 12-1620

**SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
AND EMAIL**

Ms. Denisa Babcock
c/o Leon Fred Spies
Mellon & Spies
312 E. College Street, Suite 216
Iowa City, IA 52240

Re: Notice of Suspension and Initiation of Debarment Proceedings
FCC File No. EB-12-IH-1396

Dear Ms. Babcock:

The Federal Communications Commission (Commission) has received notice of your conviction, under 18 U.S.C. § 666(a)(1)(A) and (b), for theft of, among other amounts, funds associated with the federal 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 the Bureau will commence E-Rate program 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 [E-Rate

¹ Any further reference in this letter to “your conviction” refers to your guilty plea in *United States v. Babcock*, Criminal Docket No. 3:10-cr-00074-RP-TJS-1, Plea Agreement (S.D. Iowa, May 11, 2011) (*Plea Agreement*).

² 47 C.F.R. § 54.8; 47 C.F.R. § 0.111 (delegating to the Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program 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 to suspend and debar parties from the E-Rate program). In 2007, the Commission extended the debarment rules to apply to all 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; Rural Health Care 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), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g).)

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program]” from receiving the benefits associated with that program.³ The Commission’s rules are designed to ensure that all E-Rate funds are used for their intended purpose.⁴

On May 11, 2011, you pled guilty to converting more than \$1,000,000 belonging to various school districts for your personal use from November 2005 through December 2009.⁵ That amount included approximately \$49,000 in E-Rate checks that had been payable to school districts you represented through your E-Rate consulting company, Camanche Consulting Services (CCS).⁶ According to your Plea Agreement, you knowingly deposited E-Rate checks payable to these school districts into your personal bank accounts without the authority to do so.⁷ Along with the other funds stolen from the various school districts, you used these stolen E-Rate funds to help pay off your home mortgage, fund retirement plans, and purchase vehicles, real property, a boat, travel, and personal items.⁸

On October 14, 2011, the United States District Court for the Southern District of Iowa sentenced you to serve 64 months in prison followed by a three-year period of supervised release.⁹ In addition, the court ordered you to pay \$1,330,215.96 in restitution and a \$100 special assessment.¹⁰

Pursuant to Section 54.8(b) of the Commission’s rules,¹¹ upon your conviction for theft of E-Rate funds, the Bureau is required to suspend you from participating in any activities associated with or related to the E-Rate program, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers

³ *Second Report and Order*, 18 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 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 *NEC-Business Network Solutions, Inc.*, Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

⁵ *Plea Agreement* at 1, 17–18; see also UNITED STATES ATTORNEY’S OFFICE, SOUTHERN DISTRICT OF IOWA, News, *Former Clinton Community School District Employee Pleads Guilty to Theft of Federal Funds*, May 11, 2011, at <http://www.justice.gov/usaio/ias/news/2011/Babcock%20-%20plea%20-%20media%20release%20-%202015-10-11.pdf> (*Press Release*).

⁶ *Plea Agreement* at 17.

⁷ *Id.*

⁸ *Id.* at 18.

⁹ *United States v. Babcock*, Criminal Docket No. 3:10-cr-00074-RP-TJS-1, Amended Judgment at 2 (S.D. Iowa, entered Jan. 23, 2012) (*Amended Judgment*).

¹⁰ *Amended Judgment* at 4–5. This restitution order includes: \$8,061.77 payable to Bement Community School District Five; \$2,231.28 payable to the Chester Area School District; \$21,789.40 payable to the Lena-Winslow School District; \$17,933.80 payable to North Boone School District 200; \$1,852.03 payable to Oldham Public Library; and \$4,270.64 payable to West Carroll Community School District No. 314. *Id.* at 4. In addition, you were ordered to forfeit, among other items, E-Rate checks that FBI agents had seized from your residence. *Plea Agreement* at 6–7.

¹¹ 47 C.F.R. § 54.8(a)(4); see *Second Report and Order*, 18 FCC Rcd at 9225–27, paras. 67–74.

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regarding the E-Rate program.¹² Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.¹³

In accordance with the Commission's suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within thirty (30) calendar days of your receipt of this letter or its publication in the Federal Register, whichever comes first.¹⁴ Such requests, however, will not ordinarily be granted.¹⁵ The Bureau may reverse or limit the scope of a suspension only upon a finding of extraordinary circumstances.¹⁶ The Bureau will decide any request to reverse or modify a suspension within ninety (90) calendar days of its receipt of such request.¹⁷

II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from the E-Rate program, your conviction is cause for debarment as defined in Section 54.8(c) of the Commission's rules.¹⁸ Therefore, pursuant to Section 54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.¹⁹

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty (30) calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.²⁰ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety (90) calendar days of receiving any information you may have filed.²¹ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.²²

¹² 47 C.F.R. §§ 54.8(a)(1), (d).

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

¹⁴ 47 C.F.R. § 54.8(e)(4).

¹⁵ *Id.*

¹⁶ 47 C.F.R. § 54.8(f).

¹⁷ *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 C.F.R. §§ 54.8(e)(5), (f).

¹⁸ "Causes for suspension and debarment are 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). Associated 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 mechanisms." *Id.* § 54.8(a)(1).

¹⁹ *Id.* § 54.8(b).

²⁰ *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 C.F.R. § 54.8(e)(3).

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

²² 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. *Id.* § 54.8(f).

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If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the E-Rate program for three years from the date of debarment.²³ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.²⁴

Please direct any response, if sent 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 and to the attention of Joy M. Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554 with a copy to Theresa Z. Cavanaugh, Division Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. All messenger or hand delivery filings must be submitted without envelopes.²⁵ If sent by commercial overnight mail (other than U.S. Postal Service (USPS) Express Mail and Priority Mail), the response must be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by USPS First Class, Express Mail, or Priority Mail, the response should be addressed to Joy Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554, with a copy to Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554. You shall also transmit a copy of your response via e-mail to Joy M. Ragsdale, Joy.Ragsdale@fcc.gov and to Theresa Z. Cavanaugh, Terry.Cavanaugh@fcc.gov.

If you have any questions, please contact Ms. Ragsdale via U.S. postal mail, e-mail, or by telephone at (202) 418-1697. You may contact me at (202) 418-1553 or at the e-mail address noted above if Ms. Ragsdale is unavailable.

Sincerely yours,

Theresa Z. Cavanaugh
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Johnnay Schrieber, Universal Service Administrative Company (via e-mail)
Rashann Duvall, Universal Service Administrative Company (via e-mail)
Maureen McGuire, United States Attorney's Office, Southern District of Iowa (via e-mail)
Richard Westphal, United States Attorney's Office, Southern District of Iowa (via e-mail)

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

²⁴ 47 C.F.R. § 54.8(g).

²⁵ See FCC *Public Notice*, DA 09-2529 for further filing instructions (rel. Dec. 3, 2009).