



**Federal Communications Commission**

Enforcement Bureau  
Investigations and Hearings Division  
45 L Street, NE  
Washington, DC 20554

April 7, 2026

**DA 26-310**

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Mr. Mark Whitaker  
c/o Leslie Ballin, Esq.  
Ballin, Ballin & Fishman, PC  
200 Jefferson Ave.  
Memphis, TN 38103-2308

**Re: Notice of Suspension and Initiation of Debarment Proceeding  
File No. EB-IHD-25-00038468**

Dear Mr. Whitaker:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) received notice of your conviction for misprision of a felony, specifically wire fraud, in violation of 18 U.S.C. §§ 4 and 1343, arising out of activities associated with the federal schools and libraries universal service support mechanism (E-Rate program).<sup>1</sup> The crime involved failing to report the knowing transmission of materially false communications and documents to the federal government with the intent of defrauding the E-Rate program.<sup>2</sup> Consequently, pursuant to 47 CFR § 54.8, this letter constitutes official notice of your suspension from the E-Rate program and all federal universal service support mechanisms.<sup>3</sup> While suspended, you are prohibited from participating in or receiving any benefit associated with all federal universal service support mechanisms, including the E-Rate program.

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<sup>1</sup> Any further reference in this letter to “your conviction” refers to your guilty plea and subsequent sentencing in *United States v. Mark Whitaker*, Case No. 2:20-cr-20052-MSN, Judgment and Sentencing Order (W.D. Tenn., issued June 6, 2023) (*Sentencing Order*).

<sup>2</sup> *United States v. Mark Whitaker*, Case No. 2:20-cr-20052-MSN, Information, at 1-4 (W.D. Tenn., Feb. 18, 2020) (*Information*).

<sup>3</sup> 47 CFR § 54.8. On March 26, 2026, new rules were adopted allowing the Commission to take quicker and more comprehensive action to exclude bad actors from participating in Congressionally-mandated funding programs, such as the E-Rate program. See *Modernizing Suspension & Debarment Rules*, GN Docket No. 19-309, Report & Order, Direct Final Rule, and Further Notice of Proposed Rulemaking, FCC 26-18 (Mar. 27, 2026).

Additionally, in accordance with the Commission's rules, the Bureau is commencing a proceeding to debar you from future participation in all federal universal service support mechanisms for three years.<sup>4</sup>

## 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 program]” from receiving the benefits associated with that program.<sup>5</sup> The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure E-Rate funds are used for their intended purpose.<sup>6</sup> Schools may receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.<sup>7</sup> The E-Rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.<sup>8</sup> Solicitations for E-Rate services must be based on fair and open competitive bidding, free from any conflicts of interest.<sup>9</sup>

You pleaded guilty to misprision of a felony, specifically having knowledge of, and concealing, wire fraud.<sup>10</sup> Together with two other individuals, you knowingly transmitted materially false and fraudulent documents, including falsified invoices and a certification that no kickbacks had been paid, with the purpose of defrauding the E-Rate program.<sup>11</sup> Despite your knowledge of these acts, you failed to report them to a judge or other person with civil or military authority under the United States.<sup>12</sup>

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<sup>4</sup> 47 CFR § 54.8; *Id.* § 0.111 (delegating to the Enforcement 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*, CC Docket No. 02-6, 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. *See Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, 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)).

<sup>5</sup> *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 CFR § 54.8(a)(6).

<sup>6</sup> *NEC-Business Network Solutions, Inc.*, Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

<sup>7</sup> 47 CFR §§ 54.503, 54.504(a), 54.511(a).

<sup>8</sup> *See id.* §§ 54.503, 54.511(a); *see also* Universal Service Administrative Company, *Open & Fair Process*, <https://www.usac.org/e-rate/applicant-process/competitive-bidding/open-fair-process/> (last visited April 25, 2025).

<sup>9</sup> 47 CFR §§ 54.503, 54.511(a).

<sup>10</sup> *Information*, *supra* note 2, at 1; *Sentencing Order*, *supra* note 1, at 1.

<sup>11</sup> *Information*, *supra* note 2, at 1-4.

<sup>12</sup> *Id.*

In June 2023, the United States District Court for the Western District of Tennessee sentenced you to one year of probation.<sup>13</sup> The court also ordered you to pay a \$100 special assessment fee.<sup>14</sup>

Pursuant to section 54.8(d) of the Commission's rules,<sup>15</sup> your conviction requires the Bureau to suspend you from: (a) 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 regarding the E-Rate program; and (b) participating in any activities associated with or related to all federal universal service support mechanisms.<sup>16</sup> Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.<sup>17</sup>

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 calendar days of your receipt of this letter or publication of notice of the suspension in the Federal Register, whichever comes first.<sup>18</sup> Such requests, however, will not ordinarily be granted.<sup>19</sup> The Bureau may reverse or limit the scope of a suspension only upon a finding of extraordinary circumstances.<sup>20</sup> The Bureau will decide any request to reverse or modify a suspension within ninety calendar days of its receipt of such request.<sup>21</sup>

## II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from all federal universal service support mechanisms, including the E-Rate program, your conviction is cause for debarment as defined in section 54.8(c) of the Commission's rules.<sup>22</sup> Therefore, pursuant to section 54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.<sup>23</sup>

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<sup>13</sup> *Sentencing Order*, *supra* note 1, at 2.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> 47 CFR § 54.8(d); *see Second Report and Order*, *supra* note 4, at 9225–27, paras. 67–74.

<sup>16</sup> 47 CFR § 54.8(a)(1), (d).

<sup>17</sup> *Id.* § 54.8(e)(1); *Second Report and Order*, *supra* note 4, at 9226, para. 69.

<sup>18</sup> 47 CFR § 54.8(e)(4).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* § 54.8(f).

<sup>21</sup> *Id.* § 54.8(e)(5), (f); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

<sup>22</sup> “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 CFR § 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).

<sup>23</sup> *Id.* § 54.8(b).

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 calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.<sup>24</sup> The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety calendar days of receiving any information you may have filed.<sup>25</sup> 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.<sup>26</sup>

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to all federal universal service support mechanisms, including the E-Rate program, for three years from the date of debarment.<sup>27</sup> The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.<sup>28</sup> Pursuant to the Commission's rules, should you choose to contest the scope or length of any such debarment, you must file arguments and any relevant documentation within thirty calendar days of receipt of this letter or the publication in the Federal Register of such proposed debarment, whichever is earlier.<sup>29</sup>

Please direct any response as follows:

*If sent by messenger or hand delivery, or by commercial overnight mail (other than U.S. Postal Service Priority Mail, Priority Mail Express, and Priority Mail), the response must be sent to Marlene H. Dortch, Secretary, Federal Communications Commission, to the attention of Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 9050 Junction Drive, Annapolis Junction, MD, 20701. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD, 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.*

*If sent by First-Class Mail, Priority Mail Express, or Priority Mail, the response must be sent to Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.*

You must also transmit an electronic copy of the response and all Documents produced with the response via e-mail to [IHDTelecom@fcc.gov](mailto:IHDTelecom@fcc.gov). The electronic copy shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source. If you have any questions, please contact Jeffrey Brown at [Jeffrey.Brown@fcc.gov](mailto:Jeffrey.Brown@fcc.gov) or (202) 418-2527.

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<sup>24</sup> *Id.* § 54.8(e)(3); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

<sup>25</sup> 47 CFR § 54.8(e)(5); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

<sup>26</sup> 47 CFR § 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).

<sup>27</sup> 47 CFR § 54.8(d), (g); *Second Report and Order*, *supra* note 4, at 9225, para. 67.

<sup>28</sup> 47 CFR § 54.8(g).

<sup>29</sup> *Id.* § 54.8(e)(4).

Mark Whitaker  
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Sincerely,

Christopher J. Sova  
Chief  
Investigations and Hearings Division  
Enforcement Bureau