

20554. You shall also transmit a copy of the response via e-mail to [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov) and to [vickie.robinson@fcc.gov](mailto:vickie.robinson@fcc.gov).

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418-1420 or by e-mail at [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov). If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at [vickie.robinson@fcc.gov](mailto:vickie.robinson@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 mail)  
[FR Doc. E8-12840 Filed 6-6-08; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[DA 08-1180]

### Notice of Suspension and Initiation of Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Notice.

**SUMMARY:** The Enforcement Bureau gives notice of Mr. Earl Nelson's suspension from the schools and libraries universal service support mechanism (or "E-Rate Program"). Additionally, the Bureau gives notice that debarment proceedings are commencing against him. Mr. Nelson, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation to Diana Lee.

**DATES:** Opposition requests must be received by July 9, 2008. However, an opposition request by the party to be suspended must be received 30 days from the receipt of the suspension letter or July 9, 2008, whichever comes first. The Enforcement Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

**FOR FURTHER INFORMATION CONTACT:** Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554. Diana Lee may

be contacted by phone at (202) 418-0843 or e-mail at [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov). If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at [vickie.robinson@fcc.gov](mailto:vickie.robinson@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The Enforcement Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111. Suspension will help to ensure that the party to be suspended cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 08-1180, which was mailed to Mr. Nelson and released on May 19, 2008. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at <http://www.fcc.gov>. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY-B420, Washington, DC 20554, telephone (202) 488-5300 or (800) 378-3160, facsimile (202) 488-5563, or via e-mail <http://www.bcpweb.com>.

Federal Communications Commission.

**Hillary Denigro,**

Chief, Investigations and Hearings Division,  
Enforcement Bureau.

The attached is the Suspension and Initiation of Debarment Letter to Earl Nelson.

May 19, 2008.

DA 08-1180.

Via Certified Mail Return Receipt Requested  
and Facsimile (415-621-4111)

Mr. Earl Nelson, c/o Richard B. Mazer, Esq.,  
Law Offices of Richard Mazer, 99  
Divisadero Street, San Francisco, CA  
94117, [richardbmazer@yahoo.com](mailto:richardbmazer@yahoo.com).

Re: Notice of Suspension and Initiation of  
Debarment Proceedings, File No. EB-08-  
IH-1138

Dear Mr. Nelson: The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction of collusion and aiding and abetting, in violation of 15 U.S.C. 1 and 18 U.S.C. 2, in connection with your participation in the schools and libraries universal service support mechanism ("E-Rate program").<sup>1</sup> Consequently, pursuant to

<sup>1</sup> Any further reference in this letter to "your conviction" refers to your guilty plea and subsequent conviction of collusion and aiding and abetting. *United States v. Earl Nelson*, Criminal

47 CFR 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.<sup>2</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 schools and libraries support mechanism" from receiving the benefits associated with that program.<sup>3</sup> You pled guilty to collusion and aiding and abetting a scheme to defraud the E-Rate program.<sup>4</sup> You admitted that, as a former branch manager of Inter-Tel Technologies, you entered into and engaged in a conspiracy with other defendants and co-conspirators to suppress and restrain competition by submitting collusive, noncompetitive, and rigged bids for an E-Rate project at the West Fresno Elementary School District in Fresno, California.<sup>5</sup>

Docket No. 3:05-CR-00208-CRB-011, Judgment (N.D.Cal. filed and entered Mar. 21, 2008) ("*Earl Nelson Judgment*"). See *United States v. Video Network Communications, Inc. et al.*, Criminal Docket No. 3:05-CR-00208-CRB, Superseding Indictment at paras. 79-80 (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*").

<sup>2</sup> 47 CFR 54.8; 47 CFR 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 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)).

<sup>3</sup> See *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>4</sup> *VNCI Superseding Indictment* at paras. 79-80.

<sup>5</sup> See *id.* The Commission debarred Inter-Tel Technologies, Inc. in 2006 for the company's conviction for mail fraud and conspiracy to suppress and eliminate competition. See *Inter-Tel Technologies, Inc.*, Notice to Debarment, 21 FCC Rcd 7506 (2006); 71 FR 42397 (2006). The following four individuals, who were also charged in the *VNCI Superseding Indictment*, have pled guilty or been found guilty and subsequently sentenced: Judy Green, George Marchelos, William Holman, and Allan Green. We are sending separate notices of

Continued

Pursuant to section 54.8(a)(4) of the Commission's rules,<sup>6</sup> your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.<sup>7</sup> Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.<sup>8</sup>

Suspension is immediate pending the Bureau's final debarment determination. 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. 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.<sup>9</sup> Such requests, however, will not ordinarily be granted.<sup>10</sup> The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.<sup>11</sup> Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.<sup>12</sup>

## 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.<sup>13</sup> Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction

requires the Bureau to commence debarment proceedings against you.

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**.<sup>14</sup> Absent extraordinary circumstances, the Bureau will debar you.<sup>15</sup> Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.<sup>16</sup> 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**.<sup>17</sup>

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.<sup>18</sup> The Bureau may, if necessary to protect the public interest, extend the debarment period.<sup>19</sup>

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, D.C. 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Vickie Robinson, 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 Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4-C330, Washington, DC, 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4-C330, Washington, DC, 20554. You shall also transmit a copy of the response via e-mail to [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov) and to [vickie.robinson@fcc.gov](mailto:vickie.robinson@fcc.gov).

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418-1420 or by e-mail at [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov). If Ms.

Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at [vickie.robinson@fcc.gov](mailto:vickie.robinson@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 mail).

[FR Doc. E8-12842 Filed 6-6-08; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL MARITIME COMMISSION

### Meeting; Sunshine Act

**AGENCY HOLDING THE MEETING:** Federal Maritime Commission.

**TIME AND DATE:** June 11, 2008—10 a.m.

**PLACE:** 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

**STATUS:** A portion of the meeting will be in Open Session and the remainder of the meeting will be in Closed Session.

### MATTERS TO BE CONSIDERED:

#### Open Session

(1) Docket No.04-09 *American Warehousing of New York, Inc., v the Port Authority of New York and New Jersey*, and Docket No. 05-03 *American Warehousing of New York, Inc., v the Port Authority of New York and New Jersey*.

(2) Designation of Commission Policy Official for the U.S. Committee on the Maritime Transportation System.

(3) Privacy Act System of Records.

#### Closed Session

(1) Direction to Staff Regarding Budget Hearing Committee Requests.

(2) FMC Agreement No. 201178—Los Angeles/Long Beach Port /Terminal Operator Administration and Implementation Agreement and FMC Agreement No. 201170—Los Angeles and Long Beach Port Infrastructure and Environmental Programs CWA.

(3) Export Cargo Issues Status Report.

(4) Docket No. 06-03 Premier Automotive Services, Inc. v Robert L. Flanagan and F. Brooks Royster, III.

(5) Internal Administrative Practices and Personnel Matters.

suspension and initiation of debarment proceedings to these individuals.

<sup>6</sup> 47 CFR 54.8(a)(4). See *Second Report and Order*, 18 FCC Rcd at 9225-9227, paras. 67-74.

<sup>7</sup> 47 CFR 54.8(a)(1), (d).

<sup>8</sup> *Second Report and Order*, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

<sup>9</sup> 47 CFR 54.8(e)(4).

<sup>10</sup> *Id.*

<sup>11</sup> 47 CFR 54.8(e)(5).

<sup>12</sup> See *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

<sup>13</sup> "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 CFR 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 mechanisms." 47 CFR 54.8(a)(1).

<sup>14</sup> See *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

<sup>15</sup> *Second Report and Order*, 18 FCC Rcd at 9227, para. 74.

<sup>16</sup> See *id.*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

<sup>17</sup> *Id.* 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 CFR 54.8(f).

<sup>18</sup> *Second Report and Order*, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

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