

FEDERAL COMMUNICATIONS COMMISSION

[DA 12-1211]

Notice of Suspension and Commencement of Proposed Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the "Bureau") gives notice of Mr. Willard Ross Lanham'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. Lanham, 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 Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street SW., Washington, DC 20554.

DATES: Opposition requests must be received by 30 days from the receipt of the suspension letter or September 12, 2012, whichever comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street SW., Washington, DC 20554. Joy Ragsdale may be contacted by phone at (202) 418-1697 or email at Joy.Ragsdale@fcc.gov. If Ms. Ragsdale is unavailable, you may contact Ms. Theresa Cavanaugh, Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by email at Terry.Cavanaugh@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). 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 12-1211, which was mailed to Mr. Lanham and released on July 27, 2012. The complete text of the notice of suspension and initiation of debarment proceedings 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 email <http://www.bcpweb.com>.

Dated: July 27, 2012.

Federal Communications Commission.

Theresa Z. Cavanaugh,

Chief, Investigations and Hearings Division, Enforcement Bureau.

Sent Via Certified Mail, Return Receipt Requested and Email

Mr. Willard Ross Lanham, c/o Stephen N. Preziosi, Law Office of Stephen N. Preziosi P.C., 570 Seventh Avenue, Ninth Floor, New York, NY 10018.

Re: Notice of Suspension and Initiation of Debarment Proceeding File No. EB-12-IH-0847

Dear Mr. Lanham: The Federal Communications Commission (Commission or FCC) has received notice of your conviction for theft of federal education funds in violation of 18 U.S.C. 666(a)(1), and mail fraud in violation of 18 U.S.C. 1341, in connection with the federal schools and libraries universal service support mechanism (E-Rate program).¹ Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from participating in activities associated with the E-Rate program. In addition, the Enforcement Bureau (Bureau) hereby notifies you that

¹ Any further reference in this letter to "your conviction" refers to the jury's verdict finding you guilty on one count of theft of federal funds and three counts of mail fraud. Trial Transcript at 887, *United States v. Willard Lanham*, Jury Trial, No. 11 CR 548 GBD (S.D.N.Y. 2012) (Trial Tr.); *United States v. Willard Lanham*, No. 11 CR 548 GBD, Order (S.D.N.Y. June 13) (order denying motions for judgment of acquittal and for a new trial).

it will commence 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 program]" from receiving the benefits associated with that program.³ The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure that all E-Rate funds are used for their intended purpose.⁴ For example, section 254(h)(1)(B) of the Communications Act of 1934, as amended, requires E-Rate program applicants to make bona fide requests for services intended for educational purposes in order to receive E-Rate discounts.⁵ Further, the Commission has stated that "[a] funding request may not be bona fide where a service provider has charged the beneficiary an inflated price."⁶ The Commission also

² See 47 CFR 0.111 (delegating authority to the Bureau 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 § 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, app. C at 16410-12 (2007) (*Program Management Order*) (renumbering § 54.521 of the universal service debarment rules as § 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

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 CFR 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 47 U.S.C. 245(h)(1)(B); *Request for Review by Ysleta Independent School District of the Decision of the Universal Service Administrator*, CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26409, para. 5 (2003), (citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9076, para. 570 (1997)).

⁶ *Schools and Libraries Universal Service Support Mechanism*, Fifth Report and Order and Order, 19 FCC Rcd 15808, 15818, para. 30 (2004). The Commission has taken enforcement action against service providers who inflated their rates and subsequently requested E-Rate funding for those associated costs. See Letter from William H. Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal

limits E-Rate funding to certain eligible services, which does not include consulting services.⁷

On March 5, 2012, a jury rendered a guilty verdict convicting you on one count of theft of federal funds and three counts of mail fraud in connection with your activities as an E-Rate consultant for the New York City Department of Education (DOE).⁸ Your responsibilities as a DOE consultant included overseeing Project Connect, a project designed to bring Internet connectivity to New York City schools.⁹ On April 28, 2011, the Special Commissioner of Investigation for the New York City School District (SCI) released a report alleging, among other matters, that you had orchestrated a fraudulent invoicing and billing scheme using DOE vendors and subcontractors to overcharge DOE for Project Connect.¹⁰

Testimony and documentary evidence admitted during your trial corroborates SCI's allegations. Specifically, witnesses testified that you: (1) Arranged for employees of your company, Lanham Enterprises, Inc., to work as consultants for DOE,¹¹ (2) inflated their hourly rates far above their salaries,¹² and (3) arranged for Project Connect subcontractors to bill those inflated rates to a Project Connect contractor using invoices that misstated the true

nature of the charges.¹³ Witnesses further testified you directed employees of that contractor to "bundle" the consultant charges with services eligible for E-Rate funding on invoices and billing spreadsheets sent to DOE in order to make it appear that the consultants were doing work associated with wiring the schools for Internet access service.¹⁴ Your scheme resulted in DOE being fraudulently billed more than \$3.6 million for Project Connect between 2002 and 2008, of which you profited approximately \$1.7 million.¹⁵ The DOE included at least a portion of these overcharges in its E-Rate funding requests for Project Connect.¹⁶

Pursuant to § 54.8(b) of the Commission's rules,¹⁷ upon your conviction 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 regarding the E-Rate program.¹⁸ Your suspension becomes effective upon receipt of this letter or its publication in the **Federal Register**, whichever comes first.¹⁹

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 receipt of this letter or its publication in the **Federal Register** whichever comes first.²⁰ Such requests, however, will not ordinarily be

granted.²¹ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.²² The Bureau will decide any request to reverse or modify a suspension within ninety (90) calendar days of its receipt of such request.²³

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 § 54.8(c) of the Commission's rules.²⁴ Therefore, pursuant to § 54.8(b) of the rules, your conviction requires the Bureau to commence debarment proceedings against you.²⁵

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.²⁶ 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.²⁷ 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.²⁸

If and when your debarment becomes effective, you will be prohibited from participating in activities associated

Communications Commission, to Steven G. Mihaylo, Notice of Suspension and of Proposed Debarment, 20 FCC Rcd 1372 (Enf. Bur. 2005); see also Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Richard E. Brown, Notice of Debarment, 22 FCC Rcd 20569 (Enf. Bur. 2007) (debarment of service provider who inflated costs in an attempt to defraud the E-Rate program).

⁷ *Federal-State Joint Board on Universal Service, Total Communications, Inc., Site Link Communications, Inc., Requests for Review of Decisions of the Universal Service Administrator*, Order, 16 FCC Rcd 14020, 14023–24, para. 9 & n.23 (Com. Car. Bur. 2001) (*Site Link Order*).

⁸ Trial Tr. at 887.

⁹ See Trial Testimony of Tom Kambouras; Trial Tr. at 34–36; Testimony of Stephen Vigilante, Trial Tr. at 274–75.

¹⁰ Special Commissioner of Investigation Report to Hon. Dennis M. Walcott, Chancellor New York City Public Schools, Dep't of Education from Richard J. Condon, Special Commissioner of Investigation for the New York City School District, SCI Case No. 2008–4446, at 1 (Apr. 28, 2011), at <http://www.nycsci.org/reports/04-11%20Lanham%20Rpt.pdf> (SCI Report).

¹¹ Testimony of Michael Pizza, Trial Tr. at 162–66; Testimony of Stephen Vigilante, Trial Tr. at 289–96. These consultants also worked on a second project that you managed for DOE that involved reviewing, paying, and centralizing DOE's telephone bills. Testimony of Stephen Vigilante, Trial Tr. at 282, 290.

¹² Testimony of Tamika Stevenson, Trial Tr. at 218; see also SCI Report at 6 & n.18 (stating three of the consultants who were paid \$30 to \$70 per hour had their services billed to DOE at \$290 an hour or more).

¹³ Testimony of Christopher Louridas, Trial Tr. at 124–38; see also SCI Report at 7 & n.20.

¹⁴ Testimony of Christopher Louridas, Trial Tr. at 124–26; Testimony of Joseph Iacoviello, Trial Tr. at 81–82; Testimony of Stephen Vigilante, Trial Tr. at 294–96; Testimony of Willard Lanham, Trial Tr. at 613, 616–18, 636–38, 702–12, 735–38.

¹⁵ See Testimony of Valerie Batista, Trial Tr. at 453–54 (testifying that Verizon billed DOE \$3.9 million for the telecommunications consultants' work); SCI Report at 1 (stating that DOE paid Mr. Lanham approximately \$3.6 million for the consultants' work).

¹⁶ See Testimony of Stephen Vigilante, Trial Tr. at 274–75; see also News Release, Representative Charles B. Rangel, Ranking Democrat, Committee on Ways and Means, Chancellor Harold O. Levy and Congressman Charles Rangel Announce Utilization of Federal Assistance for School Modernization (Jan. 8, 2002), at http://www.house.gov/apps/list/speech/ny15_rangel/pr.wm.schoolsqzab.html (News Release) (stating Project Connect would be "largely financed through the federal E-[R]ate program").

¹⁷ 47 CFR 54.8(b); see *Second Report and Order*, 18 FCC Rcd at 9225–27, paras. 67–74.

¹⁸ 47 CFR 54.8(a)(1), (d).

¹⁹ *Second Report and Order*, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

²⁰ 47 CFR 54.8(e)(4).

²¹ *Id.*

²² *Id.* 54.8(f).

²³ See *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

²⁴ "Causes for suspension and debarment are conviction 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).

²⁵ *Id.* 54.8(b).

²⁶ *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

²⁷ *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

²⁸ 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).

with or related to the E-Rate program for three years from the date of debarment.²⁹ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.³⁰

Please direct any response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street SW., Room TW-A325, Washington, DC 20554, to the attention of Joy M. Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission. All messenger or hand delivery filings must be submitted without envelopes.³¹ 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 SW., Room 4-C330, Washington, DC 20554, with a copy to Theresa Z. Cavanaugh, 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 your response via email 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, email, or by telephone at (202) 418-1697. You may contact me at (202) 418-1553 or at the email address noted above if Ms. Ragsdale is unavailable.

Sincerely yours,

Theresa Z. Cavanaugh,
Chief, Investigations and Hearings Division,
Enforcement Bureau.

[FR Doc. 2012-19813 Filed 8-10-12; 8:45 am]

BILLING CODE 6712-01-P

²⁹ *Second Report and Order*, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), (g).

³⁰ 47 CFR 54.8(g).

³¹ See FCC Announces Change in Filing Location for Paper Documents, Public Notice, 24 FCC Rcd 14312 (2009) for further filing instructions.

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10385, Virginia Business Bank, Richmond, VA

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Virginia Business Bank, ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Virginia Business Bank on July 29, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 8.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: August 8, 2012.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 2012-19799 Filed 8-10-12; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices

also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 28, 2012.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Guice Slawson, Jr., Joe Stinson Slawson, and William Edgar Slawson*, all of Montgomery, Alabama; to collectively acquire voting shares of FEB Bancshares, Inc., and thereby indirectly acquire voting shares of Farmers Exchange Bank, both in Louisville, Alabama.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *MVC Private Equity Fund, LP, Purchase, NY; MVC GP II, LLC; MVC Financial Services, Inc.; MVC Partners LLC; MVC Capital, Inc.; The Tokarz Group Advisors LLC; Michael Tokarz, all of Purchase, New York; and James Pinto, Greenwich, Connecticut* (collectively "MVC"); to acquire voting shares of BNCCORP, Inc., Bismarck, North Dakota, and thereby indirectly acquire voting shares of BNC National Bank, Glendale, Arizona.

2. *MVC; Prairie Petroleum Inc., and William Coleman, both of Denver, Colorado; Eugene Nicholas, Cando, North Dakota; Timothy Dodd and Bradley Fey, both of Bismarck, North Dakota; Jeffrey Topp, Grace City, North Dakota; Janet Topp, Grace City, North Dakota; and Roger Kenner, Leeds, North Dakota*; as a group acting in concert, to collectively acquire voting shares of BNCCORP, Inc., Bismarck, North Dakota, and thereby indirectly acquire voting shares of BNC National Bank, Glendale, Arizona.

Board of Governors of the Federal Reserve System, August 8, 2012.

Robert deV. Frierson,
Secretary of the Board.

[FR Doc. 2012-19772 Filed 8-10-12; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part