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6712-01

FEDERAL COMMUNICATIONS COMMISSION

[DA 11-1733]

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. Jeremy R. Sheets’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. Sheets, 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 mechanism, may respond by filing an opposition, supported by documentation to Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-A236, 445 12th Street, S.W., Washington, DC 20554.

DATE: Oppositions and any relevant documentation must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Any opposition, however, must be received 30 days from the receipt of the suspension letter or November 17, 2011, whichever comes first. The Bureau will decide any opposition for reversal or modification of suspension or debarment within 90 days of its receipt of any information.

ADDRESS: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-A236, 445 12th Street, S.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4- A236, 445 12th Street, SW., Washington, DC 20554. Joy Ragsdale may be contacted by phone at (202) 418-

1697 or e-mail at Joy.Ragsdale@fcc.gov. If Ms. Ragsdale is unavailable, you may contact Ms. Terry Cavanaugh, Acting Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail 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 11-1733, which was mailed to Mr. Sheets and released on October 18, 2011. 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 e-mail <http://www.bcpiweb.com>.

FEDERAL COMMUNICATIONS COMMISSION.

Theresa Z. Cavanaugh,

Acting Chief, Investigations and Hearings Division, Enforcement Bureau

The suspension letter follows:

October 18, 2011

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

Mr. Jeremy R. Sheets
c/o Mr. Martin E. Crandall
Clark Hill PLC
500 Woodward Ave., Suite 3500
Detroit, MI 48226-3435

Re: Notice of Suspension and Initiation of Debarment Proceedings,
File No. EB-11-IH-1122

Dear Mr. Sheets:

The Federal Communications Commission (“Commission”) has received notice of your conviction of wire fraud in violation of 18 U.S.C. 1343 in connection with your participation in 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 the E-Rate program. In addition, the Enforcement Bureau (“Bureau”) hereby notifies you that the Bureau will commence debarment proceedings against you.²

¹ Any further reference in this letter to “your conviction” refers to your conviction in *United States v. Jeremy R. Sheets*, Criminal Docket No. 1:10-cr-380-1, Judgment (W.D. Mi. 2011) (“*Judgment*”).

² 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 § 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*

I. Notice of Suspension

The Commission 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 The E-Rate program rules require school applicants to pay a percentage of the total cost of eligible goods and services requested for funding.⁴ To ensure a fair and competitive bidding process, the E-Rate program rules also prohibit a service provider from soliciting or offering gifts or donations to a school applicant, and likewise prohibit a school applicant from accepting gifts or donations from a service provider participating in the E-Rate program, with the exception of certain *de minimis* gifts or charitable donations unrelated to E-Rate procurement activities.⁵

On January 24, 2011, you pled guilty to wire fraud in connection with a scheme you devised and participated in to defraud the federal E-Rate program.⁶ For a six-year period

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*) (§ 54.521 of the universal service debarment rules was renumbered as § 54.8 and subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g) were amended.)

³ *Second Report and Order*, 18 FCC Rcd at 9225, Paragraph 66; *Program Management Order*, 22 FCC Rcd at 16387, Paragraph 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 47 CFR 54.503 (2010).

⁵ 47 CFR 54.503(d) (2010). *See also*, *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Sixth Report and Order, 25 FCC Rcd 18762 Paragraphs 88-90 (2010), *clarified by*, *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Order, 25 FCC Rcd 17324 (2010).

⁶ *United States v. Jeremy R. Sheets*, Case No. 1:10-cr-380, Criminal Minute Sheet (W.D. Mi. 2011). *See* Justice News, DEP’T OF JUSTICE, Michigan Businessman Sentenced to 15 months in Prison for Defrauding the Federal E-Rate Program, July 18, 2011, at <http://www.justice.gov/opa/pr/2011/July/11-at-935.html> (“Press Release”).

beginning in December 2001, as president and co-owner of CMS Internet LLC (“CMS”)⁷ you induced two prospective school district applicants in Western Michigan to hire CMS as their E-Rate vendor by (1) falsely representing to the applicants that they could participate in the program at no cost to them;⁸ (2) compensating the school districts for their E-Rate expenses with either purported “donations” or “leasing payments” that were calculated to coincide with the amount of each school’s non-discounted share of E-Rate expenses;⁹ and (3) submitting materially false and fraudulent applications to order ineligible and undisclosed goods and services that were paid for out of overcharges to the E-Rate program.¹⁰ In further violation of the E-Rate rules, you gave gifts to a school district employee that included a wide screen television and entertainment system, which you paid for through overcharges to the E-Rate program.¹¹

⁷ CMS Internet, LLC provides internet access and related technology services to various school districts that participate in the federal E-Rate program. *See* U.S. v. Sheets, Case No. 1:10-cr-380, Felony Information at 1 (W.D. Mi. 2010) (“*Felony Information*”).

⁸ *United States v. Jeremy R. Sheets*, Case No. 1:10-cr-380, Plea Agreement at 3 (W.D. Mi. 2010) (“*Plea Agreement*”).

⁹ In July 2004, Mr. Sheets donated \$20,458.25 to one school district, and purported to “lease” the other school district’s radio towers with the intent to repay the school districts for their share of E-Rate expenses. *Id.*; Felony Information at 3.

¹⁰ Plea Agreement at 4.

¹¹ *Id.* at 5.

Furthermore, in responding to an audit conducted in 2006 by the Universal Service Administration Company (“USAC”), you transmitted by electronic mail fraudulent invoices that falsely stated a school district applicant had paid its share of E-Rate program expenses during 2006-2007. In addition, you failed to disclose that E-Rate funding was used to purchase ineligible goods and services.¹² Finally, you obstructed a 2007 federal grand jury investigation by instructing a CMS employee to testify falsely before the grand jury about receiving gifts, and to destroy E-Rate program records and remove the hard drives located on that employee’s work and home computer in exchange for new computer hard drives.¹³ Your scheme caused the E-Rate program to suffer an estimated loss between \$30,000 and \$70,000.¹⁴ These actions constitute the conduct or transactions upon which this suspension notice and debarment proceeding are based.¹⁵

On June 21, 2011, the United States District Court for the Western District of Michigan sentenced you to serve 15 months in prison followed by two years of supervised release for defrauding the federal E-Rate program.¹⁶ The court also prohibited you from “having any involvement with any government-backed or federally-regulated programs during the course of supervision.”¹⁷ Finally, the court ordered you to pay a \$12,000 fine, in addition to compensating USAC by paying \$115,534 in restitution.¹⁸

¹² *Id.*

¹³ *Id.* at 5-7.

¹⁴ *Id.* at 4.

¹⁵ *Second Report and Order*, 18 FCC Rcd at 9226, Paragraph 70; 47 CFR 54.8(e)(2)(i).

¹⁶ *Judgment* at 3.

¹⁷ *Id.* A condition of your supervised release includes forfeiting all monetary claims pending under contract with other E-Rate school applicants. Telephone Conversation with Jason Turner, Lead Counsel, Dep’t of Justice, Antitrust Division (Aug. 10, 2011).

¹⁸ *Judgment* at 5. You were also ordered to immediately pay a \$100 Special Assessment. *Id.*

Pursuant to § 54.8(b) of the Commission's rules,¹⁹ upon your conviction, the Bureau is required to suspend you from participating in any activities associated with or related to the schools and libraries support mechanism, including 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.²⁰ Your suspension becomes effective upon receipt of this letter or publication of the notice in the Federal Register, whichever comes first.²¹

In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within 30 calendar days after receipt of this letter or after a notice is published in the Federal Register, whichever comes first.²² Such requests, however, will not ordinarily be granted.²³ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.²⁴ Absent extraordinary circumstances, the Bureau will decide any request to reverse or modify a suspension within 90 calendar days of its receipt of such request.²⁵

II. Initiation of Debarment Proceedings

As discussed above, your guilty plea and conviction of criminal conduct in connection with the E-Rate program serves as a basis for immediate suspension from the program, as well as

¹⁹ 47 CFR 54.8(a)(4). See *Second Report and Order*, 18 FCC Rcd at 9225-9227, Paragraphs 67-74.

²⁰ 47 CFR 54.8(a)(1), (d).

²¹ *Second Report and Order*, 18 FCC Rcd at 9226, Paragraph 69; 47 CFR 54.8(e)(1).

²² 47 CFR 54.8(e)(4).

²³ *Id.*

²⁴ 47 CFR 54.8(f).

²⁵ *Second Report and Order*, 18 FCC Rcd at 9226, Paragraph 70; 47 CFR 54.8(e)(5), (f).

a basis to commence debarment proceedings against you. Conviction of criminal fraud is cause for debarment.²⁶ Therefore, pursuant to § 54.8(b) of the rules, your conviction requires the Bureau to commence debarment proceedings against you.²⁷

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 30 calendar days of receipt of this letter or publication in the Federal Register, whichever comes first.²⁸ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within 90 calendar days of receiving any information you may have filed.²⁹ 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.³⁰

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

²⁶ “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.” 47 CFR 54.8(a)(1).

²⁷ 47 CFR 54.8(b).

²⁸ *Second Report and Order*, 18 FCC Rcd at 9226, Paragraph 70; 47 CFR 54.8(e)(3).

²⁹ *Id.*, 18 FCC Rcd at 9226, Paragraph 70; 47 CFR 54.8(e)(5).

³⁰ *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).

years from the date of debarment.³¹ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.³²

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, to the attention of Joy M. Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-A236, with a copy to Theresa Z. Cavanaugh, Acting Division Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C322, Federal Communications Commission. All messenger or hand delivery filings must be submitted without envelopes.³³ 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-A236, Washington, D.C. 20554, with a copy to Theresa Z. Cavanaugh, Acting Division Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C322, 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.

³¹ *Second Report and Order*, 18 FCC Rcd at 9225, Paragraph 67; 47 CFR 54.8(d), (g).

³² *Id.*

³³ *See FCC Public Notice*, DA 09-2529 for further filing instructions (rel. Dec. 3, 2009).

If you have any questions, please contact Ms. Ragsdale via U.S. postal mail, e-mail, or by telephone at (202) 418-7931. You may contact me at (202) 418-1420 or at the email addressed noted above if Ms. Ragsdale is unavailable.

Sincerely yours,

Theresa Z. Cavanaugh

Acting Chief

Investigations and Hearings Division

Enforcement Bureau

cc: Johnnay Schrieber, Universal Service Administrative Company (via e-mail)
Rashann Duvall, Universal Service Administrative Company (via email)
Jason C. Turner, Antitrust Division, United States Department of Justice (via email)
Jennifer M. Dixton, Antitrust Division, United States Department of Justice (via email)
Meagan D. Johnson, Antitrust Division, United States Department of Justice (via email)

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