



**Federal Communications Commission  
Enforcement Bureau  
Investigations and Hearings Division  
445 12<sup>th</sup> Street, SW, Suite 4-C330  
Washington, D.C. 20554**

May 19, 2008

**DA 08-1182**

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED AND FACSIMILE (510-452-8405)**

Ms. Judy Green  
c/o Erik G. Babcock  
Law Offices of Erik Babcock  
1212 Broadway, Suite 726  
Oakland, CA 94612

**Re: Notice of Suspension and Initiation of Debarment Proceedings,  
File No. EB-08-IH-1139**

Dear Ms. Green:

The Federal Communications Commission (“FCC” or “Commission”) has received notice of your conviction on multiple counts of fraud, collusion, aiding and abetting, and conspiracy to commit wire and mail fraud, in violation of 15 U.S.C § 1 and 18 U.S.C. §§ 2, 371, and 1343, in connection with your participation in the schools and libraries universal service support mechanism (“E-Rate program”).<sup>1</sup> 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 we are commencing debarment proceedings against you.<sup>2</sup>

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<sup>1</sup> Any further reference in this letter to “your conviction” refers to your twenty-two count conviction. *United States v. Judy Green*, Criminal Docket No. 3:05-CR-00208-WHA-007, Judgment (N.D.Cal. filed and entered March 19, 2008) (“*Judy Green Judgment*”).

<sup>2</sup> 47 C.F.R. § 54.8; 47 C.F.R. § 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)).

## 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> On March 19, 2008, the United States District Court in San Francisco sentenced you to serve seven and a half years in prison following your conviction of twenty-two counts of fraud, collusion, aiding and abetting, and conspiracy in connection with your leadership of multiple schemes to defraud the E-Rate program.<sup>4</sup> As a former education consultant and sales representative for the companies Video Network Communications, Inc. (“VNCI”) and ADJ Consultants, Inc. (“ADJ”), you orchestrated multiple fraudulent schemes and conspiracies involving more than twenty-five separate E-Rate projects in school districts throughout seven states from 1998 to 2003.<sup>5</sup> The fraudulent schemes involved conspiring with various individuals and businesses for the purpose of engaging in conduct in restraint of competition by submitting collusive, noncompetitive, or rigged bids for telecommunications services eligible for E-Rate subsidies and ensuring telecommunications services contracts were awarded to conspirators and bids from non-conspirators were disqualified.<sup>6</sup> The schemes also involved inflating the costs of eligible equipment and services in applications for funding submitted to Universal Service Administrative Company (“USAC”) in order to pay for ineligible equipment and services and by misrepresenting schools’ ability and willingness to pay for their portion of the school projects.<sup>7</sup>

Pursuant to section 54.8(a)(4) of the Commission’s rules,<sup>8</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

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<sup>3</sup> See *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66; *Program Management Order*, 22 FCC Rcd at 16387, ¶ 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).

<sup>4</sup> See [http://www.usdoj.gov/opa/pr/2008/March/08\\_at\\_219.html](http://www.usdoj.gov/opa/pr/2008/March/08_at_219.html) (accessed Apr. 22, 2008) (“*DOJ March 19, 2008 Judy Green Press Release*”); *Judy Green Judgment* at 1.

<sup>5</sup> See *United States v. Video Network Communications, Inc. et al.*, Criminal Docket No. 3:05-CR-00208-CRB, Superseding Indictment at ¶¶ 5, 15 (N.D.Cal. filed Dec. 8, 2005 and entered Dec. 12, 2005) also available at <http://www.usdoj.gov/atr/cases/f213600/213626.htm> (accessed May 1, 2008) (“*VNCI Superseding Indictment*”); see also *DOJ March 19, 2008 Judy Green Press Release*. The following four individuals, who were also charged in the *VNCI Superseding Indictment*, have pled guilty and subsequently have been sentenced: Earl Nelson, George Marchelos, William Holman and Allan Green. We are sending separate notices of suspension and initiation of debarment proceedings to these individuals. VNCI and ADJ are now defunct; charges against these companies have been dropped.

<sup>6</sup> See *VNCI Superseding Indictment* at ¶¶ 79-151; *DOJ March 19, 2008 Judy Green Press Release* at 1.

<sup>7</sup> See *VNCI Superseding Indictment* at ¶¶ 12-78; *DOJ March 19, 2008 Judy Green Press Release* at 1.

<sup>8</sup> 47 C.F.R. § 54.8(a)(4). See *Second Report and Order*, 18 FCC Rcd at 9225-9227, ¶¶ 67-74.

advising applicants or service providers regarding the schools and libraries support mechanism.<sup>9</sup> Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the Federal Register.<sup>10</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>11</sup> Such requests, however, will not ordinarily be granted.<sup>12</sup> The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.<sup>13</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>14</sup>

## II. Initiation of Debarment Proceedings

Your 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>15</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>16</sup> Absent extraordinary circumstances, the Bureau will debar you.<sup>17</sup> Within 90 days of receipt of any

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<sup>9</sup> 47 C.F.R. §§ 54.8(a)(1), (d).

<sup>10</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.8(e)(1).

<sup>11</sup> 47 C.F.R. § 54.8(e)(4).

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

<sup>13</sup> 47 C.F.R. § 54.8(e)(5).

<sup>14</sup> *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.8(e)(5), 54.8(f).

<sup>15</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 C.F.R. § 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 C.F.R. § 54.8(a)(1).

<sup>16</sup> *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.8(e)(3).

<sup>17</sup> *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

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>18</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>19</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 at least three years from the date of debarment.<sup>20</sup> The Bureau may, if necessary to protect the public interest, extend the debarment period.<sup>21</sup>

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, N.E., 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 12<sup>th</sup> Street, S.W., Room 4-C330, Washington, DC, 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 4-C330, Washington, DC, 20554. You shall also transmit a copy of the response via email to [diana.lee@fcc.gov](mailto:diana.lee@fcc.gov) and to [vickie.robinson@fcc.gov](mailto:vickie.robinson@fcc.gov).

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<sup>18</sup> See *id.*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.8(e)(5).

<sup>19</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 C.F.R. § 54.8(f).

<sup>20</sup> *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. §§ 54.8(d), 54.8(g).

<sup>21</sup> *Id.*

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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)