

of a debarment notice or publication of the decision in the **Federal Register**.²²

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.²³ The Bureau may, if necessary to protect the public interest, extend the debarment period.²⁴

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, DC 20002, to the attention of Rebekah Bina, 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 Rebekah Bina, 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 Rebekah.Bina@fcc.gov and to Vickie.Robinson@fcc.gov.

If you have any questions, please contact Ms. Bina via mail, by telephone at (202) 418-7931 or by e-mail at Rebekah.Bina@fcc.gov. If Ms. Bina 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. Sincerely yours,
Hillary S. DeNigro,
Chief, Investigations and Hearings Division, Enforcement Bureau.

²² 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. 47 CFR 54.8(f).

²³ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 CFR 54.8(d), 54.8(g).

²⁴ 47 CFR 54.8(g).

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail),
Dayle A. Elieson, U.S. Attorney's Office, United States Department of Justice (via mail).

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BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[DA 09-477]

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 (the "Bureau") gives notice of Mr. R. Clay Harris'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. Harris, 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 Rebekah Bina, 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 April 20, 2009. However, an opposition request by the party to be suspended must be received 30 days from the receipt of the suspension letter or April 20, 2009, 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.

FOR FURTHER INFORMATION CONTACT: Rebekah Bina, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554. Rebekah Bina may be contacted by phone at (202) 418-7931 or e-mail at Rebekah.Bina@fcc.gov. If Ms. Bina 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.

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 09-477, which was mailed to Mr. Harris and released on February 26, 2009. The complete text of the notice of suspension and 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.bcpweb.com>.

Hillary S. DeNigro,
Chief, Investigations and Hearings Division,
Enforcement Bureau, Federal
Communications Commission.

The suspension letter follows:
February 26, 2009.

DA 09-477

VIA CERTIFIED MAIL

**RETURN RECEIPT REQUESTED AND
FACSIMILE (404-872-1622)**

Mr. R. Clay Harris
c/o Allison Cobham Dawson
Federal Defender Program, Inc.
Suite 1700, The Equitable Building
100 Peachtree Street, NW
Atlanta, GA 30303.
E-Mail: allison_dawson@fd.org

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB-09-IH-0003

Dear Mr. Harris:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction of conspiracy to defraud the United States and bribery, in violation of 18 U.S.C. 371 and 666(a)(2), in connection with your participation in the schools and libraries universal service support mechanism ("E-Rate program").¹

¹ Any further reference in this letter to "your conviction" refers to your conviction by a federal

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 we are commencing 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 schools and libraries support mechanism" from receiving the benefits associated with that program.³ On July 31, 2008, a federal jury found you guilty of bribery and conspiracy to defraud the United States in connection with your participation in the E-Rate program.⁴ Evidence provided at trial demonstrated that, as President and majority owner of Multimedia Communications Services Corporation ("MCSC"), you provided bribes to co-conspirators Arthur Scott and Evelyn Myers Scott ("co-conspirators"), former employees of Atlanta Public Schools ("APS") and co-

owners of M&S Consulting,⁵ in order for the co-conspirators to support your efforts in securing MCSC's performance of E-Rate and other technology-related work for APS.⁶ As part of this conspiracy, you provided the co-conspirators and M&S Consulting over \$230,000 between November 2000 and November 2002.⁷ During the same period of time, Arthur Scott and other APS employees allocated E-Rate work to MCSC without requiring MCSC to submit competitive bids. Arthur Scott and MCSC also submitted defective applications and bills to USAC resulting in overpayments from the E-Rate program to MCSC.⁸ As a result of your conviction, you were sentenced to five years in federal prison to be followed by three years of supervised release. You were also ordered to pay, along with the co-conspirators, restitution totaling over \$234,000.⁹

Pursuant to section 54.8(a)(4) of the Commission's rules,¹⁰ 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.¹¹ Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.¹²

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.¹³ Such requests, however, will not ordinarily be granted.¹⁴ The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.¹⁵ Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.¹⁶

II. Initiation of Debarment Proceedings

Your conviction of bribery and conspiracy to defraud the United States 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.¹⁷ 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**.¹⁸ Absent extraordinary circumstances, the Bureau will debar you.¹⁹ Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of

jury of conspiracy to defraud the United States and bribery. *United States v. R. Clay Harris*, Criminal Docket No. 1:07-CR-00287-CC, Verdict (N.D.Ga. filed July 31, 2008 and entered Aug. 1, 2008) ("Harris Jury Verdict"); Department of Justice Press Release (July 31, 2008), available at <http://atlanta.fbi.gov/dojpressrel/pressrel08/bribery073108.htm> (DOJ July 31, 2008 Press Release). See also *United States v. R. Clay Harris*, 1:07-CR-00287-CC, Judgment (N.D.Ga. filed and entered Dec. 24, 2008) (finalizing conviction and imposing sentence) ("Harris Judgment"); *United States v. R. Clay Harris*, 1:07-CR-00287-CC, Criminal Indictment (N.D.Ga. filed on Aug. 28, 2007 and entered Aug. 30, 2007) ("Harris Indictment").

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 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)).

³ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 66. 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 See Harris Jury Verdict; DOJ July 31, 2008 Press Release.

⁵ Arthur Scott and Evelyn Myers Scott were convicted in connection with their roles in this scheme, and each was subsequently debarred from the E-Rate program. See Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mrs. Evelyn Myers Scott, Notice of Debarment, 23 FCC Rcd 137 (Inv. & Hearings Div., Enf. Bur. 2008); Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Arthur Scott, Notice of Debarment, 23 FCC Rcd 143 (Inv. & Hearings Div., Enf. Bur. 2008). Evelyn Myers Scott and Arthur Scott both testified at trial against Mr. Harris. See Department of Justice Press Release (Dec. 22, 2008) available at <http://www.usdoj.gov/usao/gan/press/2008/12-22-08b.pdf> (DOJ Dec. 22, 2008 Press Release).

⁶ DOJ Dec. 22, 2008 Press Release; *Harris Indictment* at 8-18.

⁷ DOJ Dec. 22, 2008 Press Release; *Harris Indictment* at 8-10.

⁸ DOJ Dec. 22, 2008 Press Release; *Harris Indictment* at 5-8.

⁹ DOJ Dec. 22, 2008 Press Release; *Harris Judgment* at 2-5.

¹⁰ 47 CFR 54.8(a)(4). See *Second Report and Order*, 18 FCC Rcd at 9225-27, ¶¶ 67-74.

¹¹ 47 CFR 54.8(a)(1)(d).

¹² *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 CFR 54.8(e)(1).

¹³ 47 CFR 54.8(e)(4).

¹⁴ *Id.*

¹⁵ 47 CFR 54.8(e)(5).

¹⁶ See *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 CFR 54.8(e)(5), 54.8(f).

¹⁷ "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." 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 mechanism." 47 CFR 54.8(a)(1).

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

¹⁹ *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

extraordinary circumstances, will provide you with notice of its decision to debar.²⁰ 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**.²¹

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.²² The Bureau may, if necessary to protect the public interest, extend the debarment period.²³

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, DC 20002, to the attention of Rebekah Bina, 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 Rebekah Bina, 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 email to Rebekah.Bina@fcc.gov and to Vickie.Robinson@fcc.gov.

If you have any questions, please contact Ms. Bina via mail, by telephone at (202) 418-7931 or by e-mail at Rebekah.Bina@fcc.gov. If Ms. Bina 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.

Sincerely yours,
Hillary S. DeNigro,
Chief, Investigations and Hearings
Division Enforcement Bureau.
cc: Glenn D. Baker, Assistant United
States Attorney, Department of
Justice (via e-mail)
Kristy Carroll, Esq., Universal Service
Administrative Company (via e-mail)

[FR Doc. E9-6017 Filed 3-18-09; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[DA 09-476]

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 (the "Bureau") gives notice of Ms. Cynthia K. Ayer'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 her. Ms. Ayer, or any person who has an existing contract with or intends to contract with her 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 Rebekah Bina, 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 April 20, 2009. However, an opposition request by the party to be suspended must be received 30 days from the receipt of the suspension letter or April 20, 2009, 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.

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

may be contacted by phone at (202) 418-7931 or e-mail at Rebekah.Bina@fcc.gov. If Ms. Bina 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.

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 09-476, which was mailed to Ms. Ayer and released on February 26, 2009. 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.bcpweb.com>.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division,
Enforcement Bureau, Federal
Communications Commission.

The suspension letter follows:

February 26, 2009.

[DA 09-476]

Via Certified Mail, Return Receipt Requested and E-Mail

Ms. Cynthia K. Ayer, c/o James Edward Holler, Holler Dennis Corbett Ormond Plante and Garner, P.O. Box 11006, Columbia, SC 29211.

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB- 09-IH-0002

Dear Ms. Ayer:

The Federal Communications Commission ("FCC" or "Commission") has received notice of your conviction of mail fraud, in violation of 18 U.S.C. 2 and 1341, in connection with your participation in the schools and libraries universal service support mechanism ("E-Rate program").¹ Consequently,

¹ Any further reference in this letter to "your conviction" refers to your guilty plea and

²⁰ See *id.*, 18 FCC Rcd at 9226, ¶ 70; 47 CFR 54.8(e)(5).

²¹ 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. 47 CFR 54.8(f).

²² *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 CFR 54.8(d)(g).

²³ 47 CFR 54.8(g).