

the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.¹⁶ If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or the publication of its decision in the **Federal Register**.¹⁷

C. Effect of Debarment

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

Please direct any responses to the following address: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 6-C326, 445 12th Street, SW., Washington, DC 20554.

If you submit your response via hand-delivery or non-United States Postal Service delivery (e.g., Federal Express, DHL, etc.), please send your response to Ms. Lee at the following address: Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, MD 20743.

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. If Ms. Lee is unavailable, you may contact William Davenport by telephone at (202) 418-1420 and by e-mail at william.davenport@fcc.gov.

Sincerely yours,

Maureen F. Del Duca,
Chief, Investigations and Hearings Division,
Enforcement Bureau.

cc: Mark S. Cohen, Cohen & Gressler, LLP
Kristy Carroll, USAC

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FEDERAL COMMUNICATIONS COMMISSION

[DA 03-2882]

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

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau ("Bureau") gives notice of Mr. Duane

Maynard's suspension from the schools and libraries universal service support mechanism. In addition, the Bureau gives notice that debarment proceedings are commencing against him. Mr. Maynard, 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.

DATES: Opposition requests must be received by November 3, 2003. However, an opposition request by the party to be suspended must be received 30 days from the receipt of the suspension letter or November 3, 2003, 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: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 6-C326, 445 12th Street, SW., Washington, DC 20554. Diana Lee may be contacted by phone at (202) 418-1420 or e-mail at diana.lee@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority under 47 CFR 54.521 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, *Notice of Suspension and of Proposed Debarment Proceedings*, DA 03-2882, which was mailed to Mr. Maynard and released on August 21, 2003. The letter (1) gives notice of the suspension and proposed debarment; (2) gives the reasons for the proposed debarment; (3) explains the debarment procedures, and (4) describes the potential effect of debarment. The complete text of the suspension letter is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. In addition, the complete text of this letter may be retrieved from the FCC's Web site at <http://www.fcc.gov>. The text may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com.

Federal Communications Commission.

Maureen F. Del Duca,
Chief, Investigations and Hearings Division,
Enforcement Bureau.

The suspension letter follows:

**Federal Communications Commission,
Washington, DC 20554**

[DA 03-2882]

September 11, 2003.

Via Certified Mail Return Receipt Requested

Mr. Duane Maynard
Howe Electric, Inc., 4682 E. Olive Ave.,
Fresno, CA 93702

Re: Notice of Suspension and of Proposed
Debarment, File No. EB-03-IHD-0387.

Dear Mr. Maynard: The Federal Communications Commission ("FCC" or "Commission") has received notice of your August 26, 2003 conviction pursuant to 15 U.S.C. 1 for bid rigging.¹ Consequently, pursuant to 47 CFR 54.521, this letter constitutes official notice of your suspension from the schools and libraries universal service support mechanism. In addition, the Enforcement Bureau ("Bureau") hereby notifies you that we are commencing debarment proceedings against you.²

I. Notice of Suspension

Pursuant to section 54.521(a)(4) of the Commission's rules,³ 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.⁴ Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.⁵

Suspension is immediate pending the Bureau's final debarment determination. You

¹ Any further reference in this letter to "your conviction" refers to your August 26, 2003 guilty plea and conviction of this count based on your participation, on behalf of your employer, Howe Electric, Inc., in a "combination and conspiracy to suppress bidding for the West Fresno Elementary School District E-Rate project and to allocate among conspirators the responsibility for supplying goods and services for that project." See *United States v. Maynard*, Criminal Docket No. 1:03cr5325, Information at 2-3 (E.D.Cal. filed August 19, 2003) ("Maynard Felony Information"); *United States v. Maynard*, Criminal Docket No. 1:03cr5325, Plea Agreement at 6-7 (E.D.Cal. filed August 26, 2003) ("Maynard Plea Agreement").

² 47 CFR 54.521; 47 CFR 0.111(a)(14) (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings pursuant to 47 CFR 54.521).

³ 47 CFR 54.521(a)(4); *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225-27, ¶¶ 67-74 (2003) ("Second Report and Order"); id. at Appendix B, 18 FCC Rcd at 9263-65.

⁴ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 U.S.C. 254; 47 CFR 54.502-54.503; 47 CFR 54.521(a)(4).

⁵ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 CFR 54.521(e)(1).

¹⁶ *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 CFR 54.521(e)(5).

¹⁷ *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 54.521(f).

¹⁸ *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67, 47 CFR 54.521(d), 47 CFR 54.521(g).

¹⁹ *Id.*