



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

February 28, 2006

**DA 06-489**

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Tom Tsao, Vice President  
Premio, Inc.  
918 Radecki Court  
City of Industry, CA 91748

**Re: Notice of Suspension and of Proposed Debarment,  
File No. EB-06-IH-0853**

Dear Mr. Tsao:

The Federal Communications Commission ("FCC" or "Commission") has received notice of the conviction of Premio, Inc., f/k/a Premio Computers, Inc. ("Premio") for conspiracy to suppress and eliminate competition in violation of the Sherman Antitrust Act, 15 U.S.C. § 1, and for mail fraud and aiding and abetting in violation of 18 U.S.C. §§ 1341 and 2.<sup>1</sup> Consequently, pursuant to 47 C.F.R. § 54.521, this letter constitutes official notice of Premio's suspension from the schools and libraries universal service support mechanism ("E-rate program"). In addition, the Enforcement Bureau ("Bureau") hereby notifies Premio that we are commencing debarment proceedings against it.<sup>2</sup>

**I. Notice of Suspension**

Pursuant to section 54.521(a)(4) of the Commission's rules,<sup>3</sup> Premio's conviction requires the Bureau to suspend it from participating in any activities associated with or

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<sup>1</sup> Any further reference in this letter to "your conviction" refers to Premio's February 22, 2006 guilty plea and conviction of these counts. *United States v. Premio, Inc.*, Criminal Docket No. 3:06-CR-06-0086 MMC, Plea Agreement (N.D.Cal. filed Feb. 22, 2006) ("*Premio Plea Agreement*"). The Order accepting this plea agreement was signed by the Court on February 22, 2006 and entered on February 23, 2006, and the Plea Agreement was entered on February 24, 2006.

<sup>2</sup> 47 C.F.R. § 54.521; 47 C.F.R. § 0.111(a)(14) (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings pursuant to 47 C.F.R. § 54.521).

<sup>3</sup> 47 C.F.R. § 54.521(a)(4). See *Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9225-9227, ¶¶ 67-74 (2003) ("*Second Report and Order*").

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.<sup>4</sup> Premio's suspension becomes effective upon the earlier of its receipt of this letter or publication of notice in the Federal Register.<sup>5</sup>

Suspension is immediate pending the Bureau's final debarment determination. Premio may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Premio's request must be received within 30 days after it receives this letter or after notice is published in the Federal Register, whichever comes first.<sup>6</sup> Such requests, however, will not ordinarily be granted.<sup>7</sup> The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.<sup>8</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>9</sup>

## **II. Notice of Proposed Debarment**

### **A. Reasons for and Cause of Debarment**

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>10</sup> Premio pled guilty to antitrust, mail fraud and aiding and abetting charges for activities in connection with its participation in the E-rate program with two school districts in California.

In connection with the antitrust crime charged against Premio, the company admitted that it conspired with one or more vendors of equipment and services related to telecommunications, Internet access and/or internal connections to suppress and eliminate competition for E-rate projects in the West Fresno Elementary School District by allocating contracts and submitting fraudulent and non-competitive bids. More specifically, the company discussed prospective bids for the E-rate project with its co-

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<sup>4</sup> *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 U.S.C. § 254; 47 C.F.R §§ 54.502-54.503; 47 C.F.R. § 54.521(a)(4).

<sup>5</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 69; 47 C.F.R. § 54.521(e)(1).

<sup>6</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(4).

<sup>7</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70.

<sup>8</sup> 47 C.F.R. § 54.521(e)(5).

<sup>9</sup> *See Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(5), 54.521(f).

<sup>10</sup> *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 C.F.R. § 54.521(a)(6).

conspirators, agreed with them who would serve as lead contractor and subcontractor on the project, and worked with consultants who awarded, or influenced the award of, contracts to the conspirators, and disqualified bids from non-conspirators.<sup>11</sup> In connection with the mail fraud charged against Premio, the company admitted that it sought payment of more than \$1 million in E-rate funding for telecommunications servers and related installation and maintenance it was purportedly going to provide to the Highland Park School District in California, when in fact it actually delivered ineligible video conferencing equipment.<sup>12</sup>

These actions constitute the conduct or transactions upon which this debarment proceeding is based.<sup>13</sup> Moreover, Premio's conviction on the basis of these acts falls within the categories of causes for debarment defined in section 54.521(c) of the Commission's rules.<sup>14</sup> Therefore, pursuant to section 54.521(a)(4) of the Commission's rules, Premio's conviction requires the Bureau to commence debarment proceedings against it.

## **B. Debarment Procedures**

Premio 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>15</sup> Absent extraordinary circumstances, the Bureau will debar Premio.<sup>16</sup> Within 90 days of receipt of any opposition to Premio's suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide Premio with notice of its decision to debar.<sup>17</sup> If the Bureau decides to debar Premio, its decision will become effective upon the earlier of Premio's receipt of a debarment notice or publication of the decision in the Federal Register.<sup>18</sup>

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<sup>11</sup> See *Premio Plea Agreement* at 5.

<sup>12</sup> See *Premio Plea Agreement* at 5-7.

<sup>13</sup> *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(2)(i).

<sup>14</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." 47 C.F.R. § 54.521(c). Such activities "include 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 schools and libraries support mechanism described in this section ([47 C.F. R.] § 54.500 *et seq.*)." 47 C.F.R. § 54.521(a)(1).

<sup>15</sup> See *Second Report and Order*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. §§ 54.521(e)(2)(i), 54.521(e)(3).

<sup>16</sup> *Second Report and Order*, 18 FCC Rcd at 9227, ¶ 74.

<sup>17</sup> See *id.*, 18 FCC Rcd at 9226, ¶ 70; 47 C.F.R. § 54.521(e)(5).

<sup>18</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. § 54.521(f).

**C. Effect of Debarment**

If and when Premio's debarment becomes effective, it will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for some period of time.<sup>19</sup>

Please direct any responses to the following address:

Diana Lee  
Federal Communications Commission  
Enforcement Bureau  
Investigations and Hearings Division  
Room 4-C443  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

If Premio submits its response via hand-delivery or non-United States Postal Service delivery (e.g., Federal Express, DHL, etc.), please send the response to Ms. Lee at the following address:

Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743

If Premio has 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 Eric Bash by telephone at (202) 418-1188 and by e-mail at [eric.bash@fcc.gov](mailto:eric.bash@fcc.gov).

Sincerely yours,

William H. Davenport  
Chief  
Investigations and Hearings Division  
Enforcement Bureau

cc: Paul J. Loh, Esq., Willenken Wilson Loh & Lieb, LLP  
Michael F. Wood, Esq., United States Department of Justice, Antitrust Division  
Sara Winslow, Esq., Assistant United States Attorney  
Alicia Bentley, Esq., United States Department of Justice, Civil Division  
Kristy Carroll, Esq., USAC

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<sup>19</sup> *Second Report and Order*, 18 FCC Rcd at 9225, ¶ 67; 47 C.F.R. §§ 54.521(d), 54.521(g).