

# ATTACHMENT A



Universal Service Administrative Company  
Schools & Libraries Division

## Administrator's Decision on Appeal – Funding Year 2004-2005

July 26, 2017

Greg Weisiger  
E-Rate Central  
14504 Bent Creek Court  
Midlothian, VA 23112

Re: Applicant Name: ASHLEY COMMUNITY SCHOOL DIST  
Billed Entity Number: 131177  
Form 471 Application Number: 396010  
Funding Request Number(s): 1082434  
Your Correspondence Received: July 06, 2017

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2004 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1082434  
Decision on Appeal: **Denied**  
Explanation:

- After a thorough investigation, USAC determined to rescind the funds committed under the above listed Funding Request Number (FRN) in full. USAC has evidence of a stock purchase agreement between Steven R Meinhardt of Casair, Inc., and Roger Hoezee, which was effective July 1, 2006. In this agreement, Meinhardt sold Elite Fund to Hoezee. This purchase demonstrates that the two companies, Casair and Elite Fund, were a single entity prior to July 1, 2006. During the time when Elite Fund, Inc. was a part of Casair, Inc., Elite is considered a service provider and therefore cannot act as an independent consultant on behalf of applicant or assist them with those tasks that service providers are prohibited from undertaking. The FCC Form 470 must be completed by the entity that will negotiate for eligible products and services with potential service providers and cannot be a service provider. Furthermore, service providers that participate in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. Because Elite Fund executed

these tasks while it was part of Casair, the applicant was not in compliance with FCC rules which require applicants to conduct a fair and open competitive bidding process free from conflicts of interest. Accordingly, the applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with inside information or allow it to unfairly compete in any way. By having the service provider engaged in the preparation and submission of its Form 470, the applicant surrendered control of the competitive bidding process to the service provider who participated in the competitive bidding process as a bidder. Accordingly, the commitment was rescinded in full and USAC will seek recovery of any funds disbursed in violation of the programs competitive bidding rules from the applicant and service provider. In your appeal, you did not demonstrate that USAC's decision was incorrect. Consequently, your appeal is denied.

In your appeal, you also argue that USAC violated the five year administrative limitations period set forth by the Federal Communications Commission (FCC or Commission) in its Fifth Report and Order because the decision comes over a decade after the fund years in question were concluded and over seven years after the last date to retain documents related to these FRN. USAC does not agree with this argument. First, the FCC recently has reiterated that the five year time frame is a policy preference and does not serve as a bar to recovery for improperly disbursed funding (See Application for Review of A Decision of the Wireline Competition Bureau by Net56, Inc. Palatine, Illinois, CC Docket No. 02-6, Memorandum Opinion and Order, 2017 WL 211539 at \*2, para. 9 (2017) ("...even assuming arguendo that the recovery action fell outside the five year period within which the Commission recommended that investigations be completed, that time frame constitutes merely a policy preference and not an absolute bar to recovery.")). Second, the Commission has consistently clarified that the five year administrative limitations period is a policy preference, not a requirement. Finally, the Commission has also explained that "USAC's recovery of government funds paid to an applicant or service provider who has no just right to keep the funds is not barred by the passage of time." As a result, USAC denies your appeal with respect to the five year administrative limitations period argument and will seek recovery of any funds disbursed in violation of the programs competitive bidding rules as explained above.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Jeff Rohrer