

**ROVILLARD & BLEE, L.L.C.**  
ATTORNEYS AT LAW

8025 BLACK HORSE PIKE  
BAYPORT ONE, SUITE 455  
WEST ATLANTIC CITY, NEW JERSEY 08232

DOCKET FILE COPY ORIGINAL

(609) 347-7301  
FACSIMILE (609) 344-5044

Email [mjblee@rbnlaw.com](mailto:mjblee@rbnlaw.com)

HANK N. ROVILLARD  
MICHAEL J. BLEE (NJ & PA BAR)  
EDWARD O. LIND, III (NJ & PA BAR)

Of Counsel  
LEONARD E. SCHWARTZ  
(NJ & NY BAR)

November 11, 2005

Federal Communications Commission  
OFFICE OF THE SECRETARY  
9300 East Hampton Drive  
Capital Heights, Maryland 20743

**Re: In the matter of Request for Review by RelComm, Inc. of Decision of  
Universal Service Administrator  
CC Docket No. 02-6, SLD Decision 1022916 and 1023492  
Year Six E-Rate decisions  
Billed Entity #123420: Atlantic City Board of Education**

**In the matter of Request for Review by RelComm, Inc. of Decision of  
Universal Service Administrator  
CC Docket No. 02-6  
SLD Decisions 1185824, 1185996, 1185946, 1185717, 1185789 and 1185745  
Year Seven E-Rate Decisions dated January 11, 2005  
Billed Entity #123420: Atlantic City Board of Education  
Our file 13,586-1**

To Whom It May Concern:

Please be advised that this firm represents the interests of the Atlantic City Board of Education [ACBOE] with regard to the above referenced matters. I am in receipt of correspondence of October 3, 2005 from counsel for Jonathan Jones, John M. Donnelly, Esquire, which seeks to have Mr. Jones "subrogate to the rights of RelComm in the above captioned litigation". (See correspondence attached hereto as Exhibit "A") As you are aware, RelComm has voluntarily withdrawn its appeals of Year Six and Year Seven. The withdrawal of these appeals was forwarded to your office on or about October 20, 2005. (See correspondence attached hereto as Exhibit "B") To date we have not received any indication from the Federal Communications Commission that funds will be disbursed. We would appreciate that you take immediate action concerning this request as the school district has been crippled for a long period of time as a result of the filing of these appeals.

With respect to Mr. Donnelly's correspondence of October 3, 2005, it is important to mention that Mr. Jones is no longer employed by the Atlantic City School District. He is a

No. of Copies rec'd 0  
List ABOVE

disgruntled former employee who has filed a lawsuit, which does not involve the Federal E-Rate process and is being litigated in the civil courts of the State of New Jersey. This correspondence is a blatant attempt to use the Federal Communications Commission's disbursement of funds to the Atlantic City School District as leverage in his civil lawsuit.

In addition, Mr. Jones' request is untimely. The Year Six appeal filed with the Federal Communications Commission on behalf of RelComm, which has subsequently been withdrawn, was filed on or about August 9, 2004. The Year Seven appeal to the Federal Communications Commission on behalf of RelComm, which has also been withdrawn, was filed on or about February 25, 2005.

Moreover, Mr. Jones does not have standing to filing any type of appeal or subrogate to the interest of RelComm. As the federal appellate courts have recognized, standing to file a protest to a bid award by a federal government entity is afforded to an "interested party". 28 U.S.C. §1491(b)(1). The "interested party" standard is analogous to the "aggrieved party" standard set forth in 47 C.F.R. §54.722 for filing requests for review of the USF administrator's decisions, particularly with respect to an appeal which challenges the manner in which a competitive procurement was conducted. An "interested party" for purposes of objecting to a federal contract award, post-award, is limited to actual or prospective bidders or offerors whose direct economic interest would be affected by the award of the contract or by failure to award the contract. American Federation of Government Employees v. United States, 258 F.3d 1294, 1302 (Fed. Cir. 2001). Unless the protestor filed an actual bid, the only way in which the protestor can establish standing is to demonstrate that it is a prospective bidder. In order to demonstrate prospective bidder status, the protestor must show that it expects to submit a bid within the established deadline, and this opportunity ends when the proposal period ends. McRae Industries, Inc. v. United States, In the United States Court of Federal Claims, No. 01-460 C (Filed August 14, 2002).

Accordingly, we respectfully request that you do not consider this inappropriate application by a disgruntled former employee, Jonathan Jones. We further renew our request to immediately release all funds available through the Year Six and Year Seven E-Rate Program to the Atlantic City School District based upon the voluntary withdrawal by RelComm of its appeals and the merit of the submissions from the Atlantic City School District filed with the Federal Communications Commission.

Your immediate attention is greatly appreciated.

Respectfully submitted,  
*/s/ Michael J. Blee, Esquire*  
Michael J. Blee, for  
Rovillard & Blee, L.L.C.

MJB:kw  
enclosures

Dictated Not Read

cc: John M. Donnelly, Esquire  
J. Philip Kirchner, Esquire  
Schools and Library Division  
Fredrick P. Nickles, Superintendent of Schools  
Donna Haye, Assistant Superintendent of Schools  
Christopher A. Brown, Esquire



**LEVINE, STALLER, SKLAR, CHAN, BROWN & DONNELLY, P.A.**

a Professional Association

COUNSELLORS AT LAW  
3030 ATLANTIC AVENUE  
\*ATLANTIC CITY, NJ 08401-6380

\*Please reply to Atlantic City

RICHARD J. ALBUQUERQUE  
ARTHUR M. BROWN\*  
PAUL T. CHAN\*\*\*\*  
MARY BETH CLARK  
BRIAN J. CULLEN\*  
JOHN M. DONNELLY\*\*\*\*  
LEE A. LEVINE\*\*\*\*  
E. ALLAN MACK\*\*  
KEVIN J. McCABE  
SCOTT J. MITNICK\*\*  
ARTHUR E. SKLAR\*  
MICHAEL D. SKLAR\*  
ALAN C. STALLER\*  
BENJAMIN ZELTNER\*\*

TELEPHONE  
(609) 348-1300

FAX  
(609) 345-2473  
(609) 347-1166

1601 TILTON ROAD, SUITE 6  
\*NORTHFIELD, NJ 08225

5406 NEW JERSEY AVENUE  
\*WILDWOOD CREST, NJ 08260

E-MAIL  
JDONNELLY@levinestaller.com

October 3, 2005

LL.M. (Taxation)  
\*MEMBER NJ & PA BAR  
\*\*MEMBER NJ & FL BAR  
\*\*\*MEMBER NJ, NY & FL BAR  
\*\*\*\*MEMBER NJ & DC BAR

**Via UPS Next Day Air**

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

**Via Regular Mail**

Letter of Appeal  
Schools and Libraries Division  
Box 125-Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

RE: IN THE MATTER OF REQUEST FOR REVIEW BY RELCOMM, INC.  
OF DECISION OF UNIVERSAL SERVICE ADMINISTRATOR  
CC Docket No.: 02-6  
Year Six E-Rate: SLD Decision 1022916 and 1023492  
Year Seven E-Rate: SLD Decision 1185824, 1185996,  
1185946, 1185717, 1185789 and 1185745  
Billed entity #123420: Atlantic City Board of  
Education

Dear Sirs:

Please be advised that this firm represents John  
Jones, the former Data Processing Manager for the Atlantic  
City School District. We understand that Relcomm, Inc. has

filed various appeals with either the SLD or the FCC with regard to the Atlantic City School District years 6, 7 and 8 funding cycles for the E-Rate Program. See Relcomm Year Six F.C.C. Appeal (exhibits omitted), attached hereto as Exhibit "A" and Relcomm Year Seven F.C.C. Appeal (exhibits omitted) attached hereto as Exhibit "B". We further understand that Relcomm has recently settled a lawsuit with the Atlantic City School District which in part revolved around allegations of bid rigging and specifically, that Relcomm alleged the School Board engaged in unlawful bid practices in awarding the years 6, 7 and 8 E-Rate Program bids.

Please be advised that our client, Jon Jones, formerly the Data Processing Manager for the city of Atlantic City, was separated from the Board based in part on allegations that he made that the School Board was engaging in improper bidding practices and procedures including improper behavior under the E-Rate program rules and regulations. We are currently engaged in litigation with the Board regarding this matter and many of the issues we have raised parallel those that we understand were raised by Relcomm. See Amended Complaint attached hereto as Exhibit "C".

We, therefore, respectfully request that we be permitted to subrogate to the rights of Relcomm in the above captioned litigation. That is, we seek to step into the place of Relcomm to continue to pursue the objections to the issuance of E-Rate funds based on the allegations contained in the Relcomm appeals and based upon the allegations contained in our own Complaint, a copy of which is attached.

Alternatively, we seek that based upon the obvious public interest implicated by these allegations that the

SLD and the FCC waive any limitation periods and that Mr. Jones be permitted to file a new appeal of this matter and that said appeal be treated as timely. We respectfully request that we be permitted to brief this waiver issue more fully, but for the purpose of this initial letter, we state that prior to the settlement of the Relcomm litigation and the demand that we believe the Atlantic City District placed on Relcomm to withdraw its E-rate objections, our client Mr. Jones fully believed that Relcomm would pursue its appeals with the SLD and the FCC and therefore, the blatant wrongdoing and improper procedures that are set out in their appeals would be properly addressed by the joint agencies. Mr. Jones is an individual who was separated from the Board and did not have the wherewithal to file an individual appeal. Nor did he believe it appropriate to file a second appeal when the existing appeals were pending.

Notwithstanding his lack of resources to do same, he objects to the agencies issuing E-rate funds in face of the very significant allegations of wrongdoing and the wrongful actions of the Board which the Board, many of its principals, Relcomm and he himself are aware of. We therefore respectfully request that any time limits be waived in the public interest and we have the right to more fully brief this issue. We write at this time for fear that in settling its case with the Board, Relcomm will be put under extreme pressure by the District to remove its objections to the issuance of E-rate monies and that the FCC and SLD will unknowingly participate in what we believe to be extremely improper behavior on behalf of certain agents of the District.

Please advise us immediately if there are any procedural steps we must take to formalize more completely this appeal and to enter into the appellate or complaint process. We intend to review the Commission and SLD's regulations and to promptly file whatever formal appeals are necessary. We wanted to promptly give notice to both agencies of what we consider to be an attempt to sweep this very serious matter under the rug.

Respectfully Submitted,



John M. Donnelly

JMD/lat

Cc: John Duggan, Esq.  
Jon Jones



OCT 21 2005

**J. PHILIP KIRCHNER, ESQUIRE**  
Member of NJ & PA Bar  
Direct Dial (856) 661-2268  
E-Mail: phil.kirchner@flastergreenberg.com  
PLEASE RESPOND TO CHERRY HILL

October 20, 2005

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

**Re: IN THE MATTER OF REQUEST FOR REVIEW BY RELCOMM, INC. OF  
DECISION OF UNIVERSAL SERVICE ADMINISTRATOR  
CC Docket No. 02-6  
SLD decision 1022916 and 1023492  
Year Six E-Rate decisions  
Billed entity #123420: Atlantic City Board of Education**

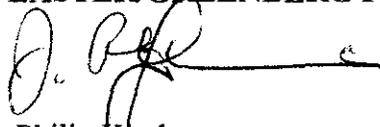
**IN THE MATTER OF REQUEST FOR REVIEW BY RELCOMM, INC. OF  
DECISION OF UNIVERSAL SERVICE ADMINISTRATOR  
CC Docket No. 02-6  
SLD decisions 1185824, 1185996, 1185946, 1185717, 1185789 and 1185745  
Year Seven E-Rate decisions dated January 11, 2005  
Billed entity #123420: Atlantic City Board of Education**

Dear Sirs or Madams:

In accordance with the terms of its settlement agreement with the Atlantic City Board of Education ("ACBOE"), which became effective by virtue of a formal resolution of the ACBOE on September 28, 2005, Petitioner, RelComm, Inc., hereby requests the withdrawal of the above Requests for Review. Thank you for your attention to this matter.

Very truly yours,

**FLASTER/GREENBERG P.C.**

  
J. Philip Kirchner

JPK/kd

cc: Michael Blee, Esquire  
Joseph Lang, Esquire  
Arthur Murray, Esquire  
Deborah Weinstein, Esquire  
Michael Shea