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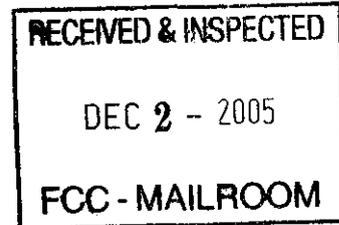
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**Via UPS Next Day Air**

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 the interests of Jon Jones, the former Data Processing Manager for the Atlantic City School District. This letter responds to the November 11, 2005 letter of School Board Attorney Michael J. Blee, Esq.

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List A B C D E

As noted in our prior filing, Mr. Jones understands that the entity known as 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. 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 other regulatory violations in the awarding of the years 6, 7 and 8 E-Rate Program grants.

As is now confirmed by the Board's November 11, 2005 filing, Relcomm has submitted to the FCC a letter requesting the withdrawal of their Formal Request for Review. The School Board's filing characterizes this request as "voluntary," suggesting that Relcomm had suddenly seen the error of its ways and felt compelled to exonerate the Board. In reality, the Relcomm withdrawal letter makes clear and we understand that its issuance was a required term of the litigation settlement (imposed by the Board) entered into between Relcomm and the Board. In fact, it is public knowledge that the Board settled the matter by paying Relcomm \$1.65 million dollars. See 10/5/05 Press of Atlantic City (online edition) Article attached as Exhibit "A."

The purpose of Mr. Jones' intervention into this matter was his concern that Relcomm would, in connection with a significant cash settlement of its case, be induced to back off from the very serious issues they have raised. Mr. Jones had just been terminated by the Board for his own protected whistle-blowing activities when Relcomm began to pursue these issues, and he was in no position to take the matter on his own shoulders at the time. Nonetheless, Mr. Jones monitored the public filings in the matter confident that the wrongdoing set forth therein could not, once raised, be "swept under the rug." At present, it appears that this is exactly what the Board seeks to accomplish.

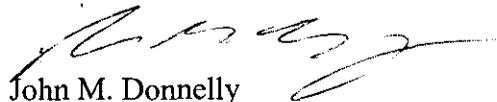
Relcomm has been given a substantial settlement by the Board, in hopes that the allegations raised (and never repudiated) by Relcomm, will just go away. In that context, it bears repeating the quote of Relcomm president Michael Shae in the Press of Atlantic City, that "I've been told that it is unusual in these cases to receive 100 percent of your bill." In fact, it appears that Relcomm has received that much and more, taking \$1.65 million in settlement of a suit apparently "seeking about \$1.3 million." See Exhibit A. Also worthy of note, the quote of the Board's attorney, Mr. Blee, who stated in connection with the settlement that "he believes that without an official request for an investigation, the [E-Rate grant] money will be freed up." Id.

Mr. Jones has personal knowledge of much of the alleged wrongdoing which Relcomm attempted to bring to light before they were induced to withdraw from this matter. He now objects to any attempt to brush these allegations aside, and begin the transfer of federal grant monies through the same funding requests implicated in the original (and as yet unresolved) allegations in this matter. Mr. Jones is prepared to press these serious allegations through to a final resolution, by himself if necessary, and he is entitled to do so as an "aggrieved party" within the contemplation of 47 C.F.R. 54:719, having already lost his job for his own whistleblowing activities in connection with these allegations.

The Board, in its most recent filing, does not even address Mr. Jones' allegations. Rather, raises a procedural objection asserting that Jones is not entitled to pursue this issue. The statutes and case law cited by the Board, however, regarding "interested parties," have nothing whatsoever, to do with Mr. Jones or this matter. The so-called "interested party" standard referenced by the Board is a jurisdictional rule applied for bid challenges in the Federal courts. The "aggrieved party" language of 47 C.F.R. 54:719 by contrast, is a procedural mechanism (not a jurisdictional limitation) which effectuates the broad public good of bringing misuses of Federal education technology grant monies to light. On their face, the two provisions are not remotely analogous. Indeed, to even suggest that Mr. Jones, who has sacrificed his own career and livelihood to expose such wrongdoing, is not an affected person contradicts the very plain meaning of the words. These are broad terms, employed to effectuate a broad public interest.

The FCC is charged with a statutory obligation to ensure that E-Rate Funds are not committed or distributed in violation of program rules. Relcomm's withdrawal from this matter cannot change the past. Allegations have been presented, with supporting documentation, of serious procurement related wrongdoing. The issue before the FCC now is one of fact, not of procedure. Simply put, the school district either did as Relcomm alleged, or it did not. Thus, it is respectfully requested that Mr. Jones now be allowed to intervene in this matter as an interested person, based upon the clear public interest in having these matters fully adjudicated, notwithstanding Relcomm's settlement-based departure.

Respectfully submitted,



John M. Donnelly

JMD/ao

c: John Duggan, Esq.  
Kristofor Henning, Esq.  
Jon Jones

## **A.C. schools, RelComm settle long legal fight**

By MICHAEL PRITCHARD Staff Writer, (609) 272-7256

Published: Wednesday, October 5, 2005

Updated: Wednesday, October 5, 2005

The city Board of Education has approved a \$1.65 million settlement with technology company RelComm Inc., which ends a long legal battle that stemmed from a controversy over a federally funded program to improve the district's computer systems.

The settlement left both sides claiming at least a partial victory.

School officials say the settlement avoids a costly trial, which could have dragged on for months, and possibly frees up about \$4 million in grant money that will allow the district to resume its technology program. The settlement also dismisses suits against district officials, including Superintendent Fredrick Nickles.

RelComm officials say the settlement exonerates the West Berlin company from allegations that it overcharged the district and sold unneeded equipment and lets the company collect on all monies the district owed it.

"This is a compromise," school district attorney Michael Blee said. "There is no admission of liability by either side, and it allows us to end these suits and move forward."

The suits started nearly three years ago and came out of the district's administration of federal E-Rate grants, which is money provided to improve the district's Internet access, internal connections and library services. The district received an approximately \$15 million grant through the Federal Communications Commission.

In 2002, an outside auditor advised the district that it may have squandered the grant monies and that the program had serious problems. A later audit contradicted that report but fueled the controversy.

In 2003, Nickles suspended the district's data center manager John Jones and called for investigations of the handling of the grants from several law-enforcement agencies, including the FBI. No indictments were ever issued, however, and Jones still has a pending suit against the district.

Also in April 2003, the district sued RelComm to receive better access to some software it installed, including software used to issue report cards. Although that case was quickly settled, it led to a suit by RelComm seeking about \$1.3 million it said it was owed by the district. District officials, however, charged that they did not have a signed contract in place or proper invoices for the work.

The company also filed suit against Nickles and district technology consultant Martin Friedman, of Alemar Consulting, as well as other officials, charging defamation of the company and bid rigging in the further administration of the grants.

In a complicated chain of events, the case moved through federal courts, state superior courts and independent arbitration. It was in arbitration that the move for a settlement started.

The settlement now allows RelComm to collect on its bill.

"We feel exonerated," said Michael Shea, president of RelComm. "There were a lot of allegations made against our company, but in the end I think they looked at the information they had and realized we had done the work and were entitled to the money. I've been told that it is unusual in these cases to receive 100 percent of your bill, so that says something about those accusations."

The settlement also awards about \$300,000 for the suits against Nickles and Friedman, but Blee said RelComm had been seeking substantially more money at various times in the suit.

The key for the district, Blee said, is about \$4 million in E-rate grants that has been tied up since the suits began. RelComm had filed a request for an investigation into the program with the FCC because the company felt the money was being steered to a particular contractor. That request meant the money was frozen pending an investigation.

Under the settlement, RelComm is retracting that request. While that doesn't mean the FCC won't investigate anyway, Blee said he believes that without an official request for an investigation, the money will be freed up.

"We are going to seek to have that money distributed," he said. "The important thing for the board is to continue this program and to continue improving the district's technology."

*To e-mail Michael Pritchard at The Press:*