

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

UNITED STATES OF AMERICA	)	Cr. No. <u>5:06-453</u>
	)	18 U.S.C. § 1341
	)	18 U.S.C. § 1343
	)	21 U.S.C. § 853
v.	)	18 U.S.C. § 981(a)(1)(C)
	)	18 U.S.C. § 982(b)(1)
	)	28 U.S.C. § 2461(c)
	)	18 U.S.C. § 2
	)	Filed: 4/19/06
CYNTHIA K. AYER	)	INDICTMENT

COUNTS ONE THROUGH SIX

MAIL FRAUD

(18 U.S.C. § 1341, 18 U.S.C. § 2)

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise stated:

THE FEDERAL E-RATE PROGRAM

1. The Universal Service Fund for Schools and Libraries (the “E-Rate program”) was created by Congress in the Telecommunications Act of 1996 and operated under the auspices of the Federal Communications Commission (“FCC”) to provide Internet connectivity and other technology to schools and libraries across the United States. The FCC designated the Universal Service Administrative Company (“USAC”), a non-profit corporation, to administer the E-Rate program. The E-Rate program collected substantial quantities of money monthly from telecommunications customers across the country to fund the program.

2. The E-Rate program was designed to ensure that the neediest schools receive the most financial help. All participating school districts were required to fund a percentage of the cost of the equipment and services acquired under the E-Rate program (hereinafter referred to as “co-pay”). The amount of the co-pay was based on the number of students in the district qualifying for the United States Department of Agriculture’s school lunch program, with the neediest school districts eligible for the highest percentage of funding. However, even the neediest schools were required to fund at least ten percent of the cost of the acquired equipment.

3. One method by which school districts ultimately received payments from the E-Rate program was by filing a Billed Entity Application Reimbursement Form (“BEAR Form” or “FCC Form 472”). Before a BEAR Form could be filed, USAC rules required that the service provider fully complete work on an E-Rate project and that the school district pay the service provider in full for the project. After receiving a BEAR Form containing these assurances, USAC disbursed a check in the amount of the project cost, minus the district’s co-pay, to the service provider. The service provider was then obligated to forward the E-Rate funds to the school district within ten days.

4. During the relevant period, school district applications for E-Rate funding far exceeded the funding available. USAC had the following rules and procedures to ensure that E-Rate funding was distributed to the widest number of qualifying applicants:

- a. only USAC-approved equipment, services, and supplies were eligible for funding;
- b. schools could seek funding only for projects for which the schools had budgeted funds for their co-pay amount and for the purchase of the end-user equipment and services necessary to utilize the applied-for equipment;
- c. service providers or their agents could not participate in the vendor selection process or the completion of forms necessary for the schools to receive E-Rate funding in order to avoid a conflict of interest or even the appearance of a conflict of interest; and
- d. school districts were required to follow local and state law competitive bidding procedures to ensure that the school districts received the most cost-effective bids from the responsive bidders.

BAMBERG COUNTY SCHOOL DISTRICT ONE

5. Bamberg County School District One (“Bamberg One”) was a rural school district consisting of five schools located in Bamberg, South Carolina. Superintendent A, whose identity is known to the Grand Jury, served in that position at Bamberg One during a period that included the dates April 1, 1999, through June 30, 2000. Superintendent B, whose identity is known to the Grand Jury, served in that position at Bamberg One during a period that included the dates July 1, 2000, through February 1, 2003.

THE DEFENDANT

6. CYNTHIA K. AYER (“the defendant”) was an employee of Bamberg

One and operated a sole proprietorship company, Go Between Communications a/k/a Go Between Telecommunications (“Go Between”). From the time she was hired as a computer technician at Bamberg One in April 1999, the defendant was the only employee of the school district who had any significant computer technology expertise. The defendant used her expertise and the trust placed in her by Superintendent A and Superintendent B to assume virtually complete control of applications by Bamberg One for E-Rate funding.

#### THE SCHEME TO DEFRAUD

7. From on or about April 1, 1999, through on or about February 1, 2003, in the District of South Carolina and elsewhere, CYNTHIA K. AYER knowingly and willfully devised and intended to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by omissions of material facts, from USAC, well knowing at the time that the pretenses, representations, and promises would be and were false and fraudulent when made, and that the omissions would be and were material. Through this scheme and artifice to defraud, the defendant attempted to obtain \$3,521,373.81 and succeeded in obtaining \$468,496.00 in payments from USAC.

#### MANNER AND MEANS OF THE SCHEME

8. The goal of the scheme was for the defendant to enrich herself through the submission of fraudulent E-Rate applications to USAC.

9. It was part of the scheme that the defendant submitted the following

fraudulent E-Rate applications to USAC:

a. 1999 Fiber Application

In or about January 2000, the defendant submitted to USAC a BEAR Form that contained materially false statements that her company, Go Between, had delivered all of the required goods and services pursuant to Bamberg One's 1999 Fiber application and had been paid in full by Bamberg One. The defendant forged Superintendent A's signature on the BEAR Form. The fraudulent BEAR Form requested, and USAC paid to Go Between, \$121,700.00 in E-Rate funds. The defendant kept this money.

b. 1999 Wiring Application

In or about April 1999, the defendant awarded an additional and duplicative computer wiring project to her company, Go Between, without conducting a competitive bidding process and submitted an application to USAC for a commitment of funds ("FCC Form 471"). In or about February 2000, the defendant submitted to USAC a BEAR Form that contained materially false statements that Go Between had delivered all of the required goods and services pursuant to the 1999 Wiring application and had been paid in full by Bamberg One. The fraudulent BEAR Form requested, and USAC paid to Go Between, \$220,384.80 in E-Rate funds. The defendant kept this money.

c. 1999 Telecenter IP Application

In or about April 1999, the defendant forged Superintendent A's signature on

a contract for her company, Go Between, to install a Telecenter IP system at Bamberg One. The defendant submitted the forged contract to USAC, along with an application seeking a commitment of \$187,062.40 in E-Rate funds. The amount sought by the defendant was inflated and was not the result of a competitive bidding process.

d. 1999 PBX Application

In or about April 1999, the defendant forged Superintendent A's signature on a contract for her company, Go Between, to install a PBX telephone system at Bamberg One. The defendant submitted the forged contract to USAC, along with an application seeking a commitment of \$176,955.62 in E-Rate funds. The application itself contained Superintendent A's forged signature and materially false statements regarding a purported agreement for Go Between to perform the PBX work along with Vendor A, the identity of which is known to the Grand Jury. The amount sought by the defendant was inflated and was not the result of a competitive bidding process. The defendant subsequently filed a fraudulent BEAR Form seeking payment of \$176,955.62, even though neither Go Between nor Vendor A had installed a PBX telephone system at Bamberg One.

e. 1999 E-mail Servers/Network Maintenance Application

In or about April 1999, the defendant forged the signatures of Superintendent A and the owner of Vendor B, the identity of which is known to the Grand Jury, on two contracts for Vendor B to provide computer network maintenance and email servers to Bamberg One. The defendant also forged

Superintendent A's signature on a contract for her company, Go Between, to provide computer network maintenance to Bamberg One. The defendant submitted the forged contracts to USAC, along with an application seeking a commitment of \$156,304.00 in E-Rate funds. Subsequently, the defendant induced the owner of Vendor B to apply for disbursement of \$68,944.00 in E-Rate funds from USAC even though Vendor B did not perform any work at Bamberg One. The defendant also filed two BEAR Forms with USAC that contained materially false statements and the forged signature of the owner of Vendor B. USAC disbursed \$68,944.00 to Vendor B, and the owner of Vendor B forwarded the funds to Bamberg One. The defendant subsequently submitted fraudulent invoices to Bamberg One and obtained \$29,952.00 of the E-Rate funds for herself.

f. 1999 File Servers Application

In or about April 1999, without conducting a competitive bidding process, the defendant submitted to USAC an application seeking a commitment of \$32,224.00 in E-Rate funds for her company, Go Between, to provide file servers to Bamberg One. After USAC committed the funds, the defendant forged Superintendent A's signature on a BEAR Form seeking disbursement of the funds, even though the file servers were not provided to Bamberg One. The BEAR Form sought, and USAC disbursed to Go Between, \$32,224.00. The defendant forwarded the money to Bamberg One.

g. 2000 Wiring Application

In or about January 2000, without conducting a competitive bidding process,

the defendant submitted to USAC an application seeking commitment of \$458,123.20 in E-Rate funds for her company, Go Between, to perform wiring work at Bamberg One. The defendant did not have an agreement with Bamberg One for Go Between to perform any additional wiring work at that time.

h. 2000 Network Maintenance Application

In or about January 2000, without conducting a competitive bidding process, and without the knowledge of Superintendent A or the owner of Vendor C, the defendant submitted to USAC an application and contracts for her company, Go Between, and Vendor C to provide computer network maintenance at Bamberg One, seeking a commitment of \$80,688.00 in E-Rate funds for the work purportedly to be completed by Go Between and Vendor C, the identity of which is known to the Grand Jury. The defendant forged Superintendent A's signature on the application.

i. 2000 Conduit, Raceway & PBX Application

In or about January 2000, without conducting a competitive bidding process, the defendant submitted to USAC an application seeking a commitment of \$288,001.09 in E-Rate funds for her company, Go Between, to provide conduit and raceway to Bamberg One and for Vendor A to provide a PBX telephone system to Bamberg One. Vendor A was not aware of the application. The defendant forged Superintendent A's signature on the application, and she fabricated the supporting documentation that purportedly described the work to be performed by Vendor A.

j. 2001 Network Maintenance Application

In or about January 2001, without conducting a competitive bidding process

and without the knowledge of Superintendent B or the owner of Vendor C, the defendant drafted contracts for her company, Go Between, and Vendor C to provide computer network maintenance to Bamberg One. The defendant submitted the contracts to USAC along with an application seeking commitment of \$89,970.00 in E-Rate funds for the work purportedly to be completed by Go Between and Vendor C. After USAC committed funds for work by Vendor C, the defendant submitted an application to USAC to change the vendor from Vendor C to Go Between (a “SPIN change”) that contained additional materially false statements. The defendant subsequently submitted two BEAR Forms to USAC seeking disbursement of committed funds, and USAC sent checks in the amounts of \$6,318.00 and \$19,179.00 to Go Between. The defendant did not cash the checks or forward them to Bamberg One.

k. 2001 Wiring Application

In or about January 2001, without conducting a competitive bidding process and without the knowledge of Superintendent B, the defendant submitted an application to USAC seeking commitment of \$532,608.40 in E-Rate funds for additional wiring work to be completed by her company, Go Between, at Bamberg One. After USAC committed \$163,026.00 for a portion of the work, the defendant submitted a BEAR Form to USAC containing materially false statements that Go Between had completed the work and that Bamberg One had paid Go Between in full. USAC subsequently sent a check in the amount of \$16,302.60 to Go Between. The defendant did not cash the check or forward it to Bamberg One.

l. 2001 Raceway Application

In or about January 2001, without conducting a competitive bidding process and without the knowledge of Superintendent B, the defendant submitted an application to USAC seeking commitment of \$68,961.60 in E-Rate funds for her company, Go Between, to install raceway at Bamberg One. The defendant forged Superintendent B's signature on the application. After USAC committed \$25,243.20 for the work, the defendant submitted to USAC a BEAR Form that contained materially false statements that Go Between had delivered all of the required goods and services and had been paid in full by Bamberg One. The fraudulent BEAR Form requested, and USAC paid to Go Between, \$25,243.20 in E-Rate funds. The defendant kept this money.

m. Multiple 2002 Applications

In or about January 2002, without conducting a competitive bidding process, the defendant submitted nine separate applications to USAC seeking commitments totaling \$1,108,390.70 in E-Rate funds for her company, Go Between, and Vendor B to perform work at Bamberg One. The defendant submitted the applications using an electronic signature for Superintendent B. Superintendent B did not authorize the applications, did not know that an electronic signature had been assigned to her, and did not authorize the defendant to use it. The applications sought the following amounts for Go Between and Vendor B:

<u>Vendor</u>	<u>Product/Service</u>	<u>Amount</u>
Go Between	Uninterruptible Power Supply	\$ 18,363.96
Go Between	Raceway/Conduit	79,431.00
Go Between	Servers	169,911.00
Go Between	Server Upgrades	18,357.40
Go Between	Wiring	646,140.64
Go Between	Routers	61,458.06
Go Between	Computer Network Maintenance	40,716.00
Vendor B	Computer Network Maintenance	52,461.00
Go Between	PBX(1)	10,775.82
Go Between	PBX(2)	<u>10,775.82</u>
<b>Total</b>		\$ 1,108,390.70

The defendant forged the signature of the owner of Vendor B on a contract that she submitted to USAC.

USAC committed \$815,486.48 for work to be performed by Go Between and \$37,485.00 for work to be performed by Vendor B. Before the defendant could apply for disbursement of any of these funds, she resigned from her position at Bamberg One.

#### EXECUTION OF THE SCHEME

10. On or about the dates set forth below, in the District of South Carolina, the defendant, for the purpose of executing and attempting to execute the scheme and artifice to defraud, did knowingly deposit and cause to be deposited with the United States Postal Service or the United Parcel Service, a commercial interstate

carrier, to be delivered from Bamberg, South Carolina, to USAC in Whippany, New Jersey or Lawrence, Kansas, as indicated, the following fraudulent E-Rate forms, each such mailing constituting a separate count of this Indictment:

<u>COUNT</u>	<u>DATE</u>	<u>CONTENTS</u>	<u>FROM</u>	<u>ADDRESSEE and ADDRESS</u>
1	9/25/2001	Letter regarding Vendor C SPIN change	Bamberg One	SPIN Change Report School and Libraries Division Box 127 80 S. Jefferson Road Whippany, NJ
2	1/16/2002	Eight separate FCC Form 471s	Bamberg One	SLD-Form 471 c/o Ms. Smith 3833 Greenway Dr. Lawrence, KS 66046
3	1/17/2002	FCC Form 471	Bamberg One	SLD-Form 471 c/o Ms. Smith 3833 Greenway Dr. Lawrence, KS 66046
4	6/20/2002	Two separate FCC Form 472s	Bamberg One	SLC-BEAR Form P.O. Box 7026 Lawrence, KS 66044-7026
5	7/9/2002	FCC Form 486 regarding Vendor C SPIN change	Bamberg One	SLD-Form 486 P.O. Box 7026 Lawrence, KS 66044-7026
6	10/26/2002	Two separate FCC Form 472s	Bamberg One	SLC-BEAR Form P.O. Box 7026 Lawrence, KS 66044-7026

In violation of 18 U.S.C. § 1341 and § 2.

COUNTS SEVEN THROUGH TEN

MAIL FRAUD

(18 U.S.C. § 1341, 18 U.S.C. § 2)

1. The Grand Jury repeats and realleges Paragraphs 1 through 9 of Counts 1 through 6 of this Indictment as setting forth a scheme and artifice to defraud USAC with the same force and effect as if fully set forth herein.

2. On or about the dates listed below, in the District of South Carolina, CYNTHIA K. AYER, for the purpose of executing and attempting to execute the scheme and artifice to defraud, did knowingly cause to be delivered by the United States Postal Service from USAC in Boston, Massachusetts, to herself in Bamberg, South Carolina, the following checks, each such mailing constituting a separate count of this Indictment:

<u>COUNT</u>	<u>DATE</u>	<u>CONTENTS</u>	<u>FROM</u>	<u>ADDRESSEE and ADDRESS</u>
7	7/12/2002	\$25,243.20 check to Go Between	USAC	Go Between Communications Cindy Ayer 709 Faust Street Bamberg, SC 29003
8	12/5/2002	\$19,719.00 check to Go Between	USAC	Go Between Communications Cindy Ayer 709 Faust Street Bamberg, SC 29003
9	12/26/2002	\$16,302.60 check to Go Between	USAC	Go Between Communications Cindy Ayer 709 Faust Street Bamberg, SC 29003
10	1/23/2003	\$6,318.00 check to Go Between	USAC	Go Between Communications Cindy Ayer 709 Faust Street Bamberg, SC 29003

In violation of 18 U.S.C. § 1341 and § 2.

COUNTS ELEVEN AND TWELVE

WIRE FRAUD

(18 U.S.C. § 1343, 18 U.S.C. § 2)

1. The Grand Jury repeats and realleges Paragraphs 1 through 9 of Count 1 through 6 of this Indictment as setting forth a scheme and artifice to

defraud USAC with the same force and effect as if fully set forth herein.

2. On or about the dates listed below, in the District of South Carolina, the defendant, for the purpose of executing the scheme and artifice to defraud, did knowingly transmit and cause to be transmitted, by means of wire in interstate commerce, facsimile transmissions from Bamberg, South Carolina, containing the following articles of correspondence to USAC in Whippany, New Jersey, each such facsimile transmission constituting a separate count of this Indictment:

<u>COUNT</u>	<u>DATE</u>	<u>DESCRIPTION</u>
11	9/30/2002	Facsimile containing a fraudulent invoice
12	10/23/2002	Facsimile containing materially false statements

In violation of 18 U.S.C. § 1343 and § 2.

#### FORFEITURE ALLEGATIONS

1. Upon conviction for one or more violations of Title 18, United States Code, Section 1341 (mail fraud), and Section 1343 (wire fraud) as charged in Counts 1 through 12 of this Indictment, the Defendant, CYNTHIA K. AYER, shall forfeit to the United States any property, real or personal, which constitutes or is derived from any proceeds the Defendant obtained, directly or indirectly, as the result of such violations, and any property traceable to such property.

2. Pursuant to 21 U.S.C. § 853, as incorporated by 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 982(b)(1), and 28 U.S.C. 2461(c), the property which is subject to forfeiture upon conviction of the Defendant for the violations charged in Counts 1 through 12 of this Indictment includes, but is not limited to, the following:

(a) Proceeds/Money Judgment:

The sum of \$468,496.00 in United States currency, and all interest and proceeds traceable thereto, in that such sum in the aggregate constitutes proceeds the Defendant obtained, directly or indirectly, as the result of her violations of 18 U.S.C. §§ 1341 and 1343 as charged in Counts 1 through 12, including, but not limited to, the following:

- (1) New York Life Insurance Company Policy #58 223 380  
Policyholder: Doris Ayer, mother of Cynthia K. Ayer  
First contingent beneficiary: Cynthia K. Ayer  
\$220,384.80 in proceeds directly traceable to policy  
Cash value: \$567,025.67 as of March 27, 2006.

3. If any of the property described above, as a result of any act or omission of the Defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 981(a)(1)(c), 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the said Defendant up to the value of the

forfeitable property described above, including, but not limited to, the following:

(a) Real Property:

All of the Defendant's right, title and interest in and to certain real property, together with all improvements thereon and with all rights and easements appertaining, said property being more fully described as follows:

- (1) 3126 Faust Street  
Bamberg, South Carolina  
Bamberg County, South Carolina  
Titled in the name of: Cynthia Ayer

“All those two certain lots of land situated in the Town and County of Bamberg, State of South Carolina, and being designated as lots 5 and 6, as shown on plat of Section 1 of Northwood Subdivision dated January, 1977, by Ernest R. Bryan, Jr., RLS, and recorded in the office of the Clerk of Court for Bamberg County in Plat Book 15, at Page 4, and when taken together having the following boundaries and measurements, to wit: On the Northeast by Lot # 7 on said plat and measuring thereon Two Hundred (200) Feet; on the Southeast by Faust Street, and measuring thereon Three Hundred Twelve Feet (312) feet; on the Southwest by Lot 4 on said plat, and measuring thereon Two Hundred feet; and on the Northwest by Lot #14 and portions of Lots 13 and 15, and measuring thereon in the aggregate Three Hundred Twelve (312) feet.”;

(b) Investment Accounts:

- (1) New York Life Insurance Company Policy #58 223 380  
Policyholder: Doris Ayer, mother of Cynthia K. Ayer  
First contingent beneficiary: Cynthia K. Ayer  
\$220,384.80 in proceeds directly traceable to policy  
\$222,868.00 in substitute assets  
Cash value: \$567,025.67 as of March 27, 2006;
- (2) New York Life Insurance Company Policy #63675053

Policyholder: Cynthia K. Ayer  
Cash value: \$15,979.51 as of March 27, 2006;

(3) Mass Mutual Financial Group Policy #ART105019  
Policyholder: Cynthia K. Ayer  
Cash value: \$24,598.81 as of December 31, 2005; and

(4) Keyport Life Insurance Company Account #KA12488407-01  
Policyholder: Cynthia K. Ayer  
Cash value: \$32,508.46 as of December 17, 2006.

All pursuant to Title 21, United States Code, Section 853; Title 18, United States Code, Sections 981(a)(1)(C) and 982(b)(1); and Title 28, United States Code, Section 2461(c).

Dated this 19th day of April, 2006.

A TRUE BILL

/S/  
Foreperson

/S/  
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Assistant Attorney General

SCOTT D. HAMMOND  
Deputy Assistant Attorney General

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