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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11)	No. CR 05-0208 CRB
12	UNITED STATES OF AMERICA,)	
13	Plaintiff,)	VIOLATIONS: 15 U.S.C. § 1 and 18 U.S.C.
14	v.)	§ 2 – Collusion and Aiding and Abetting; 18
15	VIDEO NETWORK COMMUNICATIONS,)	U.S.C. §§ 1343 and 2 – Wire Fraud and
16	INC.,)	Aiding and Abetting; 18 U.S.C. § 371 –
17	HOWE ELECTRIC, INC.,)	Conspiracy
18	SEMA4, INC.,)	
19	DIGITAL CONNECT COMMUNICATIONS,)	SAN FRANCISCO VENUE
20	INC.,)	
21	EXPEDITION NETWORKS, LTD.,)	
22	ADJ CONSULTANTS, INC.,)	
23	JUDY GREEN,)	
24	ALLAN GREEN,)	
25	GEORGE MARCHELOS,)	
26	STEVEN NEWTON, EARL NELSON, and)	
27	WILLIAM HOLMAN,)	
28	Defendants.)	

23
24 SUPERSEDING INDICTMENT

25 The Grand Jury charges:

26 INTRODUCTION

27 At all times relevant to this Indictment:

28 1. E-Rate was a program created by Congress in the Telecommunication Act of 1996 and

1 operated under the auspices of the Federal Communications Commission ("FCC") to provide
2 funding to connect schools and libraries to the Internet. The FCC designated the
3 Universal Services Administrative Company ("USAC"), a non-profit corporation, to administer
4 the E-Rate program. The E-Rate program collected substantial quantities of money monthly
5 from telecommunications customers across the country to fund the program.

6 2. The E-Rate program was designed to ensure that the neediest schools receive the most
7 financial help. All participating school districts were required to fund a percentage of the cost of
8 the equipment and services acquired under the E-Rate program (hereinafter referred to as "co-
9 pay"). The amount of the co-pay was based on the number of students in the district qualifying
10 for the United States Department of Agriculture's school lunch program, with the neediest
11 school districts eligible for the highest percentage of funding. However, even the neediest
12 schools were required to fund at least 10% of the cost of the acquired equipment and services.

13
14 3. During the relevant period, school district applications for E-Rate funding far exceeded
15 the funding available. USAC had the following rules and procedures to ensure that E-Rate
16 funding was distributed to the widest number of qualifying applicants: (1) only USAC-approved
17 equipment, services, and supplies were eligible for funding; (2) schools could seek funding only
18 for projects for which the schools had budgeted funds for their co-pay amount and for the
19 purchase of the end-user equipment and services necessary to utilize the applied-for equipment
20 and services; (3) service providers or their agents could not participate in the vendor selection
21 process or the completion of forms necessary for the schools to receive E-Rate funding in order
22 to avoid a conflict of interest or even the appearance of a conflict of interest; and (4) school
23 districts were required to follow local and state law competitive bidding procedures to ensure
24 that the school districts received the most cost-effective bids from the responsive bidders.

25 DEFENDANTS COMMON TO ALL WIRE FRAUD COUNTS

26 4. VIDEO NETWORK COMMUNICATIONS, INC. ("VNCI"), formerly known as
27 Objective Communications, was a Delaware corporation with its principal place of business in
28 Portsmouth, New Hampshire. VNCI manufactured video conferencing switches, which it

1 sometimes referred to as PVBX (Private Video Branch Exchange), meaning, a PBX with video
2 conferencing capability. VNCI provided equipment and services for projects funded by the
3 FCC's E-Rate program.

4 5. JUDY GREEN worked as a sales representative for VNCI from 1999 to 2002. JUDY
5 GREEN specialized in marketing VNCI products to educational institutions, including local
6 school districts. JUDY GREEN, while employed at VNCI, also acted as a consultant to school
7 districts in order to assist them in designing computer networks, identifying potential
8 government-sponsored funding sources, such as the FCC's E-Rate program, and applying for
9 these funds.

10 6. GEORGE MARCHELOS worked as a sales representative for VNCI from 1999 into
11 2002. MARCHELOS specialized in marketing VNCI products to educational institutions,
12 including school districts. MARCHELOS, while employed at VNCI, and after his VNCI
13 employment, also acted as a consultant to school districts in order to assist them in designing
14 computer networks, identifying potential government-sponsored funding sources, such as the
15 FCC's E-Rate program, and applying for these funds.

16 SCHEMES TO DEFRAUD

17 7. In the Northern District of California and elsewhere, as set forth in Counts One through
18 Eleven and Twenty-Two below, the defendants devised and intended to devise schemes and
19 artifices to defraud the FCC and USAC as to a material matter and to obtain money and property
20 by means of materially false and fraudulent pretenses, representations and promises, in relation
21 to various E-Rate projects in school districts around the country.

22 PURPOSE OF THE SCHEMES

23 8. It was a purpose of each scheme to defraud that the defendants would unlawfully enrich
24 themselves through:

- 25 a. Control of the bidding, application, implementation, and invoicing process
26 at the project, which the defendants intended to be funded by the E-Rate
27 Program;
- 28 b. The submission of materially false and misleading information to USAC

1 in order to obtain E-Rate program funding for the project;

2 c. The omission and misrepresentation of information that would have
3 resulted in the denial or significant reduction of E-Rate program funding
4 for the project; and

5 d. The concealment of all of the above from the FCC and USAC.

6 MANNER AND MEANS OF EXECUTING THE SCHEMES

7 In each scheme to defraud:

8 9. The defendants and others known and unknown to the Grand Jury deceived and intended
9 to deceive the FCC and USAC into believing that the affected school district was applying for
10 funds to pay only for eligible equipment, when, in fact, the defendants had included the costs of
11 ineligible end-user equipment and services (“in-kinds”) as part of the costs of the eligible
12 equipment set forth in the school district’s funding application for the project.

13 10. The defendants and others known and unknown to the Grand Jury deceived and intended
14 to deceive the FCC and USAC into believing that the affected school district budgeted for,
15 possessed, or had the resources available to acquire the end-user equipment necessary to make
16 use of the E-Rate funded equipment, and had budgeted funds to pay the school district’s co-pay
17 share.

18 11. The defendants and others known and unknown to the Grand Jury created and prepared
19 and intended to create and prepare documents and other written materials containing materially
20 false statements and omissions in order to deceive and mislead the FCC and USAC into
21 believing that the affected school district was applying for funds for only eligible equipment, that
22 the school district had the resources available to purchase the end-user equipment, and that the
23 district could fund its co-pay, as described in paragraphs Nine and Ten above. The defendants
24 caused these materially false and misleading documents to be submitted to USAC in support of
25 the school district’s funding application.

26 COUNT ONE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

27 THE WEST FRESNO SCHEME

28 12. From in or about November 1998 until in or about June 2001, in the Northern District of

1 California and elsewhere, the defendants

2 JUDY GREEN,
3 GEORGE MARCHELOS,
4 ADJ CONSULTANTS, INC.,
5 VIDEO NETWORK COMMUNICATIONS, INC.,
6 HOWE ELECTRIC, INC.,
7 EARL NELSON, and
8 STEVEN NEWTON,

9 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
10 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
11 to obtain money and property by means of materially false and fraudulent pretenses,
12 representations and promises, related to the E-Rate project for the West Fresno Elementary
13 School District located in Fresno, California (hereinafter in this Count “the district”).

14 THE DEFENDANTS

15 13. The defendants in this Count include those described in paragraphs Four through Six,
16 which are realleged as if fully set forth here.

17 14. HOWE ELECTRIC, INC. (“HOWE”) was a California corporation with headquarters in
18 Fresno, California, that supplies electrical and other contracting services for commercial projects
19 in the Fresno, California area. HOWE provided equipment and services for projects funded by
20 the FCC’s E-Rate program.

21 15. ADJ CONSULTANTS, INC. (“ADJ”) was a California company, owned by defendant
22 JUDY GREEN and her husband, ALLAN GREEN, that provided consulting services to schools
23 and other entities wishing to participate in the FCC’s E-Rate program. ADJ received funds from
24 vendors working at projects funded by the FCC’s E-Rate program. JUDY GREEN also worked
25 for ADJ, both before and after her employment at VNCI. JUDY GREEN marketed herself,
26 through ADJ, as experienced in designing and installing computer networks, identifying
27 potential government-sponsored funding sources, such as the FCC’s E-Rate program, and
28 applying for these funds.

16. STEVEN NEWTON was a former Vice President at Premio Computers, Inc., a
manufacturer and distributor of computers, servers and related equipment. In that position,
NEWTON worked with JUDY GREEN to provide computer-related goods and services to be

1 funded by the FCC's E-Rate program.

2 17. EARL NELSON was a former Emeryville, California, branch manager for Inter-Tel
3 Technologies, Inc., which manufactured, sold and installed telecommunications equipment. In
4 that position, NELSON supervised individuals at Inter-Tel who provided equipment and services
5 for projects funded by the FCC's E-Rate program.

6 THE PURPOSE OF THE SCHEME

7 18. Paragraph Eight is realleged as if fully set forth here.

8 19. Another purpose of the scheme to defraud was to unlawfully enrich the defendants
9 through the submission of materially false and misleading invoices to receive payment of E-Rate
10 funds for the project.

11 MANNER AND MEANS OF EXECUTING THE SCHEME

12 20. Paragraphs Nine through Eleven are realleged as if fully set forth here.

13 21. It was further part of the scheme to defraud that the defendants and others known and
14 unknown to the Grand Jury deceived and intended to deceive the FCC and USAC into believing
15 that the district was applying for funds to pay only for eligible equipment when in truth, the
16 defendants had included the costs of ineligible video equipment and marketing and management
17 fees as part of the costs of the eligible equipment set forth in the district's funding application for
18 the project.

19 22. It was further part of the scheme that the defendants and others known and unknown to
20 the Grand Jury did not seek to collect payment from the district for the district's co-pay. In
21 doing so, the defendants and others intended to deceive the FCC and USAC into believing that
22 the district was paying its co-pay when, as the defendants and others well knew, the entire cost
23 of the project was to be funded by the E-Rate program, contrary to FCC regulations and USAC
24 policy.

25 23. It was further part of the scheme that the defendants and others known and unknown to
26 the Grand Jury caused USAC to be invoiced for the entire cost of the district project. Upon
27 receipt of these invoices, USAC paid the defendants and others money, believing that the
28 invoices were only for USAC's share of the cost of the project when in truth, they represented

1 the entire cost of the project.

2 24. It was further part of the scheme that the defendants and others known and unknown to
3 the Grand Jury submitted to USAC the USAC Forms 474 (Requests for Payment) that falsely
4 stated that equipment or services had been provided or delivered on the district's E-Rate project,
5 when in truth, the equipment or services had not been provided or delivered. In response to
6 these false Forms 474, USAC sent payments to the defendants and others for the project.

7 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

8 25. On or about June 19, 2000, in the Northern District of California and elsewhere, for the
9 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
10 and caused to be transmitted by wire communication in interstate commerce the following
11 writing: a June 19, 2000 e-mail from MARCHELOS in Saratoga, California, to an Inter-tel
12 employee in Salt Lake City, Utah, containing false responses to USAC's inquiry about the
13 district's E-Rate project PBXs.

14 All in violation of Title 18, United States Code, Sections 1343 and 2.

15 COUNT TWO: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

16 THE HIGHLAND PARK SCHEME

17 26. From in or about November 1998 until in or about June 2001, in the Northern District of
18 California and elsewhere, the defendants

19 JUDY GREEN,
20 GEORGE MARCHELOS,
21 ADJ CONSULTANTS, INC.,
22 VIDEO NETWORK COMMUNICATIONS, INC.,
23 EARL NELSON, and
24 STEVEN NEWTON,

25 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
26 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
27 to obtain money and property by means of materially false and fraudulent pretenses,
28 representations and promises, related to the E-Rate project for the Highland Park School District
located in Highland Park, Michigan (hereinafter in this Count "the district").

THE DEFENDANTS

1 27. The defendants in this Count are described in paragraphs Four through Six and Fifteen
2 through Seventeen, which are realleged as if fully set forth here.

3
4 THE PURPOSE OF THE SCHEME

5 28. The purposes set forth in Paragraph Eight and Nineteen are realleged as if fully set forth
6 here.

7 MANNER AND MEANS OF EXECUTING THE SCHEME

8 29. The manner and means set forth in Paragraphs Nine through Eleven and Twenty-One
9 through Twenty-Four are realleged as if fully set forth here.

10 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

11 30. On or about May 31, 2000, in the Northern District of California and elsewhere, for the
12 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
13 and caused to be transmitted by wire communication in interstate commerce the following
14 writing: a May 31, 2000 telephonic facsimile from an Inter-tel employee in Emeryville,
15 California, to a VNCI employee in Portsmouth, New Hampshire, concerning ineligible
16 equipment and forgiveness of co-pay amounts.

17 All in violation of Title 18, United States Code, Sections 1343 and 2.

18 COUNT THREE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

19 THE COVERT SCHEME

20 31. From in or about November 1999 until in or about June 2001, in the Northern District of
21 California and elsewhere, the defendants

22 JUDY GREEN,
23 GEORGE MARCHELOS,
24 VIDEO NETWORK COMMUNICATIONS, INC., and
25 WILLIAM HOLMAN,

26 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
27 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
28 to obtain money and property by means of materially false and fraudulent pretenses,
representations and promises, related to the E-Rate project for the Covert Public School District
located in Covert, Michigan (hereinafter in this Count “the district”).

1 THE DEFENDANTS

2 32. The defendants in this Count are described in paragraphs Four through Six and Thirty-
3 Three, which are realleged as if fully set forth here.

4 33. WILLIAM HOLMAN was the former Senior Vice-President for Sales at NEC Business
5 Network Solutions (“NEC-BNS”), which manufactured and sold data equipment, including
6 computers, servers, routers and switches. NEC-BNS also sold telecommunication equipment,
7 including PBXs, and provided cabling and maintenance services for the above equipment. In his
8 position at NEC-BNS, HOLMAN was responsible for its relationship with VNCI and supervised
9 individuals who provided equipment and services for projects funded by the FCC’s E-Rate
10 program.

11 THE PURPOSE OF THE SCHEME

12 34. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

13 MANNER AND MEANS OF EXECUTING THE SCHEME

14 35. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
15 if fully set forth here.

16 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

17 36. On or about March 19, 2001, in the Northern District of California and elsewhere, for
18 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
19 transmitted and caused to be transmitted by wire communication in interstate commerce the
20 following writing: a March 19, 2001 e-mail from a NEC-BNS employee in Cincinnati, Ohio to a
21 NEC-BNS employee in San Ramon, California and copied to WILLIAM HOLMAN concerning
22 itemized pricing for in-kinds and installation for ineligible video conferencing equipment at the
23 Covert Public School District.

24 All in violation of Title 18, United States Code, Sections 1343 and 2.

25 COUNT FOUR: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

26 THE LEE COUNTY SCHEME

27 37. From in or about November 1999 until in or about June 2001, in the Northern District of
28 California and elsewhere, the defendants

1 JUDY GREEN,
2 GEORGE MARCHELOS,
3 VIDEO NETWORK COMMUNICATIONS, INC., and
4 WILLIAM HOLMAN,

5 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
6 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
7 to obtain money and property by means of materially false and fraudulent pretenses,
8 representations and promises, related to the E-Rate project for the Lee County School District
9 Number 1 headquartered in Marianna, Arkansas (hereinafter in this Count “the district”).

10 THE DEFENDANTS

11 38. The defendants in this Count are described in paragraphs Four through Six and Thirty-
12 Three, which are realleged as if fully set forth here.

13 THE PURPOSE OF THE SCHEME

14 39. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

15 MANNER AND MEANS OF EXECUTING THE SCHEME

16 40. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
17 if fully set forth here.

18 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

19 41. On or about February 22, 2001, in the Northern District of California and elsewhere, for
20 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
21 transmitted and caused to be transmitted by wire communication in interstate commerce the
22 following writing: a February 22, 2001 e-mail from a NEC-BNS employee in Irving, Texas, to a
23 Lee County School District employee in Marianna, Arkansas, and to a NEC-BNS employee in
24 San Ramon, California, concerning reducing the scope of the district’s E-Rate project to pay for
25 in-kinds.

26 All in violation of Title 18, United States Code, Sections 1343 and 2.

27 COUNT FIVE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

28 THE JASPER COUNTY SCHEME

42. From in or about November 1999 until in or about June 2001, in the Northern District of
California and elsewhere, the defendants

1 JUDY GREEN,
2 GEORGE MARCHELOS,
3 VIDEO NETWORK COMMUNICATIONS, INC., and
4 WILLIAM HOLMAN,
5

6 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
7 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
8 to obtain money and property by means of materially false and fraudulent pretenses,
9 representations and promises, related to the E-Rate project for the Jasper County School District
10 headquartered in Ridgeland, South Carolina (hereinafter in this Count "the district").

11 THE DEFENDANTS

12 43. The defendants in this Count are described in paragraphs Four through Six and Thirty-
13 Three, which are realleged as if fully set forth here.

14 THE PURPOSE OF THE SCHEME

15 44. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

16 MANNER AND MEANS OF EXECUTING THE SCHEME

17 45. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
18 if fully set forth here.

19 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

20 46. On or about April 10, 2001, in the Northern District of California and elsewhere, for the
21 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
22 and caused to be transmitted by wire communication in interstate commerce the following
23 writing: an April 10, 2001 e-mail from an NEC-BNS employee in Cincinnati, Ohio to an NEC-
24 BNS employee in San Ramon, California and copied to WILLIAM HOLMAN, concerning the
25 installation of ineligible end-user equipment at the Jasper County School District.

26 All in violation of Title 18, United States Code, Sections 1343 and 2.

27 COUNT SIX: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

28 THE ECORSE SCHEME

47. From in or about November 1999 until in or about June 2001, in the Northern District of
California and elsewhere, the defendants

JUDY GREEN,

1 GEORGE MARCHELOS,
2 VIDEO NETWORK COMMUNICATIONS, INC., and
3 WILLIAM HOLMAN,

4 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
5 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
6 to obtain money and property by means of materially false and fraudulent pretenses,
7 representations and promises, related to the E-Rate project for the Ecorse Public School located
8 in Ecorse, Michigan (hereinafter in this Count "the district").

9 THE DEFENDANTS

10 48. The defendants in this Count are described in paragraphs Four through Six and Thirty-
11 Three, which are realleged as if fully set forth here.

12 THE PURPOSE OF THE SCHEME

13 49. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

14 MANNER AND MEANS OF EXECUTING THE SCHEME

15 50. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
16 if fully set forth here.

17 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

18 51. On or about May 29, 2001, in the Northern District of California and elsewhere, for the
19 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
20 and caused to be transmitted by wire communication in interstate commerce the following
21 writing: a May 29, 2001 e-mail from an NEC-BNS employee in Cleveland, Ohio, to a NEC-BNS
22 employee in San Ramon, California, concerning reducing the scope of the district's project to
23 pay for in-kinds.

24 All in violation of Title 18, United States Code, Sections 1343 and 2.

25 COUNT SEVEN: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

26 THE CERIA TRAVIS SCHEME

27 52. From in or about November 1999 until in or about December 2001, in the Northern
28 District of California and elsewhere, the defendants

JUDY GREEN,
GEORGE MARCHELOS,

1 VIDEO NETWORK COMMUNICATIONS, INC., and
2 WILLIAM HOLMAN,

3 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
4 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
5 to obtain money and property by means of materially false and fraudulent pretenses,
6 representations and promises, related to the E-Rate project for the Ceria Travis Academy located
7 in Milwaukee, Wisconsin.

8 THE DEFENDANTS

9 53. The defendants in this Count are described in paragraphs Four through Six and Thirty-
10 Three, which are realleged as if fully set forth here.

11 THE PURPOSE OF THE SCHEME

12 54. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

13 MANNER AND MEANS OF EXECUTING THE SCHEME

14 55. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
15 if fully set forth here.

16 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

17 56. On or about August 27, 2001, in the Northern District of California and elsewhere, for
18 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
19 transmitted and caused to be transmitted by wire communication in interstate commerce the
20 following writing: an August 27, 2001 e-mail from an NEC-BNS employee in Chicago, Illinois
21 to a NEC-BNS employee in San Ramon, California, concerning payment of an invoice for
22 ineligible remodeling services for classrooms at the Ceria Travis Academy.

23 All in violation of Title 18, United States Code, Sections 1343 and 2.

24 COUNT EIGHT: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

25 THE MUSKEGON HEIGHTS SCHEME

26 57. From in or about November 1999 until in or about June 2000, in the Northern District of
27 California and elsewhere, the defendants

28 JUDY GREEN,
GEORGE MARCHELOS, and
VIDEO NETWORK COMMUNICATIONS, INC.,

1 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
2 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
3 to obtain money and property by means of materially false and fraudulent pretenses,
4 representations and promises, related to the E-Rate project for the Muskegon Heights School
5 District located in Muskegon Heights, Michigan (hereinafter in this Count “the district”).

6 THE DEFENDANTS

7 58. The defendants in this Count are described in paragraphs Four through Six, which are
8 realleged as if fully set forth here.

9 THE PURPOSE OF THE SCHEME

10 59. Paragraph Eight is realleged as if fully set forth here.

11 MANNER AND MEANS OF EXECUTING THE SCHEME

12 60. Paragraphs Nine through Eleven and Twenty-One are realleged as if fully set forth here.

13 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

14 61. On or about May 30, 2000, in the Northern District of California and elsewhere, for the
15 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
16 and caused to be transmitted by wire communication in interstate commerce the following
17 writing: a May 30, 2000 e-mail from MARCHELOS in Saratoga, California, to a Muskegon
18 Heights School District employee in Muskegon Heights, Michigan, containing instructions for
19 submitting false responses to USAC.

20 All in violation of Title 18, United States Code, Sections 1343 and 2.

21 COUNT NINE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

22 THE SAN FRANCISCO SCHEME

23 62. From in or about November 1999 until in or about June 2001, in the Northern District of
24 California and elsewhere, the defendants

25 JUDY GREEN,
26 GEORGE MARCHELOS,
27 VIDEO NETWORK COMMUNICATIONS, INC., and
EARL NELSON,

28 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and

1 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
2 to obtain money and property by means of materially false and fraudulent pretenses,
3 representations and promises, related to the E-Rate project for the San Francisco Unified School
4 District (hereinafter in this Count “the district”).

5 THE DEFENDANTS

6 63. The defendants in this Count are described in paragraphs Four through Six and
7 Seventeen, which are realleged as if fully set forth here.

8 THE PURPOSE OF THE SCHEME

9 64. Paragraph Eight is realleged as if fully set forth here.

10 MANNER AND MEANS OF EXECUTING THE SCHEME

11 65. Paragraphs Nine through Eleven and Twenty-One are realleged as if fully set forth here.

12 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

13 66. On or about August 21, 2000, in the Northern District of California and elsewhere, for
14 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
15 transmitted and caused to be transmitted by wire communication in interstate commerce the
16 following writing: an August 21, 2000 telephonic facsimile from a San Francisco Unified School
17 District employee in San Francisco, California, to a USAC employee in Whippany, New Jersey,
18 containing false bid summaries.

19 All in violation of Title 18, United States Code, Sections 1343 and 2.

20 COUNT TEN: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

21 THE W.E.B. DUBOIS SCHEME

22 67. From in or about November 1999 until in or about June 2001, in the Northern District of
23 California and elsewhere, the defendants

24 JUDY GREEN,
25 GEORGE MARCHELOS,
26 VIDEO NETWORK COMMUNICATIONS, INC., and
27 HOWE ELECTRIC, INC.,

28 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and

1 to obtain money and property by means of materially false and fraudulent pretenses,
2 representations and promises, related to the E-Rate project for the W.E.B. DuBois Charter
3 School located in Fresno, California (hereinafter in this Count “the district”).

4 THE DEFENDANTS

5 68. The defendants in this Count are described in paragraphs Four through Six and Fourteen,
6 which are realleged as if fully set forth here.

7 THE PURPOSE OF THE SCHEME

8 69. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

9 MANNER AND MEANS OF EXECUTING THE SCHEME

10 70. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
11 if fully set forth here.

12 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

13 71. On or about June 28, 2000, in the Northern District of California and elsewhere, for the
14 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
15 and caused to be transmitted by wire communication in interstate commerce the following
16 writing: a June 28, 2000 e-mail from JUDY GREEN in Long Beach, California, to an Inter-tel
17 employee in Emeryville, California, and to MARCHELOS in Saratoga, California, concerning
18 creating false PBX parts schedules.

19 All in violation of Title 18, United States Code, Sections 1343 and 2.

20 COUNT ELEVEN: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

21 THE LUTHER BURBANK SCHEME

22 72. From in or about November 2000 until in or about November 2003, in the Northern
23 District of California and elsewhere, the defendants

24 JUDY GREEN,
25 GEORGE MARCHELOS,
26 ADJ CONSULTANTS, INC.,
27 VIDEO NETWORK COMMUNICATIONS, INC.,
28 SEMA4, INC., and
STEVEN NEWTON,

and others known and unknown to the Grand Jury, did knowingly and intentionally devise and

1 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
2 to obtain money and property by means of materially false and fraudulent pretenses,
3 representations and promises, related to the E-Rate project for the Luther Burbank School
4 District located in San Jose, California (hereinafter in this Count “the district”).

5 THE DEFENDANTS

6 73. The defendants in this Count include those described in paragraphs Four through Six and
7 Fifteen, which are realleged as if fully set forth here.

8 74. SEMA4, INC. (“SEMA4”), a California company headquartered in Capistrano Beach,
9 California, was a systems integrator of computer and communications equipment. SEMA4
10 provided equipment and services for a project funded by the FCC’s E-Rate program.

11 75. STEVEN NEWTON was a former Vice President at Premio Computers, Inc., and had an
12 ownership interest in, and was the principal manager of, SEMA4. In those positions, NEWTON
13 worked with JUDY GREEN to provide computer-related goods and services for projects funded
14 by the FCC’s E-Rate program.

15 THE PURPOSE OF THE SCHEME

16 76. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

17 MANNER AND MEANS OF EXECUTING THE SCHEME

18 77. Paragraphs Nine through Eleven and Twenty-Two through Twenty-Four are realleged as
19 if fully set forth here.

20 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

21 78. On or about May 25, 2001, in the Northern District of California and elsewhere, for the
22 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
23 and caused to be transmitted by wire communication in interstate commerce the following
24 writing: a May 25, 2001 telephonic facsimile from a Luther Burbank School District employee in
25 San Jose, California, to USAC in Whippany, New Jersey, requesting changing the service
26 provider to SEMA4.

27 All in violation of Title 18, United States Code, Sections 1343 and 2.

28 COUNT TWELVE: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

1 MEANS AND METHODS OF THE CONSPIRACY

2 82. For the purpose of forming and carrying out the charged combination and conspiracy,
3 the defendants and co-conspirators did the following things, among others:

- 4 a. discussed prospective bids for the project;
- 5 b. agreed who would be the lead contractor on the project and who
6 would participate on the project as subcontractors to the designated
7 lead contractor;
- 8 c. submitted fraudulent and non-competitive bids in accordance with
9 the conspiratorial agreement; and
- 10 d. engaged defendants JUDY GREEN and MARCHELOS, who did
11 the following:
- 12 i. took steps to ensure the success of the conspiracy by
13 eliminating and disqualifying bids from non-conspirators
14 and either directly awarding the contracts or using their
15 best efforts to persuade the school district officials to award
16 contracts to the designated lead contractor; and
- 17 ii. successively caused to be awarded the project to the
18 defendants and co-conspirators. In return, some of the
19 defendants and co-conspirators agreed to pay and paid
20 defendants JUDY GREEN and MARCHELOS's employer,
21 defendant VNCI, a fee and agreed to purchase and
22 purchased and installed defendant VNCI's equipment on
23 the project.

24 DEFENDANTS AND CO-CONSPIRATORS

25 83. Paragraphs Four through Six, Fourteen, Fifteen and Seventeen are realleged as if fully
26 set forth here.

27 84. Various individuals and corporations, not made defendants in this Indictment,
28 participated as co-conspirators in the charged combination and conspiracy and performed acts

1 and made statements in furtherance of it.

2 85. Whenever this Indictment refers to any act, deed, or transaction of any corporation, it
3 means that the corporation engaged in the act, deed, or transaction by or through its officers,
4 directors, employees, agents, or other representatives while they were actively engaged in the
5 management, direction, control, or transaction of its business or affairs.

6 //

7 TRADE AND COMMERCE

8 86. During the period covered by this Count, bid proposals, USAC forms, and supporting
9 documents were transmitted across state lines in connection with the application for E-Rate
10 funding for the supply of substantial quantities of video and other telecommunication equipment
11 and services at the project. In addition, substantial quantities of video and other
12 telecommunication equipment, and services, and payments for those goods and services, traveled
13 in a continuous and uninterrupted flow of interstate trade and commerce, in connection with the
14 conspiracy charged in this Count.

15 87. During the period covered by this Count, the activities of the defendants and co-
16 conspirators that are the subject of this Count were within the flow of, and substantially affected,
17 interstate trade and commerce.

18 JURISDICTION AND VENUE

19 88. The aforesaid combination and conspiracy was carried out, in part, within the Northern
20 District of California and within the five years preceding the return of this Indictment.

21 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
22 Section 2.

23 COUNT THIRTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

24 THE HIGHLAND PARK CONSPIRACY

25 89. Paragraphs Four through Six, Fifteen, Eighty-Four and Eighty-Five are realleged as if
26 fully set forth here.

27 90. From in or about November 1998 until in or about July 2001, the defendants

28 JUDY GREEN,
GEORGE MARCHELOS,

1 ADJ CONSULTANTS, INC., and
2 VIDEO NETWORK COMMUNICATIONS, INC.,

3 and others known and unknown to the Grand Jury, entered into and engaged in a combination
4 and conspiracy to suppress and restrain competition for an E-Rate project at the Highland Park
5 School District in Highland Park, Michigan (“the project”), in unreasonable restraint of interstate
6 trade and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

7 91. The charged combination and conspiracy consisted of a continuing agreement,
8 understanding, and concert of action among the defendants and co-conspirators, the substantial
9 terms of which were:

- 10 a. to allocate among the defendants and co-conspirators the project;
11 b. to submit collusive, noncompetitive, and rigged bids for the
12 project; and
13 c. to provide equipment and services for the project and receive
14 payment from USAC as a result of the allocation and collusive
15 bidding.

16 92. The defendants aided, abetted, counseled, commanded, induced, and procured
17 the combination and conspiracy charged in this Count and willfully caused others to
18 perform acts and make statements in furtherance of the charged combination and
19 conspiracy, in violation of Title 18, United States Code, Section 2.

20 93. Paragraphs Eighty-Two and Eighty-Six through Eighty-Eight are realleged as if
21 fully set forth here.

22 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
23 Section 2.

24 COUNT FOURTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

25 THE COVERT CONSPIRACY

26 94. Paragraphs Four through Six and Eighty-Four and Eighty-Five are realleged as if fully
27 set forth here.

28 95. From in or about November 1999 until in or about July 2001, the defendants

1 JUDY GREEN,
2 GEORGE MARCHELOS, and
3 VIDEO NETWORK COMMUNICATIONS, INC.,

4 and others known and unknown to the Grand Jury, entered into and engaged in a combination
5 and conspiracy to suppress and restrain competition for an E-Rate project at the Covert Public
6 School District in Covert, Michigan (“the project”), in unreasonable restraint of interstate trade
7 and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

8 96. The charged combination and conspiracy consisted of a continuing agreement,
9 understanding, and concert of action among the defendants and co-conspirators, the substantial
10 terms of which were:

- 11 a. to allocate among the defendants and co-conspirators the project;
- 12 b. to submit collusive, noncompetitive, and rigged bids for the
13 project; and
- 14 c. to provide equipment and services for the project and receive
15 payment from USAC as a result of the allocation and collusive
16 bidding.

17 97. The defendants aided, abetted, counseled, commanded, induced and procured the
18 combination and conspiracy charged in this Count and willfully caused others to perform
19 acts and make statements in furtherance of the charged combination and conspiracy, in
20 violation of Title 18, United States Code, Section 2.

21 98. Paragraphs Eighty-Two and Eighty-Six through Eighty-Eight are realleged as if
22 fully set forth here.

23 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
24 Section 2.

25 COUNT FIFTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

26 THE LEE COUNTY CONSPIRACY

27 99. Paragraphs Four through Six and Eighty-Four and Eighty-Five are realleged as if fully
28 set forth here.

100. From in or about November 1999 until in or about July 2001, the defendants

1 JUDY GREEN,
2 GEORGE MARCHELOS, and
3 VIDEO NETWORK COMMUNICATIONS, INC.,

4 and others known and unknown to the Grand Jury, entered into and engaged in a combination
5 and conspiracy to suppress and restrain competition for an E-Rate project at the Lee County
6 School District Number 1 in Marianna, Arkansas (“the project”), in unreasonable restraint of
7 interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code,
8 Section 1.

9 101. The charged combination and conspiracy consisted of a continuing agreement,
10 understanding, and concert of action among the defendants and co-conspirators, the substantial
11 terms of which were:

- 12 a. to allocate among the defendants and co-conspirators the project;
- 13 b. to submit collusive, noncompetitive, and rigged bids for the
14 project; and
- 15 c. to provide equipment and services for the project and receive
16 payment from USAC as a result of the allocation and collusive
17 bidding.

18 102. The defendants aided, abetted, counseled, commanded, induced, and procured
19 the combination and conspiracy charged in this Count and willfully caused others to
20 perform acts and make statements in furtherance of the charged combination and
21 conspiracy, in violation of Title 18, United States Code, Section 2.

22 103. Paragraphs Eighty-Two and Eighty-Six through Eighty-Eight are realleged as if
23 fully set forth here.

24 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
25 Section 2.

26 COUNT SIXTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

27 THE JASPER COUNTY CONSPIRACY

28 104. Paragraphs Four through Six, Eighty-Four and Eighty-Five are realleged as if fully set
forth here.

1 105. From in or about November 1999 until in or about July 2001, the defendants

2 JUDY GREEN,
3 GEORGE MARCHELOS, and
4 VIDEO NETWORK COMMUNICATIONS, INC.,

5 and others known and unknown to the Grand Jury, entered into and engaged in a combination
6 and conspiracy to suppress and restrain competition for an E-Rate project at the Jasper County
7 School District in Ridgeland, South Carolina (“the project”), in unreasonable restraint of
8 interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code,
9 Section 1.

10 106. The charged combination and conspiracy consisted of a continuing agreement,
11 understanding, and concert of action among the defendants and co-conspirators, the substantial
12 terms of which were:

- 13 a. to allocate among the defendants and co-conspirators the project;
- 14 b. to submit collusive, noncompetitive, and rigged bids for the
15 project; and
- 16 c. to provide equipment and services for the project and receive
17 payment from USAC as a result of the allocation and collusive
18 bidding.

19 107. The defendants aided, abetted, counseled, commanded, induced and procured
20 the combination and conspiracy charged in this Count and willfully caused others to
21 perform acts and make statements in furtherance of the charged combination and
22 conspiracy, in violation of Title 18, United States Code, Section 2.

23 108. Paragraphs Eighty-Two and Eighty-Six through Eighty-Eight are realleged as if
24 fully set forth here.

25 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
26 Section 2.

27 COUNT SEVENTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

28 THE ECORSE CONSPIRACY

109. Paragraphs Four through Six, Eighty-Four, and Eighty-Five are realleged as if fully set

1 forth here.

2 110. From in or about November 1999 until in or about July 2001, the defendants

3 JUDY GREEN,
4 GEORGE MARCHELOS, and
5 VIDEO NETWORK COMMUNICATIONS, INC.,

6 and others known and unknown to the Grand Jury entered into and engaged in a combination and
7 conspiracy to suppress and restrain competition for an E-Rate project at the Ecorse Public School
8 in Ecorse, Michigan (“the project”), in unreasonable restraint of interstate trade and commerce,
9 in violation of the Sherman Act, Title 15, United States Code, Section 1.

10 111. The charged combination and conspiracy consisted of a continuing agreement,
11 understanding, and concert of action among the defendants and co-conspirators, the substantial
12 terms of which were:

- 13 a. to allocate among the defendants and co-conspirators the project;
- 14 b. to submit collusive, noncompetitive, and rigged bids for the
15 project; and
- 16 c. to provide equipment and services for the project and receive
17 payment from USAC as a result of the allocation and collusive
18 bidding.

19 112. The defendants aided, abetted, counseled, commanded, induced and procured
20 the combination and conspiracy charged in this Count and willfully caused others to
21 perform acts and make statements in furtherance of the charged combination and
22 conspiracy, in violation of Title 18, United States Code, Section 2.

23 113. Paragraphs Eighty-Two and Eighty-Six through Eighty-Eight are realleged as if
24 fully set forth here.

25 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
26 Section 2.

27 COUNT EIGHTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

28 THE CERIA TRAVIS CONSPIRACY

114. Paragraphs Four through Six, Eighty-Four, and Eighty-Five are realleged as if fully set

1 forth here.

2 115. From in or about November 1999 until in or about July 2001, the defendants

3 JUDY GREEN,
4 GEORGE MARCHELOS, and
5 VIDEO NETWORK COMMUNICATIONS, INC.,

6 and others known and unknown to the Grand Jury, entered into and engaged in a combination
7 and conspiracy to suppress and restrain competition for an E-Rate project at the Ceria Travis
8 Academy in Milwaukee, Wisconsin (“the project”), in unreasonable restraint of interstate trade
9 and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

10 116. The charged combination and conspiracy consisted of a continuing agreement,
11 understanding, and concert of action among the defendants and co-conspirators, the substantial
12 terms of which were:

- 13 a. to allocate among the defendants and co-conspirators the project;
- 14 b. to submit collusive, noncompetitive, and rigged bids for the
15 project; and
- 16 c. to provide equipment and services for the project and receive
17 payment from USAC as a result of the allocation and collusive
18 bidding.

19 117. The defendants aided, abetted, counseled, commanded, induced and procured
20 the combination and conspiracy charged in this Count and willfully caused others to
21 perform acts and make statements in furtherance of the charged combination and
22 conspiracy, in violation of Title 18, United States Code, Section 2.

23 118. Paragraphs Eighty-Two and Eighty-Six through Eighty-Eight are realleged as if
24 fully set forth here.

25 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
26 Section 2.

27 COUNT NINETEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

28 THE MUSKEGON HEIGHTS CONSPIRACY

119. Paragraphs Four through Six, Eighty-Four, and Eighty-Five are realleged as if fully set

1 forth here.

2 120. From in or about November 1999 until in or about June 2000, the defendants

3 JUDY GREEN,
4 GEORGE MARCHELOS, and
5 VIDEO NETWORK COMMUNICATIONS, INC.,

6 and others known and unknown to the Grand Jury, entered into and engaged in a combination
7 and conspiracy to suppress and restrain competition for an E-Rate project at the Muskegon
8 Heights School District in Muskegon Heights, Michigan (“the project”), in unreasonable
9 restraint of interstate trade and commerce, in violation of the Sherman Act, Title 15, United
10 States Code, Section 1.

11 121. The charged combination and conspiracy consisted of a continuing agreement,
12 understanding, and concert of action among the defendants and co-conspirators, the substantial
13 terms of which were:

- 14 a. to allocate among the defendants and co-conspirators the project;
- 15 b. to submit collusive, noncompetitive, and rigged bids for the
16 project; and
- 17 c. to provide equipment and services for the project and receive
18 payment from USAC as a result of the allocation and collusive
19 bidding.

20 122. The defendants aided, abetted, counseled, commanded, induced and procured
21 the combination and conspiracy charged in this Count and willfully caused others to
22 perform acts and make statements in furtherance of the charged combination and
23 conspiracy, in violation of Title 18, United States Code, Section 2.

24 123. Paragraphs Eighty-Two and Eighty-Eight are realleged as if fully set forth here,
25 with the exception that Paragraph Eighty-Two (d)(ii) is not realleged.

26 TRADE AND COMMERCE

27 124. Bid proposals, USAC forms, and supporting documents submitted as part of the
28 Muskegon Heights School District’s E-Rate application for the funding of the supply of
substantial quantities of video and other telecommunication equipment and services were

1 transmitted from locations outside of Michigan to locations in Michigan, from Michigan
2 to locations outside of Michigan, and from locations in California to locations outside of
3 California. Moreover, the conspirators anticipated that defendant VNCI would
4 manufacture and ship substantial quantities of video and other telecommunication
5 equipment from its facilities in New Hampshire to Michigan, in a continuous and
6 uninterrupted flow of interstate commerce, in connection with the conspiracy charged in
7 this Court. Furthermore, the conspirators anticipated that they would receive substantial
8 funds transmitted in interstate commerce from the E-Rate Program for equipment and
9 services provided for the project. The E-Rate program receives substantial funds
10 transmitted in interstate commerce from telecommunication carriers which collect such
11 funds monthly from their customers, located throughout the United States.

12 125. In addition, defendant VNCI's general business activities included
13 manufacturing and purchasing videoconferencing equipment components, as well as
14 shipping videoconferencing equipment from its facilities in New Hampshire to locations
15 in other states, thereby substantially affecting interstate commerce.

16 126. The activities of the defendants that are the subject of this Indictment were
17 within the flow of, and substantially affected, interstate trade and commerce.

18 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
19 Section 2.

20 COUNT TWENTY: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

21 THE W.E.B. DUBOIS CONSPIRACY

22 127. Paragraphs Four through Six, Fourteen, Eighty-Four and Eighty-Five are realleged as if
23 fully set forth here.

24 128. From in or about November 1999 until in or about July 2001, the defendants

25 JUDY GREEN,
26 GEORGE MARCHELOS,
27 VIDEO NETWORK COMMUNICATIONS, INC., and
28 HOWE ELECTRIC, INC.,

and others known and unknown to the Grand Jury, entered into and engaged in a combination

1 and conspiracy to suppress and restrain competition for an E-Rate project at the W.E.B. DuBois
2 Charter School in Fresno, California (“the project”), in unreasonable restraint of interstate trade
3 and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

4 129. The charged combination and conspiracy consisted of a continuing agreement,
5 understanding, and concert of action among the defendants and co-conspirators, the substantial
6 terms of which were:

- 7 a. to allocate among the defendants and co-conspirators the project;
- 8 b. to submit collusive, noncompetitive, and rigged bids for the
9 project; and
- 10 c. to provide equipment and services for the project and receive
11 payment from USAC as a result of the allocation and collusive
12 bidding.

13 130. The defendants

14 JUDY GREEN,
15 GEORGE MARCHELOS, and
16 VIDEO NETWORK COMMUNICATIONS, INC.,

17 aided, abetted, counseled, commanded, induced, and procured the combination and
18 conspiracy charged in this Count and willfully caused others to perform acts and make
19 statements in furtherance of the charged combination and conspiracy, in violation of Title
20 18, United States Code, Section 2.

21 131. Paragraphs Eighty-Two and Eighty-Six through Eighty-Eight are realleged as if
22 fully set forth here, with the exception that Paragraph Eighty-Two (d)(ii) is not realleged.

23 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
24 Section 2.

25 COUNT TWENTY-ONE: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

26 THE 2003-2004 PROJECTS CONSPIRACY (Collusion)

27 132. Paragraph Fifteen, Eighty-Four and Eighty-Five are realleged as if fully set forth here.

28 133. JUDY GREEN worked for ADJ. She marketed herself to school districts and others,
through ADJ, as experienced in designing and installing computer networks, identifying

1 potential government-sponsored funding sources, such as the FCC's E-Rate program, and
2 applying for these funds.

3 134. DIGITAL CONNECT COMMUNICATIONS, INC. ("DIGITAL CONNECT") was a
4 California company, headquartered in Capistrano Beach, California, that was established in 2002
5 to provide telecommunication and Internet access equipment and services to schools
6 participating in the FCC's E-Rate program.

7 135. STEVEN NEWTON was a former Vice President at Premio Computers, Inc., and had
8 an ownership interest in, and was the principal manager of, DIGITAL CONNECT. In those
9 positions, NEWTON worked with JUDY GREEN to provide computer-related goods and
10 services for projects funded by the FCC's E-Rate program.

11 136. EXPEDITION NETWORKS, LTD. ("EXPEDITION") was a California company,
12 headquartered in North Hills, California, that designed and installed computer integrated systems
13 and sought to provide telecommunication and Internet access equipment and services to schools
14 participating in the FCC's E-Rate program in 2003.

15 137. ALLAN GREEN worked for ADJ. JUDY and ALLAN GREEN marketed themselves,
16 through ADJ, as experienced in designing and installing computer networks, identifying
17 potential government-sponsored funding sources, such as the FCC's E-Rate program, and
18 applying for these funds.

19 138. Beginning as early as October 2002 and lasting through at least January 2004, the exact
20 dates being unknown to the Grand Jury, the defendants

21 JUDY GREEN,
22 ALLAN GREEN,
23 ADJ CONSULTANTS, INC.,
24 STEVEN NEWTON,
25 EXPEDITION, and
26 DIGITAL CONNECT,

27 and others known and unknown to the Grand Jury, entered into and engaged in a combination
28 and conspiracy to suppress and restrain competition for fifteen 2003-2004 E-Rate projects ("the
2003-2004 projects"), in unreasonable restraint of interstate trade and commerce, in violation of
the Sherman Act, Title 15, United States Code, Section 1. The 2003-2004 projects were located
at the following school districts:

1 Luther Burbank School District – San Jose, CA
2 Temple City Unified School District – Temple City, CA
3 Philadelphia Charter Academy School – Philadelphia, PA
4 Yeshiva of Far Rockaway – Far Rockaway, NY
5 Barnwell County School District – Blackville, SC
6 Salkehatchie Consortium – Allendale, SC
7 Altheimer Unified School District – Altheimer, AR
8 Arkansas River Educational Services Cooperative – Pine Bluff, AR
9 Crossett Public School District – Crossett, AR
10 Dollarway Public School District – Pine Bluff, AR
11 Humphrey Public School District – Humphrey, AR
12 Lakeview School District – Helena, AR
13 Lee County School District – Marianna, AR
14 Poyen Public School District – Poyen, AR
15 Townsend Park Elementary School – Pine Bluff, AR;

16 139. The defendants

17 JUDY GREEN,
18 ALLAN GREEN, and
19 ADJ CONSULTANTS, INC.,

20 aided, abetted, counseled, commanded, induced, and procured the combination and conspiracy
21 charged in this Count and willfully caused others to perform acts and make
22 statements in furtherance of the charged combination and conspiracy, in violation of Title 18,
23 United States Code, Section 2.

24 140. The charged combination and conspiracy consisted of a continuing agreement,
25 understanding, and concert of action among the defendants and co-conspirators, the substantial
26 terms of which were:

- 27 a. to allocate among the defendants and co-conspirators the 2003-
28 2004 projects;
- 29 b. to submit collusive, noncompetitive, and rigged bids for the 2003-
30 2004 projects; and
- 31 c. to provide equipment and services for the 2003-2004 projects and
32 receive payment from USAC as a result of the allocation and
33 collusive bidding.

34 MEANS AND METHODS OF THE CONSPIRACY

35 141. For the purpose of forming and carrying out the charged combination and conspiracy,
36 the defendants and co-conspirators did the following things, among others:

- 1 a. discussed prospective bids for the 2003-2004 projects;
- 2 b. agreed who would be the low bidder on some projects;
- 3 c. agreed who would be the low bidder on particular portions of some
- 4 projects;
- 5 d. submitted fraudulent and non-competitive bids in accordance with
- 6 the conspiratorial agreement; and
- 7 e. engaged defendant JUDY GREEN to obtain for the defendants the
- 8 award of the 2003-2004 projects. In return, the defendants agreed
- 9 to pay fees to defendants JUDY GREEN and/or ADJ.

10 TRADE AND COMMERCE

11 142. Bid proposals, USAC forms, and supporting documents submitted as part of the
12 applications for the funding of the supply of substantial quantities of video and other
13 telecommunication equipment and services at the 2003-2004 projects were transmitted
14 from locations in California to locations outside of California. Moreover, defendants DIGITAL
15 CONNECT and EXPEDITION anticipated that they would ship substantial quantities of servers,
16 routers, switches, and PBXs from California in a continuous and uninterrupted flow of interstate
17 trade and commerce to school districts located in various other states, in connection with the
18 conspiracy charged in this Count. Ultimately, USAC did not provide any E-Rate funding on the
19 2003-2004 projects because of the suspected collusion of the defendants, and thus the school
20 districts involved were denied a substantial quantity of E-Rate services and equipment that
21 would have traveled in a continuous and uninterrupted flow of interstate commerce. In addition,
22 as a result of the conspiracy, non-colluding vendors were denied the opportunity to supply
23 substantial quantities of E-Rate services and equipment on the 2003-2004 projects in a
24 continuous and uninterrupted flow of interstate commerce. Furthermore, the conspirators
25 anticipated that they would receive substantial funds transmitted in interstate commerce from the
26 E-Rate Program for equipment and services provided for the project. The E-Rate program
27 receives substantial funds transmitted in interstate commerce from telecommunication carriers
28 which collect such funds monthly from their customers, located through-out the United States.

1 143. During the relevant period, the activities of the defendants and co-conspirators that are
2 the subject of this Count were within the flow of, and substantially affected, interstate trade and
3 commerce.

4 JURISDICTION AND VENUE

5 144. The aforesaid combination and conspiracy was carried out, in part, within the Northern
6 District of California, and within the five years preceding the return of this Indictment.

7 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
8 Section 2.

9 COUNT TWENTY-TWO: 18 U.S.C. § 371 (Conspiracy to Commit Wire and Mail Fraud)

10 THE 2003-2004 PROJECTS CONSPIRACY TO DEFRAUD

11 145. Paragraphs Fifteen and 133 through 137 are realleged as if fully set forth here.

12 146. GEORGE MARCHELOS worked as an independent consultant to school districts in
13 order to assist them in designing computer networks, identifying potential government-
14 sponsored funding sources, such as the FCC's E-Rate program, and applying for these funds.

15 147. From in or about October 2002 until at least January 2004, the exact dates being
16 unknown to the Grand Jury, in the Northern District of California and elsewhere, the defendants

17 JUDY GREEN,
18 ALLAN GREEN,
19 GEORGE MARCHELOS,
20 STEVEN NEWTON,
21 ADJ CONSULTANTS, INC.,
22 DIGITAL CONNECT, and
23 EXPEDITION,

24 and others known and unknown to the Grand Jury, did knowingly and intentionally conspire to
25 commit offenses against the United States, namely, mail fraud in violation of Title 18, United
26 States Code, Section 1341, and wire fraud in violation of Title 18, United States Code, Section
27 1343.

28 148. It was a part of the conspiracy that the defendants and co-conspirators, having devised
and intending to devise a scheme and artifice to defraud the FCC and USAC as to a material
matter and to obtain money and property by means of materially false and fraudulent pretenses,
representations, and promises, in relation to the 2003-2004 projects identified in Paragraph

1 150(a) below, for the purpose of executing such scheme and artifice, knowingly would and did
2 place in post offices and authorized depositories for mail matter, matters and things to be sent
3 and delivered by the Postal Service, and deposit and cause to be deposited matters and things to
4 be sent and delivered by private and commercial interstate carriers, and take and receive
5 therefrom, such matters and things, and knowingly cause such matters and things to be delivered
6 by mail and such carriers according to the direction thereon, and at the place at which they were
7 directed to be delivered by the persons to whom they were addressed, in violation of Title 18,
8 United States Code, Section 1341.

9 149. It was a part of the conspiracy that the defendants and co-conspirators, having devised
10 and intending to devise a scheme and artifice to defraud the FCC and USAC as to a material
11 matter and to obtain money and property by means of materially false and fraudulent pretenses,
12 representations, and promises, in relation to the 2003-2004 projects identified in Paragraph
13 150(a) below, for the purpose of executing such scheme and artifice, knowingly would and did
14 transmit or cause to be transmitted by means of wire communications in interstate commerce,
15 certain writings, signs, signals or sounds, in violation of Title 18, United States Code, Section
16 1343.

17 MEANS AND METHODS OF THE CONSPIRACY

18 150. The defendants and co-conspirators used the following means and methods, among
19 others, to accomplish the conspiracy:

- 20 a. The defendants and co-conspirators controlled the bidding, application,
21 implementation and invoicing process of the E-Rate projects located at the
22 school districts listed below (“the 2003-2004 projects”):

23 Luther Burbank School District – San Jose, CA
24 Temple City Unified School District – Temple City, CA
25 Philadelphia Charter Academy School – Philadelphia, PA
26 Yeshiva of Far Rockaway – Far Rockaway, NY
27 Barnwell County School District – Blackville, SC
28 Salkehatchie Consortium – Allendale, SC
Alzheimer Unified School District – Alzheimer, AR
Arkansas River Educational Services Cooperative – Pine Bluff,
AR
Crossett Public School District – Crossett, AR
Dollarway Public School District – Pine Bluff, AR
Humphrey Public School District – Humphrey, AR

Lakeview School District – Helena, AR
Lee County School District – Marianna, AR
Poyen Public School District – Poyen, AR
Townsend Park Elementary School – Pine Bluff, AR

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- b. The defendants and co-conspirators submitted materially false and misleading information to USAC in order to obtain from USAC a commitment to provide E-Rate program funding for those projects;
 - c. The defendants and co-conspirators omitted and misrepresented material information that would have resulted in the denial or significant reduction of E-Rate program funding for those projects;
 - d. The defendants and co-conspirators concealed all of the above from the FCC and USAC;
 - e. The defendants and co-conspirators deceived the FCC and USAC into believing that the schools involved in the 2003-2004 projects were applying for funds to pay for only eligible equipment, when, in truth, the defendants and co-conspirators had included the costs of ineligible end-user equipment and services and costs of marketing and management fees as part of the costs of the eligible equipment set forth in the funding applications for those projects;
 - f. The defendants and co-conspirators prepared and submitted to USAC Form 471 applications for funding for schools involved in the 2003-2004 projects. On those Forms 471, contrary to USAC rules, the defendants and co-conspirators inserted equipment and service amounts that were different than the bid amounts submitted by the defendants awarded those 2003-2004 projects;
 - g. Contrary to USAC rules, the defendants and co-conspirators planned not to seek payment from the schools involved in the 2003-2004 projects for their co-pay. The defendants and co-conspirators created sham “foundations” and submitted false information and documentation to the FCC and USAC in an attempt to mislead them into believing that the

1 foundations had funding resources and had donated, or were going to
2 donate, to the 2003-2004 project schools funding sufficient to cover the
3 schools' co-pay. In truth, the foundations had no such funding resources,
4 and the defendants planned to use USAC funding to cover 100% of the
5 cost of the 2003-2004 projects; and

- 6 h. The defendants and co-conspirators, in response to FCC and USAC
7 inquiries to the 2003-2004 project schools regarding their ability to pay
8 for end-user equipment and services necessary to utilize the applied-for
9 equipment and services, submitted false documentation to USAC
10 representing that the schools had secured access to such resources.

11 OVERT ACTS

12 151. In furtherance of the conspiracy and to effect the objects of the conspiracy, the
13 defendants and co-conspirators committed the following overt acts, among others, in the
14 Northern District of California and elsewhere:

- 15 a. On or about January 13, 2003, an employee of defendant EXPEDITION
16 caused to be delivered through United Parcel Service a funding year 2003-
17 2004 bid proposal to the Luther Burbank School District in San Jose,
18 California.
- 19 b. On or about January 4, 2003, defendants JUDY GREEN, ALLAN
20 GREEN, STEVEN NEWTON, and employees of defendants
21 EXPEDITION and DIGITAL CONNECT met at the offices of defendant
22 ADJ. At this meeting, they discussed prices for equipment and services
23 that were then included in bid proposals for the 2003-2004 projects.
- 24 c. On or about April 29, 2003, defendant JUDY GREEN sent a telephonic
25 facsimile from California to USAC in New Jersey that contained false
26 financial information about a sham foundation, including that the
27 foundation had over \$22 million in assets in 2001 when, in truth, the
28 foundation did not have any such assets.

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- d. On or about October 31, 2003, defendant MARCHELOS sent via United Parcel Service, an interstate carrier, from San Jose, California, an appeal letter to USAC on behalf of Luther Burbank that falsely represented that the district had budgeted funds to pay its portion of its proposed 2003-2004 project's cost.
- e. On or about April 22, 2003, a Luther Burbank employee sent a telephonic facsimile from San Jose, California, to a USAC employee in Whippany, New Jersey, confirming that Luther Burbank had received USAC's request for information about Luther Burbank's funding resources for its co-pay and end-user equipment.

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4 All in violation of Title 18, United States Code, Section 371.

5 DATED:

A TRUE BILL

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_____/s/_____
THOMAS O. BARNETT
Acting Assistant Attorney General

_____/s/_____
FOREPERSON

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_____/s/ by Eumi L. Choi
KEVIN V. RYAN
United States Attorney

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_____/s/_____
SCOTT D. HAMMOND
Deputy Assistant Attorney General

_____/s/_____
EUMI L. CHOI
Chief, Criminal Division

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_____/s/_____
MARC SIEGEL
Director of Criminal Enforcement

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Approved as to form:

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_____/s/_____
MICHAEL F. WOOD
Trial Attorney
Antitrust Division

_____/s/_____
LAUREL BEELER
Assistant United States Attorney

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