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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 KEVIN V. RYAN (CSBN 118321)  
United States Attorney  
2  
3 THOMAS O. BARNETT (DCBN 426840)  
Acting Assistant Attorney General  
Antitrust Division  
4 U.S. Department of Justice

5 UNITED STATES DISTRICT COURT  
6 NORTHERN DISTRICT OF CALIFORNIA  
7 SAN FRANCISCO DIVISION

MMC

9 UNITED STATES OF AMERICA,  
10 Plaintiff,  
11 v.  
12 PREMIO, INC., f/k/a PREMIO  
13 COMPUTER, INC.  
14 Defendant.

CR No. 06 0086

VIOLATIONS: 15 United States Code §1-  
Sherman Antitrust Act; 18 United States  
Code §§ 1341 and 2 – Mail Fraud and  
Aiding and Abetting.

15  
16 INFORMATION

17 The United States Attorney and the Antitrust Division charge:

18 INTRODUCTION

19 At all times relevant to this Information:

- 20 1. Premio, Inc. (formerly known as Premio Computer, Inc., and hereafter,  
21 “defendant”) was an Illinois corporation with its principal place of business in the City of  
22 Industry, California.  
23 2. The defendant made computers and sold its computers, software and computer  
24 peripheral equipment to wholesale, commercial and government clients.  
25 3. E-Rate is a program created by Congress in the Telecommunications Act of 1996  
26 and operated under the auspices of the Federal Communications Commission (“FCC”) to provide  
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1 funding to connect schools and libraries to and utilize the Internet. The FCC designated the  
2 Universal Service Administrative Company (“USAC”), a nonprofit corporation, to administer the  
3 E-Rate program.

4 4. The E-Rate program was designed to ensure that the neediest schools received the  
5 most financial help. All participating school districts were required to fund a percentage of the  
6 cost of the equipment and services acquired under the E-Rate program. That percentage,  
7 however, was determined based on the number of students in the district qualifying for the  
8 United States Department of Agriculture’s school lunch program, with the neediest school  
9 districts eligible for the highest percentage of funding.

10 5. During the charged period, school district applications for E-Rate funding far  
11 exceeded the funding available. To ensure that E-Rate funding was distributed to the widest  
12 applicable number of applicants, USAC required all applicants to comply with various rules and  
13 procedures, including: (1) only USAC-approved equipment, services and supplies would be  
14 eligible for funding; (2) school districts were required to follow competitive bidding procedures  
15 in accordance with local and state law to ensure that the school districts got the lowest possible  
16 prices from the responsive bidders; (3) service providers or their agents could not participate in  
17 the vendor selection process or in the completion of forms necessary for the schools to receive E-  
18 Rate funding in order to avoid a conflict of interest or even the appearance of a conflict of  
19 interest; and (4) school districts were required to enter into contracts with the lowest, most  
20 responsive bidder prior to making application for funds from USAC.

21 6. Prior to December 1, 1998, the defendant established a relationship with a  
22 company that manufactured and installed video conferencing switches and related equipment  
23 (hereafter “VX Company”) and had installed VX Company equipment on E-Rate funded  
24 projects.

25 7. During the charged period the VX Company contracted with two persons  
26 (Consultant One and Consultant Two) to work as sales representatives. Consultants One and  
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1 Two specialized in marketing VX Company products to educational institutions, including  
2 school districts.

3 8. During the charged period Consultants One and Two also acted as consultants to  
4 school districts in designing computer networks, identifying potential government-sponsored  
5 funding sources (including the E-Rate program), applying for those funds, and selecting vendors  
6 to supply the specified equipment and services funded by those programs.

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8 COUNT ONE: 15 U.S.C. § 1 (Sherman Antitrust Act)

9 DESCRIPTION OF THE OFFENSE

10 9. Paragraphs One through Eight are realleged as if fully set forth here.

11 10. Beginning at least as early as December 1, 1998, and continuing at least through  
12 December 31, 1999, (“the charged period”) the exact dates being unknown to the United States,  
13 the defendant,

14 PREMIO, INC., f/k/a PREMIO COMPUTER, INC.,

15 and co-conspirators entered into and engaged in a combination and conspiracy to suppress and  
16 eliminate competition for an E-Rate subsidized project at the West Fresno Elementary School  
17 District in Fresno, California (“the project”) in unreasonable restraint of interstate trade and  
18 commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1 by allocating  
19 contracts for equipment and services relating to telecommunications, Internet access, and/or  
20 internal connections.

21 11. The charged combination and conspiracy consisted of a continuing agreement,  
22 understanding, and concert of action among the defendant and co-conspirators, the substantial  
23 terms of which were:

- 24 (a) to allocate among the defendant and co-conspirators contracts for  
25 the project;  
26 (b) to submit collusive, noncompetitive, and rigged bids for the  
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1 project; and

- 2 (c) to provide equipment and services for the project and receive  
3 payment from USAC as a result of the allocation and collusive  
4 bidding.

5 MEANS AND METHODS OF THE CONSPIRACY

6 12. For the purpose of forming and carrying out the charged combination and  
7 conspiracy, the defendant and co-conspirators, each aware of the others' existence and ability to  
8 compete with the others, did the following things, among others:

- 9 (a) discussed with co-conspirators prospective bids for the E-Rate  
10 project;
- 11 (b) agreed with co-conspirators who would be the lead contractor on  
12 the project and who would participate on the project as  
13 subcontractors to the designated lead contractor;
- 14 (c) submitted fraudulent and non-competitive bids in accordance with  
15 the conspiratorial agreement;
- 16 (d) worked with Consultants One and Two, described in Paragraph 7  
17 above;
- 18 (e) Consultants One and Two took steps to ensure the success of the  
19 conspiracy by eliminating and disqualifying bids from non-  
20 conspirators and either directly awarding the contracts or using  
21 their best efforts to persuade the school district officials to award  
22 contracts to the designated lead contractors;
- 23 (f) Consultants One and Two caused the project's contract to be  
24 awarded to the designated lead contractor and caused a subcontract  
25 to be awarded to the defendant. In return, pursuant to the  
26 conspiracy, the defendant agreed to purchase and install and did  
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1 purchase and install, equipment at the project.

2 DEFENDANT AND CO-CONSPIRATORS

3 13. Various individuals and corporations, not made defendants in this  
4 Information, participated as co-conspirators in the charged combination and conspiracy  
5 and performed acts and made statements in furtherance of it.

6 14. Whenever this Information refers to any act, deed, or transaction of any  
7 corporation, it means that the corporation engaged in the act, deed, or transaction by or  
8 through its officers, directors, employees, agents, or other representatives while they were  
9 actively engaged in the management, direction, control, or transaction of its business or  
10 affairs.

11 TRADE AND COMMERCE

12 15. In accordance with the project contracts obtained through the conspiracy  
13 by the defendant and its co-conspirators, during the relevant period, equipment and  
14 services were delivered and payments for such equipment and services were received that  
15 traveled in interstate commerce.

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

18 JURISDICTION AND VENUE

19 17. The combination and conspiracy charged in this Information was carried  
20 out, in part, within the Central District of California.

21 All in violation of Title 15, United States Code, Section 1.

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23 COUNT TWO: 18 U.S.C. §§ 1341 and 2 (Mail Fraud and Aiding and Abetting)

24 18. Paragraphs One through Eight are realleged as if fully set forth here.  
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1 Highland Park 471 application, on or about November 2, 1999, USAC's Schools and  
2 Libraries Division ("SLD") approved approximately \$1.2 million in funding to the  
3 defendant for the defendant's provision of telecommunication servers and related  
4 installation and maintenance at Highland Park.

5 22. It was a further part of the scheme that, on or about May 5, 2000,  
6 Consultants One and Two directed a Highland Park Official to write a letter to the  
7 defendant requesting the substitution of the ineligible video conferencing equipment for  
8 the approved servers, when in fact the letter was merely an attempt to hide the ineligible  
9 substitution from the SLD's scrutiny.

10 23. It was further part of the scheme that a now former employee of the  
11 defendant met with Consultant One and agreed to have the defendant purchase ineligible  
12 video conferencing equipment from VX Company with the E-Rate funds that had been  
13 appropriated for servers and provide that ineligible equipment to Highland Park instead of  
14 providing telecommunication servers as approved by the SLD.

15 24. During the charged period, the defendant purchased the ineligible video  
16 conferencing equipment from VX Company and delivered that equipment to Highland  
17 Park in lieu of the telecommunication servers for which funding had been approved under  
18 the defendant's SPIN 143008583.

19 25. The defendant knowingly invoiced the SLD for approximately \$1.2 million  
20 for telecommunication servers despite having delivered the ineligible video conferencing  
21 equipment to Highland Park.

22 26. At no time during the charged period did the defendant disclose to the SLD  
23 that it had impermissibly substituted VX Company's ineligible video conferencing  
24 equipment for the telecommunication servers that had been approved under the  
25 defendant's SPIN 143008583.

26 27. During the charged period, for the purpose of executing its scheme, the  
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1 defendant caused an invoice dated April 20, 2000 to be mailed from California to the SLD  
2 in Kansas seeking payment of \$379,400 purportedly for telecommunication servers  
3 delivered to Highland Park, when ineligible video conferencing equipment was actually  
4 delivered.

5 28. On or about the date set forth below, in the Central District of California  
6 and elsewhere, the defendant,

7 PREMIO INC., f/k/a PREMIO COMPUTER, INC.,

8 and others, did knowingly and intentionally devise and intend to devise a scheme and  
9 artifice to defraud the FCC and USAC as to a material matter and to obtain money and  
10 property by means of materially false and fraudulent pretenses, representations and  
11 promises, related to the E-Rate project for the Highland Park School District located in  
12 Highland Park, Michigan, and, for the purpose of executing that scheme, knowingly  
13 mailed and caused to be mailed Invoice No. MI-041900 through the United States Postal  
14 Service:

COUNT	DATE	SENDER	RECIPIENT	SUBJECT
Two	April 20, 2000	Premio, Inc., f/k/a Premio Computer, Inc.	Schools and Libraries Division, Universal Service Administration Company	Invoice for purported delivery of \$379,400 of telecommunication servers to Highland Park

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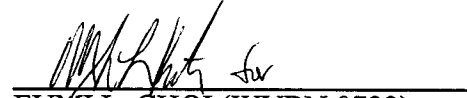



1 All in violation of Title 18, United States Code, Sections 1341 and 2.

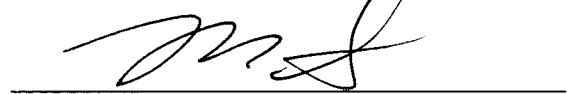
2 DATED:

4 KEVIN V. RYAN (CSBN 118321)  
United States Attorney

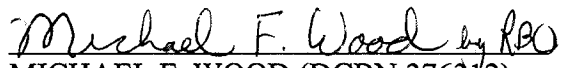
5  
6   
7 THOMAS O. BARNETT (DCBN 426840)  
Acting Assistant Attorney General

5  
6   
7 EUMI L. CHOI (WVBN 0722)  
Chief, Criminal Division

8   
9 SCOTT D. HAMMOND (NCBN 15894)  
Deputy Assistant Attorney General

10   
11 MARC SIEGEL (CSBN 142071)  
12 Director of Criminal Enforcement

13 (Approved as to form:

14  
15   
16 MICHAEL F. WOOD (DCBN 376312)  
17 Assistant Chief, Cleveland Office  
Antitrust Division