

FCC MAIL SECTION

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554  
FCC 95M-157  
51738

In the Matter of )  
DISMISSED BY )  
Commercial Realty St. Pete, Inc., )  
James C. Hartley, Teresa Hartley, )  
and Ralph E. Howe )  
WT Docket No. 95-26 ✓

MEMORANDUM OPINION AND ORDER

Issued: July 11, 1995 ; Released: July 17 1995

1. Under consideration are a Motion for Leave to File Interrogatories, filed on June 23, 1995, by Commercial Realty St. Pete, Inc., James C. Hartley and Teresa Hartley ("CRSPI"), and Interrogatories directed to the Chief, Office of Public Affairs, filed on June 23, 1995, by CRSPI.<sup>1</sup>

2. CRSPI seeks leave to file interrogatories directed to Daniel P. Oliver, an employee of the Commission's Office of Public Affairs. The proposed interrogatories inquire into the videotaping by Commission personnel or others of the IVDS auction held in July 1994, and the present location of any such video tapes. CRSPI asserts that the video tapes will show that representations were made at the auction "concerning the value of the spectrum being sold and the utility of that spectrum [sic] for its intended purpose [and that] [t]hose representations served to induce CRSPI to bid for the spectrum." Motion at 3.

3. CRSPI's motion will be denied. The issues in this proceeding involve particular allegations of misconduct on the part of CRSPI and its principals. Thus, the issues inquire into the submission by CRSPI of two specific declarations with respect to the availability of a \$4 million loan (Issue 1), CRSPI's claim that it was entitled to a bidding credit as a woman-owned small business (Issue 2), CRSPI's communications with another successful IVDS bidder (Issue 3), and CRSPI's dissemination of facsimile letters and a press release (Issue 4). The scope of the issues does not encompass any inquiry into the conduct of the July 1994 IVDS auction. Since CRSPI's proposed interrogatories do not appear reasonably calculated to lead to the discovery of admissible evidence, see Section 1.311(b) of the Commission's Rules, good cause does not exist for the filing of those interrogatories.

Accordingly, IT IS ORDERED that the Opposition to Motion for Leave to File Interrogatories, filed by the Bureau on July 10, 1995, IS DISMISSED.

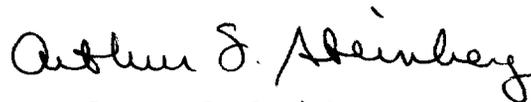
IT IS FURTHER ORDERED that the Motion for Leave to File Interrogatories, filed by CRSPI on June 23, 1995, IS DENIED.

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<sup>1</sup> An opposition to CRSPI's Motion for Leave to File was filed by the Wireless Telecommunications Bureau ("Bureau") on July 10, 1995. The Bureau's opposition will be dismissed as it was late filed and no good cause for such filing was shown. See Section 1.294(b) of the Commission's Rules.

IT IS FURTHER ORDERED that the Interrogatories directed to the Chief, Office of Public Affairs, filed by CRSPI on June 23, 1995, ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script that reads "Arthur I. Steinberg".

Arthur I. Steinberg  
Administrative Law Judge