

FCC MAIL SECTION

FCC 97M-172
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Oct 22 11 39 AM '97 Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DISPATCHED BY

In re Applications of)	WT Docket No. 97-199
)	
WESTEL SAMOA, INC.)	File No. 00560-CW-L-96
)	
For Broadband Block C Personal)	
Communications Systems Facilities)	
)	
and)	
)	
WESTEL, L.P.)	File Nos. 00129-CW-L-97
)	00862-CW-L-97
For Broadband Block F Personal)	00863-CW-L-97
Communications Systems Facilities)	00864-CW-L-97
)	00865-CW-L-97
)	00866-CW-L-97
and)	
)	
ANTHONY T. EASTON)	

ORDER

Issued: October 15, 1997 ; Released: October 20, 1997

By Memorandum Opinion and Order, Hearing Designation Order, Notice of Opportunity for Hearing, and Order to Show Cause, FCC 97-322, released September 9, 1997 ("HDO"), the above-captioned proceeding was designated for hearing. Therein, inter alia, Anthony T. Easton was ordered to show cause why he should not be barred from holding an attributable interest in a Commission authorization, and the following issue ("Issue 1") was specified against him:

1. To determine, based on Anthony T. Easton's misrepresentations before and lack of candor exhibited towards the Commission, whether Mr. Easton should be barred from holding Commission authorizations and participating in future Commission auctions.

(HDO at para. 53.) In order to avail himself of the opportunity to be heard, Mr. Easton was required to file a notice of appearance under Section 1.221 of the Commission's Rules within 20 days of the mailing of the HDO by the Secretary of the Commission. (Id. at para. 57.)

By letter to the Presiding Judge dated September 29, 1997, counsel for Mr. Easton stated:

This office represents Anthony T. Easton . . . We are submitting this letter [to] notify you that Mr. Easton will not be submitting a Notice of Appearance in this matter.

It is Mr. Easton's position that the Commission lacks both subject matter and personal jurisdiction over him. Moreover, the hearing ordered by the Commission with respect to Mr. Easton would deny him due process of law.

Because the presiding officer lacks delegated authority to remedy either of these deficiencies (or the many other deficiencies of the [HDO]), and because any general appearance herein by Mr. Easton could be construed as a waiver of the many infirmities of the [HDO], Mr. Easton declines to enter an appearance in this proceeding.

Rather he will petition the Commission, or an appropriate judicial forum, to reconsider, vacate and/or quash the [HDO] at the appropriate time for doing so.

On October 6, 1997, Mr. Easton filed with the Commission a "Petition for Reconsideration" of the HDO.

Under the facts recited above, it appears that Mr. Easton has waived or forfeited his hearing rights. See Sections 1.92(a)(1) and 1.221(e) of the Commission's Rules. Therefore, pursuant to 1.92(c) of the Rules, the hearing on Issue 1 will be terminated, Mr. Easton's name will be removed from the caption, and this matter will be certified to the Commission.

Accordingly, **IT IS ORDERED** that the hearing on Issue 1 **IS TERMINATED**.

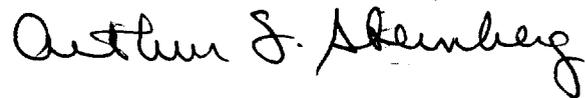
IT IS FURTHER ORDERED that the name of "Anthony T. Easton" **IS REMOVED** from the caption of this proceeding.

IT IS FURTHER ORDERED that this matter **IS CERTIFIED** to the Commission pursuant to Section 1.92(c) of the Rules.

IT IS FURTHER ORDERED that Secretary of the Commission SHALL MAIL a copy of this Order to Mr. Easton's counsel at the following address:

Russell D. Lukas, Esquire
Lukas, McGowan, Nace & Gutierrez
1111 - 19th Street, N.W.
Suite 1200
Washington, DC 20036

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink that reads "Arthur I. Steinberg". The signature is written in a cursive style with a large, prominent initial "A".

Arthur I. Steinberg
Administrative Law Judge