

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Application of)
AST Telecom, LLC)
Request for Declaratory Ruling Under Section)
310(b)(4) of the Communications Act of 1934,)
as Amended)

FILED/ACCEPTED

APR - 1 2008

Federal Communications Commission
Office of the Secretary

To: The Commission

REQUEST FOR DECLARATORY RULING

AST Telecom, LLC ("AST") hereby submits this request for declaratory ruling, pursuant to Section 310(b)(4) of the Communications Act, the *Foreign Participation Order*, and the Commission's streamlined procedures.¹ AST participated in the Commission's recently concluded 700 MHz auction (Auction No. 73) and was the winning bidder for the 700 MHz Block A license in BEA175 – American Samoa. In connection with its long form application to be filed in connection with that auction, ASL is requesting that the Commission approve indirect foreign ownership of AST in excess of 25% for the license won in Auction No. 73.

AST and its affiliates hold a number of International 214 authorizations as well as licenses in several wireless services (AWS and PCS), and have sought and obtained Commission approval of their foreign ownership on several previous occasions. By this application, AST requests that the Commission: 1) approve the current foreign ownership interests held directly in eLandia, Inc. ("eLandia"), AST's parent company, in connection with the license won by AST

¹ See 47 U.S.C. § 310 (b)(4); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 24033, ¶ 323 (1997) ("*Foreign Participation Order*"); 47 C.F.R. §63.12.

in Auction No. 73; 2) approve these same levels of foreign ownership for the International 214 authorizations and wireless licenses held by other eLandia subsidiaries so as to take into account slight changes in the ownership percentages held by eLandia's shareholders that have occurred since the existing Declaratory Rulings for these authorizations and licenses were issued; and 3) approve a further increase in the controlling ownership interest in eLandia held by R. Allen Stanford, a U.S. citizen, through two wholly-owned foreign subsidiaries, Stanford International Bank Limited ("SIBL") and Stanford International Bank Holdings Limited ("SIBHL"), from its present level of 57.45% to 69.50% in order to account for the planned conversion of existing convertible debt held by SIBL into additional shares of eLandia stock as well as for additional capital contributions that Mr. Stanford has committed to make for the growth and financial health of the companies.

I. BACKGROUND

AST is a domestic limited liability company that has indirect foreign ownership in excess of 25%. All foreign ownership interests involved are held in AST's parent, eLandia. A detailed disclosure identifying AST's controlling interest (held by Mr. Stanford) and all other shareholders with significant ownership interests is contained in the FCC Form 602 to be filed in connection with AST's Auction 73 long form application. An ownership chart reflecting these interests is attached hereto as Exhibit 1.

eLandia, a domestic corporation, holds no FCC licenses itself. eLandia's wholly-owned subsidiaries, American Samoa License, Inc. ("ASLI") (a direct wholly-owned subsidiary of AST) and eLandia Technologies, Inc., ("ETI") (a sister company of AST) hold both International

214 authorizations and wireless PCS licenses issued by the Commission.² In connection with these licenses and authorizations, Commission approval was sought and obtained regarding eLandia's qualifications and levels of foreign ownership under the standards of section 310(b)(4) and of the Act.³ More recently, AST participated and was awarded an AWS license in FCC Auction No. 66.⁴ In connection with the award of that license, the Commission again undertook a section 310(b)(4) review and approved AST's (and eLandia's) ownership structure and foreign participation.⁵ Finally, approximately one year ago, AST's parent, eLandia, acquired control (80%) of Latin Node, Inc. ("Latin Node") and its two wholly-owned subsidiaries, Total Solutions Telecom, Inc. ("Solutions") and TS Telecommunications, Inc. ("TST). All three of those

² ASL KNL302 (PCS Block B)	MTA051-American Samoa
ETI WPOJ804 (PCS Block C)	BTA491-US Virgin Islands
ASL ITC-214-19980918-00671	Resale Section 214
ASL ITC-214-19981207-00860	Facilities-Based Section 214
ETI ITC-214-20040824-00350	Facilities-Based Section 214

An application to assign the PCS license held by ETI (WPOJ804) to Digicel USVI, LLC is pending before the Commission (File No. 0003136633). Upon approval and consummation of that transaction eLandia and its affiliates will no longer have any interest in that license.

³ See, ISP-PDR-20050810-00009-P and ISP-PDR 20050810-00010-P, Report No. TEL 00944, DA-05-2416 (rel. Sept. 8, 2005); ISP-PDR-20050727-00007-P, ITC-T/C 20050603-00209-E and ITC-T/C 20050603-00210-E, Report No. TEL 00933, DA-05-2254 (rel. August 4, 2005).

⁴ WQGD479 (AWS Block A) CMA733-American Samoa

⁵ See File No. ISP-PDR-20061004-00014 (granted Dec. 15, 2006), Report No. TEL-01098, DA 06-2567 (December 21, 2006).

companies hold International 214 authorizations.⁶ These transfer of control applications were filed on March 2, 2007 and appeared on public notice on March 16, 2007.⁷ The FCC granted its consent to the transfer of control of these companies to eLandia on April 24, 2007.⁸ In doing so, the Commission and the Executive Branch once again reviewed and approved foreign participation in eLandia's ownership structure.

AST's and eLandia's ownership structure, including the foreign ownership interests, have not changed materially from the levels the Commission has previously approved. Just prior to filing its short form applications to participate in Auctions No. 73, the ownership interests of Mr. Stanford, SIBHL and SIBL in AST and its affiliates increased slightly (from 44.84% to 53.90%) due SIBL's acquisition of newly authorized shares in AST's parent, eLandia, Inc. ("eLandia"). The Commission was notified of this *pro forma* transaction through the filing of notifications for all wireless licenses and International 214 authorizations held by eLandia and its affiliates, including AST, within 30 days as required by FCC rules.⁹ AST's FCC Form 175 filed for Auctions 73 reflected these updated ownership percentages as well. Since that time, additional capital has been contributed in the form of preferred stock, bringing Mr. Stanford's indirect interest in eLandia up very slightly to its current level (from 53.90% to 57.45%).

⁶ Latin Node	ITC-214-20040226-00075	Facilities-Based and Resale Section 214
Solutions	ITC-214-20070130-00048	Facilities-Based and Resale Section 214
TST	ITC-214-20070130-00051	Facilities-Based and Resale Section 214

⁷ See File Nos. ITC-T/C-20070302-0096-E, 0097-E & 0099-E, Report No. TEL 01125S (rel. March 16, 2007).

⁸ See Report No. TEL 01139, DA-07-187 (rel. April 26, 2007).

⁹ See WTB File Nos. 0003261710 (ETI), 0003260806 (AST), 0003260798 (ASLI), and IB File Nos. ITC-T/C-20071220-00518 (ASLI), 00519 (ETI), 00520 (Latin Node), 00521 (TST) and 00522 (Total Solutions).

II. PUBLIC INTEREST STATEMENT

The public interest will be served if the Commission grants the relief requested herein. In the *Foreign Participation Order*, the Commission concluded that allowing additional foreign investment in common carrier wireless licensees beyond the 25% benchmark of Section 310(b)(4) will promote competition in the U.S. market, thereby serving the public interest.¹⁰ The Commission, therefore, adopted a presumption in favor of allowing such investment from entities organized under the laws of WTO members.¹¹

A. Approval of Foreign Ownership in the Auction 73 License Won by AST.

The Commission has already determined that the public interest would be served by allowing foreign participation in eLandia and its subsidiaries, including AST. This approval includes participation by both WTO and non-WTO interests. In particular, the Commission has previously approved the interests of Mr. Stanford, SIBHL and SIBL in AST's subsidiary, ASLI, at levels (69.28%) in excess of those currently held by those entities (57.45%).¹² In 2006, when AST sought to acquire an AWS license in Auction No. 66 under its own name rather than through its subsidiary, ASLI, Mr. Stanford's indirect ownership level had declined from 69.28% to slightly under the 43.84% approved in ISP-PDR-20061004-00014. To the extent that the extension of the foreign participation ruling originally obtained by ASLI to ASL in connection with Auction No. 66 may have resulted in approval of a reduced level of foreign participation by Mr. Stanford, SIBL and SIBHL (from 69.28% to 43.84%) in AST, this petition hereby requests

¹⁰ *Foreign Participation Order*, 12 FCC Rcd 23940, ¶ 111.

¹¹ *Id.* at 23913 ¶ 50, 23940 ¶¶ 111-12.

¹² See File No. ISP-PDR-20050727-00007 (granted Aug. 3, 2005), Report No. TEL-00933, DA 05-2254 (August 4, 2005).

approval for the level of ownership shown in the AST's pending FCC Form 601 (57.45%) for Mr. Stanford, SIBL and SIBHL.

AST is already providing wireless services to the people of American Samoa through its wholly-owned subsidiary, ASLI. However, additional spectrum is needed to provide newly emerging advanced wireless services. While AST was awarded AWS spectrum in Auction No. 66, this spectrum alone will likely be insufficient to provide the bandwidth hungry services, including video applications, that are now being developed. AST needs the additional spectrum obtained in Auction 73 to ensure that it will be competitively able to provide to the residents of American Samoa the same level and quality of services that are and will be provided to the residents of the U.S. mainland now and in the foreseeable future. Ensuring that the residents of American Samoa, despite their considerable physical distance from the mainland, are not left behind in the communications revolution that is now taking place is clearly in the public interest.

B. Approval of the Current Levels of Foreign Participation in eLandia.

It is requested that the Commission approval of the foreign ownership levels in AST be extended to the licenses and authorizations held by the other subsidiaries of eLandia as well. As set forth above, Commission approval previously has been sought and obtained for the existing foreign ownership interests in eLandia. Since the foreign interests are held in a common parent company, eLandia, it follows that the public interest in allowing such foreign interests in connection with the licenses and authorizations held by one subsidiary should apply to the licenses and authorizations held by the other subsidiaries of that same parent.

In the present case, the FCC has already approved the foreign interests held in an all of eLandia's subsidiaries and for all of the licenses and authorizations held by those subsidiaries (with the exception of the license to be awarded in Auction 73 for which approval is being

sought herewith). The additional approval requested herein with respect to those licenses and authorizations is to reflect the slight increase (from 43.84% to 57.45%) in Mr. Stanford's indirect ownership interests (through SIBL and SIBHL) in eLandia and its affiliates and about which the Commission has been previously notified. This increase reflects newly issued shares in eLandia issued to SIBL stemming from preferred stock and the exercise of warrants previously obtained in connection with capital contributions made to the company.

The exercise of such warrants by Mr. Stanford resulted in a corresponding dilution of the interests held by the remaining shareholders. This dilution would have had the effect of reducing any existing, pre-approved non-WTO foreign ownership interests in those companies as well as any interests held by purely foreign companies. While SIBL and SIBHL are foreign companies, they are wholly-owned and controlled by Mr. Stanford who is a U.S. citizen. Accordingly, the increase in Mr. Stanford's indirect interest in eLandia and its subsidiaries does not present many of the foreign ownership concerns reflected in the Commission's foreign ownership rules and policies. Furthermore, because Mr. Stanford was already the controlling interest in eLandia and its subsidiaries, the slight increase in Mr. Stanford's equity position had absolutely no effect on the management or control of those companies. The Commission should therefore issue a ruling that approves Mr. Stanford's increased equity in eLandia for all eLandia subsidiaries and the services offered by those subsidiaries that are the subject of prior FCC foreign ownership rulings, as set forth above.

C. Approval for Future Increases in Mr. Stanford's Interest in eLandia

Finally, approval is requested to allow Mr. Stanford, through SIBHL and SIBL to increase his ownership interest in eLandia up to 69.5% to account for the future conversion of the remaining convertible debt issued to eLandia (which would increase Mr. Stanford's indirect

interest in eLandia and its subsidiaries to approximately 65.122%) and for the additional capital contributions Mr. Stanford has committed to make in eLandia (bringing Mr., Stanford's interest to approximately 69.43%). These transactions have not yet occurred but are planned to occur over the foreseeable future in what is likely to be a series of transactions.

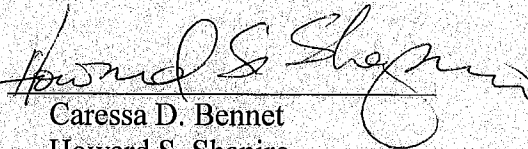
Providing approval now for these concrete planned transactions will serve the interest of administrative economy by obviating the need for eLandia to seek, and the Commission staff to review and issue, multiple declaratory rulings as these transactions occur. Furthermore, granting approval to allow Mr. Stanford to increase his interest in eLandia and subsidiaries will serve the public interest by ensuring that the companies have sufficient capital to continue to grow and compete in the market place. The requested increase in Mr. Stanford's indirect interest (to 69.5%) is only slightly higher than the level that the Commission has previously approved for Mr. Stanford, SIBL and SIBHL in connection with AST's subsidiary ASLI (69.28%). Furthermore, any increase in Mr. Stanford's interest would only further dilute any non-WTO ownership in the companies as well as any other foreign interests that are not under the ultimate control of a U.S. citizen, like Mr. Stanford.

III. CONCLUSION

For the reasons stated herein, AST respectfully requests that the Commission: 1) approve the current foreign ownership interests held directly in eLandia, Inc. ("eLandia"), AST's parent company, in connection with the license won by AST in Auction No. 73; 2) approve these same levels of foreign ownership for the International 214 authorizations and wireless licenses held by other eLandia subsidiaries so as to take into account slight changes in the ownership percentages held by eLandia's shareholders that have occurred since the existing Declaratory Rulings for these authorizations and licenses were issued; and 3) approve a further increase in the controlling

ownership interest in eLandia held by R. Allen Stanford, a U.S. citizen, through two wholly-owned foreign subsidiaries, Stanford International Bank Limited ("SIBL") and Stanford International Bank Holdings Limited ("SIBHL"), from its present level of 57.45% to 69.50% in order to account for the planned conversion of existing convertible debt held by SIBL into additional shares of eLandia stock as well as for additional capital contributions that Mr. Stanford has committed to make for the growth and financial health of the companies.

AST Telecom, LLC

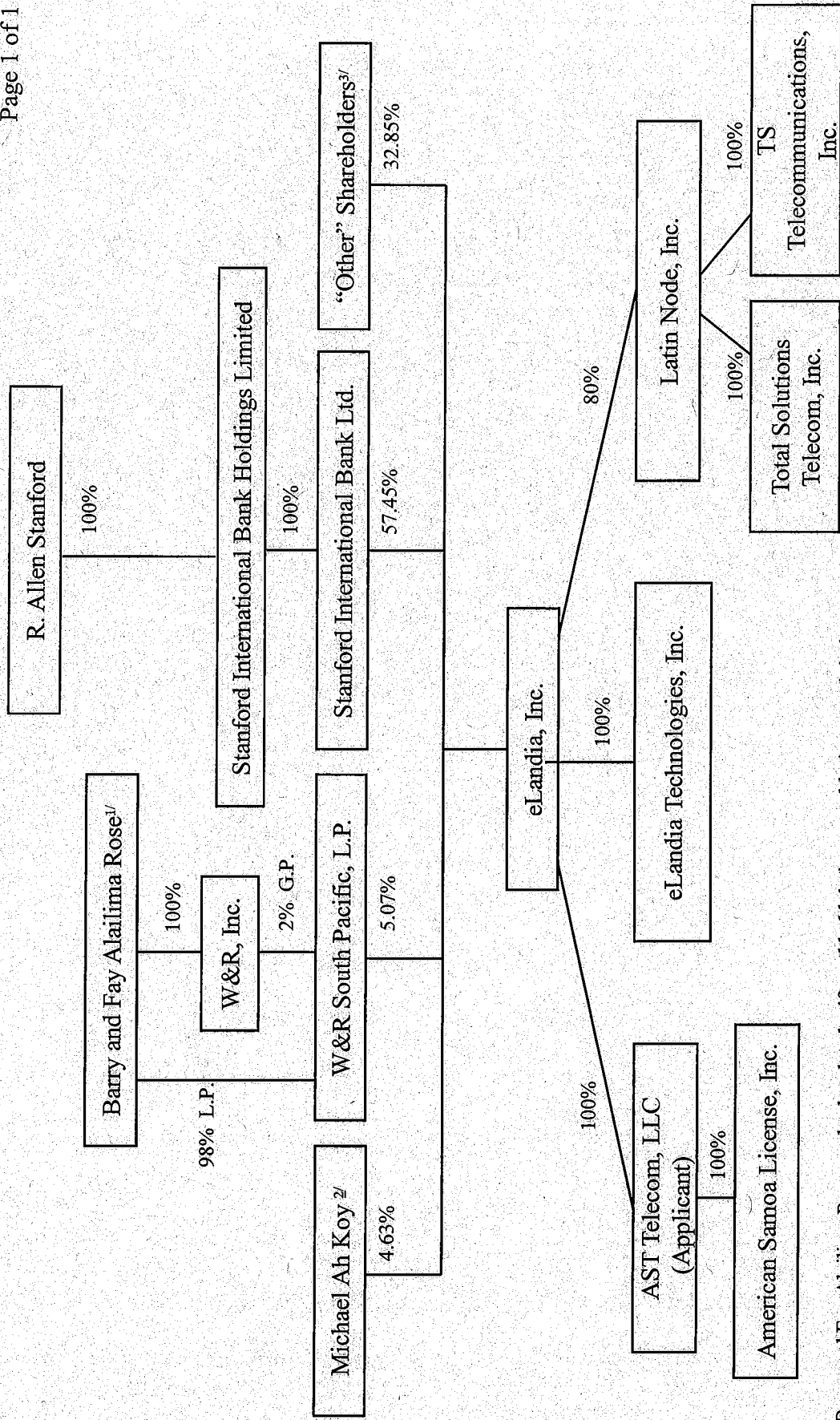
By: 

Caressa D. Bennet
Howard S. Shapiro
Bennet & Bennet, PLLC
Suite 201
4350 East-West Highway
Bethesda, MD 20814
(202) 371-1500

Its Attorneys

April 1, 2008

Ownership Structure



^{1/} Barry and Fay Alailima Rose are husband and wife and hold their ownership interests jointly.

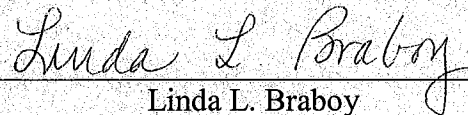
^{2/} Michael Ah Koy individually owns a less than 1% beneficial interest in eLandia, Inc. However Mr. Ah Koy is a beneficiary and trustee of the James Michael Ah Koy Trust which holds less than a 10% interest in eLandia, Inc. As a result, the holdings of Mr. Ah Koy reflect these aggregated ownership interests.

^{3/} No single shareholder (individual or entity) holds a 10% or greater interest in Applicant.

Certificate of Service

I, Linda L. Braboy, with the firm of Bennet & Bennet, PLLC, hereby certify that on this 1st day of April 2008, I have caused a copy of the foregoing Request for Declaratory ruling of AST Telecom, LLC to be hand delivered to the following:

David Krech
Assistant Division Chief
Policy Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554


Linda L. Braboy



Law Offices of Bennet & Bennet, PLLC

Maryland

4350 East West Highway, Suite 201
Bethesda, Maryland 20814
Tel: (202) 371-1500
Fax: (202) 371-1558

District of Columbia

10 G Street NE, Suite 710
Washington, DC, 20002

Caressa D. Bennet*

Michael R. Bennet

Gregory W. Whiteaker

Marjorie G. Spivak*

Donald L. Herman, Jr. +

Kenneth C. Johnson†

Howard S. Shapiro†

Daryl A. Zakov‡

Robert A. Silverman

Technical Consulting Services

David A. Fritz

Judy Y. Deng

*Admitted in DC & PA Only

+Admitted in DC & AL Only

†Admitted in DC, VA & FL Only

‡Admitted in DC & VA Only

•Admitted in WA Only

April 1, 2008

Via Hand Delivery

Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

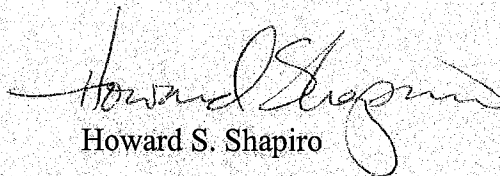
**Re: AST Telecom, LLC
Request for Foreign Ownership Ruling
Auction 73 – Market: BEA175 – American Samoa**

Dear Ms. Dortch,

AST Telecom, LLC (“AST”), by its attorneys, hereby submits an original and four copies of its Request for Declaratory Ruling regarding foreign ownership in excess of 25%. An additional copy of this filing is included for date-stamping and return by the Commission. A date-stamped copy of this petition is being attached to AST’s Auction 73 long form application and is also being provided to David Krech of the International Bureau as required by the FCC’s instructions for completing the long form application.

Should the Commission have any questions or require additional information with respect to this matter, please contact the undersigned counsel.

Sincerely,



Howard S. Shapiro

Enclosure