

**FEDERAL COMMUNICATIONS COMMISSION**

[WT Docket No. 01-344; FCC 01-359]

**Kevin David Mitnick****AGENCY:** Federal Communications Commission.**ACTION:** Notice.

**SUMMARY:** In this document, the FCC starts a hearing proceeding regarding the application of Kevin David Mitnick for renewal of his Amateur Radio Station License and General Class Amateur Radio Operator License N6NHG. The hearing gives the Commission an opportunity to ascertain whether Mr. Mitnick's felony convictions render him unqualified to hold such license.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Wilhelm, Wireless Telecommunications Bureau at (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's *Hearing Designation Order*, DA 01-359, adopted on December 11, 2001 and released on December 19, 2001. The full text is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: [www.fcc.gov](http://www.fcc.gov). Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

1. By this Order, we commence a hearing proceeding before an FCC Administrative Law Judge to determine, ultimately, whether the application of Kevin David Mitnick for renewal of Amateur Radio Station and General Class Operator License N6NHG should be granted. As discussed below, Mr. Mitnick is a convicted felon whose illegal activities have included the interception of electronic communications, computer fraud, wire fraud, and causing damage to computers. Based on the information before us, we believe that Mr. Mitnick's criminal behavior raises a substantial and material question of fact as to whether he possesses the requisite character qualifications to be and remain a Commission licensee. Because we are unable to make a determination that grant of Mr. Mitnick's application would serve the public interest, convenience, and necessity, we hereby

designate the application for hearing, as required by section 309(e) of the Communications Act of 1934, as amended.

**A. Ordering Clauses**

2. Pursuant to sections 4(i) and 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 309(e), the captioned application *is designated for hearing* in a proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

3. (a) To determine the effect of the criminal convictions of Kevin David Mitnick on his qualifications to be and remain a Commission licensee.

4. (b) In light of the evidence adduced pursuant to the foregoing issues, to determine whether Kevin David Mitnick is qualified to be and remain a Commission licensee.

5. (c) In light of the evidence adduced pursuant to the foregoing issues, to determine whether the captioned application filed by Kevin David Mitnick should be granted.

6. Pursuant to section 4(i) and section 1.221(c) of the Commission's Rules, in order to avail himself of the opportunity to be heard, Mr. Mitnick, in person or by his attorney, *shall file* with the Commission, within twenty days of the mailing of this *Hearing Designation Order* to him, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the issues specified herein.

7. Pursuant to section 1.221(c) of the Commission's Rules, if Mr. Mitnick fails to file a written appearance within the twenty-day period, or has not filed prior to the expiration of the twenty-day period a petition to dismiss without prejudice, or a petition to accept, for good cause shown, a written appearance beyond the expiration of the twenty-day period, the Presiding Administration Law Judge *shall dismiss* the captioned application with prejudice for failure to prosecute.

8. Pursuant to sections 4(i) and 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence and the burden of proof with respect to all of the issues specified above *shall be* on Mr. Mitnick.

9. This *Hearing Designation Order* contains the statements required by section 1.221(a)(1), 1.221(a)(2), 1.221(a)(3), and 1.221(a)(4) of the Commission's Rules.

10. The Commission's Reference Operations Division of the Consumer Information Bureau *shall send* a copy of this Order, via Certified Mail—Return Receipt Requested, to Kevin David

Mitnick at the address specified by him in his captioned application: 7113 W. Gowan Road, Las Vegas, Nevada 89129.

11. The Secretary of the Commission *shall cause* to have this *Hearing Designation Order* or a summary thereof published in the **Federal Register**.

Federal Communications Commission.

**William F. Caton,***Acting Secretary.*

[FR Doc. 02-2553 Filed 2-1-02; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

[WT Docket No. 01-352; FCC 01-392]

**Herbert L. Schoenbohm****AGENCY:** Federal Communications Commission.**ACTION:** Notice.

**SUMMARY:** In this document, the FCC starts a hearing proceeding regarding whether the application of Herbert L. Schoenbohm for a new Amateur Radio Service Station License and Amateur Radio Service Operator License should be granted. The hearing gives the Commission an opportunity determine whether Mr. Schoenbohm, a convicted felon who the Commission previously deemed unqualified to hold such licenses, is currently qualified to do so.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Wilhelm., Wireless Telecommunications Bureau, at (202) 418-0860.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's *Hearing Designation Order*, DA 01-392, adopted on December 31, 2001 and released on January 9, 2002. The full text is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW, Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: [www.fcc.gov](http://www.fcc.gov). Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

1. By this *Order*, we commence a hearing proceeding before an FCC Administrative Law Judge to determine whether the applications of Herbert L. Schoenbohm for a new Amateur Radio Service Station License and new General Class Amateur Radio Service Operator License should be granted. Mr.

Schoenbohm's former Amateur Radio Service Station License, call sign KV4FZ, and Amateur Radio Service Operator License were not renewed after it was determined, after an August 8, 1995, hearing before an administrative law judge, that Mr. Schoenbohm's previous criminal behavior, misrepresentation and lack of candor warranted denial of his renewal application. Mr. Schoenbohm is a convicted felon and was found to have misrepresented facts and lacked candor in his testimony in that hearing.

2. The facts leading to Mr. Schoenbohm's disqualification are *res judicata*; they have been thoroughly explored and the determination was made that, at the time of hearing, Mr. Schoenbohm was not qualified to be a Commission licensee. We may not revisit that determination here. However, in evaluating Mr. Schoenbohm's instant application, we must determine if, since the time of his disqualifying behavior in 1982-89 and 1995, Mr. Schoenbohm has been sufficiently rehabilitated that the Commission could be confident that he could be relied upon to observe our rules and policies and deal with the Commission in an honest and forthright manner. There are no facts now before us that would support a finding of rehabilitation. Hence, because we are unable to make a determination that grant of Mr. Schoenbohm's applications would serve the public interest, convenience, and necessity, we hereby designate the applications for hearing, as required by section 309(e) of the Communications Act of 1934, as amended.

#### A. Ordering Clauses

3. Pursuant to sections 4(i) and 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i); 309(e), the above captioned applications are *designated for hearing* in a proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent *Order*, upon the following issues:

a. To determine whether Herbert Schoenbohm possesses the requisite character qualifications to be a Commission licensee.

b. To determine in light of the evidence adduced under issue (a), whether the captioned applications should be granted.

4. Pursuant to section 4(i) of the Communications Act of 1934, as amended, and section 1.221(c) of our rules, in order to avail himself of the opportunity to be heard, Mr. Schoenbohm, in person or by his attorney, *shall file* with the

Commission, within twenty days of the mailing of this *Hearing Designation Order* to him, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the issue specified herein.

5. Pursuant to section 1.221(c) of our rules, if Mr. Schoenbohm fails to file a written appearance within the twenty-day period, or has not filed prior to the expiration of the twenty-day period a petition to dismiss without prejudice, or a petition to accept, for good cause shown, a written appearance beyond the expiration of the twenty-day period, the presiding Administrative Law Judge *shall dismiss* the captioned applications with prejudice for failure to prosecute.

6. Pursuant to sections 4(i) and 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence and the burden of proof with respect to all of the issues specified above *shall be* on Mr. Schoenbohm.

7. The Commission's Reference Operations Division of the Consumer Information Bureau *shall send* a copy of this *Order*, via Certified Mail—Return Receipt Requested, to Herbert L. Schoenbohm, at the address shown in his captioned applications: Post Office Box 4419, Kingshill, Virgin Islands, 00851.

8. The Secretary of the Commission *shall cause* to have this *Hearing Designation Order* or a summary thereof published in the **Federal Register**.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02-2552 Filed 2-1-02; 8:45 am]

BILLING CODE 6712-01-P

#### FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-02-44-A (Auction No. 44); DA 02-200]

#### Auction No. 44 Fixed, Mobile, and Broadcasting Services Auction Scheduled for June 19, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction of licenses in fixed, mobile, and broadcast services to commence on June 19, 2002, and seeks comment on auction procedural issues.

**DATES:** Comments are due on or before February 6, 2002 and reply comments are due on or before February 13, 2002.

**ADDRESSES:** The Wireless Telecommunications Bureau ("Bureau") requires that all comments and reply comments be sent by electronic mail to the following address:

*auction44@fcc.gov*. The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 44 Comments. The Bureau requests that parties format any attachments to electronic mail as ADOBE® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW, Washington, DC 20554.

#### FOR FURTHER INFORMATION CONTACT:

Legal questions: Howard Davenport (202) 418-0660 or e-mail *hdavenport@fcc.gov*. For general auction questions: Craig Bomberger (202) 418-0660 or e-mail *cbomberg@fcc.gov* or Kathy Garland (717) 338-2888 or e-mail *kgarland@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 44 Comment Public Notice* released January 24, 2002. The complete text of the *Auction No. 44 Comment Public Notice*, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. The *Auction No. 44 Comment Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail *qualexint@aol.com*.

#### I. General Information

1. By the *Auction No. 44 Comment Public Notice*, the Bureau announces the auction of licenses for Fixed, Mobile, and Broadcasting services in the 698-746 MHz ("Lower 700 MHz") band scheduled to commence on June 19, 2002 ("Auction No. 44"). The Lower 700 MHz band consists of 758 licenses. Two 12-megahertz blocks consisting of a pair of 6 megahertz segments and two 6-megahertz blocks of contiguous, unpaired spectrum will be offered in each of six regions known as the 700 MHz band economic area groupings (700 MHz band EAGs). Additionally, one 12-megahertz block consisting of a pair of 6 megahertz segments will be offered in each of 734 Metropolitan Statistical Areas ("MSAs") and Rural Service Areas ("RSAs"). The