

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

In the Matter of: )  
 )  
Application of )  
ALEE CELLULAR COMMUNICATIONS ) WT Docket No. 02-28  
 )  
 )

WRITTEN DIRECT TESTIMONY  
OF  
ROBERT BERNSTEIN

1 Q. Please state your name and current address.

2 A. Robert A. Bernstein, 218 Ridgedale Avenue, Cedar Knolls, NJ 07927.

3 Q. Please provide us with a brief, biographical sketch highlighting your  
4 education and business/professional activities.

5 A. I was born in New York City on May 5, 1944. I received a Bachelor of Arts  
6 Degree from Rutgers University in 1966 and my J.D. Degree from Rutgers  
7 University School of Law in 1969. I am a member in good standing of the bars of  
8 New Jersey and New York. I was admitted to the New Jersey Bar in 1969 and  
9 admitted in New York in 1983. I am a member of the Bar of the Supreme Court  
10 of the United States.

11 I have been in private practice since admission to the Bar with exception of my  
12 service as a Deputy Attorney General with the State of New Jersey representing  
13 the Tax Division from 1970 to 1972, and law clerk for The Honorable Roger M.  
14 Yancey from 1969 to 1970. I am currently Of Counsel to the law firm Clemente,

Project No. 1702-25 Phase (or) ALICE (a)

Presented by Bill

Identified	<input checked="" type="checkbox"/>
Discussed	<input checked="" type="checkbox"/>
Received	<input type="checkbox"/>
Rejected	<input type="checkbox"/>

Approved Hazard

Date 10/24/82

1 Mueller & Tobia, P.A., Morristown, New Jersey. Martindale-Hubbell has given  
2 me its BV rating.

3 I am on the Board of Trustees of Presbyterian Homes and Services, Inc.  
4 Presbyterian Homes is a non-profit corporation which manages and provides  
5 housing and support services for elderly citizens. I was president of the Summit  
6 Bar Association 1991-92; president of the Summit Rotary Club 1995-96;  
7 president of B'nai B'rith, Cranford Lodge 1984-85. I have participated as a  
8 lecturer at legal seminars and I have acted as a volunteer producer and host for the  
9 past 16 years of a cable public access show entitled "30 Legal Minutes" about the  
10 law and lawyers.

11 **Q. Are you a partner in Alee Cellular Communications?**

12 A. Yes. I have been a partner since its inception in 1988.

13 **Q. When and under what circumstances did you become a partner in Alee  
14 Cellular Communications?**

15 A. I purchased an interest in the cellular partnership through my father-in-law, Allan  
16 C. Kane, who was selling interests in cellular partnerships as agent for The  
17 Cellular Corporation. I believe it was Allan Kane who placed me in the Alee  
18 partnership.

19 **Q. What is your current involvement in Alee Cellular Communications?**

20 A. I am a member of the Executive Committee. I have been on the Committee since  
21 approximately December of 1988 as a result of being reelected by the partners.  
22 Specifically, I have been involved in negotiations for leasing cellular sites on  
23 behalf of the partnership. In some instances, we have leased space on our towers

1 to other cellular companies; and in other instances we have leased space from  
2 other cellular companies on their towers in order to provide the most effective  
3 service to the public. The foregoing has involved protracted negotiations with  
4 various companies with respect to the content of the different leases. In addition  
5 to the foregoing, I have been in contact with the other members of the Executive  
6 Committee, Terry Jones and Becky Jo Clark, on almost a monthly basis with  
7 respect to the operations of the New Mexico license and the litigation which was  
8 pending which affected the license. The discussions have ranged from updating  
9 the cellular system at different sites, operations of competitors, and adding new  
10 sites, marketing the system to customers, the operations of our management  
11 company and the revenue which is being produced, as well as the bills which are  
12 being incurred. A majority of my time as a member of the Executive Committee  
13 has been spent in working with the attorneys who have represented us with  
14 respect to the litigation concerning the New Mexico license, as well as the Texas  
15 21 application. In addition I have arranged various partnership meetings which  
16 have on numerous occasions taken place at my law offices.

17 **Q. You were identified in the findings in the Algreg proceeding as the person**  
18 **who signed the New Mexico 3 application and the person who signed the**  
19 **amendment that was part of the factual predicate to the findings of**  
20 **misrepresentation, lack of candor that resulted in the revocation of the New**  
21 **Mexico 3 license. What, if anything, has changed since those events to ensure**  
22 **that you can be relied upon to be truthful and candid with the FCC?**

1 A. When I signed in 1988/89 the 428 RSA applications, including the New Mexico 3  
2 proposal, I was acting in a ministerial role as the signing partner. I had this role  
3 because of my relationship with and proximity to Allan Kane. Mr. Kane wanted  
4 someone who could be easily reached to sign documents on behalf of Alee.  
5 Typically, I was presented with documents that had to be signed on behalf of the  
6 partnership by either Allan C. Kane or our attorney at that time, William Franklin,  
7 Esq. Often, Allan Kane would ask me to sign something during visits with me  
8 and my former wife. I would be advised that all of the other partners had agreed  
9 on the execution of the document which had been presented to me and I followed  
10 the advice and directions that I was given by Mr. Kane with respect to signing  
11 amendments and any other documents on behalf of Alee. I was advised that these  
12 documents had been reviewed by our legal counsel (Pepper & Corazzini) and that  
13 they conformed with the requirements of the FCC. Under these circumstances, I  
14 signed the documents without making any independent verification of the  
15 information contained in the documents.

16 I certainly did not sign the 1989 amendment to the New Mexico 3 application  
17 knowing that it was false or misleading. In retrospect, I realize that I should have  
18 been more careful and more diligent when signing anything that was to be filed  
19 with the FCC. Accordingly, I personally accept full responsibility for the  
20 consequences of the 1989 letter amendment. It has cost me and the Alee  
21 partnership much. As a lawyer, I would have never advised a client to do what I  
22 did by signing documents containing representations that had not been verified.

1 The fact that I was dealing with my father-in-law blinded me to my  
2 responsibilities.

3 The FCC can rest assured that I will do all that is necessary to ensure full, truthful  
4 disclosures in all submissions to the Commission.

5 **Q. What has Alee learned since the 1988-1990 events about dealings with the  
6 Federal Communications Commission as an applicant/licensee?**

7 A. As a result of being involved in the Algreg proceedings, we are much more  
8 sensitive to the fact that the actions that we take can have significant  
9 ramifications.

10 Alee has, with the exception of the 1989 letter amendment that was the basis for  
11 the adverse findings in the Algreg proceeding, made every effort to be a reliable,  
12 trustworthy licensee. The Executive Committee since 1990 has been responsible  
13 for executing documents for Alee. My role as signing partner ended in 1990. The  
14 Committee reviews all documents, including FCC submissions that require  
15 execution. In the case of FCC submissions, the Committee will get FCC  
16 counsel's approval. Documents are generally signed by the Chairperson of the  
17 Executive Committee. There is an open discussion and evaluation before  
18 executing documents. This procedure makes it highly unlikely that there will be  
19 any misleading or false information submitted to the FCC.

20 **Q. In light of Alee's past misconduct before the Federal Communications  
21 Commission, why should the Commission trust Alee to be candid and  
22 truthful in its dealings with the Commission?**

1 A. Alee has shown in the approximately 11 years that it has operated under its New  
2 Mexico 3 license that Alee can and does operate in conformity with the rules and  
3 regulations of the FCC. The misconduct occurred at a time when we did not have  
4 direct control of all of the things which were going on within the partnership. In  
5 1990, we, the partners, took control of the partnership and since that date we have  
6 provided service to the public which has never been questioned, nor to our  
7 knowledge have any complaints been lodged against us with respect to the  
8 operations of the new Mexico license. In point of fact, we have been made aware  
9 that an individual's life was saved as a result of the service which we provided in  
10 New Mexico. I think that Alee has shown through 11 years of hard work that it  
11 no longer operates the way it did initially in 1988 and that it can operate a cellular  
12 system in conformity with all of the rules and regulations of the FCC.

13 Alee has paid a very significant price, namely the loss of the New Mexico license  
14 for the actions which took place in 1988-89. Furthermore, in 1990 it was Alee,  
15 after obtaining advice from its new counsel, that brought the existence of the alien  
16 in the partnership to the attention of FCC. From the time that we obtained new  
17 counsel we have not only taken direct control of the operations, but we have used  
18 our best efforts to abide by the rules and regulations of the FCC and have shown  
19 that we can be candid and truthful in dealing with the Commission based upon the  
20 11 years in which we have operated as a Federal Communications Commission  
21 licensee. We will do the same if the Texas 21 application is granted.