

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

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In the Matter of )	
Application of Mobile Communications )	File Nos. 11-DSS-P-91(6); 18-DSS-
Holdings, Inc. )	P-91(18); 11-SAT-LA-95; 12-SAT-
_____ )	AMEND-95; 158-SAT-AMEND-96

**DECLARATION OF JILL ABESHOUSE STERN**

I, Jill Abeshouse Stern, hereby declare as follows:

1. I have been Senior Vice President and General Counsel to Mobile Communications Holdings, Inc. ("MCHI") since February 1998. Prior to this date, I was a partner at the law firm of Shaw, Pittman, Potts & Trowbridge. I have been MCHI's outside telecommunications counsel since October 1990.
2. As MCHI's General Counsel, I am responsible for coordinating the effort to respond to the FCC General Counsel's request for additional information dated August 19, 1998. To respond to the request, I reviewed all potentially relevant files within my control and caused our outside attorneys to communicate with MCHI's employees, directors, officers and agents with potential involvement in governmental activities in order to provide as comprehensive a response as possible.
3. From 1990 to 1997, I was involved with various aspects of MCHI's license application proceeding and the related U.S. and international spectrum allocation proceedings. I was also involved in some of MCHI's efforts in 1996 and 1997 to obtain support

from Congress and the Administration to eliminate market entry barriers for small telecommunications businesses such as the FCC's stringent financial qualifications standard.

4. To the best of my recollection, I did not have any communications with the offices of the Senators who signed the July 19, 1995 letter to Chairman Hundt and had no involvement with this letter. My role with respect to the second Senatorial letter dated October 3, 1996 was to ensure that the letter was promptly served on all the parties to the proceedings being conducted at the FCC under Section 257 of the Telecommunications Act of 1996 (the "Section 257 Proceeding") and the MCHI licensing proceeding as soon as I received a copy of the final letter from MCHI. I received that letter on or about October 17, 1998, and immediately filed it in the FCC's Section 257 Proceeding on the following day, along with a copy of the Senate colloquy between Senators Shelby and Pressler relating to Section 257. Even though this letter concerned the FCC's proceeding under Section 257 of the Telecommunications Act of 1996 (the "Section 257 Proceeding"), which was not a restricted proceeding, I served this filing on parties in the licensing and Section 257 proceedings to make sure that they were apprised.

5. In conjunction with members of the *ad hoc* satellite coalition (described in Mr. Helman's declaration) and Gerald Helman, I also met with various staff members on the House and Senate telecommunications and small business subcommittees to discuss a proposed amendment to the bill that was eventually passed as the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996.

6. In early 1996, I introduced Weldon Latham, a senior partner at Shaw, Pittman, Potts & Trowbridge, to MCHI. Mr. Latham had a particular expertise in representing

small minority businesses. I received a copy of a letter sent by Mr. Latham to Congressman Conyers in May 1996 requesting a meeting to acquaint him with MCHI's South African alliance. the opportunities ELLIPSO™ presented for telecommunications development in Africa and the impact of the FCC's inequitable treatment of minority-owned small businesses such as MCHI. I recall advising Mr. Latham about the FCC's *ex parte* rules and the need to ensure that he did not solicit or encourage any communications relating to the licensing proceeding. However, I do not know what additional communications, if any, took place between Mr. Latham and Congressman Conyers' office prior to May 16, 1996 (the date of the first letter from Congressman Conyers). MCHI was unable to interview Mr. Latham for this submission, despite its efforts to do so. On or about May 13, 1996, I reviewed a draft of the May 16, 1996 Congressman Conyers' letter which requested that the FCC serve the letter on parties to the licensing proceeding if appropriate. I do not recall seeing the final letter before it was sent by Congressman Conyers' office to the FCC.

7. After Chairman Hundt responded to Congressman Conyers' May 16, 1996 letter on July 15, 1996, at Mr. Latham's suggestion I had a telephone conversation with Congressman Conyers' office in July or August 1996 about a response to the FCC's letter. I recall that the Congressman wanted to respond to the FCC letter and believed his views expressed in the first letter had not been given sufficient attention by the FCC. I did not suggest or initiate the Congressman's response. Nor did I ask the Congressman to contact the FCC about the licensing proceeding. I did review a draft of the August 21, 1996 letter from Congressman Conyers to the FCC. However, I did not learn that this letter had been filed by the Congressman's office until I returned from a summer vacation in late August, and received a

copy from Mr. Latham. I did not believe that this letter was required to be served on the other parties, since it concerned the Commission's ongoing Section 257 Proceeding, not MCHI's licensing proceeding, and Chairman Hundt's response which precipitated Congressman Conyers' reply had not been served on the other parties. I later filed both Conyers letters with MCHI's September 10, 1996 comments in the Section 257 Proceeding.

8. I personally did not have any communications with anyone from Congressman Edolphus Towns' office. However, I did receive a copy of the January 13, 1997 letter by Congressman Towns from Mr. Helman on Friday, January 17, 1997. I immediately filed this letter with the FCC and served it on all the parties on the next business day, Tuesday, January 21, 1997. Monday, January 20, 1997 was Martin Luther King Day.

9. I played a similar role with respect to the March 14, 1997 letter from Congressman Towns, which I received on or about March 25, 1997. It is my understanding that Frank Moore had received the letter from Congressman Towns' office on March 25, 1997. As with the January 13, 1997 letter, my office immediately filed and served the March 14, 1997 letter on all the parties on March 26, 1997, the day after my office received it.

10. As part of MCHI's effort to apprise Congress and the Administration of the market entry barrier for small entrepreneurial businesses created by the FCC's strict financial qualifications standard for satellite operators, I helped draft a letter from Weldon Latham to Vice President Al Gore on April 30, 1996 (and attached the April 24, 1996 letter from the Small Business Administration) to request a meeting to discuss the adverse impact of this standard on companies such as MCHI. On or about May 20, 1996, Gerald Helman, Weldon Latham and I

met with Greg C. Simon, Chief Domestic Policy Advisor to Vice President Gore, to discuss the inequity of the FCC's financial qualifications standard and the possibility of addressing that standard in the Section 257 Proceeding that was expected to be initiated shortly by the FCC. At no time did any of us ask Mr. Simon to contact the FCC and Mr. Simon gave no indication that he would forward the April 30, 1996 letter to anyone at the FCC. In fact, I was relatively certain that the meeting would not result in any action. I later learned (at the same time as all the other parties) that Sheryll Cashin of Vice President Gore's office had apparently forwarded the letter to Catherine Sandoval, who was the head of the FCC's Office of Communications Business Opportunities. Ms. Sandoval had no role in connection with MCHI's licensing proceeding, but her office was responsible for the Section 257 Proceeding.

11. I do not recall whether anyone from MCHI specifically advised Mr. Simon of the fact that the MCHI license proceeding was restricted; however, Mr. Simon *sua sponte* indicated at the outset of the meeting that the Administration could not be involved in an ongoing licensing proceeding such as MCHI's, which I recall acknowledging. Thus, none of us had any reason to believe that any additional warnings about the ex parte rules were necessary.

12. I did not have any communications with Sheryll Cashin.

13. I had no involvement with or knowledge of the May 8, 1996 letter from David Thompson of Spectrum Astro to Kate Carr (Special Assistant to the President). I had previously met Mr. Thompson, President of Spectrum Astro (a small satellite manufacturer), through satellite industry events. I had occasion to talk with him during 1996 as a result of his

interest in building satellites for the ELLIPSO™ program. Mr. Thompson never discussed the Kate Carr letter with me.

14. I am not aware of any communications between MCHI and Mr. Thompson in which it encouraged or solicited Mr. Thompson to send his May 8, 1996 letter to Ms. Carr. I first learned of Mr. Thompson's letter when it was served on MCHI and the other parties by the FCC in April 1997.

15. After receiving Mr. Thompson's letter from the FCC, I contacted Spectrum's attorney to express my surprise that Mr. Thompson had written such a letter and to make sure that no such letters would be sent in the future.

16. I have never had any communications with Kate Carr and do not know of any communications between anyone acting on behalf of MCHI and Ms. Carr.

17. On or about April 15, 1996, Gerald Helman and I met with David Zesiger, Assistant Chief Counsel of the Office of Advocacy at the Small Business Administration ("SBA"), to learn more about the ways in which the SBA might help a small business such as MCHI seeking to change a government policy that was a market entry barrier. It was my understanding that the SBA was considering a filing in the FCC's *DISCO I* proceeding on the issue of strict financial standards for satellite systems, and we sought to inform Mr. Zesiger of MCHI's situation, which was an example of how the standards had adversely affected small businesses. We were also interested in determining whether the SBA would consider filing an amicus brief in a pending appeal before the D.C. Circuit pertaining to the FCC's Big LEO rulemaking proceeding adopting a strict financial test for Big LEO applicants.

18. Mr. Zesiger said he had been following the FCC's *DISCO I* proceedings and expressed his views on the inequitable nature of the FCC's strict financial standard set forth in the *DISCO I* order. He also stated that he was considering a filing in the *DISCO I* proceeding and noted that MCHI's treatment further indicated the flawed nature of the standard. I cannot specifically recall the circumstances giving rise to his decision to write a letter to the FCC, although I do recall that he expressed the SBA's unwillingness to take a position benefiting a single company and indicated that the SBA generally addresses policy issues of broader applicability.

19. It is my understanding that Mr. Helman received a copy of the SBA letter on or about April 23, 1996. Mr. Zesiger informed me by telephone on or about April 24, 1996 that he had been contacted by the FCC and asked to serve the letter on the other parties. I believe that I may have supplied him with a list of parties and their counsel. During this conversation, Mr. Zesiger reiterated his belief that service was not required but indicated that he preferred not to argue with the FCC and intended to send a copy of the letter to all parties. It is my understanding that the letter was resubmitted to the FCC and served on April 24, 1996.

20. My involvement with Vula Communications was as follows: The principals of Vula Communications were in Washington, D.C. in March 1997 to attend a series of events sponsored by the Department of Commerce to foster U.S. - South African business relations through the Gore-Mbeki Commission. At Mr. Helman's suggestion, I scheduled a meeting with Jane Mago (counsel to Commissioner Chong), as well as Julius Genachowski (counsel to Chairman Hundt) to meet the Vula representatives and to provide an update on South African telecommunications development. My recollection is that David Geary of Vula, Mr.

Helman, and I attended the meeting with Mr. Genachowski. The meeting with Ms. Mago of Commissioner Chong's office also included Mark Headbush of Vula.

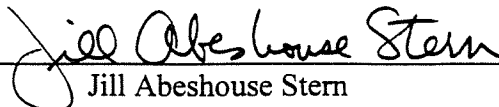
21. I recall specifically advising the Vula representatives prior to the meetings that they could not discuss the licensing proceeding and that their remarks on this topic should be restricted to a status inquiry only. I also recall that, at the beginning of the meetings I attended, I made it known to all the participants (including Vula) that the licensing proceeding could not be discussed. During the meetings, we spoke about telecommunications issues, challenges that are unique to South Africa, and Vula's role as a vehicle for Black investment and participation in the South African telecommunications sector, including data, broadcast and cellular services. I believe Vula may have asked about the status of the MCHI license application.

22. After the meeting with Mr. Genachowski on March 7, 1997, it is my understanding that Mr. Geary of Vula, sent a letter to Mr. Genachowski dated April 30, 1997 to inquire about the status of MCHI's license application. I did not solicit or encourage Mr. Geary to send this letter. In fact, as previously discussed, I had advised Mr. Geary of the ex parte rules prior to and during his meeting with Mr. Genachowski.

23. I received a copy of Mr. Geary's letter on or about April 30, 1997 from Mr. Helman. I promptly filed and served on all of the parties a copy of the letter on May 1, 1997. In addition, I obtained Mr. Geary's affidavit dated June 24, 1997, which makes clear that MCHI had no involvement with the letter. This affidavit was submitted to the FCC and served on all the parties on June 24, 1997.



I declare under penalty of perjury that the foregoing is true and correct. Executed  
on October 19, 1998.

  
Jill Abeshouse Stern

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**DECLARATION OF GERALD B. HELMAN**

I, Gerald B. Helman, hereby declare as follows:

1. I am the Vice President, International and Governmental Affairs of Mobile Communications Holdings, Inc. ("MCHI"). I have held this position since 1993. My responsibilities at MCHI include the direction and supervision of the company's government relations activities.

2. On June 5, 1997, I executed an affidavit which was submitted to the FCC in connection with MCHI's response to allegations made by certain of its competitors that MCHI had solicited or encouraged third parties to make ex parte presentations to the FCC concerning MCHI's license application. My statements in that prior affidavit were accurate at that time. However, in the course of MCHI's preparation of its response to the Office of General Counsel's ("OGC") request for information dated August 19, 1995, MCHI learned that Frank Moore, MCHI's outside legislative consultant, had some communications with Senator Lott's and Congressman Towns' offices, of which I had no recollection, and which were not the subject of the OGC's prior ruling. Those communications are described in Mr. Moore's declaration. They do not change my belief that the OGC's prior ruling was correct, however, and I hereby provide

additional information which further supports my prior statement that MCHI did not engage in improper conduct.

3. In order to understand the context in which MCHI's communications took place with the third parties identified in the General Counsel's August 19, 1998 request for information, some background about MCHI's involvement in various policy making activities is necessary. MCHI has always been, and continues to be, very active in U.S. official and industry sponsored policy making activities. For example:

- On behalf of MCHI, I was a private sector member of the U.S. delegation to the 1995 World Radio Conference ("WRC"). Along with Jill Abeshouse Stern and others working on MCHI's behalf, I was active in the development of a variety of U.S. positions and their implementation at the WRC, including the allocation of feeder link spectrum for Big LEOs in the bands sought by MCHI and others.
- MCHI was a member of the U.S. delegation to the International Telecommunication Union's (ITU) first Policy Forum in 1996. This resulted in the development of regulatory principles for the licensing of mobile satellite systems ("MSS") systems by national regulatory authorities around the world and the mandating of a negotiation to develop a memorandum of understanding ("MOU") to facilitate global roaming with mobile terminals. I was instrumental domestically and internationally in developing the texts for both decisions and in securing their adoption by the ITU's members. I was also a member of a select panel which briefed the Policy Forum (which consisted of well over a thousand representatives from the

ITU's over 180 members) on the characteristics of MSS systems and the regulatory issues associated with them.

- MCHI was a member of the industry group supporting the U.S. team negotiating the World Trade Organization's ("WTO") Agreement On Trade in Basic Telecommunications Services. Ms. Stern and I were involved in this effort. I was a member of an industry panel which conducted an unprecedented (for the WTO) discussion with WTO negotiators on the needs of the satellite industry.

- On behalf of MCHI, I was a private sector member of the U.S. Delegation to WRC '97. MCHI representatives participated in the development and implementation of a variety of U.S. positions, including positions relating to feeder link spectrum and due diligence rules to deal with the problem of paper satellite filings.

- MCHI participated in the negotiation of the Global Mobile Personal Communications by Satellite ("GMPCS") MOU to permit global roaming with mobile MSS terminals. I participated throughout in the 16 month effort to develop an agreement (signed in the summer of 1997) dealing with the type approval, licensing, marking, and customs clearance for mobile terminals. It was a highly innovative, industry-government effort which promises to significantly advance the commercial prospects of the MSS industry.

- Due to MCHI's connections with Vula Communications Holdings, (Pty.) Ltd., a major Black empowerment South African communications consortium, MCHI has since 1994 been a member of the U.S.-South Africa Business Council. As such, MCHI has participated in the Council's activities in the U.S. and South Africa and has helped sponsor luncheons and

other events in connection with the semi-annual meetings between Vice President Gore and Deputy President Thabo Mbeeki of South Africa.

- MCHI also was a supporter of the International Small Satellite Organization and helped to sponsor a number of its activities, including its annual Washington, D.C. policy and regulatory conferences in 1991-96.

- MCHI representatives also have regularly appeared on industry and scholarly panels around the world to discuss the Ellipso system and a variety of industry-related issues.

4. MCHI's policy-influencing efforts pertaining to the FCC's financial qualifications standard for entrepreneurial satellite operators was but one of the many policy issues in which MCHI was involved. This issue was very important not only to MCHI, but also to other satellite operators that had been impacted by the standard.

5. MCHI took several steps towards this policy objective. It filed comments in the FCC's Big LEO and Section 257 proceedings urging the FCC to adopt a more equitable financial standard. MCHI filed an appeal in the United States Court of Appeals for the D.C. Circuit to the FCC's Big LEO rule-making in which it had determined that its strict financial standard should apply to Big LEO satellite applicants. MCHI argued in that appeal that the FCC's adoption of a strict financial standard was arbitrary and capricious. MCHI also helped form an ad hoc coalition of entrepreneurial satellite companies (including Constellation, Columbia Communications Corp., Orion Network Systems and, PanAmSat Corporation). The question of whether the FCC's regulations had an adverse effect on entrepreneurial businesses

was a significant issue on Congress's legislative agenda in 1995 and 1996, as evidenced by the Telecommunications Act of 1996 (the "Act"), which specifically contained a mandate to the FCC to identify and remove market entry barriers for small businesses. The national policy of ensuring equitable treatment of small businesses was also reflected in Congress' enactment of The Small Business Regulatory Enforcement Fairness Act of 1996.

6. In articles, conferences, industry meetings and discussions with members of Congress and their staff, the coalition expressed its support for the small business provisions of the Act and urged that Congress underscore to the FCC and others the need to assure fair market access for small businesses. MCHI representatives pointed approvingly to the ongoing FCC proceedings on small business being conducted under the Act and urged that legislators make their view clear on the issue. In this regard, the coalition (1) proposed language for inclusion in the bill that was passed as the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (the "1996 Commerce, Justice, and State Appropriations Bill") encouraging the FCC to eliminate market entry barriers for small telecommunications businesses and directing the FCC to waive its strict financial standards; (2) encouraged various Senators to engage in a colloquy to elaborate on the Congressional intent behind Section 257 of the Telecommunications Act and to clarify that the market entry barriers referred to in Section 257 included financial standards; and (3) encouraged Congressional offices to file comments in the FCC's inquiry into market entry barriers for small businesses under Section 257 of the Act (the "Section 257 Proceeding").

7. In connection with these efforts, MCHI retained Frank Moore of Smith, Bucklin & Associates to assist the company with obtaining Congressional support for the

elimination of the financial qualifications standard in connection with the Section 257 Proceeding. His activities before Congress are described in his declaration.

8. I was personally involved with some of the communications with the third parties identified in the OGC's request for information and I will attempt to recount my best recollection of those communications here.

9. In 1996, I attended two meetings with Mr. Moore and Senator Lott's office staff in connection with the coalition effort to obtain support for the letter that was sent by Senator Shelby, Senator Lott, and others dated October 3, 1996. It was my impression from these meetings that the Senator's staff regularly communicated with Commissioner Chong's office, and that the Senator's office had offered to contact Commissioner Chong's office on MCHI's behalf. In addition, I recall that Senator Lott's office had been advised by MCHI of the restricted nature of its licensing proceeding. I do not recall initiating a request that Senator Lott's office intervene with Commission Chong's office on behalf of MCHI. In addition, I do not recall seeing any written communications relating to such a request prior to MCHI's preparation of this response.

10. Jill Abeshouse Stern, coalition members and I also met on various occasions with Congressional staff on the telecommunications and small business subcommittees to discuss a proposed amendment to the 1996 Commerce, Justice and State Appropriations Bill.

11. My first contact with Congressman Towns occurred in late 1996 when David Castiel and I had lunch with the Congressman and Thomas H. Quinn, a partner at the law firm of O'Connor & Hannan, L.L.P. whom MCHI had hired to assist it with its government

relations efforts. The purpose of the meeting was to discuss MCHI's business connections with South Africa, to describe the benefits of ELLIPSO's low cost services for the people of Africa. MCHI's concerns with the financial qualifications standard, and the standard's effect on small businesses such as MCHI. Congressman Towns was a member of the Congressional Black Caucus and the Subcommittee on Telecommunications and Finance of the Committee on Commerce and had a strong interest in the development of telecommunications in Africa. It is likely that the parties discussed the inequity of the FCC's financial qualifications standard for small businesses during the lunch since MCHI had hoped, together with the coalition, to encourage various representatives to submit a letter to the FCC in the Section 257 Proceeding like the one that had been sent by Senator Shelby and his colleagues. I do not believe that Mr. Castiel or I asked for Congressman Towns' assistance during the lunch. I am certain that neither of us asked for a letter or any other action by the Congressman that would have addressed the licensing proceeding. Although there may have been subsequent communications between MCHI and Congressman Towns' office, I only recall knowing that Congressman Towns' Legislative Assistant was working on a letter, but I was not aware of the letter's specific contents. I was surprised to learn on January 17, 1997 that a letter had been sent because I believe that Congressman Towns' office had been apprised that the licensing proceeding was restricted.

12. After I received a copy of the January 13, 1997 letter from Congressman Towns' office on Friday, January 17, 1997, I promptly forwarded it to Ms. Stern. It is my understanding that Ms. Stern immediately served all the parties to the licensing proceeding on



the following business day, Tuesday, January 21, 1997 (Monday, January 20, 1997 was Martin Luther King Day).

13. After the January 13, 1997 letter was sent, Mr. Moore and I had a number of communications with Congressman Towns' office in connection with the upcoming visit of Vula Communications officers to the United States in March 1997. Vula Communications is a South African telecommunications and information technology consortium consisting of major Black labor unions and Black business and civic associations in South Africa. Congressman Towns had expressed an interest in encouraging economic development in South Africa, and the purpose of the meeting was to introduce him to Vula and its mission. In March of 1997, representatives of Vula Communications, Mr. Moore and I met with Congressman Towns' Legislative Assistant. I believe that the Congressman may have stopped by briefly. Since Vula Communications was one of MCHI's partners in its Big LEO effort and was affected by the license deferral, it is likely that the status of MCHI's license was discussed during the meeting. However, I recall that we did not ask or encourage anyone from Congressman Towns' office to contact the FCC about its license application. The focus of the discussion was on Vula's business endeavors and the implementation of Section 257's direction to remove market entry barriers for small businesses. We might have also discussed the possibility of support for a letter from members of the House of Representatives on the latter issue much like the October 3, 1998 Senatorial letter.

14. I do not have a recollection of any of my subsequent communications with the Congressman's office although it is my understanding that he sent a letter to the FCC

concerning MCHI's license application. I believe that the Congressman might have been motivated to send the letter by the Vula representatives.

15. I do not believe anyone on behalf of MCHI has ever contacted the offices of Congressmen Tom Davis, Jim Moran, or Bob Goodlatte regarding MCHI's pending license application, the Section 257 Proceeding, or any other matter. I believe that the June 6, 1997 letter from these Congressmen was most likely to have been submitted in response to communications from another Big LEO applicant.

16. On or about May 20, 1996, Jill Abeshouse Stern, Weldon Latham, and I met with Greg C. Simon, former Chief Domestic Policy Advisor to Vice President Gore, to discuss the inequity of the FCC's financial qualifications standard and the requirements of Section 257. At no time did any MCHI representative ask Mr. Simon to contact the FCC and Mr. Simon gave no indication that he would forward the April 30, 1996 letter to anyone at the FCC. I was certain that the meeting would not result in any action. I later learned (at the same time as did all the other parties) that Vice President Gore's office had forwarded the letter to the head of the minority opportunity office at the FCC. I do not recall whether we specifically advised Mr. Simon of the fact that the licensing proceeding was restricted.

17. I am not aware of any communications between Sheryll Cashin and MCHI about the Section 257 Proceeding, MCHI's license application, or any other matter.

18. Similarly, I am not aware of any communications between MCHI and Kate Carr, Special Assistant to the President.

19. I am not aware of any communications in which MCHI encouraged David Thompson of Spectrum Astro to send any communication to Ms. Carr. This letter came as a total surprise to all of us at MCHI because none of us had any idea Mr. Thompson had written a letter until the FCC served MCHI with a copy at the same time that all the other parties were served. Mr. Thompson never indicated to me that he would take any action at the FCC or ask others to do so on behalf of MCHI. Spectrum Astro is a small satellite manufacturer that hoped to build Ellipso Satellites.

20. My contacts with the Small Business Administration in connection with the Section 257 Proceeding were as follows: In March or April 1996, I called David Zesiger, Assistant Chief Counsel, Office of Advocacy, of the Small Business Administration ("SBA") to set up a meeting with myself and Jill Abeshouse Stern. The purpose of the meeting was to seek advice from the SBA about ways in which it could further raise the policy issues relating to small telecommunications businesses. It was my understanding that the SBA was considering taking a position in the *DISCO I* proceeding on the issue of strict financial standards for satellite systems. MCHI sought to advise the SBA of MCHI's situation which could be cited as an example of the inequity of the financial standard in the SBA's position on the FCC's 1996 *DISCO I* Order. MCHI also hoped to brief Mr. Zesiger on its legislative activities. In addition, MCHI wanted to explore the possibility of filing an amicus brief in a pending appeal before the D.C. Circuit pertaining to the rulemaking in which the FCC had concluded that a strict financial test was appropriate for Big LEO applicants.

21. At the meeting, on or about April 15, 1996, Mr. Zesiger expressed interest in the policy implications of the strict financial standard and indicated that he had closely

followed the *DISCO I* proceeding and was considering participation in that proceeding. He decided (either at the meeting or later) to write a letter to the FCC concerning its financial qualifications standard for satellite operators. I was generally aware that Mr. Zesiger was working on a letter following our meeting, and it was in that context that I informed Mr. Zesiger that the letter had to be served on all the parties. Mr. Zesiger, however, indicated that the SBA's communications would not address a specific licensing proceeding, and, in any event, SBA communications with the FCC were exempt from the *ex parte* rules. I subsequently received a copy of the SBA's letter on or about April 23, 1996.

22. My involvement with the meeting between Vula Communications and Julius Genachowski was as follows: The principals of Vula Communications were in Washington, D.C. in March 1997 to attend a series of events sponsored by the Department of Commerce to foster U.S. - South African business relations (through the Gore-Mbeki Commission). In light of the Commission's interest in the state of telecommunications in South Africa, I asked Jill Stern to schedule meetings with the Commissioners to introduce the principals of Vula. I attended separate meetings with Jane Mago, Commissioner Chong's counsel, and Julius Genachowski, Chairman Hundt's counsel. David Geary of Vula and Jill Stern attended both meetings. The meeting with Mr. Genachowski also included Mark Headbush of Vula.

23. I recall that at the beginning of the meeting, MCHI made it known to all the participants that the license proceeding could not be discussed. During the meeting we spoke about telecommunications issues and challenges that are unique to South Africa, and Vula's role in fostering Black participation in the country's telecommunications sector.

FROM LATHAM &amp; WATKINS WASH DC #1


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24. I also attended a meeting with Donald Gips, then Chief of the International Bureau, at around the same time that involved the same individuals from Vula and the same subject matter. There was no discussion at this meeting about the merits or outcome of MCHI's licensing proceeding, and I recall advising the parties to refrain from discussing this topic.

25. After the meeting with Mr. Genachowski on March 7, 1997, I understand that Mr. Geary of Vula decided, without MCHI's knowledge, to send a letter to Mr. Genachowski dated April 30, 1997 to inquire about the status of MCHI's license application. Neither I nor anyone else at MCHI solicited or encouraged Mr. Geary to send this letter. None of us knew that Mr. Geary had intended to send a letter.

26. Mr. Geary sent a copy of the letter to me by facsimile on or about April 30, 1997. I forwarded the letter to Ms. Stern, who I understand promptly served a copy of the letter on all of the parties on May 1, 1997.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 19, 1998.

  
Gerald B. Helman

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**DECLARATION OF FRANK MOORE**

I, Frank M. Moore, hereby declare as follows:

1. I have been Director of Government Affairs at Smith, Bucklin & Associates, Inc. since early 1996. Prior to this position, I worked on Capitol Hill for five years as Counsel to the House Banking Subcommittee on Policy Research and Legislative Director and Staff Director for former Congressman Robert Garcia.

2. On or about July 1996, I was engaged by Mobile Communications Holdings, Inc. ("MCHI") to obtain Congressional support for the elimination of market entry barriers for small businesses such as MCHI in the Federal Communications Commission's ("FCC") proceedings under Section 257 of the Telecommunications Act of 1996 (the "Section 257 Proceeding"). MCHI and other entrepreneurial satellite companies including Constellation Communications, Inc., Columbia Communications Corp., Orion Network Systems, and PanAmSat Corporation, were concerned about the FCC's strict financial qualifications standard for satellite applicants, and these satellite companies had formed a coalition to urge Congressional action to remove such barriers. It was the coalition's view that the financial qualifications standard imposed

by the FCC on satellite applicants was inconsistent with Section 257's mandate to remove such market entry barriers, and my role was to obtain support for this position in Congress.

3. My efforts included (1) obtaining support for a bi-partisan Senatorial letter (ultimately signed by Senators Shelby, Heflin, Craig, Mack, Inouye, Burns, and Bond) concerning the FCC's financial qualifications standard that would be sent to the FCC in connection with its Section 257 Proceeding; (2) obtaining the inclusion of language in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 that would provide direction to the FCC to waive or modify the financial standard to promote opportunities for small telecom businesses; and (3) clarifying legislative intent underlying Section 257, ultimately through a colloquy between Senator Pressler and Senator Shelby that made clear that the market entry barriers referenced in Section 257 included the FCC's strict financial standard. Senator Pressler at that time was Chairman of the Senate Commerce Committee.

4. The efforts described above involved a number of contacts among myself, my associate, others involved in the coalition, and the relevant Congressional offices to discuss the FCC's market entry barriers for small businesses, including the financial qualifications standard. However, because the appropriations bill and the colloquy are not the subject of the General Counsel's inquiry, I will address the contacts that I was involved in with the Congressional offices that resulted in the October 3, 1996 letter from Senators Shelby, Heflin, Craig, Mack, Inouye, Burns, and Bond.

5. I cannot recall the details of all the communications or meetings that I was involved in with the offices of these Senators that resulted in this letter, or the coordinated efforts of the ad hoc coalition. However, I believe that the status of MCHI's license application was raised in the context of discussing how the FCC's strict financial standard represented a market entry barrier

for small businesses that was inconsistent with Section 257's directive. In my experience, Congressional offices are not informed by and cannot react to issues in the abstract. Thus, I described and explained how the FCC's financial standard potentially affected MCHI, and other coalition members provided details of their respective experience, in order to illustrate the existence and operation of barriers to small business entry into telecommunications markets and the scope of the problem that the coalition sought to redress.

6. During the course of my communications with Senator Shelby's office, I apprised my contacts there about the restricted nature of MCHI's license proceeding and informed them that no *ex parte* communications should take place between the Senator's office and the FCC on the merits of the licensing proceeding. In fact, as described below, I attempted to coordinate with Senator Shelby's office and MCHI's counsel, Jill Abeshouse Stern, to ensure that the parties to the licensing proceeding would be served with the letter, even though the letter concerned the Section 257 Proceeding and was not, in my view, subject to the *ex parte* rules.

7. Although the letter was dated October 3, 1996, it was my understanding that the letter was not placed in the mail by Senator Shelby's office until the close of business on October 17, 1996, as the coalition was still trying to obtain additional signatures for the letter as of that date. I had coordinated with Ms. Stern to have her serve the letter on the other parties on October 18, 1998, and it is my understanding that she did file this letter with the FCC and serve it on all of the parties on that date.

8. In July 1996, I was involved in communications with Senator Lott's office in which a legislative aide to the Senator offered to speak with Commissioner Chong's office about the Commission's failure to give deference to the Senator's views on Section 257, as evidenced by the Commission's decision denying MCHI's Application for Review of the order deferring



MCHI's license application. In response, MCHI asked the Senator's office to make its views known to the Commissioner's office. MCHI had apprised the Senator's office of the restricted nature of the proceeding, however. I believe the merits of MCHI's license application were also discussed in these communications. These communications were not intended to violate the FCC's *ex parte* rules. I believe that Senator Lott's office may have subsequently contacted Commissioner Chong's office, but I do not know what was discussed.

9. During the period between March and May 1997, I communicated with the offices of some of the signatories to the October 3, 1996 Senatorial letter in which I discussed the status and merits of MCHI's application and sought their assistance in obtaining prompt action on the application. Because I do not have actual signed copies of these communications, only copies from electronic files, there is a possibility that some were not actually sent. I did not believe that these communications violated the *ex parte* rules that were then-applicable, since they were intended to maintain Congressional awareness of MCHI's circumstances, invite further communication with me, or to urge Congressional status inquiries. None were intended to urge discussions about the merits of MCHI's license application. I am not aware of any Congressional communications, written or oral, with the FCC that resulted from these letters. While I did on occasion provide copies of my Congressional correspondence to MCHI, I do not believe MCHI had knowledge of the specific contents of these letters before it prepared its response to the August 19, 1998 request for information, nor do I recall sending copies of these letters to MCHI prior to that time.

10. In the course of my effort to raise Congressional awareness of the FCC's market entry barriers for small businesses, I also had several communications with the office of Congressman Edolphus Towns prior to his letter dated March 14, 1997. I had no involvement with

the January 13, 1997 letter previously sent by Mr. Towns' office. My early communications with Congressman Towns' office occurred in connection with my attempt to arrange a meeting in March 1997 between his office and the principals of Vula Communications, a South African telecommunications and information technology consortium consisting of major black labor unions and black business and civic associations. As a member of the Congressional Black Caucus, and the Subcommittee on Telecommunications and Finance of the Committee on Commerce, it my understanding that Congressman Towns was interested in encouraging development of telecommunications in South Africa, and the purpose of the meeting was to introduce him to Vula and its mission. Because Vula was one of MCHI's Big LEO partners, the subject of MCHI's license was touched on during the meeting, although I do not recall that anyone from the Congressman's office was asked to contact the FCC on MCHI's behalf about its license application. The focus of the discussion was on Vula's business endeavors and the FCC's need to implement Section 257's mandate by removing market entry barriers for small businesses. At some point, we discussed the possibility of a Congressional letter on the latter issue much like the October 3, 1998 Senatorial letter. The Congressman's legislative assistant appeared enthusiastic about Vula's endeavors and the Section 257 issue, and I believe he drafted the letter, dated March 14, 1997, that was signed by Congressman Towns.

11. I do not recall all details of my communications with Congressman Towns' office prior to the time the March 14, 1997 letter was sent, but I do recall advising Congressman Towns' office that the MCHI license proceeding was restricted, and that communications to the FCC that touched on the merits of MCHI's application should be served on all parties to the proceeding. I saw a draft of the March 14, 1997 letter before it was finalized, and made comments to the letter. In addition, because I have observed that Congressional offices are not always inclined

to follow administrative rules of procedure, I specifically asked Congressman Towns' legislative assistant to include in the closing paragraph a request that the FCC make copies of the letter available to the other parties, and asked him to provide me with a copy of the letter, once the letter was ready to be placed in the mail, so that I could arrange for prompt service on the parties.

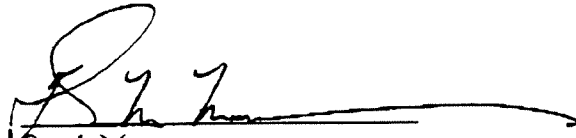
Although I am not certain when the letter was mailed by Congressman Towns' office, I did not receive a copy until March 25, 1997 by telecopy. I had coordinated with MCHI to allow service of the letter on the parties and I understand that Ms. Stern then promptly filed a copy of the letter with the FCC and on all the other parties on the following day, March 26, 1997.

12. Based on my work experience on Capitol Hill, I concluded that this letter was not actually mailed on March 14, 1997 from Congressman Towns' office because it usually takes several days to obtain the review and signature of a Member of Congress; however, upon receiving the telecopy I was unable to subsequently confirm with Congressman Towns' office when the letter was actually placed in the mail.

13. After this letter was sent, I communicated with Congressman Towns' office in April and May 1997, and in two of these communications I discussed the status and merits of MCHI's license application. In these communications, I asked Congressman Towns' office to keep me apprised of any discussions that might take place between the Congressman's office and then FCC General Counsel William E. Kennard relevant to MCHI, since I had been informed that Congressman Towns' office was in regular communication with Mr. Kennard on telecommunications issues. I had not asked Congressman Towns' office to mention the merits of MCHI's application to Mr. Kennard, however, and we never spoke about the FCC's Office of General Counsel's inquiry into allegations made by TRW, Inc. and Loral/Qualcomm Partnership, L.P. of *ex parte* presentations solicited by MCHI. I thought MCHI might be raised because of the

Congressman's interest in MCHI. I did not believe that these communications violated the FCC's *ex parte* rules, as they were not intended to encourage calls that would involve discussions of the merits of MCHI's application. I have no reason to believe that the Congressman's office ever had any communications with Mr. Kennard about MCHI.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 19, 1998.



Frank Moore

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

_____	)	
In the Matter of	)	
	)	
Application of Mobile Communications	)	File Nos. 11-DSS-P-91(6); 18-DSS-
Holdings, Inc.	)	P-91(18); 11-SAT-LA-95; 12-SAT-
_____	)	AMEND-95; 158-SAT-AMEND-96

**DECLARATION OF DAVID CASTIEL**

I, David Castiel, hereby declare as follows:

1. I am the President and Chief Executive Officer of Mobile Communications Holdings, Inc. ("MCHI"), and Chairman of the Board of Directors. I have held these positions since 1990.
2. MCHI is an entrepreneurial small business that in November 1990 (through its subsidiary Ellipsat Corporation) filed the first application with the FCC for a license to construct, launch and operate a Low-Earth orbit mobile satellite system to provide global voice and data services via mobile telephones. Because MCHI's system, ELLIPSO™, would deliver high-quality, low cost telephony to consumers around the world, it, over time, won the support of major corporations, including Westinghouse Electric Corporation ("Westinghouse"), Harris Corporation, Israel Aircraft Industries, Cable & Wireless, Lockheed Martin, and The Boeing Company. In addition, ELLIPSO™ has garnered support in the developing world, particularly sub-Saharan Africa, as an affordable solution to telecommunications infrastructure development.

3. After MCHI filed its application, five other companies -- Motorola Satellite Communications, Inc. ("Motorola"), TRW Inc. ("TRW"), Loral/Qualcomm Partnership, L.P. ("Loral"), AMSC Subsidiary Corporation ("AMSC") and Constellation Communications, Inc. ("Constellation") also applied to the FCC for licenses or modifications of existing satellite licenses to operate in the same frequency bands as ELLIPSO™.

4. In October 1994, the FCC adopted rules for licensing satellite systems in the Above 1 GHz Mobile Satellite Service (also known as "Big LEO" service) which required small entrepreneurial businesses such as MCHI to meet a stringent financial qualifications standard. Under this dual standard, large companies, such as Motorola, TRW, and Loral, could qualify merely by showing that their assets exceeded the space segment construction, launch and first year operation costs (plus a letter indicating that they were "prepared to expend the necessary funds absent a material change in circumstances"), while smaller companies such as MCHI, which did not have assets exceeding projected space system costs, were required to submit evidence of "irrevocable commitments" for external funding.

5. Applying this strict financial qualifications standard, the FCC deferred the grant of MCHI's license in January 1995, while granting Big LEO licenses to Motorola, Loral, and TRW. This deferral had a significant competitive impact on MCHI, and adversely affected alliances formed by MCHI prior to the 1994 filing deadline with companies such as Cable & Wireless and Westinghouse.

6. MCHI recognized that the issue of financial qualifications for small entrepreneurial businesses was a broad policy question affecting many applicants in different

telecommunications services. As described in the Declaration of Gerald Helman, MCHI had long been involved in a variety of policy making activities either through Congress or as part of U.S. official or industry telecommunications efforts. Obtaining support from Congress and the Administration to change the FCC's strict financial qualifications standard specifically for entrepreneurial and small business satellite companies thus also became one of MCHI's policy objectives. Mr. Helman's declaration sets forth the company's efforts in this regard.

7. Although I was not directly involved in most of the communications that are the subject of the FCC Office of General Counsel's ("OGC") August 19, 1998 request for information, I will attempt to relate my best recollection of those communications that I had with the third parties that have been identified in the request. I have also caused MCHI to conduct an internal review in order to respond fully to the FCC's inquiry. It is my understanding, due to the passage of time and the fact that MCHI, as a start up company, had many communications with Congressional offices and the Administration between 1991 and 1997, that it was not possible for the individuals who were interviewed to recall every communication that they might have had with these offices. However, it is my understanding that none of the individuals interviewed could recall any communications before 1995 about MCHI's license with the third parties identified in the OGC's request.

8. During preparation of MCHI's response to the OGC's request for information, MCHI learned for the first time of certain communications between Frank Moore, one of MCHI's outside legislative consultants, and Senator Lott's office and Congressman Towns' office. Although they were not the subject of the OGC's prior ruling, those communications are described in Mr. Moore's declaration in the interest of full disclosure.

9. My first contact with Senator Shelby was at a Washington Opera event in the early part of 1995. After I was introduced to Senator Shelby, the Senator inquired about the nature of MCHI's business and I told him that MCHI was developing a global satellite system and that one of MCHI's potential technology vendors, SCI Systems, Inc., was from the Senator's home state of Alabama. In response to the Senator's questions, I mentioned that MCHI's Big LEO application had been deferred as a result of the FCC's overly stringent financial qualifications standard. The Senator asked me if I wanted him to do anything about the situation, and I specifically said "no." Senator Shelby nevertheless expressed interest in the fact that the FCC's two-tier financial qualifications standard had an adverse effect on small businesses and urged me to contact his assistant, David Hall, to discuss the matter further.

10. I did not call Mr. Hall. In fact, Mr. Hall contacted me several days later and arranged for a meeting. After several staff level discussions among MCHI, SCI, and Senator Shelby's office, Senator Shelby decided he would sponsor a letter signed by other Senators on the financial qualifications standard issue. I believe that the other signatories to the letter were contacted by Mr. Hall in cooperation with an MCHI and/or SCI representative during this process.

11. Although the July 19, 1995 letter that had been signed by Senator Shelby and other Senators addressed general policy issues rather than the merits of MCHI's license application, MCHI had intended, out of an abundance of caution, to serve all the parties to the licensing proceeding when the letter was sent. I do not know when the letter was sent to the FCC. I did not receive a copy of the letter directly from Senator Shelby's office. I do know that MCHI received a copy of the letter on or about August 25, 1995, when the other parties were



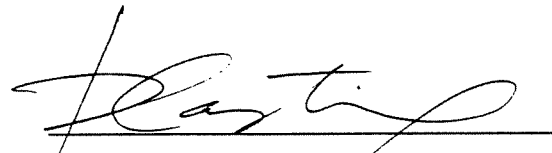
served by the Commission. Since the FCC had already served the letter on all of the parties on August 22, 1995, MCHI did not undertake to serve the parties again.

12. To the best of my knowledge, the first time anyone from MCHI had any contact with Congressman Towns occurred in late 1996 when Gerald Helman and I were introduced to the Congressman over lunch by Thomas H. Quinn, a partner at the law firm of O'Connor & Hannan, L.L.P., who was assisting MCHI with its financing efforts. At this lunch, we discussed MCHI's business connections with South Africa because Congressman Towns was a member of the Congressional Black Caucus. I described the benefits Africans would derive from ELLIPSO™'s low cost services and we discussed MCHI's licensing status. I did not ask for Congressman Towns' assistance during the lunch, and we did not ask for a letter or any other action from the Congressman that would address the licensing proceeding. I never had any subsequent communications with Congressman Towns or his office.

13. I never asked David Thompson of Spectrum Astro to send his May 8, 1996 letter to Kate Carr, and had no knowledge that Mr. Thompson planned on sending a letter to Kate Carr.

14. I have never spoken with Ms. Carr or Sheryll Cashin.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 19, 1998.



David Castiel

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

In the Matter of Application of	)	
Mobile Communications	)	File Nos. 11-D-P-91(6); 18-DSS-
Holdings, Inc.	)	P-91(18); 11-SAT-LA-95; 12-SAT-
	)	AMEND-95; 158-SAT-AMEND-96

**DECLARATION OF THOMAS H. QUINN**

I, Thomas H. Quinn, hereby declare as follows:

1. I am a senior partner in the Washington, D.C. law firm of O'Connor & Hannan, L.L.P., where I have been practicing law since 1967.

2. I have been working with Mobile Communications Holding, Inc. ("MCHI") in a limited capacity since approximately 1996. Originally, MCHI engaged my services to assist in raising capital efforts for its business through various international contacts.

3. I understand that the Federal Communications Commission ("FCC") has asked MCHI to respond to certain questions relating, among other things, to the company's contacts with Congressman Towns. I introduced Congressman Towns to MCHI because of MCHI's relationship with Vula Communications ("Vula"), one of South Africa's most influential Black-controlled telecommunications companies. While I have had only limited contacts with Congressman Towns, I understood that he, as Chairman of the Congressional Black Caucus Telecommunications Task Force, was interested in South African telecommunications issues

generally, and I believed he would be interested in MCHI's specific plans to provide low-cost telecommunications services to residents of that country.

4. In late 1996, I arranged for a luncheon or dinner between Congressman Towns and representatives of MCHI. I recall that the discussions included (a) the connection between MCHI and Vula, (b) MCHI's plans to bring telecommunication services to South Africa less expensively than other potential service providers, and (c) the FCC's deferral of the grant of MCHI's authorization and its inaction on MCHI's application in contrast to its more expeditious grant of applications filed by larger, better-financed companies. I recall that Congressman Towns inquired generally at the time what he might do to assist MCHI's efforts, although I do not recall that he volunteered to provide assistance to the company.

5. I am aware that Congressman Towns subsequently sent a letter dated January 13, 1997, to FCC Secretary William F. Caton. I have no recollection as to who drafted the letter. I have reviewed my working files relating to MCHI, and they do not contain any drafts of the letter.

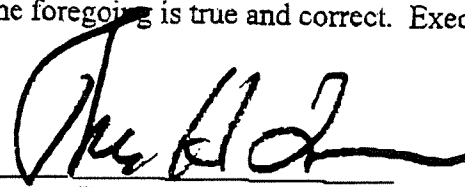
6. I subsequently attended a dinner (which I believe was at the ANA Hotel in Washington, D.C.) and possibly another luncheon (which I recall took place at the Department of Commerce) relating to general South African issues and attended by senior South African officials and business representatives. I recall that representatives of Vula were in attendance at the dinner, that Vula's Chief Executive Officer Mark Headbush gave a speech about Vula's efforts to provide low-cost telephone service to residents of South Africa, and that Congressman Towns also attended the event.

7. I have been advised that Congressman Towns subsequently sent a letter dated March 14, 1997 to former FCC Chairman Reed Hundt. I do not have any present recollection as to who drafted the Congressman's second letter to the FCC, or the circumstances underlying the drafting of the letter, although, based on the timing of the letter, I believe that Vula's visit may have precipitated it.

8. I recall that I spoke briefly with Congressman Towns with respect to MCHI two times during the period 1996-1997. I recall that I also spoke occasionally with members of his staff, but I do not recall the details of those conversations.

9. I do not recall that the subject of the FCC's ex parte restrictions was raised during my discussions with Congressman Towns or his staff.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 16, 1998.



Thomas H. Quinn