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

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In re Applications of)	MM DOCKET NO. 92-316
)	
RIVERTOWN COMMUNICATIONS COMPANY, INC.)	File No. BPH-911008ME
)	
SAMPLE BROADCASTING COMPANY, L.P.)	File No. BPH-911010MA
)	
For Construction Permit for a New)	
)	
FM Station on Channel 282C3)	
in Eldon, Iowa)	

MEMORANDUM OPINION AND ORDER

Issued: March 24, 1993 ; Released: March 26, 1993

1. Under consideration are the following:

Motion to Accept Late-Filed Motion to Enlarge Issues,¹ filed February 24, 1993, by Rivertown Communications Company, Inc. ("Rivertown");

Opposition to Motion to Accept Late-Filed Pleading, filed March 2, 1993, by Sample Broadcasting Company, L.P. ("Sample");

Reply to Opposition, filed March 5, 1993, by Rivertown;

Motion to Enlarge Issues, filed February 24 1993, by Rivertown;

Opposition to Motion to Enlarge Issues, filed March 8, 1993, by Sample; and

Reply to Opposition to Motion to Enlarge Issues, filed March 18, 1993, by Rivertown.

2. Rivertown seeks the following issues:

- (1) To determine whether the application of Sample Broadcasting was filed for the purpose, in whole or in part, of delaying action upon and grant of the application of Rivertown Communications Company, Inc.

¹ The motion is filed a day or two late, but it is accepted considering the decisional significant matters it raises. Accordingly, IT IS ORDERED that the Motion to Accept Late-Filed Motion to Enlarge IS GRANTED and the Motion to Enlarge Issues IS ACCEPTED.

- (2) To determine whether O-Town Communications, Inc., and/or any of its officers, directors, and stockholders, is a real party-in-interest to the application of Sample Broadcasting.
- (3) To determine the extent of the involvement of Bruce Linder in the planning and development of the application of Sample Broadcasting.
- (4) To determine the programming intentions of Sample Broadcasting, with particular reference to potential duplication of the programming of Station KKSI-FM.
- (5) To determine, in light of the evidence adduced under the foregoing issues, whether the application of Sample Broadcasting affirmatively misrepresents material facts, or knowingly conceals material facts.
- (6) To determine, in light of the evidence adduced under the foregoing issues, whether Sample Broadcasting possesses the basic qualifications to be a Commission licensee.

3. Rivertown notes that Sample is a two-tiered entity with Carmela Sample being the sole general partner with 40 percent equity. Bruce Linder is a limited partner, 60 percent equity and is the sole source of \$300,000 financing for Sample.

4. According to Rivertown, Bruce Linder and his father own 80 percent of the equity of O-Town Communications, Inc. ("O-Town"), licensee of Station KKSI-FM, Eddyville, Iowa (27 miles from Eldon). Ms. Sample has been employed by KKSI since October, 1990, but proposes divestiture if the Sample application is granted.

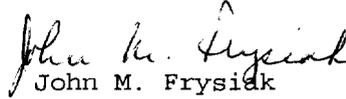
5. Rivertown alleges that Mark McVey, the 20 percent equity owner of O-Town, volunteered to David Brown (Rivertown's president and majority stockholder) in the presence of William D. Collins that the Sample application was designed to delay competition to O-Town's Eddyville station from an Eldon station; that it was engineered to avoid city-grade contour overlap between Eldon and KKSI-FM in order to permit Bruce Linder to have cognizable ownership in both stations and that ultimately the Eddyville and Eldon operations would be combined in a simulcasting arrangement.

6. Ms. Sample and Mr. Linder have denied the motivation which had been attributed to them by Mr. McVey's oral statements to Brown and Collins. McVey, however, only pleads inability to recall stating that if he did say those things it was merely his personal opinion.

7. The issues will be added.² As noted by Rivertown, McVey is not merely a casual bystander but the vice president, director and 20 percent equity holder of O-Town and his admissions bear investigation.

Accordingly, IT IS ORDERED the Motion to Enlarge Issues, filed February 24, 1993, by Rivertown IS GRANTED, and the issues against Sample ARE ENLARGED as requested.

FEDERAL COMMUNICATIONS COMMISSION


John M. Frysiek

Administrative Law Judge

²The procedural schedule already has been set in this proceeding and it is presumed that the issues specified herein may be heard in the time frame allotted. If this is not feasible, parties may apply for redress.