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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

TO: Administrative Law Judge
John M. Frysiak

MOTION TO ENLARGE ISSUES

Rivertown Communications Company, Inc, by its attorney,
pursuant to Section 1.229 of the Commission's Rules,
respectfully moves that the issues herein be enlarged as
follows:

To determine whether Sample Broadcasting Company, L.P.,
in its "Petition for Leave to Amend and Amendment"
filed on September 17, 1993, misrepresented the facts
surrounding the termination of the employment of
Carmela Sample-Day by Station KKSI-FM on or about
August 19, 1993, and if so, whether Sample possesses
the requisite qualifications to be a Commission
licensee.¹

¹ The instant Motion is timely, being filed 14 days after
Rivertown's September 20 receipt of Sample's September 17
Petition containing the representations at issue.

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In support thereof, Rivertown states as follows:

On September 17, 1993, Sample filed a "Petition for Leave to Amend and Amendment" to report a change in employment status of its general partner, Ms. Carmela Sample-Day. The following representation was contained in the "Amendment" executed by Ms. Sample-Day on September 16, 1993:

"On August 19, 1993, Carmela Sample-Day was laid off from her employment as News Director at FM station KKSI Eddyville, Iowa, due to the elimination of the full-time news department."

At page 2 of its "Petition for Leave to Amend," Sample represented as follows:

". . . on August 19, 1993, Carmela Sample-Day was laid off from her employment with FM station KKSI Eddyville, Iowa, as the result of the downsizing of station staff and elimination of the full-time News Department."

Those representations are true only to the extent that they reflect the termination by KKSI of Ms. Sample-Day's employment. In stating as the cause for such termination the "elimination of the full-time news department" of the station, and "the downsizing of the station staff," those representations are contradicted by information which has been received by Rivertown's David Brown, information which has been corroborated independently. In fact, it appears that Ms. Sample-Day was terminated by KKSI stockholder and Ms. Sample-Day's limited partner, Bruce Linder, due to poor

job performance; that she was promptly replaced as full-time news director by Mark Denney; and that there has been no "downsizing" of the KKSI news department.

Attached as Exhibit 1 hereto is the Statement of David Brown, reporting that (1) on August 18, 1993, his son informed him that David's brother Richard (who is employed by KKSI) had advised their mother earlier that day that Ms. Sample-Day had been let go as KKSI's News Director, and that Mark Denney (then News Director at Stations KLEE/KOTM, Ottumwa) was being hired as KKSI News Director; and (2) on September 5, 1993, he was informed by Mark Denney² that Denney had been hired by KKSI as its News Director, that Ms. Sample-Day had been terminated because she failed to cover adequately a special city election in Ottumwa on August 17, that, "when questioned about it the following day by Pat Snyder, KKSI's Operations Manager, she had become irate and had left the station; and that Bruce Linder had made the decision to replace her." Mr. Denney further advised Mr. Brown that it was his understanding that Mr. Linder was helping Ms. Sample-Day find another position, and was possibly assisting her financially until the Eldon proceeding was concluded.

² Mr. Brown notes that he has known Mr. Denney for a number of years, and that Denney worked for Brown as news director of the Fairfield, Iowa stations in the late 1980s.

Exhibit 2 hereto is the Statement of Michael Wilson Crumb, News Director of Stations KKMI and KDMG, Burlington, Iowa, of which David W. Brown is the general manager. Mr. Crumb notes that on September 23, 1993, he placed a call to the Ottumwa offices of Station KKSI and asked if the station had a full-time News Department, and was assured that it did; and that he spoke to Mark Denney, who confirmed that he was Station KKSI's full-time News Director.

Sample's attempt to attribute Ms. Sample-Day's change in employment status to "elimination of the full-time news department" and to a "downsizing of station staff" is apparently due to a concern on its part that the true reason for her discharge would detract from its comparative case (such as it is) vis-a-vis Rivertown. Whatever Sample's motivation, however, the significant fact is that it has misrepresented the facts concerning Ms. Sample-Day's change in employment.

Section 1.17 of the Commission's Rules specifically provides:

"No applicant . . . shall in any . . . pleading . . . or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission."

It should also be noted that, in its Report and Order in Docket No. 90-264, Proposals to Reform the Comparative Hearing Process, 6 FCC Rcd 157 (1990), the Commission conferred authority on its Administrative Law Judges to impose forfeitures upon applicants found to have made misrepresentations or engaged in other misconduct during the application process, stating:

"In any case in which the ALJ . . . enlarge (sic) the issues to inquire into allegations of such misconduct, the enlarged issues shall include notice that, after hearings on the enlarged issue and upon a finding that the alleged misconduct occurred and warrants such penalty, in addition to or in lieu of denying the application, the applicant may be liable for a forfeiture of up to the maximum statutory amount."

6 FCC Rcd at 164 (footnote omitted).

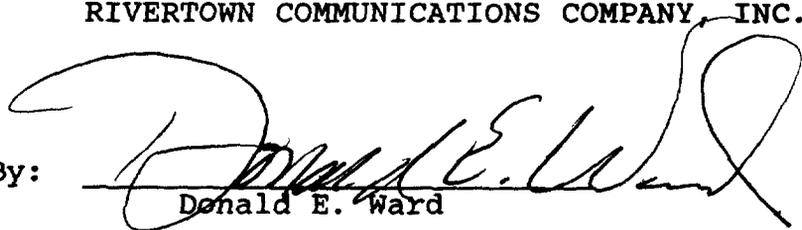
In the event the issues are enlarged as requested, Rivertown would seek discovery of any documents in the possession of Ms. Sample-Day or any officer, employee, or agent (including attorneys) of Station KKSI relating to her discharge by the station in August 1993, or relating to any compensation or other payments to her thereafter; and would depose the following individuals: Carmela Sample-Day, Bruce Linder, Richard Brown, Mark Denney, Pat Snyder, and Mark McVey.

Accordingly, it is respectfully urged that the instant motion be granted, and that the issues herein be enlarged as requested.

Respectfully submitted,

RIVERTOWN COMMUNICATIONS COMPANY, INC.

By:


Donald E. Ward

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Washington, D. C. 20004
(202) 626-6290

Its Attorney

October 4, 1993

STATEMENT OF DAVID W. BROWN

I have read the "Petition for Leave to Amend and Amendment" filed by Sample Broadcast Company, L.P. on September 17, 1993, and note with particular interest the following representation in the "Amendment" executed by Ms. Sample-Day on September 16, 1993:

"On August 19, 1993, Carmela Sample-Day was laid off from her employment as News Director at FM station KKSI Eddyville, Iowa due to the elimination of the full-time news department."

That representation is paraphrased at page 2 of the "Petition for Leave to Amend" as follows:

"... on August 19, 1993, Carmela Sample-Day was laid off from her employment with FM station KKSI Eddyville, Iowa, as a result of the downsizing of station staff and elimination of the full-time News Department."

On the evening of August 18, 1993, I called my son, who was staying at my mother's home. During our conversation, he informed me that my brother, Richard Brown (who is employed at Station KKSI) had told our mother earlier that day that Ms. Sample-Day had been let go as KKSI's News Director, and that Mark Denney (then News Director at Stations KLEE/KOTM, Ottumwa) was being hired as KKSI News Director.

On Sunday, September 5, 1993, I happened to run into Mark Denney in Ottumwa. I've known Mr. Denney for a number of years, and he worked for me as news director of the Fairfield, Iowa stations in the late 1980's. I asked him how things were going, and he volunteered to me that he was leaving KLEE/KOTM to join KKSI as News Director; that he has already given notice to KLEE/KOTM; and that he would be joining KKSI during the following week.

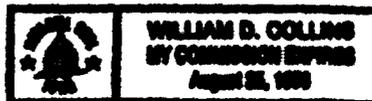
I asked him what had happened to Carmela Sample. He told me that she was to have covered a special city election in Ottumwa on August 17; that she had shown up very late, almost missing the entire evening; that, when questioned about it by Pat Snyder, KKSI's Operations Manager, she had become irate and had left the station; and that Bruce Linder had made the decision to replace her. He stated that it was his understanding that Mr. Linder was helping her find another position, and was possibly assisting her financially until the Eldon proceeding was concluded.

I hereby certify, under penalty of perjury, that the foregoing statement is true and correct.



David W. Brown

Date: 9/26/93



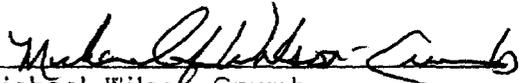


STATEMENT OF MICHAEL WILSON CRUMB

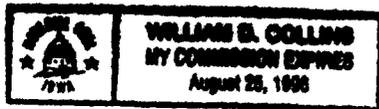
I am the News Director of Stations KKMI and KDMG, Burlington, Iowa, of which David W Brown is the general manager.

On the morning of September 23, 1993, I placed a call to the Ottumwa offices of Station KKSI, Eddyville, Iowa. A female answered the phone, and I asked if Station KKSI had a full-time News Department; she assured me that it did. I asked her who the news director was, and she replied that it was Mark Denney. I asked if he was available, and she put me through to him. I identified myself to Mr. Denney as a News Director with a radio station in Burlington, and asked Mr. Denney for an update on the recovery of the Ottumwa area from this summer's floods, which he gave me. I asked him if he was the full-time News Director of KKSI, and he confirmed that he was. I thanked him, and we ended the conversation.

I hereby certify, under penalty of perjury, that the foregoing statement is true and correct.


Michael Wilson Crumb

Date: 9-27-93





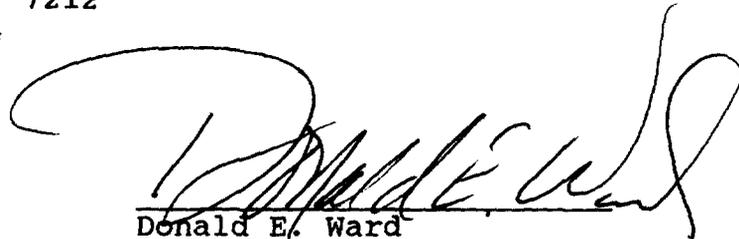
Certificate of Service

I, Donald E. Ward, do hereby certify that I have this 4th day of October, 1993, caused to be served by first class United States Mail, postage prepaid, a copy of the foregoing "MOTION TO ENLARGE ISSUES" to the following:

Hon. John M. Frysiak*
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Donald E. Ward

* By Hand