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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In re Applications of

MM Docket No. 93-300

STEPHEN O. MEREDITH	)	File No. BPH-920430MD
	)	
AL HAZELTON	)	File No. BPH-920430ME

For Construction Permit for a
New FM Station on Channel
243C1 in Audubon, Iowa

To: The Honorable John M. Frysiak
Administrative Law Judge

PETITION TO ENLARGE ISSUES

Al Hazelton ("Hazelton"), by his attorneys and pursuant to Section 1.229 of the Commission's Rules, hereby petitions to enlarge issues in connection with the application of Stephen O. Meredith ("Meredith"). In support thereof, Hazelton states as follows:

1. This Petition is timely filed. Pursuant to Section 1.229(b), petitions to enlarge issues premised on newly discovered material must be filed within fifteen (15) days of discovery. On January 10, 1994, Hazelton received from Meredith documents in response to the Standard Document Production Order. On January 21, 1994, Hazelton learned of the death of the author of the third-party loan commitment to Meredith. The instant petition is being filed within the required fifteen (15) day period following receipt of the documents and the information as to the individual's death.

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2. Even where Section 1.229(b) is not applicable, the issues being requested herein must still be added. Section 1.229(c) provides that matters of "probable decisional significance" or "public interest importance" warrant consideration in the hearing context even on an untimely basis. The evidence being presented, involving the financial qualifications of Meredith, fully warrants designation of a hearing issue.

3. There matter being raised herein is the financial qualifications of Meredith. As stated in his application and confirmed in the recent exchange of documents, Meredith is relying on financing from O. A. Meredith, Inc. ("OAM"). OAM is neither a financial institution nor another entity, such as a MESBIC, recognized by the Commission as a financial institution. As a result, Meredith was required to make a special showing as to its proposed lender's financial resources. See Northamption Media Associates, 4 FCC Rcd 5517, 5519 (1989), aff'd, 941 F. 2d 1214 (D.C. Cir. 1991). Meredith has failed to do so.

4. The special showing requires that the applicant establish that at the time it certifies its financial qualifications it has "satisfied itself that the source of the funds has sufficient net liquid assets to meet its financial commitment." Bennett Gilbert Gaines, Interlocutory Receiver for Magic 680, Inc., 72 RR 2d 170, 177 (Rev. Bd. 1993). Based on the information presented by Meredith, it cannot be said that the information on OAM was sufficient to meet this test.

5. In the first place, the balance sheet offered by Meredith for OAM (Exhibit A hereto) is undated. The references on the

balance sheet show that December 31, 1991 was one of the two dates referred to in the document.[1] The December 31, 1991 date was four months prior to the filing of the application and the certification by the applicant. This raises a material question as to whether this balance sheet could be relied upon.

6. The Commission has heretofore considered the issue of the dating of balance sheets of third-party lenders. In Northampton, the Commission held that in non-financial institution cases, the applicant must have evidence "demonstrating that, at the time of certification, that person had sufficient net liquid assets to meet his financial commitment to the applicant." (emphasis added) 4 FCC Rcd at 5519. Hazelton submits that Northampton stands for the proposition that there must be a contemporaneous balance sheet. The OAM balance sheet, already four months old, did not meet this test.

7. The need for a contemporaneous balance sheet is obvious. If a party has the ability to pick and choose balance sheets, he will have an incentive to select one that shows the greatest amount of assets and the smallest amount of liabilities. A look at OAM's balance sheet shows that the timing of a balance sheet can have a material effect on the net asset determination. When one compares the 1990 figures with the 1991 ones, one notes that the assets are nearly identical; however, when one compares the liabilities, they vary by $70,000.00 from one year to the other, all due to the

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[1] Hazelton is aware that the late Owen A. Meredith did execute a self-serving Certificate that there have been no material changes in the financial condition of OAM. However, a self-serving statement is not the equivalent of a timely prepared balance sheet. See Susan S. Mulkey, 4 FCC Rcd 5520, 5522 (1989).

dating of a payroll period. In order to avoid any such questions, Meredith should have relied only upon a contemporaneous balance sheet in certifying as to his financial qualifications. He did not do so and an issue must be designated.

8. Furthermore, the OAM balance sheet shows no evidence that it is an audited statement or was prepared by an accountant following generally accepted accounting principles consistently applied ("GAAP"). This raises an additional, material question as to the ability of Meredith to rely on a corporate financial statement that was prepared without the accounting safeguards attendant to an audit or GAAP.

9. The Commission has generally documentation including containing accounting safeguards, such as an annual financial report, before the non-financial institution's financial statements could be relied upon. See Washington's Christian Television Outreach, Inc., 94 FCC 2d 1360 (Rev. Bd. 1983). In the absence of an audited statement following generally accepted accounting principles, there is no basis for determining if the information presented by OAM is accurate and correct. The limited weight that the Commission should give to a corporate balance sheet showing no evidence that it is the result of an audit or the application of GAAP was recently confirmed in Weston Properties XVIII Limited Partnership, DA 93-1452, released December 7, 1993. In Weston Properties the Mass Media Bureau rejected a licensee's attempt to secure modification of a forfeiture because the financial statements the licensee presented failed to meet the comprehensive

requirements of GAAP.[2] Hazelton submits that the OAM showing is similarly flawed and should be treated in a like manner.

10. Even assuming the validity of the OAM data, they show that OAM is prepared to lend $325,000.00 of its claimed $444,587.00 in net liquid assets. For a firm that has heretofore felt the need to keep $100 thousand in cash and $430 in securities, this is an extreme change. In the case of financial institutions, the Commission has recognized the reality of lending limits to protect capital by mandating diversification of lending. See CBS, Inc., 49 FCC 2d 1214, 1228-1229 (Rev. Bd. 1974). In this non-financial institution matter, the Commission should also recognize that this enterprise cannot really be expected to jeopardize its capital and financial well-being, to the degree evidenced herein.

11. Moreover, a good portion of the securities presented by OAM are not marketable and cannot be treated as liquid assets. Based on the document provided by OAM (Exhibit B), $42,743.50 consists of municipal bonds. These bonds are not regularly traded on stock exchanges and the market for such instruments are subject to the vagaries of the municipal finances and the informal market in which the securities trade. They are not liquid and the valuations applied are not sufficiently certain for application herein.

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[2] If a licensee's financial statements not applying GAAP are unacceptable, the statements of a third-party corporation, not subject to Commission regulation, certainly are not acceptable.

12. Finally, there is a statement (Exhibit C) that does raises further questions. This statement indicates that it is page 2 of 3, but does not indicate on its face to whom the account belongs. While it appears match up with a Paine Webber Govt Money Mkt mentioned on Exhibit B, the other securities listed on Exhibit C do not appear to match up with Exhibit B. Likewise, in the absence of explanation as to the marketability of these securities, there is no basis to qualify the Exhibit C securities as liquid for purposes of the financial qualifications evaluation. When the securities with liquidity issues are considered, there exists a question as to whether OAM's net liquid assets are sufficient to support the Meredith loan.

13. In sum, there are a series of issues as to whether OAM has sufficient net liquid assets. Even accepting the level of liabilities, the extent of the assets, and whether they are liquid, is, at best, uncertain. This evidence must be tested in the context of a hearing.

14. Where there is an issue as to the financial qualifications of a party, there exists the same question as to whether the certification of such qualifications was false. It is customary for the Commission to designate both issues when such questions are raised. See Salt City Communications, Inc., 72 RR 2d 15, 19 (1993). That should be the procedure herein.

15. Aside from the issues heretofore presented, a new matter has arisen that raises additional and substantial questions as to Meredith's financial qualifications. On or about January 20, 1994,

Mr. Owen A. Meredith passed away. Mr. Owen A. Meredith was the author of the loan commitment and the President of OAM. With his death, there is now an issue as to whether the financial commitment can be relied upon.

16. In this regard, the impact of estate planning and management issues comes into play. Will the Estate of Owen A. Meredith be willing or able to permit the use of liquid assets of OAM to lend funds to Meredith's venture? Will the Estate of Owen A. Meredith have to seek redemption of OAM stock from the corporation in order to pay federal and state estate taxes? Will ownership of OAM continue in the hands of the Meredith family or will it be sold to a third party? These are not idle speculations, but the reality of what occurs when the owner of a small business dies.

17. In Weyburn Broadcasting Limited Partnership v. FCC, 984 F. 2d 1220 (D.C. Cir. 1993), the Court determined that external factors can impact on an applicant's financial qualifications. The Court held that the Commission cannot ignore these external events and must consider the continuous financial qualifications of an applicant in the hearing context. 984 F. 2d at 1231. Hazelton submits that the death of the President and principal stockholder of a non-financial institution lender raises an unresolved issue that only can be answered in the hearing context.

18. Pursuant to Section 1.229(e) of the Commission's Rules, Hazelton requests that the Presiding Judge order the production of the following documents:

A. Any and all financial statements, including those prepared by independent certified public accountants, of O. A. Meredith Inc. for the periods ending December 31, 1991 and April 30, 1992.

B. Federal corporate income tax return (IRS Form 1120 or 1120-S) for O. A. Meredith, Inc., for calendar years 1991, 1992 and 1993.

C. Statements from Shearson Lehman Brothers and PaineWebber for calendar years 1992 and 1993 dealing with the securities accounts of O. A. Meredith, Inc.

D. Any and all records of O. A. Meredith, Inc., including resolutions of the Board of Directors of O. A. Meredith, Inc., dealing with the April 29, 1992 loan commitment to Stephen O. Meredith.

E. The by-laws of O. A. Meredith, Inc.

F. Any and all documents, including correspondence, memoranda, and financial statements by and between Stephen O. Meredith, Owen A. Meredith, and O. A. Meredith, Inc. in regard to the loan commitment made by O. A. Meredith, Inc. to Stephen O. Meredith.

G. Any and all records of the Estate of Owen A. Meredith dealing with the disposition of the stock of Owen A. Meredith in O. A. Meredith, Inc.

H. Any and all correspondence, memoranda, or other documents by and among the Estate of Owen A. Meredith, the Executor of the Estate of Owen A. Meredith, Stephen O. Meredith, or other parties, dealing with the April 29, 1992 loan commitment to Stephen O. Meredith.

Consistent with this document request, Hazelton asks that the Presiding Judge require Meredith to comply with the procedures of Section 1.325(a)(2) of the Commission's Rules.

18. As regards discovery, Hazelton would intend to take the depositions of Stephen O. Meredith, the Executor of the Estate of Owen A. Meredith, and the current Chief Executive Officer of O. A. Meredith, Inc.

WHEREFORE, it is respectfully requested that the following hearing issues be designated:

A. To determine whether Stephen O. Meredith was financially qualified to construct and operate the proposed station at the time he executed his application and, if so, the effect thereof on Stephen O. Meredith's qualifications to be a Commission licensee.

B. To determine whether Stephen O. Meredith made misrepresentations or was lacking in candor with respect to the financial qualifications certification contained in his application for construction permit and, if so, the effect thereof on Stephen O. Meredith's qualifications to be a Commission licensee.

C. To determine whether, as a result of the death of Owen A. Meredith, Stephen O. Meredith is no longer financially qualified to construct and operate the proposed station and, if so, the effect thereof on Stephen O. Meredith's qualifications to be a Commission licensee.

D. To determine whether, in light of the evidence adduced under the foregoing issues, Stephen O. Meredith possesses the requisite qualifications to be a Commission licensee.

Respectfully submitted,

AL HAZELTON

By: _____

Barry A. Friedman
Semmes, Bowen & Semmes
1025 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20036
(202) 822-8250

Dated: January 25, 1994

EXHIBIT A

O. A. MEREDITH INC.,
COMPARATIVE BALANCE SHEETS
December 31,

ASSETS

CURRENT ASSETS	1991	1990
Cash on Hand	333.93	18,707.41
Cash in Bank	(1,028.81)	(9,125.62)
Cash in Bank-Special Savings	100,933.87	100,100.64
Invested Funds	430,191.26	431,265.50
Accounts Receivable	1,562.09	4,044.54
Inventory	274,285.83	243,911.69
Prepaid Expense	4,426.27	4,426.27
Accounts Receivable- Officer	-	5,779.69
Interest Receivable	-	120.00
TOTAL CURRENT ASSETS	810,710.44	799,230.12
EQUIPMENT AND VEHICLES		
Equipment and Vehicles	152,449.07	143,149.07
Less: Accumulated Depreciation	135,573.62	130,439.21
TOTAL EQUIPMENT AND VEHICLES	16,875.45	12,709.86
TOTAL ASSETS	827,585.89	811,939.98

LIABILITIES AND STOCKHOLDERS EQUITY

CURRENT LIABILITIES		
Accounts Payable	5,787.01	7,404.46
Accrued Expenses	2,717.32	9,356.47
Accrued Payroll	54,302.92	124,196.05
Accrued Payroll Taxes	3,977.16	3,953.28
State Sales Tax Payable	446.87	737.80
Amount Due Officer	18,611.90	-
TOTAL CURRENT LIABILITIES	85,843.18	145,648.06
STOCKHOLDERS EQUITY		
Common Stock	5,000.00	5,000.00
Retained Earnings	516,520.42	516,520.42
Shareholders Undistributed Earnings-Beginning	144,771.50	53,969.61
Distributions During Year	(9,463.38)	-
Net Income-Current Year	84,914.17	90,801.89
Shareholders Undistributed Earnings-End of Year	220,222.29	144,771.50
TOTAL STOCKHOLDERS EQUITY	741,742.71	666,291.92
TOTAL LIABILITIES AND STOCKHOLDERS EQUITY	827,585.89	811,939.98

SHAREHOLDERS UNDISTRIBUTED EARNINGS

Percentage of Ownership	Name	Undistributed Earnings Begin. Year	Distribution During Year	Current Year Earnings	Undisbributed Earnings End of Year
35.3	Owen	62,922.38		29,974.70	92,897.08
35.3	Catherine	62,922.37		29,974.70	92,897.07
9.8	Stephen	6,308.92	3,154.46	8,321.59	11,476.05
9.8	Patricia	6,308.92	3,154.46	8,321.59	11,476.05
9.8	Pamela	6,308.91	3,154.46	8,321.59	11,476.04
100.0		144,771.50	9,463.38	84,917.17	220,222.29

EXHIBIT B

O. A. Meredith Incorporated

Description of Cash or Equivalents	Value	Source of Valuation	Date of Valuation	Exchange
Norwest Bank Money Market	$101,902.00	cash	3/31/92	NA
102 U.S. Ty Notes, 1/15/99	$97,073.00	Wall ST Journal	4/24/92	OTC
50 U.S. Ty notes,7/15/94	$52,510.00	Wall ST Journal	4/24/92	OTC
50 U.S. Ty Notes, 11/15/00	$52,630.00	Wall ST. Journa	4/24/92	OTC
1500 Am Govt Term Trust	$15,563.00	Wall ST Journal	4/24/92	NYSE
400 Old Republic Preferred	$10,300.00	Wall St. Journal	4/24/92	NYSE
Paine Webber Govt Money Mkt	$91,923.00	P/W Statement	3/31/92	**See**
Amex Govt Money Mkt	$10,657.00	Shearson Stmnt	3/31/92	**Photocopies**
Puerto Rico Municipals	$27,565.50	Shearson Stmnt	3/31/92	**Of**
Puerto Rico Municipals	$10,178.00	Shearson Stmnt	3/31/92	**Statements**
Northumberland Municipals	$5,000.00	Shearson Stmnt	3/31/92	**Attached**
Total	$475,301.50			

Your Investment Executive
TURNER, LAWRENCE
712 243-5500

PaineWebber
Resource Management Account Statement

PZ2L024634-X13

Asset portfolio

*When available, prices, income and current values may be approximate and thus gains/losses may not be accurately reflected. Details on back. An asterisk (*) indicates a change in the original transaction data from the prior month or the display of new data input at your branch office. Contact your Investment Executive for additional information or if you have any questions.*

Money funds

Description	Opening balance	Closing balance	Closing share price	Average yield	Dividend period	Days in period
RMA GOVERNMENT PORTFOLIO	74,204.87	91,922.77	1.00	3.78%	02/20 - 03/18	28
Total	$	91,922.77				

U.S. Government securities

Prices are obtained from independent quotation bureaus that use computerized valuation formulas to calculate current values. Actual market values may vary and thus gains/losses may not be accurately reflected.

Coupon governments

Total face value at maturity	Description	Price	Current value	Est. annual income	Trade date	Face value purchased	Purchase price	Cost basis	Unrealized gain/loss
50,000	U S TREASURY NOTE RATE 8.0000% MATURES 07/15/94 DATED DATE 07/06/87	104.625	52,312.50	4,000		50,000	------This information was unavailable------		
50,000	U S TREASURY NOTE RATE 8.5000% MATURES 11/15/00 DATED DATE 11/15/90	105.875	52,937.50	4,250	11/30/90	50,000	102.099	51,051	1,887
100,000	Total	$	105,250.00	8,250					

EXHIBIT C

CERTIFICATE OF SERVICE

I, Barry A. Friedman, do hereby certify that I have, on this 25th day of January, 1994, served a copy of the foregoing, "Petition to Enlarge Issues," on the following parties by first-class mail, postage prepaid:

Hon. John M. Frysiak *
Administrative Law Judge
Federal Communications Commission
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Washington, D.C. 20554

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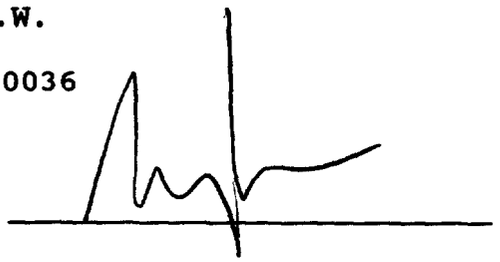

* By Hand