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

FCC MAIL SECTION

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40827

In re Applications of	)	MM DOCKET NO. 93-87✓
	)	
RAYMOND W. CLANTON	)	File No. BPH-911216MC
	)	
LOREN F. SELZNICK	)	File No. BPH-911216MD
	)	
For Construction Permit for a	)	
New FM Station on Channel 279A	)	
In El Rio, California	)	

MEMORANDUM OPINION AND ORDER

Issued: February 2, 1994 ; Released: February 4, 1994

1. Under consideration are the following:

Motion for Summary Decision and Denial of Application,  
filed December 23, 1993, by Raymond Clanton  
("Clanton");

Opposition of Selznick and Countermotion for Summary  
Decision, filed January 6, 1994; and

Opposition to Countermotion for Summary Decision,  
filed January 19, 1994, by Clanton.

2. Clanton seeks summary decision on the following issues specified  
against Selznick:

(I) To determine whether Selznick falsely  
certified in her application that she was  
financially qualified, and if so, the  
effect thereon on her qualifications to  
become a Commission licensee.

(III) To determine whether Selznick is  
financially qualified to construct her  
station and operate it for three months  
without revenue, and if not, the effect  
thereon on her qualifications to become a  
Commission licensee.

3. In support Clanton cites excerpts of the deposition testimony of  
Joseph P. Dailey on whom Selznick was relying for financial backing to meet  
her estimated costs of \$361,000. Clanton argues that the testimony indicates  
that Selznick did not have the requisite documentation of financial ability in  
hand when she filed her application. Clanton argues further that Selznick had  
not demonstrated that Selznick had full capability to underwrite Selznick's  
estimated costs.

4. Selznick opposes the motion and in turn countermoves for summary disposition of the above-named issues in her favor. Selznick relies on Dailey's deposition testimony, her declaration and Dailey's declaration.

5. The two pleadings demonstrate that questions of fact exist.

6. Summary decision is inappropriate when there are genuine and material issues of fact to be determined by an evidentiary hearing. See 47 CFR § 1.251(a)(1). Consequently, issues I and III cannot be disposed of summarily.

Accordingly, IT IS ORDERED that Motion for Summary Decision and Denial of Application, filed December 23, 1993, by Clanton and Countermotion for Summary Decision, filed January 6, 1994, by Selznick ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

  
John M. Frysia  
Administrative Law Judge