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

FCC MAIL SECTION

Nov 14 3 00 PM '94

FCC 94D-13

DIS- BY

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	)	

Appearances

Jerrold Miller, Esq. on behalf of Raymond W. Clanton; Robert Thompson, Esq. on behalf of Loren Selznick; and Paulette Laden, Esq. on behalf of the Mass Media Bureau, Federal Communications Commission.

INITIAL DECISION OF ADMINISTRATIVE LAW

JUDGE JOHN M. FRYSIAK

Issued: November 3, 1994 ; Released: November 10, 1994

PRELIMINARY STATEMENT

1. By Hearing Designation Order, 8 FCC Rcd 2624 (1993), ("HDO"), the Commission designated for hearing the mutually exclusive applications of Raymond W. Clanton ("Clanton") and Loren F. Selznick ("Selznick") for a construction permit for a new FM station on Channel 279A in El Rio, California, on the standard comparative issues.

2. By Memorandum Opinion and Order, FCC 93M-625, released September 30, 1993, the Presiding Judge added the following issues 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;

(II) To determine whether Selznick misrepresented facts or lacked candor in certifying that she was financially qualified in her original application and if so, the effect thereon on her qualifications to become a Commission licensee; and

(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. Both the burden of going forward and the burden of proof on these issues were placed on Selznick.

4. An evidentiary hearing session on the issues added against Selznick was held January 12, 1994. The record was closed January 12, 1994. See FCC 94M-28, released January 18, 1994.

#### Findings of Fact

##### Basic Qualification Issues

##### False Certification of Financial Qualification/Misrepresentation - Selznick

5. Selznick worked as an attorney for the law firm of Breed, Abbott & Morgan in New York, since 1987. She has primarily been under the tutelage of Joseph P. Dailey, ("Dailey") a former partner in the firm. They became personal friends as well as co-workers. Dailey left the firm in mid-1991, but continued to work with Selznick on matters handled by the firm (Selznick Ex. 4).

6. In the late summer of 1991, after returning to New York from a trip to California in which she unsuccessfully looked for radio stations to purchase, Selznick became aware of the opportunity to apply for the El Rio channel. She spoke with Dailey about the advisability of applying for the radio station (Id.). Dailey thought it was a great idea (Id.).

7. In proceeding toward preparation of the application, Selznick developed a construction and operating budget for her proposed station. She consulted with Dean Heinen, an engineer, who provided estimated costs of

equipment and its installation. Selznick's cost estimate for construction and first three months operation was \$360,070 (Id.).

8. At hearing Selznick was unable to state whether Dean Heinen's estimates included shipping and sales taxes. She was unaware of the sales tax rate in California when she filed her application (Tr. 89). Selznick's estimate omitted the Commission's \$6,760 hearing fee. She also failed to account for the fees to file the application for license (\$115) and the studio transmitter license application (\$85) (Tr. 90-91).

9. Selznick proposes to move from New York to California to oversee the entire construction of the station and to operate it thereafter (Selznick Ex. 2). Her budget estimate omitted the cost of relocating as well as her living expenses in California during the period of construction and three months operation. She does not plan to pay herself a salary during the first three months of station operation (Tr. 104).

10. When questioned on these omissions, Selznick testified that she knew that at the time that she filed that her installation budget was very high -- "It's in the \$80,000 to \$90,000 range and I was told before I put in my application that that was extraordinary, but there was no need to change it. I could use that money to apply to other things like legal expenses or fees." (Tr. 90-91).

11. In need of financing to cover her estimated costs, Selznick contacted Derrick Cephas, a former attorney at her law firm, who was part of a group which owned and operated radio stations. Cephas indicated to Selznick that his group was interested in providing the financing. However, Selznick had not reached an arrangement with Cephas group for the financing by November 1991, shortly before the filing deadline. She mentioned her lack of a financial commitment to Dailey telling him that her estimate of the station's construction and start up costs was slightly more than \$350,000 (Selznick Ex. 4).

12. Selznick asked Dailey if he was still interested in loaning the needed funds (Selznick Ex. 4, p. 7). She was assured by Dailey that he would loan the funds (Id.). She then informed him that, as her proposed lender, he would have to have approximately \$360,000 in "net liquid assets." (Id.). Dailey immediately pulled up his current balance sheet on his computer and, with Selznick on the phone from New York, they orally reviewed his balance sheet item-by-item (Id.). They concluded that, under generally accepted accounting principles, his cash, his partnership profits due and his partnership inventory interest would be more than sufficient to meet the FCC's requirements (Id.; Tr. 102-3). Based on her review of Dailey's financial statement, Selznick concluded that he had "substantially more" than \$360,070 in net liquid assets. They specifically discussed when his partnership profits would be received (Tr. 101).

13. A copy of Dailey's "Financial Statement," dated as of November 30, 1991, lists "cash" of \$218,000, partnership profits receivable totalling \$230,864 and partnership inventory interest of \$150,368 (Selznick Ex. 4, App. A). The same November 30, 1991 Financial Statement shows Dailey's total

assets to be \$2,939,232, total liabilities to be \$1,019,970 and his net worth to be \$1,919,262 (Id.).

14. Selznick stated that based on her review of the Form 301 Instructions, her discussions with then-communications counsel Peter Tannenwald, her oral loan commitment from Dailey and her item-by-item review of Dailey's financial statement, she certified as to her financial qualifications in the Form 301 application which she signed on December 13, 1991 and which was filed December 16, 1991 (Selznick Ex. 4, ¶¶ 7-8).

15. Dailey did not mention the terms under which he would provide the funds. Items such as interest rate, repayment arrangement, or security and collateral were never discussed (Selznick Ex. 4, Appendix B, p. 58).

16. Selznick stated that she understood from the outset that Dailey's loan would be based on "standard commercial terms for start-up businesses." (Selznick Ex. 4, ¶ 8). She asserts that she understood from the outset that such loans would mean a 60-month note, an interest rate of several points above prime and that the loan would be secured by the station's assets and personally guaranteed by her (Id.). Dailey also testified that reasonable commercial terms are implicit in his commitment to loan funds to Selznick (Selznick Ex. 4, Appendix B). The loan would be "about 4-5 percent above prime...a lien on the station's hard assets, a five-year term and a personal guarantee." (Id.). Dailey stated that, despite his personal friendship with Selznick, it would be a "standard loan," on the same terms that she might obtain from a bank (Id.).

17. The record does not show that Dailey researched the El Rio market, that he knew its demographics, or that he had any knowledge of the market whatsoever when he told Selznick he was willing to provide the financing or at any time thereafter. There is nothing to show that Selznick gave him any written information on this market prior to filing her application, or that she provided Dailey with an estimate of station revenues or an estimate of the value of an operating station in the area.

18. There is no showing that Dailey saw letters regarding site assurance, Selznick's balance sheet, financial statement, or bank statements. He has not seen an appraisal on either apartment owned by Selznick (Clanton Ex. 2, p. 31).

19. Selznick did not obtain written documentation regarding Dailey's proposal to provide financing, nor did she ask Dailey for any such document (Clanton Ex. 2, pp. 52, 54-55).

20. In August 1993, Selznick prepared and asked Dailey to sign a declaration in which he was to say she requested \$360,000 from him in 1991 (Selznick Ex. 4, App. B, p. 58). Dailey's recollection is that Selznick told him in 1991 that her total cost was \$350,000 (Clanton Ex. pp. 58, 74, 84).

21. Dailey also testified that, when Selznick informed him that he needed to have "net liquid assets" to cover his commitment, he brought up his balance sheet on his computer screen and they went over "item-by-item" what

would be considered liquid (Clanton Ex. 2, pp. 52-53). Dailey explained that he and Selznick concluded from their item-by-item review that he had "over \$500,000" in net liquid assets from his available cash, his partnership profits due and his partnership inventory interest due (Id. p. 53).

22. Dailey stored his financial statement on his own computer and updated it monthly (Clanton Ex. 2, p. 92). He brought up his most recent statement on the computer's screen during this phone conversation. It is not known what data appeared on Dailey's computer screen; at the hearing, Selznick could not recall the specific numbers Dailey read (Tr. 100).

23. Neither Dailey nor Selznick were aware of the Commission's definition of "net liquid assets."<sup>1</sup> Dailey focused on gross liquid assets, i.e., those assets which are considered liquid, without regard for offsetting liabilities. He asked Selznick, "Well, what does the Commission mean by liquid assets?" (Clanton Ex. 2, p. 52). He started to read from his computer screen those items which he believed would qualify as a liquid asset. Dailey decided that his cash, partnership profits, and partnership inventory interest<sup>2</sup> would be liquid assets. He stopped reading at that point, for the gross total was over \$500,000, more than Selznick had said she would require (Clanton Ex. 2, p. 53). Dailey did not mention anything about his liabilities to Selznick; the sole source of Selznick's knowledge about Dailey liabilities is his financial statement, which she first saw in August 1993 (Clanton Ex. p. 33, 92).

24. Dailey's November 30, 1991, financial statement states as follows:

Assets

Peralta Hills Home (Appraised Value) . . . . .	\$1,600,000
Cash . . . . .	218,000
Partnership Profits . . . . .	230,864
Salary Receivable . . . . .	50,000
Partnership Inventory Interest . . . . .	150,368
RunTime Technologies Investment At Cost . . . . .	420,000
Personal Property . . . . .	250,000
Automobiles . . . . .	<u>20,000</u>
Total . . . . .	\$2,939,232

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<sup>1</sup> There is nothing in the record to indicate that Selznick raised this matter with her communications counsel.

<sup>2</sup> The partnership inventory interest was being paid at the rate of \$2,770 per month (Clanton Ex. 2, p. 103).

Liabilities

Mortgage Debt. . . . .	\$ 975,000
Bank Loans . . . . .	44,970
Notes Payable. . . . .	-
Income Taxes Payable . . . . .	-
Charge Accounts Payable. . . . .	-
Total . . . . .	\$1,019,970

(Selznick Ex. 4, App. A).

25. Dailey did not have his home appraised until September 1992 (Clanton Ex. 2, p. 96). He conceded that he did not know the appraised value of his home on November 30, 1991 (Clanton Ex. 2, p.97). However, he testified that he purchased the home in January 1991 for \$1.3 million and made \$50,000 worth of capital improvements (Clanton Ex. 2, p. 97).

26. The Form 301 instructions state that an applicant's budget must estimate the cost of items "in place and ready for operation." Selznick was not sure she read that portion of the instructions. She read the portion of the instructions which address an applicant who intends to obtain financing from an individual. That paragraph states that the applicant must have "on hand" a document giving the individual's financial statement and his net income received after federal income taxes for the previous two years. Selznick interpreted "on hand" to mean that she did not have to have such a document in her possession, but that it should be readily available to her if needed (Tr. 80-85).

27. Selznick did not obtain Dailey's income after taxes for any year prior to filing her application. This sum was not discussed until the summer of 1993 (Clanton Ex. 2, p. 109-110).

Present Financial Qualifications - Selznick

28. When Selznick estimated in 1991 that her FM station's costs would total \$360,070, she had contemplated constructing a large FM station that would accommodate 24-hour "live" service, would utilize all new equipment and would have the substantial operating expenses generated by a large-station operation (Selznick Ex. 5).

29. After discussions with four radio brokers and media consultants in the summer of 1993, Selznick concluded that her 1991 cost estimate, premised on her proposal to buy 100 percent new equipment and to operate on a 24 hour "live" basis, was unreasonably high (*Id.*). However, one of the brokers stated that while a station could be put on the air for around \$100,000, he thought that \$300,000 would be a more realistic estimate. As a result Selznick believed that she would never spend \$360,070 to construct her proposed El Rio station, and she seeks to amend her application to report this change and to update her cost estimate (*Id.*, see Corrected Petition for Leave to Amend, filed January 13, 1994).

30. Selznick's revised construction budget totals \$79,460 (Selznick Ex. 5, ¶ 3, App. C). Her revised budget for first three months' operating costs is \$30,000 (Id.). Selznick's revised budget totals \$109,460 (Id.).

31. To meet her \$109,460 revised cost estimate, Selznick is relying principally on her own net liquid assets and for up to \$40,000 to be loaned by Dailey (Selznick Ex. 5, ¶ 4). The loan from Dailey would be under the same terms as discussed in Selznick Exhibit 4, supra (Id.). Selznick testified that Dailey had confirmed to her that he would loan up to \$40,000 for the FM station if she so requests (Id.).

32. Selznick estimates she now has \$140,700 available to construct and operate the El Rio station for three months without revenue. Dailey is to provide \$40,000, and she will provide the remainder of \$100,700 from her personal assets (Selznick Ex. 5).

33. Selznick's present financial statement shows the following:

Assets

Cash on Hand . . . . .	\$40,000
Retirement Accounts. . . . .	25,000
Inheritance Receivable . . . . .	8,000
99 Bank Street Apartment 3L Cooperative Stock. . . . .	86,000
67 East 11th Apartment 401 Cooperative Stock . . . . .	<u>118,000</u>

Total. . . . . \$277,000

Liabilities

Mortgage Debt . . . . .	\$ 64,000
Mortgage Debt . . . . .	110,000
Bank Loans/Notes Payable. . . . .	-0-
Credit Cards Payable . . . . .	1,000
Payable - Other . . . . .	<u>1,200</u>

Net Liquid Assets. . . . . \$100,700

(Selznick Ex. 4, App. D).

34. The record does not contain Dailey's current financial statement, nor any current information from which his financial ability to make even a \$40,000 loan may be ascertained. There is no loan commitment letter for the proposed \$40,000 loan from Dailey. Selznick asserts that Dailey's deposition testimony, Selznick Ex. 4, App. B, and his declaration of August 27, 1993, which is not in evidence, constitute his written loan commitment. In neither of these documents is there a mention of collateral. Selznick claims that the collateral was understood (Tr. 129). She gives no basis for this understanding.

Standard Comparative Issue

35. The FCC is holding in abeyance the processing of applications and the adjudication of hearing proceedings involving mutually exclusive proposals for new broadcast facilities in light of the opinion of the United States Court of Appeals for the District of Columbia in Bechtel v. FCC, FCC 10 F.3d 875 (D.C. Cir. 1993). This ruling held that the integration of ownership into management, one of the principal criteria used in evaluating applicants for new broadcast facilities, is arbitrary and capricious and therefore unlawful.

36. Because integration has been a crucial factor in many recent comparative proceedings, the Commission has decided to stay such pending cases while it considers appropriate action responsive to the court's opinion. During the freeze, predesignation procedures and hearing proceedings (except those aspects of hearing proceedings not involving comparative analysis of new applicants' proposals) have been suspended. See Public Notice, FCC 94-91 (February 25, 1994).

37. In light of the above-cited stay, no evidence regarding the Standard Comparative Issue was received at hearing. However, in light of the findings on the basic qualification of applicants herein and the decision reached below the Standard Comparative Issue is deemed irrelevant.

Conclusions of Law

Selznick's Initial Financial Qualifications/False Certification

38. Selznick's initial estimate to construct and operate her station for three months was \$360,070. To meet these costs, Selznick was relying on a loan in that amount from her former law partner, Joseph P. Dailey. The record shows that the loan commitment from Dailey was not reduced to a writing. Additionally, the record shows that Selznick and Dailey did not discuss any of the terms of the loan before Selznick filed her application. No mention was made of the interest rate, repayment arrangement, collateral or other conditions. At hearing Selznick and Dailey testified that they assumed that the loan particulars would be the same as it was customary at that time to make regarding any standard commercial loan.

39. In Revision of Application for Construction Permit for Commercial Broadcast Station (FCC Form 301), 4 FCC Rcd 3853 (1989), the Commission stated that it was strengthening its financial certification requirements (§ 42, p. 3858). The Commission now requires that an applicant have information and documentation regarding its cost estimate and funding sources on hand at the time it submits the application, as was required prior to 1981 (§ 43, p. 3858). In its Instruction in Section III, Form 301 the Commission notes that documentation that establishes an applicant's financial qualifications, includes, among other things, a balance sheet of the applicant; net income statements for the past two years; itemization of all applicant's deposits; financial statements for all persons who agreed to furnish funds, purchase stock, extend credit or guarantee loans.

40. In light of the foregoing it must be concluded that Selznick has not met the Commission's standard. Selznick had no writings from Dailey, either to memorialize his financing commitment, or to demonstrate his financial ability to make the loan. Although Dailey's financial statement is dated November 30, 1991, Selznick first saw it in August of 1993. At the time that Selznick discussed financing with Dailey, Dailey brought on his financial statement on his personal computer but not in Selznick's presence. She did not examine his financial statement prior to filing her application but rather relied on what Dailey spoke to her over the phone.

41. Furthermore, the oral communications between Selznick and Dailey did not include all of the pertinent information necessary to render reasonable assurance of funds available. Selznick and Dailey did not discuss any of the terms of the loan before she filed her application. No mention was made of the interest rate, repayment arrangements, collateral or other conditions. Selznick assumed that Dailey's loan would be based on "standard commercial terms for start-up businesses." (See Findings #16, above.) Being unaware of Dailey's conditions, Selznick could not have made an accurate attestation. Selznick's claim of a "mutual understanding of contractual terms" is undercut by the fact that the understanding was not expressed. An understanding must be based upon some outward communication. Dailey proved to be accommodating<sup>3</sup> but what Selznick relied on cannot be said to constitute reasonable assurance of funding.

42. In addition, the record is not at all clear that Selznick adequately estimated her costs of construction and operation. Her budget omitted the Commission's hearing fee (\$6,760) commission and filing fees, California sales tax and freight charges, cost of moving to California and cost of her subsistence for the first three months of the station operation. These increases to her cost estimate would cause her costs to exceed the funds which Dailey might make available to her. Selznick asserted that she would have been able to meet any increase to her cost estimate from funds allocated but unspent for installation. She stated at hearing that she was advised that her installation estimate was too high. However, no figures were cited to indicate what her reduced installation cost would be. Selznick also asserts that a recent Commission ruling (see David A. Ringer, FCC 94-126, released June 8, 1994) holds that an applicant's cost budget should be liberally constructed particularly whether the budget includes a "miscellaneous category." However, there is no record evidence that Selznick's budget contained a miscellaneous category. It is concluded that Selznick has not sustained her burden of proof under the financial issue; has not demonstrated that she is financially able to construct and operate as proposed.

43. However, a fair reading of the record demonstrates that Selznick did not intend to misrepresent to the Commission her financial qualification. She believed that Dailey could and would cover all costs of construction and operation and that she relied on the advice of her counsel as to filing

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<sup>3</sup> There is no record evidence that Dailey considered factors regarding the proposed operation which a prudent investor normally would to determine whether an investment of \$360,000 in a radio station in El Rio was warranted. Cf. Findings 15, 16 and 18, above.

instructions and to the interpretations of them.<sup>4</sup> The misrepresentation issue IS RESOLVED in Selznick's favor.

#### Selznick's Current Financial Qualifications

44. Since filing Selznick has changed her financial program for the construction and operation of the proposed station. To this end Selznick has submitted for approval an amendment to her application (January 4, 1994), (a Corrected Petition for Leave to Amend was filed January 13, 1994). The basis for this change is that when settlement talks with applicant Clanton finally collapsed in the summer of 1993, she consulted numerous experts to determine whether it was worthwhile to continue to pursue the El Rio application in light of the change in the FM radio environment and was advised that her original cost budget was unrealistic and excessive. She decided to continue her application with a revised budget and revised funding.

45. Selznick's Petition for Leave to Amend is filed pursuant to Section 1.65 of the Commission Rules which requires the reporting of material changes to license application and Section 73.3522(b) which allows post-designation amendments only upon a showing of good cause for late filing.

46. The elements of good cause are stated in Erwin O'Connor Broadcasting Co., 22 FCC 2d 140 (Rev. Bd. 1970). The moving party must demonstrate that it acted with due diligence; that the proposed amendment was not required by the voluntary act of the applicant; that no modification or addition of issues or parties would be necessitated; that the proposed amendment would not disrupt the orderly conduct of the hearing or necessitate additional hearing; that the other parties will not be unfairly prejudiced; and that the applicant will not gain a competitive advantage.

47. Clanton argues that Selznick did not act with due diligence and that the amendment was voluntarily made. Additionally, Clanton argues that Selznick is seeking reconsideration of an interlocutory ruling made in Memorandum Opinion and Order, 93M-583, released September 13, 1993.

48. In a pleading filed August 30, 1993, Selznick sought leave to amend her financial proposal stating that she preferred to revamp her proposal because in doing so her need to borrow money to finance construction and early operations would be greatly reduced. thereby reducing the debt service that the proposed station would need to support.

49. Clanton opposed the grant of the August 30, 1993 petition on the grounds that Selznick did not meet the good cause test of Erwin O'Connor, supra. After due consideration of Clanton's argument, Selznick's Petition for Leave to Amend was denied. (See Memorandum Opinion and Order, 93M-583, released September 13, 1993.)

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<sup>4</sup> In light of the determination made herein, Selznick's January 4, 1994 Motion to Delete Forfeiture Proceeding IS DISMISSED as moot.

50. Clanton subsequently challenged the adequacy of Selznick's initial financial proposal in his Petition to Enlarge Issues filed September 3, 1993. By Memorandum Opinion and Order, 93M-625, released September 30, 1993, Clanton's petition was granted and a financial issue and a false representation of financial qualification issue were added against Selznick.

51. For reasons stated below, Selznick's pending January 13, 1994 Corrected Petition for Leave to Amend must be denied.

52. Selznick's January 13, 1994 Petition for Leave to Amend ostensibly is the same as her Petition for Leave to Amend filed August 30, 1993. As such it seeks an impermissible reconsideration of an interlocutory ruling. See Section 1.301(b) of the Commission's Rules.

53. Furthermore, Selznick has not meet the due diligence test. The financial qualification issue against Selznick was designated September 30, 1993. Selznick did not file her amendment until some three months later, January 4, 1994. Commission policy dictates that amendments intended to cure a defect in an application be filed within 30 days of the date the applicant learns of the defect. Cf. Imagists, 6 FCC Rcd 7440 (Rev. Bd. 1991). Selznick actually stated in her August 30, 1993 petition that her financial proposal had changed. Selznick's instant amendment was filed well beyond the 30 day period allowed. Selznick did not seek permission to appeal the September 13, 1993 ruling nor did she offer any reason for filing the January 4, 1994 petition late.

54. Additionally, Selznick seeks to amend her financial proposal as a matter of preference. This obviously is a voluntary action on her part. The fact that she was obligated to report a change in her financial proposal pursuant to Section 1.65 of the Commission's Rules does not render the change of the financial proposal involuntary. Selznick has made no showing that the change in her financial proposal was involuntarily made. It is basic Commission policy that applications for broadcast licenses be final in form and changes thereto to be made in strict compliance to the Rules. Commission requirements are not to be relaxed simply to cure a disqualifying issue so as to preserve the Commission's choice of applicants.

55. For the foregoing reasons, Selznick's January 13, 1994 Corrected Petition for Leave to Amend must be denied on the grounds that it lacks good cause for acceptance.

56. Moreover, applicants seeking to amend their financial showing must also demonstrate that they were financially qualified ab initio, Aspen FM, Inc., 6 FCC Rcd 1602 (1991). As indicated above, Selznick has not met this requirement.

57. However, even if Selznick's January 13, 1994 amendment were to be accepted, it does not establish her current financial qualification. Selznick estimates that currently her construction and operation costs will be \$109,460. She will rely on her own assets and for a loan from Dailey up to \$40,000. She shows assets of \$277,000 and liabilities of \$100,700. Her assets include the proceeds of real estate which is estimated at \$204,000.

However, by Commission policy she may not credit the full appraised value of real estate in determining liquid assets but rather must discount it by a third. See Port Huron Family Radio, Inc., 5 FCC Rcd 4562 (1990). The value of Selznick's real estate must be reduced by \$68,000. This reduces her net liquid assets to \$32,700, which together with Dailey's loan of \$40,000 is insufficient to meet her estimated costs of \$109,460.

Ultimate Conclusions of Law

58. Selznick has been found to be financially unqualified. Clanton has been found qualified and there is no impediment to the grant of his application.

Accordingly, IT IS ORDERED that Selznick's January 13, 1994 Corrected Petition for Leave to Amend IS DENIED.

IT IS FURTHER ORDERED that unless an appeal from this Initial Decision is taken by a party, or the Commission reviews the decision on its own motion in accordance with Section 1.276 of the Rules, the application of Raymond W. Clanton (File No. BPH-911216MC) IS GRANTED, and the application of Loren F. Selznick (File No. BPH-911216MD) IS DENIED.<sup>5</sup>

FEDERAL COMMUNICATIONS COMMISSION



John M. Frysiak  
Administrative Law Judge

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<sup>5</sup> In the event exceptions are not filed within 30 days after the release of this Initial Decision and the Commission does not review the case on its own motion, this Initial Decision shall become effective 50 days after its public release pursuant to Rule 1.276(d).