

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Caribe Federal Credit Union)	File No.: EB-FIELDSCR-13-00009401
)	Citation No.: C201332680001
San Juan, PR)	

CITATION

Incidental Radiator Causing Harmful Interference

Adopted: July 17, 2013

Released: July 17, 2013

By the Resident Agent, San Juan Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official **CITATION** (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act),¹ to Caribe Federal Credit Union (CFCU). Specifically, CFCU is being cited for operating incidental radiators and causing harmful interference in violation of Sections 15.5(b) and 15.5(c) of the Commission's rules (Rules).²

2. Notice of Duty to Comply With Laws: CFCU should ensure that it does not utilize the incidental radiators prior to their repair or replacement and that it take steps to eliminate all harmful interference. CFCU is hereby on notice that if it subsequently engages in any conduct of the type described in this Citation, including any violation of Section 15.5(b) of the Rules, it may be subject to civil penalties, including but not limited to substantial monetary fines (forfeitures) and seizure of equipment. Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it.³

II. BACKGROUND

3. On June 12, 2013, in response to complaints of interference to licensed communications, an agent from the Commission's San Juan Office of the Enforcement Bureau (San Juan Office) used direction finding techniques to locate the source of transmissions on 712.5 MHz to the CFCU building at

¹ 47 U.S.C. § 503(b)(5).

² 47 C.F.R. §§ 15.5(b), 15.5(c).

³ See 47 U.S.C § 503(b)(5). See also S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent.") (emphasis added).

193-195 O’Neill Street, San Juan, Puerto Rico. The agent conducted on/off testing and confirmed that CFCU’s interior lighting on the highest ceiling within the facility (15 light fixtures about 40 feet above the floor) was the source of the interference. The agent observed the signal cease when the lighting was turned off, and the licensee confirmed that the interference ceased. On June 13, 2013, the agent informed CFCU’s operations manager about the interference via telephone and directed CFCU to cease operation of the lighting fixtures, pending resolution of the interference. The agent reiterated the verbal warnings in writing via email on June 24, 2013. On June 25, 2013, due to renewed complaints of harmful interference, the agent again observed that transmissions on 712.5 MHz were emanating from the CFCU building. On June 28, 2013, CFCU acknowledged receipt of the written warning on June 24, 2013 and stated that the lights would be turned off at 3:00 P.M. that day.⁴

III. APPLICABLE LAWS AND VIOLATIONS

4. Section 15.5(b) of the Rules states that “[o]peration of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused.”⁵ Section 15.3(m) of the Rules defines harmful interference as “any emission, radiation or induction that . . . seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with this chapter.”⁶ Section 15.3(n) defines an “incidental radiator” as “[a] device that generates radio frequency energy during the course of its operation although the device is not intentionally designed to generate or emit radio frequency energy.”⁷ Section 15.5(c) of the Rules requires that “[t]he operator of the radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference.”⁸

5. Pursuant to Section 15.5(c) of the Rules, on June 13, 2013, CFCU was notified that incidental radiators, the lighting fixtures, were causing harmful interference to licensed communications and was directed to cease operating the devices. On June 25, 2013, CFCU operated the incidental radiators and again caused harmful interference to licensed communications. CFCU acknowledged that it continued to operate the incidental radiators until June 28, 2013. Based on the foregoing evidence, we find that CFCU violated Sections 15.5(b) and 15.5(c) of the Rules by operating incidental radiators and causing harmful interference.

⁴ E-mail from Jorge Menendez, Operations Manager, Caribe Federal Credit Union, to Reuben Jusino, Resident Agent, San Juan Office (June 28, 2013, 1:28 P.M.); E-mail from Jorge Menendez, Operations Manager, Caribe Federal Credit Union, to Reuben Jusino, Resident Agent, San Juan Office (June 28, 2013, 6:05 P.M.).

⁵ 47 C.F.R. § 15.5(b).

⁶ 47 C.F.R. § 15.3(m).

⁷ 47 C.F.R. § 15.3(n). Under this definition, light fixtures, such as the ones used by CFCU, are incidental radiators.

⁸ 47 C.F.R. § 15.5(c).

IV. RESPONDING TO THIS CITATION

6. CFCU may, if it so chooses, respond to this Citation—challenging the factual and legal findings herein—within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to your place of business.

7. If you would like to arrange a teleconference or personal interview, please contact Reuben Jusino at (787) 306-1193. The nearest Commission Field Office is located in San Juan, Puerto Rico. Such teleconference or interview must take place within thirty calendar (30) days of the date of this Citation. If you would like to submit a written response, including any supporting documentation, you must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in paragraph 10, below.

8. All written communications should be provided to the address below.

Reuben Jusino
Federal Communications Commission
San Juan Office
150 Carlos Chardon Street, Room 762
San Juan, PR 00918-1731
Re: EB-FIELDSCR-13-00009401

9. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, and include as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the FCC's Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

10. Please be advised that it is a violation of Section 1.17 of the Commission's rules (47 C.F.R. § 1.17) for any person or a staff member of that person to make any false or misleading written or oral statement of fact. Specifically, no person shall:

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.⁹

⁹ 47 C.F.R. § 1.17.

11. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

12. If you violate Section 1.17 of the Commission's rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Communications Act.¹⁰

13. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

V. FUTURE VIOLATIONS

14. If, after receipt of this Citation, CFCU again violates Sections 15.5(b) or 15.5(c) of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation, and up to \$112,500 for any single act or failure to act.¹¹ For instance, the Commission could impose separate forfeitures for each day on which its incidental radiators cause harmful interference. Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.¹² In addition, violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,¹³ as well as criminal sanctions, including imprisonment.¹⁴

VI. ORDERING CLAUSES

15. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Caribe Federal Credit Union at #195 O'Neill Street, San Juan, PR 00918.

FEDERAL COMMUNICATIONS COMMISSION

Reuben Jusino
Resident Agent, San Juan Office
South Central Region
Enforcement Bureau

¹⁰ 47 U.S.C. § 503.

¹¹ See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). This amount is subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

¹² See paragraph 2, *supra*.

¹³ See 47 U.S.C. § 510.

¹⁴ See 47 U.S.C. §§ 401, 501.