

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

In the Matter of )
Edward R. Kozol ) File No.: EB-FIELDNER-15-00019958
Lemont, Illinois ) Citation No.: C201632320001

CITATION AND ORDER

Incidental Radiator Causing Harmful Interference

Adopted: November 24, 2015

Released: November 24, 2015

By the Regional Director, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. This CITATION AND ORDER (Citation) notifies Edward R. Kozol of his obligation to stop operating devices that are causing interference to licensed radio operations and to comply with federal rules and regulations related to radio frequency devices.

2. This is an official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act), 1 to Edward R. Kozol. Specifically Mr. Kozol is being cited for operating incidental radiators that are causing harmful interference in violation of Section 15.5(b) of the Commission’s rules (Rules). 2

3. Notice of Duty to Comply With Laws: Mr. Kozol should take immediate steps to come into compliance with the Rules, specifically, causing harmful interference to AT&T operations in Lemont, Illinois and refusing to allow inspection of the offending device. Mr. Kozol is hereby on notice that if he subsequently engages in any conduct of the type described in this Citation, including any violation of Sections 15.5(b) and 15.29(a) of the Rules, he may be subject to civil and criminal penalties, including but not limited to substantial monetary fines (forfeitures). Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it. 3

4. Your Response Required: Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, 4 we also direct Mr. Kozol to respond in writing, within thirty (30) calendar days after the release date

147 U.S.C. § 503(b)(5).

247 C.F.R. §§ 15.5(b)

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).

4 47 U.S.C. §§ 154(i), 154(j), 403.

of this Citation, and signed under penalty of perjury, with descriptions of the specific action(s) taken to preclude recurrence of the violations, and also a timeline for completion of any corrective action(s).

## II. BACKGROUND

5. On April 22, 2015, in response to a complaint from AT&T concerning interference to its cellular communications system that operates in the 700 MHz band in Lemont, Illinois, agents from the Enforcement Bureau's Chicago Office (Chicago Office) confirmed by direction finding techniques that radio emissions in the 700 MHz band were emanating from Mr. Kozol's residence in Lemont, Illinois. The 700 MHz signal is injecting noise into the AT&T network and degrading or blocking service to AT&T's customers. A **WARNING OF UNAUTHORIZED RADIO OPERATION/INTERFERENCE TO AUTHORIZED RADIO STATION** was left on the front door at 12425 Thornberry Drive on April 22, 2015. Mr. Kozol acknowledged receipt of the warning left on the front door in a May 6th email sent to an agent in the Chicago Office<sup>5</sup>.

6. On October 1, 2015, a **NOTIFICATION OF HARMFUL INTERFERENCE** addressed to Mr. Kozol was delivered by UPS to Kozol Brothers Inc., but no response was received.<sup>6</sup>

## III. APPLICABLE LAWS AND VIOLATIONS

7. Section 15.5(b) of the Rules states “[o]peration of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused . . . .”<sup>7</sup> Section 15.29(a) of the Rules states “[a]ny equipment or device subject to the provisions of this part, . . . shall be made available for inspection by a Commission representative upon reasonable request.”<sup>8</sup> Kozol's refusal to acknowledge the interference problem and refusal to allow Commission's representatives to inspect the offending device violate these rule sections.

8. The record in this case shows that the Chicago Office received a complaint from AT&T concerning interference to its cellular communications system that operates in the 700 MHz band in Lemont, Illinois. On April 22, 2015, an agent from the Chicago Office confirmed that radio emissions in the 700 MHz band were emanating from a residence owned by Mr. Kozol in Lemont, Illinois. The agent used a spectrum analyzer, a hand held antenna, and the receiving equipment in his vehicle to confirm that a signal from 720 to 770 MHz was emanating from Mr. Kozol's residence. Agents returned on May 20th and September 16th and found that the same signal was originating from Mr. Kozol's residence. The agent requested Mr. Kozol's assistance in locating the source of the interference and requested his permission to examine any possible radio sources within his residence. Mr. Kozol ignored numerous requests to allow agents to locate and identify the offending transmitter. Based on the foregoing evidence, we find that Mr. Kozol violated Sections 15.5(b) and 15.29(a) of the Rules.<sup>9</sup>

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<sup>5</sup> Email on file in EB-FIELDNER-15-00018814.

<sup>6</sup> See *Edward R. Kozol*, **NOTIFICATION OF HARMFUL INTERFERENCE** (on file in EB-FIELDNER-15-00019958).

<sup>7</sup> 47 C.F.R. § 15.5(b).

<sup>8</sup> 47 C.F.R. § 15.29(a).

<sup>9</sup> 47 C.F.R. §§ 15.5(b) and 15.29(a).

#### IV. REQUEST FOR INFORMATION

9. Pursuant to Sections 4(i), 4(j), and 403 of the Act,<sup>10</sup> Mr. Kozol is directed to confirm in writing that he has taken the necessary measures and made the corrections to ensure that he does not continue to violate the rules discussed above, and provide the information requested below within thirty (30) calendar days after the release date of this Citation. A failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject Mr. Kozol to additional sanctions.

- i. Examine all Part 15 devices at his residence in Lemont, Illinois and discontinue the operation until repairs to or replacement of the offending device can be made. If the offending device is found and the interference is resolved, send a complete report on what was found and the actions taken to resolve the interference.
- ii. If the interference cannot be resolved, advise this office in order to arrange for Commission agents to locate and examine the offending device.

#### V. RESPONDING TO THIS CITATION

10. In addition to the required written information described in paragraphs 3 and 8, above, Mr. Kozol may, if he 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.

11. If you would like to arrange a teleconference or personal interview, please contact Mike Moffitt at (847) 813-4660. The nearest Commission Field Office is located in Park Ridge, Illinois. Such teleconference or interview must take place within thirty (30) calendar 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 8, below.

12. All written communications, including the information requested in paragraphs 3 and 8, above, should be provided to the address below.

Federal Communications Commission  
Chicago District Office  
1550 North Northwest Hwy, Suite 306  
Park Ridge, Illinois 60069  
**Re: EB-FIELDNER-15-00019958**

13. 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](mailto: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);

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<sup>10</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

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

14. Please be advised that it is a violation of Section 1.17 of the 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.<sup>11</sup>

15. 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.

16. If you violate Section 1.17 of the Rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Act.<sup>12</sup>

17. 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 Act and the Rules.

## VI. FUTURE VIOLATIONS

18. If, after receipt of this Citation, Mr. Kozol again violates Sections 15.5(b) and 15.29(a) 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 \$122,500 for any single act or failure to act.<sup>13</sup> Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.<sup>14</sup> In addition, violations of the Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,<sup>15</sup> as well as criminal sanctions, including imprisonment.<sup>16</sup>

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<sup>11</sup> 47 C.F.R. § 1.17.

<sup>12</sup> 47 U.S.C. § 503.

<sup>13</sup> 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.

<sup>14</sup> See *supra* para. 2.

<sup>15</sup> See 47 U.S.C. § 510.

<sup>16</sup> See 47 U.S.C. §§ 401, 501.

**VII. ORDERING CLAUSES**

19. **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, Mr. Kozol must provide the written information requested in paragraphs 3 and 8, above. The response to the request for information must be provided in writing, signed under penalty of perjury by Mr. Kozol, certifying personal knowledge of the information and representations provided in the written response, and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

20. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Edward R. Kozol, at his address of record.

**FEDERAL COMMUNICATIONS COMMISSION**

G. Michael Moffitt  
Regional Director  
Northeast Region  
Enforcement Bureau