

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

In the Matter of)
Mr. Jian Chang) File No.: EB-FIELDNER-15-00018868
Property Owner)
Queens, New York) Citation No.: C201532380001

CITATION AND ORDER

Failure to allow inspection of the offending device

Adopted: August 19, 2015

Released: August 19, 2015

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official CITATION AND ORDER (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act), 1 to Mr. Jian Chang for violation of Sections 15.5(b) and 15.29(a) of the Commission’s rules (Rules). 2

2. Notice of Duty to Comply With Laws: Mr. Chang should take immediate steps to come into compliance with the Rules, and to avoid any recurrence of the misconduct, specifically, causing harmful interference to Sprint operations in Queens, New York and refusing to allow inspection of the offending device. Mr. Chang 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

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

4. On March 10, 2015, in response to a complaint from Sprint concerning interference to its cellular communications system that operates in the 1900 MHz band in Queens, New York, agents from

1 47 U.S.C. § 503(b)(5).

2 47 C.F.R. §§ 15.5(b) and 15.29(a).

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.

the Enforcement Bureau's New York Office (New York Office) confirmed by direction finding techniques that radio emissions in the 1900 MHz band were emanating from a Part 15 device⁵ operated under the direct or indirect control of Mr. Chang by virtue of the fact that the device was confirmed to be in a property owned by him in Queens, New York. The device at this location is injecting noise into the Sprint network and degrading or blocking service to Sprint's customers. Mr. Chang refused to allow inspection of the offending device.

5. A **NOTIFICATION OF HARMFUL INTERFERENCE** was sent from the New York Office to Mr. Chang, but no response was received.⁶

III. APPLICABLE LAW AND VIOLATIONS

6. 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"⁷ 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."⁸ Chang's refusal to acknowledge the interference problem and refusal to allow Commission's representatives to inspect the offending Part 15 device violate these rule sections.

7. The record in this case shows that the New York office received a complaint from Sprint concerning interference to its cellular communications system that operates in the 1900 MHz band in Queens, New York. On March 10, 2015, agents from the New York office confirmed that radio emissions in the 1900 MHz band were emanating from a residence owned by Mr. Chang in Queens, New York. The agents requested Mr. Chang's assistance in locating the source of the interference and requested his permission to examine any possible radio sources within his residence. Mr. Chang refused to assist the agents and refused to allow the inspection of any offending transmitter. Based on the foregoing evidence, we find that Mr. Chang violated Sections 15.5(b) and 15.29(a) of the Rules.⁹

IV. REQUEST FOR INFORMATION

8. Pursuant to Sections 4(i), 4(j), and 403 of the Act,¹⁰ Mr. Chang 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. Chang to additional sanctions.

- i. Examine all Part 15 devices at his residence in Queens, New York 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.

⁵47 C.F.R. § 15.1 *et seq.*

⁶ See *Jian Chang & Shu Jun Zhu, NOTIFICATION OF HARMFUL INTERFERENCE* (March 12, 2015) (on file in EB-FIELDWR-15-00018568).

⁷47 C.F.R. § 15.5(b).

⁸47 C.F.R. § 15.29(a).

⁹47 C.F.R. §§ 15.5(b) and 15.29(a).

¹⁰ 47 U.S.C. §§ 154(i), 154(j), 403.

- 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

9. In addition to the required written information described in paragraphs 3 and 8, above, Mr. Chang 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.

10. If you would like to arrange a teleconference or personal interview, please contact Stephen Maguire at (212) 337-0622. The nearest Commission Field Office is located in New York, New York. 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 11, below.

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

Federal Communications Commission
New York District Office
201 Varick Street, Suite 1151
New York, New York 10014
Re: EB-FIELDNER-15-00018568

12. 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).

13. 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.¹¹

14. 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.

15. 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.¹²

16. 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

17. If, after receipt of this Citation, Mr. Chang 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.¹³ Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.¹⁴ In addition, violations of the Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,¹⁵ as well as criminal sanctions, including imprisonment.¹⁶

VII. ORDERING CLAUSES

18. **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, Mr. Chang 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. Chang, 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.

¹¹ 47 C.F.R. § 1.17.

¹² 47 U.S.C. § 503.

¹³ 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.

¹⁴ See *supra* para. 2.

¹⁵ See 47 U.S.C. § 510.

¹⁶ See 47 U.S.C. §§ 401, 501.

19. **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 Jian Chang, at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Stephen Maguire
District Director
New York Office
Northeast Region
Enforcement Bureau