

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

In the Matter of)
Anthony F. Locasto) File No.: EB-FIELDNER-17-00023860
Staten Island, New York)

CITATION AND ORDER

Surveillance Device Causing Harmful Interference to LTE Communications

Adopted: August 28, 2018

Released: August 28, 2018

By the Regional Director, Region One, Enforcement Bureau:

I. NOTICE OF CITATION

1. This CITATION AND ORDER (Citation) notifies Anthony F. Locasto (Mr. Locasto) that he is operating a device that is causing harmful interference to licensed radio operations. We therefore direct Mr. Locasto to take immediate steps to comply with federal rules and regulations related to radio frequency devices. This includes low-power Part 15 devices, such as surveillance cameras, that utilize radio frequencies in their operation. If Mr. Locasto fails to comply with these laws, he may be liable for significant penalties, including fines of up to \$19,639 per day.

2. Notice of Duty to Comply with the Law: We issue this Citation pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Act), which states that the Federal Communications Commission (Commission or FCC) may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.1 Accordingly, Mr. Locasto is hereby on notice that he must comply with Section 15(b) and 15(c) of the Commission’s rules.2 If Mr. Locasto subsequently engages in any conduct described in this Citation— and specifically any violation of Section 15(b) and 15(c) of the Commission’s rules — Mr. Locasto may be subject to civil penalties, including but not limited to, substantial monetary forfeitures. In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following it.3 Mr. Locasto should take immediate steps to come into compliance with the Commission’s rules, including eliminating the interference. Mr. Locasto 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 15.5(c) of the Commission’s rules,4 he may be subject to civil and criminal penalties, including but not limited to substantial monetary

1 See 47 U.S.C § 503(b)(5).

2 47 CFR § 15.5(b)-(c).

3 See 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 Supra, note 2.

finances (forfeitures). Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it.⁵

3. **Notice of Duty to Provide Information:** Pursuant to Sections 4(i), 4(j), and 403 of the Act,⁶ we direct Mr. Locasto to respond in writing, within thirty (30) calendar days after the release date of this Citation, to the information and document requests set forth in paragraph twelve below.

II. BACKGROUND

4. On March 15, 2017, Sprint Corporation (Sprint) filed a complaint with the Commission⁷ concerning interference to its cellular communication system that operates in the 800 MHz band in Staten Island, New York. Sprint noted that the interference appeared to correspond with the outdoor Astak night vision color surveillance camera, located in Staten Island, New York, at a single-family home owned by Mr. Locasto (Locasto Residence). Sprint contacted the FCC when the residents failed to take corrective action after first being contacted by Sprint. Sprint uses the 800 MHz band to provide LTE service to business and residential consumers.

5. On March 22, 2017, in response to Sprint's complaint, an agent from the Commission's New York Field Office (New York Office) conducted an on-scene investigation. Direction finding techniques supported the allegation that the Astak surveillance camera, located at the Locasto Residence was the source of the interference.

6. On March 22, 2017, the New York Office issued an on-scene warning notice (Warning) to Mr. Locasto, informing him that he was in "operation of a radio frequency radiating device," which was causing harmful interference to radio communications. The letter stated that the RF energy emanating from the device was detected between 817-824 MHz, frequencies reserved for cellular operation. Furthermore, the Warning provided citations to applicable Commission rules and regulations, with which Mr. Locasto was advised he must comply. The New York Office agent posted the Warning on the front door of the Locasto Residence.

7. On April 25, 2017, the Enforcement Bureau sent, via First Class Mail and Certified Mail, return receipt requested, a Notice of Harmful Interference (Second Warning) to Mr. Locasto at his residence. As the prior Warning, the Second Warning advised, *inter alia*, that the Astak surveillance camera was generating harmful interference on frequencies assigned to Sprint's cellular network. The Second Warning also instructed Mr. Locasto not to resume operation of the Astak surveillance camera until the conditions causing the harmful interference had been corrected, and outlined the potential penalties for such a violation, including equipment seizure, fines, and imprisonment.⁸

8. On January 30, 2018, in response to Sprint's continuing complaints that the interference had not been resolved, two New York Office agents conducted another on-scene investigation. Direction finding techniques again supported the allegation that the Astak surveillance camera located at the Locasto Residence was the source of the interference.

9. On January 30, 2018, the New York Office issued Mr. Locasto an on-scene warning notice (Third Warning), which the FCC agents posted on the Locasto Residence's front door. The Third

⁵ 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).

⁶ 47 U.S.C. §§ 154(i)-(j), 403.

⁷ *Cellular Tel. Interference Report*, Reference CTIX-1489180265. See Case No. EB-FIELDNER-17-00023860.

⁸ See *Anthony Locasto & Jennifer Locasto*, Notification of Harmful Interference (Apr. 25, 2017) (on file in EB-FIELDNER-17-00023860).

Warning indicated that Mr. Locasto had ten (10) days to respond. Mr. Locasto did not respond to the Third Warning.

III. APPLICABLE LAW AND VIOLATIONS

10. Section 15.5(b) of the Commission's rules requires that "operation of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused" Similarly, Section 15.5(c) of the Commission's rules states that the "operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected."¹⁰ Section 15.3(m)'s definition of harmful interference includes any emission, radiation or induction that ". . . obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter."¹¹

11. Based on the foregoing evidence, we find that Mr. Locasto violated Sections 15.5(b) and (c) of the Commission's rules by operating a device causing harmful interference to a wireless provider's licensed operations and failing to promptly eliminate the interference upon notification by a Commission representative.¹²

IV. REQUEST FOR INFORMATION

12. Pursuant to Sections 4(i), 4(j), and 403 of the Act,¹³ we direct Mr. Locasto to confirm in writing, within thirty (30) days of the release of this Citation, that he has taken the corrective measures to eliminate the harmful interference, as well as provide a timeline for any pending corrective actions. Failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject Mr. Locasto to additional sanctions.

V. OPPORTUNITY TO RESPOND TO THIS CITATION

13. Mr. Locasto may respond to this Citation within thirty (30) calendar days from its release through any of the following methods: (1) a written statement; (2) a teleconference interview; or (3) a personal interview at the Commission Field Office nearest to his place of business. The Commission Field Office nearest Mr. Locasto's residence is located in New York City.

14. If Mr. Locasto requests a teleconference or personal interview, please contact David C. Dombrowski, by telephone at: (301) 725-1996. We note that such teleconference or interview must take place within thirty (30) calendar days of the release date of this Citation. If Mr. Locasto prefers to submit a written response, with supporting documentation, Mr. Locasto must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in the paragraph below.

⁹ 47 CFR § 15.5(b).

¹⁰ 47 CFR § 15.5(c).

¹¹ 47 CFR §15.3(m).

¹² 47 CFR § 15.5(b)-(c).

¹³ 47 U.S.C. §§ 154(i)-(j), 403.

15. All written communications, including the information requested in paragraph twelve, above, should be sent to the addresses below:

Federal Communications Commission
EB Columbia Regional Office
Attn: David C. Dombrowski
9050 Junction Drive
Annapolis Junction, Maryland 220701
FIELD@FCC.GOV
Re: EB-FIELDNER-17-00023860

16. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, Mr. Locasto should provide a description of the accommodation required, and include as much detail as possible, and also provide a telephone number and other contact information. Mr. Locasto should allow at least five business days advance notice; last minute requests will be accepted, but may be impossible to fill. Mr. Locasto should direct such requests, if by e-mail, to fcc504@fcc.gov, and, if by telephone, to 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).

17. We advise Mr. Locasto that it is a violation of Section 1.17 of the Commission's rules¹⁴ for any person or a staff member of that person to make any false or misleading written or oral statement of fact.¹⁵ 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.

18. 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.¹⁶

19. Violations of Section 1.17 of the Commission's rules or the criminal statute referenced above may result in further legal action, including monetary forfeitures pursuant to Section 503 of the Act.

20. Finally, we warn Mr. Locasto that, under the Privacy Act of 1974,¹⁷ the Commission will use all relevant material information before it, including information disclosed in interviews or written

¹⁴ *Id.* at (a)(1).

¹⁵ *See* 47 CFR § 1.17.

¹⁶ 18 U.S.C. § 1001.

¹⁷ 5 U.S.C. § 552a(e)(3).

statements, to determine what, if any, enforcement action is required to ensure Mr. Locasto's compliance with the Act and the Commission's rules.

VI. FUTURE VIOLATIONS

21. If, after receipt of this Citation, Mr. Locasto again violates Section 15.5(b) or 15(c) of the Commission's rules¹⁸ by engaging in the type of conduct described herein, the Commission may impose sanctions for each such violation, including monetary forfeitures. The Commission may impose forfeitures not to exceed \$19,639 for each such violation, or each day of a continuing violation, and up to \$147,290 for any single act or failure to act.¹⁹ Further, as discussed above, the Commission may assess forfeitures on both the conduct that led to this Citation and the conduct that followed.²⁰ In addition, future violations may subject Mr. Locasto to equipment seizure through *in rem* forfeiture actions,²¹ as well as criminal sanctions, including imprisonment.²²

VII. ORDERING CLAUSES

22. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 4(j) of the Act,²³ Anthony F. Locasto must cease and desist from causing harmful interference, in violation of Sections 15(b) and 15(c) of the Commission's rules.²⁴

23. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Act,²⁵ Anthony F. Locasto must provide the written information requested in paragraph twelve, above. Anthony F. Locasto must support his responses with an affidavit or declaration made under penalty of perjury, signed and dated by Anthony F. Locasto, attesting personal knowledge of the representations provided in the response, and verifying the truth and accuracy of the information therein and that all of the information requested has been produced. All such declarations provided must comply with Section 1.16 of the Commission's rules and be substantially in the form set forth therein.²⁶ The Commission must receive the response within thirty (30) calendar days of the release date of this Citation and Order.

¹⁸ 47 CFR § 15.5(b)-(c).

¹⁹ See 47 U.S.C. § 503; 47 CFR § 1.80(b). This amount is subject to further adjustment for inflation. See 47 CFR § 1.80(b)(9).

²⁰ See *supra* para. 2.

²¹ See 47 U.S.C. § 510.

²² See 47 U.S.C. §§ 401, 501.

²³ 47 U.S.C. §§ 154(i)-(j).

²⁴ See 47 CFR § 15.5(b)-(c).

²⁵ 47 U.S.C. §§ 154(i)-(j), 403.

²⁶ 47 C.F.R. § 1.16.

24. **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 Anthony F. Locasto at the Locasto Residence in Staten Island, New York 10302.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
Regional Director, Region One
Enforcement Bureau