

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Susan Piatek) File No.: EB-FIELDSCR-19-00028803
Winter Garden, Florida)

CITATION AND ORDER

Surveillance Device Causing Harmful Interference to Satellite Communications

Adopted: May 12, 2020

Released: May 13, 2020

By the Acting Field Director, Enforcement Bureau:

I. NOTICE OF CITATION

1. Today the Federal Communications Commission’s Enforcement Bureau (Bureau) takes another step in the Commission’s ongoing effort to end harmful interference to licensed radio operations. This CITATION AND ORDER (Citation), notifies Susan Piatek (Piatek) that she is operating a device that is causing harmful interference to the European Space Agency’s Soil Moisture and Ocean Salinity satellite.1 We therefore direct Piatek to take immediate steps to comply with federal rules and regulations related to radio frequency devices and eliminate the harmful interference caused to the European Space Agency satellite by the operation of her surveillance cameras. If Piatek fails to comply with these laws, she may be liable for significant fines up to \$20,489 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 Commission 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.2 Accordingly, Piatek is hereby on notice that she must comply with section 301 of the Communications Act of 1934, as amended (Act),3 and sections 15(b) and 15(c) of the Commission’s rules.4 If Piatek subsequently engages in any conduct described in this Citation— and specifically any violation of section 301 of the Act and sections 15(b) and 15(c) of the Commission’s rules — she 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.5 Piatek should take immediate steps to come into compliance with the Commission’s rules, including eliminating the interference.

1 Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

2 See 47 U.S.C. § 503(b)(5).

3 47 U.S.C. § 301.

4 47 CFR §§ 15.5(b)-(c).

5 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).

3. **Notice of Duty to Provide Information:** Pursuant to sections 4(i), 4(j), and 403 of the Act,⁶ we direct Piatek 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 10 below.

II. BACKGROUND

4. The Commission is charged with protecting licensed radio operations from harmful interference. Harmful interference to the European Space Agency's's Soil Moisture and Ocean Salinity satellite is particularly problematic in that it can interfere with the satellite's ability to map levels of soil moisture, sea surface salinity, and sea ice thickness. In a report dated March 28, 2019, the European Space Agency informed the Commission that it had detected active interference with its Soil Moisture and Ocean Salinity satellite emanating from a location near Windermere, Florida.⁷ The European Space Agency's Soil Moisture Ocean Salinity satellite performs measurements in the 1400-1427 MHz band to observe soil moisture over landmasses and salinity over oceans.

5. On May 22, 2019, in response to the European Space Agency's report, agents from the Commission's Miami Field Office (Miami Office) conducted an on-scene investigation and confirmed by direction-finding techniques that radio emissions in the 1400-1429 MHz⁸ band were emanating from a radio transmitting device (wireless camera) externally mounted near the garage at Piatek's residence in Winter Garden, Florida.⁹

6. On May 22, 2019, the Miami Office issued an on-scene warning notice (Warning) to Piatek, informing her that she was operating a radio frequency radiating device which was causing harmful interference to radio communications.¹⁰ The letter stated that the radio frequency energy emanating from the device was detected in the 1400-1429 MHz band, frequencies reserved primarily for space and radio astronomy.¹¹ Furthermore, the Warning provided citations to applicable Commission rules and regulations, with which Piatek was advised that she must comply.¹² The Miami Office agent left the Warning under the doormat at Piatek's residence.

7. On July 18, 2019, the Bureau sent, via First Class Mail and UPS, Signature Required with Delivery Confirmation, a Notice of Harmful Interference (Second Warning) to Piatek.¹³ As with the prior Warning, the Second Warning advised, *inter alia*, that the surveillance cameras were generating harmful interference on frequencies assigned to the European Space Agency.¹⁴ The Second Warning also instructed Piatek not to resume operation of the surveillance cameras until the conditions causing the harmful interference had been corrected, and outlined the potential penalties for such a violation,

⁶ 47 U.S.C. §§ 154(i)-(j), 403.

⁷ See *Report of Harmful Interference to EESS (passive) Sensors SMOS Radiometer over the United States*, European Space Agency (Mar. 28, 2019) (on file EB-FIELDSCR-19-00028803).

⁸ The frequencies 1400-1427 MHz lie within the 1300-1427 MHz band and are listed as a restricted band in section 15.205(a) of the Commission's rules. See 47 CFR § 15.205(a). The frequencies 1427-1429 MHz lie within the 1427-1432 MHz band and are listed as frequencies assigned to applicants that establish eligibility in the Public Safety Pool or the Industrial/Business Pool. See 47 CFR § 90.259(b).

⁹ See Field Agent's Investigation Report (on file in EB-FIELDSCR-19-00028803).

¹⁰ See *Susan Piatek*, Warning of Unauthorized Radio Operation and Interference to Authorized Radio Stations (May 22, 2019) (on file in EB-FIELDSCR-19-00028803).

¹¹ See *id.*; 47 CFR § 2.106 (1400-1427 MHz allocation).

¹² See Warning.

¹³ See *Susan Piatek*, Notification of Harmful Interference (July 18, 2019) (on file in EB-FIELDSCR-19-00028803).

¹⁴ *Id.*

including equipment seizure, fines, and imprisonment.¹⁵ Piatek did not respond to either the Warning or Second Warning.

III. APPLICABLE LAW AND VIOLATIONS

8. Section 301 of the Act states that “[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio” within the United States or its territories without a license granted by the Commission.¹⁶ Part 15 of the Commission’s rules provides an exception to this general section 301 license requirement and sets forth conditions under which devices (intentional radiators) may operate without an individual license.¹⁷ Section 15.5(b) of the Commission’s rules requires that “[o]peration of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused”¹⁸ 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.”¹⁹ Section 15.3(m)’s definition of harmful interference includes “[a]ny emission, radiation or induction that . . . obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter.”²⁰

9. We find that Piatek violated section 301 of the Act and sections 15.5(b) and (c) of the Commission’s rules by operating devices causing harmful interference to the European Space Agency’s licensed operations and failing to promptly eliminate the interference upon notification by a Commission representative.²¹

IV. REQUEST FOR INFORMATION

10. Pursuant to sections 4(i), 4(j), and 403 of the Act,²² we direct Piatek to confirm in writing, within thirty (30) days of the release of this Citation, that she 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 Piatek to additional sanctions.

V. OPPORTUNITY TO RESPOND TO THIS CITATION

11. Piatek 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 Piatek’s place of business. The Commission Field Office nearest Piatek is located in Miami, Florida.

12. If Piatek requests a teleconference or personal interview, please contact Ronald Ramage, by telephone at: (678) 293-3194. We note that such teleconference or interview must take place within thirty (30) calendar days of the release date of this Citation. If Piatek prefers to submit a written response, with supporting documentation, Piatek 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.

¹⁵ *Id.*

¹⁶ 47 U.S.C. § 301.

¹⁷ 47 CFR §§ 15.1, *et seq.*

¹⁸ 47 CFR § 15.5(b).

¹⁹ 47 CFR § 15.5(c).

²⁰ 47 CFR § 15.3(m).

²¹ 47 CFR §§ 15.5(b)-(c).

²² 47 U.S.C. §§ 154(i)-(j), 403.

13. All written communications, including the information requested in paragraph 12, above, should be sent to the mailing and e-mail addresses below:

Federal Communications Commission
EB Atlanta Regional Office
Attn: Ronald Ramage
P.O. Box 1493
Powder Springs, GA 30127
FIELD@FCC.GOV
Re: EB-FIELDSCR-19-00028803

14. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, Piatek 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. Piatek should allow at least five business days advance notice; last minute requests will be accepted, but may be impossible to fill. Piatek should 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).

15. We advise Piatek that it is a violation of section 1.17 of the Commission's rules²³ for any person to make any false or misleading written or oral statement of fact to the Commission. 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.

16. 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.²⁴

17. 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.

18. Finally, we warn Piatek that, under the Privacy Act of 1974,²⁵ Commission staff will use all relevant material information before it, including information disclosed in interviews or written statements, to determine what, if any, enforcement action is required to ensure Piatek's compliance with the Act and the Commission's rules.

²³ 47 CFR § 1.17.

²⁴ 18 U.S.C. § 1001.

²⁵ 5 U.S.C. § 552a(e)(3).

VI. FUTURE VIOLATIONS

19. If, after receipt of this Citation, Piatek again violates section 301 of the Act or section 15.5(b) or 15.5(c) of the Commission's rules by engaging in conduct of the type described herein, the Commission may impose sanctions for each such violation. For example, the Commission may impose monetary forfeitures not to exceed \$20,489 for each such violation, or each day of a continuing violation, and up to \$153,669 for any single act or failure to act.²⁶ The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.²⁷ Further, the Commission may assess forfeitures on both the conduct that led to this Citation and the conduct following it.²⁸ In addition, future violations may subject Piatek to seizure of equipment through *in rem* forfeiture actions,²⁹ as well as criminal sanctions, including imprisonment.³⁰

VII. ORDERING CLAUSES

20. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 4(j) of the Act,³¹ Susan Piatek must cease and desist from causing harmful interference, in violation of section 301 of the Act and sections 15(b) and 15(c) of the Commission's rules.³²

21. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 403 of the Act,³³ Susan Piatek must provide the written information requested in paragraph 10 above. Susan Piatek must support her responses with an affidavit or declaration made under penalty of perjury, signed and dated by Susan Piatek, 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.³⁴ The Commission must receive the response within thirty (30) calendar days of the release date of this Citation and Order.

²⁶ 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)).

²⁷ See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(8).

²⁸ See *supra* note 10.

²⁹ See 47 U.S.C. § 510.

³⁰ See 47 U.S.C. §§ 401, 501.

³¹ 47 U.S.C. §§ 154(i)-(j).

³² See 47 U.S.C. § 301; 47 CFR §§ 15.5(b)-(c).

³³ 47 U.S.C. §§ 154(i)-(j), 403.

³⁴ 47 CFR § 1.16.

22. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent by first class mail and certified mail, return receipt requested, to Susan Piatek at the Piatek residence in Winter Garden, Florida.

FEDERAL COMMUNICATIONS COMMISSION

Ronald Ramage
Acting Field Director
Enforcement Bureau