

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

In the Matter of
Luis Martinez
York, Pennsylvania
File No.: EB-FIELDNER-22-00033924

CITATION AND ORDER

Surveillance Devices Causing Harmful Interference to Fixed Wireless Broadband Communications

Adopted: May 18, 2023

Released: May 19, 2023

By the Regional Director, Region One:

I. NOTICE OF CITATION

1. This CITATION AND ORDER (Citation), notifies Luis Martinez (Martinez) that he operated radio frequency devices at his residence that caused harmful interference to a Commission licensee. We therefore direct Martinez to immediately cease and desist from using the devices and to comply with Federal Communications Commission (Commission or FCC) interference regulations. If Martinez fails to comply with these laws, he may be liable for significant fines up to \$23,727 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.1 Accordingly, Martinez is hereby on notice that he must comply with sections 301 and 333 of the Act2 and sections 15.5(b) and 15.5(c) of the Commission’s rules.3 If Martinez subsequently engages in any conduct described in this Citation — including specifically any violation of sections 301 and 333 of the Act or sections 15.5(b) or 15.5(c) of the Commission’s rules — he 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 the Citation.4 Martinez should take immediate steps to come into compliance with the Commission’s rules, including eliminating the interference.

3. Notice of Duty to Provide Information: Pursuant to sections 4(i), 4(j), and 403 of the Act,5 we direct Martinez to respond in writing, within thirty (30) calendar days after the release date of this Citation, to the questions and requests for documents set out in Section IV of this Citation.

1 See 47 U.S.C § 503(b)(5).

2 47 U.S.C. § 301.

3 47 CFR § 15.5(b)-(c).

4 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).

5 47 U.S.C. §§ 154(i), (j), 403.

II. BACKGROUND

4. The Commission is charged with protecting licensed radio operations from harmful interference. Harmful interference to wireless providers, such as T-Mobile USA, Inc. (T-Mobile), is particularly problematic in that it can interfere with 911 service and undermines the Commission's ability to manage the nation's radio spectrum. On May 25, 2022, T-Mobile filed a complaint with the Commission concerning interference to its cellular communication system operating in the 2500 MHz band. T-Mobile noted that the interference appeared to be emanating from a surveillance camera system located at a single-family home in York, Pennsylvania (Martinez Residence). T-Mobile contacted the FCC to notify it that the residents of that building failed to take corrective action after being previously contacted by T-Mobile. T-Mobile uses the 2500 MHz band to provide wireless service to business and residential customers.

5. On June 8, 2022, agents from the Enforcement Bureau's Columbia, MD, Field Office (Columbia Office) went to York, Pennsylvania in response to T-Mobile's complaint about interference. Using direction-finding techniques, the agents confirmed that the source of the interference was a device or devices located at the Martinez Residence. Agents observed potential sources of the interference—security cameras at both the front of the rear of the Martinez Residence.

6. On June 15, 2022, after agents traced the interfering signal to surveillance devices located in a tree at the rear of the Martinez Residence, the Enforcement Bureau (Bureau) issued a warning letter to Martinez.⁶ The letter informed Martinez that that unauthorized radio emissions were emanating from his residence causing harmful interference to T-Mobile's licensed operations and requested that he take steps to identify the source and eliminate the interference.⁷ On July 26, 2022, T-Mobile provided the Bureau's agents with a video containing instructions on how to change the cameras' settings to a mode that T-Mobile believed would not cause interference. The agents shared the video with Martinez, who acknowledged disconnecting the camera at the rear of his residence after receiving the warning letter. However, Martinez did not disconnect two other surveillance cameras at his residence and, according to T-Mobile, the interference continued.

7. On October 12, 2022, an agent from the Columbia Office contacted Martinez in response to T-Mobile's report that the interference had not been resolved. Martinez claimed to have followed T-Mobile's instructions and changed the remaining two cameras' settings in an attempt to end the interference. The agent informed Martinez that T-Mobile reported that the interference, nevertheless, still persisted. The agent also warned Martinez that if the Commission determined that the interference was still caused by his surveillance camera system, he could face fines for continued operation. In response to this warning, Martinez agreed to an on/off test to determine whether his equipment continued to be the cause of the interference.

8. On October 17, 2022, agents from the Columbia Office returned to the Martinez Residence to conduct the on/off test. They observed that when the camera system base was turned off, the interfering signal disappeared. The agents then confirmed with T-Mobile personnel that the interference had ceased after the surveillance system was deactivated and concluded that the system's cameras were, therefore, the source of the interference to T-Mobile. A T-Mobile representative gave Martinez further instructions on methods to potentially eliminate the interference, but the agents warned Martinez again that if the interference was not eliminated, he would have to deactivate or replace his surveillance system. On October 25th, 2022, an agent called Martinez to inform him that T-Mobile had confirmed that the interference continued and that he would have to cease operating his surveillance system.

9. On November 7, 2022, and February 22, 2023, agents from the Columbia Office returned to York, Pennsylvania to conduct on-scene investigations in response to continuing complaints from T-

⁶ *Luis Martinez*, Warning for Interference to Licensed Communications, (July 15, 2022) (on file in EB-FIELDNER-22-00033924).

⁷ *Id.*

Mobile that the interference to its cellular service had not been resolved. Using direction-finding techniques, the agents confirmed that the surveillance cameras located at the Martinez Residence were still the source of the interference to T-Mobile's cellular network.

III. APPLICABLE LAW AND VIOLATIONS

10. The Commission is charged with protecting licensed radio operations from harmful interference. Harmful interference to wireless providers, such as T-Mobile, is particularly problematic in that it can interfere with 911 service and undermines the Commission's ability to manage the nation's radio spectrum. Section 333 of the Act states that "[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this chapter or operated by the United States Government."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"⁹ within the United States or its territories without a license granted by the Commission. Part 15 of the Commission's rules provides an exception to this general section 301 license requirement and sets forth conditions under which devices may operate without an individual license.¹⁰ 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"¹¹ 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."¹² 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."¹³

11. We find that Martinez violated sections 301 and 333 of the Act and sections 15.5(b) and 15.5(c) of the Commission's rules by operating devices causing harmful interference to T-Mobile's licensed operations, by failing to promptly eliminate the interference upon notification by a Commission representative, and by failing to cease operating the devices upon notification by a Commission representative that the devices were causing harmful interference.¹⁴

IV. REQUEST FOR INFORMATION

12. Pursuant to sections 4(i), 4(j), and 403 of the Act, we direct Martinez 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 Martinez to additional sanctions.

V. OPPORTUNITY TO RESPOND TO THIS CITATION

13. Martinez must respond to this Citation within 30 calendar days from the release date of this Citation. Martinez may respond by 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 Martinez's residence. The Commission Field Office nearest to Martinez's residence is located in Columbia, Maryland.

⁸ 47 U.S.C. § 333.

⁹ 47 U.S.C. § 301.

¹⁰ 47 CFR § 15.1 *et seq.*

¹¹ 47 CFR § 15.5(b).

¹² 47 CFR § 15.5(c).

¹³ 47 CFR § 15.3(m); *see also* 47 CFR § 2.1(c).

¹⁴ 47 CFR § 15.5(b)-(c).

14. If Martinez 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 30 calendar days of the release date of this Citation. If Martinez prefers to submit a written response with supporting documentation, he must send the response within 30 calendar days of the release date of this Citation to the contact and address provided in paragraph 15 below.

15. All written communications should be sent to the mailing and e-mail address below and reference File Number EB-FIELDNER-22-00033924.

Federal Communications Commission
EB Columbia Regional Office
Attn: David C. Dombrowski
9050 Junction Drive
Annapolis Junction, Maryland 20701
FIELD@FCC.GOV
Re: EB-FIELDNER-22-00033924

16. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, Martinez 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. Martinez should allow at least five business days advance notice; last minute requests will be accepted but may be impossible to fill. Martinez should send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau:

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

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

17. We advise Martinez that it is a violation of section 1.17 of the Commission's rules¹⁵ 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.

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 Martinez that, under the Privacy Act of 1974,¹⁷ Commission staff will use all relevant material information before it, including information disclosed in interviews or written

¹⁵ 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 Martinez's compliance with the Act and the Commission's rules.¹⁸

VI. FUTURE VIOLATIONS

21. If, after receipt of this Citation, Martinez again violates sections 301 or 333 of the Act, and/or sections 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. The Commission may impose forfeitures not to exceed \$23,727 for each such violation or each day of a continuing violation, and up to \$177,951 for any single act or failure to act.¹⁹ 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.²⁰ Further, as discussed above, the Commission may assess forfeitures on both the conduct that led to this Citation and the conduct following it.²¹ In addition, future violations may subject Martinez to seizure of equipment through *in rem* forfeiture actions,²² as well as criminal sanctions, including imprisonment.²³

VII. ORDERING CLAUSES

22. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 4(j) of the Act, 47 U.S.C. § 154(i), (j), Luis Martinez must cease and desist from causing harmful interference in violation of section 333 of the Act, 47 U.S.C. § 333, and operating without authorization in violation of section 301 of the Act, 47 U.S.C. § 301, and sections 15(b) and 15(c) of the Commission's rules, 47 CFR § 15.5(b)-(c).

23. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 403 of the Act,²⁴ Luis Martinez must provide the written information requested in paragraph 12 above. Luis Martinez must support his responses with an affidavit or declaration under penalty of perjury, signed and dated by Luis Martinez, attesting personal knowledge of the representations provided in the response, 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.²⁵ The Commission must receive the response within thirty (30) calendar days of the release date of this Citation and Order.

¹⁸ 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.

¹⁹ See 47 U.S.C. § 503; 47 CFR § 1.80(b). These amounts are subject to further adjustment for inflation.

²⁰ See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(10).

²¹ See *supra* paragraphs 4-9.

²² See 47 U.S.C. § 510.

²³ See 47 U.S.C. §§ 401, 501.

²⁴ 47 U.S.C. §§ 154(i), (j), 403.

²⁵ 47 CFR § 1.16.

24. **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 Luis Martinez at his residence in York, Pennsylvania.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
Regional Director, Region One
Enforcement Bureau
Federal Communications Commission