



**FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
REGION ONE**

Columbia Regional Office
9200 Farm House Lane
Columbia, Maryland 21046
(301) 725-1996

August 28, 2017

Julian R. Gutierrez
Yonkers, New York

NOTICE OF UNLICENSED OPERATION

Case Number: EB-FIELDNER-17-00024799

On August 2, 2017, Agents from the New York Office (New York Office) of the Federal Communications Commission's (FCC's or Commission's) Enforcement Bureau (Bureau) responded to a complaint of an unlicensed FM station operating on the frequency 90.9 MHz in Bronx, New York. The Agents confirmed by direction finding techniques that radio signals on frequency 90.9 MHz were emanating from 1750 Grand Avenue, Bronx, New York. The Commission's records show that no license was issued for operation of a radio station on 90.9 MHz at this location in Bronx, New York. You identified yourself to the Agents and you acknowledged that you had no authorization to operate the radio station.

Radio stations operating on a range of frequencies,¹ including 90.9 MHz, must be licensed by the FCC pursuant to Section 301 of the Communication Act of 1934, as amended (Act).² The only exception to this licensing requirement is for certain transmitters using or operating at a power level or mode of operation that complies with the standards established in Part 15 of the Commission's rules.³ The field strength of the signal on frequency 90.9 MHz was measured at 3,982 microvolts per meter ($\mu\text{V}/\text{m}$) at 402 meters, which exceeded the maximum permitted level of 250 $\mu\text{V}/\text{m}$ at 3 meters for non-licensed devices. Thus, this station is operating in violation of Section 301 of the Act.⁴

You are hereby warned that operation of radio transmitting equipment without a valid radio station authorization, or in violation of the Commission's RF radiation limits, constitutes a violation of the Federal laws cited above and could subject the operator to severe penalties, including, but not limited to, substantial monetary fines, *in rem* arrest action against the offending radio equipment, and criminal sanctions, including imprisonment.⁵

¹ 47 CFR § 73.201.

² 47 U.S.C. § 301.

³ 47 CFR §§ 15.1 *et seq.*

⁴ 47 U.S.C. § 301.

⁵ *See* 47 U.S.C. §§ 401, 501, 503 and 510.

UNLICENSED OPERATION OF THIS RADIO STATION MUST BE DISCONTINUED IMMEDIATELY.

You have ten (10) days from the date of this notice to respond with any evidence that you have authority to operate granted by the Commission. Your response should be sent to the address in the letterhead and reference the listed case number. Under the Privacy Act of 1974,⁶ we are informing you that the Commission's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with Commission's Rules. This will include any information that you disclose in your reply.

You may contact this office if you have any questions.

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

Attachments:

Excerpts from the Communications Act of 1934, As Amended
Enforcement Bureau, "Inspection Fact Sheet", March 2005

⁶ 5 U.S.C. § 552a(e)(3).