



**FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
REGION ONE**

Columbia Regional Office
9050 Junction Drive
Annapolis Junction, Maryland 20701
FIELD@FCC.gov
(301) 725-1996

June 27, 2019

Duwaine Smalling
Bronx, New York

NOTICE OF UNLICENSED OPERATION

Case Number: EB-FIELDNER-18-00026708

On November 20, 2018, February 6, 2019 and February 15, 2019, Agents from the New York Office of the Federal Communications Commission's (FCC's or Commission's) Enforcement Bureau (Bureau) investigated an unlicensed FM station operating on the frequency 92.9 MHz in Bronx, New York. The Agents confirmed by direction finding techniques that radio signals on the frequency 92.9 MHz were emanating from a commercial property at 4460 Baychester Avenue in Bronx, New York. Agents confirmed, through investigation, that you are one of the operators of the unlicensed radio station. The Commission's records show that no license was issued for operation of a broadcast station on 92.9 MHz at this location in Bronx, New York.

Radio stations operating on a range of frequencies,¹ including 92.9 MHz, must be licensed by the FCC pursuant to section 301 of the Communications 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 On February 6, 2019, Agents measured the field strength of the signal on the frequency 92.9 MHz for the station and found that it exceeded the maximum permitted level of 250 μ V/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 constitutes a violation of the Federal laws cited above and may subject the operator to severe penalties, including, but not limited to, substantial monetary fines, *in rem*

¹ 47 CFR § 73.201.

² 47 U.S.C. § 301.

³ 47 CFR §§ 15.1 *et seq.*

⁴ 47 U.S.C. § 301.

arrest action against the offending radio equipment, and criminal sanctions, including imprisonment.⁵

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 FCC. 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 FCC 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
FCC News, "FCC Enforcement Bureau Applauds Westchester County District Attorney
For Pirate Radio Case"

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

⁶ 5 U.S.C. § 552a(e)(3).