

Federal Communications Commission

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

In the Matter of)	
)	
Express Radio, Inc)	File No.: EB-FIELDSCR-22-00033137
Licensee of Stations WPKK779, WQIG277, and)	FRN: 0008709909
WQQM429)	
)	
Coral Springs, Florida)	
)	
)	

NOTICE OF VIOLATION

Released: January 31, 2022

By the Regional Director, Region Two, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to section 1.89 of the Commission’s rules¹ to Express Radio, Inc. (Express Radio), licensee of radio stations WPKK779, WQIG277, and WQQM429 (collectively, the Stations) in Coral Springs, Florida. Pursuant to section 1.89(a) of the Commission’s rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On January 6, 2022, Agents of the Enforcement Bureau’s Miami Office monitored and inspected a radio station operated by a Kast Construction, LLC (Kast), a customer of Express Radio, at 550 N. Quadrille Blvd, West Palm Beach, FL 33401 and observed the following violations:

- a. 47 CFR § 1.903(a): “Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission.” At the time of the inspection, Agents found Kast operating radios provided by Express Radio, licensee of the Stations, on frequency 468.05 MHz under a shared use arrangement.³ The Stations are authorized to operate within the Industrial/Business Radio Pool,⁴ yet the Agents observed Kast operating on a frequency assigned to the Public Safety Radio Pool.⁵ After the Agents notified Kast of the interference issue, Kast changed the frequency of the transmitter to 467.225 MHz. Although 467.225 MHz is a frequency within the Industrial/Business Radio Pool, it is not a frequency that is authorized in the Stations’ licenses for day-to-day business activity.⁶ Accordingly, Kast’s transmissions on the

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

³ See 47 CFR § 90.179.

⁴ 47 CFR § 90.35.

⁵ 47 CFR § 90.20.

⁶ The licenses for WPKK779 and WQQM429 do not authorize any use of 467.225 MHz, and the license for WQIG277 states it is “for demonstration purposes only and may not be used for day to day business activity.” License for Station WQIG277.

Federal Communications Commission

radios provided by Express Radio exceeded the authority granted in the Stations' licenses and violated section 1.903(a) of the Commission's rules.

- b. 47 CFR § 90.427(b): "Except for frequencies used in accordance with § 90.417, no person shall program into a transmitter frequencies for which the licensee using the transmitter is not authorized." At the time of inspection, Agents found Kast operating radios provided by Express Radio, licensee of the Stations, on frequency 468.05 MHz. Express Radio does not possess a valid authorization that allows operation of the Stations on frequency 468.05 MHz; therefore, programming the Stations to operate on 468.05 MHz violates section 90.427(b) of the Commission's rules. Kast's movement of its operations to the pre-programmed frequency of 467.255 MHz also violates section 90.427(b) because, as described above, Express Radio lacks authority to operate on that frequency outside of the context of a technical demonstration.⁷

3. Pursuant to section 308(b) of the Communications Act of 1934, as amended (Act), and section 1.89 of the Commission's rules, we seek additional information concerning the violations and any remedial actions taken.⁸ Therefore, Express Radio must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a timeline for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁹

4. In accordance with section 1.16 of the Commission's rules, we direct Express Radio to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Express Radio with personal knowledge of the representations provided in Express Radio's response, verifying the truth and accuracy of the information therein, and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced.¹⁰ To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under title 18 of the U.S. Code.¹¹

5. All replies and documentation sent in response to this Notice should be marked with the File Number, specified above, and mailed to the following address:

Federal Communications Commission
Region Two Regional Office
P.O. Box 1493
Powder Springs, GA 30127

- 6. This Notice shall be sent to Express Radio at its address of record.

⁷ See *supra*, note 6.

⁸ 47 U.S.C. § 308(b); 47 CFR § 1.89.

⁹ 47 CFR § 1.89(c).

¹⁰ Section 1.16 of the Commission's rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 CFR § 1.16.

¹¹ 18 U.S.C. §§ 1001, *et seq.*; see also 47 CFR § 1.17.

Federal Communications Commission

7. The Privacy Act of 1974¹² requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

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Dedrick Roybiskie
Regional Director, Region Two
Enforcement Bureau

¹² 5 U.S.C. § 552a(e)(3).