

Federal Communications Commission

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

In the Matter of)	
)	
SDK Franco, LLC)	File No.: EB-FIELDSCR-23-00035312
Licensee of Station K223CW)	
)	Facility ID: 148239
Houston, Texas)	
)	FRN: 0029490984

NOTICE OF VIOLATION

Released: November 14, 2023

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 SDK Franco, LLC (SDK), licensee of radio station K223CW in Houston, Texas. 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 violations noted herein.²

2. On May 17, 2023, based on a complaint, agents of the Enforcement Bureau’s Dallas Office inspected FM radio translator station K223CW (the Station) and observed the following violations:

- a. 47 C.F.R. § 74.1231(b) “An FM translator may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station or another translator station the signal of which is received directly through space, converted, and suitably amplified, and originating programming to the extent authorized in paragraphs (f), (g), and (h) of this section.” At the time of monitoring and inspection, the Station was not receiving their primary station (KFNC-HD2), Mont Belvieu, Texas (Facility ID No. 52407) signal directly through space but was using an internet audio stream to retransmit KFNC-HD2. Therefore, the Station violated section 74.1231(b) of the Commission’s rules.
- b. 47 CFR § 74.1251(b)(2): “Formal application on FCC Form 349 is required of all permittees and licensees for any of the following changes: (2) A change in the transmitting antenna system, including the direction of radiation or directive antenna pattern.” The Station is authorized to operate with a log-periodic radiating at an azimuth of 220°. At the time of inspection, agents observed the Station operating with a yagi antenna radiating at an azimuth of approximately 310°. The Station did not file an FCC Form 349 to make changes to their transmitting antenna system. Therefore, the Station violated section 74.1251(b)(2) of the Commission’s rules.
- c. 47 CFR § 74.1251(b)(7): “Formal application on FCC Form 349 is required of all permittees and licensees for any of the following changes: (7) Any increase of authorized effective radiated power.” The Station is authorized an effective radiated power (ERP) of

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

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28 watts in the horizontal plane and a transmitter output power of 7 watts. At the time of inspection, the Station's transmitter indicated the Station was operating with a transmitter output power of 100 watts, The Station did not file an FCC Form 349 to make changes to their ERP. Therefore, the Station violated section 74.1251(b)(7) of the Commission's rules.

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.³ Therefore, SDK 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.⁴

4. In accordance with section 1.16 of the Commission's rules, we direct SDK to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of SDK with personal knowledge of the representations provided in SDK Franco, LLC'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 SDK Franco, LLC's possession, custody, control, or knowledge has been produced.⁵ 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.⁶

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
504-219-8999
FIELD@FCC.GOV

6. This Notice shall be sent to SDK Franco, LLC at its address of record and to SDK Franco, LLC's counsel, Mark B. Denbo, Smithwick & Belendiuk, P.C., 5028 Wisconsin Avenue, N.W. Suite 301, Washington, DC 20016.

7. The Privacy Act of 1974⁷ 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

³ 47 U.S.C. § 308(b); 47 CFR § 1.89.

⁴ 47 CFR § 1.89(c).

⁵ 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.

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

⁷ 5 U.S.C. § 552a(e)(3).

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what, if any, enforcement action is required to ensure compliance.

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Dedrick Roybiskie
Regional Director, Region Two
Enforcement Bureau