

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

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| In the Matter of |) | File No.: EB-FIELDNER-12-00003665 |
| |) | |
| Gary P. Bojczak |) | NAL/Acct. No.: 201332380001 |
| |) | |
| Whitehouse Station, New Jersey |) | FRN: 0022861959 |

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 1, 2013

Released: August 2, 2013

By the Commission:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Gary P. Bojczak apparently willfully and repeatedly violated Sections 301, 302(b), and 333 of the Communications Act of 1934, as amended (Act),¹ and Sections 2.803(g) and 15.1(c) of the Commission's rules (Rules)² by operating a Global Positioning System (GPS) jamming device (signal jammer or jammer). This unlawful operation caused harmful interference to a ground-based augmentation system operated by the Port Authority of New York and New Jersey and designed to increase the precision of GPS-based navigation at Newark Liberty International Airport, one of the busiest airports in the country.³ We conclude that Mr. Bojczak is apparently liable for a forfeiture in the amount of thirty-one thousand eight hundred seventy-five dollars (\$31,875).

2. Signal jammers operate by transmitting radio signals that overpower, jam, or interfere with authorized communications. While these devices have been marketed with increasing frequency over the Internet, with limited exception, they have no lawful use in the United States.⁴ Jammers are not only designed to impede authorized communications and thereby interfere with the rights of legitimate spectrum users and the general public, they are also inherently unsafe. For example, jammers can be used to disrupt critical public safety communications, placing first responders like law enforcement and fire fighting personnel—as well as the public they are charged with protecting—at great risk. Similarly, jammers can endanger life and property by preventing individuals from making 9-1-1 or other emergency calls. GPS jammers block navigation signals used by ships, aircraft, ground transportation, and others, and in some circumstances could have a significant negative impact on systems that depend on GPS for position, navigation, and timing. In order to protect the public and preserve unfettered access to

¹ 47 U.S.C. §§ 301, 302a(b), 333.

² 47 C.F.R. §§ 2.803(g), 15.1(c).

³ The Port Authority of New York and New Jersey is a bi-state agency that operates and maintains infrastructure critical to the New York/New Jersey region's trade and transportation network, including the Newark Liberty International Airport. *See* <http://www.panynj.gov/about/facilities-services.html>.

⁴ In very limited circumstances and consistent with applicable procurement requirements, individuals and/or entities may market jamming devices to the U.S. federal government for authorized, official use. *See* 47 U.S.C. § 302a(c); 47 C.F.R. § 2.807(d).

emergency and other communications services, the Act and the Rules broadly prohibit the importation, use, marketing, manufacture, and sale of jammers.⁵ Consequently, the Commission has issued several enforcement advisories and consumer alerts emphasizing the importance of strict compliance in this area and encouraging public participation through the Commission's jammer tip line.⁶ We expect individuals and businesses to take immediate steps to ensure compliance and to avoid any recurrence of this type of misconduct, including ceasing operation of any signal jamming devices that may be in their possession, custody, or control. We also strongly encourage all users of these devices to voluntarily relinquish them to Commission agents.

II. BACKGROUND

3. On August 3, 2012, the Enforcement Bureau (Bureau) received a complaint from the Federal Aviation Administration (FAA) reporting that the Port Authority of New York and New Jersey (Port Authority) had been experiencing interference during pre-deployment testing of a ground-based augmentation system (GBAS) at Newark Liberty International Airport (Newark Airport).⁷ The GBAS provides enhanced navigation signals to aircraft in the vicinity of an airport for precision approach, departure procedures, and terminal area operations.

4. An agent from the Bureau's New York Office investigated the matter at Newark Airport on August 4, 2012. While driving toward the Guard Post India Gate at the Newark Airport, the agent determined, using direction finding techniques, that a red Ford F-150 pickup truck with New Jersey license plates (Red Ford) was emanating radio signals within the restricted 1559 to 1610 MHz band allocated to the Radionavigation-Satellite service and used by the GPS satellite navigation system.⁸ The signals emanating from the vehicle were blocking the reception of GPS signals by the GPS receivers used in the GBAS. Port Authority police and security personnel, working closely with the FCC agent, stopped the Red Ford at the gate. Using handheld direction finding equipment, the FCC agent confirmed that strong wide-band emissions in the restricted 1559 to 1610 MHz band were emanating from the Red Ford. The FCC agent interviewed the driver, who identified himself as Gary Bojczak and admitted that he owned and operated the radio transmitting device that was jamming GPS transmissions. Mr. Bojczak claimed that he installed and operated the jamming device in his company-supplied vehicle to block the GPS-based vehicle tracking system that his employer installed in the vehicle. Mr. Bojczak voluntarily surrendered the jammer to the FCC agent. After the jammer was removed from the Red Ford and turned off, the agent confirmed that the unauthorized signals had ceased.

III. DISCUSSION

A. Applicable Law

5. Federal law prohibits the operation of jamming devices in the United States and its territories. The Act and FCC regulations govern the use of radio frequency devices in the United States and its territories. And, relevant provisions of the Act and the regulations bar the use of jammers by

⁵ 47 U.S.C. §§ 301, 302a, 333; 47 C.F.R. §§ 2.803, 15.1, 15.3, and 15.201.

⁶ See *Cell Jammers, GPS Jammers and Other Jamming Devices*, FCC Enforcement Advisory, 27 FCC Rcd 2309 (2012); *Cell Jammers, GPS Jammers and Other Jamming Devices*, FCC Enforcement Advisory, 26 FCC Rcd 1327 (2011). These advisories, along with frequently asked questions related to the jamming prohibition, are available at <http://www.fcc.gov/jammers>. On October 15, 2012, the Enforcement Bureau also launched a dedicated jammer tip line—1-855-55-NOJAM (or 1-855-556-6526)—to make it easier for the public to report the use or sale of illegal cell phone, GPS, or other signal jammers.

⁷ The GBAS installation at Newark Airport was fully deployed and put into service on September 28, 2012.

⁸ Specifically, the signal emanating from the Red Ford occupied the spectrum from 1568 to 1595 MHz.

consumers and other non-federal government operators. Section 301 of the Act prohibits the use or operation of “any apparatus for the transmission of energy or communications or signals by radio” within the United States unless such use is licensed or authorized.⁹ Jamming devices, however, cannot be licensed or authorized under the Commission’s rules because their sole use and purpose is to block or interfere with authorized communications, and Section 333 of the Act expressly states that “no person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.”¹⁰

6. Moreover, Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.”¹¹ In relevant part, the applicable implementing regulations for Section 302(b) of the Act are set forth in Sections 2.803, 15.201, and 15.3(o) of the Rules.¹² Section 2.803(g) of the Rules provides in pertinent part that:

radio frequency devices that could not be authorized or legally operated under the current rules . . . shall not be *operated*, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed . . . absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.¹³

In addition, and pursuant to Sections 15.1(c) and 15.201(b) of the Rules,¹⁴ intentional radiators¹⁵ cannot be operated in the United States or its territories unless they have first been authorized in accordance with the Commission’s certification procedures.¹⁶

7. Jamming devices, however, cannot be certified or authorized because their primary purpose is to block or interfere with authorized radio communications. Thus, jamming devices such as the one used by Mr. Bojczak cannot comply with the FCC’s technical standards and therefore lawfully cannot be operated in or imported into the United States or its territories. We emphasize that under the Act, signal jamming devices are per se illegal; they are specifically designed to block lawful radio transmissions and therefore compromise the integrity of the nation’s communications infrastructure.

B. Illegal Operation of GPS Jamming Device

8. As discussed above, an agent from the New York Office observed an illegal GPS jamming device in use in the Red Ford operated by Mr. Bojczak. Mr. Bojczak admitted to the agent that he used the device to block the GPS-based tracking system installed in the vehicle by his employer and that he did so intentionally.¹⁷ As reported by the FAA, Mr. Bojczak’s operation of the GPS jammer repeatedly caused harmful interference to the Newark Airport’s GBAS, a system that leverages GPS positioning accuracy to

⁹ 47 U.S.C. § 301.

¹⁰ *Id.* § 333.

¹¹ *Id.* § 302a(b).

¹² 47 C.F.R. §§ 2.803, 15.201, 15.3(o).

¹³ *Id.* § 2.803(g) (emphasis added).

¹⁴ *Id.* §§ 15.1(c), 15.201(b).

¹⁵ An “intentional radiator” is a “device that intentionally generates and emits radio frequency energy by radiation or induction.” *Id.* § 15.3(o). Under this definition, signal jamming devices are intentional radiators.

¹⁶ *See, e.g.*, 47 C.F.R. §§ 22.377, 24.51, 27.51, 90.203 (requiring certification of transmitters that operate in the public mobile service, personal communications service, miscellaneous wireless service, and private land mobile radio services).

¹⁷ *See* 47 U.S.C. § 333.

improve aircraft approach, departure, and terminal area operation. Thus, based on the evidence before us, we find that Mr. Bojczak apparently willfully and repeatedly violated Sections 301, 302(b), and 333 of the Act, and Sections 2.803(g) and 15.1(c) of the Rules by operating a GPS jammer.¹⁸

C. Proposed Forfeiture

9. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.¹⁹ Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for (1) operation without an instrument of authorization is \$10,000; (2) use of unauthorized or illegal equipment is \$5,000; and (3) interference to authorized communications is \$7,000.²⁰ The Commission retains the discretion, however, to issue a higher or lower forfeiture than provided in the *Forfeiture Policy Statement* or to apply alternative or additional sanctions as permitted by the statute, subject to the statutory cap.²¹ For violations of the signal jamming prohibition by individuals, the Communications Act authorizes monetary forfeitures of up to \$16,000 for *each* violation or, in the case of a continuing violation, the Commission may impose monetary forfeitures of up to \$16,000 for *each day* of such continuing violation up to a maximum forfeiture of \$112,500 for any single act or failure to act.²²

10. In assessing the appropriate monetary penalty for the misconduct at issue, we must take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of

¹⁸ See 47 U.S.C. §§ 301, 302(b), 333; 47 C.F.R. §§ 2.803(g), 15.1(c).

¹⁹ 47 U.S.C. § 503(b). Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or any rule, regulation, or order issued by the Commission thereunder shall be liable for a forfeiture penalty. 47 U.S.C. § 503(b). Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law, and defines the term "repeated" as the "commission or omission of such act more than once or for more than one day." 47 U.S.C. § 312(f)(1). The legislative history to Section 312(f)(1) of the Act clarifies that the definitions of "willful" and "repeated" apply to both Sections 312 and 503(b) of the Act, and the Commission has so interpreted the terms in the Section 503(b) context. See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) As defined[,] . . . 'willful' means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. 'Repeated' means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be 'continuous' would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms"); see, e.g., *S. Cal. Broad.Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

²⁰ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

²¹ See 47 C.F.R. § 1.80(b)(8), Note ("The Commission and its staff retain the discretion to issue a higher or lower forfeiture than provided in the guidelines, to issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute").

²² See 47 U.S.C. § 503(b)(2)(D); 47 C.F.R. § 1.80(b)(7). Pursuant to the Debt Collection Improvement Act, these amounts reflect inflation adjustments from the amounts specified in Section 503(b)(2)(D) (\$10,000 per violation or per day of a continuing violation and \$75,000 per any single act or failure to act). These amounts are subject to further adjustment for inflation and the forfeiture amount applicable to any future violation will be determined based on the statutory amount designated at the time of the violation. See 47 C.F.R. § 1.80(b)(9).

culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.²³ As explained above, Mr. Bojczak operated a GPS jamming device, which is inherently illegal and designed for the express purpose of interfering with authorized communications in contravention of U.S. law. While jammer operation violations are therefore egregious *per se*, we note that Mr. Bojczak's conduct was particularly troubling. It caused harmful interference to the GBAS installation being tested at Newark Airport, compromising technical precision and accuracy and interrupting the pre-deployment testing and calibration of this critical air navigation system.

11. We find that Mr. Bojczak apparently committed three separate violations in connection with the illegal GPS jammer operated near Newark Airport—unlawful operation, use of illegal equipment, and interference to authorized communications. Applying recent Commission precedent adjusting forfeitures for certain signal jamming violations to the statutory maximum,²⁴ we start our forfeiture calculation at \$39,000,²⁵ but conclude that both upward and downward adjustments are warranted. In this regard, we must balance the fact that Mr. Bojczak deployed a single jamming device apparently for his own limited and personal use, with the reality that even a single jammer, regardless of the intent with which it is used, can pose significant public safety risks.

12. In light of the disruption caused to sensitive aeronautical navigation equipment designed to protect public safety, we apply a 50 percent upward adjustment to the base forfeiture amount for interference, resulting in a proposed forfeiture of \$42,500.²⁶ We note that the roving nature of the operation—i.e., operating a GPS jammer in a vehicle—could have caused disruptions to GPS signals in use throughout the area. We have often found that jammers designed to block communications in one band may emit interfering signals in other bands, resulting in even greater and more far reaching effects. To reflect the fact that Mr. Bojczak's actions caused harmful interference to public safety operations and to deter similar violations in the future, we assess a significant upward adjustment.

13. We are also mindful, however, of the benefits of voluntary relinquishment when illegal devices are involved and will downwardly adjust the proposed forfeiture to reflect this aspect of Mr. Bojczak's conduct. We note that the Commission, in coordination with the U.S. Department of Justice, can seize an illegal jamming device, and we will continue to do so in appropriate cases.²⁷ Voluntary relinquishment, however, expedites the removal of these illegal devices from the stream of commerce. It also immediately curtails the misconduct, precluding further illegal operation (in the critical infrastructure/aviation context, in this case) and preventing any unlawful advertising or sales in the secondary market. As a result, we reduce the proposed forfeiture of \$42,500 by 25 percent to provide appropriate incentives in this regard.²⁸

²³ 47 U.S.C. § 503(b)(2)(E).

²⁴ See *Taylor Oilfield Mfg., Inc.*, Notice of Apparent Liability for Forfeiture and Order, FCC 13-46 (April 9, 2013) (consistent with framework adopted in *Supply Room NAL*, proposing \$126,000 forfeiture for operating four jamming devices); see also *The Supply Room, Inc.*, Notice of Apparent Liability for Forfeiture and Order, FCC 13-47 (April 9, 2013) (proposing, for each jamming device, maximum statutory forfeitures of \$16,000 for unauthorized operation and use of illegal equipment) (*Supply Room NAL*).

²⁵ See *supra* note 24. The initial figure of \$39,000 reflects proposed forfeitures of \$16,000 for unlawful operation, \$16,000 for use of illegal equipment, and \$7,000 for interference to authorized communications.

²⁶ As noted above, the base forfeiture amount for interference to authorized communications is \$7,000. We adjust this upward to \$10,500. We have not proposed any upward adjustment to the forfeiture amounts for unlawful operation or use of illegal equipment because those amounts were set at the statutory maximum as set forth above.

²⁷ See 47 U.S.C. § 510.

²⁸ The amount of any reduction for voluntary relinquishment in a particular case will be based on our assessment of the facts and circumstances in that case.

14. Thus, consistent with the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors discussed above, we conclude that Mr. Bojczak is apparently liable for a total forfeiture in the amount of \$31,875.²⁹ We caution Mr. Bojczak and other potential violators that we will continually reevaluate this approach and may pursue alternative or more aggressive sanctions should the approach prove ineffective in deterring the unlawful operation of signal jammers. For example, as a companion to a proposed monetary forfeiture, we could also refer such matters to the U.S. Department of Justice for further consideration under the criminal statutes, including Title 18 U.S.C. § 1367(a).³⁰

IV. ORDERING CLAUSES

15. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's rules, Mr. Bojczak is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount thirty-one thousand eight hundred seventy-five dollars (\$31,875) for violations of Sections 301, 302(b), and 333 of the Act and Sections 2.803(g) and 15.1(c) of the Commission's rules.³¹

16. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days after the release date of this Notice of Apparent Liability for Forfeiture, Mr. Bojczak **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

17. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Mr. Bojczak will also send electronic notification on the date said payment is made to NER-Response@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³² When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

²⁹ While we understand the amount of the forfeiture proposed herein may be sizable for an individual, we find it appropriate given the significant safety concerns raised by the violations at issue. Consistent with Section 503 of the Act, we note that in response to this NAL Mr. Bojczak can provide information about his financial condition and ability to pay which could result in a reduced forfeiture based on Mr. Bojczak's particular financial circumstances. *See, e.g., Geneva Walker*, File No. EB-FIELDSCR-12-00003, Forfeiture Order, DA 13-972, 2013 WL 1855936, at *2, para. 5 (Enf. Bur. May 2, 2013).

³⁰ 18 U.S.C. § 1367(a).

³¹ 47 U.S.C. §§ 301, 302a(b), 333, 503(b); 47 C.F.R. §§ 1.80, 2.803(g), 15.1(c).

³² An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

18. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.³³ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

19. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Rules.³⁴ Mail the written statement to Federal Communications Commission, Enforcement Bureau, Northeast Region, New York Office, 201 Varick Street, Suite 1151, New York, New York 10014, and include the NAL/Acct. No. referenced in the caption. Mr. Bojczak also shall e-mail the written response to: NER-Response@fcc.gov.

20. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

21. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested, to Mr. Bojczak at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

³³ See 47 C.F.R. § 1.1914.

³⁴ 47 C.F.R. §§ 1.16, 1.80(f)(3).