

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

In the Matter of
Fabrice Polynice
North Miami, Florida
File No.: EB-FIELDSCR-23-00034825
NAL/Acct. No.: 202432020004
FRN: 0022240279

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: January 25, 2024

Released: January 26, 2024

By the Commission: Chairwoman Rosenworcel issuing a statement.

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we propose a penalty of \$2,391,097 against Fabrice Polynice a/k/a DJ Paz (Polynice), for operating an unauthorized radio station on 90.1 MHz in North Miami, Florida, by which Polynice apparently willfully and knowingly did or caused pirate radio broadcasting during a period from February 5, 2023 to March 5, 2023, resulting in twenty-two (22) days of apparent violations. Since at least 2012, Polynice has engaged in the longstanding illicit operation of an unauthorized radio station known as "Radio Touche Douce." Operating an unauthorized, or pirate, radio station is illegal under the Communications Act of 1934, as amended (Communications Act or Act)1 and undermines the primary mission of the Federal Communications Commission (FCC or Commission) to manage radio spectrum. Such illegal operations can interfere with licensed communications, including authorized broadcasts and communications by public safety entities. Moreover, such illegal operations pose a danger to the public because they interfere with licensed stations that inform their listeners of important public safety messages, including Emergency Alert System transmissions that provide vital information regarding weather events and other dangers to the public.2 Some of the most egregious pirate radio operations are run by individuals who have ignored prior enforcement actions by the Commission. This is one such case. As such, it merits enforcement measures to the fullest extent of the law.

II. BACKGROUND

A. Legal Framework

2. On January 24, 2020, Congress passed the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act), which was subsequently codified as section 511 of the Communications Act.3 Section 511 states that any person who willfully and knowingly does or causes or suffers to be done any pirate radio broadcasting shall be subject to a fine of not more than \$2,000,000 and not more than

1 47 U.S.C. § 511.

2 See Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, Report and Order, PS Docket No. 15-94, FCC 22-75, para. 3 (rel. Sept. 30, 2022).

3 Preventing Illegal Radio Abuse Through Enforcement Act, Pub. L. 116-109, 134 Stat. 3 (2020) (codified at 47 U.S.C. § 511).

\$100,000 for each day during which such offense occurs.⁴ Both of these figures are subject to annual inflation adjustments.⁵ Section 511 defines pirate radio broadcasting as “the transmission of communications on spectrum frequencies between 535 and 1705 kilohertz, inclusive, or 87.7 and 108 megahertz, inclusive, without a license issued by the Commission, but does not include unlicensed operations in compliance with part 15 of title 47, Code of Federal Regulations.”⁶ Part 15, among other requirements, states that unlicensed operators in the FM band must not transmit over a certain low-power limit.⁷ Moreover, under part 15, intentional radiators, such as FM transmitters, must be designed to ensure that no antenna other than that furnished by the responsible party shall be used with the device (e.g., a permanently attached antenna or an antenna that uses a unique coupling to the intentional radiator).⁸

B. Factual Background

1. Pre-PIRATE Act Investigation

3. Polynice has been directly involved in the operation of a pirate radio station (Station) on 90.1 MHz in the Miami, Florida area for years. Enforcement Bureau (Bureau) field agents (Agents) have confirmed that the Station—known as Radio Touche Douce—has continually identified itself on-air since at least 2012. The Commission has a long history of enforcement actions against Polynice for illegal operation of Radio Touche Douce from different locations. Since 2012, Polynice and his past accomplices Harold Sido and Veronise Sido (Sidos) have received numerous Commission warnings that operation of the unlicensed Station was illegal and that continued operation of it could result in further enforcement action.⁹ These warnings included Notices of Unauthorized Operation (NOUOs) that each contained the directive, “unlicensed operation of this radio station must be discontinued immediately.”¹⁰

4. Polynice and the Sidos were also subject to more significant sanctions. In July 2012, after an initial NOUO had been issued to the Sidos, U.S. Marshals executed a warrant *in rem* sought by the Commission to seize pirate radio station equipment located on the Sidos’ property. Agents from the

⁴ 47 U.S.C. § 511(a)-(b). Prior to the passage of the PIRATE Act, the maximum monetary penalty for pirate radio transmissions was \$151,005. See 47 CFR § 1.80(b)(9)(ii) (2019); see also *Acerome Jean Charles*, Notice of Apparent Liability for *Forfeiture*, 34 FCC Rcd 12744 (2019) (proposing a penalty of \$151,005), consent decree adopted, Order 35 FCC Rcd 6878 (2020). In 2020, that maximum limit was increased to \$2,000,000. See 47 U.S.C. § 511.

⁵ See 47 CFR § 1.80(b)(6) (setting the current inflation adjusted statutory maximum for a violation of 47 U.S.C. § 511(a) at \$2,391,097 and 47 U.S.C. § 511(b) at \$119,555); *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); see also *Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases).

⁶ 47 U.S.C. § 511(h).

⁷ 47 CFR § 15.239(b) (stating that the field strength of any emissions in the 88-108 MHz band shall not exceed 250 microvolts/meter at 3 meters).

⁸ *Id.* § 15.203.

⁹ Harold and Veronise Sido provided Mr. Polynice free access to their property as well as electrical power and the internet connection necessary to broadcast the Station. Accordingly, past warnings, notices and enforcement actions name the Sidos as co-Respondents with Polynice. See *Fabrice Polynice, Harold Sido and Veronise Sido*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 7949, 7954 (2017) (*2017 Polynice NAL*).

¹⁰ *Harold Sido, Veronise Sido*, Notice of Unlicensed Operation (EB Mar. 14, 2012) (on file in EB-FIELDSCR-12-00001351); *Harold Sido, Veronise Sido, Fabrice Polynice*, Notice of Unlicensed Operation (EB Mar. 6, 2015) (on file in EB-FIELDSCR-15-00018596); *Harold Sido, Veronise Sido*, Notice of Unlicensed Operation (EB Aug. 17, 2015) (on file in EB-FIELDSCR-15-00018596); *Harold Sido, Veronise Sido*, Notice of Unlicensed Operation (EB Dec. 13, 2016) (on file in EB-FIELDSCR-15-00018596).

Commission's Miami Field Office (Miami Office) who accompanied the U.S. Marshals observed a laptop computer with an audio play list with "Radio Touche Douce" in the name. They also observed computer file folders with MP3 files with the name "Paz." The Miami Agents determined that Mr. Polynice referred to his unauthorized Station as "Radio Touche Douce," and referred to himself as "Paz" during the illegal broadcasts.¹¹ Later in 2012 and in 2013, the Bureau issued an NAL and a Forfeiture Order, respectively, that imposed a \$25,000 forfeiture on Polynice for operating the unlicensed Station.

5. Notwithstanding the seizure of the pirate radio equipment and the issuance of these sanctions, Agents from the Miami Office detected Polynice's unauthorized Radio Touche Douce transmissions from the Sidos' property on seven additional occasions between 2013 and 2016.¹² Five of these occasions occurred after the Bureau issued him an additional NOUO for unauthorized radio station operation in March 2015.¹³ Each time, Agents took field strength measurements of the Station's signal and determined that it exceeded the limits for operation under part 15 of the Commission's rules.¹⁴ A review of Commission records revealed no authorization for any FM broadcast station to operate at or near the Sidos' property on any frequency.

6. In 2017-2018, the Bureau issued another NAL and a Forfeiture Order finding Polynice and the Sidos jointly and severally liable for their longstanding operation of a pirate radio station.¹⁵ The NAL contained facts demonstrating that Polynice was the operator of the Station, including: (a) Polynice provided programming, promoted the Station, and made public and commercial contact possible by advertising his personal phone number as the number of the Station; (b) Agents recognized that the audio programming Radio Touche Douce on the illegal Station on 90.1 MHz FM in North Miami, Florida was a brand that Polynice previously admitted was his brand; (c) Polynice had previously admitted he is "DJ Paz," the name of the on-air personality of Radio Touche Douce; (d) Agents had found public evidence that Polynice said he owned Radio Touche Douce; (e) Polynice had posted pictures of himself on the Facebook page for Radio Touche Douce; and (f) Polynice announced that he was "live on the air" on 90.1 FM and encouraged people to "tune in," which are statements consistent with over-the-air broadcasts.¹⁶

¹¹ See *Fabrice Polynice*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd at 15080-81, paras. 3-4 (EB 2012) (*2012 Polynice NAL*), *Fabrice Polynice*, Forfeiture Order, 28 FCC Rcd 4297 (EB 2013) (*2013 Polynice Forfeiture Order*) (imposing a \$25,000 forfeiture for unlicensed radio station operation in 2012), *recon. denied*, *Fabrice Polynice*, Memorandum Opinion and Order, 31 FCC Rcd 9625 (EB 2016). To date, Polynice has not paid the forfeiture.

¹² Recordings of the unauthorized Radio Touche Douce transmissions were made on January 22, July 21, August 17 and 26, 2015, and June 7, 2016 (on file EB-FIELDSCR-15-00018596). Agents also observed and measured these unauthorized operations on December 4, 2013, and December 6, 2016. *2017 Polynice NAL*, 32 FCC Rcd at 7951, n.11.

¹³ *Harold Sido, Veronise Sido, Fabrice Polynice*, Notice of Unlicensed Operation (EB Mar. 6, 2015) (on file in EB-FIELDSCR-15-00018596).

¹⁴ 47 CFR § 15.239(b).

¹⁵ *2017 Polynice NAL*, 32 FCC Rcd at 7949; *Fabrice Polynice, Harold Sido and Veronise Sido*, Forfeiture Order, 33 FCC Rcd 6852 (EB 2018) (*2018 Polynice Forfeiture Order*) (imposing a \$144,344 forfeiture for unlicensed radio station operation from September to December 2016). To date, Polynice has not paid any of the forfeiture. Upon an entry of a default final judgment against the Sidos in U.S. District Court (*United States v. Fabrice Polynice, Harold Sido and Veronise Sido*, CA No. 21-cv-24243-BLOOM/Otazo-Reyes, Slip Copy, 2022 WL 2341184 [S.D. Fla. June 29, 2022]), they were enrolled in the Treasury Offset Program, which authorizes seizure of federal payments to pay delinquent debts; under this program, the Sidos' 2022 federal income tax refund was seized to reduce their debt.

¹⁶ *2017 Polynice NAL*, 32 FCC Rcd at 7953, para. 12. The facts presented in the *2017 Polynice NAL* are incorporated herein by reference, as neither Mr. Polynice nor the Sidos provided any evidence to the contrary in their responses to the *2017 Polynice NAL*.

7. In the 2017 *NAL*, the Commission found Polynice and the Sidors apparently jointly and severally liable for a total proposed base forfeiture amount of \$710,000, which was then reduced to \$144,344, the statutory maximum permitted at that time under section 503(b)(2)(D) of the Act for a continuing violation. It also found that because the violations in that case were egregious, intentional, and repeated, a significant increase to the base forfeiture would have been warranted if the proposed forfeiture amount had not already reached the statutory maximum. In 2018, the Commission rejected the arguments raised by Polynice and the Sidors in their respective responses to the 2017 *NAL*, and affirmed the *NAL*'s findings in full in the 2018 *Polynice Forfeiture Order*.¹⁷

8. Despite these enforcement actions which were based on observations from 2016 and earlier, Agents determined that Polynice continued to illegally operate Radio Touche Douce on the 90.1 MHz frequency at three different locations between 2017 and 2019. In each case, Agents traced the unauthorized signal, confirmed it exceeded part 15 limits,¹⁸ and warned the owners/occupants to cease all further assistance to the pirate operator. On October 24, 2017, Agents from the Miami Office monitored the frequency 90.1 MHz in North Miami, Florida, and, using direction-finding techniques, traced the source of the signal to a residential property located at 865 NE 149th St., Miami, Florida. The resident admitted to Agents that he knowingly allowed a friend known as "DJ Paz" to install radio station equipment on the rented property, and the phone number the resident called to ask for the equipment to be removed was traced to Radio Touche Douce.¹⁹ On March 24, 2018, Agents from the Miami Office monitored the frequency 90.1 MHz in North Miami, Florida, and, using direction-finding techniques, traced the source of the signal identified as Radio Touche Douce to a private residence located at 1362 NE 148th St., Miami, Florida. After the Agents located the source of the signal, the residents removed the Station's equipment.²⁰ On October 19, 2019, Agents from the Miami Office monitored the frequency 90.1 MHz in North Miami, Florida, and, using direction-finding techniques, traced the source of the signal identified as Radio Touche Douce emanating from a rental property located at 670 NE 143rd St., Miami, Florida. Following conversations with the Agents, the tenants agreed to remove the Station's equipment.²¹

2. PIRATE Act Investigation

9. The PIRATE Act, among other provisions, codified the definition of pirate radio,²² increased fines for pirate radio operators,²³ and granted the Commission new enforcement authority to assess forfeitures against any person who permits the operation of pirate radio broadcasting, such as the property owners whose property is used for pirate radio broadcasting.²⁴

10. On February 5, 2023, Agents from the Miami Office monitored the frequency 90.1 MHz in North Miami, Florida, and, using direction-finding techniques, traced the source of the signal to 755 NE 140th Street, North Miami, Florida (140th Street Site). The Agents observed a "Dominator" type FM

¹⁷ See 2018 *Polynice Forfeiture Order* at 6583, paras. 9-20 (rejecting Defendants' responses to the 2017 *Polynice NAL*); *id.* at 6583 paras. 21-25 (affirming *NAL* findings in full).

¹⁸ 47 CFR § 15.239(b).

¹⁹ *Jerome Moultrie*, Notice of Unlicensed Operation (EB Mar. 28, 2018) (on file in EB-FIELDSCR-18-00026127).

²⁰ *Claude and Edma Saintilmar*, Notice of Unlicensed Operation (EB Apr. 18, 2018) (on file in EB-FIELDSCR-18-00026127).

²¹ *Lanette Octelus and Anson Boscico*, Notice of Unlicensed Operation (EB Dec. 12, 2019) (on file in EB-FIELDSCR-19-00030195).

²² 47 U.S.C. § 511(h).

²³ *Id.* § 511(a)-(b).

²⁴ See 47 U.S.C. § 511(a) ("Any person who willfully and knowingly does or causes *or suffers to be done* any pirate radio broadcasting shall be subject to a fine of not more than \$2,000,000.") (emphasis added).

broadcast antenna at a private residence located at the 140th Street Site.²⁵ The Agents took field strength measurements of the Station's signal and determined that it exceeded the limits for operation under part 15 of the Commission's rules.²⁶ The Agents also took photographs of the antenna used to broadcast the signal and determined that it used a standard coaxial connector and was not compliant with the part 15 rules.²⁷ A review of Commission records revealed no authorization for any FM broadcast station to operate at or near the 140th Street Site on any frequency.²⁸

11. On February 25, 2023, Agents from the Miami Office monitored the 90.1 MHz frequency in North Miami, Florida, and, using direction-finding techniques, traced the source of the signal to the same antenna mounted at the 140th Street Site. The Agents took field strength measurements of the Station's signal and determined that it exceeded the limits for operation under part 15 of the Commission's rules.²⁹ The Agents also photographed the equipment and determined that it was the same non-part 15 compliant antenna used to broadcast the signal on February 5, 2023.³⁰ They listened to and recorded the audio programming on 90.1 MHz, heard the Station identify itself as Radio Touche Douce, and heard an announcement of an upcoming sponsored event with "Halftime by DJ Paz."

12. On March 4, 2023, Agents from the Miami Office monitored the 90.1 MHz frequency in North Miami, Florida, and, using direction-finding techniques, traced the source of the signal to the same antenna mounted at the 140th Street Site. The Agents took field strength measurements of the Station's signal and determined that it exceeded the limits for operation under part 15 of the Commission's rules.³¹ The Agents also photographed the equipment and determined that it was the same non-part 15 compliant antenna used to broadcast the signal since February 5, 2023.³² They listened to and recorded the audio programming on 90.1 MHz, and heard the Station identify itself as Radio Touche Douce. The Agents also conducted an inspection of the Station with a self-identified lessee of the 140th Street Site. The lessee living at the 140th Street Site admitted to the Agents that she allowed an unnamed person to install and operate the Station at the 140th Street Site for a fee. During their inspection, the Agents observed a cabinet containing FM transmitting equipment powered by electric cabling running into the onsite residence. Another resident at the 140th Street Site stated the Station belonged to Fabrice Polynice, and identified Polynice as DJ Paz. The Agents left documents at the 140th Street Site explaining why pirate radio broadcasting was illegal and must be immediately halted.

13. On March 5, 2023, Agents from the Miami Office monitored the 90.1 MHz frequency in North Miami, Florida, and, using direction-finding techniques, traced the source of the signal to the same antenna mounted at the 140th Street Site. The Agents took field strength measurements of the Station's signal and determined that it exceeded the limits for operation under part 15 of the Commission's rules.³³ The Agent also photographed the antenna and determined that it was the same non-part 15 compliant antenna used to broadcast the signal since February 5, 2023.³⁴ They listened to and recorded the audio

²⁵ A so-called "Dominator" antenna is favored by many pirate radio station operators because its design offers greater range and a larger signal coverage area as compared to other types of antennas.

²⁶ 47 CFR § 15.239(b).

²⁷ *Id.* § 15.203.

²⁸ There is no evidence the Sidors are connected to the 140th Street Site, or that they are continuing to support Polynice's current pirate radio broadcasting activities.

²⁹ 47 CFR § 15.239(b).

³⁰ *Id.* § 15.203.

³¹ *Id.* § 15.239(b).

³² *Id.* § 15.203.

³³ *Id.* § 15.239(b).

³⁴ *Id.* § 15.203.

programming, heard the Station identify itself as Radio Touche Douce, and heard the on-air DJ announce the name “DJ Paz” related to upcoming live area events connected to the Station.

14. Investigative work by the Agents from the Miami Office confirms that DJ Paz and Polynice are the same person. An April 21, 2023 Facebook post by “PazTouchedouce” containing a flyer advertising a local club event, which reads “Touche Douce Music & Ent. Presents FRIDAY MAY 19, 2023...DJ PAZ BIRTHDAY BASH Music by...DJ Paz For More Infos: (305) 901-7700 – (786) 277-10{[REDACTED]}.” The flyer had a photo of DJ Paz (Polynice) next to the text on the flyer. The date advertised as DJ Paz’s birthday, May 19, matches Polynice’s date of birth, as determined by investigators.³⁵ A resident of the 140th Street Site positively identified Polynice as DJ Paz to Agents on March 4, 2023. Finally, Polynice admitted to Agents that he was DJ Paz in the course of the investigation culminating in the 2017 NAL and 2018 Forfeiture Order against him.³⁶

15. Additional investigative work by the Agents from the Miami Office located an extensive social media presence that connects Polynice to Radio Touche Douce. The Station has its own Facebook page advertising upcoming radio programs and sponsored events.³⁷ The site also contains numerous posts from August 2022 through July 2023 stating “Radio Touche Douce 90.1 Fm was live.” These “live” video recordings show the individual previously identified as Polynice announcing “live” on-air in a studio with background signage reading “90.1 FM Radio Touche Douce”; more recent videos show Polynice broadcasting from the same studio with a foreground label of “DJ Paz.”³⁸ Another Facebook page connected to the Station—Touchedouce Paz—prominently displays a photograph of Polynice together with many of the same “live” broadcast videos.³⁹ The YouTube channel “DJ Paz Touchedouce” also contains videos showing DJ Paz (Polynice) announcing the Radio Touche Douce program “live” on-air in a radio station studio with the same background signage advertising the Station’s 90.1 MHz frequency.⁴⁰ The “About” section of Radio Touche Douce’s Facebook page lists the Station’s address as 13920 NE 12th Ave., North Miami, FL 33161, and its telephone number as (786) 277-10{[REDACTED]}. Additional investigative work by the Agents revealed that Polynice is the identified subscriber (i.e., owner) of the Station’s telephone number. Publicly available corporate records also identify Polynice as the registered agent for three corporate entities bearing the “Touchedouce” name—Touche Douche Inc., Touchedouce Ent., Inc., and Touche Douce Entertainment Inc.—all of which list the 13920 NE 12th Ave. address for mailing.⁴¹

16. The Radio Touche Douce broadcasts appear to occur at least five days each week as evidenced by weekly recurring programming⁴² including (i) “Hot Topic” broadcast on Mondays⁴³; (ii)

³⁵ See Facebook, *Paz Touchedouce*, <https://www.facebook.com/paz.touchedouce> (last visited July 3, 2023).

³⁶ See 2017 *Polynice NAL*, 32 FCC Rcd at 7953, para. 12.

³⁷ Facebook, *Radio Touche Douce*, <https://www.facebook.com/Radiotouchedouce90.1/> (last visited July 3, 2023).

³⁸ See, e.g., Facebook, *Radio Touche Douce*, <https://www.facebook.com/Radiotouchedouce90.1/videos/217566037594016>; <https://www.facebook.com/Radiotouchedouce90.1/videos/603445604455369>; and <https://www.facebook.com/Radiotouchedouce90.1/videos/478087310800432/> (last visited July 28, 2023).

³⁹ Facebook, *Touchedouce Paz*, <https://www.facebook.com/touche.douce> (last visited July 27, 2023).

⁴⁰ YouTube, *DJ Paz Touchedouce*, <https://www.youtube.com/@dj paztouchedouce1841> (last visited July 3, 2023).

⁴¹ Florida Department of State, Division of Corporations, <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResults/EntityName/Touchedouce/Page1?searchNameOrder=TOUCHEDOUC> (last visited July 3, 2023).

⁴² Agents found the Station operating on Sunday as well, but did not find evidence that it operated on every Sunday. See *supra* paras. 10, 13.

⁴³ Facebook, *Radio Touche Douce*, https://www.facebook.com/watch/live/?ref=watch_permalink&v=910417910274391 (last visited July 28, 2023).

“Wednesday nite Vayb” Broadcast on Wednesdays;⁴⁴ (iii) “Trow Back Thursday” show broadcast on Thursdays.⁴⁵ (iv) “Friday Night Live” show broadcast on Fridays⁴⁶; (v) “Saturday Jam with DJ Paz” show broadcast on Saturdays⁴⁷; and (vi) “DJ Paz and DJ Jay live” broadcast on Saturdays.⁴⁸

III. DISCUSSION

17. We find that Polynice apparently willfully and knowingly violated section 511 of the Act⁴⁹ by operating a pirate radio station, Radio Touche Douce, on 90.1 MHz from February 5, 2023 to March 5, 2023. On both of those dates, as well as on February 25, 2023 and March 4, 2023, Agents observed Polynice’s Station operating at the 140th Street Site on 90.1 MHz. Agents performed field strength measurements and determined that these transmissions exceeded the limits for operation under part 15 of the Commission’s rules.⁵⁰ In addition, evidence shows Radio Touche Douce aired weekly programming Monday, Wednesday, Thursday, Friday, and Saturday during the period between February 5, 2023 and March 5, 2023, totaling at least eighteen (18) additional apparent violations.⁵¹ Agents determined that the antenna used to broadcast Radio Touche Douce from the 140th Street Site prior to and during the subject period was not compliant with the part 15 requirements.⁵² Therefore, all transmissions from the 140th Street Site during this period failed to comply with part 15 of the Commission’s rules.⁵³ A review of Commission records reveals no authorization for any FM broadcast station to operate at or near the 140th Street Site on any frequency.

18. Considering the totality of the circumstances and facts before us, including the multiple violations documented during at least five days each week, the numerous apparent violations during the PIRATE Act investigation, including advertised weekday and weekend programming, the non-Part 15 compliant antenna used to broadcast the Radio Touche Douce signal, and the abundant evidence showing that Polynice owned and operated Radio Touche Douce,⁵⁴ we find that Polynice operated a pirate radio station and apparently willfully and knowingly did or caused pirate radio broadcasting between February 5, 2023 and March 5, 2023 for a minimum of twenty-two (22) days of apparent violations. Accordingly, the Commission finds that Polynice’s actions constituted pirate radio broadcasting in apparent violation of section 511 of the Act.⁵⁵

⁴⁴ Facebook, *Radio Touche Douce*, https://www.facebook.com/watch/live/?ref=watch_permalink&v=5676203412458605 (last visited July 28, 2023).

⁴⁵ YouTube, *DJ Paz Touchedouce*, <https://www.youtube.com/watch?v=hgYKNXZmAHQ> (last visited July 28, 2023).

⁴⁶ Facebook, *Radio Touche Douce*, <https://www.facebook.com/Radiotouchedouce90.1/videos/1327680001486510>; YouTube, *Radio Touche Douce*, <https://www.youtube.com/watch?v=2m65ftrDpiQ> (last visited July 28, 2023).

⁴⁷ Facebook, *Radio Touche Douce*, https://www.facebook.com/watch/live/?ref=watch_permalink&v=409908610574282 (last visited July 28, 2023).

⁴⁸ Facebook, *Radio Touche Douce*, https://x.facebook.com/watch/live/?ref=watch_permalink&v=1296276557553478 (last visited July 28, 2023).

⁴⁹ 47 U.S.C. § 511.

⁵⁰ 47 CFR §§ 15.209(a), 15.239(b); *see also* 47 U.S.C. § 511(h) (stating that pirate radio broadcasting “does not include unlicensed operations in compliance with part 15 of title 47, Code of Federal Regulations”).

⁵¹ *See* para. 16 **Error! Reference source not found.**

⁵² 47 CFR § 15.203.

⁵³ *Id.*; *see also* 47 U.S.C. § 511(h).

⁵⁴ *See* paras. 14-16.

⁵⁵ 47 U.S.C. § 511(a), (h).

A. Proposed Forfeiture

19. Section 511 of the Act authorizes the Commission to impose a forfeiture against any person “who willfully and knowingly does or causes or suffers to be done any pirate radio broadcasting.”⁵⁶ In exercising our forfeiture authority, we consider the “nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”⁵⁷ We may adjust a forfeiture downward for minor violations, good faith or voluntary disclosure, a history of overall compliance, or an inability to pay.⁵⁸

20. Section 511 of the Act and section 1.80 of the Commission’s rules authorize enhanced penalties for pirate radio broadcasting.⁵⁹ Under these sections, any person who willfully and knowingly does or causes or suffers to be done any pirate radio broadcasting shall be subject to a fine of not more than \$119,555 for each day during which the offense occurs, but not more than \$2,391,097 in total.⁶⁰

21. The primary intent of the PIRATE Act is to increase financial penalties for pirate radio broadcasting.⁶¹ Accordingly, as explained in two recent NALs under the PIRATE Act,⁶² we impose a base forfeiture amount of \$20,000 (twice the pre-PIRATE Act base forfeiture level) for each of the twenty-two days that Polynice apparently willfully and knowingly violated section 511 of the Act, for a total proposed base forfeiture of \$440,000.⁶³

22. Moreover, given the particular facts of this case, and consistent with the *Forfeiture Policy Statement*,⁶⁴ we conclude that significant upward adjustments are warranted. First, we find that Polynice’s conduct was intentional. Polynice had been warned multiple times since 2012 that his conduct was illegal, including having multiple forfeiture orders issued against him and having his transmission equipment seized,⁶⁵ but he nonetheless chose to continue to operate without authorization. Second, we find that an upward adjustment is warranted based on Polynice’s history of prior violations of the Act discovered by Commission Agents from 2012 to 2019.⁶⁶ Based on the severity of the facts underlying

⁵⁶ *Id.* § 511(a).

⁵⁷ 47 CFR § 1.80(b)(11).

⁵⁸ *Id.*

⁵⁹ 47 U.S.C. § 511; 47 CFR § 1.80(b)(6).

⁶⁰ 47 U.S.C. § 511(a)-(b); *see* 47 CFR § 1.80(b)(6) (setting the current inflation adjusted statutory maximum for a violation of 47 U.S.C. § 511(a) at \$2,391,097 and 47 U.S.C. § 511(b) at \$119,555); *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases).

⁶¹ *See* S. Rep. No. 116-178, 1 (2019) (“The purpose of S. 1228, the Preventing Illegal Radio Abuse Through Enforcement Act or PIRATE Act, is to increase the financial penalties for pirate radio broadcasting.”).

⁶² *Thomas Barnes, La Grande, Oregon*, Notice of Apparent Liability for Forfeiture, 2023 WL 2560016, at *4, para. 12 (Mar. 15, 2023); *Cesar Ayora and Luis Angel Ayora, Queens, New York*, Notice of Apparent Liability for Forfeiture, 2023 WL 2560017, at *5, para. 15. (Mar. 15, 2023).

⁶³ *See* 47 U.S.C. § 511.

⁶⁴ *See 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, 17101, para. 27 (1997) (Forfeiture Policy Statement), recons. denied, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b)(11).

⁶⁵ *See* paras. 4-7.

⁶⁶ *See* paras. 3-8.

these factors, we propose the maximum penalty of \$119,555⁶⁷ for each day of the twenty-two days during which Polynice operated his pirate radio station in 2023, for a total penalty of \$2,630,210. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture. We find none. Finally, we reduce the proposed penalty from \$2,630,210 to \$2,391,097 based on the statutory limits imposed by section 511(a) of the Act.⁶⁸ After applying section 1.80 of the Commission's rules and the statutory factors, and consistent with the *Forfeiture Policy Statement*, Polynice is apparently liable for a proposed total monetary forfeiture of \$2,391,097.⁶⁹

IV. CONCLUSION

23. We have determined that Fabrice Polynice apparently willfully and knowingly did or caused pirate radio broadcasting in violation of section 511 of the Act. As such, Fabrice Polynice is apparently liable for a forfeiture of \$2,391,097.

V. ORDERING CLAUSES

24. Accordingly, **IT IS ORDERED** that, pursuant to section 511 of the Communications Act of 1934, as amended, 47 U.S.C. § 511, and section 1.80 of the Commission's rules, 47 CFR § 1.80, Fabrice Polynice is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of two million three hundred ninety one thousand and ninety seven dollars (\$2,391,097) for willful and knowing violation of section 511 of the Act. 47 U.S.C. § 511.

25. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Fabrice Polynice **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 28.

26. In order for Fabrice Polynice to pay the proposed forfeiture, he shall notify the Office of the Field Director at field@fcc.gov of his intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Upon payment, Polynice shall send electronic notification of payment to the Office of the Field Director, Enforcement Bureau, Federal Communications Commission, at field@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank

⁶⁷ 47 U.S.C. § 511(a); *See* 47 CFR § 1.80(b)(6) (setting the current inflation adjusted statutory maximum for a violation of 47 U.S.C. § 511(a) at \$2,391,097 and 47 U.S.C. § 511(b) at \$119,555); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases).

⁶⁸ 47 U.S.C. § 511(a). Section 511(a) limits the maximum forfeiture for pirate radio broadcasting to \$2,000,000, which has subsequently been adjusted for inflation to \$2,391,097. *See* 47 CFR § 1.80(b)(6) (setting the current inflation adjusted statutory maximum for a violation of 47 U.S.C. § 511(a) at \$2,391,097 and 47 U.S.C. § 511(b) at \$119,555); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases).

⁶⁹ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁷⁰

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters “FORF”. In addition, a completed Form 159⁷¹ or printed CORES form⁷² must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁷³ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

27. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554.⁷⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

⁷⁰ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

⁷¹ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

⁷² Information completed using the Commission’s Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

⁷³ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁷⁴ See 47 CFR § 1.1914.

28. 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(g)(3) of the Commission's rules.⁷⁵ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554, ATTN: Enforcement Bureau – Office of the Field Director, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to the Office of the Field Director at field@fcc.gov.

29. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.⁷⁶ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.⁷⁷

30. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Fabrice Polynice at 13920 NE 12th Ave., North Miami, Florida 33161.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁷⁵ *Id.* §§ 1.16, 1.80(g)(3).

⁷⁶ 47 U.S.C. § 503(b)(2)(E).

⁷⁷ *See, e.g., Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Veal Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18–21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21–25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-904, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *In the Matter of Fabrice Polynice, North Miami, Florida*, Notice of Apparent Liability for Forfeiture, File No.: EB-FIELDSCR-23-00034825 (January 25, 2024)

In this series of enforcement actions, we propose fines against five unauthorized radio operators in Florida. These operators were not just using the public airwaves unlawfully, they were increasing the risk for harmful interference of authorized users. That is unacceptable.

I want to thank the Field Regional Management and Agents in our Miami Field Office for their work on these investigations. This is a team on the front lines of enforcing our rules governing the public airwaves. I am grateful for their efforts, which have been boosted in a big way by congressional action in the PIRATE Act. I also want to thank those in Washington who took up their work and converted it into what we have here today, including Loyaan Egal, Jeremy Marcus, Matthew Gibson, Ryan McDonald, Michael Rhodes, David Marks, Robert Keller, and Reggie Breshears from the Enforcement Bureau; and William Dever and David Konczal from the Office of General Counsel.