

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

In the Matter of )
)
Brigido Danerys Gonzalez ) File No.: EB-FIELDNER-22-00033952
Hazleton, Pennsylvania ) NAL/Acct. No.: 202432010004
) FRN: 0034657023

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: February 13, 2024

Released: February 14, 2024

By the Commission:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we propose a penalty of \$40,000 against Brigido Danerys Gonzalez (Gonzalez) for operating an unauthorized radio station on 90.1 MHz in Hazleton, Pennsylvania, by which Gonzalez apparently willfully and knowingly did or caused pirate radio broadcasting on March 28, 2023, and May 9, 2023, resulting in two days of apparent violations. Gonzalez engaged in the illicit operation of an unauthorized radio station known as "La Bakana." 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.

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.2 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 \$100,000 for each day during which such offense occurs.3 Both of these figures are subject to annual

1 47 U.S.C. § 511.

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

3 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.

inflation adjustments.<sup>4</sup> 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 Federal Communications Commission (Commission), but does not include unlicensed operations in compliance with part 15 of title 47, Code of Federal Regulations.”<sup>5</sup> Part 15, among other requirements, states that unlicensed operators in the FM band must not transmit over a certain low-power limit.<sup>6</sup>

## **B. Factual Background**

3. Gonzalez has been directly involved in the operation of a pirate radio station (Station) on 90.1 MHz in Hazleton, Pennsylvania, since at least May 9, 2022. The Station is known as “La Bakana,” and Enforcement Bureau (Bureau) field agents (Agents) have confirmed that the Station has identified itself on-air as La Bakana since at least June 29, 2022.

4. The Bureau first became aware of Gonzalez’s Station on May 9, 2022, based on a consumer complaint of a pirate radio station on 90.1 MHz in the Hazleton area. On June 29, 2022, Agents from the FCC’s New York Field Office (New York Office), traced the source of radio transmissions on 90.1 MHz to 596 Alter Street, Hazleton, Pennsylvania (First Transmission 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.<sup>7</sup> The Agents listened to and recorded the audio programming on 90.1 MHz and heard the Station identify itself as La Bakana. A review of Commission records revealed no authorization for any FM broadcast station to operate at or near the First Transmission Site on any frequency.

5. On July 12, 2022, Agents spoke with the owner of a supermarket located at the First Transmission Site who stated that he paid an individual who went by the name “Super Dany” approximately \$50 per month to advertise on La Bakana. Based on information provided by the owner of the supermarket, Agents contacted the owner of the building at the First Transmission Site who stated that she was not aware of any pirate radio station transmitting from her building, but described “Super Dany” as a famous radio personality in Hazleton, Pennsylvania. On August 16, 2022, Agents from the New York Office further investigated La Bakana, and, using direction-finding techniques, traced the source of the signal on 90.1 MHz to 557 N. Locust Street, Hazleton, Pennsylvania (Second Transmission Site). The Agents again heard the station identified as La Bakana.

6. On March 28 and May 9, 2023, Agents from the New York Office monitored the frequency 90.1 MHz in Hazleton, Pennsylvania, and, using direction-finding techniques, traced the source of the signal to 668 Alter Street, Hazleton, Pennsylvania (Third Transmission Site). On both days, 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.<sup>8</sup> The Agents, on both days, listened to and recorded the audio programming on 90.1 MHz. On the recording from March 28, 2023, the Station

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<sup>4</sup> 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).

<sup>5</sup> 47 U.S.C. § 511(h).

<sup>6</sup> 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 (“ $\mu\text{V}/\text{m}$ ”) at 3 meters).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

identified itself as La Bakana.<sup>9</sup> A review of Commission records revealed no authorization for any FM broadcast station to operate at or near the Third Transmission Site on any frequency.

7. During their investigation, Agents searched the internet for websites and social media related to “Super Dany” and La Bakana. They located a social media post with a picture of a radio DJ and overlay text of the phone number 570-579-64-[[REDACTED]]<sup>10</sup>, the Station La Bakana, the frequency 90.1 FM, and the website www.labakana90.com.<sup>11</sup> Agents also located other posts containing pictures of the same DJ identified as Super Dany, and with the email address of [[REDACTED]]@hotmail.com.<sup>12</sup> Posts from “Super Dany’s” social media pages listed Station 90.1, the website www.labakana90.com contact phone number of 570-579-64-[[REDACTED]], and noted that he was located in Hazleton, Pennsylvania.<sup>13</sup> In a YouTube video of an interview with “Super Dany,” he stated that his name is Danerys Gonzalez.<sup>14</sup>

### III. DISCUSSION

8. We find that Gonzalez apparently willfully and knowingly violated section 511 of the Act<sup>15</sup> by operating a pirate radio station, La Bakana, on 90.1 MHz on March 28, 2023, and May 9, 2023. On both of these dates, Agents observed Gonzalez’s Station operating at the Third Transmission 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.<sup>16</sup> A review of Commission records does not reveal an authorization for any FM broadcast station to operate at or near the Third Transmission Site at any time relevant to the violations discussed in this NAL. Evidence collected by the Agents shows that Gonzalez is “Super Dany,” the operator of the Station.<sup>17</sup> Accordingly, the Commission finds that Gonzalez’s actions on March 28, 2023, and May 9, 2023, constituted pirate radio broadcasting in apparent violation of section 511 of the Act.<sup>18</sup>

#### A. Proposed Forfeiture

9. 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.”<sup>19</sup> 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.”<sup>20</sup> We may adjust a forfeiture

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<sup>9</sup> Recordings on file EB-FIELDNER-22-00033952.

<sup>10</sup> Results of a subpoena for subscriber information revealed that the phone number belonged to “Dani Super.” Material set off by double brackets [[REDACTED]] is confidential and is redacted from the public version of this document.

<sup>11</sup> Image on file EB-FIELDNER-22-00033952.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Video on file EB-FIELDNER-22-00033952.

<sup>15</sup> 47 U.S.C. § 511.

<sup>16</sup> 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”).

<sup>17</sup> *See supra* para. 7.

<sup>18</sup> 47 U.S.C. § 511(a), (h).

<sup>19</sup> *Id.* § 511(a).

<sup>20</sup> 47 CFR § 1.80(b)(11).

downward for minor violations, good faith or voluntary disclosure, a history of overall compliance, or an inability to pay.<sup>21</sup>

10. Section 511 of the Act and section 1.80 of the Commission's rules authorize enhanced penalties for pirate radio broadcasting.<sup>22</sup> 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.<sup>23</sup>

11. The primary intent of the PIRATE Act is to increase financial penalties for pirate radio broadcasting.<sup>24</sup> Accordingly, as explained in two recent Notices of Apparent Liability for Forfeiture under the PIRATE Act, and affirmed in subsequent Forfeiture Orders, we impose a base forfeiture of \$20,000<sup>25</sup> (twice the pre-PIRATE Act base forfeiture level) for each of the two days that Gonzalez apparently willfully and knowingly violated section 511 of the Act, for a total proposed base forfeiture of \$40,000.<sup>26</sup>

12. 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. After applying section 1.80 of the Commission's rules and the statutory factors, and consistent with the *Forfeiture Policy Statement*,<sup>27</sup> Gonzalez is apparently liable for a proposed total monetary forfeiture of \$40,000.<sup>28</sup>

#### IV. CONCLUSION

13. We have determined that Brigido Danerys Gonzalez apparently willfully and knowingly did or caused pirate radio broadcasting in violation of section 511 of the Act on March 28, 2023, and May 9, 2023. As such, Gonzalez is apparently liable for a forfeiture of \$40,000.

#### V. ORDERING CLAUSES

14. 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, Brigido Danerys Gonzalez is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A**

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<sup>21</sup> *Id.*

<sup>22</sup> 47 U.S.C. § 511; 47 CFR § 1.80(b)(6).

<sup>23</sup> 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).

<sup>24</sup> *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.").

<sup>25</sup> The Commission first used this base forfeiture amount in two prior Notices of Apparent Liability for Forfeiture. *See César Ayora and Luis Angel Ayora, Queens, New York*, Notice of Apparent Liability for Forfeiture, FCC 23-17, 2023 WL 2560017, at \*5 (Mar. 15, 2023), *aff'd*, Forfeiture Order, FCC 23-80, 2023 WL 6843186 (Oct. 13, 2023); *Thomas Barnes, La Grande, Oregon*, Notice of Apparent Liability for Forfeiture, FCC 23-16, 2023 WL 2560016, at \*4 (Mar. 15, 2023), *aff'd*, Forfeiture Order, FCC 23-79, 2023 WL 6843178 (Oct. 13, 2023).

<sup>26</sup> *See* 47 U.S.C. § 511.

<sup>27</sup> *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).

<sup>28</sup> 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.

**FORFEITURE** in the amount of forty thousand dollars (\$40,000) for willful and knowing violation of section 511 of the Act. 47 U.S.C. § 511.

15. **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, Brigido Danerys Gonzalez **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 18.

16. In order for Brigido Danerys Gonzalez to pay the proposed forfeiture, he shall notify the Office of the Field Director at [field@fcc.gov](mailto: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, Gonzalez shall send electronic notification of payment to the Office of the Field Director, Enforcement Bureau, Federal Communications Commission, at [field@fcc.gov](mailto: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 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:<sup>29</sup>

- 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 159<sup>30</sup> or printed CORES form<sup>31</sup> must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto: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).<sup>32</sup> 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

<sup>29</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>30</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>31</sup> 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>.

<sup>32</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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.

17. 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.<sup>33</sup> 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](mailto:ARINQUIRIES@fcc.gov).

18. 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.<sup>34</sup> 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](mailto:field@fcc.gov).

19. 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.<sup>35</sup> 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.<sup>36</sup>

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<sup>33</sup> See 47 CFR § 1.1914.

<sup>34</sup> *Id.* §§ 1.16, 1.80(g)(3).

<sup>35</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>36</sup> 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).

20. **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 Brigido Danerys Gonzalez at {[REDACTED]} W. Chapel Street, Hazleton, Pennsylvania, 18201.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary