

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

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| In the Matter of |) | |
| |) | File No.: EB-FIELDSCR-12-00005671 |
| Ruben D. Lopez, Jr. |) | Citation No.: C20133270001 |
| |) | |
| Pomona Park, FL |) | |

CITATION AND ORDER

Adopted: April 23, 2013

Released: April 23, 2013

By the District Director, Tampa Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an Official Citation¹ issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Act),² to Ruben D. Lopez, Jr. for operating an incidental radiator and causing harmful interference in violation of Section 15.5(b) of the Commission's rules (Rules).³

2. Mr. Lopez should take immediate steps to come into compliance by repairing or replacing his incidental radiator and eliminating all harmful interference. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject Mr. Lopez to substantial monetary penalties, seizure of equipment, and criminal sanctions. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,⁴ we also direct Mr. Lopez to confirm within thirty (30) calendar days after the release date of this Citation that he has ceased operating his incidental radiator or taken steps to eliminate all harmful interference.

II. BACKGROUND

3. On July 15, 2010 and February 28, 2011, in response to complaints of interference to Amateur Radio Service reception of medium and high frequency (300 kHz-30 MHz) radio signals, the Enforcement Bureau issued Mr. Lopez two letters informing him of the complaints, summarizing the relevant rules, instructing him to resolve any interference, and suggesting he install new A/C line filters

¹ Issuance of this Citation does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the particular violation(s) noted herein.

² 47 U.S.C. § 503(b)(5).

³ 47 C.F.R. § 15.5(b).

⁴ 47 U.S.C. §§ 154(i), 154(j), 403.

for his well pump.⁵ On October 23, 2012, in response to another complaint of interference to Amateur Radio Service reception, agents from the Commission's Tampa Office of the Enforcement Bureau (Tampa Office) used direction finding techniques to identify Mr. Lopez's well pump as the source of transmissions on the frequency 1800 kHz. The agents from the Tampa Office confirmed that Mr. Lopez's well pump was the source of the interference by conducting on/off tests—the interference ceased when the well pump was turned off. The agents informed Mr. Lopez that he must cease operating his well pump until the interference could be resolved. After the October 23, 2012 inspection, the Tampa Office received information that Mr. Lopez tried to eliminate the interference by replacing the A/C line filter for the well pump, but the new filter did not resolve the interference.

III. APPLICABLE LAWS AND VIOLATIONS

4. Section 15.5(b) of the Rules states that “[o]peration of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused.”⁶ Section 15.3(m) of the Rules defines harmful interference as “any emission, radiation or induction that . . . seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with this chapter.”⁷ Section 15.3(n) defines an “incidental radiator” as “[a] device that generates radio frequency energy during the course of its operation although the device is not intentionally designed to generate or emit radio frequency energy.”⁸ Section 15.5(c) of the Rules requires that “[t]he operator of the radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference.”⁹

5. Pursuant to Section 15.5(c) of the Rules, on October 23, 2012, Mr. Lopez was notified that his incidental radiator, the well pump, was causing harmful interference to Amateur Radio Service communications and was directed to cease operating the device. Accordingly, we find that Mr. Lopez has violated Section 15.5(b) of the Rules by operating an incidental radiator and causing harmful interference. We therefore issue this Citation to Mr. Lopez for violating the Rules as discussed above. Mr. Lopez should take immediate steps to ensure that he does not continue to cause harmful interference, including repairing or replacing his well pump and associated control circuitry.

IV. FUTURE COMPLIANCE

6. If, after receipt of this Citation, Mr. Lopez violates the Communications Act or the Rules by operating an incidental radiator and causing harmful interference or otherwise engaging in the conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation, or in the case of a continuing violation, up to a maximum forfeiture of \$112,500 for any

⁵ See Letter to Ruben Lopez from Laura L. Smith, Special Counsel, Enforcement Bureau (Feb. 28, 2011), Letter to Ruben Lopez from Laura L. Smith, Special Counsel, Enforcement Bureau (July 15, 2010).

⁶47 C.F.R. § 15.5(b).

⁷47 C.F.R. § 15.3(m).

⁸ 47 C.F.R. § 15.3(n). Under this definition, well pumps, such as the one used by Mr. Lopez, are incidental radiators.

⁹47 C.F.R. § 15.5(c).

single act or failure to act.¹⁰ In addition, violation of the Communications Act or the Rules also can result in seizure of the equipment through *in rem* forfeiture actions,¹¹ as well as criminal sanctions, including imprisonment.¹²

7. Mr. Lopez may respond to this Citation within thirty (30) calendar days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statement should specify the actions taken by Mr. Lopez to ensure that he does not violate the Communications Act or the Commission's rules governing the operation of incidental radiators in the future. Please reference file number EB-FIELDSCR-12-00005671 when corresponding with the Commission.

8. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.¹³ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.¹⁴ Please also note that Section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹⁵

V. CONTACT INFORMATION

9. The closest FCC Office is the Tampa Office in Tampa, Florida. Mr. Lopez may contact Ralph Barlow by telephone at (813) 348-1741, to schedule a personal interview, which must take place within thirty (30) calendar days after the release of this Citation. Mr. Lopez should also send any written statement within thirty (30) calendar days after the release date of this Citation to:

Ralph Barlow
Federal Communications Commission
Tampa Office
4010 W. Boy Scout Blvd., Suite 425
Tampa, FL 33607
Re: EB-FIELDSCR-12-00005671

¹⁰ See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). These amounts are subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

¹¹ See 47 U.S.C. § 510.

¹² See *id.* §§ 401, 501.

¹³ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

¹⁴ See 18 U.S.C. § 1001 *et seq.*

¹⁵ 47 C.F.R. § 1.17 (“... no person subject to this rule shall: (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”).

10. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) calendar days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-5301 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

VI. REQUEST FOR INFORMATION

11. Pursuant to Sections 4(i), 4(j), and 403 of the Act,¹⁶ Mr. Lopez is directed to certify, under penalty of perjury, that he has ceased operating his incidental radiator pending any repairs or replacement to his device. Mr. Lopez shall also describe any steps he has taken to repair or replace his device and provide copies of any corroborating documentation, such as receipts or invoices for products or services. Mr. Lopez shall provide the information requested within thirty (30) calendar days after the release date of this Citation. A failure to respond, or an inadequate, incomplete, or misleading response, may subject Mr. Lopez to additional sanctions.¹⁷

VII. ORDERING CLAUSES

12. **IT IS ORDERED** that pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, Ruben D. Lopez, Jr. must provide the information requested in paragraph 11 of this Citation and Order. The response to the Request for Information must be provided in the manner indicated herein and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

¹⁶ 47 U.S.C. §§ 154(i), 154(j), 403.

¹⁷ See, e.g., *SBC Communications, Inc., Apparent Liability for Forfeiture*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, paras. 23-28 (2002) (\$100,000 forfeiture for egregious and intentional misconduct, i.e., refusing to attest to truthfulness and accuracy of responses to a Letter Inquiry (LOI)); *Connect Paging, Inc. d/b/a Get A Phone*, Forfeiture Order, 22 FCC Rcd 15146 (Enf. Bur. 2007) (\$4,000 forfeiture for failure to respond to an LOI); *BigZoo.Com Corporation*, Order of Forfeiture, 20 FCC Rcd 3954 (Enf. Bur. 2005) (\$20,000 forfeiture for failure to respond to a USF LOI); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003) (\$4,000 forfeiture for failure to respond to an LOI); *World Communications Satellite Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 18545 (Enf. Bur. 2003) (\$10,000 forfeiture for a non-responsive reply to an LOI); *Digital Antenna, Inc., Sunrise, Florida*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7600 (Spectrum Enf. Div., Enf. Bur. 2007) (\$11,000 forfeiture for failure to provide complete responses to an LOI).

13. **IT IS FURTHER ORDERED** that a copy of this Citation be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Ruben D. Lopez, Jr. at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Tampa Office
South Central Region
Enforcement Bureau