



Federal Communications Commission
Enforcement Bureau
Region One

Region One Regional Office
7435 Oakland Mills Road
Columbia, Maryland 21046
(301) 725-1996

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April 25, 2023

BY UPS AND FIRST-CLASS MAIL

Samuel Merceus Special Needs Trust
Irvington, New Jersey 07111

**NOTICE OF ILLEGAL
PIRATE RADIO BROADCASTING**

Case Number: EB-FIELDNER-19-00030263

The New York Office of the Federal Communications Commission's (FCC) Enforcement Bureau is investigating a complaint about an unlicensed FM broadcast station operating on frequency 88.5 MHz. On November 15, 2022 and November 16, 2022, agents from the New York Office confirmed by direction finding techniques that radio signals on frequency 88.5 MHz were emanating from the property at 164 Nesbit Terrace, Irvington, New Jersey 07111 (Property). Publicly available records identify Samuel Merceus Special Needs Trust as the owner of the Property.¹ The FCC's records show no license issued for operation of a radio broadcast station on 88.5 MHz at this location.

Radio broadcast stations operating on certain frequencies,² including 88.5 MHz, must be licensed by the FCC pursuant to the Communications Act of 1934, as amended (Act).³ While the FCC's rules create exceptions for certain extremely low-powered devices, our agents have determined that those exceptions do not apply to the transmissions they observed originating from the Property. Accordingly, the station operating on the Property may be violating the Act.⁴

Under section 511(a) of the Act, persons or entities found to willfully and knowingly suffer (*i.e.*, permit) a third party to engage in so-called "pirate radio" broadcasting on their property can face significant financial penalties.⁵ **Accordingly, you are hereby notified and warned that the FCC may issue a fine of up to \$2,316,034 if, following the response period set forth below, we determine that you have**

¹ *Essex County Property Assessment Search Hub*, https://www.taxdatahub.com/6229fbf0ce4aef911f9de7bc/Essex-County%20Property%20Assessment%20Search%20Hub/details?id=0709_328_10&sale_start_date=null&sale_end_date=null&sig=LgpX53Z33M0qY9h5YZIGX3DT9VdBwm9vLD59_POTvHU= (last visited January 30, 2023).

² 47 CFR § 73.201.

³ 47 U.S.C. § 301.

⁴ *See, e.g.*, 47 U.S.C. § 511.

⁵ 47 U.S.C. § 511(a).

continued to permit any individual or entity to engage in pirate radio broadcasting from the property that you own or manage.⁶

If you do not respond to this Notice, the FCC may nonetheless determine that, as a legal matter, you have sufficient knowledge of the above-referenced pirate radio activity to support enforcement action against you. Service of this Notice to you or your agent establishes the foundation, along with other evidence, that could lead to significant financial penalties.

You have ten (10) business days from the date of this Notice to respond by providing evidence that you are no longer permitting pirate radio broadcasting to occur at the Property. In addition, we request that you identify the individual(s) engaged in pirate radio broadcasting on the property that you own or manage. Your response should be sent to the address in the letterhead and reference the listed case number. Under the Privacy Act of 1974,⁷ we are informing you that the FCC's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with the FCC's rules. This will include any information that you disclose in your reply.

You may contact this office if you have any questions.

David C. Dombrowski
Regional Director, Region One
FCC Enforcement Bureau

Enclosures:

Excerpts from the Communications Act of 1934, As Amended
Enforcement Bureau, "Inspection Fact Sheet", March 2005

⁶ See, *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 22-1356, 2022 WL 18023008, at *5 (EB Dec. 23, 2022); see also, *Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 88 Fed. Reg. 783 (Jan. 5, 2023) (setting January 15, 2023 as the effective date for the increases).

⁷ 5 U.S.C. § 552a(e)(3).