

FILED
CLERK

2017 NOV -8 AM 11:20

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

FILED UNDER SEAL

UNITED STATES OF AMERICA,

Plaintiff,

**AMENDED VERIFIED
COMPLAINT IN REM**

-against-

Civil Action No. 17-4321

ANY AND ALL RADIO STATION
TRANSMISSION EQUIPMENT, RADIO
FREQUENCY POWER AMPLIFIERS,
RADIO FREQUENCY TEST EQUIPMENT
AND ANY OTHER EQUIPMENT
ASSOCIATED WITH OR USED IN
CONNECTION WITH THE
TRANSMISSIONS ON FREQUENCY 95.1
OR 99.7 MEGAHERTZ IN OR FROM
MULTI-FAMILY DWELLINGS
LOCATED AT 35-20 108TH STREET,
QUEENS, NEW YORK, 41-08 108TH
STREET, QUEENS, NEW YORK, AND
41-11 108TH STREET, QUEENS, NEW
YORK, AND AFFIXED TO A UTILITY
POLE BEARING THE IDENTIFIER
"NYNEX 46" ON 108TH STREET,

(Garaufis, J.)
(Levy, M.J.)

Defendants In Rem.

-----X

Plaintiff, United States of America, by its attorney, BRIDGET M. ROHDE, Acting
United States Attorney for the Eastern District of New York, RUKHSANAH L. SINGH,
Assistant United States Attorney, of counsel, alleges upon information and belief as follows:

PRELIMINARY STATEMENT

1. Plaintiff brings this action in rem, pursuant to 47 U.S.C. § 510, to forfeit and
condemn to the use of the United States any and all radio station transmission equipment, radio
frequency power amplifiers, radio frequency test equipment, and any other equipment (the

“Defendant Radio Station Equipment”) associated with, or used in connection with, any radio transmission on the frequency of 95.1 and/or 99.7 Megahertz (“MHz”) from the following locations: (a) the roof and an area behind a locked door at the basement level of 35-20 108th Street, Queens, New York; (b) the roof of 41-08 108th Street, Queens, New York; (c) an area behind a locked door at the basement level of 41-11 108th Street, Queens, New York; and (d) a utility pole bearing the identifier “NYNEX 46” on 108th Street, Queens, New York.

2. Based upon the training, expertise, and experience of FCC agents, as well as specific observations of such equipment used in association with transmissions on the frequency 99.7 MHz, the Defendant Radio Equipment includes, without limitation, FM antenna(ae); coaxial cable(s); transmitter(s); FM exciter(s); equalizer(s); amplifier(s); mixer(s); radio console(s); FM tuner(s); audio cable(s) and connector(s); microphone(s); audio monitor(s); video monitor(s); desktop and/or laptop computer(s); audio playback components, such as equipment to play audio tapes, compact disks, and long playing (“LP”) records; headphone(s); telephone system(s); network router(s); and uninterruptable power supply(ies) (“UPS”).

3. The Defendant Radio Station Equipment is being, or was, used in violation of 47 U.S.C. § 301.

JURISDICTION

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355.

5. Venue lies in the Eastern District of New York pursuant to 28 U.S.C. §§ 1355(b)(1)(A) and 1395(b), as the Defendant Radio Station Equipment is located within the Eastern District of New York and the acts and omissions giving rise to the forfeiture occurred in the Eastern District of New York.

STATUTORY BACKGROUND

6. The Federal Communications Commission (“FCC”) is an independent federal regulatory agency created by Congress to regulate interstate, intrastate, and foreign radio communications pursuant to the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 151 *et seq.* The FCC is responsible for ensuring that no person transmits radio signals within the territorial boundaries of the United States without an FCC license or other prior FCC authorization.

7. Section 301 of the Act prohibits the operation of “any apparatus for the transmission of energy or communications or signals by radio (a) from one place in [the United States] to another place in the [United States],” except under, and in accordance with, the Act and with a license for that purpose granted under the provisions of the Act. 47 U.S.C. § 301.

8. The only exceptions to this licensing requirement are for Federal government operators, certain services that are “licensed by rule” pursuant to Section 307(e) of the Act, and certain non-licensed low-power radio transmitters operating at a power level that complies with Section 15.239(b) of Title 47 of the Code of Federal Regulations (the “FCC Rules”). Section 15.239(b) of the FCC Rules limits such transmitters to a field strength of 250 microvolts per meter ($\mu\text{V}/\text{m}$) at a distance of three meters from the transmitting antenna. 47 C.F.R. § 15.239(b).

9. Pursuant to Section 510 of the Act, “[a]ny electronic, electromagnetic, radio frequency, or similar device, or component thereof, used . . . with willful and knowing intent to violate [S]ection 301 . . . may be seized and forfeited to the United States.” 47 U.S.C. § 510.

10. Section 312(f)(1) of the Act, which applies to violations for which forfeitures are assessed under section 510, provides that “[t]he term ‘willful,’ when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission

of such act, irrespective of any intent to violate any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States.” 47 U.S.C. § 312(f)(1).

11. Section 312(f)(2) of the Act, which also applies to violations for which forfeitures are assessed under section 510, provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

STATEMENT OF FACTS

12. On July 22, 2013, two FCC agents from the FCC Enforcement Bureau New York Field Office (the “New York Office”) observed what appeared to be an unauthorized broadcast station operating on 95.1 MHz in Queens, New York. The FCC agents used an FCC mobile direction finding vehicle (“MDFX”) to determine that the source of the signal of the unauthorized broadcast was located in a multi-family dwelling at 41-23 Gleane Street, Queens, New York (the “Gleane Street Location”).

13. Upon locating the source of the signal, the FCC agents measured the strength of the station’s signal at a distance of 413 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 740,280 $\mu\text{V/m}$ or 2,961 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

14. The FCC agents confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the Gleane Street Location.

15. The FCC agents then interviewed Julio Javier Cabrera, the building superintendent of the Gleane Street Location. Mr. Cabrera stated that he was aware that a radio station was operating from the Gleane Street Location. With Mr. Cabrera's assistance, the two FCC agents accessed portions of the building's roof and basement, where the FCC agents observed the station's FM broadcast antenna, a coaxial cable that ran to the basement, an operational FM transmitter, and a desktop computer. Mr. Cabrera also identified Jose Luis Gerez as the owner of the equipment and provided the FCC agents with Mr. Gerez's personal telephone number.

16. After consulting New York City's online property records, the FCC agents identified QPII-41-23 Gleane Street LLC as the owner of the Gleane Street Location. On July 23, 2013, the New York Office issued a Notice of Unlicensed Operation ("NOUO") to QPII-41-23 Gleane Street LLC. The NOUO advised, among other things, that an unlicensed radio station was operating on 95.1 MHz from the Gleane Street Location in violation of Section 301 of the Act. The NOUO also outlined the potential penalties for such violation, including the seizure of equipment, fines, and imprisonment.

17. On July 24, 2013, QPII-41-23 Gleane Street LLC responded, in writing, to the NOUO and advised the New York Office that the FM broadcast equipment had been removed from the Gleane Street Location.

18. On January 8, 2015, the New York State Broadcasters Association, Inc. ("NYSBA") filed a complaint, on behalf of licensed stations in New York City, with the FCC regarding unlicensed radio stations operating in the New York City Metropolitan Area, including an unlicensed station operating on 95.1 MHz in the City of New York.

19. On August 11, 2015, FCC agents investigating the NYSBA complaint observed the complained-of broadcast on 95.1 MHz. The FCC agents used an MDFX to determine that the source of the signal of the broadcast was located in a multi-family dwelling at 92-01 Lamont Avenue in Queens, New York (the "First Lamont Avenue Location"). The FCC agents observed an FM broadcast antenna, with coaxial cable, mounted on the roof of the First Lamont Avenue Location. The FCC agents also made an audio recording of the complained-of broadcasts, during which an announcer identified the station as "Mambo FM 95.1."

20. Upon locating the source of the signal, the FCC agents measured the strength of the station's signal at a distance of 889 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 304,402 $\mu\text{V/m}$ or 1,218 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

21. The FCC agents confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the First Lamont Avenue Location.

22. On August 26, 2015, FCC agents observed that an unlicensed station was still operating on 95.1 MHz from the First Lamont Avenue Location. The FCC agents interviewed Roque Urefia, the building superintendent, who accompanied the FCC agents to the roof, where the FCC agents observed the station's FM broadcast antenna and a coaxial cable leading into the building's elevator room. Mr. Urefia identified "Jose Luis" as the owner of the equipment and provided the FCC agents with the same personal telephone number for "Jose Luis" that Mr. Cabrera had provided for Mr. Gerez on July 22, 2013. *See* paragraph 15, *supra*.

23. On September 3, 2015, Mr. Urefia contacted the FCC agents and advised that the station's transmission equipment had been removed from the First Lamont Avenue Location.

24. After using New York City's online property records to identify 92-01 Lamont Avenue LLC as the owner of the First Lamont Avenue Location, the New York Office issued a NOUO to 92-01 Lamont Avenue LLC on September 16, 2015. The NOUO advised, among other things, of the operation of an unlicensed radio station on 95.1 MHz from the First Lamont Avenue Location in violation of Section 301 of the Act. The NOUO also outlined the potential penalties for such violation, including the seizure of equipment, fines, and imprisonment.

25. On September 21, 2015, 92-01 Lamont Avenue LLC responded to the NOUO and confirmed that the FM broadcast antenna and transmission equipment had been removed from the First Lamont Avenue Location.

26. On February 4, 2016, the New York Office received a complaint stating that "Jose Jerez" was operating an unauthorized FM broadcast station on 95.1 MHz from a building located at 83-40 Britton Avenue in Queens, New York (the "Britton Avenue Location").

27. On February 10, 2016, an FCC agent observed the complained-of station operating on 95.1 MHz and used an MDFX to determine that the source of the station's signal was located at the Britton Avenue Location. The FCC agent observed an FM broadcast antenna, with coaxial cable, mounted on the roof of the building and made an audio recording of the station's broadcasts, during which an announcer identified the station as "Mambo FM."

28. Upon locating the source of the signal, the FCC agent measured the strength of the station's signal at a distance of approximately 1,298 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 824,469 $\mu\text{V/m}$ or 3,298 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

29. The FCC agent confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the Britton Avenue Location.

30. The FCC agent then interviewed Miguel Chapulin, the building superintendent for the Britton Avenue Location. Mr. Chapulin accompanied the FCC agent to the roof, where the FCC agent observed the station's FM broadcast antenna and a coaxial cable leading into the building's elevator room. Mr. Chapulin identified "Jose Luis" as the owner of the equipment and provided the FCC agent with the same personal telephone number for "Jose Luis" that Messrs. Cabrera and Ureña provided for Mr. Gerez on July 22, 2013 and August 26, 2015, respectively. *See* paragraphs 15 and 22, *supra*.

31. On February 12, 2016, after using New York City's online property records to identify 83-40 Britton Avenue LLC as the owner of the Britton Avenue Location, the New York Office issued a NOUO to 83-40 Britton Avenue LLC. The NOUO advised, among other things, of the operation of an unlicensed radio station on 95.1 MHz from the Britton Avenue Location in violation of Section 301 of the Act. The NOUO also outlined the potential penalties for such violation, including the seizure of equipment, fines, and imprisonment. 83-40 Britton Avenue LLC did not respond to the New York Office's February 12, 2016 NOUO.

32. On April 27, 2016, an FCC agent observed that an FM broadcast antenna was no longer mounted on the roof of the Britton Avenue Location, but that a radio station was still operating on 95.1 MHz from a different location.

33. The FCC agent used an MDFX to trace the source of the signal of the broadcast on 95.1 MHz to a multi-tenant, mixed-use building located at 99-10 Northern Boulevard in Queens, New York (the "Northern Boulevard Location"). The FCC agent observed an FM broadcast antenna mounted on the roof of the building and made an audio recording of the

unlicensed station's broadcasts, during which an announcer identified the station as "Mambo 95.1 FM."

34. Upon locating the source of the signal, the FCC agent measured the strength of the station's signal at a distance of approximately 1,019 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 48,179 $\mu\text{V}/\text{m}$ or 193 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

35. The FCC agent confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the Northern Boulevard Location.

36. On the same day, April 27, 2016, the FCC agent interviewed Camilo Delrosario, the owner of the Northern Boulevard Location. Mr. Delrosario accompanied the FCC agent to the building's basement where the FCC agent observed a transmitter in operation, together with a mixer, computer, and various cables. Mr. Delrosario stated that he had granted permission to "Jose Luis" to place the FM broadcast equipment on his property in exchange for cost-free advertising. Mr. Delrosario provided the FCC agent with the same personal telephone number for "Jose Luis" that Messrs. Cabrera, Urefia, and Chapulin provided for Mr. Gerez on July 22, 2013, August 26, 2015, and February 10, 2016, respectively. *See* paragraphs 15, 22, and 30, *supra*.

37. The FCC agent then issued a Notice of Unlicensed Radio Operation ("Field NOUO") to Mr. Gerez, gave the Field NOUO to Mr. Delrosario, and instructed Mr. Delrosario to provide the Field NOUO to Mr. Gerez when he came to the Northern Boulevard Location to retrieve the FM broadcast equipment. The Field NOUO advised, among other things, that the operation of the unlicensed radio station on 95.1 MHz from the Northern Boulevard Location

violated Section 301 of the Act and instructed Mr. Gerez to immediately cease unlicensed operation of the station. The Field NOUO also outlined the potential penalties for such violation, including the seizure of equipment, fines, and imprisonment. The Field NOUO indicated that Mr. Gerez had ten days to respond. The New York Office did not receive a response from Mr. Gerez to the Field NOUO.

38. On May 2, 2016, Mr. Delrosario informed the New York Office that, on April 30, 2016, Mr. Gerez removed his FM broadcast equipment from the Northern Boulevard Location.

39. On June 14, 2016, an FCC agent observed a radio broadcast on 95.1 MHz in Queens, New York. The FCC agent used an MDFX to trace the source of the signal of broadcast to a multi-family dwelling at 35-41 94th Street, Queens, New York (the "94th Street Location"). The FCC agent observed an FM broadcast antenna mounted on the roof of the 94th Street Location and a coaxial cable running from the roof to a window in the basement of the 94th Street Location. The FCC agent made an audio recording of the station's broadcasts, during which an announcer identified the station as "Mambo FM" and "95.1 FM."

40. Upon locating the source of the signal, the FCC agent measured the strength of the station's signal at a distance of approximately 976 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 58,628 $\mu\text{V/m}$ or 235 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

41. The FCC agent confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the 94th Street Location.

42. On August 26, 2016, the FCC Enforcement Bureau issued to Mr. Gerez a Notice of Apparent Liability for Forfeiture ("NAL") proposing a \$10,000 monetary forfeiture for

apparent violations of Section 301 of the Act. 47 U.S.C. § 301. The NAL ordered Mr. Gerez to pay the full amount of the proposed forfeiture, or to file a written statement seeking reduction or cancellation of the proposed forfeiture, within 30 days of the date of the NAL. The Enforcement Bureau's Philadelphia Field Office (the "Philadelphia Office") sent the NAL to Mr. Gerez via first class mail and Certified Mail, return receipt requested, to Mr. Gerez's residence at 83-03 34th Avenue, Apartment 1D, Queens, New York 11372. On October 6, 2016, the NAL sent by Certified Mail was returned as refused, but the NAL sent by first class mail was not returned. Mr. Gerez did not respond to the NAL.

43. On October 6, 2016, the FCC Enforcement Bureau issued a Forfeiture Order ("Order") to Mr. Gerez finding that he had violated Section 301 of the Act and imposing a monetary forfeiture of \$10,000. The Philadelphia Office sent the Order to Mr. Gerez by first class mail and Certified Mail, return receipt requested. On November 27, 2016, the Order sent by Certified mail was returned to the Philadelphia Office as undeliverable, but the Order sent by first class mail was not returned. Mr. Gerez has neither responded to the Order nor paid the monetary forfeiture imposed in the Order.

44. On December 9, 2016, the New York Office received two complaints regarding an unlicensed FM broadcast radio station operating on 95.1 MHz in Queens, New York.

45. On January 11, 2017, an FCC agent observed a broadcast on 95.1 MHz in Queens, New York. The FCC agent used an MDFX to determine that the source of the broadcast's signal was located in a multi-family dwelling at 93-35 Lamont Avenue, Queens, New York (the "Second Lamont Avenue Location"). The FCC agent observed an FM broadcast antenna mounted on the roof of the building, with a coaxial cable that ran into a locked space on the roof. With the assistance of the building superintendent, the FCC agent observed within the

locked space on the roof an FM transmitter, coaxial cables, and a computer. The FCC agent made an audio recording of the unlicensed station's broadcasts, during which an announcer identified the station as "Mambo FM 95.1."

46. Upon locating the source of the signal, the FCC agent measured the strength of the station's signal at a distance of approximately 942 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 236,515 $\mu\text{V/m}$ or 946 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

47. The FCC agent confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the Second Lamont Avenue Location.

48. On February 22, 2017, the FCC agent returned to the Second Lamont Avenue Location to determine whether the unauthorized station remained in operation on 95.1 MHz. The agent observed that the FM broadcast antenna had been removed from the building's roof but that the station continued to broadcast on 95.1 MHz. The agent then used an MDFX to determine that the source of the signal of the station operating on 95.1 MHz was located in a multi-family dwelling at 37-29 104th Street, Queens, New York (the "104th Street Location"). The FCC agent observed an FM broadcast antenna mounted on the roof of the 104th Street Location and made an audio recording of the unlicensed station's broadcasts, during which the announcer identified the station as "Mambo 95.1 FM."

49. Upon locating the source of the signal, the FCC agent measured the strength of the broadcast's signal at a distance of 797 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 425,662 $\mu\text{V/m}$ or

1,703 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

50. The FCC agent confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the 104th Street Location.

51. On March 1, 2017, the FCC agent observed that a station was operating on 95.1 MHz in Queens, New York. Using an MDFX, the agent determined that the source of the signal of the broadcast on 95.1 MHz was located in a multi-family dwelling at 35-20 108th Street in Queens, New York (the "35-20 108th Street Location"). The FCC agent observed an FM broadcast antenna mounted on the roof of the building and made an audio recording of the station's broadcasts, during which the announcer identified the station as "Mambo 95.1 FM."

52. Upon locating the source of the signal, the FCC agent measured the strength of the station's signal at a distance of 216 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 358,772 $\mu\text{V/m}$, or 1,435 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

53. The FCC agent confirmed that a license had not been issued to broadcast on 95.1 MHz at or near the 35-20 108th Street Location.

54. On March 8, 2017, the FCC agent returned to the 35-20 108th Street Location and, after observing that a station continued to broadcast on 95.1 MHz from that location, conducted an inspection of the building to determine the location of the transmission equipment within the building. After being granted access to the roof by building maintenance personnel, the FCC agent observed an FM broadcast antenna located on the building's roof, which was connected to a coaxial cable that ran down the side of the building until it entered an area behind

a locked door at the basement level of what appeared to be a common area of the 35-20 108th Street Location.

55. On March 8, 2017, the FCC agent measured the strength of the broadcast signal at a distance of 216 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 369,691 $\mu\text{V}/\text{m}$, or 1,479 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

56. On April 13, 2017, the FCC agent returned to the 35-20 108th Street Location and observed that a radio station was still operating on 95.1 MHz. Using an MDFX, the agent determined that the source of the signal of the station was located in a multi-family dwelling at 35-12 99th Street in Queens, New York (the "99th Street Location"). The FCC agent observed an FM broadcast antenna mounted on the roof of the 99th Street Location and made an audio recording of the station's broadcasts, during which the announcer identified the station as "Mambo FM 95.1." The announcer also stated that the station would soon be changing its frequency to 99.7 MHz. The FCC agent then tuned to 99.7 MHz and observed that the programming on 95.1 MHz was being simultaneously broadcast on 99.7 MHz.

57. The FCC agent then used the MDFX and determined that the transmissions on 99.7 MHz were emanating from the 35-20 108th Street Location. The FCC agent measured the strength of the station's signal at a distance of approximately 378 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 150,750 $\mu\text{V}/\text{m}$, or 603 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

58. The FCC agent confirmed that a license had not been issued to broadcast on 99.7 MHz at or near the 35-20 108th Street Location or on 95.1 MHz at or near the 99th Street Location.

59. On April 19, 2017, the FCC agent returned to the 35-20 108th Street Location and observed that an unlicensed radio station was still operating on 99.7 MHz. Using an MDFX, the agent determined that the source of the signal of the station was the 35-20 108th Street Location. The FCC agent observed an FM broadcast antenna mounted on the roof of the 35-20 108th Street Location and made an audio recording of the station's broadcasts, during which the announcer identified the station as "99.7 Mambo FM."

60. Upon locating the source of the signal, the FCC agent measured the strength of the station's signal at a distance of 212 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 305,376 $\mu\text{V}/\text{m}$, or 1,222 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

61. The FCC agent continued to periodically monitor the unauthorized simultaneous broadcast on 95.1 MHz from the 99th Street Location and on 99.7 MHz from the 35-20 108th Street Location. On May 3, 2017, the FCC agent returned to the 35-20 108th Street Location and observed that a radio station was still operating on 99.7 MHz. Using an MDFX, the agent determined that the source of the signal of the station was the 35-20 108th Street Location. The FCC agent observed a different FM broadcast antenna, with coaxial cable, on the roof of the 35-20 108th Street Location. The FCC Agent made an audio recording of the station's broadcast stream on 99.7 MHz, during which the station's announcer identified the station as "99.7 Mambo

FM.” The FCC agent tuned the radio to 95.1 MHz and observed that the station’s unlicensed transmissions on that frequency had ceased.

62. On May 3, 2017, upon locating the source of the signal of the broadcast on 99.7 MHz from the 35-20 108th Street Location, the FCC agent measured the strength of the station’s signal at a distance of 212 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 117,761 $\mu\text{V}/\text{m}$, or 471 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

63. The FCC agent again confirmed that a license had not been issued to broadcast on 99.7 MHz at or near the 35-20 108th Street Location.

64. On July 6, 2017, the FCC agent returned to the 35-20 108th Street Location and observed that a radio station was still operating on 99.7 MHz. Using an MDFX, the agent determined that the source of the signal of the station was the 35-20 108th Street Location. The FCC agent observed an FM antenna, with coaxial cable, on the building’s roof and made an audio recording of the station’s broadcast stream on 99.7 MHz, during which the station’s announcer identified the station as “Mambo FM.”

65. Upon locating the source of the signal of the station operating on 99.7 MHz from the 35-20 108th Street Location, the FCC agent measured the strength of the station’s signal at a distance of 212 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 258,216 $\mu\text{V}/\text{m}$, or 1,033 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

66. On July 21, 2017, Plaintiff filed a Verified Complaint In Rem against Defendant Radio Station Equipment located at the 35-20 108th Street Location.

67. On August 1, 2017, this Court issued a Summons and Warrant for Arrest of Articles In Rem, authorizing Plaintiff to arrest and seize Defendant Radio Station Equipment located at the 35-20 108th Street Location.

68. On September 8, 2017, the U.S. Marshals Service, with the assistance of two FCC agents, executed the Summons and Warrant for Arrest of Articles In Rem and seized the following Defendant Radio Station Equipment from the 35-20 108th Street Location: (a) an FM broadcast antenna; (b) coaxial cable; (c) an FM transmitter; and (d) a desktop computer, with monitor and keyboard.

69. On September 14, 2017, two FCC agents traveled to Queens, New York, to determine whether the unauthorized station had resumed operation on 99.7 MHz. Using an M̄DFX, the FCC agents observed that a station was once again operating on 99.7 MHz. The FCC agents determined that the source of the signal of the station was an antenna located on the roof of 41-08 108th Street, Queens, New York (the "41-08 108th Street Location"). The FCC agents made an audio recording of the station's broadcasts, during which the announcer identified the station as "99.7 Mambo FM," the same identification used by the unauthorized station operating on 99.7 MHz from the 35-20 108th Street Location during prior observations.

70. Upon locating the source of the signal, the FCC agents measured the strength of the station's signal at a distance of approximately 1,219 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 133,659 $\mu\text{V/m}$, or 535 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

71. The FCC agents confirmed that a license had not been issued to broadcast on 99.7 MHz at or near the 41-08 108th Street Location.

72. On October 2, 2017, an FCC agent returned to the vicinity of the 41-08 108th Street Location and observed that a radio station continued to operate on 99.7 MHz. Using an MDFX, the agent determined that the source of the signal of the station was the 41-08 108th Street Location. The FCC agent observed an FM antenna on the building's roof and made an audio recording of the station's broadcast stream on 99.7 MHz, during which the station's announcer identified the station as "Mambo FM" and "Mambo 99.7 FM," using the same identifying name—"Mambo FM"—used by the unauthorized stations operating at the 99th Street Location and the 35-20 108th Street Location during prior observations.

73. Upon locating the source of the signal of the station operating on 99.7 MHz from the 41-08 108th Street Location, the FCC agent measured the strength of the station's signal at a distance of approximately 289 meters from the source of the transmission and determined that the field strength, when extrapolated to three meters, was 480,758 $\mu\text{V/m}$, or 1,923 times the permissible level for a non-licensed low power radio transmitter under Section 15.239(b) of the FCC Rules.

74. The FCC agent again confirmed that a license had not been issued to broadcast on 99.7 MHz at or near the 41-08 108th Street Location.

75. Later that day, three FCC agents traveled to the 41-08 108th Street Location to inspect the station's antenna. Upon accessing the building's roof, the FCC agents observed that the coaxial cable connected to the FM broadcast antenna did not terminate in the 41-08 108th Street Location. Rather, the agents observed that the coaxial cable connected to the FM broadcast antenna at the 41-08 108th Street Location crossed above 108th Street, was affixed to one utility pole (bearing the identifier "NYNEX 46") on the opposite (western) side of 108th Street, and entered a different building. The FCC agents then left the 41-08 108th Street

