

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Acerome Jean Charles,) File No.: EB-FIELDNER-17-00024504
Boston, Massachusetts) Acct. No: 201932010004
) FRN: 0028819985
)

ORDER

Adopted: June 22, 2020

Released: July 1, 2020

By the Commission: Commissioner O’Rielly issuing a statement.

1. Unlicensed radio stations create a danger of interference to licensed communications, including other broadcasters, aviation, and public safety frequencies. Such operations also undermine the Commission’s authority over broadcast radio operations. On December 16, 2019, we issued a Notice of Apparent Liability for Forfeiture (Notice)1 in the amount of \$151,005 against Acerome Jean Charles for apparently violating section 301 of the Communications Act of 1934, as amended (Act),2 by operating an unauthorized broadcast radio station on 106.3 MHz in the Mattapan neighborhood of Boston, Massachusetts. In responding to the Notice, Jean Charles sought cancellation or reduction of the forfeiture based on his inability to pay and stated that he has ceased the unauthorized transmissions on 106.3 MHz.3 After reviewing Jean Charles’ financial information demonstrating that he lacks the financial resources to pay the full forfeiture proposed in the Notice, and after an agent in the Enforcement Bureau’s Boston Field Office confirmed that Jean Charles’s station is no longer operating on 106.3 MHz in the Mattapan neighborhood of Boston, Massachusetts, the Commission has entered into a Consent Decree to resolve its investigation into whether Jean Charles violated section 301 of the Act. To resolve this matter, Jean Charles admits that he violated section 301 of the Act, agrees to pay a civil penalty of \$4,000, and agrees to pay a further penalty of \$75,000 if he violates section 301 of the Act or triggers other specified events of default during the 20-year term of the Consent Decree.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and resolving the Notice regarding Jean Charles’ compliance with section 301 of the Act, which prohibits the operation of radio transmitters without the Commission’s prior authorization.4

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Jean Charles’ basic qualifications to hold or obtain any Commission license or authorization.5

1 Acerome Jean Charles, Boston, Massachusetts, Notice of Apparent Liability for Forfeiture, 34 FCC Rcd 12744 (2019).

2 47 U.S.C. § 301.

3 Request for Reduction or Cancellation of Proposed Forfeiture of Acerome Jean Charles, File No. EB-FIELDNER-17-00024504 (filed Feb. 21, 2020).

4 Id.

5 See 47 CFR § 1.93(b).

4. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 503(b) of the Act,⁶ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** and the *Notice* **IS RESOLVED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Acerome Jean Charles at his last known address and to Donald E. Martin, Esq., P.O. Box 8433, Falls Church, Virginia, 22041.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁶ 47 U.S.C. §§ 154(i), 503(b).

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CONSENT DECREE

1. Unlicensed radio stations create a danger of interference to licensed communications, including other broadcasters, aviation, and public safety frequencies. Such operations also undermine the Commission’s authority over broadcast radio operations. The Federal Communications Commission and Acerome Jean Charles, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether Jean Charles violated section 301 of the Communications Act of 1934, as amended (Act), in connection with Jean Charles’ operation of an unauthorized radio broadcast station on 106.3 MHz in the Mattapan neighborhood of Boston, Massachusetts. To resolve this matter, Jean Charles admits that he violated section 301 of the Act, agrees to pay a civil penalty of \$4,000, and agrees to pay a further penalty of \$75,000 upon an Event of Default during the 20-year term of this Consent Decree, as described below.¹

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended,² including the Preventing Illegal Radio Abuse Through Enforcement Act.³
 - (b) “Adopting Order” means an order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “CD Acct No.” means account number 201932010004, associated with payment obligations described in paragraphs 12 and 14 of this Consent Decree.
 - (e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Jean Charles is subject by virtue of his business activities, including but not limited to the Rules.
 - (g) “Effective Date” means the date by which both the Commission and Jean Charles have signed the Consent Decree and the Commission has released an Adopting Order.

¹ See paras. 14 – 15, *infra*.

² 47 U.S.C. §§ 151 *et seq*.

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

- (h) “Investigation” means the investigation commenced by the Bureau in EB-FIELDNER-17-00024504 regarding whether Jean Charles violated the Communications Laws, including section 301 of the Act.
- (i) “Jean Charles” means Acerome Jean Charles.
- (j) “*Notice*” means the Notice of Apparent Liability for Forfeiture issued to Jean Charles on December 16, 2019, proposing a forfeiture of \$151,005 for an apparent violation of the Communications Laws.⁴
- (k) “Parties” means Jean Charles and the Commission, each of which is a “Party.”
- (l) “Pirate Radio Broadcasting” means the transmission of communications on spectrum frequencies between 535 and 1705 kHz, inclusive, or 87.7 and 108 MHz, inclusive, without a license issued by the Commission, but does not include unlicensed operations in compliance with part 15 of the Rules.⁵
- (m) “Response” means Jean Charles’s response to the *Notice*, submitted to the Commission on February 21, 2020.
- (n) “Rules” means the Commission’s regulations found in title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Section 301 of the Act states that “[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio [within the United States] . . . except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.”⁶ Pirate Radio Broadcasting violates section 301 of the Act, and undermines the Commission’s efforts to manage radio spectrum and can interfere with licensed communications, including authorized broadcasts and public safety transmissions. Moreover, stations engaged in Pirate Radio Broadcasting do not broadcast Emergency Alert Service messages, and so create a public safety hazard for their listeners.

4. Jean Charles operates a station known as “Radio Concorde” as an online streaming audio service⁷ and previously operated the station as an unlicensed radio broadcast station. Following a lengthy investigation by the Bureau, on December 16, 2019, the Commission issued the *Notice* in which it found that Jean Charles apparently willfully violated section 301 of the Act by operating an unauthorized FM transmitter on 106.3 MHz in the Mattapan neighborhood of Boston, Massachusetts. The *Notice* proposed a forfeiture of \$151,005 for Jean Charles’ apparent willful and continuing violation of section 301 of the Act. In his Response, Jean Charles seeks cancellation or reduction of the forfeiture based on his inability to pay and states that he has ceased the unauthorized transmissions on 106.3 MHz. Separately, one of the Bureau’s field agents determined that Radio Concorde is no longer operating on 106.3 MHz in Boston’s Mattapan neighborhood. Based on Jean Charles’ demonstrated inability to pay the forfeiture proposed in the *Notice*, coupled with the cessation of unauthorized broadcasts of Radio Concorde on 106.3 MHz, the Commission and Jean Charles enter into this Consent Decree and agree to the following terms and conditions.

⁴ *Acerome Jean Charles, Boston, Massachusetts*, Notice of Apparent Liability for Forfeiture, 34 FCC Rcd 12744 (2019).

⁵ See 47 U.S.C. § 511(h).

⁶ 47 U.S.C. § 301.

⁷ This Consent Decree only applies to Jean Charles’ violations of section 301 of the Act associated with the broadcasting of Radio Concorde on 106.3 MHz and does not penalize or otherwise impair his ability to operate an online streaming audio service.

III. TERMS OF AGREEMENT

5. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Commission in an Adopting Order.

6. **Jurisdiction.** Jean Charles agrees that the Commission has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Commission agrees to terminate the Investigation. In consideration for the termination of the Investigation, Jean Charles agrees to the terms, conditions, and procedures contained herein. The Commission further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute any new proceeding on its own motion against Jean Charles concerning the matters that were the subject of the Investigation, or to set for hearing the question of Jean Charles' basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.⁸

9. **Admission of Liability.** Jean Charles admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 8 herein, that his actions summarized in paragraph 4 violated section 301 of the Act.

10. **Compliance Commitment.** Jean Charles has ceased committing acts of Pirate Radio Broadcasting and in the future will not commit, or provide material assistance to another committing, acts of Pirate Radio Broadcasting. The commission of any act of Pirate Radio Broadcasting or the provision of material assistance to another committing acts of Pirate Radio Broadcasting by Jean Charles will violate section 301 of the Act and the terms of this Consent Decree. Jean Charles will report any noncompliance with section 301 of the Act or with the terms and conditions of this Consent Decree within fifteen (15) calendar days of such noncompliance to Field Director, Office of the Field Director, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to field@fcc.gov; any failure to report such noncompliance will violate the terms of this Consent Decree.

11. **Disposal of Broadcast Equipment.**

- (a) Within seven (7) calendar days following the Effective Date, Jean Charles shall submit to the Bureau's Office of the Field Director (at the postal and e-mail addresses specified in paragraph 10) a written inventory of all FM transmitters, power amplifiers, antennas and antenna feed lines (collectively, the Broadcast Equipment) in Jean Charles' possession as of the Effective Date (Inventory). The Inventory shall identify each piece of Broadcast Equipment by manufacturer, model, serial number, and quantity.
- (b) Within thirty (30) calendar days following the Effective Date, Jean Charles shall submit to the Bureau's Office of the Field Director (at the postal and e-mail addresses specified in paragraph 10) a certificate issued by a recycling facility that has been certified under Sustainable Electronics Recycling International's R2:2013

⁸ See 47 CFR § 1.93(b).

standard⁹ and confirming that the issuer has destroyed through the recycling process all of the Broadcasting Equipment set forth on the Inventory.

12. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraph 10 of this Consent Decree shall expire twenty (20) years after the Effective Date.

13. **Civil Penalty.** Jean Charles will pay a civil penalty to the United States Treasury in the amount of Four Thousand Dollars (\$4,000). Such payment shall be made in eight (8) installments (each an Installment Payment). The first Installment Payment in the amount of Five Hundred Dollars (\$500) is due within thirty (30) calendar days of the Effective Date. Thereafter, subsequent Installment Payments, each in the amount of Five Hundred Dollars (\$500), will be due on or before the following dates: December 31, 2020; June 30, 2021; December 31, 2021; June 30, 2022; December 31, 2022; June 30, 2023; and December 31, 2023. Jean Charles acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty and each Installment Payment shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).¹⁰ Upon an Event of Default (as defined below in paragraph 15), all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. Jean Charles shall send electronic notification of payment to field@fcc.gov on the date said payment is made. Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission’s Fee Filer (the Commission’s online payment system),¹¹ or by wire transfer. 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:¹²

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 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 may result in payment not being recognized as having been received. When completing FCC Form 159, 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).¹³ 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 the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded – and then choose the “Pay by Credit Card” option. IMPORTANT NOTE: there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated with the CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded (e.g.,

⁹ See <https://sustainableelectronics.org/recyclers>.

¹⁰ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

¹¹ Payments made using the Commission’s Fee Filer system do not require the submission of an FCC Form 159.

¹² For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

¹³ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

NAL 1912345678 = FCC bill Number 12345678) – and 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.

14. **Suspended Penalty.** Jean Charles further agrees that, upon an Event of Default (as described below in paragraph 15), he will pay a further civil penalty to the United States Treasury in the amount of Seventy-Five Thousand Dollars (\$75,000) (Additional Civil Penalty). Jean Charles acknowledges and agrees that upon an Event of Default, the Additional Civil Penalty shall also become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1), and all procedures for collection of the Additional Civil Penalty may, at the Commission’s discretion, be initiated against Jean Charles.

15. **Event of Default.** Jean Charles agrees that an Event of Default shall occur upon (a) the failure to pay the full amount of any Installment Payment on or before the due date specified in this Consent Decree; (b) the failure to comply with paragraph 11(b); (c) the release of an order within twenty (20) years of the Effective Date by the Bureau or the Commission, such as a Notice of Apparent Liability for Forfeiture that is uncontested or a Forfeiture Order, finding that Jean Charles committed an act of Pirate Radio Broadcasting, in violation of section 301 of the Act; (d) an admission of noncompliance, or any failure to report such noncompliance, required by paragraph 10; or (e) the release of an order by the Commission finding that Jean Charles materially misstated his financial condition in the documents he produced to support his claim that he lacks the financial resources to pay the forfeiture proposed in the *Notice*.

16. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Installment Payments and the Additional Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Installment Payments and the Additional Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Jean Charles.

17. **Waivers.** As of the Effective Date, Jean Charles waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Jean Charles shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Jean Charles nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Jean Charles shall waive any statutory right to a trial *de novo*. Jean Charles hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act¹⁴ relating to the matters addressed in this Consent Decree.

18. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

19. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

¹⁴ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

20. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Jean Charles does not expressly consent) that provision will be superseded by such Rule or order.

21. **Successors and Assigns.** Jean Charles agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

22. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

23. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

24. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

25. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

26. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Rosemary C. Harold
Chief
Enforcement Bureau

Date

Acerome Jean Charles

Date

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: Acerome Jean Charles, Boston, Massachusetts, EB-FIELDNER-17-00024504

Addressing the scourge of pirate radio has been important to me and this Commission. It's been well-established that unlawful, unlicensed broadcasts can interfere with public safety and aviation transmissions, as well as the operations of licensed broadcasters, who pour enormous effort and resources into serving their local communities. The illegal operators also put listeners at greater risk by neglecting key broadcaster responsibilities, such as providing emergency alerts. Further, protecting the integrity of the Commission's licensing of the electromagnetic spectrum is one of the Commission's most fundamental duties and must remain a priority.

Today, we take enforcement action against two long-standing and well-known pirate broadcasters in the Boston market, and I want to commend all the Commission staff from the Enforcement Bureau who have worked hard on these cases, both here in Washington and in the field. I had the privilege of visiting our Boston office last fall, and I am very grateful to that team for their incredible diligence in tracking and investigating these unlawful broadcasts.

One aspect of pirate radio that has certainly been surprising, over the many years I've worked with our enforcement staff on this issue, is the support some pirates receive from advertisers and others, including politicians. Boston has, historically, been a particularly troublesome market in this respect, with pirates operating seemingly unabated, and with the full support of certain patrons. While the consent decrees and accompanying fines that we issue today are very low compared to other Commission enforcement actions, I am hopeful that our actions will be effective in ending these problematic broadcasts and deterring future ones, both in the Boston market and across the country. And, with the recent PIRATE Act being signed into law by President Trump, the Commission will have even more tools at our disposal to end these broadcasts. Future pirate radio operators should expect to face much more extensive penalties.

I once again thank all the staff involved and am hopeful that other pirate broadcasters will take notice. This Commission is coming for you.