

CASE REPORT - EB-08-NY-031

Run Date: 3/26/2008

Start Date: 1/28/2008		ClosedDate: 2/12/2008		Status: CLOSED	Region: [REDACTED]	Office: NY	[REDACTED] <i>oll</i>
HQ#: [REDACTED]		Suspense Date: 4/7/2008		Complainant: [REDACTED]	Sprint Nextel Corp		
Case Agent: [REDACTED]		Response Time: 3 DAY(S)		Subject: J. Schatz			

COMPLAINANT	Geo: White Plains, NY	New York, NY	Geo	SUBJECT
Name/F-L: [REDACTED]	Freq: 900.0000		Fro	Name/F-L: J. SCHATZ
Company: SPRINT NEXTEL CORP	Call:		Call	Company:
Address: [REDACTED]	Method: LOC VIA EMAIL		FRN	Address: Renaissance Housing Development Corp.
				[REDACTED]
City: [REDACTED] ST [REDACTED]	Entity: Industry - License	Individual - NonL Ent		City: New York ST: NY
Pri Phone: [REDACTED] Zip [REDACTED]	To: 024 - PCS - Perso	024 - PCS - Perso Fro		Pri Phone: [REDACTED] Zip: 10026
Fax/Aux:	Safety: Non-Safety		Util	Fax/Aux: ext. 116
Email:	Complt: YES	None	Spec	Email:
Phys. Add.:	IX: YES		Loc:	Phys. Add.:
	Confid: NO		Mas	
	Cong.: NO		ASR	
	InfoTrs:		Lat	
			Lng	
			XCit	
			XState	

Complainant Notes	Subject Notes J. [REDACTED]
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Case Summary:

Complaint of ix to one of Nextel's cell sites coming from a tenant's apartment.

CASE REPORT - EB-08-NY-031 - CASE DETAILS

Run Date: 3/26/2008

WORK EVENTS

EventDate	Agent	Event Type	WeUtility
1/28/2008	[REDACTED]	COMPLAINT_R	
Prob.Resolution: NY Office received an e-mail complaint from [REDACTED] Sprint Nextel Interference Mitigation ([REDACTED]), complaining of ix coming from a tenant's apt at [REDACTED] New York, NY 10026.			
1/31/2008	[REDACTED]	INVESTIGATION	invremon invos invinview
Prob.Resolution: 10 a.m. - [REDACTED] visited [REDACTED] New York, NY 10026 and spoke to manager of the building. [REDACTED] said that he spoke to the tenant in [REDACTED] Mrs. Schatz, in regards to the ix coming from a baby monitor in her apt after [REDACTED] Sprint Nextel brought the issue to his attention, but that the tenant refuses to cooperate at all. Agent was introduced to Ms. Schatz by building security in the lobby of the building, where the agent identified himself and tried to explain the ix issue to the tenant, but Mrs. Schatz refused to even listen to the agent and refused to cooperate at all. Mrs. Schatz said that the FCC would have to send her something in writing.			
1/31/2008	[REDACTED]	ENFORCEMENT	Issued:Warning_Oral
Prob.Resolution: 15.5(b) : Verbal Warning issued.;			
2/4/2008	[REDACTED]	ENFORCEMENT	Issued:Citation
Prob.Resolution: 15.5(b);			
2/7/2008	[REDACTED]	INVESTIGATION	invphone
Prob.Resolution: [REDACTED] spoke by phone to [REDACTED] of Sprint Nextel and inquired as to whether the ix reported by him on 900 MHz was still occurring at the [REDACTED] New York, NY 10026. [REDACTED] checked his records and said that the ix ceased on 1/31, same day the agent paid a visit to the tenant in [REDACTED]			
2/12/2008	[REDACTED]	CLOSED	CloseResolveByFCC CloseSan
Prob.Resolution: Closed.			

RULES VIOLATED

Event Date	Enf.Action Type	Sanction Type	Rule Violation	Viol. Date	Document Num.	\$ Amount	Brief Notes
1/31/2008	Issued	Warning_Oral	15.5(b)	1/31/2008			Verbal Warning issued.
2/4/2008	Issued	Citation	15.5(b)	1/28/2008	C200832380024		

Federal Communications Commission

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

In the Matter of)
) File No.: EB-08-NY-031
J. Schatz & D. Martinez)
) Citation No.: C20083238024
New York, NY)

CITATION

Released: February 4, 2008

By the District Director, New York District Office, Northeast Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ to J. Schatz & D. Martinez for violation of Section 15.5(b) of the Commission's Rules.²

2. On January 28, 2008, the Enforcement Bureau's New York Office received a complaint from a FCC licensee that a signal coming from your apartment in New York, NY, was causing interference to its radio transmitters. Using direction finding equipment, the FCC licensee determined that the interference to its radio transmitters was caused by a device located in your apartment. On January 31, 2008, an agent from the New York Office investigated the interference and spoke to J. Schatz regarding the device that likely is causing interference.

3. 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. ..." 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."³ 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."⁴

4. J. Schatz & D. Martinez's operation of a Part 15 device at their apartment in New York, NY, which caused interference to a FCC licensee, violated Section 15.5(b) of the Commission's Rules.

5. Violations of the Act or the Commission's Rules may subject the violator to substantial monetary forfeitures,⁵ seizure of equipment through *in rem* forfeiture action, and criminal sanctions, including imprisonment.⁶

¹47 U.S.C. § 503(b)(5).

²47 C.F.R. § 15.5(b).

³47 C.F.R. § 15.3(m).

⁴47 C.F.R. § 15.5(c).

⁵47 C.F.R. § 1.80(b)(3).

⁶47 U.S.C. §§ 401, 501, 503, 510.

Federal Communications Commission

6. Pursuant to Sections 4(i), 4(j), 308(b) and 403 of the Act, J. Schatz & D. Martinez is directed to provide the documents and information specified herein, within fourteen (14) days from the date of this Citation.

7. J. Schatz & D. Martinez may request an interview at the closest FCC Office, which is Federal Communications Commission, New York Office, 201 Varick Street, Suite 1151, New York, NY 10014.⁷ You may contact this office by telephone, (212) 337-1865, to schedule this interview, which must take place within 14 days of this Citation. J. Schatz & D. Martinez may also submit a written statement to the above address within 14 days of the date of this Citation. Any written statements should specify what actions have been taken to correct the violation outlined above. Please reference file number EB-08-NY-031 when corresponding with the Commission.

8. Any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.⁸ Any knowingly or willfully false statement made in reply to this Citation is punishable by fine or imprisonment.⁹

9. **IT IS ORDERED** that copies of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested to J. Schatz & D. Martinez at their record of address.

FEDERAL COMMUNICATIONS COMMISSION

DSE for DD

Daniel W. Noel
District Director
New York District Office
Northeast Region
Enforcement Bureau

⁷47 U.S.C. § 503(b)(5).

⁸See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

⁹See 18 U.S.C. § 1001 *et seq.*

David Martinez & Jacqueline Schatz

[REDACTED] York, New York 10026
[REDACTED]

February 11, 2008

FEDERAL COMMUNICATIONS COMMISSION

REC'D

FEB 13 2008

NEW YORK, N.Y.

By First Class U.S. Mail

Att.: Daniel W. Noel – District Director, NY District Office
Northeast Region, Enforcement Bureau

Re: In the Matter of J. Schatz & David Martinez New York, NY
File No.: EB-08-NY-031
Citation No.: C20083238024

Dear District Director Noel:

We write in connection with the above-referenced matter; specifically, to follow up on our recent correspondence and establish a record concerning the events that have occurred since my wife and I received the above-referenced citation (a copy of which is attached for your convenience).

On February 5, 2008 my wife and I received the citation dated February 4, 2008. This was the first formal notice we ever received regarding this matter.

On February 6, 2008 I called the New York office of the Federal Communications Commission ("FCC") at the telephone number provided in the citation. No one answered the call and I left a voice mail message as instructed by the automated answering system.

On February 7, 2008 I again called the NY office of the FCC. The call was received and I was transferred to your office. I left a message on your automated answering system. Later that day, you returned my call and we briefly discussed this matter. I explained the situation to you and assured you that my wife and I have every intention of cooperating and assisting the FCC in connection with this matter. I asked you if it was necessary that I formally respond to the citation; you indicated that it was not and that you would contact me as needed. I received another call from you later that day however I was not available to take the call. Your message left with me stated that I should call you back to schedule an appointment for an FCC field representative to visit my home to further investigate the matter. No telephone number was left for me to call; however, my caller id system displayed a number [REDACTED] that I assume is your cellular telephone number.

Federal Communications Commission
In the Matter of J. Schatz & David Martinez New York, NY
File No.: EB-08-NY-031
Citation No.: C20083238024
February 11, 2008
Page 2 of 2

On February 8, 2008 I called both the NY office of the FCC and the "917" number referenced above. No one answered either call and I left messages at each number as instructed by the automated answering systems.

Today, February 11, 2008, I was occupied with an all day telephone conference call and as a result, unable to call either of the above-referenced numbers. I also did not receive any calls from anyone at the FCC.

Per your instruction on February 7, 2008, this letter does not serve as our formal response to the citation. However, because the citation states that some action must be taken within fourteen (14) days thereof (i.e., an interview at the NY office of the FCC or submission by us of a written statement) I provide this letter in good faith as evidence of our intention to comply. We want to avoid being deemed to have failed to respond to the citation.

In the event we are required to provide a more formal response to the citation (i.e., one that addresses the points raised therein), please let me know immediately. We would be happy to do so.

Please contact me (or have some other FCC representative contact me), as soon as possible so that we can resolve this matter. As stated during our talk and in my voicemail messages, the best place to reach me is at, my office telephone number, [REDACTED].

Very truly yours,


David Martinez

(also on behalf of Jacqueline Schatz)

enc.

[REDACTED]

Subject: RE: New Harlem 900MHz Uplink Interference

-----Original Message-----

From: [REDACTED] Contractor for Sprint] [mailto:[REDACTED]]
Sent: Monday, January 28, 2008 7:39 PM

[REDACTED] the corner of [REDACTED]. I have tracked the signal to an apartment building at 130 Lenox & made contact with the management who initially allowed me access to the hallways. I then further tracked the suspect ISM video baby monitor to [REDACTED] which the concierge confirmed had a newborn but was not at home at the time. The building management said they would try to contact the tenant & our problem signal did disappear between Xmas & New Year without any contact back from them. It has returned however but any response from the building management has disappeared despite several messages left with them. The building management requested I not try to contact the tenant direct & despite them not getting back to me, I have honored that request. Please use the info below to try & resolve out problem. I have suggested to them turning off A/C power to the individual apartments to absolutely confirm the source & I still think this would be a good thing to try before busting in. If you find an ISM source & it has a channel switch on it you might try moving it to Ch2. We have found that this will usually clear up the problem by moving their signal up out of our band. As always if this doesn't work, S/N will replace any consumer equipment (such as baby monitors or cordless phones) that may be causing this. See attached for S/A scan from the street outside [REDACTED]

Thanks,

[REDACTED]
Sprint Nextel Interference Mitigation
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Let me know if you need a fax of this as well.

2/4/2008