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RICHARD W. WICKING
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NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 ANY AND ALL RADIO STATION
15 TRANSMISSION EQUIPMENT, RADIO
16 FREQUENCY POWER AMPLIFIERS,
17 RADIO FREQUENCY TEST
18 EQUIPMENT AND ANY OTHER
19 EQUIPMENT ASSOCIATED WITH OR
20 USED IN CONNECTION WITH THE
TRANSMISSIONS ON 101.1 MHz
LOCATED AT 807 LAUREL STREET,
SANTA CRUZ, CALIFORNIA 95060,
21 Defendant.

No. 04 4089
C
VERIFIED COMPLAINT FOR
FORFEITURE IN REM

PVT

UNDER SEAL

22 Plaintiff, United States of America, by and through the United States Attorney for the
23 Northern District of California, alleges as follows:

24 NATURE OF THE CLAIM

25 1. Plaintiff brings this civil action in rem pursuant to the Communications Act of 1934, 47
26 U.S.C. § 510 for the forfeiture of radio station transmission equipment, radio frequency power
27 amplifiers, radio frequency test equipment, and any other equipment used and possessed with
28 willful and knowing intent to violate 47 U.S.C. § 301.

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3. This court has in rem jurisdiction over the defendant equipment pursuant to 28 U.S.C. § 1355(b)(1)(A) since the acts or omissions giving rise to the forfeiture occurred in the Northern District of California, and pursuant to 28 U.S.C. § 1355(b)(1)(B) since venue properly lies in the Northern District of California under 28 U.S.C. § 1395.

INTRADISTRICT ASSIGNMENT

FACTUAL ALLEGATIONS

7. From at least May 2004 to the present, Vincent A. Lombardo and others have been operating an apparatus for the transmission of signals by radio, on a frequency of 101.1 MHz on the FM broadcast band, from 807 Laurel Street, Santa Cruz, California 95060.

9. The FCC has not issued Vincent Lombardo, or any other person, a license to operate any apparatus for the transmission of signals by radio on a frequency of 101.1 MHz on the FM broadcast band, from 807 Laurel Street, Santa Cruz, California 95060.

COMPLAINT FOR
FORFEITURE IN REM,

1 A and incorporated by reference as if fully set forth herein.

2 11. The defendant equipment constitutes electronic and radio frequency devices or
3 components thereof, used, assembled and possessed with willful and knowing intent to violate 47
4 U.S.C. § 301, and therefore may be seized and forfeited to the United States pursuant to 47
5 U.S.C. § 510.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the United States prays that:

8 (A) Process for seizure and forfeiture be issued against the defendant property;

9 (B) All parties having any interest in the defendant property be ordered to appear and
10 answer the allegations of the complaint, pursuant to Supplemental Rule for Admiralty Claim
11 C(6);

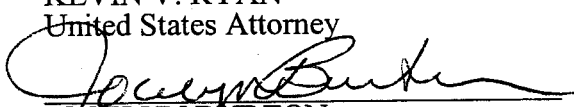
12 (C) The Court decree the forfeiture and condemnation of the defendant property to the
13 United States for disposition pursuant to law;

14 (D) The Court order such other and further relief as the Court deems proper, including an
15 award of costs and expenses.

16 DATED: 9/27/04

Respectfully submitted,

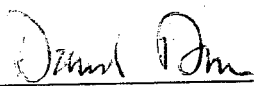
17 KEVIN V. RYAN
18 United States Attorney

19 
20 JOCELYN BURTON
21 Assistant United States Attorney
22 Attorneys for Plaintiff, the United States
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VERIFICATION

I declare under penalty of perjury, that the foregoing Complaint for Forfeiture In Rem is based upon information and documentation gathered by me and other employees of the FCC, and that the contents of the Complaint are true and correct to the best of my knowledge and belief.

Dated: 9/27/04



DAVID DOON
Electronics Engineer
San Francisco Field Office
Enforcement Bureau
Federal Communications Commission

1
2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA

4 UNITED STATES OF AMERICA,)

5 Plaintiff,)

6 v.)

7 ANY AND ALL RADIO STATION)
8 TRANSMISSION EQUIPMENT, RADIO)
9 FREQUENCY POWER AMPLIFIERS,)
10 RADIO FREQUENCY TEST)
11 EQUIPMENT AND ANY OTHER)
12 EQUIPMENT ASSOCIATED WITH OR)
13 USED IN CONNECTION WITH THE)
14 TRANSMISSIONS ON 101.1 MHz)
15 LOCATED AT 807 LAUREL STREET,)
16 SANTA CRUZ, CALIFORNIA 95060,)

17 Defendant.)

No.

**AFFIDAVIT OF DAVID DOON IN
SUPPORT OF COMPLAINT FOR
FORFEITURE IN REM**

UNDER SEAL

18 I, David Doon, being first duly sworn, do hereby depose and say:

19 1. I am an Electronics Engineer in the San Francisco, California Field Office ("San Francisco
20 Field Office") of the Enforcement Bureau of the Federal Communications Commission ("FCC").
21 I have continuously held this position since 1966 except for a period from February 1996 through
22 September 1996 when I was the District Director in that office. In 1966 I received a Bachelor of
23 Science degree in Electrical Engineering from the University of California at Berkeley, and in
24 1971 I was licensed by the State of California as a Registered Professional Engineer.

25 2. I am skilled in the proper operation of FCC electronic test equipment used to determine
26 compliance with the FCC's rules and regulations, and experienced in all phases of FCC
27 investigations involving radio frequency ("RF") transmitting devices. I have formal training in
28 the identification and testing of such equipment. During the course of my employment with the
FCC, I participated in or conducted hundreds of investigations involving the illegal use of RF
transmitting devices and located hundreds of fixed, mobile, and hand-held radio transmitting
apparatuses using mobile direction-finding equipment.

1 3. The information contained in this affidavit is based upon my own investigation and review
2 of the investigative reports and official correspondence.

3 4. I am making this affidavit in support of a complaint for forfeiture *in rem* against radio
4 station transmission equipment used for operation of an unlicensed FM radio station operating
5 initially on a frequency of 89.3 MHz, and later on 96.3 MHz, and currently on 101.1 MHz. The
6 operators identify the station as Free Radio Santa Cruz ("FRSC"). The equipment was in the
7 possession of:

- 8 • Vincent A. Lombardo, Robert A. Duran and other unidentified individuals/Free Radio Santa
9 Cruz at 120 Campbell Street, Santa Cruz, CA ("Santa Cruz") on May 31, 1995, and June 20,
10 1995.
- 11 • Sandra M. Roth and other unidentified individuals/Free Radio Santa Cruz at 163 Pryce
12 Street, Santa Cruz, CA on August 1, 1996.
- 13 • Becky Ann Johnson, Robert Norris Kahn and other unidentified individuals/Free Radio Santa
14 Cruz, 706 Frederick Street, Santa Cruz on multiple occasions for at least the period from
15 March 10, 1998 to February 17, 1999.
- 16 • Vincent A. Lombardo, Robert A. Duran and other unidentified individuals/Free Radio Santa
17 Cruz, 307 Chestnut Street, Santa Cruz from January 14, 2000 to May 8, 2004.

18 The equipment is now and was in the possession of Vincent A. Lombardo, Robert A. Duran and
19 other unidentified individuals of Free Radio Santa Cruz, 807A Laurel Street, Santa Cruz on May
20 12 and May 13, 2004. Notice of Unlicensed Radio Operation ("NOUO") warning letters were
21 served at each location, except the 1995 location at 120 Campbell Street, and to various
22 individuals associated with the station.

23 5. The FCC, an independent federal regulatory agency created by Congress, regulates
24 intrastate, interstate, and foreign radio communications pursuant to the Communications Act of
25 1934, as amended ("the Act"), 47 U.S.C. § 151 *et seq.* One of the FCC's responsibilities is to
26 ensure that persons do not transmit radio signals within the United States' territorial boundaries
27 without an FCC license or other prior FCC authorization. *See* 47 U.S.C. § 301.

28 6. In this proceeding, the following general definitions common to communications
regulation are used. These terms relate only to the technical or regulatory characteristics of radio
signals and not to program content:

RADIO STATION: the apparatus used to generate, control, amplify, and transmit radio

1 signals, which usually includes, among other items, audio sources, signal processing
2 equipment, control devices and a radio transmitter.

3 WATTMETER: at a radio station, an instrument for measuring the power produced by
4 an RF device, such as a radio transmitter.

5 AUDIO MIXER: a device used to control audio levels from different programming
6 sources. Sources may be either monaural or stereophonic audio sources.

7 EXCITER: a device that generates a station's RF signal and combines the audio
8 programming with that signal. The resulting signal from the exciter may be transmitted
9 directly or it may be amplified by additional equipment before being transmitted.

10 AUDIO AMPLIFIER: a device used to amplify weak audio signals.

11 AUTOMATIC LEVEL CONTROL: a device that automatically maintains audio signals
12 at a constant level. Also may be called a "limiter."

13 POWER SUPPLY: generally, a device that converts alternating current, such as
14 household electricity, to the current and voltage needed by some devices.

15 SATELLITE RECEIVER: equipment used to pick up the broadcast programming
16 distributed by satellites.

17 FIELD STRENGTH: a measurement, expressed in units of microvolt per meter
18 ("μV/m"), of a radio signal's intensity at a specific geographical point. The field strength
19 measurement for a low-power radio transmitter specified in 47 C.F.R. § 15.239(b) cannot
20 exceed 250 μV/m at a distance of three meters from the source.

21 FREQUENCY: the "position" in the radio spectrum occupied by a specific radio signal.
22 It is commonly measured in the FM portion of the band by the unit known as Megahertz
23 ("MHz"). In this affidavit, the frequencies of the various radio signals are expressed by
24 their "dial positions" in MHz.

25 ELECTRONIC DIRECTION FINDING (or radio direction finding): a process of
26 determining the origin of a particular radio signal by measuring its technical
27 characteristics. The FCC uses proprietary equipment specifically designed and calibrated
28 by the FCC for this function. The location of the signal is commonly referred to as a
"fix."

DIRECTION FINDING VEHICLE: an FCC vehicle equipped with radio receivers and
other electronic equipment that enable the operator to engage in electronic direction
finding.

SPECIFIC LICENSE versus BLANKET LICENSE: Under 47 U.S.C. § 301, all radio
transmissions within the United States must be licensed by the FCC. In most instances,
this license is issued to a person by name and considered a "specific license." FCC rules
also provide for operation of certain types of radio transmitters without a specific license.
See, e.g., 47 C.F.R. § 15.239. These operations involve "non-licensed authorization,"
also known as "blanket authorization" or "blanket license."

NON-LICENSED LOW-POWER TRANSMITTER (or non-licensed low-power
intentional radiator): a radio transmitter that meets the particular specifications of 47
C.F.R. § 15.239, and is operating under a blanket license. A "non-licensed" operation is
an authorized operation without a specific license. An "unlicensed" operation is not
authorized by specific license or by blanket authorization, and is therefore a statutory

1 violation of 47 U.S.C. § 301.

2 SPURIOUS EMISSIONS: a radio transmitter is designed to emit RF energy on a very
3 specific frequency or a limited, contiguous band of frequencies at any one time. RF
4 energy emitted on frequencies outside the limited, contiguous band or on frequencies
5 other than the desired one is a spurious radio emission.

6 7. The operation of radio transmitters that permit RF energy to be transmitted from one
7 place in any state, territory, or possession of the United States to another place in the same state,
8 territory or possession, without a license issued by the FCC, is a violation of 47 U.S.C. § 301,
9 and the equipment used in the operation may be subject to seizure under 47 U.S.C. § 510.

10 8. FM broadcast stations in the Radio Broadcast Service, i.e., broadcast stations that
11 transmit on a frequency between 88 and 108 MHz, must be licensed by the FCC, 47 U.S.C. §
12 301. The only exception to this licensing requirement is for certain transmitters using or
13 operating at a power level that complies with 47 C.F.R. § 15.239(b). This section limits such
14 transmitters to a field strength of 250 μ V/m at a distance of three meters from the transmitting
15 antenna, as measured by a field intensity meter.

16 9. On January 14, 2000, following up on a previous referral to the U.S. Attorney's
17 Office, District Director Thomas Van Stavern instructed agent William Zears to renew an
18 investigation of Free Radio Santa Cruz. Agent Zears monitored signals on 96.3 MHz in an FCC
19 direction finding vehicle. The subject vehicle is equipped with radio receivers and other
20 electronic equipment that enable the operator to track and locate the source of radio signals.
21 When a radio signal is detected by the receiving equipment in the vehicle, the equipment
22 produces a visual display of the relative direction from which the signal is originating and
23 provides a relative strength of the signal received. As the vehicle approaches the source of the
24 signal, the visual display increases in strength relative to the proximity of the signal. Typically,
25 the driver travels around the source until he or she determines the source of the transmission.
26 Using these direction finding techniques, agent Zears located the signal to a ground plane
27 antenna mounted above a two-story house at 307 Chestnut Street, Santa Cruz.

28 10. At 11:45 a.m., agent Zears made an on site calibration of the Potomac Instruments
Field Intensity meter, model FIM-71, in accordance with the manufacturer's instructions, and
took field strength measurements at a distance of 54 meters from the transmitting antenna. Agent

1 Zears determined that the field strength of the signal at that location was 144,241 $\mu\text{V/m}$ and,
2 when extrapolated to three meters, exceeded the permitted level for an allowable non-licensed
3 intentional radiator by 10,376 times. Non-licensed operation is permitted only if the field
4 strength of transmissions does not exceed 250 $\mu\text{V/m}$ at three meters. Accordingly, a license is
5 required for operation of this station, pursuant to Section 301 of the Act, 47 U.S.C. § 301.

6 11. Also on January 14, 2000, agent Zears identified himself to a bearded young man at
7 the front of the house and requested an inspection of the station. Agent Zears reported that the
8 man refused to talk with him and demanded that he leave. Agent Zears prepared a "Notice of
9 Unlicensed Radio Operation," warning letter and left it near the front door. That warning letter
10 included the subject address, and warned that operation of the unlicensed station violated 47
11 U.S.C. § 301; refusal to allow inspection violated 47 U.S.C. § 303(n) and field strength
12 measurements exceeded those allowed for non-licensed operation pursuant to Part 15 of the
13 Rules. The warning letter also described the potential penalties for these violations and required
14 the operation of the non-licensed station to be immediately discontinued, or proof of license to
15 operate the radio station. Those penalties include the possibility of a maximum criminal fine of
16 \$100,000 and/or one year imprisonment, or arrest of the equipment for the first offense pursuant
17 to 47 U.S.C. §§ 501, 503 & 510.

18 12. On that same day, agent Zears obtained a printout of registered voters for 307
19 Chestnut Street, Santa Cruz County, and Vincent Anthony Lombardo was listed. An August 1,
20 1996 Santa Cruz Sentinel newspaper article depicted Lombardo carrying a turntable out of a
21 building at 120 Campbell Street, Santa Cruz. That article was provided by Detective Sepulveda
22 of the Santa Cruz Police Department on August 1, 1996 to Agent David Hartshorn and me
23 describing the city's eviction of the occupants of the building due to multiple housing code
24 violations.

25 13. On January 21, 2000, agent Zears returned to the Chestnut Street neighborhood in an
26 FCC direction finding vehicle and detected the signal on 96.3 MHz identified by operators as
27 radio station FRSC. At 11:30 a.m., using direction-finding techniques, agent Zears reconfirmed
28 that the source of the signal was the ground plane antenna mounted above a two-story house at

1 307 Chestnut Street, Santa Cruz. While locating the source of the signal, agent Zears heard the
2 broadcast from FRSC in which the operator indicated that he had no intention of applying for a
3 station license or ceasing unlicensed radio operations.

4 14. Still on January 21, 2000 at 11:55 a.m., agent Zears made an on site calibration of the
5 Potomac Instruments Field Intensity meter, model FIM-71, in accordance with the manufacturer's
6 instructions, and took field strength measurements on an adjacent street approximately 76 meters
7 from the transmitting antenna. Agent Zears determined that the field strength of the signal at that
8 location was 79,439 $\mu\text{V/m}$ and, when extrapolated to three meters, the signal exceeded the
9 permitted level for an allowable non-licensed intentional radiator by 8,071 times. Non-licensed
10 operation is permitted only if the field strength of transmissions does not exceed 250 $\mu\text{V/m}$ at
11 three meters. Agent Zears made no attempt to inspect the station.

12 15. On July 15, 2002, the FCC's San Francisco Field Office received a complaint letter
13 from a neighbor of FRSC, dated May 1, 2002, concerning FRSC interference to FM broadcast
14 reception in the Chestnut Street, Santa Cruz, neighborhood. The complaint alleged that an illegal
15 radio station caused interference to all FM channels in that area. In addition, the complaint
16 alleged that a group of individuals at the station at 307 or 309 Chestnut Street, Santa Cruz had a
17 confrontation with the police at their prior location. An article published in the Santa Cruz
18 Sentinel on April 1, 2002, was attached to the letter and depicted color photos of individuals
19 sitting by the station's control console.

20 16. On April 10, 2003, at the request of Director Van Stavern, I used an FCC direction
21 finding vehicle and conducted a follow-up investigation on the basis of the complaints. I
22 checked and tested the FCC's equipment and determined that the equipment was operating
23 properly. Using direction-finding techniques and a known source, I monitored signals on 96.3
24 MHz in Santa Cruz and confirmed that they originated from the ground plane antenna mounted
25 above a two-story house at 307 Chestnut Street, Santa Cruz.

26 17. Still on April 10, 2003 at 10:30 a.m., I made an on-site calibration of the Potomac
27 Instruments Field Intensity meter, model FIM-71, in accordance with the manufacturer's
28 instructions, and took field strength measurements at a distance of 650 meters from the

1 transmitting antenna. I determined that the field strength of the signal at that location was 1,786
2 $\mu\text{V}/\text{m}$, and when extrapolated to three meters, exceeded the permitted level for an allowable non-
3 licensed intentional radiator by 1,547 times. Non-licensed operation is permitted only if the field
4 strength of transmissions does not exceed 250 $\mu\text{V}/\text{m}$ at three meters. Accordingly, a license is
5 required for operation of this station, pursuant to Section 301 of the Act, 47 U.S.C. § 301.

6 18. A search of the county records revealed that Mr. Peter Cook was the owner of the
7 subject property at 307 Chestnut Street, Santa Cruz. On June 13, 2003, I telephoned Mr. Cook,
8 who confirmed that he owned the subject property. I then warned him that his tenants were
9 operating an unlicensed radio station at 307 Chestnut Street in violation of the Act and that the
10 tenants could be subject to a monetary forfeiture of \$10,000. Mr. Cook explained that he had
11 previously talked to his tenants about the radio station, and that they told him that they were not
12 doing anything illegal. Due to privacy concerns, Mr. Cook refused to provide the names of the
13 tenants, but stated that he would pass along the warning.

14 19. On August 28, 2003, at the request of Jocelyn Burton, Assistant U.S. Attorney, and
15 Rebecca Dorch, FCC Regional Director, agents Hartshorn and Tom Hora conducted a follow-up
16 investigation of FRSC in Santa Cruz. The agents monitored signals on 96.3 MHz in an FCC
17 direction finding vehicle. Using the direction-finding techniques described above, they
18 confirmed that the signal came from the ground plane antenna mounted above a two-story house
19 at 307 Chestnut Street, Santa Cruz.

20 20. Still on August 28, 2003 at 11:36 a.m., agent Hora made an on-site calibration of the
21 Potomac Instruments Field Intensity meter, model FIM-71, in accordance with the manufacturer's
22 instructions, and took field strength measurements at a distance of 113 meters from the
23 transmitting antenna. Agent Hartshorn determined that the field strength of the signal at that
24 location was 53,054 $\mu\text{V}/\text{m}$ and, when extrapolated to three meters, exceeded the permitted level
25 for an allowable non-licensed intentional radiator by 8,021 times. Non-licensed operation is
26 permitted only if the field strength of transmissions does not exceed 250 $\mu\text{V}/\text{m}$ at three meters.
27 Accordingly, a license is required for operation of this station, pursuant to Section 301 of the Act,
28 47 U.S.C. § 301.

1 21. Still on August 28, 2003, using a calibrated Anritsu MS2601B spectrum analyzer,
2 agent Hartshorn measured the frequency deviation of the signal on 96.3 MHz at ± 200 kHz in
3 excess of the ± 75 kHz deviation permitted in the FM broadcast service. With the FM car radio
4 turned on, agent Hartshorn also noted that the signals from FRSC were heard up to two FM
5 channels above (+400 kHz) and below (-400 kHz) 96.3 MHz. This excessive frequency
6 deviation of the signal has the potential to cause interference to licensed FM broadcast stations,
7 confirming a report from a nearby neighbor. Agent Hartshorn also detected spurious signals on
8 the 192.6 MHz Television Broadcast band that were coming from the station operating on 96.3
9 MHz. Agent Hora made additional field strength measurements on 192.6 MHz at 113 meters
10 from the transmitting antenna. Agent Hartshorn determined that the field strength of the spurious
11 signal at that location was 34 $\mu\text{V/m}$ and, when extrapolated to three meters, exceeded the
12 permitted level for an allowable non-licensed intentional radiator by 8 times. Section 15.239(c)
13 of the FCC's Rules, 47 C.F.R. § 15.239(c), provides that the field strength of any emission
14 radiated on any frequency outside of the specified 200 kHz band of 88-108 MHz shall not exceed
15 150 $\mu\text{V/m}$ at 3 meters on 192.6 MHz.

16 22. Also on August 28, 2003, agents Hartshorn and Hora attempted an inspection of the
17 station, 307 Chestnut Street, Santa Cruz, but no one answered the front door. The agents
18 observed no lights illuminated or sounds emanating from within the home and traced the antenna
19 cable to the back of the house at the second story level. Agent Hora took photos of the subject
20 house and back porch. The agents attached to the front door a warning letter to FRSC and
21 Vincent Lombardo. That warning letter included the subject address, and warned that operation
22 of the unlicensed station violated 47 U.S.C. § 301; field strength measurements exceeded those
23 allowed for unlicensed operation pursuant to Part 15 of the Rules; and spurious radio signals
24 associated with the operation of the station were detected on the frequency of 192.6 MHz. The
25 warning letter also described the potential penalties for these violations and required the
26 operation of the unlicensed station to be immediately discontinued, or proof of license to operate
27 the radio station. Those penalties include the possibility of a maximum criminal fine of
28 \$100,000 and/or one year imprisonment, or arrest of the equipment for the first offense pursuant

1 to 47 U.S.C. §§ 501, 503 & 510.

2 23. On August 29, 2003, I reviewed the May 1, 2002 complaint letter with the attached
3 Santa Cruz Sentinel article. The article contained photographs, as noted previously, of two
4 unidentified male adult persons sitting in the control room of the FRSC studio on the second
5 floor facing the back of the house. The photographs taken by agent Hora on August 28, 2003
6 revealed that the second story back windows at 307 Chestnut Street matched those visible in the
7 Sentinel article photograph, and based on this review, I surmised that the FRSC studio was
8 located there.

9 24. On September 3, 2003, I obtained an online article about FRSC that appeared in the
10 Santa Cruz Sentinel newspaper on that same day. The article indicated that the FCC left a notice
11 on the porch of the station threatening a \$10,000 fine and jail time. The article also indicated that
12 two city councilmen, at the urging of FRSC, told the FCC to leave the underground station alone.
13 The article referenced broadcaster Vince "V-Man" Lombardo of FRSC, who allegedly asked for
14 support from the councilmen. The article also referenced free radio broadcaster Robert
15 "Skidmark Bob" Duran who said that previous council support seemed to give the station more
16 clout in dealing with the federal government and the FCC was pretty hands-off due to the support
17 of the city council. The article quotes Robert Duran stating: "Every once in a while they come
18 and check up on us. They obviously know where we are. We are not hiding from them. We just
19 haven't complied with them."

20 25. On September 3, 2003, I telephoned a Department of Motor Vehicles (DMV) official
21 who verbally provided an identical mailing address for both Vincent Lombardo and Robert
22 Duran: P.O. Box 7507, Santa Cruz, CA. I also requested the DMV to mail to me, the driver
23 license records and photographs for the two men. In addition, I determined that the subject
24 mailing address was identical to that provided on the FRSC website. Subsequently, on
25 September 9, 2003, the field office received the requested records from DMV. I examined the
26 proffered DMV photographs and the records, and concluded that Vincent Lombardo was one of
27 the operators at the control console of radio station FRSC as depicted in the April 1, 2002, Santa
28 Cruz Sentinel newspaper article, and that Robert Duran was the person who, on June 20, 1995,

1 refused to permit an inspection request of FRSC at 120 Campbell Street, Santa Cruz.

2 26. On February 5, 2004, at the request of Director Van Stavern, I conducted a follow-up
3 investigation of FRSC in Santa Cruz. I monitored signals on 96.3 MHz in an FCC direction
4 finding vehicle, and, using the techniques described above, I confirmed that the signal came from
5 the ground plane antenna mounted above a two-story house at 307 Chestnut Street, Santa Cruz.

6 27. Still on February 5, 2004 at 10:41 a.m., I made an on-site calibration of the Potomac
7 Instruments Field Intensity meter, model FIM-71, in accordance with the manufacturer's
8 instructions, and took field strength measurements at a distance of 76 meters from the
9 transmitting antenna. I determined that the field strength of the signal at that location was 68,212
10 $\mu\text{V/m}$ and, when extrapolated to three meters, exceeded the permitted level for an allowable non-
11 licensed intentional radiator by 6,930 times. Non-licensed operation is permitted only if the field
12 strength of transmissions does not exceed 250 $\mu\text{V/m}$ at three meters. Accordingly, a license is
13 required for operation of this station, pursuant to Section 301 of the Act, 47 U.S.C. § 301.

14 28. On May 11, 2004, at the request of the Pamela Hairston of the FCC's Office of
15 General Counsel, Director Van Stavern directed me to reconfirm the operating status of FRSC.

16 29. On May 12, 2004, I conducted a follow-up investigation of FRSC in a direction
17 finding vehicle. I checked and tested the equipment in the vehicle and determined that the
18 equipment was operating properly. I monitored the FM broadcast band near 307 Chestnut Street,
19 Santa Cruz, CA and found no local signals on 96.3. I heard FRSC identifying itself on 101.1
20 MHz and concluded that that FRSC had changed frequency from 96.3 MHz to 101.1 MHz. I
21 observed no antenna on the house at 307 Chestnut Street and concluded that FRSC had moved.
22 Using direction finding techniques described above, I located the signal on 101.1 MHz to a
23 ground plane antenna mounted above a two-story house at 807A Laurel Street, Santa Cruz,
24 approximately 300 meters from 307 Chestnut Street.

25 30. Still on May 12, 2004 at 10:43 a.m., I made an on-site calibration of the Potomac
26 Instruments Field Intensity meter, model FIM-71, in accordance with the manufacturer's
27 instructions, and took field strength measurements at a distance of 280 meters from the
28 transmitting antenna. I determined that the field strength of the signal at that location was 8,977

1 $\mu\text{V/m}$ and, when extrapolated to three meters, exceeded the permitted level for an allowable non-
2 licensed intentional radiator by 3,349 times. Non-licensed operation is permitted only if the field
3 strength of transmissions does not exceed 250 $\mu\text{V/m}$ at three meters. Accordingly, a license is
4 required for operation of this station, pursuant to Section 301 of the Act, 47 U.S.C. § 301.

5 31. Still on May 12, 2004, I continued to monitor FRSC on 101.1 MHz using the car
6 radio receiver and was clearly able to hear the broadcast along Highway 17 for approximately 5
7 miles away from the station.

8 32. On May 12, 2004, Director Van Stavern found and printed a May 10, 2004 article
9 published by FRSC Collective on santacruz.indymedia.org's website concerning FRSC. The
10 article entitled, "Free Radio Santa Cruz has Moved!!" stated that on May 8, 2004 volunteers of
11 FRSC moved their studio to a new location and changed frequency from 96.3 MHz to 101.1
12 MHz. The article also stated that "Free Radio Santa Cruz is an unlicensed, commercial free,
13 community based pirate radio station that has been operating for over 9 years without a license!
14 FRSC broadcasts alternative news and information 24 hours a day, seven days a week, in
15 defiance of Federal Communications Commission rules and regulations."

16 33. On May 13, 2004, agent Hartshorn and I returned to Santa Cruz to inspect FRSC and
17 warn the operators of the unlicensed operation. Agent Hartshorn checked and tested the
18 equipment in the FCC direction finding vehicle and determined that the equipment was operating
19 properly. Using the techniques described above, agent Hartshorn reconfirmed that the source of
20 the signal on 101.1 MHz originated from the ground plane antenna mounted above a two-story
21 house at 807A Laurel Street, Santa Cruz.

22 34. Still on May 13, 2004 at 9:57 a.m., I made an on-site calibration of the Potomac.
23 Instruments Field Intensity meter, model FIM-71, in accordance with the manufacturer's
24 instructions, and took field strength measurements at a distance of 280 meters from the
25 transmitting antenna. I determined that the field strength of the signal at that location was 10,416
26 $\mu\text{V/m}$ and, when extrapolated to three meters, exceeded the permitted level for an allowable non-
27 licensed intentional radiator by 3,886 times. Non-licensed operation is permitted only if the field
28 strength of transmissions does not exceed 250 $\mu\text{V/m}$ at three meters. Accordingly, a license is

1 required for operation of this station, pursuant to Section 301 of the Act, 47 U.S.C. § 301.

2 35. Still on May 13, 2004, at approximately 10:15 a.m, agent Hartshorn and I attempted
3 an inspection of FRSC. The station antenna was mounted above the front house at 807A Laurel
4 Street. I observed a placard posted on the fence located on the east side of the house directing all
5 visitors to go to the back. Agent Hartshorn and I walked to the back of the house. I observed
6 that the transmitting antenna cable came down to the lower back part of the house. I also
7 observed that the back door was opened. We were met by a man who matched the description of
8 Vincent Lombardo. I recognized that person as Vincent Lombardo. As Mr. Lombardo came out
9 from the back of the house and walked toward the us, agent Hartshorn and I identified ourselves.
10 Mr. Lombardo started yelling at us claiming we were trespassing and demanded we leave the
11 premises. As we stepped back toward the sidewalk, I verbally warned Mr. Lombardo that the
12 station was unlicensed, he was subject to \$10,000 fine and 1 year imprisonment and the station
13 equipment was subject to seizure. I prepared a NOUO letter and left it on top of the fence near
14 the entrance. As we walked away from the house, another man came out with a microphone and
15 audio recorder. The man recorded his conversation with the agents. I identified myself, and the
16 man identified himself as "Skidmark Bob." "Skidmark Bob" was known to me as Robert Duran.
17 Mr. Duran inquired about the FCC visit. I informed Mr. Duran that we had located an unlicensed
18 station at the house and wanted the operators to stop the operation. Mr. Duran wanted to know
19 whether there was any interference complaint. Agent Hartshorn stated that he was not aware of
20 any complaints. Agent Hartshorn stated FRSC had previously been warned of the unlicensed
21 operations and that he (Mr. Duran) had also been warned in the past.

22 36. Still on May 13, 2004, after we returned to the vehicle, I heard on 101.1 MHz
23 Messrs. Lombardo's and Duran's broadcast about the FCC visit. Mr. Lombardo announced that
24 the FCC agents warned him of the penalties for the unlicensed operation. Agent Hartshorn
25 recorded Lombardo's broadcast on 101.1 MHz which included the recorded conversation
26 between Duran and the agents. Shortly thereafter, I learned from Director Van Stavern that
27 FRSC had posted a news item related to the FCC inspection attempt on
28 www.santacruz.indymedia.org. The posting included a link to the recording made during the

1 inspection attempt.

2 37. On July 21, 2004, Agent Hartshorn and Western Regional Counsel Margaret Egler
3 returned to Santa Cruz, CA. They reconfirmed by direction finding techniques that the source of
4 transmissions on 101.1 MHz came from the mast mounted ground plane antenna located on the
5 roof of the two-story house at 807A Laurel Street, Santa Cruz, CA. Shortly thereafter, they made
6 field strength measurements of the signal on 101.1 MHz at a distance of 323 meters from the
7 station antenna and determined that field strength of the signal extrapolated to 3 meters was
8 827,935 $\mu\text{V/m}$. This means the field strength of the signal exceeded the permissible level for a
9 non-licensed low-power intentional radiator by 3,312 times. Accordingly, a license is required
10 for operation of this station. Thus, this station operation is in violation of 47 U.S.C. § 301.

11 38. On September 23, 2004, I returned to Santa Cruz to determine whether FRSC was
12 still operating from the same location. I tested the equipment in the FCC direction finding
13 vehicle and determined that the equipment was operating properly. Using the techniques
14 described above, I reconfirmed that the source of the signal on 101.1 MHz originated from the
15 ground plane antenna mounted above a two-story house at 807A Laurel Street, Santa Cruz.

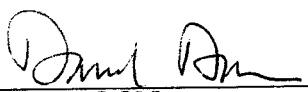
16 39. Still on September 23, 2004 at 12:08 p.m., I made an on-site calibration of the
17 Potomac Instruments Field Intensity meter, model FIM-71, in accordance with the manufacturer's
18 instructions, and took field strength measurements at a distance of 280 meters from the
19 transmitting antenna. I determined that the field strength of the signal at that location was 5,902
20 $\mu\text{V/m}$ and, when extrapolated to three meters, exceeded the permitted level for an allowable non-
21 licensed intentional radiator by 2,202 times. Non-licensed operation is permitted only if the field
22 strength of transmissions does not exceed 250 $\mu\text{V/m}$ at three meters. Accordingly, a license is
23 required for operation of this station, pursuant to Section 301 of the Act, 47 U.S.C. § 301.

24 40. As of the date of this affidavit, the San Francisco Field Office has not received a
25 response to any of the notices that were issued to FRSC. In addition, the FCC's records show no
26 license issued or authorization granted to FRSC for operation of an FM broadcast station on 96.3
27 MHz at 307 Chestnut Street, Santa Cruz as well as on 101.1 MHz at 807A Laurel Street, Santa
28 Cruz.

1 41. Unlicensed broadcasting threatens the integrity of the regulatory structure established
2 in the Communications Act to prevent chaos in the radio spectrum. The regulatory effectiveness
3 of the FCC to carry out its statutory obligations to license stations and prevent interference would
4 be impaired if the agency could not take meaningful action to stop unlicensed broadcasting. I
5 believe that immediate seizure of all transmitting equipment and associated devices from 807A
6 Laurel Street, Santa Cruz, CA 95060 is warranted. Despite repeated warnings, the unlicensed
7 station operating on frequency 101.1 MHz at this location continues to transmit in violation of 47
8 U.S.C. § 301. The equipment used in this type of operation is usually highly portable. Any delay
9 in entering the premises to execute the seizure could result in removal of the equipment to
10 another location or concealment beyond the scope of the writ.

11 42. I am available to testify in support of the statements and the actions described in this
12 affidavit.

13 EXECUTED ON THE 27th DAY OF September, 2004, IN SAN FRANCISCO,
14 CALIFORNIA.

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16 
17 DAVID DOON
18 Electronics Engineer/Senior Agent
19 San Francisco Field Office
20 Enforcement Bureau
21 Federal Communications Commission
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