



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 07 2007

CERTIFIED MAIL

Mr. David P. Gibbs
Southwind Ford, Inc.
228 West Crawford Street
Colquitt, Georgia 39837

**Re: Consent Agreement and Final Order in the Matter of Southwind Ford
Docket No. CAA-04-2008-1502 (b)**

Dear Mr. Gibbs:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in this matter. The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.05(a) of the Consolidated Rules of Practice, as amended. Please refer to Section IV, Final Order, for the terms and instructions regarding your final payment on the penalty due. Any questions regarding the processing of your penalty may be directed to Ms. Lori L. Weidner, Financial Management Office, at (513) 487-2125.

Also enclosed is a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the Environmental Protection Agency (EPA). If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the Notice.

Should you have any questions, please contact Ms. Shanieka Pennamon at (404) 562-9213.

Sincerely,

A handwritten signature in black ink that reads "Beverly A. Spagg".

Beverly A. Spagg
Chief
Air and EPCRA Enforcement Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

Southwind Ford, Inc.
228 West Crawford Street
Colquitt, Georgia 39837

Respondent

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) Docket Number: CAA-04-2008-1502(b)
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)
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RECEIVED
EPA REGION IV
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HEARINGS
CLERK

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action/Jurisdictional Statements

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Southwind Ford, Inc., (hereinafter, "Respondent").

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

3. The authority to take action under Section 113(d) of CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A. The Regional Administrator, Region 4, has re-delegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent is a corporation doing business in the State of Georgia.

5. Respondent is a "person" as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

6. The respondent is an automotive dealer whose main business is service, repair and retail sale of new and used motor vehicles.

7. Respondent performs “service for consideration” as defined at 40 C.F.R. § 82.32(g) at its facility located at 228 West Crawford Street, Colquitt, Georgia 39837.

8. Respondent performs “service involving refrigerant” as defined at 40 C.F.R. § 82.32(h) at its facility located at 228 West Crawford Street, Colquitt, Georgia 39837.

II. Clean Air Requirements/Factual Allegations

9. Section 609(c) of the CAA, 42 U.S.C. § 7671h(c), and the regulations promulgated at 40 C.F.R. Part 82, Subpart B, establish that no person repairing or servicing motor vehicle air conditioners (MVACs) for consideration may perform any service on a MVAC involving the refrigerant for such air conditioner unless such person has been properly trained and certified.

10. Regulation 40 C.F.R. § 82.34(a) states no person repairing or servicing MVACs for consideration, and no person repairing or servicing MVAC-like appliances, may perform any service involving the refrigerant for such MVAC or MVAC-like appliance unless any such person repairing or servicing an MVAC has been properly trained and certified by a technician certification program approved by the Administrator pursuant to § 82.40.

11. EPA alleges that on more than one occasion from March 8, 2006, through March 9, 2007, Respondent performed service for consideration involving the refrigerant of MVAC systems without the use of properly trained and certified technicians. Respondent violated CAA § 609(c), 42 U.S.C. § 7671h(c), and 40 C.F.R. § 82.34(a) by failing to use properly trained and certified technicians while performing service for consideration involving the refrigerant of a MVAC system.

12. Section 609(d) of the CAA, 42 U.S.C. § 7671h(d), and the regulations promulgated at 40 C.F.R. Part 82, Subpart B, state that persons performing service on MVAC systems for consideration shall certify to the Administrator that such persons have acquired, and are properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified.

13. Regulation 40 C.F.R. § 82.42(a) states that persons performing service on MVAC systems for consideration shall certify to the Administrator no later than January 1, 1993, that such persons have acquired, and are properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified. Certificates of compliance are not transferable, and in the event of a change of ownership, the new owner shall certify within thirty days of the change of ownership pursuant to § 82.42(a)(1).

14. EPA alleges that Respondent failed to certify in a timely manner to EPA that persons performing service were using approved refrigerant recover/recycling equipment. Respondent violated CAA § 609(d), 42 U.S.C. § 7671h(d), and 40 C.F.R. § 82.42(a) by

failing to certify in a timely manner that they had acquired and were properly using approved refrigerant recover/recycling equipment.

15. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$32,500 for each violation of Section 609 of CAA, 42 U.S.C. § 7671h, that occurred after March 15, 2004.

III. Consent Agreement

16. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraphs 1 through 8 above, but Respondent neither admits nor denies the factual allegations set out above.

17. As provided in 40 C.F.R. § 22.18(b)(2), Respondent waives any right to contest the allegations listed above and its right to appeal the proposed final order accompanying this consent agreement.

18. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

19. Respondent certifies that, to the best of its knowledge, information and belief, as of the date of the execution of this CAFO, Respondent is in full compliance with all relevant requirements of the CAA § 609 and its implementing regulations.

20. Compliance with this CAFO shall resolve the allegations of violations contained herein and known to the EPA at this time and EPA hereby releases Respondent from all liability therefor. This CAFO shall not otherwise affect any liability of Respondent, if any, to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO.

21. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

IV. Final Order

22. Respondent is assessed a civil penalty of **ONE THOUSAND SEVEN HUNDRED FIVE DOLLARS (\$1,705)** which is to be paid within thirty (30) days after the Respondent receives a copy of the fully executed CAFO.

23. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check shall reference on its face the name of the Respondent and the Docket Number of the CAFO.

24. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-3104

Shanieka Pennamon
North Air Enforcement Section
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Saundi Wilson (OEA)
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

25. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for the civil penalty payment made pursuant to paragraph 22.

26. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

27. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

28. This CAFO shall be binding upon the Respondent, its successors and assigns.

29. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Shanieka Pennamon
North Air Enforcement Section
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
(404) 562-9213

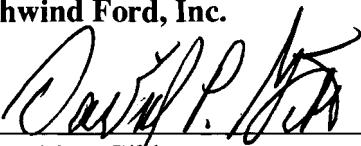
30. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date

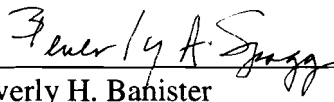
31. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:


Southwind Ford, Inc.

By:  Date: 10/8/07
David P. Gibbs
President, Southwind Ford, Inc.

U.S. Environmental Protection Agency

By:  Date: 10/24/07
Beverly H. Banister
Director
Air, Pesticides & Toxics
Management Division
Region 4

APPROVED AND SO ORDERED this 5th day of November, 2007.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: Southwind Ford, Inc., Docket No. CAA-04-2008-1502(b), was filed and served on the date shown below, to the parties listed, in the manner indicated:

Shanieka Pennamon
U.S. EPA, Region 4
Air, Pesticides, and Toxics
Management Division
61 Forsyth St., SW
Atlanta, GA 30303

(Via EPA's internal mail)

Nancy Tommelleo
U.S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth St., SW
Atlanta, GA 30303

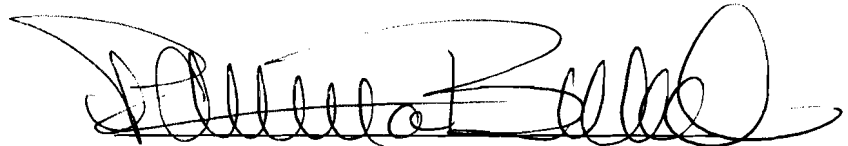
(Via EPA's internal mail)

(Respondent)

(Via Certified Mail, Return Receipt Requested)

Mr. David P. Gibbs
Southwind Ford, Inc.
228 West Crawford Street
Colquitt, GA 39837

Date: 11-7-07



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 10/26/07
(Name) (Date)

in the OEH at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--|--|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: Southwind Ford
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 1705
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2008-1502(b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

- A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:
- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|
- B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:
- | | |
|--|---|
| 1. Originating Office
2. Regional Hearing Clerk | 3. Designated Program Office
4. Regional Counsel (EAD) |
|--|---|