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U.S.EPA - Region 09

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10 UNITED STATES  
11 ENVIRONMENTAL PROTECTION AGENCY  
12 REGION 9

13 **In the Matter of:**

Docket No. CAA-09-2018- 0007

14 **Value Group Enterprises dba SSR  
15 Motorsports**

**CONSENT AGREEMENT AND FINAL  
ORDER PURSUANT TO 40 C.F.R.  
§§ 22.13 AND 22.18**

**Respondent.**

16 **CONSENT AGREEMENT**

17 The United States Environmental Protection Agency ("EPA"), Region 9, and Value  
18 Group Enterprises dba SSR Motorsports ("Respondent") agree to settle this matter and consent  
19 to the entry of this Consent Agreement and Final Order ("CAFO"), which simultaneously  
20 commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

21 **I. AUTHORITY, JURISDICTION AND PARTIES**

22 1. This is a civil administrative penalty action brought against Respondent pursuant to  
23 Section 205(c) of the Clean Air Act ("CAA"), 42 U.S.C. § 7524(c), for violation of Section  
24 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), and the regulations codified at 40 C.F.R. Part 86,  
25 Subpart E.  
26  
27

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1 2. EPA may administratively assess a civil penalty if the penalty sought is less than  
2 \$369,532. Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1); and 40 C.F.R. § 19.4.

3 3. Complainant is the Assistant Director, Enforcement Division, EPA, Region 9, who has  
4 been duly delegated the authority to bring and settle this action under Section 205(c)(1) of the  
5 CAA. 42 U.S. C. § 7524(c)(1).

6 4. Respondent, a California corporation located in Norwalk, California, is an importer and  
7 distributor of powersports vehicles.  
8

9 **II. APPLICABLE STATUTORY AND REGULATORY SECTIONS**

10 5. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a manufacturer from  
11 selling, offering for sale, introducing, or delivering for introduction into commerce, or any  
12 person from importing, any new motor vehicle or new motor vehicle engine manufactured after  
13 the applicable effective date of the regulations, unless such vehicle or engine is covered by a  
14 certificate of conformity (“COC”) issued by EPA.  
15

16 6. Pursuant to 40 C.F.R. § 86.437-78(a)(2)(ii), a COC is issued upon such terms as the  
17 Administrator deems necessary to assure that any new motorcycle covered by the COC will meet  
18 the requirements of the Act and Part 86. Subpart E.  
19

20 7. A term of the COC for engine family HSSRC.125YGA, 2017 Model Year, issued May  
21 18, 2016, states, “This Certificate covers only those vehicles which conform, in all material  
22 respects, to the design specifications that applied to those vehicles described in the  
23 documentation required by 40 CFR Part 86....”  
24

25 8. The term, “person,” as defined under Section 302(e) of the CAA, includes a corporation.  
26 42 U.S.C. § 7602(e).  
27

1 9. The term "new motor vehicle," as defined under Section 216(3) of the CAA, includes any  
2 imported motor vehicle that was manufactured after the effective date of a regulation that first set  
3 standards for such vehicles. 42 U.S.C. § 7550(3).  
4

5 10. The term, "motor vehicle," as defined under Section 216(2) of the CAA, means any self-  
6 propelled vehicle designed for transporting persons or property on a street or highway. 42  
7 U.S.C. § 7550(2).

8 11. Pursuant to Section 202(a) of the CAA, 42 U.S.C. § 7521(a), EPA promulgated the  
9 Emission Regulations for 1978 and Later New Motorcycles, 40 C.F.R. Part 86, Subpart E, which  
10 set emissions standards for new on-road motorcycles and established testing, certification, and  
11 labeling requirements. Effective March 15, 2004, Subpart E regulations apply to 2006 and later  
12 model year new motorcycles, regardless of fuel. *See* 40 C.F.R. Section 86.401-2006; 69 *Fed.*  
13 *Reg.* 2435 (Jan. 15, 2004). The regulations at 40 C.F.R. Section 86.407-78 require that every  
14 new motorcycle that is imported into the United States be covered by an EPA-issued COC. The  
15 only variation to this requirement is if the motorcycle is properly exempted or excluded from the  
16 certification requirements.  
17  
18

19 12. The term, "motorcycle," as defined under 40 C.F.R. § 86.402-98, means any motor  
20 vehicle with a headlight, taillight, and stoplight, having two or three wheels, and having a curb  
21 mass less than or equal to 1,749 pounds.  
22

23 13. The term, "motor vehicle," as defined under 40 C.F.R. § 86.402-98, has the meaning  
24 given in 40 C.F.R. § 85.1703, which provides that a "motor vehicle" is a vehicle which is self-  
25 propelled and capable of transporting a person or persons or any material or any permanently or  
26 temporarily affixed apparatus, unless any one or more of the criteria set forth in 40 C.F.R.  
27  
28

1 § 85.1703 are met, including the vehicle a) cannot exceed 25 MPH over a level, paved surface,  
2 b) lacks certain specified safety features preventing highway operation, or c) exhibits features  
3 rendering the vehicle's use on a highway or street unsafe, impractical or highly unlikely, such as  
4 inordinate size.

5  
6 14. Section 205(c) of the CAA, 42 U.S. C. § 7524(c), and the Civil Monetary Penalty  
7 Inflation Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties  
8 Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorize civil penalties not to  
9 exceed \$46,192 per day for each violation of Section 205(c) of the CAA, 42 U.S.C. § 7524(c),  
10 that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2018.

### 11 **III. ALLEGATIONS**

12  
13 15. At all times relevant to this CAFO, Respondent was a "person," as that term is defined at  
14 Section 302(e), 42 U.S.C. § 7602(e)

15  
16 16. On or about September 2, 2016, Respondent imported 108 highway motorcycles,  
17 manufactured by Chongqing Yingang Science and Technology (Group) Co. Ltd., Model Razkull,  
18 Model Year 2017, 125 cc displacement ("Motorcycles") into the Port of Long Beach, California.

19 17. The Emission Regulations for 1978 and Later New Motorcycles, 40 C.F.R. Part 86,  
20 Subpart E, are applicable to the Motorcycles.

21 18. On or about September 2, 2016, each of the Motorcycles was a "new motor vehicle," as  
22 defined under Section 216(3) of the CAA, as each was manufactured after the effective date of  
23 40 C.F.R. Part 86, Subpart E. 42 U.S.C. § 7550(3).

24  
25 19. On or about September 2, 2016, the catalyst composition and loading in the Motorcycles  
26 were materially different from the application for certification and therefore, the Motorcycles  
27

1 were not covered by a COC issued under 40 C.F.R. Part 86, Subpart E.

2 20. Respondent's importation of the Motorcycles on or about September 2, 2016, constitutes  
3 108 violations of Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), and 40 C.F.R. § 86.407-  
4 78(a)(1).  
5

#### 6 **IV. RESPONDENT'S ADMISSIONS**

7 21. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,  
8 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over  
9 Respondent; (ii) neither admits nor denies the specific factual allegations contained in Section III  
10 of this CAFO; (iii) consents to the terms of this CAFO, including the assessment of the civil  
11 administrative penalty under Section V of this CAFO; (iv) waives any right to contest the  
12 allegations contained in Section III of this CAFO; and (v) waives the right to appeal the proposed  
13 Final Order contained in this CAFO.  
14

#### 15 **V. CIVIL ADMINISTRATIVE PENALTY**

16 22. Respondent agrees to the assessment of a penalty in the amount of FIFTY THOUSAND  
17 DOLLARS (\$50,000) as final settlement of the civil claims against Respondent arising under the  
18 CAA as alleged in Section III of this CAFO.  
19

20 23. Respondent shall pay the assessed penalty no later than thirty (30) days after the effective  
21 date of the CAFO. The assessed penalty shall be paid by certified or cashier's check, payable to  
22 "Treasurer, United States of America," or paid by one of the other methods listed below and sent  
23 as follows:  
24

25 Regular Mail:  
26 U.S. Environmental Protection Agency  
27 Fines and Penalties  
28 Cincinnati Finance Center

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1 PO Box 979077  
2 St. Louis, MO 63197-9000

3 Wire Transfers:

4 Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the  
5 following information:

6 Federal Reserve Bank of New York

7 ABA = 021030004

8 Account = 68010727

9 SWIFT address = FRNYUS33

10 33 Liberty Street

11 New York, NY 10045

12 Field Tag 4200 of the Fedwire message should read "D 68010727

13 Environmental Protection Agency"

14 Overnight Mail:

15 U.S. Bank

16 1005 Convention Plaza

17 Mail Station SL-MO-C2GL

18 ATTN Box 979077

19 St. Louis, MO 63101

20 ACH (also known as REX or remittance express):

21 US Treasury REX/Cashlink ACH Receiver ABA = 051036706

22 Account Number: 310006, Environmental Protection Agency

23 CTX Format Transaction Code 22 - checking

24 Physical location of US Treasury Facility

25 5700 Rivertech Court

26 Riverdale, MD 20737

27 Remittance Express (REX) 1-866-234-5681

28 On Line Payment:

This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter "sl01.1" in the search field

Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA  
Cincinnati Finance Center at 513-487-2091.

Concurrently, a copy of the check or notification that the payment has been made by one of the

other methods listed above, including proof of the date payment was made, shall be sent with

1 a transmittal letter indicating Respondent's name, the case title, and the docket number to the  
2 following addressees:

3 Regional Hearing Clerk  
4 Office of Regional Counsel (ORC-1)  
5 U.S. Environmental Protection Agency, Region 9  
6 75 Hawthorne Street  
7 San Francisco, California 94105

8 Nathan Dancher  
9 Air & TRI Section (ENF-2-1)  
10 Enforcement Division  
11 U.S. Environmental Protection Agency, Region 9  
12 75 Hawthorne Street  
13 San Francisco, CA 94105

14 24. Payment of the above civil administrative penalty shall not be used by Respondent or any  
15 other person as a tax deduction from Respondent's federal, state, or local taxes.

16 25. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph  
17 20 by the deadline specified in Paragraph 21, then Respondent shall pay to EPA a stipulated  
18 penalty of \$100 per day in addition to the assessed penalty. Stipulated penalties shall accrue  
19 until such time as the assessed penalty and all accrued stipulated penalties are paid and shall  
20 become due and payable upon written request by EPA. In addition, failure to pay the civil  
21 administrative penalty by the deadline specified in Paragraph 21 may lead to any or all of the  
22 following actions:

23 a. The debt being referred to a credit reporting agency, a collection agency, or to the  
24 Department of Justice for filing of a collection action in the appropriate United States District  
25 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount,  
26 and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.

27 b. The debt being collected by administrative offset (i.e., the withholding of money payable  
28

1 by the United States to, or held by the United States for, a person to satisfy the debt the person  
2 owes the Government), which includes, but is not limited to, referral to the Internal Revenue  
3 Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

4  
5 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend  
6 or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors  
7 or funds. 40 C.F.R. § 13.17.

8  
9 d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest,  
10 penalties charges, and administrative costs will be assessed against the outstanding amount that  
11 Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty by the  
12 deadline specified in Paragraph 21. Interest will be assessed at an annual rate that is equal to the  
13 rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan  
14 account rate) as prescribed and published by the Secretary of the Treasury in the Federal  
15 Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1).  
16 Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).  
17 Administrative costs for handling and collecting Respondent's overdue debt will be based on  
18 either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R.  
19 § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the  
20 Department of Justice, the Internal Revenue Service), that department or agency may  
21 assess its own administrative costs, in addition to EPA's administrative costs, for handling and  
22 collecting Respondent's overdue debt.  
23  
24

## 25 VI. RETENTION OF RIGHTS

26 26. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability  
27  
28

1 for federal civil penalties for the violations and facts specifically alleged in Section III of this  
2 CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability  
3 for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
4 ordinance, or permit not specifically alleged in Section III of this CAFO; or (ii) any criminal  
5 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
6 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to  
7 address any violation of this CAFO or any violation not specifically alleged in Section III of this  
8 CAFO.  
9

10  
11 27. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to  
12 comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and  
13 permits.

14 **VII. ATTORNEYS' FEES AND COSTS**

15 28. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this  
16 proceeding  
17

18 **VIII. EFFECTIVE DATE**

19 29. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective  
20 on the date that the final order contained in this CAFO, having been approved and issued by  
21 either the Regional Judicial Officer or Regional Administrator, is filed.  
22

23 **X. BINDING EFFECT**

24 30. The undersigned representative of Complainant and the undersigned representative of  
25 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions  
26 of this CAFO and to bind the party he or she represents to this CAFO.  
27

1 The provisions of this CAFC shall apply to and be binding on Respondent and its  
2 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,  
3 and assigns

4 FOR RESPONDENT, VALUE GROUP ENTERPRISES DBA SSR MOTORSPORTS

5  
6 9/10/2018

DATE

7 Jeff Zhang   
Name  
8 Title Secretary  
Value Group Enterprises dba SSR Motorsports

9 FOR COMPLAINANT:

10 9/25/18

DATE

  
11 Joel Jones, Assistant Director  
Enforcement Division EPA Region 9

1 FINAL ORDER

2 Complainant and Respondent, having entered into the foregoing Consent Agreement,

3 IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2018-<sup>0007</sup>) be entered,

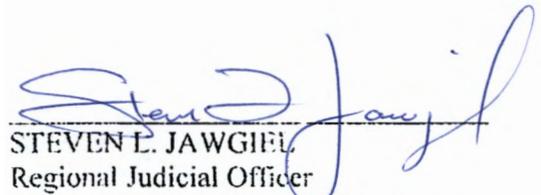
4 and that Respondent shall pay a civil administrative penalty in the amount of FIFTY

5 THOUSAND DOLLARS (\$50,000) and comply with the terms and conditions set forth in the

6 Consent Agreement. This Consent Agreement and Final Order shall become effective upon

7 filing.

8  
9  
10 09/27/18  
11 DATE

12   
13 STEVEN L. JAWGIEL  
14 Regional Judicial Officer  
15 U.S. Environmental Protection Agency,  
16 Region 9

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order (In the Matter of: Value Group Enterprises dba SSR Motorsports, CAA-09-2018-0007) has been filed with the Regional Hearing Clerk for U.S. EPA, Region 9, and that a true and correct copy was sent by Certified Mail, Return Receipt Requested to:

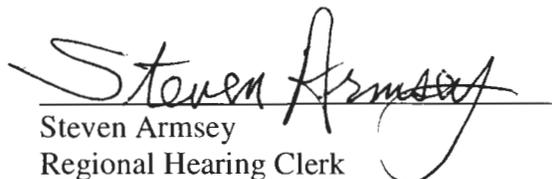
Britt Fleming, Partner  
VanNess Feldman LLP  
1050 Thomas Jefferson Street, NW  
Washington, D.C. 20007

Certified Mail: 7015 0640 0001 1121 9738

and Hand-Delivered to:

Brian P. Riedel  
Office of Regional Counsel  
U.S. EPA, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Date: 2018-09-27

  
Steven Armsey  
Regional Hearing Clerk  
U.S. Environmental Protection Agency,  
Region 9