

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)
))
Taotao USA, Inc.)
Taotao Group Co., Ltd., and)
Jinyun County Xiangyuan Industry)
Co., Ltd.)
))
Dkt. No. CAA-HQ-2015-8065)
_____))

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NOTICE OF APPEAL

Taotao USA, Inc. (“Taotao USA”), seeks review of a decision of Administrative Law Judge Susan L. Biro, issued August 7, 2018, assessing a joint and several civil penalty of \$1,601,149.95¹ for violations of sections 203 and 213 of the Clean Air Act, 42 U.S.C. §§ 7522, 7547, and implementing regulations codified at 40 C.F.R. Part 86, Subpart E and 40 C.F.R. §§ 1051, 1068. An appeal brief is attached.

Respectfully Submitted,

/s/William Chu

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Date: September 6, 2018

Attorney for Appellants

¹ Of the total joint and several penalty amount of \$1,601,149.95 assessed against Taotao USA, Taotao Group is jointly and severally liable for \$247,982.55 and JCXI is jointly and severally liable for \$1,353,167.40.

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NOTICE OF APPEAL

Taotao Group Co., Ltd. (“Taotao Group”) and Jinyun County Xiangyun Industry Co., Ltd. (“JCXI”) (collectively “Appellants”) seek review of a decision of Administrative Law Judge Susan L. Biro, issued on August 7, 2018, assessing a joint and several civil penalty of \$247,982.55 against Taotao Group and \$1,353,167.40 against JCXI for violations of sections 203 and 213 of the Clean Air Act, 42 U.S.C. §§ 7522, 7547, and implementing regulations codified at 40 C.F.R. Part 86, Subpart E and 40 C.F.R. §§ 1051, 1068. A Motion for Extension of the Appeal Brief has been requested.

Respectfully Submitted,

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Attorney for Appellants

ISSUES FOR APPEAL

1. Did the ALJ's err in concluding that Complainant had adequately served Taotao Group and JCXI in accordance with the service requirements of Hague Convention?
2. Did the ALJ erroneously conclude that all 109,964 on-road and nonroad vehicles were not covered by their respective EPA-issued COCs because they did not conform, in all material respects, to the design specifications in their COC applications, regardless of whether they were identical to their respective engine family's emission data vehicles, which passed end of useful life emission tests?
2. Did the ALJ erroneously conclude that Taotao Group and JCXI were liable as manufacturers of the vehicles, and jointly and severally liable for the assessed penalty because they harmed the regulatory scheme by submitting false data about *their* catalytic converters in *their* COC applications, even though Taotao Group and JCXI neither manufactured the non-conforming catalytic converters, nor submitted any data about the third-party catalytic converters, and the COC applications were not *theirs*?
3. In spite of the DOJ's express condition on the jurisdictional waiver stating that the waiver does not extend to violations do not go beyond mere harm to the regulatory scheme and those that cause excess emissions, did the ALJ erroneously conclude that because harm to the regulatory scheme ultimately leads to potential harm to the environment, the administrative court had jurisdiction over this complaint even though Complainant clearly sought a penalty for harm from actual or potential emissions?
4. Although liability was determined solely based on (a) a finding that the catalytic converters in the imported vehicles did not match the catalytic converters described in their respective COC applications, and (b) a finding that all 109,964 subject vehicles were uncertified because they

contained the same catalytic converters as the emission data vehicles tested for each respective engine families and were therefore all the same, did the ALJ then erroneously conclude at the penalty stage that the imported vehicles had a potential for excess emission because all useful life emission tests were conducted on emission data vehicles that were *not the same* as the imported vehicles?

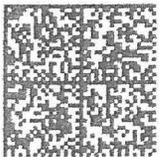
5. Did the ALJ erroneously make a penalty determination based on the Complainant's upward biased penalty calculation without regard to the statutory factors and the DOJ's conditional waiver, and without considering each Appellant's distinct benefit, culpability and history of noncompliance?

CERTIFICATE OF SERVICE

I certify that a copy of foregoing Notice of Appeal was sent to all parties or to all counsel of record on September 6, 2018 in accordance with the Texas Rules of Civil Procedure.

/s/**William Chu**

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