

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)	
)	
Taotao USA, Inc.,)	Docket No. CAA-HQ-2015-8065
Taotao Group Co., Ltd., and)	
Jinyun County Xiangyuan Industry Co., Ltd.)	
)	
Respondents.)	

**BUSINESS CONFIDENTIALITY AND PERSONALLY IDENTIFIABLE
INFORMATION ASSERTED**

The Exhibits submitted with Complainant’s Sixth Motion to Supplement the Prehearing Exchange contains material claimed to be confidential business information (“CBI”) pursuant to 40 C.F.R. § 2.203(b). The material claimed as CBI are Complainant’s Exhibits CX197 through CX204, which consist of tax returns, financial statements, a bank statement, and corporate documents provided to the EPA by respondent Taotao USA, Inc. These Exhibits are therefore filed under seal pursuant to 40 C.F.R. § 22.5(d).

In addition, Exhibit CX195 consists of a potential witness’s resume and contains personally identifiable information (“PII”), some of which may be sensitive PII. Exhibit CX209 contains publicly-available property records pertaining personal residences which, when compiled here, may constitute sensitive PII. To safeguard privacy in keeping with the Privacy Act of 1974 (codified at 5 U.S.C. § 552a), these exhibits are also filed under seal.

A complete filing in which the exhibit containing CBI is included has been filed with the Hearing Clerk. If you have any questions, please contact Robert Klepp, at klepp.robert@epa.gov, or at (202) 564-5805.

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**COMPLAINANT’S SIXTH MOTION TO SUPPLEMENT THE PREHEARING
EXCHANGE**

The Director of the Air Enforcement Division of the U.S. Environmental Protection Agency’s Office of Civil Enforcement (“Complainant”) files this Sixth Motion to Supplement the Prehearing Exchange pursuant to section 22.19(f) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), the Hearing Notice and Order issued by this Tribunal on May 9, 2017, and the Order on Respondents’ Motion for Continuance of the Hearing issued by this Tribunal on June 27, 2017. Respondents intend to oppose this Motion.

The Consolidated Rules direct parties to supplement their prehearing exchanges whenever they learn that the exchange was incomplete, inaccurate, or outdated. 40 C.F.R. § 22.19(f). During the course of depositions conducted pursuant to the August 17, 2017 Order Granting Complainant’s Motion to Take Depositions, Complainant discovered new information relevant to Complainant’s consideration of the impact of a penalty on Respondents’ ability to continue in business. *See* 42 U.S.C. § 7524(c)(2) (enumerating penalty factors). More particularly, Complainant’s counsel deposed Matao Cao, the owner of Taotao USA, Inc., on

September 6, 2017, and deposed David Garibyan, an employee of Taotao USA, Inc. and/or Tao Motor, Inc., on September 8, 2017.¹ The information provided by Mr. Cao and Mr. Garibyan suggests that Taotao USA, Inc. is financially related to other entities through non-arm's length transactions and common ownership or control, such that those other entities' financial information is required to develop a full, accurate understanding of the proposed penalty's impact on Taotao USA, Inc.'s ability to continue in business. This information illuminated the relevance of documents in Complainant's possession, and led to the discovery of additional publicly-available documents relevant to Respondents' claim of inability to pay.

Complainant is supplementing the Prehearing Exchange to identify a new expert witness who may testify about the financial condition of Taotao USA, Inc. and other related persons or entities, provide the witness's resume, and to produce documents concerning the finances, assets, ownership, and affiliations of Taotao USA, Inc. and other related persons or entities.

A. Requested to Add Potential Witness

The Prehearing Order issued by this Tribunal on May 11, 2016, directed the Parties, among other things, to provide to the Tribunal and each other:

A list of names of the expert and other witnesses intended to be called at hearing, identifying each as a fact witness or an expert witness, a brief narrative summary of their expected testimony, and a curriculum vitae or resume for each identified expert or a statement that no witnesses will be called.

Prehearing Order, at 2. Complainant requests permission to add the following witness to the Prehearing Exchange:

- Gail Coad, Industrial Economics, Inc. ("IEC"). Ms. Coad holds a B.A. in Economics from Connecticut College, and an M.B.A. from the Graduate School of Business at Stanford University. Ms. Coad has held managerial positions in the U.S. Office of Management

¹ Transcripts for the September 6, 2017, and September 8, 2017, depositions have not yet been prepared.

and Budget's Office of Information and Regulatory Affairs, and the U.S. EPA's Office of Water Regulation and Standards. Ms. Coad is a member of the National Association of Business Economists and an Associate of the Certified Fraud Examiners Association, and has extensive experience analyzing the financial condition of businesses, individuals, and not-for-profit organizations. Ms. Coad may be called to testify about research conducted into properties or companies possibly affiliated with Taotao USA, Inc., or its owner, Matao Cao. Ms. Coad may be qualified to testify as an expert on the financial condition of Taotao USA, Inc., and other related persons or entities, and about the impact of a penalty on Taotao USA, Inc.'s ability to continue in business. Ms. Coad may also be qualified to testify as an expert on the economic benefit or savings resulting from the violations identified in the Amended Complaint. Ms. Coad's resume is included in Complainant's exhibits and is marked as CX195.

Complainant has informed Respondents that it intends to retain Ms. Coad, and that Complainant will make Ms. Coad available for a deposition prior to the hearing in this matter.

B. Request to Add Exhibits

Complainant requests leave to add seventeen exhibits, numbered CX195 through CX211, to its Prehearing Exchange, together with an updated exhibit index numbered CX000-6. With the exception of Ms. Coad's resume, and a letter from Complainant to Respondents' counsel, all of the exhibits were either provided to Complainant by Respondents, are publicly-available documents signed by Respondent Taotao USA, Inc. or its owner, Matao Cao, or are publicly-available documents providing factual information already known to Taotao USA, Inc. or Matao Cao. The documents are relevant to Respondents' claim that a penalty in this matter will impose an undue financial burden on their ability to continue in business. The addition of these documents to the Prehearing Exchange should not cause Respondents undue surprise or prejudice.

Exhibit CX195 is the resume of potential witness Gail Coad.

Exhibit CX196 is a letter dated September 12, 2017, from Complainant to Respondents' counsel, requesting updated financial information about Taotao USA, Inc., and other potentially related entities. The requested information is relevant because the last set of data Complainant

has about Respondents' financial condition is from December 31, 2015, Complainant now understands that Respondent Taotao USA, Inc. has moved to a new location owned by related entities, and as a result of the move there may be material changes in Taotao USA's cost structure affecting its ability to pay a penalty. Respondents' counsel has verbally indicated that Respondents intend to oppose Complainant's request.

Exhibits CX197, CX198, and CX199 are the 2012, 2013, and 2014 federal tax returns for Daction Trading, Inc. Exhibits CX200, 201, and 202 are financial statements from 2012, 2013, and 2014 for Daction Trading, Inc. Exhibit CX203 is a bank statement for Daction Trading, Inc., dated January 31, 2015, showing Daction Trading, Inc. doing business as BudgetATVs, with a mailing address of 1135 W. Trinity Mills Road #100, Carrollton, Texas, 75006. Exhibit 204 consists of a "Unanimous Written Consent in Lieu of First Meeting of the Board of Directors of Daction Trading, Inc." Respondent Taotao USA, Inc., previously provided these documents to Complainant, and should not be unduly surprised or prejudiced by them. Mr. Cao testified during his deposition about the relationship between Daction Trading, Inc., and Taotao USA, Inc.

Exhibit CX205 consists of the certificate of formation for 2201 Luna Road, LLC, dated September 14, 2015, naming Matao Cao as the initial registered agent and manager.

Exhibit CX206 consists of publicly-available documents pertaining to the purchase and financing of property at 2201 Luna Road, Carrollton, Texas 75006 by 2201 Luna Road LLC, with Matao Cao signing for 2201 Luna Road LLC as the "Member/Manager" or "sole Manager," and promotional material picturing the property at 2201 Luna Road. More particularly, the documents show that on or about December 11, 2015, 2201 Luna Road LLC purchased the property at 2201 Luna Road, Carroll, Texas, in part using money obtained through a Promissory Note in the original principal amount of \$6,470,500 ("Note 1"), and a second Promissory Note in

the original principal amount of \$4,891,000 (“Note 2”). The Special Warranty Deed identifies 2201 Luna Road LLC’s address as 1135 W. Trinity Mills Road, Suite 100, Carrollton, Texas, 75006.

The documentation for Note 1 shows that the SBA Loan Name was “Taotao USA, Inc.,” the Borrower was “2201 Luna Road, LLC,” and the Operating Company was “Taotao USA, Inc. and Daction Trading, Inc.” An Assignment and Subordination of Leases recorded on December 18, 2015, at 12:21:10 pm, identifies “2201 Luna Road, LLC” as an “Eligible Passive Company” and “Taotao USA, Inc. and Daction Trading, Inc., whose address is 1135 W. Trinity Mills Road, Ste. 100, Carrollton, TX” as the “Operating Company.” The Assignment and Subordination of Leases is signed on behalf of 2201 Luna Road LLC by Matao Cao as the “sole Manager,” on behalf of Taotao USA, Inc. by Matao Cao as “President,” and on behalf of Daction Trading, Inc. by Qiong Li as “President.”

Note 2 was obtained by 2201 Luna Road LLC from lender East West Bank. Note 1 represents a Small Business Administration (“SBA”) 504 Loan issued by East West Bank and the North Texas Certified Development Corporation. The documentation also shows that a Release of Lien/Certificate of Satisfaction was executed on March 9, 2016, representing that the loan associated with Note 2 was fully paid and satisfied.

Respondents, through Matao Cao, should be familiar with the documents contained in CX206, which are publicly available, and the information they contain should not cause undue surprise or prejudice.

Exhibit CX207 consists of the certificate of formation for Tao Motor Inc., dated January 6, 2016, naming Matao Cao as the registered agent, sole director, and organizer of the company, and identifying the business address of the company as 2201 Luna Road, Carrollton, Texas, and

an amendment dated July 29, 2016, changing the name of the registered agent and director to Jianxing Su. These documents should be known to Respondent Taotao USA, Inc.'s owner, Matao Cao, and should not cause Respondents undue surprise or prejudice.

Exhibit CX208 consists of records from the Dallas Central Appraisal District showing the appraised value of real and personal property of Taotao USA, Inc., Tao Motor, Inc., and 2201 Luna Road LLC. The information in CX208 should not cause Taotao USA, Inc., or its owner, Matao Cao, undue surprise or prejudice

Exhibit CX209 consists of publicly-available property records and information for residential properties co-owned by Matao Cao and Yaoyao Lu. The records show that the owner and president of Respondent Taotao USA, Inc., and his spouse, Yaoyao Lu, own a residence at 1641 McGee Lane, Carrollton, Texas, valued at \$599,235. The records also show that in July 2016, during the pendency of this case, Mr. Cao and Ms. Lu purchased a residence at 5115 Del Roy Drive, Dallas, Texas, for \$1.8 million, financing the purchase with a promissory note in the principal sum of \$1,170,000. This information is known to Mr. Cao, and should not cause Respondents undue surprise or prejudice.

Exhibit CX210 consists of a record from the Internet Corporation for Assigned Names and Numbers' ("ICANN") WHOIS public directory of contact and technical information of registered domain name registrants, identifying Yaoyao Lu as the registrant contact for the internet domain name "BudgetATVs.com," with a mailing address of 2201 Luna Rd, Carrollton, Texas 75006, and an e-mail address of janelee217@gmail.com.

Exhibit CX211 consists of a record from the ICANN's WHOIS public directory of contact and technical information of registered domain name registrants, identifying Matao Cao as the registrant contact for the internet domain name "EagleATVParts.com," with an

organizational affiliation of Taotao USA, with a mailing address of 2425 Camp Avenue, Suite 100, Carrollton, Texas 75006, and an e-mail address of janelee217@gmail.com.

Conclusion

Complainant is supplementing the Prehearing Exchange because deposition testimony provided by Mr. Cao and Mr. Garibyan, and documents discovered through new research prompted by that testimony, has shown the Prehearing Exchange to be incomplete and outdated. Granting this request to supplement the Prehearing Exchange will not cause Respondents undue surprise or prejudice because the substantive information contained in the Exhibits should already be known to Respondent Taotao USA, Inc., or its owner, Mr. Cao, and because Respondents will have an opportunity to depose Ms. Coad before the hearing in this matter. Pursuant to § 22.19(f) of the Consolidated Rules, Complainant requests the Tribunal grant this Sixth Motion to Supplement the Prehearing Exchange.

9/15/17

Date

Respectfully Submitted,


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9/15/2017

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9/15/2017

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CERTIFICATE OF SERVICE

I certify that the foregoing Complainant's Sixth Motion to Supplement the Prehearing Exchange in the Matter of Taotao USA, Inc., et al., Docket No. CAA-HQ-2015-8065, with CBI omitted, was filed this day electronically using the EPA Office of Administrative Law Judges' E-Filing System. In addition, three copies of Exhibits CX195, CX197 through CX204, and CX209, were filed this day by hand delivery to the Headquarters Hearing Clerk in the EPA's Office of the Headquarters Hearing Clerk at the address listed below:

U.S. Environmental Protection Agency
Office of the Headquarters Hearing Clerk
1300 Pennsylvania Ave., NW, MC-1900R
Ronald Reagan Building, Room M1200
Washington, DC 20004

I certify that an electronic copy of Complainant's Sixth Motion to Supplement the Prehearing Exchange, with CBI protected by password, was sent this day for service by electronic mail to Respondents' counsel: William Chu at wmchulaw@aol.com; Salina Tariq at stariq.wmchulaw@gmail.com; and David Paulson at dpaulson@gmail.com.

9/15/17

Date



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