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United States
Environmental Protection Agency
Washington, DC 20460

Official Business
Penalty for Private Use \$300.00

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Geoffrey Kemper
Registered Agent
Freedom Performance LLC
3910 Goodrich Ave., Unit 1
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FCF-14BE-28



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

Rec'd 5/19/20 [Signature] A.W.L. Returned Under

In the Matter of:)
Freedom Performance, LLC,) Docket No. CAA-HQ-2019-8362
Respondent.)

INITIAL DECISION AND PENALTY ORDER

I. PROCEDURAL HISTORY

This proceeding was commenced on March 18, 2019 with the filing of a Complaint by the Complainant, the Director of the Air Enforcement Division, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency (EPA), against Respondent, Freedom Performance, LLC. The Complaint charged Respondent in three counts with 13,928 violations of Section 203(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(3)(B). The violations arise from Respondent's sale of, or offer to sell, between May 1, 2015 and November 1, 2016, parts or components intended to bypass, defeat, or render inoperative devices or design elements installed on or in a motor vehicle in compliance with CAA regulations. As sanction for the violations, the Complaint seeks imposition of an administrative penalty assessed pursuant to CAA Section 205(a), 42 U.S.C. § 7524(a).

On August 15, 2019, Complainant filed a Motion for Default Judgment and Order [on penalty] ("Default Motion"). No response to the Default Motion was received. On December 16, 2019, I issued an Order on Complainant's Motion for Default Judgment and Order ("Default Order") which granted, in part, the Default Motion finding that Respondent was in default and liable for the 13,928 violations of CAA Section 203(a)(3)(B) as alleged in the Complaint. However, I denied Complainant's request for entry of a penalty and directed Complainant to file "further explanation or documentation in support of the proposed penalty, including as to the horsepower of the vehicles in which Respondent's violative devices were designed to be installed." Default Order ("Order") at 41. Complainant's Response to the Default Order was timely filed on January 16, 2020 ("Response"). To date, Respondent has not filed a reply to Complainant's Response.

1 Complainant identified the Complaint as including material claimed to be confidential business information (CBI) pursuant to 40 C.F.R. § 2.203. Therefore, it filed a redacted copy of the Complaint for inclusion in the public record and an unredacted copy, identified as CBI-protected, with the Tribunal.

2 Complainant identified the Default Motion and the 14 attachments thereto as including CBI (Preface to Default Motion at 1) and so filed a redacted copy of the Default Motion for inclusion in the public record and an unredacted copy, identified as CBI-protected, with the Tribunal.