



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

4APT-AEEB

**FEB 29 2008**

**FEDERAL EXPRESS**

Mr. Tom Harper  
Harper Porsche Audi Jaguar  
9735 Kingston Pike at Franklin Square  
Knoxville, TN 37922

Re: Consent Agreement and Final Order In the Matter of Harper Porsche Audi  
Jaguar, Docket No. CAA-04-2008-1519(b)

Dear Mr. Harper:

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.

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. 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 Mr. Matthew Martin at (404) 562-9771 or Ms. Laurie Savoy at (404) 562-9201.

Sincerely,

A handwritten signature in cursive script that reads "Carol G. Kember for".

Beverly H. Banister  
Director  
Air, Pesticides and Toxics  
Management Division

Enclosure

Internet Address (URL) • <http://www.epa.gov>

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:

Harper Porsche Audi Jaguar )  
9735 Kingston Pike )  
Knoxville, TN 37922-3300 )  
)  
)  
Respondent )  
\_\_\_\_\_ )

Docket Number: CAA-04-2008-1519

RECEIVED  
EPA REGION 4  
2008 FEB 29 AM 9:32  
NANCY S. CLERMONT

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 Harper Porsche Audi Jaguar (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 redelegated 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 Tennessee since 1981.

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

6. Respondent performs "service involving refrigerant," as defined at 40 C.F.R. § 82.32(h), at its service facility located at 9735 Kingston Pike, Knoxville, TN 37922.

7. 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.

8. Regulation 40 C.F.R. § 82.34(a) states that 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 40 C.F.R. § 82.

9. 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.

## II. Factual Allegations

10. EPA alleges that, on more than one occasion from March 26, 2007, through August 28, 2008, at its Knoxville, Tennessee, facility, 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.

## III. Consent Agreement

11. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in Paragraphs 1 through 9 above, but Respondent neither admits nor denies the factual allegations set out in paragraph 10 above.

12. 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.

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

14. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance at all of its automotive repair facilities that perform MVAC work with all relevant MVAC requirements of the CAA at Section 609.

15. Compliance with this CAFO shall resolve the alleged violations contained herein, and EPA hereby releases Respondent from all liability for the violations of Section 609 alleged herein. 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.

16. 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

17. Respondent is assessed a civil penalty of **\$4,107.06 DOLLARS (\$4,107.06)** which shall be paid within thirty (30) days after the date Harper Porsche Audi Jaguar receives a copy of the fully executed CAFO.

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

**US checks in US dollars sent by regular US postal service mail:**

U.S. Environmental Protection Agency  
P.O. Box 371099M  
Pittsburgh, PA 15251

**For Fedex and other non-US Postal Service express mail:**

Mellon Client Service Center  
ATTN: Shift Supervisor, Room 0690  
Lockbox 371099M Account 9109125  
500 Ross Street  
Pittsburgh, PA 15262-0001

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

19. 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, S.W.  
Atlanta, Georgia 30303

Mr. Matthew Martin  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

20. 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 17.

21. 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 may be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

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

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

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

Mr. Matthew Martin  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303  
(404) 562-9771

25. 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

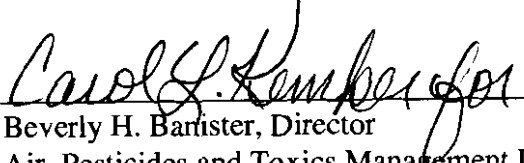
26. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

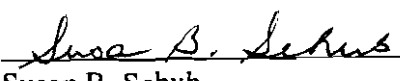
**Harper Porsche Audi Jaguar**

By:  Date: 2/1/08  
Mr. Tom Harper  
Owner

**U.S. Environmental Protection Agency**

By:  Date: 1/30/08  
Beverly H. Bartister, Director  
Air, Pesticides and Toxics Management Division,  
Region 4

**APPROVED AND SO ORDERED** this 28<sup>th</sup> day of February, 2008.

  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Harper's Porsche Audi Jaguar, Docket No. CAA-04-2008-1519(b), on the parties listed below in the manner indicated:

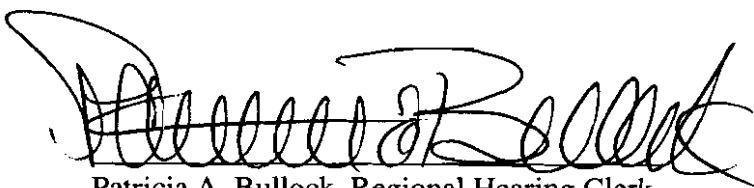
Mr. Tom Harper (Via Federal Express)  
Harper's Porsche Audi Jaguar  
9735 Kingston Pike at Franklin Square  
Knoxville, TN 37922

Elizabeth O'Sullivan (Via EPA's internal mail)  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, GA 30303

Laurie Savoy (Via EPA's internal mail)  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303

Date:

2-29-08



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