



**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.)

ORDER ON RESPONDENTS’ MOTION IN LIMINE

On June 23, 2017, Respondents filed a Motion in Limine (“Motion”) seeking to exclude the testimony and evidence of various witnesses they or the Agency may call to testify at hearing. The potential witnesses include Ronald M. Heck, John Warren, Amelie Isin, and James J. Carroll. Mot. at 1. The Agency filed a response in opposition to the Motion on July 10, 2017 (“Response”).

Between the time Respondents filed their Motion and the time the Agency responded, this Tribunal postponed the hearing date from July 18, 2017, to October 17, 2017. *See* Order on Respondents’ Motion for Continuance of the Hearing (June 27, 2017). This had the effect of postponing the due date for motions in limine to September 22, 2017. Also during the time between Respondents’ Motion and the Agency’s Response, this Tribunal authorized Respondents to depose Ms. Isin and Mr. Carroll. *See* Order on Respondents’ Motion to Take Depositions (July 7, 2017). Further, the Agency indicated it would no longer call Mr. Heck and Mr. Warren as witnesses. *See* Complainant’s Response to Respondents’ Motion to Take Depositions (July 3, 2017).

Consequently, Respondents’ Motion to exclude the evidence and testimony as to Mr. Heck and Mr. Warren is **DENIED as moot**.

As for Ms. Isin and Mr. Carroll, Respondents’ Motion to exclude their testimony is **DENIED without prejudice**. Respondents may refile their Motion after deposing these two witnesses *if there is a basis for doing so*. However, Respondents are reminded that the bar for admitting expert testimony in this administrative proceeding is lower than what they suggest in their Motion and lower than what prevails in a federal court. “[I]t is a well-settled rule that ‘[a]gencies are not bound by the strict rules of evidence governing jury trials.’” *Solutia, Inc.*, 10 E.A.D. 193, 211 n.22 (EAB, 2001) (quoting *Bennett v. NTSB*, 66 F.3d 1130, 1137 (10th Cir. 1995)). “Thus, Rule 702 [of the Federal Rules of Evidence] and the *Daubert* factors are not controlling principles.” *Id.*

SO ORDERED.



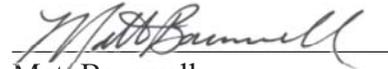
Susan L. Biro
Chief Administrative Law Judge

Dated: July 18, 2017
Washington, D.C.

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

CERTIFICATE OF SERVICE

I certify that the foregoing **Order on Respondents' Motion in Limine**, dated July 18, 2017, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.


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Dated: July 18, 2017
Washington, D.C.