

**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.)	

COMPLAINANT’S MOTION TO TAKE DEPOSITIONS

The Director of the Air Enforcement Division of the U.S. Environmental Protection Agency’s Office of Civil Enforcement (“Complainant”) files this Motion to Take Depositions pursuant to 40 C.F.R. § 22.19(e) and hereby requests leave to depose witnesses on topics pertaining to the penalty phase in this matter. Complainant has conferred with Respondents’ counsel who is not opposed to this Motion.

I. Legal Standard

The Consolidated Rules that govern this proceeding provide that a party may move for additional discovery following the prehearing exchange. 40 C.F.R. § 22.19(e)(1). The Motion shall specify the method of discovery sought, provide the proposed discovery instruments, and describe in detail the nature of the information and/or documents sought (and where relevant, the proposed time and place where discovery would be conducted). *Id.* The Presiding Officer may order additional discovery only if it:

- (i) Will neither unreasonably delay the proceeding nor unreasonably burden the non-moving party;

- (ii.) Seeks information that is most reasonably obtained from the non-moving party, and which the non-moving party has refused to provide voluntarily; and
- (iii.) Seeks information that has significant probative value on a disputed issue of material fact relevant to liability or the relief sought.

40 C.F.R. § 22.19(e)(1). A party seeking to take depositions on oral questions must additionally show that:

- (i.) The information sought cannot reasonably be obtained by alternative methods of discovery; or
- (ii.) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

40 C.F.R. § 22.19(e)(3). The Presiding Officer has broad powers to conduct the proceeding within the discretion provided by the Consolidated Rules of Practice. In determining how to conduct the proceeding under the Rules of Practice, the Presiding Officer may “take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues....” 40 C.F.R. § 22.4(c), (c)(10). See, e.g., *In re Titan Wheel Corp.*, 10 E.A.D. 526, 536 (EAB 2002) (explaining that the Rules of Practice vest the Presiding Officer with broad authority to conduct proceedings and make any necessary decisions at all stages of a proceeding). As the Presiding Officer in the present matter recently noted, despite the Rules' general bias toward more streamlined adjudication that involves less discovery, the Rules afford the Presiding Officer with broad discretion to determine how to conduct the proceedings. Order on Respondents' Motion to Take Depositions (July 7, 2017), at 1 (citing *In the Matter of Nicor Gas*, 2016 EPA ALJ LEXIS 107, at *3 (ALJ, Nov. 22, 2016); *In the Matter of Chem-Solv, Inc.*, 2012 EPA ALJ LEXIS 4, at *3-4 (ALJ, Feb. 29, 2012)).

II. Proposed Depositions

Complainant seeks leave to depose nine witnesses Respondents identified in their Joint Prehearing Exchange (October 28, 2016) and First Motion to Supplement the Prehearing Exchange (June 16, 2017). These individuals are: Mr. Matao Cao; Mr. David Garibyan; Mr. Jackie Wang; Mr. James Xu; Mr. Larry Swiencki; Mr. Jonathan Shefftz; Mr. Larry Doucet; Mr. Clark Gao; and Dr. Joseph Gatsworth.¹

With respect to the standard set forth in 40 C.F.R. §22.19(e)(1)(i), leave to depose these individuals would not unreasonably delay the proceedings nor unreasonably burden Respondents. Complainant does not seek a postponement of the hearing date and sufficient time remains to conduct the depositions prior to the hearing. Respondents' counsel has agreed to make these individuals available for deposition voluntarily.

With respect to 40 C.F.R. § 22.19(e)(1)(ii), the information sought is most reasonably obtained from the proposed deponents because the documents in the record are insufficient to allow Complainant to garner what these witnesses would testify to at hearing. The documents by themselves do not convey a full understanding of the disputed material facts at issue in the penalty phase nor do they convey the mental impressions of witnesses. Respondents have challenged multiple aspects of Complainant's proposed penalty calculation without giving clear elucidation of the bases for those challenges and understandable explanations for their positions

¹ On June 23, 2017, Complainant filed a Motion in Limine seeking to exclude the testimony of Mr. Doucet, Mr. Gao and Dr. Gatsworth at the penalty hearing, in that testimony from these individuals relates solely to questions of liability that have been answered by this Tribunal. The Motion in Limine remains pending a decision by the Presiding Officer at this time. If a decision to exclude the testimony at hearing of these individuals is granted, Complainant would at that time withdraw the Motion to Take Depositions as to the excluded witnesses.

Complainant seeks to depose eight out of the list of nine names. Respondents' First Supplement to the Prehearing Exchange states that they will likely retain "either Mr. Gao or Mr. Gatsworth [sic]." Respondents' First Supplement, at 3, footnote 1. That being the case, Complainant seeks to depose only the individual actually retained.

in their prehearing exchange thus far. Apparently, instead Respondents plan to rely substantially on witness testimony at hearing to explain and support those challenges. Deposition of those witnesses is therefore critical to Complainant's understanding of those defenses and preparation to meet those defenses at hearing. Although Respondents have no objection to deposition of Respondents' witnesses, Complainant is seeking an Order from the Presiding Officer consistent with the Order on Deposition that was issued by the Presiding Officer regarding Respondents' deposition of Complainant's witnesses to make all depositions taken in this matter under the Presiding Officer's purview.

With respect to 40 C.F.R. § 22.19(e)(1)(iii), in each instance, the information sought through deposition would have significant probative value of a material fact relevant to the penalty relief sought. This factor is further addressed in the paragraphs that follow concerning the potential witnesses and descriptions of proposed testimony.

With respect to 40 C.F.R. § 22.19(e)(3), alternative methods of discovery would be ineffectual because no other method would offer access to the witnesses' mental impressions and understanding of material facts in dispute. In each instance, the deposition would enable Complainant to obtain a more complete understanding of proposed testimony than other forms of discovery would provide. *Nicor Gas*, Docket No. TSCA-HQ-2015-5017, 2016 EPA ALJ LEXIS 107, at *7 (ALJ, Nov. 22, 2016).

a. Matao Cao, Taotao USA, Inc.

Respondents' description states "Mr. Cao is the president of Taotao USA and may testify to Respondent Taotao USA Inc.'s inability to pay and the likelihood that Taotao USA, Inc. will go out of business if it is ordered to pay the proposed penalty." Respondents' Joint Prehearing Exchange, at 1. Ability to pay is a central issue in dispute in the penalty phase of this matter. It

is among the statutory factors for determining the penalty amount. Clean Air Act section 205(c)(2), 42 U.S.C. §7524(c)(2) (In determining the amount of any civil penalty assessed under this subsection, the Administrator shall take into account ... “the effect of the penalty on the violator’s ability to continue in business.”) Ability to pay is also relevant under the Agency’s Mobile Source Civil Penalty Policy (“Penalty Policy,” or “Policy”) CX022, at 27. Respondents have raised their ability to continue in business as a defense to Complainant’s proposed penalty. Respondent Taotao USA Inc.’s Amended Answer and Request for Hearing (August 17, 2016), at ¶8. As president of Taotao USA Inc., Mr. Cao plays a central role regarding the company’s overall financial condition, its ability to pay a significant penalty. The brief description in the Respondents’ Joint Prehearing Exchange and documentation are not adequate to enable Complainant to address Respondents’ asserted penalty defense on financial ability to pay at the hearing.

b. David Garibyan, Taotao USA, Inc.

Respondents’ description states that “Mr. Garibyan is an employee of Taotao USA who was present when certain emission tests were conducted on the subject vehicles. Mr. Garibyan may testify concerning the testing procedures, company practices, and the steps Respondents have taken, and monies spent, to comply with the Environmental Protection Agency’s demands and suggestions in the years preceding the filing of this Complaint, and since.” Respondents’ Joint Prehearing Exchange, at 1. Economic benefit is a central issue in dispute in the penalty phase of this matter. It is a factor for determining the penalty amount under the statute, section 205(c)(2) of the Act, 42 U.S.C. §7524(c)(2), and also under the Policy. See Policy, at 4-11. Respondents have challenged Complainant’s proposed penalty calculation regarding economic benefit and have included in its prehearing exchange an expert report including penalty

calculations with economic benefit values much lower than economic benefit values used by Respondent. See Respondents' Joint Prehearing Exchange, at 7; Expert Opinion on Financial Factors in Civil Penalty Setting Including Economic Benefit and Ability to Pay, prepared by Jonathan Shefftz (June 16, 2017), RX004. Mr. Garibyan's deposition testimony with respect to company practices, steps taken to achieve compliance, and monies spent are highly relevant to assessing Respondents' asserted defense on economic benefit. Mr. Garibyan's witness testimony summary also relates to the gravity component of the penalty calculation, including the gravity adjustment factors, i.e., degree of willfulness and negligence involved in the violations, (Policy, at 23-24), degree of cooperation or non-cooperation, (*id.* at 24-25), and history of noncompliance, (*id.* at 25-26). Respondents have challenged Complainant's valuation of these penalty factors under the Policy. Mr. Gabriyan's deposition testimony with respect to these issues is highly relevant to assessing Respondents' asserted defenses on these penalty factors.

c. Jackie Wang, Taotao USA, Inc.

Respondents' description states that "Mr. Wang is an employee of Taotao USA and may testify regarding the process of importing and exporting vehicles, the tests conducted on the vehicles, the costs of additional tests, the process of ordering catalytic converters, and Respondents efforts in remedying any effects of the alleged noncompliance." Respondents' Joint Prehearing Exchange, at 2. Seriousness of the violation in terms of its effect on the regulatory program is a relevant factor in determining the gravity component. Policy, at 15. Complainant would garner information from Mr. Wang relevant to the aspect of program harm from understanding Taotao's process of importing and exporting vehicles. The tests conducted on the vehicles, the costs of additional tests, the process of ordering catalytic converters, and Respondents' efforts in remedying any effects of the alleged noncompliance are areas all highly

relevant to assessing Respondents' challenge to Complainant's calculation of economic benefit penalty and determination of gravity penalty factors under the Policy concerning remediation, degree of willfulness and negligence involved in the violations, degree of cooperation or non-cooperation, and history of noncompliance. *Id.* at 4-11. Deposition of Mr. Wang is also necessary to assess newly asserted facts and conclusions in Respondents' Expert Opinion on Financial Factors on economic benefit concerning compliance actions by Respondents.

d. James Xu, Manager, Stanley Marketing and Consulting, LLC.

Respondents' description states that "Mr. Xu is the certification consultant and authorized representative for certification purposed for Taotao USA. Mr. Xu prepares the applications for Certificates of Compliance (COCs) for Taotao USA., the importer of the subject vehicles in this matter. Mr. Xu may testify to the contents of the applications for COCs submitted to the Environmental Protection Agency's Compliance division. Mr. Xu may also testify to his dealings and correspondences with EPA's Compliance division. Additionally, Mr. Xu may be qualified to testify as an expert about the procedure of submitting applications and collecting information for COC applications given that he submits COC applications, similar to those that are the subject matter of this complaint, for various other unrelated manufacturers and importers." Respondents' Joint Prehearing Exchange, at 2. Mr. Xu's testimony is highly relevant to seriousness of the violation in terms of its effect on the regulatory program. Policy, at 15. Mr. Xu's knowledge and understanding of Taotao's process of submitting applications for COCs is probative of this gravity factor. Deposition of Mr. Xu is also highly relevant to assessing Respondents' challenge to Complainant's determination of gravity penalty factors under the Policy concerning remediation, degree of willfulness and negligence involved in the violations, degree of cooperation or non-cooperation, and history of noncompliance.

Complainant seeks to further depose Mr. Xu on matters to which Respondents seek to qualify him as an expert, including the bases of his opinions.

- e. Larry Swiencki, Project manager, California Environmental Engineering (“CEE”), an Environmental Testing Laboratory.

Respondents’ description states that “Mr. Sweincki may testify about the emissions tests conducted at CEE on vehicles imported by Taotao USA, and the removal of catalysts and the process of shipping them for further testing:[sic] how many tests were conducted:[sic] and the costs of such tests.” Additionally, Respondents claim they may attempt to qualify Mr. Sweincki to testify as an expert witness to provide an opinion regarding the test results, the impact of catalysts and catalytic active materials on emissions, and the likely reasons for any discrepancies between emissions tests conducted on the same vehicles at different locations and/or at different times.” Complainant seeks to depose Mr. Sweincki on the matters described above in order to ascertain his qualifications for providing expert testimony, the content of his testimony that is planned to be provided at hearing, and the bases therefor.

- f. Jonathan S. Shefftz, Shefftz Consulting.

Respondents’ description states that “Mr. Shefftz has worked and continues to work on various EPA contracts via subcontracting with his former employer, Industrial Economics, Incorporated (“IEc”), in this matter Mr. Shefftz has been retained directly in his capacity as an independent consulting economist (d/b/a JShefftz Consulting), entirely unrelated to his relationship with IEc (which has been notified of his retention on this matter). Mr. Shefftz will testify as an expert on the economic benefit and ability to continue in business components of the Clean Air Act civil penalty factors. The substance of Mr. Shefftz’s testimony is contained in his expert report and is marked as RX004.” Respondents’ First Motion to Supplement the

Prehearing Exchange (June 16, 2017), at 2. Economic benefit and ability to continue in business are central issues in dispute in the penalty phase of this matter. They are among the statutory factors for determining the penalty amount under the statute, see section 205(c)(2), 42 U.S.C. §7524(c)(2), and under the Policy. See Policy, at 4-11.

Complainant seeks to depose Mr. Shefftz on matters related to his analysis of economic benefit resulting from the violations and Respondents' ability to pay a penalty, including the sources of his information and assumptions he has made in the course of his analysis. Complainant also seeks to assess through Mr. Shefftz qualifications for his expert opinions, including the bases for his opinions to determine their reliability. Complainant also seeks to depose Mr. Shefftz in order to gather information not readily available in his expert report that is necessary in order to adequately assess Mr. Shefftz's opinions.

g. Larry Doucet, Environmental Engineer.

Respondents' description states that "Mr. Doucet is currently employed as a Senior Professional Engineer and Regional Manager responsible for the regional operations, management, and business development for an environmental consulting and engineering firm with corporate responsibility for projects involving environmental compliance and permitting; waste management, treatment, incineration; and air pollution control. He may be qualified to testify as an expert on the reliability of different catalytic converter testing methods and the degree of "crucial" importance, of precious metal concentrations in catalytic converters with respect to pollutant emission reductions, performance and efficiencies." Respondents' First Supplement, at 2-3. Complaint's Motion in Limine (June 23, 2017) challenges Mr. Doucet as a potential witness because the subject of his testimony concerns the issue of liability, which has already been resolved by the Presiding Officer's May 3, 2017 Order. If that Motion is granted,

Complainant would withdraw the Motion to Take Depositions with respect to Mr. Doucet. In an abundance of caution, Complainant requests leave to depose Mr. Doucet to ascertain the content of his testimony and the bases therefor.

h. Clark Gao, Precision Consulting.

Respondents' description states that "Mr. Gao is the Founder and Chief Executive Officer of Precision Consulting, a firm that specializes in applying advanced statistical methodologies and data analysis techniques to solve complex business problems. Under his leadership, Precision has established long-term consulting relationships with several Fortune 500 firms, and was named to the 2010 Inc 500 list of the Fastest Growing Private Companies in America. Mr. Guo [sic] holds a B.S. with highest distinction from Cal Tech in both Mathematics and Economics, and an M.S. in Economics from Boston University. Mr. Guo [sic] may be qualified as an expert on statistical analyses of the results of precious metal analyses conducted on catalytic converters taken from Respondents' [sic] vehicles, and whether the catalytic converters analyzed may be representative of catalytic converters in vehicles across respective engine families relevant to this matter. Although Mr. Gao has not yet been retained, he will likely be retained to testify if Respondents' Motion for Continuance is granted and/or the Presiding Officer permits testimony on the issue of whether Respondents are liable for 109,964 violations based on the testing of thirty-five vehicles spread over ten engine families." Respondents' First Supplement, at 3. Complainant's Motion in Limine (June 23, 2017) challenges Mr. Gao as a potential witness because the subject of his testimony concerns the issue of liability, which has already been resolved by the Presiding Officer's May 3, 2017 Order. If that Motion is granted, Complainant would withdraw the Motion to Take Depositions with

respect to Mr. Gao. In an abundance of caution, Complainant requests leave to depose Mr. Gao to ascertain the content of his testimony and the bases therefor.

i. Dr. Joseph L. Gatsworth.

Respondents' description states that Dr. Gatsworth "is a professor of statistics and economics at the George Washington University. He has a PhD [sic] in Mathematical Statistics from Columbia University. Mr. [sic] Gatsworth may be qualified as an expert on statistical analyses of the results of precious metal analyses conducted on catalytic converters taken from Respondents' [sic] vehicles, and whether the catalytic converters analyzed may be representative of catalytic converters in vehicles across respective engine families relevant to this matter. Although Mr. [sic] Gatsworth has not yet been retained, he will likely be retained to testify if Respondents' Motion for Continuance is granted." Respondents' First Supplement, at 4. Complaint's Motion in Limine (June 23, 2017) challenges Dr. Gatsworth as a potential witness because the subject of his testimony concerns the issue of liability, which has already been resolved by the Presiding Officer's May 3, 2017 Order. If that Motion is granted, Complainant would withdraw the Motion to Take Depositions with respect to Dr. Gatsworth. In an abundance of caution, Complainant requests leave to depose Dr. Gatsworth to ascertain the content of his testimony and the bases therefor.

Conclusion

For the reasons stated above, Complainant requests that this Tribunal order that Complainants may depose Mr. Matao Cao, Mr. David Garibyan, Mr. Jackie Wang, Mr. James Xu, Mr. Larry Swiencki, Mr. Jonathan Shefftz, Mr. Larry Doucet, Mr. Clark Gao, and Dr. Joseph Gatsworth.

Respectfully Submitted,

Date

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CERTIFICATE OF SERVICE

I certify that the foregoing Motion to Take Depositions in the Matter of Taotao USA, Inc., et al., Docket No. CAA-HQ-2015-8065, was filed and served on the Presiding Officer this day through the Office of Administrative Law Judge's E-Filing System.

I certify that an electronic copy of the foregoing Response was sent this day by e-mail to the following e-mail addresses for service on Respondents' counsel: William Chu at wmchulaw@aol.com; Salina Tariq at stariq.wmchulaw@gmail.com; and David Paulson at dpaulson@gmail.com.

Date

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I. Legal Standard

The Consolidated Rules that govern this proceeding provide that a party may move for additional discovery following the prehearing exchange. 40 C.F.R. § 22.19(e)(1). The Motion shall specify the method of discovery sought, provide the proposed discovery instruments, and describe in detail the nature of the information and/or documents sought (and where relevant, the proposed time and place where discovery would be conducted). *Id.* The Presiding Officer may order additional discovery only if it:

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With respect to the standard set forth in 40 C.F.R. §22.19(e)(1)(i), leave to depose these individuals would not unreasonably delay the proceedings nor unreasonably burden Respondents. Complainant does not seek a postponement of the hearing date and sufficient time remains to conduct the depositions prior to the hearing. Respondents' counsel has agreed to make these individuals available for deposition voluntarily.

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Complainant seeks to further depose Mr. Xu on matters to which Respondents seek to qualify him as an expert, including the bases of his opinions.

- e. Larry Swiencki, Project manager, California Environmental Engineering (“CEE”), an Environmental Testing Laboratory.

Respondents’ description states that “Mr. Sweincki may testify about the emissions tests conducted at CEE on vehicles imported by Taotao USA, and the removal of catalysts and the process of shipping them for further testing:[sic] how many tests were conducted:[sic] and the costs of such tests.” Additionally, Respondents claim they may attempt to qualify Mr. Sweincki to testify as an expert witness to provide an opinion regarding the test results, the impact of catalysts and catalytic active materials on emissions, and the likely reasons for any discrepancies between emissions tests conducted on the same vehicles at different locations and/or at different times.” Complainant seeks to depose Mr. Sweincki on the matters described above in order to ascertain his qualifications for providing expert testimony, the content of his testimony that is planned to be provided at hearing, and the bases therefor.

- f. Jonathan S. Shefftz, Shefftz Consulting.

Respondents’ description states that “Mr. Shefftz has worked and continues to work on various EPA contracts via subcontracting with his former employer, Industrial Economics, Incorporated (“IEc”), in this matter Mr. Shefftz has been retained directly in his capacity as an independent consulting economist (d/b/a JShefftz Consulting), entirely unrelated to his relationship with IEc (which has been notified of his retention on this matter). Mr. Shefftz will testify as an expert on the economic benefit and ability to continue in business components of the

Clean Air Act civil penalty factors. The substance of Mr. Shefftz's testimony is contained in his expert report and is marked as RX004." Respondents' First Motion to Supplement the Prehearing Exchange (June 16, 2017), at 2. Economic benefit and ability to continue in business are central issues in dispute in the penalty phase of this matter. They are among the statutory factors for determining the penalty amount under the statute, see section 205(c)(2), 42 U.S.C. §7524(c)(2), and under the Policy. See Policy, at 4-11.

Complainant seeks to depose Mr. Shefftz on matters related to his analysis of economic benefit resulting from the violations and Respondents' ability to pay a penalty, including the sources of his information and assumptions he has made in the course of his analysis. Complainant also seeks to assess through Mr. Shefftz qualifications for his expert opinions, including the bases for his opinions to determine their reliability. Complainant also seeks to depose Mr. Shefftz in order to gather information not readily available in his expert report that is necessary in order to adequately assess Mr. Shefftz's opinions.

g. Larry Doucet, Environmental Engineer.

Respondents' description states that "Mr. Doucet is currently employed as a Senior Professional Engineer and Regional Manager responsible for the regional operations, management, and business development for an environmental consulting and engineering firm with corporate responsibility for projects involving environmental compliance and permitting; waste management, treatment, incineration; and air pollution control. He may be qualified to testify as an expert on the reliability of different catalytic converter testing methods and the degree of "crucial" importance, of precious metal concentrations in catalytic converters with respect to pollutant emission reductions, performance and efficiencies." Respondents' First Supplement, at 2-3. Complaint's Motion in Limine (June 23, 2017) challenges Mr. Doucet as a

potential witness because the subject of his testimony concerns the issue of liability, which has already been resolved by the Presiding Officer's May 3, 2017 Order. If that Motion is granted, Complainant would withdraw the Motion to Take Depositions with respect to Mr. Doucet. In an abundance of caution, Complainant requests leave to depose Mr. Doucet to ascertain the content of his testimony and the bases therefor.

h. Clark Gao, Precision Consulting.

Respondents' description states that "Mr. Gao is the Founder and Chief Executive Officer of Precision Consulting, a firm that specializes in applying advanced statistical methodologies and data analysis techniques to solve complex business problems. Under his leadership, Precision has established long-term consulting relationships with several Fortune 500 firms, and was named to the 2010 Inc 500 list of the Fastest Growing Private Companies in America. Mr. Guo [sic] holds a B.S. with highest distinction from Cal Tech in both Mathematics and Economics, and an M.S. in Economics from Boston University. Mr. Guo [sic] may be qualified as an expert on statistical analyses of the results of precious metal analyses conducted on catalytic converters taken from Respondents' [sic] vehicles, and whether the catalytic converters analyzed may be representative of catalytic converters in vehicles across respective engine families relevant to this matter. Although Mr. Gao has not yet been retained, he will likely be retained to testify if Respondents' Motion for Continuance is granted and/or the Presiding Officer permits testimony on the issue of whether Respondents are liable for 109,964 violations based on the testing of thirty-five vehicles spread over ten engine families." Respondents' First Supplement, at 3. Complainant's Motion in Limine (June 23, 2017) challenges Mr. Gao as a potential witness because the subject of his testimony concerns the issue of liability, which has already been resolved by the Presiding Officer's May 3, 2017 Order. If

that Motion is granted, Complainant would withdraw the Motion to Take Depositions with respect to Mr. Gao. In an abundance of caution, Complainant requests leave to depose Mr. Gao to ascertain the content of his testimony and the bases therefor.

i. Dr. Joseph L. Gatsworth.

Respondents' description states that Dr. Gatsworth "is a professor of statistics and economics at the George Washington University. He has a PhD [sic] in Mathematical Statistics from Columbia University. Mr. [sic] Gatsworth may be qualified as an expert on statistical analyses of the results of precious metal analyses conducted on catalytic converters taken from Respondents' [sic] vehicles, and whether the catalytic converters analyzed may be representative of catalytic converters in vehicles across respective engine families relevant to this matter. Although Mr. [sic] Gatsworth has not yet been retained, he will likely be retained to testify if Respondents' Motion for Continuance is granted." Respondents' First Supplement, at 4. Complaint's Motion in Limine (June 23, 2017) challenges Dr. Gatsworth as a potential witness because the subject of his testimony concerns the issue of liability, which has already been resolved by the Presiding Officer's May 3, 2017 Order. If that Motion is granted, Complainant would withdraw the Motion to Take Depositions with respect to Dr. Gatsworth. In an abundance of caution, Complainant requests leave to depose Dr. Gatsworth to ascertain the content of his testimony and the bases therefor.

Conclusion

For the reasons stated above, Complainant requests that this Tribunal order that Complainants may depose Mr. Matao Cao, Mr. David Garibyan, Mr. Jackie Wang, Mr. James Xu, Mr. Larry Swiencki, Mr. Jonathan Shefftz, Mr. Larry Doucet, Mr. Clark Gao, and Dr. Joseph Gatsworth.

Respectfully Submitted,

8/9/17
Date

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CERTIFICATE OF SERVICE

I certify that the foregoing Motion to Take Depositions in the Matter of Taotao USA, Inc., et al., Docket No. CAA-HQ-2015-8065, was filed and served on the Presiding Officer this day through the Office of Administrative Law Judge's E-Filing System.

I certify that an electronic copy of the foregoing Response was sent this day by e-mail to the following e-mail addresses for service on Respondents' counsel: William Chu at wmchulaw@aol.com; Salina Tariq at stariq.wmchulaw@gmail.com; and David Paulson at dpaulson@gmail.com.

8/9/17
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