

**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.)

NOTICE OF POTENTIAL CONFLICT OF INTEREST
REGARDING JONATHAN SHEFFTZ

On June 16, 2017, Respondents filed their “First Motion to Supplement the Prehearing Exchange” (“Motion to Supplement”), in which they request to add seven additional potential witnesses and twenty-three new documentary exhibits to their prehearing exchange. The list of new witnesses includes Jonathan S. Shefftz. Mot. Supplement at 2. In the description of Mr. Shefftz expected testimony, Respondents state that Mr. Shefftz will testify on Respondents’ behalf as an “expert on the economic benefit component of the Clean Air Act civil penalty factor.” Mot. Supplement at 2. Respondents also state that “Mr. Shefftz has worked and continues to work on various EPA contracts via subcontracting with his former employer, Industrial Economics, Incorporated (“IEc”).” *Id.*

In sum, Mr. Shefftz is representing Respondents against the Agency, while simultaneously representing the Agency in other matters. Complainant believes this is likely to create a conflict of interest for Mr. Shefftz, both under legal principles regarding conflict of interest and under contractual provisions applicable to his work for IEc. Through his work with IEc Mr. Shefftz may have obtained privileged information that directly or indirectly pertains to Complainant’s investigation and pursuit of this matter. Mr. Shefftz dual role also creates a potential conflict for the Agency as it examines Mr. Shefftz’s qualification as an expert in this proceeding.

In their Motion to Supplement, Respondents state that the substance of Mr. Shefftz’s testimony as an “expert on the economic benefit component” is contained in an expert report titled “Expert Opinion on Financial Factors in Civil Penalty Setting Including Economic Benefit and Ability to Pay.” *Id.*; Respondents’ Joint Prehearing Exchange Index (*available at* https://yosemite.epa.gov/oarm/ALJ/ALJ_Web_Docket.nsf/Filings-and-Attachments/46C3C6ECD713082685258144007428F9?OpenDocument). The current deadline for filing non-dispositive prehearing motions, is June 23, 2017, set forth in Hearing Notice and Order. As of Thursday, June 22, 2017, Complainant has not yet received a copy of the expert

report. Complainant therefore does not have sufficient time before the prehearing motion deadline to assess whether there is a reason to seek to exclude Mr. Shefftz due to a conflict of interest created by his testimony, or whether Complainant will be unfairly prejudiced by Mr. Shefftz's testimony.

Complainant files this Notice to alert the Presiding Officer to this issue, and to respectfully notice that Complainant may seek leave to file a motion after the June 23rd deadline if additional investigation into the nature of Mr. Shefftz's anticipated testimony or his work for the Agency suggest a need to limit or preclude his testimony.


Respectfully Submitted,

6/23/2017
Date



Edward Kulschinsky, Attorney Adviser
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Ave., NW
William J. Clinton Federal Building
Room 1142C, Mail Code 2242A
Washington, DC 20460
p. (202) 564-4133
kulschinsky.edward@epa.gov

6/23/17
Date



Mark Palermo, Attorney Adviser
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Ave., NW
William J. Clinton Federal Building
Room 3319C, Mail Code 2242A
Washington, DC 20460
p. (202) 564-8894
palermo.mark@epa.gov

CERTIFICATE OF SERVICE

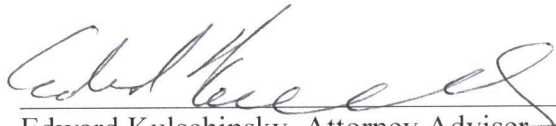
I certify that the foregoing Notice of Potential Conflict of Interest Regarding Jonathan Shefftz in the Matter of Taotao USA, Inc., et al., Docket No. CAA-HQ-2015-8065, was filed and served on the Presiding Officer this day through the Office of Administrative Law Judge's E-Filing System.

I certify that three copies of the foregoing Notice were sent this day by certified mail, return receipt requested, for service on Respondents' counsel at the address listed below:

William Chu, Esq.
The Law Offices of William Chu
4455 LBJ Freeway, Suite 909
Dallas, TX 75244

I certify that an electronic copy of the foregoing Notice 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.

6/23/2017
Date



Edward Kulschinsky, Attorney Adviser
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Ave., NW
William J. Clinton Federal Building
Room 1142C, Mail Code 2242A
Washington, DC 20460
p. (202) 564-4133
kulschinsky.edward@epa.gov