**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE ADMINISTRATOR**

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

**Response and Objections to Complainant’s Request for Additional Discovery on Ability to Pay Through Requests for Production**

COME NOW Respondents Taotao USA, Inc. (Taotao USA), Taotao Group Co., Ltd. (Taotao Group), and Jinyun County Xiangyuan Industry Co. Ltd. (“JCXI”) and file their Objections to Complainant’s Motion for Additional Discovery Through Requests for Production and Interrogatories (“Motion”)

**ARGUMENT**

Respondent’s request that the Honorable Court to deny Complainant’s Motion on the grounds that (1) any discovery requests submitted to Respondents at this stage, with less than a month left to the evidentiary hearing on this matter will unduly burden Respondents; (2) the information sought has little or no probative value to liability or relief sought; and (3) Complainant has exceeded the federal limits on discovery requests.

Granting Complainant’s Motion will unduly burden and prejudice Respondents, whose time and resources must be focused on preparing for the evidentiary hearing. Complainant’s have flooded Respondents’ with at least three separate discovery requests in the last few months alone, even though the action was initiated on November 2015.[[1]](#footnote-1) Complainant’s cannot justify requesting this information, now three years after Complainant filed its original complainant and nearly a year after the deadline to submit Complainant’s Rebuttal Prehearing Exchange. At some point, these discovery requests have to stop. Complainant has largely been free to ignore the rules of procedure throughout the proceedings, often at Respondents peril. Complainant has not only submitted two requests for production and three discovery requests, it has supplemented the prehearing exchange six different times. Additionally, Complainant has introduced an expert witness a month before the evidentiary hearing.

Complainant’s Motion seeks personal and confidential information pertaining to several non-parties. Not only do the discovery requests seek privileged information, they are so broad, cumulative, and burdensome that it is extremely difficult, if not impossible for Respondents to provide the information before the evidentiary hearing, and still have time to sufficiently prepare their defense. Consider for example, discovery request no. 1(e)-(i), which requests production of:

e. All documents, including written and electronic correspondence, between Taotao USA, Inc., its representatives, principals, or agents, including but not limited to Matao Cao, and the North Texas Certified Development Corporation;

f. All documents, including written and electronic correspondence, between Taotao USA, Inc., its representatives, principals, or agents, including but not limited to Matao Cao, and East West Bank, related to the financing and purchase of real property at 2201 Luna Rd., Carrollton, Texas;

g. All documents, including written and electronic correspondence, provided orreceived by Taotao USA, Inc., its representatives , principals, or agents, including but not limited to Matao Cao, to or from the North Texas Certified Development Corporation , East West Bank, the U.S. Small Business Administration, Daction Trading, Inc., or 2201 Luna Road, LLC, from January 1, 2015 to present, including but not limited to any:

i. Loan Application;

ii. SBA 504 Application;

iii. Statement of Personal History;

iv. Personal Information Statement ;

v. SBA Form 413 or other Personal Financial Statement for Matao Cao or

any other owner;

vi. Individual Tax Returns with Schedules for Matao Cao or any other owner;

vii. Financial Statement, Profit and Loss Statement , or Balance Sheet;

viii. Business Debt Schedule;

ix. Government Financing Schedule;

x. Personal Cash Flow Statement;

xi. Assistance Agreement ;

xii. Disclosure Statement ;

xiii. Appraisal ;

xiv. Business Plan;

xv. Lease Agreement;

xvi. Certificate of Occupancy;

xvii . Closing Statements;

xviii. Closing Documents;

xix. Insurance Certificate or Policy Documents;

xx. Interim or Permanent Loan Documents with any modifications or

extensions;

xxi. Proof of Equity Injection;

xxi. Promissory Note and Related Loan Amortization Schedule;

xxii . Authorization and Debenture Guaranty;

h. All documents, including written or electronic correspondence, relating to the

Release of Lien electronically recorded under Clerk ' s File No. 201600047390 on

February 23, 2016, including but not limited to documents or other information

relating to the payment or satisfaction of the debt secured by the liens, security

interests, assignments, and/or rights released.

*See* Motion at 9.

The Federal Rules of Civil Procedure generally provide a responding party 30 days to respond to requests for production. Fed. R. Civ. P. 34(b)(2)(A), but in this case, the evidentiary hearing itself is in less than three weeks and requests production of items that will take weeks, if not months, to obtain.

For the foregoing reasons, Respondents request that this Tribunal deny Complainant’s Motion for Additional Discovery.

Respectfully Submitted,



09/29/2017 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date William Chu

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**CERTIFICATE OF SERVICE**

This is to certify that on this day the foregoing motion was filed and served on the Presiding Officer electronically through the Office of Administrative Law Judges (OALJ) e-filing system.

The undersigned certifies that an electronic copy of foregoing instrument was sent this day for service by electronic mail to Complainant’s counsel: Edward Kulschinsky at Kulschinsky.Edward@epa.gov; Robert Klepp at Klepp.Robert@epa.gov; and Mark Palermo at Palermo.Mark@epa.gov.



09/29/2017 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date William Chu

1. *See* Complainant’s Motion for Additional Discovery Through Requests for Admissions (June 23, 2017); Complainant’s Motion for Additional Discovery Through Requests for Production and Interrogatories (August 25, 2017); Complainant’s Motion for Additional Discovery Through Requests for Production and Interrogatories (September 21, 2017). [↑](#footnote-ref-1)