

**U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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In the Matter of:)	ADMINISTRATIVE SETTLEMENT
)	AGREEMENT
Bradley Fanning d/b/a)	
Rims and Things, and)	
R & T Motorsports, LLC)	AED/MSEB - 7168
Greenville, South Carolina)	
Respondent. _____)	

THIS SETTLEMENT AGREEMENT is made and entered into by and between the United States Environmental Protection Agency (EPA) and Bradley Fanning d/b/a Rims and Things, R & T Motorsports LLC, 16 Sentell Road, Greenville, South Carolina 29611 (hereafter, Respondent).

Purpose:

The purpose of the Settlement Agreement (Agreement) is to resolve Respondent's alleged violations of Section 203(a) of the Clean Air Act (Act), 42 U.S.C. § 7522(a), and the Importation of Motor Vehicles and Motor Vehicle Engines, 40 C.F.R. Part 85, Subpart P, regarding the importation of uncertified motor vehicles (the Import Regulations).

Applicable Statutory and Regulatory Provisions

1. Section 203(a)(1) of the Act, 42 U.S.C. § 7522(a)(1) prohibits the importation into the United States of any motor vehicle manufactured after the effective date of the regulations unless the motor vehicle is covered by an EPA-issued certificate of conformity (COC).
2. Under Section 205(a) of the Act, 42 U.S.C. § 7524(a), persons who violate Section 203(a)(1) of the Act are subject to a penalty of up to \$32,500 for each violation.

Regulatory Authority

3. 40 C.F.R. § 85.1501 applies to motor vehicles which are offered for importation or imported into the United States and for which the Administrator has promulgated regulations under part 86 prescribing emission standards.
4. EPA promulgated emission regulations for model year 1977 and later model year new motor vehicles including emission standards and requirements to obtain certificates of conformity in 40 C.F.R. Part 86, Subparts A- C.

5. 40 C.F.R. § 85.1513 prohibits the importation of a motor vehicle that is not covered by a certificate of conformity unless the importation meets the requirements of 40 C.F.R. Part 85, Subpart P.

Definitions:

6. A COC means the document issued by EPA to a manufacturer under 40 C.F.R. Part 86 after EPA has determined that the manufacturer’s application is complete and that the engine family meets the requirements of the applicable regulations and the Act. Issuance of the COC permits production of motor vehicles built in accordance with the manufacturer’s application provided that the production is within the Model Year for which the COC is issued.
7. For purposes of this Agreement the term “export” means to transport to a location outside of the United States and its territories, Canada, and Mexico.
8. For purposes of this Agreement the term “destroy” means the complete destruction of the motor vehicle engine and the complete disassembly of the motor vehicle. The engine shall be crushed or broken in such a manner that the engine or its parts can never be used to power anything, and the motor vehicle shall be disassembled and broken down in such a manner that it can never be reassembled.

Background:

9. As described in the Table below, Respondent imported six motor vehicles into the United States (Subject Vehicles). On the EPA Declaration Form 3520-1, used to import the Subject Vehicles, Respondent marked “code W,” which states that Respondent is importing a “non-chassis-mounted engine to be used in a light-duty vehicle or light-duty truck or motorcycle which is currently covered by an EPA certificate or will be covered by an EPA certificate prior to introduction into commerce.”

Table

Manufacturer	Model	Model Year	VIN
Nissan	Skyline	1990	BNR32013414
Nissan	Skyline	1996	BCR33061464
Nissan	Skyline	1992	BNR32220621
Nissan	Skyline	1993	BNR32300015
Nissan	Silvia	1995	S14102010
Mazda	RX-7	1993	FD352000812

10. The Subject Vehicles were not “non-chassis-mounted engines,” but completely assembled motor vehicles that were not covered under a COC.
11. During September 2006, the U.S. Customs seized the six motor vehicles at the port in Savannah, Georgia.

Alleged Violations:

12. Since the Subject Vehicles were not covered under a COC, Respondent imported the Subject Vehicles into the United States in violation of Section 203(a) of the CAA, and the Import Regulations, 40 C.F.R. Part 85.

Terms of Agreement:

13. Respondent has agreed to pay a civil penalty of \$12,480 under this Agreement. Accordingly, under this Agreement, within thirty days from the date of this Agreement Respondent shall pay \$12,480 to the United States of America. Late payment of the civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717, and stipulated penalties as specified in Paragraph 17 of this Agreement. Respondent agrees to pay the amount by certified check or cashier's check payable to the United States of America, and to mail the payments to:

U.S. Environmental Protection Agency
Washington Accounting Operations
P.O. Box 360277M
Pittsburgh, Pennsylvania 15251
Attn: AED/MSEB - 7168

A copy of the check shall be sent to Jocelyn Adair at the address specified in Paragraph 16 below.

14. Within thirty days of this Agreement, or such longer period of time if required by Customs, Respondent shall export or destroy the Subject Vehicles. This exportation or destruction shall be carried out under the supervision of Customs. Respondent shall certify to EPA and provide supporting documents that the Subject Vehicles were either exported or destroyed.
15. Within thirty days of this Agreement, Respondent shall provide to EPA a copy of a compliance assurance plan that Respondent has developed and implemented to ensure its future compliance with Section 203 of the CAA, and the applicable Regulations. The compliance assurance plan at a minimum shall contain the following: (1) procedures implemented at the Japanese supplier's facility to ensure that prior to shipment the

container does not contain any motor vehicles; (2) maintenance of importation records (e.g., EPA Forms, invoices, etc.) for at least five years for each importation of a motor vehicle, clip, or engine; (3) maintenance of sales invoices for each motor vehicle, clip, or engine sold, and the purchaser's intended use, name and address; and (4) submission of a semiannual report for a period of two year to EPA that describes each importation, and sale (name and address of purchaser, and the purchaser's intended use) of a motor vehicle, clip, or engine.

16. All correspondence to EPA concerning this Agreement shall be sent to:

Jocelyn Adair
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2242A)
Washington, DC 20460

Stipulated Penalties:

17. Time is of the essence to this Agreement. Upon the failure to comply or timely perform pursuant to Paragraphs 13 through 16 of this Agreement, Respondent agrees to the following stipulated penalties:
- (a) For the failure to timely pay the civil penalty, or provide proof of such payment, pursuant to Paragraph 13 of this Agreement, Respondent shall pay a stipulated penalty of \$200 per day. However, if after sixty days of the due date, Respondent has failed to pay the civil penalty, Respondent shall be in default of this Agreement. Upon such default, Respondent shall pay a stipulated penalty of \$60,000.
 - (b) For the failure to export or destroy each of the Subject Vehicles, or provide proof of such action, pursuant to Paragraph 14 of this Agreement, Respondent shall pay a stipulated penalty of \$10,000 for each vehicle that he fails to export or destroy.
20. All stipulated penalties shall be paid in the manner specified in Paragraph 13 of this Agreement. In addition, a copy of the transmittal letter(s) and check(s) shall be sent to Jocelyn Adair at the address specified in Paragraph 16 of this Agreement.
21. Respondent further agrees that upon default or failure of Respondent to comply with the terms of this Agreement, EPA may refer this matter to the United States Attorney General for collection pursuant to Section 205(d) of the Act, 42 U.S.C. § 7524(d), commence an action to enforce this Agreement or to recover the civil penalty pursuant to Section 205 of the Act; or pursue any other remedies available to it. Respondent expressly waives its right to assert that such engines are certified or exempt from the certification

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requirements, or that such action is barred by 28 U.S.C. § 2462, other statutes of limitation, or other provisions limiting actions as a result of passage of time.

- 22. This Agreement becomes effective upon the date executed by EPA, at which time a copy will be returned to Respondent.
- 23. Respondent hereby represents that the individual or individuals executing this Agreement on behalf of Respondent is authorized to do so and that such execution is intended and is sufficient to bind Respondent.
- 24. Respondent waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to the matters concerned to herein.
- 25. The terms of this Agreement are contractual and not a mere recital. If any provision or provisions of this Agreement are held to be invalid, illegal or unenforceable, the remaining provisions shall not in any way be affected or impaired thereby.
- 26. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
- 27. The effect of settlement described in Paragraph 28 of this Agreement is conditional upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA.
- 28. Upon completion of the terms of this Agreement, this civil matter shall be deemed terminated and resolved. Nothing herein shall limit the right of EPA to proceed against Respondent in the event of default or noncompliance with this Agreement; for violations of § 203 of the Clean Air Act, 42 U.S.C. § 7522, which are not the subject matter of this Agreement; or for other violations of law; or with respect to other matters not within the scope of the Agreement. This Agreement in no way affects, or relieves Respondent of responsibility to comply with other state, federal or local law or regulations.

The following agree to the terms of this Agreement:

Bradley Fanning d/b/a Rims and Things, and
R & T Motorsports, LLC

By: 
(Signature)

Date: _____

Print Name: Brad Fanning

Administrative Settlement Agreement *In the Matter of:* Bradley Fanning d/b/a Rims and Things, and R & T Motorsports, LLC; AED-MSEB #: 7168

U.S. Environmental Protection Agency

By: 

Adam Kushner
Director
Air Enforcement Division

Date: February 1, 2007