UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103

VIA ELECTRONIC MAIL

Mr. Travis Bishop
PSI Performance, Incorporated
200 West 5th Street, Suite 104
Lansdale, Pennsylvania 19446
travis@psiproformance.com

Re: Proposed *Expedited Settlement Agreement*
Docket No.: CAA-03-2022-0057

Dear Mr. Bishop:

On September 8, 2020, the United States Environmental Protection Agency Region III ("EPA" or the "Agency") initiated a compliance evaluation investigation by sending you a Request for Information under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a) (hereinafter, "RFI") in which the Agency sought information regarding PSI Performance Incorporated's ("PSI", "you", "your", or "Respondent") compliance with Title II of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7521-7590, and regulations promulgated thereunder. Based upon the content of your December 9, 2020, March 28, 2022 and May 6, 2022 responses to the RFI (hereinafter, "RFI Response"), EPA has concluded that PSI failed to comply with certain provisions of the CAA and its implementing regulations.

As PSI is a first-time violator, EPA is offering the opportunity to quickly resolve these alleged violations at ***A REDUCED PENALTY AMOUNT***, through the execution of the enclosed Expedited Settlement Agreement and Final Order (collectively, the "Agreement"). Details regarding EPA's conclusions, the violations alleged against PSI, EPA's ***REDUCED*** penalty proposal and required remediation actions, are embodied in the enclosed *Clean Air Act Mobile Source Inspection Findings, Alleged Violations, and Proposed Penalty and Remediation Form* ("Form").

Section 205(a) of the CAA, 42 U.S.C. § 7524(a), authorizes EPA to pursue civil penalties of up to $5,179 (adjusted for inflation) for each vehicle, engine or equipment that is in violation of Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3). However, EPA is offering PSI an opportunity to settle this matter quickly and at a reduced penalty pursuant to the Agency's June 21, 2019 *Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices* policy. The Agreement provides PSI an expedited process to resolve the violations found during EPA's investigation --- if the violations are fully remediated. EPA is authorized to enter into this Agreement under Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1). Once the Agreement is effective, EPA will not assess any further civil penalties against PSI for the violations described in the Agreement. However, the Agency does not waive any right to take an enforcement action for any other past, present, or future violations of the CAA, or of any other federal statute or regulation.

To accept EPA's proposed expedited settlement offer, you (on behalf of PSI) must:

(a) ***Sign*** the Agreement in ink;

(b) Electronically **scan the signed Agreement to create a portable document format (*i.e.*, a .pdf) copy of that document**;

(c) ***E-Mail* a .pdf copy of the *signed* Agreement to Paul Arnold at arnold.paul@epa.gov** and mail the original *signed* Agreement, via United States Postal Service mail, or via reputable Overnight Delivery Service, to his attention, at the following address**, *within SEVEN (7) days of the date that you receive this correspondence***:

Paul Arnold (3ED21)
Air Section
U.S. Environmental Protection Agency, Region III
Air, RCRA & Toxics Branch

(d) After your e-mail receipt of a fully executed, date-stamped and filed copy of the Agreement from the EPA Regional Hearing Clerk, **make payment of the $5,438 reduced civil penalty amount that is set forth in the Agreement through any one of the four available methods identified (with associated payment instructions) in the Agreement and in the attached "Table 3 - PENALTY AND REMEDIATION FORM"**; and

(e) **E-mail a report or letter documenting completion of all "Remediation Activities" identified in the attached "Table 3 - PENALTY AND REMEDIATION FORM" to d, at arnold.paul@epa.gov,** and mail the original of that report or letter, via United States Postal Service mail or via reputable Overnight Delivery Service, to his attention at the following address, ***within seven (7) days of the Agreement's effective date***:

Paul Arnold (3ED21)
Air Section
U.S. Environmental Protection Agency, Region III
Enforcement and Compliance Assurance Division
Air, RCRA, and Toxics Branch
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103

If you have any questions, you may contact Paul Arnold at (215) 814-2194, or via email at arnold.paul@epa.gov. EPA will not accept or approve any Agreement returned more than **SEVEN (7) days** beyond the date that you receive this letter.

If you do not sign and return the Agreement with proof of payment of the penalty amount and a report detailing your corrective actions(s) within 7 days of your receipt of the Agreement, the proposed Agreement is automatically withdrawn without prejudice to the EPA's ability to file a formal enforcement action for the above or any other violations. Failure to return the Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correction of the violation(s) specifically identified in the enclosed Table. If you choose not to enter into this Agreement and fully comply with its terms, the EPA may pursue more formal enforcement measure to correct the violation(s) and seek penalties up to $5,179 per violation pursuant to Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3).

Sincerely,

JEANNA HENRY
Digitally signed by JEANNA HENRY
Date: 2022.05.23 08:23:21 -04'00'

Jeanna R. Henry, Chief
Air, RCRA and Toxics Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region III

Attachments:

1. Clean Air Act Mobile Source Inspection Findings, Alleged Violations and Proposed Penalty and Remediation Form
2. CAA Vehicle and Engine Expedited Settlement Agreement, Docket No. [CAA-03-2022-0057]
3. Appendix A: Compliance Plan to Avoid Illegal Tampering and Aftermarket Defeat Devices
4. Small Business Resources Information Sheet available at: https://www.epa.gov/compliance/small-business-resources-information-sheet

cc: Paul Arnold (3ED21) - via e-mail to: arnold.paul@epa.gov

CLEAN AIR ACT MOBILE SOURCE INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY AND REMEDIATION FORM

Table 1 - Inspection Information

Investigation Date(s):	**Docket Number:**
September 8, 2021	CAA-03-**2022-0057**
Facility Location:	
200 West 5th Street, Suite 104	
City:	**Enforcement Officer Name(s):**
Lansdale	Paul Arnold
State: **Zip Code:**	**EPA Approving Official:**
PA 19446	Karen Melvin
Respondent:	**EPA Enforcement Contact(s):**
PSI Performance, Incorporated	Paul Arnold, Inspector, (215) 814-2194

Table 2 - Description of Violations and Vehicles/Engines

EPA obtained evidence that PSI Performance, Incorporated (Respondent) sold, and/or offered for sale defeat devices, products listed below which render inoperative emission control systems on EPA-certified motor vehicles. EPA obtained evidence that between April 25, 2017 and December 19, 2020, Respondent sold **seven (7)** products, identified in the table below, which render inoperative emission control systems on EPA-certified motor vehicle and motor vehicle engines ("defeat devices"). All sales were Engine Management Units (EMUs). It is a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B) to sell defeat device intended for use with EPA-certified motor vehicles and engines. Based on information summarized below, EPA finds that Respondent has committed **seven (7)** violations of Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3).

Defeat Device Violation(s)

Part #	Invoice # (If known)	Product Description	Quantity Sold	Motor Vehicle Application
EMU Classic		EMU Classic	2	2007 Subaru STI, Nissan Skyline
EMU Classic		EMU Classic	3	1987-1992 Toyota Supra
cobbAP3-MAZ-002		Cobb EMU	1	Mazdaspeed
cobbAP3-NIS-005		Cobb EMU	1	Nissan GTR

Table 3 - Penalty and Required Remediation

Penalty Amount & Penalty Payment Instructions:

Penalty Amount: **The *Reduced* Penalty Amount of $5,438** has been calculated pursuant to EPA's June 21, 2019 *Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Device* policy (https://www.epa.gov/sites/production/files/2019-07/documents/esapilotmemotemplateforcaavetamperingdefeatdevices.pdf)

Payment Instructions: ***Payable using one of the following four available methods*:**

a) Payment of the penalty amount **by EFT** to:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

b) Payment of the penalty amount **by Automated Clearinghouse (ACH)** to EPA can be made through the
U.S. Treasury using the Following information:

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706
Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility
5700 Rivertech Court
Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c) Payment of the penalty amount made **through Pay.gov**:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

(1) You DO NOT need a username and password or account.

(2) Enter SFO 1.1 in the form search box on the top left side of the screen.

(3) Open the form and follow the on-screen instructions.

(4) Select your method of payment from the "Type of Payment" drop down

menu.

(5) Based on your selection, the corresponding line will open and no longer Be shaded grey.

(6) Enter the docket number of this Agreement (CAA-03-2022-0057) into the field.

d) Payment of the penalty amount **by cashier's check, or by certified check**, payable to the "United States Treasury" *with the case name, address and docket number of this Agreement (CAA-03-2022-0057) referenced on the check* which shall be sent:

(1) via certified mail to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

or

(2) via overnight mail (FedEx or other non-U.S. Postal Service express mail) to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Required Remediation

***In addition to paying the monetary penalty, PSI PROformance, Incorporated must also*:**

a) Cease and refrain from purchasing, selling, offering for sale, or installing any device that defeats, bypasses, or otherwise renders inoperative an emission component of any vehicle or engine regulated by the EPA;

b) Cease and refrain from tampering with emission control systems on EPA-certified vehicles equipment and engines; and

c) Acknowledge receipt of the Compliance Plan to Avoid Illegal Tampering and Aftermarket Defeat Devices, attached as Appendix A, with the goal of the Plan being to assist in maintaining continued compliance with the Act. Respondent shall also ensure that all staff receive a copy of the attached Compliance Plan. (Further information found in EPA's November 23, 2020 "EPA Tampering Policy - The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act" available at https://www.epa.gov/sites/production/files/2020-12/documents/epatamperingpolicy-enforcementpolicyonvehicleandenginetampering.pdf).

APPENDIX A:

Compliance Plan to Avoid Illegal Tampering and Aftermarket Defeat Devices

This document explains how to help ensure compliance with the Clean Air Act's prohibitions on tampering and aftermarket defeat devices. The document specifies what the law prohibits, and sets forth two principles to follow in order to prevent violations.

The Clean Air Act Prohibitions on Tampering and Aftermarket Defeat Devices

The Act's prohibitions against tampering and aftermarket defeat devices are set forth in section 203(a)(3) of the Act, 42 U.S.C. § 7522(a)(3), (hereafter "§ 203(a)(3)"). The prohibitions apply to all vehicles, engines, and equipment subject to the certification requirements under sections 206 and 213 of the Act. This includes all motor vehicles (e.g., light-duty vehicles, highway motorcycles, heavy-duty trucks), motor vehicle engines (e.g., heavy-duty truck engines), nonroad vehicles (e.g., all-terrain vehicles, off road motorcycles), and nonroad engines (e.g., marine engines, engines used in generators, lawn and garden equipment, agricultural equipment, construction equipment). Certification requirements include those for exhaust or "tailpipe" emissions (e.g., oxides of nitrogen, carbon monoxide, hydrocarbons, particulate matter, greenhouse gases), evaporative emissions (e.g., emissions from the fuel system), and onboard diagnostic systems.

The prohibitions are as follows:

> "The following acts and the causing thereof are prohibited–"
>
> > **Tampering:** CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), 40 C.F.R. § 1068.101(b)(1): "for any person to remove or render inoperative any device or element of design installed on or in a [vehicle, engine, or piece of equipment] in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser;"
> >
> > **Defeat Devices:** CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), 40 C.F.R. § 1068.101(b)(2): "for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any [vehicle, engine, or piece of equipment], where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a [vehicle, engine, or piece of equipment] in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use."

Section 203(a)(3)(A) prohibits tampering with emission controls. This includes those controls that are in the engine (e.g., fuel injection, exhaust gas recirculation), and those that are in the exhaust (e.g., filters, catalytic convertors, and oxygen sensors). Section 203(a)(3)(B) prohibits (among other things) aftermarket defeat devices, including hardware (e.g., certain modified exhaust pipes) and software (e.g., certain engine tuners and other software changes).

The EPA's longstanding view is that conduct that may be prohibited by § 203(a)(3) does not warrant enforcement if the person performing that conduct has a documented, reasonable basis for knowing that the conduct does not adversely affect emissions. *See* Mobile Source Enforcement Memorandum 1A (June 25, 1974).

The EPA evaluates each case independently, and the absence of such reasonable basis does not in and of itself constitute a violation. When determining whether tampering occurred, the EPA typically compares the vehicle after the service to the vehicle's original, or "stock" configuration (rather than to the vehicle prior to the service). Where a person is asked to perform service on an element of an emission control system that has already been tampered, the EPA typically does not consider the service to be illegal tampering if the person either declines to perform the service on the tampered system or restores the element to its certified configuration.

Below are two guiding principles to help ensure Respondent commits no violations of the Act's prohibitions on tampering and aftermarket defeat devices.

Principle 1: Respondent Will Not Modify any OBD System

Respondent will neither remove nor render inoperative any element of design of an OBD system.[1] Also, Respondent will not manufacture, sell, offer for sale, or install any part or component that bypasses, defeats, or renders inoperative any element of design of an OBD system.

Principle 2: Respondent Will Ensure There is a *Reasonable Basis* for Conduct Subject to the Prohibitions

For conduct unrelated to OBD systems, Respondent will have a *reasonable basis* demonstrating that its conduct[2] does not adversely affect emissions. Where the conduct in question is the manufacturing or sale of a part or component, Respondent must have a *reasonable basis* that the installation and use of that part or component does not adversely affect emissions. Respondent will fully document its *reasonable basis*, as specified in the following section, at or before the time the conduct occurs.

Reasonable Bases

This section specifies several ways that Respondent may document that it has a "reasonable basis" as the term is used in the prior section. In any given case, Respondent must consider all the facts including any unique circumstances and ensure that its conduct does not have any adverse effect on emissions.[3]

A. Identical to Certified Configuration: Respondent generally has a reasonable basis if its conduct: is solely for the maintenance, repair, rebuild, or replacement of an emissions-related element of design; and restores that element of design to be identical to the certified configuration (or, if not certified, the original configuration) of the vehicle, engine, or piece of equipment.[4]

B. Replacement After-Treatment Systems: Respondent generally has a reasonable basis if the conduct:

(1) involves a new after-treatment system used to replace the same kind of system on a vehicle, engine or piece of equipment and that system is beyond its emissions warranty; and

(2) the manufacturer of that system represents in writing that it is appropriate to install the system on the specific vehicle, engine or piece of equipment at issue.

C. Emissions Testing:[5] Respondent generally has a reasonable basis if the conduct:

(1) alters a vehicle, engine, or piece of equipment;

(2) emissions testing shows that the altered vehicle, engine, or piece of equipment will meet all applicable emissions standards for its full useful life; and

(3) where the conduct includes the manufacture, sale, or offering for sale of a part or component, that part or component is marketed only for those vehicles, engines, or pieces of equipment that are appropriately represented by the emissions testing.

D. EPA Certification: Respondent generally has a reasonable basis if the emissions-related element of design that is the object of the conduct (or the conduct itself) has been certified by the EPA under 40 C.F.R. Part 85 Subpart V (or any other applicable EPA certification program).[6]

E. CARB Certification: Respondent generally has a reasonable basis if the emissions-related element of design that is the object of the conduct (or the conduct itself) has been certified by the California Air Resources Board ("CARB").[7]

ENDNOTES

[1] *OBD system* includes any system which monitors emission-related elements of design, or that assists repair technicians in diagnosing and fixing problems with emission-related elements of design. If a problem is detected, an OBD system should record a diagnostic trouble code, illuminate a malfunction indicator light or other warning lamp on the vehicle instrument panel, and provide information to the engine control unit such as information that induces engine derate (as provided by the OEM) due to malfunctioning or missing emission-related systems. Regardless of whether an element of design is commonly considered part of an OBD system, the term "OBD system" as used in this Appendix includes any element of design that monitors, measures, receives, reads, stores, reports, processes or transmits any information about the condition of or the performance of an emission control system or any component thereof.

[2] Here, the term *conduct* means: all service performed on, and any change whatsoever to, any emissions-related element of design of a vehicle, engine, or piece of equipment within the scope of § 203(a)(3); the manufacturing, sale, offering for sale, and installation of any part or component that may alter in any way an emissions-related element of design of a vehicle, engine, or piece of equipment within the scope of § 203(a)(3), and any other act that may be prohibited by § 203(a)(3).

[3] General notes concerning the Reasonable Bases: Documentation of the above-described reasonable bases must be provided to EPA upon request, based on the EPA's authority to require information to determine compliance. CAA § 208, 42 U.S.C. § 7542. The EPA issues no case-by-case pre-approvals of reasonable bases, nor exemptions to the Act's prohibitions on tampering and aftermarket defeat devices (except where such an exemption is available by regulation). A reasonable basis consistent with this Appendix does not constitute a certification, accreditation, approval, or any other type of endorsement by EPA (except in cases where an EPA Certification itself constitutes the reasonable basis). No claims of any kind, such as "Approved [or certified] by the Environmental Protection Agency," may be made on the basis of the reasonable bases described in this Policy. This includes written and oral advertisements and other communication. However, if true on the basis of this Appendix, statements such as the following may be made: "Meets the emissions control criteria in the United States Environmental Protection Agency's Tampering Policy in order to avoid liability for violations of the Clean Air Act." There is no reasonable basis where documentation is fraudulent or materially incorrect, or where emissions testing was performed incorrectly.

[4] Notes on Reasonable Basis A: The conduct should be performed according to instructions from the original manufacturer (OEM) of the vehicle, engine, or equipment. The "certified configuration" of a vehicle, engine, or piece of equipment is the design for which the EPA has issued a certificate of conformity (regardless of whether that design is publicly available). Generally, the OEM submits an application for certification that details the designs of each product it proposes to manufacture prior to production. The EPA then "certifies" each acceptable design for use, in the upcoming model year. The "original configuration" means the design of the emissions-related elements of design to which the OEM manufactured the product. The appropriate source for technical information regarding the certified or original configuration of a product is the product's OEM. In the case of a replacement part, the part manufacturer should represent in writing that the replacement part will perform identically with respect to emissions control as the replaced part, and should be able to support the representation with either: (a) documentation that the replacement part is identical to the replaced part (including engineering drawings or similar showing identical dimensions, materials, and design), or (b) test results from emissions testing

of the replacement part. In the case of engine switching, installation of an engine into a different vehicle or piece of equipment by any person would be considered tampering unless the resulting vehicle or piece of equipment is (a) in the same product category (e.g., light-duty vehicle) as the engine originally powered and (b) identical (with regard to all emissions-related elements of design) to a certified configuration of the same or newer model year as the vehicle chassis or equipment. Alternatively, Respondent may show through emissions testing that there is a reasonable basis for an engine switch under Reasonable Basis C. Note that there are some substantial practical limitations to switching engines. Vehicle chassis and engine designs of one vehicle manufacturer are very distinct from those of another, such that it is generally not possible to put an engine into a chassis of a different manufacturer and have it match up to a certified configuration.

[5] Notes on emissions testing: Where the above-described reasonable bases involve emissions testing, unless otherwise noted, that testing must be consistent with the following. The emissions testing may be performed by someone other than the person performing the conduct (such as an aftermarket parts manufacturer), but to be consistent with this Appendix, the person performing the conduct must have all documentation of the reasonable basis at or before the conduct. The emissions testing and documentation required for this reasonable basis is the same as the testing and documentation required by regulation (e.g., 40 C.F.R. Part 1065) for the purposes of original EPA certification of the vehicle, engine, or equipment at issue. Accelerated aging techniques and in-use testing are acceptable only insofar as they are acceptable for purposes of original EPA certification. The applicable emissions standards are either the emissions standards on the Emission Control Information Label on the product (such as any stated family emission limit, or FEL), or if there is no such label, the fleet standards for the product category and model year. To select test vehicles or test engines where EPA regulations do not otherwise prescribe how to do so for purposes of original EPA certification of the vehicle, engine, or equipment at issue, one must choose the "worst case" product from among all the products for which the part or component is intended. EPA generally considers "worst case" to be that product with the largest engine displacement within the highest test weight class. The vehicle, engine, or equipment, as altered by the conduct, must perform identically both on and off the test(s), and can have no element of design that is not substantially included in the test(s).

[6] Notes on Reasonable Basis D: This reasonable basis is subject to the same terms and limitations as EPA issues with any such certification. In the case of an aftermarket part or component, there can be a reasonable basis only if: the part or component is manufactured, sold, offered for sale, or installed on the vehicle, engine, or equipment for which it is certified; according to manufacturer instructions; and is not altered or customized, and remains identical to the certified part or component.

[7] Notes on Reasonable Basis E: This reasonable basis is subject to the same terms and limitations as CARB imposes with any such certification. The conduct must be legal in California under California law. However, in the case of an aftermarket part or component, the EPA will consider certification from CARB to be relevant even where the certification for that part or component is no longer in effect due solely to passage of time.

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF: PSI PROformance, Incorporated 200 West 5th Street, Suite 104 Lansdale, Pennsylvania 19446 **Respondent.**	)	**DOCKET NO.: CAA-03-2022-0057** **EXPEDITED SETTLEMENT AGREEMENT**

EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement (or "Agreement") is entered into by the Director, Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and PSI PROformance, Incorporated ("Respondent"), pursuant to Section 205(c)(1) of the Clean Air Act ("CAA"), as amended, 42 U.S.C § 7524(c)(1), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant.

2. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter pursuant to Section 205(c)(1) of the CAA, 42 U.S.C § 7524(c)(1), and 40 C.F.R. §§ 22.1(a)(2) and 22.4 of the Consolidated Rules of Practice.

3. At all times relevant to this Agreement, Respondent, a Pennsylvania limited liability company, was, and currently is, a "person" as defined under Section 302(e) of the CAA, 42 U.S.C § 7602(e), and the owner and operator of an automotive service and repair shop located at 200 West 5th Street, Lansdale, Pennsylvania 19446 (the "Facility").

4. EPA alleges and finds that Respondent failed to comply with Section 203(a)(3)(B) of the CAA, 42 U.S.C. §§ 7522(a)(3)(B), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(2).

5. As a result of EPA's investigation and pursuant to its enforcement authority under Section 208(b) of the CAA, 42 U.S.C. §7542(b), EPA obtained evidence that between April 25, 2017, and December 19, 2020, Respondent sold **seven (7)** products, identified in Table 1, below, which render inoperative emission control systems on EPA-certified motor vehicle and motor vehicle engines ("defeat devices"). These products may include: (i) engine control module reprogrammers (also known as "tuners") that disable emission control systems and/or Diagnostic Trouble Codes (DTCs) on EPA-certified motor vehicles; (ii) Exhaust Gas Recirculation (EGR) deletion kits or components used for the removal or bypass of EGR systems; and (iii) exhaust emission control delete pipes ("straight pipes") to remove or bypass

the catalytic converter, Diesel Particulate Filter (DPF) or Selective Catalytic Reduction (SCR) systems. Respondent knew or should have known that the product was being offered for sale, or installed for such use, or put to such use. EPA alleges and finds that Respondent's sale of these defeat devices, identified in Table 1, below, constitutes **seven (7)** violations of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(2).

Table 1: Violation Summary – Sale of Defeat Devices

Part #	Invoice #	Product Description	Quantity Sold	Motor Vehicle Application
EMU Classic	N/A	EMU Classic	1	2007 Subaru STI
EMU Classic	N/A	EMU Classic	1	Nissan Skyline
cobbAP3-MAZ-002	N/A	Cobb EMU	1	Mazdaspeed
EMU Classic	N/A	Cobb EMU	3	1987-1992 Toyota Supra
cobbAP3-NIS-005	N/A	Cobb EMU	1	Nissan GTR

6. Respondent certifies that it has not had the same, or closely related violation(s), that were the subject of an enforcement action under Title II of the CAA within five (5) years of the date of Respondent's execution of this Agreement.

7. Respondent certifies that it has provided EPA with true and accurate documentation demonstrating completion of remedial measures to correct the violations alleged above and come into compliance with the CAA.

8. EPA and Respondent agree that settlement of this matter for a penalty in the amount of **FIVE THOUSAND, FOUR HUNDRED AND THIRTY-EIGHT DOLLARS *($5,438)***, which Respondent shall be liable to pay in accordance with the terms and provisions set forth below, is reasonable in the public interest and is based upon EPA's consideration of the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), which include the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this subchapter, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's June 21, 2019, Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices policy, the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

9. Respondent agrees that, within seven (7) calendar days of the effective date of this Agreement, Respondent shall make a payment of **FIVE THOUSAND, FOUR HUNDRED AND THIRTY-EIGHT DOLLARS *($5,438)***, by one of following four (4) methods, as further

specified and directed below: a) electronic funds transfer ("EFT"); b) Automated Clearinghouse; c) Pay.gov; or d) a cashier's check, or certified check, payable to the "United States Treasury" with the case name, address and docket number of this Agreement (CAA-03-2022-0057) referenced on the check for the amount specified above. A list of the payment methods is also provided on the website https://www.epa.gov/financial/makepayment.

a) Payment of the penalty amount **by EFT** to:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

b) Payment of the penalty amount **by Automated Clearinghouse (ACH)** to EPA can be made through the U.S. Treasury using the following information:

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706
Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility
5700 Rivertech Court
Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c) Payment of the penalty amount made **through Pay.gov**:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

(1) You DO NOT need a username and password or account.

(2) Enter SFO 1.1 in the form search box on the top left side of the screen.

(3) Open the form and follow the on-screen instructions.

(4) Select your method of payment from the "Type of Payment" drop down menu.

(5) Based on your selection, the corresponding line will open and no longer be

shaded grey.

(6) Enter the docket number of this Agreement (CAA-03-2022-0057) into the field.

d) Payment of the penalty amount **by cashier's check, or by certified check**, payable to the "United States Treasury" with the case name, address and docket number of this Agreement (CAA-03-2022-0057) referenced on the check which shall be sent:

(1) via certified mail to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

or

(2) via overnight mail (FedEx or other non-U.S. Postal Service express mail) to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

10. Within twenty-four (24) hours of making payment, the Respondent shall also send proof of such payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire transfer or of automated clearinghouse transfer) by email to:

Paul Arnold (3ED21)
Arnold.paul@epa.gov

and

Regional Hearing Clerk (3RC00)
R3_Hearing_Clerk@epa.gov

11. In signing this Agreement, the Respondent:

a) admits the jurisdictional allegations set forth in this Agreement;

b) neither admits nor denies the specific factual allegations set forth in this Agreement, except as provided in the jurisdictional admission above;

c) agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement;

d) expressly waives its right to a hearing on any issue of law or fact set forth in this Agreement and any right to appeal the accompanying Final Order;

e) consents to the issuance of this Agreement and agrees to comply with its terms;

f) agrees to bear its own costs and attorney's fees; and

g) agrees not to deduct for federal tax purposes the civil penalty assessed in this Agreement.

12. Respondent certifies that it has reviewed EPA's November 23, 2020 "EPA Tampering Policy - The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act" (available at https://www.epa.gov/sites/production/files/2020-12/documents/epatamperingpolicy-enforcementpolicyonvehicleandenginetampering.pdf).

13. By its signature below, Respondent certifies, that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Agreement are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

14. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.

15. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.

16. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R.§ 13.11.

17. This Agreement is binding on the parties signing below and is effective upon filing with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice, in accordance with 40 C.F.R. § 22.31(b).

18. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Respondent.

19. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: arnold.paul@epa.gov (for Complainant), and travis@psiproformance.com (for Respondent).

For Respondent: PSI PROformance, Incorporated

Name: Travis Bishop

Title: Owner

Signature: _____ Date: _____

For Complainant: U.S. Environmental Protection Agency, Region III

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

_____ _____

Date Karen Melvin, Director
Enforcement and Compliance Assurance Division

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF: PSI PROformance, Incorporated 200 West 5th Street, Suite 105 Lansdale, Pennsylvania 19446 **Respondent.**	)	**DOCKET NO.: CAA-03-2022-0057** **EXPEDITED SETTLEMENT AGREEMENT**

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, PSI PROformance, Incorporated, have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), EPA's June 21, 2019 *Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices* policy, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19 and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation, and Respondent's current financial condition.

NOW, THEREFORE, PURSUANT TO Section 205(c)(1) of the Clean Air Act ("CAA"), as amended, 42 U.S.C § 7524(c)(1), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FIVE THOUSAND, FOUR HUNDRED AND THIRTY-EIGHT DOLLARS *($5,438),*** in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Expedited Settlement Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of Title II of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7521 *et seq.*, and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

_____ _____

Date Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III