COPY

KAMALA D. HARRIS
Attorney General of California
GARY E. TAVETIAN
Supervising Deputy Attorney General
ROSS H. HIRSCH (SBN 204320)
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-6325
Fax: (213) 897-2802
E-mail: Ross.Hirsch@doj.ca.gov

Attorneys for Plaintiffs, the People of the State of California ex rel. the California Air Resources Board

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Superior Court of California
County of Los Angeles
AUG 06 2014
Sherri R. Carter, Executive Officer/Clerk
By E. Garcia, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA *ex rel.* THE CALIFORNIA AIR RESOURCES BOARD, Plaintiffs, v. H&S PERFORMANCE, LLC, a Utah limited liability company; CASEY W. SHIRTS, an individual, BENTLEY C. HUGIE, an individual, and DOES 1-100, inclusive, Defendants.	**CASE NO.: BC545099** Assigned: Hon. Mel Red Recana Dept.: 45 Action Filed: May 8, 2014 **STIPULATED SETTLEMENT; [PROPOSED] ORDER**

This Stipulated Settlement is entered into by and between plaintiff People of the State of California ex rel. State Air Resources Board (Air Resources Board), on the one hand, and Defendants H&S Performance, LLC (H&S Performance), Casey W. Shirts, and Bentley C. Hugie (collectively Defendants), on the other hand.

After mediation and arm's length negotiations between the parties and their respective counsel, the parties have reached and entered into a settlement agreement by way of this Stipulated Settlement in a good faith effort to avoid the uncertainty and expense of protracted

litigation. The Air Resources Board believes that this settlement is in the best interests of the people of the State of California.

THEREFORE, the Air Resources Board and Defendants stipulate as follows:

1. Jurisdiction

This Court has jurisdiction over the parties and the subject matter of this action and the parties to this Stipulated Settlement.

2. Payment

Defendants shall pay the amounts as follows:

• $750,000.00 to the Air Pollution Control Fund of the California State Air Resources Board, taxpayer ID number 68-0288069. Payment shall be made to the "Air Pollution Control Fund of the California State Air Resources Board"; and

• $250,000.00 to San Joaquin Valley Air Pollution Control District, taxpayer ID number 77-0262563, for the School Bus and Diesel Emission Reduction Supplemental Environmental Project. Payment shall be made to the "San Joaquin Valley Air Pollution Control District" and "For School Bus and Diesel Emission Reduction SEP" shall be annotated in the Note or Memo line on the check.

Payment shall be by certified or cashier's checks, delivered to Deputy Attorney General Ross Hirsch, California Attorney General's Office, 300 S. Spring Street, Suite 1702, Los Angeles, CA 90013 with 50% of each amount identified above due within thirty calendar days of the Court's entry of this Order and the remaining 50% due no later than six months of the Court's entry of this Order.

3. Permanent Injunction

The parties agree to a permanent injunction enjoining Defendants, and their agents, servants, employees, representatives, and all persons acting in concert or participating with any defendant from violating Vehicle Code sections 27156, and title 13 of the California Code of Regulations, section 2220, et seq., and from engaging in or performing, directly or indirectly, any and all of the following acts:

3.1. Offering for sale, advertising, or representing in California any motor vehicle pollution control device that has not been certified or exempted by ARB.

3.2. Offering for sale, advertising, or representing in California any motor vehicle pollution control device as a certified or exempted device which, in fact, is not a certified or exempted device.

3.3. Offering for sale, advertising, or representing in California any motor vehicle pollution control device that alters or modifies the original design or performance of the motor vehicle pollution control system unless that device has been certified or exempted by ARB.

3.4. Offering for sale, advertising, or representing in California any motor vehicle exhaust system, or part thereof, in California unless that system or part has been certified or exempted by ARB.

3.5. Offering for sale, advertising, or representing in California through any agent any aftermarket part that alters or modifies the original design or performance of any required motor vehicle pollution control device or system for use on a motor vehicle unless that part has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such, device on a vehicle registered in California. "Aftermarket part" includes, but is not limited to, tuners/programmers, exhaust modifications, air intakes, intake and exhaust manifolds, turbochargers, superchargers, and catalytic converters.

3.6. Selling any motor vehicle pollution control device that has not been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor, or otherwise, to any other person that reasonably may install such pollution control device on a vehicle registered in California.

3.7. Selling any motor vehicle pollution control device as a certified or exempted device which, in fact, is not a certified or exempted device, directly or indirectly

through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such pollution control device on a vehicle registered within the State of California.

3.8. Selling any device that alters or modifies the original design or performance of a motor vehicle pollution control system unless that device has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such device on a vehicle registered in California.

3.9. Selling any motor vehicle exhaust system, or part thereof, in California unless that system or part has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such device on a vehicle registered in California.

3.10. Selling any aftermarket part that alters or modifies the original design or performance of any required motor vehicle pollution control device or system for use on a motor vehicle unless that part has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such, device on a vehicle registered in California. "Aftermarket part" includes, but is not limited to, tuners/programmers, exhaust modifications, air intakes, intake and exhaust manifolds, turbochargers, superchargers, and catalytic converters.3.11. Making or disseminating in California any advertisement that references any device, apparatus, or mechanism that alters or modifies the original design or performance of any required motor vehicle pollution control device or system and not exempted from Vehicle Code section 27156 unless each advertisement contains a conspicuous disclaimer. The disclaimer shall read: "LEGAL IN CALIFORNIA ONLY FOR RACING VEHICLES THAT MAY NEVER BE USED, OR REGISTERED OR LICENSED FOR USE, UPON

A HIGHWAY." The disclaimer shall be in a minimum font size 10, and shall appear on each page that any non-certified/non-exempt part appears.

3.12. Defendants agree to institute a recall program for Defendants' products sold to California addresses pursuant to title 13, of the California Code of Regulations, Sections 2114-2116 and 2118-2119 as described at Exhibits A-E, which is incorporated by reference herein.

4. Dismissal of the Entire Action

The Air Resources Board shall file a request for dismissal with prejudice of the entire Action as to all parties and all causes of action after confirmation and receipt of required payments in paragraph 2 from Defendants and confirmation that the Court will retain jurisdiction as set forth herein to enforce the terms of this Stipulated Settlement pursuant to section 664.6 of the California Code of Civil Procedure.

5. Stipulation to Judgment

The Defendants stipulate that if they fail to make the payments specified in paragraph 2, or comply with the injunctive relief terms specified in paragraph 3 as determined by the Court, the Court shall enter Judgment as set forth in the attached Exhibit 1.

6. Release

Contingent upon the payment in full of payments pursuant to paragraph 2, performance of the injunctive relief provision pursuant to paragraph 3, the stipulation to judgment provision pursuant to paragraph 5, and the Court's retention of jurisdiction as set forth herein to enforce the terms of this Stipulated Settlement, the Air Resources Board, in consideration of the settlement of the Action with Defendants and in consideration of the covenants, promises, terms and conditions herein, for itself alone and no other State entity, shall and does release Defendants, its principals, officers, agents, employees, members, shareholders, subsidiaries, predecessors and successors (collectively, "Released Parties") for Covered Matters. "Covered Matters" are all claims and causes of action which were, or could have been, asserted in the Complaint in this Action, including any and all actions, causes of action, claims, demands, orders (including any administrative orders), requirements, liability, damages, penalties, debts, losses, costs, expenses

and fees (including attorney, expert and consultant fees and litigation costs), of every kind and nature whatsoever, in law and in equity, which arise out of or are related to the claims asserted in the Action. This release and covenant not to sue shall not act to release from liability any person or entity not described or bar the Air Resources Board from seeking other judicial remedies (including injunctive relief) as to violations that occur after the effective date of this Stipulated Settlement.

7. Scope of Stipulated Settlement

This Stipulated Settlement is made and entered into by and on behalf of the People of the State of California ex rel. State Air Resources Board only. Except as expressly provided in this Stipulated Settlement, nothing in this Stipulated Settlement is intended or shall be construed to preclude the Attorney General from exercising his or her authority as an independent Constitutional officer under any law, statute, or regulation. Except as expressly provided in this Stipulated Settlement nothing in this Stipulated Settlement is intended or shall be construed to preclude any state (other than the State of California), local, or federal agency, board, department, office, commission, or entity from exercising its authority under any law, statute, regulation, or ordinance.

8. Costs and Attorney Fees

Each party shall bear its own costs and attorney fees.

9. Interpretation

This Stipulated Settlement shall be deemed to have been drafted equally by the parties, and shall not be interpreted for or against either party on the ground that any such party drafted it. This Stipulated Settlement shall be governed by and construed in accordance with the laws of the State of California.

10. Integration

This Stipulated Settlement contains all of the terms and conditions agreed upon by the parties relating to the matters covered by this Stipulated Settlement, and it supersedes any and all prior and contemporaneous agreements, negotiations, correspondence, understandings, and communications of the parties, whether oral or written, respecting the matters covered by this

Stipulated Settlement. This Stipulated Settlement may be amended or modified only by a writing signed by the parties or their authorized representatives, and then by order of the Court.

11. Knowing, Voluntary Agreement

Each party to this Stipulated Settlement acknowledges that it has been represented by legal counsel, and that each party has reviewed, and has had the benefit of legal counsel's advice concerning, all of the terms and conditions of this Stipulated Settlement.

12. Authority to Execute

Each party to this Stipulated Settlement represents and warrants that the person who has signed this Stipulated Settlement on its behalf is duly authorized to enter into this Stipulated Settlement, and to bind that party to the terms and conditions of this Stipulated Settlement.

13. Advice of Counsel

Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult competent counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.

14. Notices

All notices required by this Stipulated Settlement shall be sent to the following via personal delivery, overnight mail using a reputable delivery courier, or United States Postal Service mail, certified or registered mail, return receipt requested:

For Plaintiff California Air Resources Board:

California Air Resources Board
1001 I Street, P.O. Box 2815
Sacramento, California 95812
Attn: Kirk Oliver, Senior Attorney
KOliver@arb.ca.gov

Office of the California Attorney General
300 Spring Street, Suite 1702
Los Angeles, CA 90013
Attn: Ross Hirsch, Deputy Attorney General
Ross.Hirsch@doj.ca.gov

For the Defendants:

Casey W. Shirts
H&S Performance, LLC
4160 S. River Road
St. George, Utah 84790

Bentley C. Hugie
H&S Performance, LLC
4160 S. River Road
St. George, Utah 84790

Barry E. Clarkson, Esq.
Clarkson Draper & Beckstrom, LLC
162 North 400 East, Suite A-204
P.O. Box 1630
St. George, UT 84771
bclarkson@clarksondraper.com

Any party may change the individual or address for purpose of notice to that party by written notice specifying the new individual or address.

15. Counterparts

This Stipulated Settlement may be executed by the parties in counterpart originals with the same force and affect as if fully and simultaneously executed as a single, original document.

16. Effective Date

The effective date of this Stipulated Settlement shall be the date that it is signed by the Judge of the Superior Court.

17. No Third Party Benefits

This Stipulated Settlement is made for the sole benefit of the parties and Released Parties, and no other person or entity shall have any rights or remedies under or by reason of this Stipulated Settlement, unless otherwise expressly provided for herein.

18. Retention of Jurisdiction

The parties agree that this Stipulated Settlement is enforceable pursuant to section 664.6 of the California Code of Civil Procedure and hereby request that the Court retain jurisdiction over

all parties to enforce the terms of this Stipulated Settlement until its terms are performed in full.

Dated: 7-21-14

H&S Performance, LLC
By: Casey Shirts
Title: Manager

Dated: 7-21-14

Casey W. Shirts

Dated: 7-21-14

Bentley C. Hugie

Dated: _____

Richard W. Corey
Executive Officer
State Air Resources Board

Approved as to form:

Dated: _____

Ross H. Hirsch
Deputy Attorney General
Attorneys for People of the State of California ex rel. State Air Resources Board

Dated: July 21, 2014

Barry E. Clarkson
Clarkson Draper & Beckstrom, LLC
Counsel for Defendants H&S Performance, LLC, Casey W. Shirts, Bentley C. Hugie

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all parties to enforce the terms of this Stipulated Settlement until its terms are performed in full.

Dated: _____

H&S Performance, LLC
By:
Title:

Dated: _____

Casey W. Shirts

Dated: _____

Bentley C. Hugie

Dated: 7-29-14

Richard W. Corey
Executive Officer
State Air Resources Board

Approved as to form:

Dated: 7/29/2014

Ross H. Hirsch
Deputy Attorney General
Attorneys for People of the State of California ex rel. State Air Resources Board

Dated: _____

Barry E. Clarkson
Clarkson Draper & Beckstrom, LLC
Counsel for Defendants H&S Performance, LLC, Casey W. Shirts, Bentley C. Hugie

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[PROPOSED] ORDER RE STIPULATED SETTLEMENT

Having reviewed the parties' Stipulated Settlement and finding good cause therefor, the Settlement is approved and entered. The Court will retain jurisdiction over this matter and all parties pursuant section 664.6 of the California Code of Civil Procedure.

IT IS SO ORDERED

Dated: AUG - 6 2014

Mel Red Recana

Hon. Mel Red Recana
Judge of the Superior Court
Los Angeles County

EXHIBIT A

EXHIBIT A

RECALL PLAN

Defendants agree to implement a recall program to buy back Defendants' non exempted parts purchased by or shipped to California address as follows:

1. The products subject to the recall are listed on the attached Exhibit B, which is attached hereto and incorporated herein by this reference.

2. The description of the nonconformity is the installation of Defendants' non-certified products.

3. The specific modifications, alterations, repairs, adjustments, or changes to be made to correct the vehicles or engines is the removal of Defendants' products and a full reimbursement to the end user of the original purchase price paid to Defendants as well as the cost of installation and removal as evidenced by receipt or sales record.

4. The method by which the Defendants will determine the names and addresses of product owners and the method and schedule for notifying the product owners of the recall is as follows: Defendants will email all customers who purchased Defendants' products for delivery to California to inform them of the recall and request that they return the products to Defendants for a refund as set forth in paragraph 3. Defendants will also send notice to all of Defendants' distributors that are believed to have sold Defendants' products into California and request that they provide customer information for customers who purchased Defendants' products for delivery to California to inform them of the recall.

5. The procedure to be followed by customers who purchased Defendants' products in California to obtain correction of the nonconformity is as follows: for customers that directly purchased and self-installed Defendants' products, Defendants shall provide specific instructions on the correct method to remove and then return Defendants' products; to the extent customers purchased Defendants' products from a third party and had that third party install the product(s), Defendants will instruct that the customers can return to the point of purchase to have the

product(s) removed. Defendants will also inform customers that they may bring their vehicle to Defendants' St. George, Utah facility for removal of the products at no cost to the customer.

6. A copy of the notification to be sent to purchasers of Defendants' products is attached hereto at Exhibit C.

7. The proper procedures for the removal and return shipping for all Defendants' products subject to the recall is attached hereto at Exhibit D.

8. The impact of the proposed repairs on fuel economy, drivability, performance and safety on the vehicles to which the recalled products were installed is that upon removal the vehicle will return to the vehicle's manufacturer's original specifications, which will thereby reduce the effect of increased emissions due to the installation of Defendants' products.

9. Defendants shall report on the progress of the recall campaign by submitting subsequent reports to Chief, Mobile Source Operations Division, 9480 Telestar Ave., Suite 4, El Monte, CA 91731 as follows: on or before October 25, 2014 for the period ending September 30, 2014; on or before January 25, 2015 for the period ending December 31, 2014; on or before April 25, 2015 for the period ending March 31 2015; on or before July 25, 2015 for the period ending June 30, 2015; on or before October 25, 2015 for the period ending September 30, 2015; on or before January 25, 2016 for the period ending December 31, 2015. The quarterly report shall contain all the information specified in and will comply with title 13, section 2119 of the California Code of Regulations, and shall be on the form attached hereto as Exhibit E.

EXHIBIT B

EXHIBIT B

PRODUCTS SUBJECT TO THE RECALL

ITEM SKU #	DESCRIPTION
636	Exhaust kit 2005-2009 Cummins
101002	XRT tuner
101003	XRT tuner
102001	Black Maxx Tuner
102002	Black Maxx Tuner
102003	Black Maxx Tuner
103001	Mini Maxx Tuner
201002	EGT Module 2010-2012 Cummins
101001	XRT tuner
109002	Black Maxx Tuner
109003	Mini Maxx Tuner
109005	XRT Pro Tuner
111004	Overdrive Unlock 2007-2012 68RFE
119002	Black Maxx Tuner
119003	Mini Maxx Tuner
1636	Exhaust kit 2005-2009 Cummins
1639	Exhaust kit 2005-2009 Cummins
1648	Exhaust kit 2010-2012 Cummins
201001	EGT Module 2007-2009 Cummins
27113NB	Exhaust kit 2007-2009 Cummins
27123	Exhaust kit 2007-2009 Cummins
301001	EGR Kit 2007-2009 Cummins
301002	EGR Kit 2007-2009 Cummins
301003	EGR Kit 2007-2009 Cummins
301004	EGR Kit 2009-2012 Cummins
301005	EGR Kit 2009-2012 Cummins
302201-1	EGR Kit 2011-2012 Powerstroke
40230	4" universal muffler replacement pipe
409901	Fuel Rail Plug 2007-2012 Cummins
409902	Fuel Rail Shim Kit 2007-2012 Cummins
501001	Intake Manifold 2007-2012 Cummins
501002	Boost Tube 2007-2009 Cummins
501003	Boost Tube 2010-2012 Cummins
50230	5" universal muffler replacement pipe
614	Exhaust kit 2003-2007 Powerstroke
634	Exhaust kit 2008-2010 Duramax
636NB	Exhaust kit 2005-2009 Cummins
636-SS	Exhaust kit 2005-2009 Cummins

645	Exhaust kit 2007-2009 Cummins
661	Exhaust kit 2011-2012 Duramax
761	Exhaust kit 2011-2012 Duramax
832	Exhaust kit 2008-2010 Powerstroke
832NB	Exhaust kit 2008-2010 Powerstroke
835	Exhaust kit 2007-2012 Cummins
835NB	Exhaust kit 2007-2012 Cummins
837	Exhaust kit 2008-2010 Powerstroke
837NB	Exhaust kit 2008-2010 Powerstroke
857NB	Exhaust kit 2011-2012 Powerstroke
860	Exhaust kit 2011-2012 Duramax
HSBM	Black Maxx Tuner
HSMM	Mini Maxx Tuner
SS-1639	Exhaust kit 2005-2009 Cummins
SS-1648	Exhaust kit 2010-2012 Cummins
SS-633NB	Exhaust kit 2008-2010 Powerstroke
SS-634	Exhaust kit 2008-2010 Powerstroke
SS-832	Exhaust kit 2008-2010 Powerstroke
SS-832NB	Exhaust kit 2008-2010 Powerstroke
SS-835NB	Exhaust kit 2007-2012 Cummins

EXHIBIT C

EXHIBIT C

NOTIFICATION TO BE SENT TO PURCHASERS OF DEFENDANTS' PRODUCTS

ATTENTION: NOTICE OF RECALL

OF H&S PERFORMANCE PRODUCTS

Please read this NOTICE carefully. It could affect your rights.

H&S Product Description: [Insert Here]

You are receiving this Notice as a customer or end user of one or more of the above-noted products or modification kits produced by H&S Performance, LLC (H&S Performance). As such, please be advised as follows:

Our records indicate that you purchased and installed an aftermarket diesel exhaust system product manufactured by H&S Performance, LLC that has not been exempted by the California Air Resources Board (ARB). Therefore, such products are not legal for use in California and may be releasing air pollutants that exceed California emission standards. If pulled over by local law enforcement, your vehicle will fail a vehicle inspection due to the lack of a legal exhaust system, and you may consequently be cited. As such, you are entitled to have the above-noted product or modification kit removed and returned to the manufacturer for a full refund at the expense of H&S Performance, LLC.

In the event that you fail to remove the above-described product or modification kit from your vehicle, your vehicle or engine may fail a vehicle inspection or Smog Check test when such tests are required under state law. California law prohibits the operation of any vehicle that is not properly equipped and requires the Department of Motor Vehicles (DMV) to refuse registration, or renewal or transfer of registration of all vehicles that fail to comply with ARB regulations. Whenever DMV revokes the registration of your vehicle, you must immediately return all documents and other evidence of registration to DMV.

Failure to remove the above-described product or modification kit could also affect your vehicle's coverage under any applicable emission warranty. If you have sold or transferred the vehicle that was equipped with H&S Performance products, we ask that you fill-out the enclosed information with the name and address of the new owner and provide it H&S Performance at the address listed herein.

In order to ensure your full protection under the emission warranty provisions, it is recommended that you have the product or kit removed from your vehicle or engine serviced as soon as possible, and we have instituted a recall buy-back program to fully reimburse you for your exhaust system at our expense. Failure to do so could be determined as lack of proper maintenance of your vehicle or engine.

We appreciate your prompt attention in this matter. You may obtain more information or report any difficulties by calling H&S Performance directly at (888) 628-1730 or by sending an inquiry by email to h&sperformance.recall@H&S.com or by regular US Mail at the following address:

H&S Performance, LLC.
Attn: California Recall
P.O. Box 1630
St. George, Utah 84771

All of the above-described products or modification kits should be removed according to the instructions attached hereto and returned to the point of purchase for a full refund. Said refund is not conditioned in any way upon the proper use or maintenance of said products or modification kit, but must not be further modified from its original condition in any way.

In the event that you prefer that the product or modification kit be removed by H&S Performance, you may call the number above to make an appointment for such removal at the H&S Performance location in St. George, Utah, at no expense to you.[1]

IMPORTANT!

IF FOR ANY REASON YOU DO NOT NOW OWN THE VEHICLE EQUIPPED WITH THE SUBJECT PRODUCTS OR MODIFICATION KITS PRODUCED BY H&S PERFORMANCE, OR HAVE A CHANGE OF ADDRESS, PLEASE COMPLETE THE SECTION BELOW AND PROVIDE THIS INFORMATION TO H&S PERFORMANCE. IF POSSIBLE, PROVIDE THE NAME AND ADDRESS OF THE PRESENT OWNER SO THAT WE MAY CONTACT THEM.

☐ SCRAPPED
☐ STOLEN
☐ OTHER _____
☐ SOLD. I HAVE SOLD THE VEHICLE TO:
NAME _____
STREET _____ APT. _____
CITY _____ STATE _____ ZIP _____
PHONE _____
EMAIL _____

☐ MY NEW ADDRESS IS:
NAME _____
STREET _____ APT. _____
CITY _____ STATE _____ ZIP _____
PHONE _____
EMAIL _____

THANK YOU FOR YOUR COOPERATION!

[1] Travel expenses not included.

EXHIBIT D

EXHIBIT D

PROCEDURES FOR THE REMOVAL AND RETURN SHIPPING

TUNERS / OVERDRIVE - This information can also be found in Section2 of the H&S installation manual provided with your product. *Covers SKU: 101002, 101003, 102001, 102002, 102003, 103001, 101001, 109002, 109003, 109005, 119002, 119003, HSBM, HSMM, 111004*

1. Power up the H&S tuning device in the vehicle it is currently installed into.

2. Once powered up, navigate to the main menu and select "Install Download".

3. Agree to the disclaimers and perform the requested functions until you arrive at a screen that says "Download is already Installed". At this point, you need to select "Return to stock".

4. The H&S device will proceed to install the OEM programming onto your vehicle's computers. Once completed, your H&S device is successfully un-installed from your vehicle.

5. If the H&S hardware was permanently installed into your vehicle, you can remove it now.

** Warning** Returning your vehicle software calibrations to their OEM configuration may require that you remove all other performance altering hardware modifications. Your vehicle may not function properly if your hardware and software are not compatible.

EXHAUST / MUFFLERS - *Covers SKU: 636, 1636, 1639, 1648, 27113NB, 27123, 40230, 50230, 614, 634, 636NB, 636-SS, 645, 661, 761, 832, 832NB, 835, 835NB, 837, 837NB, 857NB, 860, SS-1639, 22-1648, SS-633NB, SS-634, SS-832, SS-832NB, SS-835NB*

1. Locate all of the original exhaust hardware that was removed from your vehicle. Ensure all electronic sensors are present before proceeding with the H&S exhaust removal.

2. Remove all H&S exhaust components.

3. Re-install all OEM exhaust components. ** NOTE, if you have previously cut any portion of your OEM exhaust during the removal process, you will need to find a sufficient method to reconnect those pieces.

4. Plug all electronic sensors, pressure lines, modules, etc. back in.

5. Ensure all clamps, sensors, lines, etc. are re-installed correctly. The H&S exhaust system is now removed from your vehicle.

** Warning ** The installation of OEM exhaust system must be accompanied by the installation of the correct software calibrations to your vehicle's computers. Failure to do so will cause improper vehicle operation.

FUEL RAIL PLUG/SHIM - *Covers SKU: 409901, 409902*

1. Locate your OEM fuel rail relief valve.

2. Remove the dipstick support bracket and the 4 bolts holding the plastic cover to your engine.

3. Using a 10mm socket and wrench, remove the bolt that holds the dipstick tube to the bracket and the 6 bolts that hold the air horn to the manifold. Slide the air horn forward so that you can access the front of the fuel rail. Be careful to not damage the gasket

4. Remove the H&S fuel rail valve located on the front of the fuel rail using an 18mm wrench.

5. Once fuel rail valve is removed from fuel rail, remove o-ring and re-install it onto the OEM

Rail Valve. Insert OEM fuel rail valve into fuel rail and tighten it down to 50 ft. lbs.

6. Now you can re-install the air horn, make sure to line up the six holes in the gasket with

the bolt holes for the air horn. Also connect the dipstick tube to the bracket on the air horn.

7. Line the EGR tube back up. For easier installation line up one side to its connection, install the clamp but leave it loose enough so you have a little movement to connect the other side. Then fully tighten both sides, once you have both sides lined up correctly.

BOOST TUBE - *Covers SKU: 501002, 501003*

1. Locate your OEM cold air charge piping.

2. Remove the H&S boost tube and rubber coupling adapters.

3. Re-install the OEM pipe between the intercooler and intake manifold using OEM clamps and hardware.

INTAKE MANIFOLD - *Covers SKU: 501001*

1. Locate all OEM intake manifold and hardware.

2. Unplug the MAP sensor from the H&S intake manifold.

3. Using a flathead screwdriver, pry the valve cover breather hose off of hte valve cover.

4. Loosen clamps connecting the intake manifold to the charge piping.

5. Remove the dipstick bracket and remove 6) 10mm intake manifold bolts.

6. Remove the H&S intake manifold from the vehicle.

7. Remove the MAP sensor from the H&S intake manifold and bolt it into the OEM intake manifold.

8. Check gasket for mating the intake manifold to the engine, replace if necessary.

9. Using OEM clamps and OEM bolts, re-install the OEM intake manifold into place.

10. Re-install dipstick bracket onto OEM intake manifold. Re-connect valve cover breather hose.

11. Re-connect OEM EGR feed-pipe to the EGR solenoid on top of the OEM intake manifold. Ensure OEM gaskets are used where necessary to prevent exhaust leaks.

12. Plug electronic connections at the OEM throttle body and EGR solenoid back in.

13. Re-install plastic engine cover.

** Warning ** The installation of OEM EGR system must be accompanied by the installation of the correct software calibrations to your vehicle's computers. Failure to do so will cause improper vehicle operation.

EGR KIT DODGE - *Covers SKU: 301001, 301002, 301003, 301004, 301005*

1. Locate OEM EGR system.

2. Remove H&S EGR blocker plates from the intake and exhaust manifold.

3. Drain cooling system.

4. Remove H&S coolant blocker plugs.

5. Re-install OEM EGR cooler system and servo assembly. Ensure new gaskets are used anywhere that is necessary.

6. Route coolant lines to the EGR cooler and tighten using hose clamps and oem spring clips.

7. Install OEM EGR solenoid to the top of the OEM intake manifold.

8. Install OEM crossover pipe onto the front of the engine. Connect it using OEM hardware and new gaskets between the EGR cooler and the EGR solenoid.

9. Plug all 3 OEM EGR connections back in. One located on the throttle body, one at the EGR cooler bypass solenoid, and one at the EGR solenoid on top of the intake horn.

10. Re-install the OEM dipstick bracket and plastic engine cover.

11. Re-fill cooling system with approved coolant.

** Warning ** The installation of OEM EGR system must be accompanied by the installation of the correct software calibrations to your vehicle's computers. Failure to do so will cause improper vehicle operation.

EGR KIT FORD - *Covers SKU: 302201-1*

1. Located all OEM EGR components.

2. Drain secondary cooling system.

3. Remove the H&S blocker plates found on the intake manifold, valve cover, and exhaust manifold.

4. Remove H&S radiator plugs from the secondary radiator.

5. Re-install OEM EGR cooler system onto the cylinder head using OEM hardware. Ensure a good seal is formed between the EGR cooler and the coolant passages.

6. Route OEM coolant hoses from the EGR cooler to the radiator, use OEM spring clips to connect them into place.

7. Install OEM EGR feed pipe and EGR exit pipes in their respective locations. Use new OEM gaskets where necessary.

8. Re-connect EGR vacuum line to the EGR actuator.

9. Re-connect all electrical connections to the OEM EGR cooler, throttle body, and any other EGR related systems.

10. Re-fill the secondary cooling system with approved coolant.

** Warning ** The installation of OEM EGR system must be accompanied by the installation of the correct software calibrations to your vehicle's computers. Failure to do so will cause improper vehicle operation.

CUMMINS EGT SOLUTION - *Covers: SKU: 201001, 201002*

1. Unplug the H&S EGT solution electronically from your vehicle.

2. Unbolt the H&S EGT solution from your exhaust manifold and remove it from the vehicle.

3. Re-connect your OEM intake manifold temperature sensor to the OEM wiring harness.

RETURN SHIPMENT TO H&S PERFORMANCE - As per the H&S recall notice you received, please box up the H&S products and ground ship them to:

H&S Performance
Att: CARB Recall
4160 S. River Road
St. George, UT 84790

Please follow any specific instructions listed in your recall notice regarding return shipping. All return shipping costs will be covered by H&S Performance.

EXHIBIT E

EXHIBIT E

QUARTERLY REPORT FORM

This Quarterly Report is submitted as part of the H&S Performance, Inc. Recall for the period of _____ to _____.

1. Part or Unit Numbers Subject to the Recall: _____

_____

2. Date on which notification was sent to end users: _____

3. Date on which notifications were completed: _____

4. Total number of Units involved in the recall campaign: _____

5. Number of Units returned as part of recall campaign to date: _____

6. Number of Units determined to be unavailable for return under the recall plan due to exportation, theft, scrapping, or for other reasons (specify): _____

7. Number of Units determined to be ineligible due to altered components: _____

8. A listing of the part or unit numbers subject to recall not yet invoiced: _____

9. A copy of any service bulletins transmitted to wholesalers, dealers or other authorized repair facilities which relate to the nonconformity to be corrected and which have not previously been reported: *[ ] None [ ] See Attached*

10. A copy of all communications transmitted to end users which relate to the nonconformity and which have not previously been submitted: *[ ] None [ ] See Attached*

EXHIBIT 1

EXHIBIT 1

JUDGMENT

KAMALA D. HARRIS
Attorney General of California
GARY E. TAVETIAN
Supervising Deputy Attorney General
ROSS H. HIRSCH (SBN 204320)
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-6325
Fax: (213) 897-2802
E-mail: Ross.Hirsch@doj.ca.gov

Attorneys for Plaintiffs, the People of the State of California ex rel. the California Air Resources Board

EXEMPT FROM FILING FEES (GOV. CODE § 6103)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA *ex rel.* THE CALIFORNIA AIR RESOURCES BOARD,

Plaintiffs,

v.

H&S PERFORMANCE, LLC, a Utah limited liability company; CASEY W. SHIRTS, an individual, BENTLEY C. HUGIE, an individual, and DOES 1-100, inclusive,

Defendants.

CASE NO.: BC545099

Assigned: Hon. Mel Red Recana
Dept.: 45
Action Filed: May 8, 2014

JUDGMENT

IT IS HEREBY ORDERED AND ADJUDGED that judgment is awarded in favor of plaintiff People of the State of California ex rel. State Air Resources Board (Air Resources Board) against Defendants H&S Performance, LLC (H&S Performance), Casey W. Shirts, and Bentley C. Hugie (collectively Defendants) as set forth below:

1. Permanent Injunction

Defendants and their agents, servants, employees, representatives, and all persons acting in concert or participating with Defendants are permanently enjoined from violating Vehicle Code sections 27156, and title 13 of the California Code of Regulations, section 2220, et seq., and from engaging in or performing, directly or indirectly, any and all of the following acts:

1.1. Offering for sale, advertising, or representing in California any motor vehicle pollution control device that has not been certified or exempted by ARB.

1.2. Offering for sale, advertising, or representing in California any motor vehicle pollution control device as a certified or exempted device which, in fact, is not a certified or exempted device.

1.3. Offering for sale, advertising, or representing in California any motor vehicle pollution control device that alters or modifies the original design or performance of the motor vehicle pollution control system unless that device has been certified or exempted by ARB.

1.4. Offering for sale, advertising, or representing in California any motor vehicle exhaust system, or part thereof, in California unless that system or part has been certified or exempted by ARB.

1.5. Offering for sale, advertising, or representing in California through any agent any aftermarket part that alters or modifies the original design or performance of any required motor vehicle pollution control device or system for use on a motor vehicle unless that part has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such, device on a vehicle registered in California. "Aftermarket part" includes, but is not limited to, tuners/programmers, exhaust modifications, air intakes, intake and exhaust manifolds, turbochargers, superchargers, and catalytic converters.

1.6. Selling any motor vehicle pollution control device that has not been certified or exempted by ARB, directly or indirectly through any person, whether such

person is a dealer, distributor, reseller, affiliate, contractor, or otherwise, to any other person that reasonably may install such pollution control device on a vehicle registered in California.

1.7. Selling any motor vehicle pollution control device as a certified or exempted device which, in fact, is not a certified or exempted device, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such pollution control device on a vehicle registered within the State of California.

1.8. Selling any device that alters or modifies the original design or performance of a motor vehicle pollution control system unless that device has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such device on a vehicle registered in California.

1.9. Selling any motor vehicle exhaust system, or part thereof, in California unless that system or part has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such device on a vehicle registered in California.

1.10. Selling any aftermarket part that alters or modifies the original design or performance of any required motor vehicle pollution control device or system for use on a motor vehicle unless that part has been certified or exempted by ARB, directly or indirectly through any person, whether such person is a dealer, distributor, reseller, affiliate, contractor or otherwise, to any other person that reasonably may install such, device on a vehicle registered in California. "Aftermarket part" includes, but is not limited to, tuners/programmers, exhaust modifications, air intakes, intake and exhaust manifolds, turbochargers, superchargers, and catalytic converters.

1.11. Making or disseminating in California any advertisement that references any device, apparatus, or mechanism that alters or modifies the original design or

performance of any required motor vehicle pollution control device or system and not exempted from Vehicle Code section 27156 unless each advertisement contains a conspicuous disclaimer. The disclaimer shall read: "LEGAL IN CALIFORNIA ONLY FOR RACING VEHICLES THAT MAY NEVER BE USED, OR REGISTERED OR LICENSED FOR USE, UPON A HIGHWAY." The disclaimer shall be in a minimum font size 10, and shall appear on each page that any non-certified/non-exempt part appears.

1.12. Defendants agree to institute a recall program for Defendants' products sold to California addresses pursuant to title 13, of the California Code of Regulations, Sections 2114-2116 and 2118-2119 as described at Exhibits B-F, which is incorporated by reference herein.

2. Penalties

In addition to the above injunctive relief, Plaintiff shall have Judgment against the Defendants in the amount of $1,000,000, less credit for any penalty payments received by Plaintiff in accordance with the parties' settlement agreement reflected in the Court's file pursuant to Code of Civil Procedure Section 664.

3. Costs and Attorney Fees

Each party shall bear its own costs and attorney fees.

Dated: AUG - 6 2014

Hon. Mel Red Recana
Judge of the Superior Court
Los Angeles County

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **ARB v. H&S Performance**

Case No.: BC545099

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

On August 1, 2014, I served the attached **STIPULATED SETTLEMENT; [PROPOSED] ORDER** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows:

Barry E. Clarkson, Esq.
Clarkson Draper & Beckstrom, LLC
162 North 400 East, Suite A-204
P.O. Box 1630
St. George, UT 84771
Counsel for Defendants H&S Performance, LLC,
Casey W. Shirts, Bentley C. Hugie

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 1, 2014, at Los Angeles, California.

Edwina R. Tuyay
Declarant

Edwina R. Tuyay
Signature

LA2014511392