

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA,)
)
)
)
) **Plaintiff,**)
)
) **v.**)
)
) **PUNCH IT PERFORMANCE AND TUNING**)
LLC, D N S ENTERPRISES OF FLORIDA,)
INC., REI RESEARCH GROUP, INC.,)
MICHAEL PAUL SCHIMMACK, VANESSA)
SCHIMMACK, and)
LORI BROWN,)
)
)
) **Defendants.**)

Case No: 6:19-cv-01115-RBD-EJK

CONSENT DECREE

TABLE OF CONTENTS

I. JURISDICTION AND VENUE 4

II. APPLICABILITY 4

III. DEFINITIONS 5

IV. CIVIL PENALTY 9

V. COMPLIANCE REQUIREMENTS 11

VI. REPORTING REQUIREMENTS 12

VII. STIPULATED PENALTIES 14

VIII. FORCE MAJEURE 17

IX. DISPUTE RESOLUTION 19

X. INFORMATION COLLECTION AND RETENTION 21

XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS 23

XII. COSTS 25

XIII. NOTICES 25

XIV. EFFECTIVE DATE 26

XV. RETENTION OF JURISDICTION 27

XVI. MODIFICATION 27

XVII. TERMINATION 27

XVIII. PUBLIC PARTICIPATION 28

XIX. SIGNATORIES/SERVICE 28

XX. INTEGRATION 29

XXI. FINAL JUDGMENT 29

XXII. 26 U.S.C. SECTION 162(F)(2)(A)(II) IDENTIFICATION 29

XXIII. APPENDIX 30

WHEREAS, Plaintiff United States of America, by authority of the Attorney General of the United States and on behalf of the United States Environmental Protection Agency (“EPA”), has filed a Complaint in this action against Punch It Performance and Tuning LLC (“PIP Tuning”); D N S Enterprises of Florida, Inc. (“DNS”); REI Research Group, Inc. (“REI”); Michael Paul Schimmack (“Mr. Schimmack”); Vanessa Schimmack (“Mrs. Schimmack”); and Lori Brown (“Ms. Brown”) (collectively, the “Defendants”);

WHEREAS, the Complaint alleges that Mr. Schimmack had ultimate decision-making authority at PIP Tuning, DNS, and REI.

WHEREAS, the Complaint alleges that Vanessa Schimmack is Michael Schimmack’s wife, and that Vanessa Schimmack was an employee of DNS, and a principal and director of REI;

WHEREAS, the Complaint alleges that Ms. Brown is Michael Schimmack’s sister, and that Ms. Brown was a principal, president, or director of REI;

WHEREAS, the Complaint alleges that Mr. Schimmack, PIP Tuning, DNS, and REI violated Section 203 of the Clean Air Act (the “CAA”), as amended, 42 U.S.C. § 7522, by manufacturing and selling certain motor vehicle parts or components, a principle effect of which is to bypass, defeat, or render inoperative a motor vehicle emission-control device or element of design;

WHEREAS, Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), prohibits any person from knowingly removing or rendering inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under Title II of the CAA after sale and delivery to the ultimate purchaser;

WHEREAS, Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), prohibits any person from manufacturing, selling, offering for sale, or installing, any part or component

intended for use with, or as part of, any motor vehicle or motor vehicle engine, 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 motor vehicle or motor vehicle engine in compliance with regulations under Title II of the CAA, 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;

WHEREAS, the Complaint alleges that Mr. Schimmack and the three companies (PIP Tuning, DNS, and REI) manufactured and sold numerous products that affect emission control systems installed on motor vehicles or motor vehicle engines in compliance with the CAA, including hardware products and electronic software products known as “tunes;”

WHEREAS, on June 10, 2016, EPA issued a Notice of Violation (“NOV”) to DNS, alleging violations of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B);

WHEREAS, the Complaint alleges that DNS used profits from the manufacture and sale of illegal products that are the subject of the Complaint to buy real estate properties in Florida;

WHEREAS, the Complaint alleges that, after EPA issued its 2016 NOV, these properties were transferred from DNS to Mr. and Mrs. Schimmack;

WHEREAS, the Complaint alleges that, after EPA issued its 2016 NOV, \$700,000 was transferred from REI to Ms. Brown;

WHEREAS the Complaint further alleges that funds were transferred from REI to Ms. Brown, and from DNS to Mr. and Mrs. Schimmack, and that these transfers were fraudulent under the Federal Debt Collection Procedures Act (“FDCPA”), 28 U.S.C. § 3304;

WHEREAS, the United States’ Complaint seeks injunctive relief and the assessment of civil penalties;

WHEREAS, the United States’ claim to recover civil penalties from the Defendants is a

“debt” under the FDCPA, 28 U.S.C. § 3002(3)(B);

WHEREAS, the Defendants deny any liability to the United States arising out of the conduct, transactions, or occurrences alleged in the Complaint and Consent Decree;

WHEREAS, the Defendants have represented to the United States that, as of March 10, 2017, the Defendants have stopped manufacturing and selling all Subject Products;

WHEREAS, on September 25, 2015, PIP Tuning was dissolved;

WHEREAS, on September 22, 2017, DNS was dissolved;

WHEREAS, on or about April 26, 2017 REI was terminated;

WHEREAS, Defendants represent that they are no longer in the business of manufacturing and/or selling aftermarket automotive products or components designed for use with motor vehicles;

WHEREAS, the United States reviewed financial information submitted by Defendants to determine Defendants’ financial ability to pay a civil penalty in this action;

WHEREAS, the United States has determined that Defendants have limited financial ability to pay a civil penalty in this action; and

WHEREAS, the United States and the Defendants (collectively, the “Parties”) recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest;

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I (Jurisdiction and Venue), and with the consent of the parties, it is hereby ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the subject matter of this action and the Parties pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and Sections 204 and 205 of the CAA, 42 U.S.C. §§ 7523 and 7524. Venue lies in this District pursuant to Sections 204 and 205 of the CAA, 42 U.S.C. §§ 7523 and 7524, and 28 U.S.C. §§ 1391(b) and 1395(a). For purposes of this Consent Decree, or any action to enforce this Decree, the Defendants consent to the Court's jurisdiction over this Decree or such action and over the Defendants, and consent to venue in this judicial district.

2. For purposes of this Consent Decree, the Defendants agree that the Complaint states claims upon which relief may be granted pursuant to CAA Sections 203, 204, and 205, 42 U.S.C. §§ 7522, 7523, and 7524, and 28 U.S.C. §§ 3301 *et al.*

II. APPLICABILITY

3. The obligations of this Consent Decree are binding upon the United States, and apply to and are binding upon the Defendants, and any other business owned, operated, or affiliated, in whole or in part, with the Defendants, that is engaged in selling or manufacturing Subject Products (collectively, "Defendants"). The obligations of this Consent Decree are binding on Defendants, jointly and severally, and on any successors, assigns or other entities or persons otherwise bound by law.

4. No transfer of ownership or operation of any of PIP Tuning, DNS, or REI, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve any Defendant of its obligation to ensure that the terms of the Decree are implemented. At least 30 Days prior to such transfer, the Defendants shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA's Air Enforcement Division, the

United States Attorney for the Middle District of Florida, and the United States Department of Justice, in accordance with Section XIII (Notices). Any attempt to transfer ownership or operation of PIP Tuning, DNS, or REI without complying with this Paragraph constitutes a violation of this Decree.

5. Defendants shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Defendants shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, Defendants shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

7. In any action to enforce this Consent Decree, Defendants shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

8. Terms used in this Consent Decree that are defined in the CAA or in regulations promulgated in accordance with the CAA shall have the meanings assigned to them in the CAA or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

- a. “CAA” means the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*
- b. “Complaint” means the complaint filed by the United States in this action.
- c. “Consent Decree” or “Decree” means this Decree and all appendices attached hereto and identified in Section XXIII.

- d. “Day” means a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.
- e. “Defendant(s)” means:
 - i. Punch It Performance and Tuning LLC (“PIP Tuning”), a corporation with registered address as Michael Schimmack’s home address in Deltona, Florida;
 - ii. D N S Enterprises of Florida, Inc. (“DNS”), a corporation with registered address as Michael Schimmack’s home address in Deltona, Florida;
 - iii. REI Research Group, Inc. (“REI”), a corporation listing Vanessa Schimmack and Lori Brown as officers;
 - iv. Michael Paul Schimmack (“Mr. Schimmack”), an individual currently residing in Deltona, Florida;
 - v. Vanessa Schimmack (“Mrs. Schimmack”); an individual currently residing in Deltona, Florida;
 - vi. Lori Brown (“Ms. Brown”), an individual currently residing in Tennessee; and
 - vii. Any other business owned by, operated by, or affiliated, in whole or in part, with the Defendants that is engaged in selling or manufacturing aftermarket automotive parts or components designed for use with motor vehicles.
- f. “Diesel Oxidation Catalyst System” or “DOC” means any oxidation catalyst used to reduce emissions from diesel-fueled vehicles and equipment, including all hardware, components, parts, sensors, subassemblies, software, auxiliary emission control devices (“AECDs”), and calibrations that collectively constitute the system for implementing this strategy.
- g. “Diesel Particulate Filter System” or “DPF” means all hardware, components, parts, sensors, subassemblies, software, AECDs, calibrations, and other Emission-related Elements of Design that collectively constitute the system for controlling emissions of particulate matter by trapping such particulates in a filter and periodically oxidizing them through thermal regeneration of the filter.
- h. “Effective Date” shall have the definition provided in Section XIV.

- i. “Emission-Related Element of Design” means any part, device or element of design installed on or in a motor vehicle or motor vehicle engine by an OEM for the specific purpose of controlling emissions or which must function properly to assure continued vehicle emission compliance, including but not limited to:
 - i. On-Board Diagnostics System or OBD;
 - ii. Diagnostic Trouble Codes or DTCs;
 - iii. Oxygen sensors;
 - iv. NO_x sensors;
 - v. Ammonia sensors;
 - vi. Particulate Matter sensors or PM sensors;
 - vii. Urea quality sensors;
 - viii. Exhaust gas temperature sensors;
 - ix. DPF differential pressure sensors;
 - x. Exhaust Gas Recirculation System or EGR;
 - xi. Diesel Oxidation Catalysts or DOCs;
 - xii. Selective Catalytic Reduction System or SCR;
 - xiii. Diesel Particulate Filter or DPF;
 - xiv. NO_x Adsorber Catalyst System or NAC;
 - xv. Engine calibrations that affect engine combustion (e.g., fuel injection timing, multiple injection patterns, fuel injection mass for each injection event, fuel injection pressure, boost pressure, EGR flowrate, mass air flowrate, EGR cooler bypassing); and
 - xvi. Any other part, device, or element of design installed in compliance with Title II of the CAA and its regulations.
- j. “EPA” means the United States Environmental Protection Agency and any of its successor departments or agencies.
- k. “Exhaust Gas Recirculation System” or “EGR” means all hardware, components, parts, sensors, subassemblies, software, AECDs, and calibrations that collectively constitute the system for controlling NO_x emissions by recirculating a portion of engine exhaust gas into the cylinders of an engine.

- l. “Intellectual Property” means any programming, files, software, source code, design, instructions, or other information that could be used to manufacture tunes (e.g., .mtf files, .mvf files, and .hex files).
- m. “NO_x Adsorber Catalyst System” or “NAC” means the strategy for controlling NO_x emissions from partial lean burn gasoline engines and from diesel engines by adsorbing the NO_x emissions onto a catalyst substrate during lean combustion followed by periodic regeneration of the substrate during short, richer-than-stoichiometric combustion, together with all hardware, components, parts, sensors, subassemblies, software, AECDs, and calibrations that collectively constitute the system for implementing this control strategy.
- n. “On-Board Diagnostics System” or “OBD” means the strategy for monitoring the functions and performance of the emission control system and all other systems and components that must be monitored under 13 Cal. Code. Regs. §§ 1968.1 and 1968.2, for identifying and detecting malfunctions of such monitored systems and components, and for alerting the driver of such potential malfunctions by illuminating the malfunction indicator light (“MIL”), together with all hardware, components, parts, sensors, subassemblies, software, AECDs, and calibrations that collectively constitute the system for implementing this strategy.
- o. “Original Equipment Manufacturer” or “OEM” means the manufacturer responsible for the design and production of a motor vehicle or motor vehicle engine.
- p. “Paragraph” means a portion of this Decree identified by an Arabic numeral.
- q. “Parties” means the United States and the Defendants.
- r. “Section” means a portion of this Decree identified by a Roman numeral.
- s. “Selective Catalytic Reduction System” or “SCR” means all hardware, components, parts, sensors, sub-assemblies, software, AECDs, calibrations, and other elements of design that collectively constitute the system for controlling NO_x emissions through catalytic reduction using an ammonia-based diesel exhaust fluid (“DEF”) as the reducing agent, including without limitation all hardware, components, parts, sensors, subassemblies, software, AECDs, calibrations, and other Elements of Design relating to (1) the DEF storage tank; (2) the DEF injectors, (3) the dosing control unit, and (4) the SCR catalysts assembly.
- t. “Subject Products” means any motor vehicle part, component or product including, but not limited to, hardware, software, tunes, calibrations or other programming (and devices on which such software, tunes, calibrations or other programming are loaded), a principal effect of which is to bypass, defeat, or render inoperative a motor vehicle emission control device or Emission-Related Element of Design.

Subject Products include, but are not limited to: software, tunes, calibrations or other programming that enable an Emissions-related Element of Design to be removed, disabled or bypassed, or otherwise affect one or more Emission-Related Elements of Design; and motor vehicle parts, components, or products that interfere with the function of, or allow removal of, one or more Emission-Related Elements of Design.

- u. “Technical Support” means a range of services offered by Defendants to individuals, including but not limited to former customers or dealers involving the provision of assistance or advice on the use, installation, or repair of products. Technical Support includes, but is not limited to, product owners’ and users’ manuals and answers to specific questions provided by phone, on-line, and in person.
- v. “United States” means the United States of America, acting on behalf of EPA.

IV. CIVIL PENALTY

9. Defendants provided financial information to the United States, which is generally described in Appendix A. Review of this financial information demonstrates Defendants have a limited ability to pay a civil penalty at this time. Defendants have represented that they require time to dispose of non-liquid real estate assets to pay civil penalties to the United States. Therefore, Defendants shall pay the total penalty amount of \$850,000 in three installment payments, plus interest.

10. Payment into Court Registry Account. Within 10 Days of the date of lodging, Defendants shall pay \$50,000.00 into the interest bearing court registry account of the United States District Court for the Middle District of Florida. Defendants shall send notice that the payment has been made to the individuals identified in Section XIII (Notices).

11. Payment from the Court Registry Account. After entry of the Decree, the funds deposited into the interest bearing court registry account under this Decree, shall be disbursed pursuant to a separate Withdrawal Order of the Court, which shall provide for payment of the \$50,000.00 plus any accrued interest to the United States. In the event the United States withdraws or withholds consent, or the Court declines to enter the Decree, the funds deposited

into the Court Registry account (and all accrued interest) shall be returned to the Defendants pursuant to a separate withdrawal order.

12. Payment of Civil Penalties Directly to the United States. No later than 180 Days after the Effective Date of this Decree, Defendants shall pay the sum of \$400,000 to the United States together with interest accruing from 60 Days after the date of lodging, at the rate specified in 28 U.S.C. § 1961 as of the date of lodging. No later than 365 Days after the Effective Date of this Decree, Defendants shall pay the final payment of \$400,000 to the United States, together with interest accruing from 60 Days after the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the date of lodging. Defendants are jointly and severally liable for the civil penalties due.

13. Defendants shall pay the civil penalty installments described above in Paragraph 12 due by FedWire Electronic Funds Transfer (“EFT”) to the United States Department of Justice, in accordance with written instructions provided to Defendants by the Financial Litigation Unit (“FLU”) of the United States Attorney’s Office of the Middle District of Florida after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which Defendants shall use to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to:

Michael Schimmack
3485 Vinyard Circle
Deltona, FL 32738
Email: mikestuning@yahoo.com
Tel: 407-353-5989

With a copy to:

Michael D. Goodstein

Van Ness Feldman, LLP

1050 Thomas Jefferson Street, NW

Washington, DC 20007

Email: mgoodstein@vnf.com

Tel: 202-298-1923

on behalf of Defendants. Defendants may change the individual to receive payment instructions on their behalf by providing written notice of such change to the United States and EPA in accordance with Section XIII (Notices).

At the time of payment, Defendants shall send notice that payment has been made: (i) to EPA via email at cinwd_acctsreceivable@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States via email or regular mail in accordance with Section XIII (Notices); and (iii) to EPA in accordance with Section XIII. Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States v. Punch It Performance and Tuning, Inc., et al.*, and shall reference the assigned civil action number 6:19-cv-01115-RBD-EJK, the CDCS Number, and DOJ case number 90-5-2-1-11965.

14. Defendants shall not deduct any penalties paid under this Decree in accordance with this Section or Section VII (Stipulated Penalties) in calculating federal income tax.

15. The United States shall be deemed a judgment creditor for purposes of collection of the civil penalty required under this Decree.

V. COMPLIANCE REQUIREMENTS

16. Prohibition on manufacture, sale, offer for sale, and installation of Subject Products. Defendants shall not manufacture, sell, offer to sell, or install any Subject Product.

17. Prohibition on tampering. Defendants shall not remove or render inoperative any device or Emissions-Related Element of Design installed on or in a motor vehicle or motor vehicle engine in compliance with the CAA.

18. Prohibition on Technical Support for all Subject Products. Defendants shall not offer or make available any Technical Support pertaining to the installation, manufacture, sale, use, or repair of any Subject Product. Defendants shall deny all warranty claims pertaining to any Subject Product.

19. Prohibition on transfer of Intellectual Property. Defendants shall not offer for sale, sell, convey, or otherwise transfer any Intellectual Property.

20. Surrender of all Intellectual Property. Notwithstanding the requirements in Paragraph 19, Defendants shall surrender all Intellectual Property to EPA. After the Decree is lodged, EPA shall provide an address to which the Intellectual Property is to be surrendered. Defendants shall surrender the Intellectual Property within 10 Days of receiving the address from EPA.

21. Certification. By signing this Decree, Defendants certify under penalty of law the following: No Subject Products have been manufactured or sold since March 2017, and that Defendants have not transferred any of their Intellectual Property to any individual or corporate entity.

22. Decree not a compliance determination. Defendants shall not state or imply in any way that, as a result of this Consent Decree, any product is covered by a compliance determination (or similar designation) from EPA.

VI. REPORTING REQUIREMENTS

23. By the last calendar day of the last month in every six month period after the Effective Date of this Decree for two years, for a total of four reports, Defendant shall submit a semi-annual report for the preceding six months that shall include:

- a. A statement regarding the status of the payment of (i) the civil penalties and associated interest pursuant to Paragraphs 10 – 12 and (ii) any stipulated penalties owing pursuant to Section VII;
- b. A list of all Intellectual Property forfeited in accordance with Paragraph 20, the date the products were surrendered, and the name, title, and address of the individual to whom the products were surrendered;
- c. A statement regarding the involvement of any Defendant in the pre- or after-market automotive industry, including any employment of any defendant by an OEM or aftermarket auto parts manufacturer or dealer; and
- d. A description of any noncompliance with the requirements of this Consent Decree (including all Appendices), including an explanation of the violation's likely cause and of the specific remedial steps taken, or to be taken, to resolve and/or minimize such violation, and the specific steps to be taken to prevent such further violations.

24. If Defendants violate, or have reason to believe that any Defendant may violate, any requirement of this Consent Decree, Defendants shall notify the United States of such violation and its likely duration, in writing, within 10 business Days of the Day Defendants first became aware of the violation, with an explanation of the violation's likely cause and of the specific remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Defendants shall so state in the report along with the reason(s) why the violation cannot be fully explained. Defendants shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 Days of the Day Defendants became aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendants of the obligation to provide the notice required by Section VIII (Force Majeure).

25. Whenever any violation of this Consent Decree or any other event affecting Defendants' performance under this Decree may pose an immediate threat to public health or welfare or to the environment, Defendants shall notify EPA orally or by electronic means as soon

as possible, but no later than 24 hours after Defendants first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

26. All reports shall be submitted to the persons designated in Section XIII (Notices) by regular mail or email and shall include the civil action number of this case, 6:19-cv-01115-RBD-EJK, and the DOJ case number, 90-5-2-1-11965.

27. Each report submitted by Defendants under this Section shall be signed by Defendants Michael Schimmack, Vanessa Schimmack, and Lori Brown, on behalf of corporate defendants, and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

28. This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

29. The reporting requirements of this Consent Decree do not relieve Defendants of any reporting obligations required by the CAA or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

30. Any information provided in accordance with this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

VII. STIPULATED PENALTIES

31. Defendants shall be liable for stipulated penalties to the United States for violations of this Consent Decree as specified in the table below, unless excused under Section

VIII (Force Majeure), or reduced or waived by the United States pursuant to Paragraph 37. A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

Consent Decree Violation	Stipulated Penalty
Manufacture, sale, offer to sale, or installation of any Subject Product, in violation of the requirements of Paragraph 16 (Prohibition on Manufacture, Sale, Offer for Sale, and Installation of Subject Products)	\$9470 per Subject Product manufactured, sold, or installed.
Tampering in violation of the requirements of Paragraph 17 (Prohibition on Tampering)	\$25,000 per tampered vehicle.
Providing technical support in violation of Paragraph 18 (Prohibition on Technical Support for All Subject Products)	\$2,500 per violation.
Transfer of Intellectual Property in violation of Paragraph 18 (Prohibition on Transfer of Intellectual Property)	\$500,000 or two times the gross amount received from the transfer, whichever is greater.
Failure to comply with the requirements of Paragraph 20 (Surrender of Intellectual Property)	\$1,000 per Day for the first 15 Days of noncompliance; \$2,500 per Day for the 16 th through 30 th Days of noncompliance; and \$5,000 per Day thereafter.
Failure to comply with the requirements of Section VI (Reporting)	\$1,000 per Day for the first 15 Days of noncompliance; \$2,500 per Day for the 16 th through 30 th Days of noncompliance; and \$5,000 per Day thereafter.

32. Late Payment of Civil Penalty. If Defendants fail to pay a civil penalty payment required under Section IV (Civil Penalties) when due, Defendants shall pay a stipulated penalty of \$1,000 per Day for each Day that the payment is late.

33. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue

to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

34. Defendants shall pay stipulated penalties to the United States within 30 Days of a written demand by the United States, unless Defendants invoke the dispute resolution procedures under Section IX (Dispute Resolution) within the 30-Day period.

35. Stipulated penalties shall continue to accrue as provided in Paragraph 33 during any Dispute Resolution, but need not be paid until the following:

- a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Defendants shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 Days of the effective date of the agreement or the receipt of EPA's decision or order.
- b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendants shall pay all accrued penalties determined by the Court to be owing, together with interest, within 30 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.
- c. If any Party appeals the District Court's decision, Defendants shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

36. If Defendants fail to pay stipulated penalties within 30 Days after receiving the United States' written demand, Defendants shall pay interest on unpaid stipulated penalties, as provided for in 28 U.S.C. § 1961, as follows: (a) if Defendants have timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, interest accrues from the date stipulated penalties are due pursuant to Paragraph 39 until the date of payment; and (b) if Defendants do not timely invoke dispute resolution, interest accrues from Defendants' receipt of the written demand pursuant to Paragraph 38 until the date of payment. Nothing in this Paragraph limits the United States from seeking any remedy otherwise provided by law for Defendants' failure to pay any stipulated penalties or interest.

37. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

38. Defendants shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 13, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

39. The payment of stipulated penalties and/or interest pursuant to this Section shall not alter in any way Defendants' obligation to complete the performance of the requirements of this Consent Decree.

40. Stipulated penalties are not the United States' exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XI (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States for Defendants' violation of this Decree or applicable law. Where a violation of this Decree is also a violation of relevant statutory or regulatory requirements, Defendants shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violation under the applicable federal requirement.

VIII. FORCE MAJEURE

41. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendants, of any entity controlled by Defendants, or of Defendants' contractors, or employees, which delays or prevents the performance of any obligation under this Consent Decree despite Defendants' best efforts to fulfill the obligation. The requirement that Defendants exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects

of any potential force majeure event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are minimized. “Force Majeure” does not include Defendants’ financial inability to perform any obligation under this Consent Decree.

42. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendants shall provide notice by electronic transmission to EPA, within 72 hours of when Defendants first knew that the event might cause a delay to the addresses provided in Section XIII (Notices). Within seven Days thereafter, Defendants shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendants’ rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendants, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Defendants shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendants shall be deemed to know of any circumstance of which Defendants, any entity controlled by Defendants, or Defendants’ contractors knew or should have known.

43. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by

the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

44. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Defendants in writing of its decision.

45. If Defendants elect to invoke the dispute resolution procedures set forth in Section IX (Dispute Resolution), it shall do so no later than 15 Days after receipt of EPA's notice. In any such proceeding, Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Defendants complied with the requirements of Paragraphs 45 and 46. If Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Defendants of the affected obligation of this Consent Decree identified to EPA and the Court.

IX. DISPUTE RESOLUTION

46. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Defendants' failure to seek resolution of a dispute under this Section shall preclude Defendants from raising any such issue as a defense to an action by the United States to enforce any obligation of Defendants arising under this Decree.

47. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be

considered to have arisen when Defendants send the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within 10 Days after the conclusion of the informal negotiation period, Defendants invoke formal dispute resolution procedures as set forth below.

48. Formal Dispute Resolution. Defendants shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendants' position and any supporting documentation relied upon by Defendants.

49. The United States shall serve its Statement of Position within 45 Days of receipt of Defendants' Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendants, unless Defendants file a motion for judicial review of the dispute in accordance with the following Paragraph.

50. Defendants may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIII (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 10 Days of receipt of the United States' Statement of Position under the preceding Paragraph. The motion shall contain a written statement of Defendants' position on the matter in dispute, including any supporting

factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

51. The United States shall respond to Defendants' motion within the time period allowed by the Local Rules of this Court. Defendants may file a reply memorandum, to the extent permitted by the Local Rules.

52. Standard of Review. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 52, Defendants shall bear the burden of demonstrating that its position complies with this Consent Decree, and that Defendants are entitled to relief under applicable principles of law. The United States reserves the right to argue that its position is reviewable only on the administrative record and must be upheld unless arbitrary and capricious.

53. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendants under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 39. If Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VII (Stipulated Penalties).

X. INFORMATION COLLECTION AND RETENTION

54. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any of Defendants' business facilities, at all reasonable times, upon presentation of credentials, to:

- a. Monitor the progress of activities required under this Consent Decree;

- b. Verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- c. Inspect records and any product(s) regulated under Title II of the CAA or the regulations promulgated thereunder;
- d. Obtain documentary evidence, including photographs, software, or other data or information; and
- e. Assess Defendants' compliance with this Consent Decree.

55. Until two years after the termination of this Consent Decree, unless otherwise specified herein, Defendants shall retain, and shall instruct their contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in their or their contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendants' performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States, Defendants shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

56. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendants shall notify the United States at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Defendants shall deliver any such documents, records, or other information to EPA.

57. Defendants may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendants assert such a privilege, they shall provide the following: (a) the title of the

document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Defendants. However, no documents, records, or other information created or generated in accordance with the requirements of this Consent Decree shall be withheld on grounds of privilege.

58. Defendants may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that Defendants seek to protect as CBI, Defendants shall follow the procedures set forth in 40 C.F.R. Part 2.

59. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendants to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

60. This Consent Decree resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the date of lodging.

61. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree does not limit the rights of the United States to obtain penalties or injunctive relief under the CAA or implementing regulations, or under other federal laws, regulations, or permit conditions, except as expressly specified in Paragraph 60. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment

arising as a result of Defendants' business or any of Defendants' products, whether related to the violations addressed in this Consent Decree or otherwise.

62. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, or other appropriate relief relating to the Defendants' operations, Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved under Paragraph 60.

63. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendants are responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendants' compliance with this Consent Decree shall be no defense to any action commenced under any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Defendants' compliance with any aspect of this Consent Decree will result in compliance with provisions of the CAA, or with any other provisions of federal, State, or local laws, regulations, or permits.

64. This Consent Decree does not limit or affect the rights of Defendants or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Defendants, except as otherwise provided by law.

65. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XII. COSTS

66. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalties or any stipulated penalties due but not paid by Defendants.

XIII. NOTICES

67. Unless otherwise specified in this Decree, whenever notifications, submissions, statements of position, or communications are required by this Consent Decree (referred to as "notices" in this section), they shall be made electronically or as described below, unless such notices are unable to be uploaded to the CDX electronic system (in the case of EPA) or transmitted by email in the case of any other recipient. For all notices to EPA, Defendants shall register for the CDX electronic system and upload such notices at <https://cdx.gov/epa-home.asp>. Any notice that cannot be uploaded or electronically transmitted via email shall be provided in writing to the addresses below:

As to the United States by email: eescdcopy.enrd@usdoj.gov

Re: DJ # 90-5-2-1-11965

As to the United States by mail: EES Case Management Unit
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-5-2-1-11965

As to EPA: Director, Air Enforcement Division
Office of Civil Enforcement
US EPA Headquarters, MC 2242A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

As to Defendants: Michael Schimmack
3485 Vinyard Circle
Deltona, FL 32738
Email: mikestuning@yahoo.com
Tel: 407-353-5989

With a copy to:

Michael D. Goodstein
Van Ness Feldman, LLP
1050 Thomas Jefferson Street, NW
Washington, DC 20007
Email: mgoodstein@vnf.com
Tel: 202-298-1923

68. Any Party may, by written notice to the other Parties, change its designated notice recipients or notice addresses provided above.

69. Notices submitted under this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XIV. EFFECTIVE DATE

70. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

XV. RETENTION OF JURISDICTION

71. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, under Sections IX (Dispute Resolution) and XVI (Modification), or effectuating or enforcing compliance with the terms of this Decree.

XVI. MODIFICATION

72. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

73. Any disputes concerning modification of this Decree shall be resolved under Section IX (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 56, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XVII. TERMINATION

74. After Defendants have: (a) completed the requirements of Paragraphs 20 and 21; (b) complied with Paragraphs 16, 17, 18, and 19 for at least two years after the Effective Date; submitted the reports required by Section VI; (c) paid the civil penalties required by Section IV, including any accrued interest; and (d) paid any accrued stipulated penalties determined by the United States to be owing pursuant to Section VII, Defendants may serve upon the United States a Request for Termination, stating that Defendants have satisfied these requirements, together with all necessary supporting documentation.

75. Following receipt by the United States of Defendants' Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendants have satisfactorily complied with the requirements for termination of this Consent Decree. If the United States agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

76. If the United States does not agree that the Decree may be terminated, Defendants may invoke Dispute Resolution under Section IX of this Decree. However, Defendants shall not seek Dispute Resolution of any dispute regarding termination until 90 Days after service of its Request for Termination.

XVIII. PUBLIC PARTICIPATION

77. This Consent Decree shall be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendants consent to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendants in writing that it no longer supports entry of the Decree.

XIX. SIGNATORIES/SERVICE

78. Each undersigned representative of the Defendants and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

79. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendants agree to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. Defendants need not file an answer to the Complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XX. INTEGRATION

80. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than the deliverables that are subsequently submitted pursuant to this Consent Decree, no other document, nor any representation, inducement, agreement, understandings, or promise constitutes any part of this Decree or the settlement it represents.

XXI. FINAL JUDGMENT

81. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States and Defendants.

XXII. 26 U.S.C. SECTION 162(f)(2)(A)(ii) IDENTIFICATION

82. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section II (Applicability), Paragraph 5; Section V (Compliance Requirements), Paragraphs 16, 18 – 21; Section VI (Reporting Requirements), Paragraphs 23(b)-(d), 24, 27; and Section X (Information Collection and Retention), Paragraphs 54 – 56, is restitution or required to come into compliance with law.

XXIII. APPENDIX

83. “Appendix A,” which lists generally the financial information submitted by Defendants and reviewed by the United States, is attached to and part of this Consent Decree.

Dated and entered this ____ day of _____, 2020.

UNITED STATES DISTRICT JUDGE

We hereby consent to the entry of the Consent Decree in the matter of United States v. Punch It Performance and Tuning, et al., subject to public notice and comment:

FOR THE UNITED STATES OF AMERICA:

11/4/20
Date



JEFFREY BOSSERT CLARK
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

01/08/2020
Date

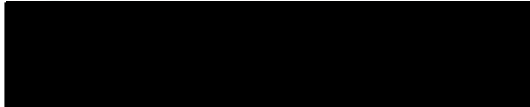


R. SHEA DIAZ
Trial Attorney
PATRICIA MCKENNA
Assistant Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, DC 20044-7611

We hereby consent to the entry of the Consent Decree in the matter of Punch It Performance and Tuning, et al., subject to public notice and comment:

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: 1/2/2020



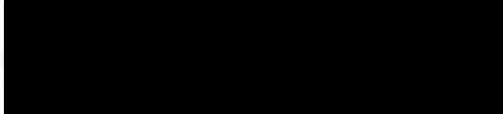
ROSEMARIE A. KELLEY
Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, DC 20460

Date: 12/18/19



PHILLIP A. BROOKS
Director, Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, DC 20460

Date: 12/11/19



LAUREN TOZZI
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, DC 20460

We hereby consent to the entry of the Consent Decree in the matter of Punch It Performance and Tuning, et al.:

FOR DEFENDANTS:



12/09/2019

Date:

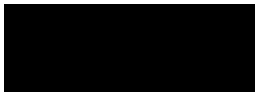
MICHAEL SCHIMMACK
Individually and as President of Punch It Performance and Tuning LLC and D N S Enterprises of Florida, Inc.
3485 Vinyard Circle
Deltona, FL 32738
Email: mikestuning@yahoo.com
Tel: 407-353-5989



12/09/2019

Date:

LORI BROWN
Individually and as President of REI Research Group, Inc.
c/o Michael Schimmack
3485 Vinyard Circle
Deltona, FL 32738
Email: mikestuning@yahoo.com
Tel: 407-353-5989



12/09/2019

Date:

VANESSA SCHIMMACK
c/o Michael Schimmack
3485 Vinyard Circle
Deltona, FL 32738
Email: mikestuning@yahoo.com
Tel: 407-353-5989

APPENDIX A

DEFENDANTS' FINANCIAL INFORMATION

At the request of the United States, the Defendants provided the following information regarding the ability to pay a civil penalty in this matter:

1. Tax return information for:
 - a. Defendant Michael Schimmack for 2011, 2012, and 2013;
 - b. Defendants Michael Schimmack and Vanessa Schimmack for 2014, 2016, and 2017;
 - c. Defendant D N S Enterprises of Florida, Inc. for the fiscal years ending March 31, 2016, 2017, and 2018;
 - d. Defendant REI Research Group, Inc. for the fiscal year ending March 31, 2017;
 - e. Defendant Lori Brown for 2016, 2017 and 2018; and
 - f. GNC Hopkinton (a business asset owned by Defendant Lori Brown) for the fiscal years ending December 31, 2017 and 2018.

2. Responses to questions posed by the United States, including information related to:
 - a. Corporate filings, structure, and history;
 - b. Real estate leases, purchases, transfers, mortgages, and taxes;
 - c. Wages and miscellaneous income;
 - d. Bank and brokerage accounts;
 - e. Motor vehicles and watercraft; and
 - f. Other miscellaneous questions regarding assets, liabilities, and any other contingent obligations.

In addition, the United States accessed publicly available information in assessing the Defendants' ability to pay a civil penalty in this matter, including:

1. Online investigative reports and compilations of public information;
2. Financial data reports for relevant industry sectors;
3. Local real estate records and real estate market information;
4. Motor vehicle and watercraft valuation information; and
5. Cost of living and basic demographic information.