SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into between the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "ARB") 1001 I Street Sacramento, California 95814, and California Superstores Valencia Chrysler Jeep Dodge Ram (Valencia Chrysler), 23820 Creekside Rd., Valencia, California 91355.

I. RECITALS

(1) California Health and Safety Code section 43151(a) states, "No person who is a resident of, or operates an established place of business within, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been certified pursuant to this chapter. No person shall attempt or assist in any such action."

(2) California Health and Safety Code section 43152 states, "No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver, purchase, receive, or otherwise acquire a new motor vehicle, a new motor vehicle engine, or vehicle with a new motor vehicle engine which is intended for use primarily in this state, for sale or resale to an ultimate purchaser who is a resident of or doing business in this state, or for registration, leasing, or rental in this state, which has not been certified pursuant to this chapter. No person shall attempt or assist in any such act."

(3) California Health and Safety Code section 43153 states "No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently sell or offer to sell, to an ultimate purchaser who is a resident of or doing business in this state, or lease or offer to lease, rent, or offer to rent, in this state any new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine, which is intended primarily for use or for registration in this state, and which has not been certified pursuant to this chapter. No person shall attempt or assist in any such action."

(4) California Health and Safety Code section 43154(a) states, "Any person who violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) per vehicle."

(5) Title 13, CCR section 2472(a) states, "No person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, any required off-road vehicle, engine, or equipment pollution control device or system which alters or modifies the original design or performance of any such pollution control device or system."

(6) Title 13, CCR section 2222(c) states, "No person shall advertise, offer for sale, or install a part as a motor vehicle pollution control device or as an approved or certified device, when in fact such part is not a motor vehicle pollution control device or is or approved or certified by the board."

(7) California Vehicle Code (VC) section 27156(c) provides, in pertinent part, that "No person shall install, sell, offer for sale, or advertise any device intended for use with, or as a part of, any required motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system."

(8) Valencia Chrysler offered for sale one new and modified MY2010 Dodge Challenger (under 7,500 odometer miles, VIN # 2B3CJ5DT8AH134748) for use or registration in California. The modifications to the new, MY2010 vehicle renders it uncertified and illegal for sale or use in California. Valencia Chrysler's actions violate Sections 43151 through 43153 of the California Health and Safety Code (H&SC) and Section 27156 of the California Vehicle Code. The ARB documented this violation in a Cease & Desist letter issued on April 14, 2011.

(9) Valencia Chrysler stipulates to the facts and the violations of Health and Safety Code sections 43151-43153 and Vehicle Code section 27156 described above.

II. TERMS AND CONDITIONS

In consideration of ARB not filing a legal action for the violations referred to above, ARB and Valencia Chrysler agree as follows:

(1) Valencia Chrysler shall pay the sum of Two Thousand Five Hundred dollars ($2,500), to the California Air Pollution Control Fund. The full payment is due immediately and shall be payable to the California Air Pollution Control Fund and addressed to:

Martina Diaz
Air Resources Board
Enforcement Division
Mobile Source Enforcement Section
9528 Telstar Avenue
El Monte, California 91731

(2) Valencia Chrysler represents that it understands the legal requirements applicable to selling modified vehicles in California and agrees that it will not assist in the marketing or sale of modified vehicles unless the vehicles have been transferred to an ultimate purchaser. Valencia Chrysler agrees that it will not acquire, offer for sale or sell new, uncertified vehicles for use or registration in California and Valencia Chrysler promises that any vehicles in its possession not certified to California emission standards will be removed from California.

(3) Now therefore, in consideration of the payment by Valencia Chrysler in the amount of Two Thousand Five Hundred dollars ($2,500) to the California Air Pollution Control Fund, ARB hereby releases Valencia Chrysler and their principals, officers, agents, and successors from any and all claims ARB may have based upon the events described in recital paragraphs (8) and (9) hereinabove, including claims under Health and Safety Code sections 45151, 43152, 43153, 43154 and Vehicle Code section 27156. The undersigned represent that they have the authority to enter into this Agreement.

1) SB 1402 Statement

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010) requires the ARB to provide information on the basis for the penalties it seeks (see Health and Safety Code section 39619.7). This information, which is provided throughout this settlement agreement, is summarized here.

The manner in which the penalty amount was determined, including a per unit or per vehicle penalty.

Penalties must be set at levels sufficient to discourage violations. The penalties in this matter were determined in consideration of all relevant circumstances, including the eight factors specified in Health and Safety Code section 43024.

The per vehicle penalty in this case is a maximum of $5,000 per unit per strict liability violation. The penalty obtained in this case is approximately $2,500 per vehicle for one vehicle. The penalty was reduced because this is an unintentional violation, and the violator cooperated fully with the investigation.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

The penalty provision being applied is this case is section 43154 because Valencia Chrysler offered for sale a non-certified vehicle in California in violation of Health and Safety Code section 43151-43153 and Vehicle Code section 27156 described above.

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

The provisions cited above do not prohibit emissions above a specified level. However, since the vehicle was not certified for sale in California, emissions attributable to them are illegal. It is not practicable to quantify these emissions, because the information necessary to do so, such as emission rates and time of use, is not available.

(2) Valencia Chrysler acknowledges that ARB has complied with SB 1402 in prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC section 43024, has explained the manner in which the penalty amount was calculated, has identified the provision of law under which the penalty is being assessed and has considered and determined that this penalty is not being assessed under a provision of law that prohibits the emission of pollutants at a specified level.

(3) Penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar cases, and the potential costs and risk associated with litigating these particular violations. Penalties in future cases might be smaller or larger on a per unit basis.

(4) The penalty was also based on confidential settlement communications between ARB and Valencia Chrysler that ARB does not retain in the ordinary course of business either. The penalty is the product of an arms length negotiation between ARB and Valencia Chrysler and reflects ARB's assessment of the relative strength of its case against Valencia Chrysler, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that Valencia Chrysler may have secured from its actions.

(5) Valencia Chrysler represents that it understands the legal requirements applicable to using uncertified engines in California.

California Air Resources Board

By: _____
Name: James Ryden
Title: Division Chief

Date: 7/20/11

Valencia Chrysler Jeep Dodge Ram

By: _____
Name: Carlos Hidalgo
Title: Chief Executive Officer

Date: 7-8-11